



National Police Accountability Project

A Project of the National Lawyers Guild

OPPOSE SB 874 – An Act That Will Prohibit Local

Democratic Decisions About When No-Knock Warrants Can Be Executed

Written Comment by National Lawyers Guild-National Police

Accountability Project, Lauren Bonds, Legal Director

Senate Committee on Judiciary and Public Safety– Thursday,

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Dear Members of the Judiciary and Public Safety Committee,

Thank you for the opportunity to provide written comment on this important issue. The National Lawyers Guild National Police Accountability Project (“NPAP”) is a nonprofit organization dedicated to holding law enforcement and corrections officers accountable to constitutional and professional standards. We strongly oppose the passage of SB 874. This bill would prohibit local police agencies and elected officials from limiting the inherently dangerous tactic of executing a warrant without knocking and announcing first.

No-knock raids are an immensely dangerous policing tactic broadly authorized by Fourth Amendment jurisprudence that are almost never justifiable as a net benefit to public safety. Police departments that execute no-knock raids create a high risk of death, injury, and emotional trauma for the occupants of the home they are searching.

The execution of no-knock warrants generally entails a ‘dynamic entry’ into the premises, breaking down doors, detonating explosive devices, and handcuffing residents while forcing them to lie prone on the floor.¹ All of these features make the execution of a no-knock raid create a high risk of physical injury to occupants.

In addition to the risks related to paramilitary tactics used to accomplish no-knock raids, warning-less entries into a person’s home add another level of danger for all parties involved. When police break into a person’s home without knocking and

¹ ACLU, *War Comes Home: The Excessive Militarization of American Policing* at 40 (2014), Radley Balko, *Overkill: The Rise of Paramilitary Police Raids in America*, Cato Institute at 4-5 (2006).



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announcing, the resident can reasonably mistake the officers for burglars or other violent intruders—and be more likely to return force.²

These features make no-knock warrants dangerous for both civilians and officers. Over a five-year period, at least 81 civilians died in no-knock raids across the country and there have also been a number of documented deaths of police officers while executing no-knock warrants.³

Given the high risk of death and serious injury associated with the execution of no-knock warrants, it is no surprise that dozens of police departments and city councils have decided to regulate their use in order to protect their officers and constituents from harm.⁴ SB 874 will prevent local police executives and elected bodies from reducing unnecessary violence.

In addition to the significant human costs created by unrestricted no-knock warrants, this bill also exposes municipalities to costly legal bills and settlements. Fourth Amendment jurisprudence authorizes the execution of no-knock warrants in limited circumstances.⁵ However, but the broad discretion afforded to officers in seeking a no-knock warrant and often minimal judicial oversight of application requests create a likelihood that warrantless entries can lead to constitutional violations.⁶ These breaches of the Constitution can result in costly settlements and

² Brian Dolan, *To Knock or Not to Knock? No-Knock Warrants and Confrontational Policing*, 93 St. John's L. Rev. 201, 206 (2019).

³ Kevin Sack, *Door-Busting Drug Raids Leave a Trail of Blood*, N.Y. TIMES, Mar. 18, 2017, <https://www.nytimes.com/interactive/2017/03/18/us/forced-entry-warrant-drug-raid.html>; The Justice Collaborative Institute, *End No-Knock Raids* (2020).

⁴ Tessa Duvall and Darcy Costello, *In cities and states across the U.S., Breonna's Law is targeting deadly no-knock warrants*, THE COURIER JOURNAL, Mar. 17, 2021, <https://www.courier-journal.com/story/news/local/breonna-taylor/2021/03/12/spread-of-breonnas-law-across-us-has-become-policy-legacy/4642996001/>.

⁵ *Richards v. Wisconsin*, 520 U.S. 385 (1997).

⁶ L. Joe Dunman, *Warrant Nullification*, 124 WV L Rev ___, 30-34 [2021] [forthcoming], available at <https://ssrn.com/abstract=3805913> [collecting reported instances nationwide where judges spent minimal or no time at all reading warrant applications before signing them]; Mary Nicol Bowman, *Full Disclosure: Cognitive Science, Informants, and Search Warrant Scrutiny*, 47 Akron L Rev 431, 442-43, 461-63 [2014] [citing studies that show judges typically spend “between two and three minutes per warrant application” and that the warrant application process primes judges to defer to the police narrative of the case, which can often be incomplete



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judicial verdicts. SB 874 takes away local lawmakers ability to limit liability and minimize their exposure to legal risks.

We urge you to not pass SB 874. Thank you for the opportunity to provide comment on this important issue.

or misleading]; Richard Van Duizend, L. Paul Sutton & Charlotte A. Carter, *The Search Warrant Process: Preconceptions, Perceptions, and Practices* 26 [1984] [same].)