



DAVE YOST

OHIO ATTORNEY GENERAL

Administration
Office 614-728-5458
Fax 614-466-5087

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Governor Mike DeWine
Riffe Center, 30th Floor
77 S. High St.
Columbus, OH 43215

Speaker Bob Cupp
Riffe Center, 14th Floor
77 S. High St.
Columbus, OH 43215

President Larry Obhof
Statehouse, 2nd Floor
1 Capitol Square
Columbus, OH 43215

Dear Governor DeWine, President Obhof, and Speaker Cupp:

We write today to request your support for revisions to Ohio Revised Code 2933.231 regarding nonconsensual, forced entry in the execution of a search warrant, commonly known as a “no-knock” warrant. Although a no-knock warrant is typically requested only for extraordinary circumstances, we have learned that lawmakers in other states and in Congress have introduced legislation to ban such warrants entirely.

Given our collective experience as prosecuting attorneys – a position also once held by Gov. DeWine and Speaker Cupp – we know all too well the inherent danger for law enforcement personnel who enter an occupied structure to serve a warrant. This is particularly true when dealing with criminals with the most to lose, such as armed drug dealers, human traffickers, and other violent individuals.

No-knock warrants can help mitigate the danger by arming law enforcement officials with the element of surprise. Eliminating this all-important tool would be foolish.

At the same time, no-knock warrants can also be dangerous for the occupants of the structure to be searched, some of whom may be utterly innocent of the criminal activity giving rise to the affidavit supporting the warrant. Because Ohio is a castle doctrine state, a homeowner may legally use deadly force to defend against a perceived home invasion before becoming aware that the forcible entry is lawful and conducted by law enforcement.

As a starting point for discussion, we suggest the following modifications to the no-knock provision of Ohio law, changes that would essentially require a more robust justification to waive the statutory “knock and announce” requirements:


1. A modification to Ohio Revised Code Section 2933.231(B)(1) to state that an affidavit must state facts that complying with the “knock and announce” rule will result in a *substantial* risk of serious physical harm to officers. The current statute requires only a


showing of a risk of serious physical harm, which can be very low threshold, often amounting to little more than presence of a weapon on the premises – a requirement that would be met in a majority of houses in some counties.


2. Clarification that the phrase "good cause" in Ohio Revised Code 2933.231(B)(1) means "probable cause" and does not mean a "reasonable suspicion," which is a lower standard.
3. Language to bar no-knock warrants when the affiant alleges only misdemeanor drug possession or the possession of drug paraphernalia.
4. A requirement that officers wear readily identifiable markings when serving a no-knock warrant and identify themselves as soon as possible upon entry.
5. Absent exigent circumstances, a requirement that if a law enforcement entity has access to body cameras, that they must be worn and activated when law enforcement officers are executing a no-knock search warrant.


We know the current legislative calendar grows short. For this reason, we hope to enlist your guidance and support both to preserve this existing officer safety tool, and to ensure its future use is made as safe as possible for Ohioans.

Yours,


Dave Yost
Ohio Attorney General


Michael O'Malley
Cuyahoga County Prosecutor


Ron O'Brien
Franklin County Prosecutor


Joseph Deters
Hamilton County Prosecutor

cc: Senator John Eklund, Chair, Senate Judiciary Committee
Representative George Lang, Chair, House Criminal Justice Committee