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## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB 532 – Criminal Procedure - Search Warrants**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable with amendments**

**DATE: 02/25/2022**

The Maryland Office of the Public Defender respectfully requests that this Committee issue a favorable report on House Bill 532, with the amendment that the removal of a no-knock search warrants be extended to Public Safety Articles § 3-207 and § 3-525.

House Bill 532, most importantly, eliminates the authority for law enforcement officers to execute no-knock search warrants. No-knock search warrants authorize police to, without warning, break into someone's home. They are violent and often escalate what may otherwise be a cooperative situation. The Maryland Office of the Public Defender supports the elimination of this dangerous and draconian practice.

No-knock search warrants became the focus of national discussion with the tragic shooting of Breonna Taylor. Ms. Taylor was sleeping in her own home when it was raided by police officers who never identified themselves nor their intention for entering her home. Rather, the officers entered relying on a no-knock warrant, which had actually been issued for someone who did not live there and was miles away. There was no reason for Ms. Taylor to die and these dangerous, chaotic, and terrifying circumstances are avoidable by repealing the authority for no-knock search warrants.

Unfortunately, Ms. Taylor's situation is not unique. In 2008, a SWAT team's execution of a no-knock warrant on Mayor Calvo's home in Berwyn Heights, Maryland, resulted in the

tragic death of two of his dogs.<sup>1</sup> That incident led to legislation requiring disclosure regarding the execution of warrants. The disclosure from that legislation demonstrated that, between 2010 and 2014, police in Maryland killed nine people and injured ninety five civilians while executing over 8000 SWAT police raids. No action was taken following the disclosure of this data. In March 2020, a Montgomery County young man, Duncan Lemp, who was only 21 years old, was killed by police officers during the execution a no-knock raid.<sup>2</sup> It is beyond time for the Maryland legislature to prevent such tragedies.

During the investigation of Baltimore Police Detective Sean Suiter's death in 2017, a no-knock warrant based purely on drug allegations was executed as a fishing expedition – breaking into a family's home, by officers wearing fatigues and carrying rifles and entering a bathroom while a 6 year old boy was showering. The house was torn apart and property was taken but never returned. The subject of the raid was subsequently cleared of any involvement in Det. Suiter's death.<sup>3</sup>

Allowing police officers, under the darkness of night while dressed in tactical gear and without notice, to smash open doors -- sometimes with explosives, often taking bold, aggressive action that destroys property -- does not protect the safety of residents or officers. It does exactly the opposite- it puts everyone involved in danger. It causes residents to think someone is breaking into their home. Residents, understandably, take defensive actions to what they perceive to be an intruder, and such actions often result in gunshots, sometimes by the residents and ultimately by the police.

Moreover, no-knock warrants erode the presumption of innocence, a tenet of our justice system, by refusing to give a suspect the opportunity to voluntarily comply with the law. Additionally, without knocking and announcing, officers are unable to correct mistaken identity or inaccurate information. The knock and announce requirement allows residents to inform police if they have the wrong house, before anyone enters the home.

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<sup>1</sup> <https://www.baltimoresun.com/news/bs-xpm-2008-08-08-0808070248-story.html>

<sup>2</sup> <https://reason.com/2020/03/16/maryland-man-killed-in-no-knock-swat-raid-was-shot-while-asleep-family-says/>

<sup>3</sup> <https://www.baltimoresun.com/news/crime/bs-md-suiter-dea-harlem-park-20200109-6zxpysxdbabvevjmwwhlpuzxu-story.html>

Finally, no-knock warrants further exacerbate the racial disparities in the criminal system. No knock warrants are disproportionately authorized for communities of color, against individuals of color and their families.

Maryland cannot ignore the lasting physical, sometimes deadly, harm and emotional trauma these violent intrusions cause to Marylanders. House Bill 532 will repeal the statutory provision that allows courts to authorize no knock warrants, and allow for Maryland to join the jurisdictions that have banned or are proposing to ban this dangerous practice.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on HB 532.**

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**Submitted by: Government Relations Division of the Maryland Office of the Public Defender.**