Table of Contents

The Door May be Closing on No-Knock Search Warrants

Title	Page	
Introduction	2	Go to Page
Some Basics	2	Go to Page
The Facts Should be Fresh	3	Go to Page
Particularity is Preferred	3	Go to Page
Substantial Compliance is Required	4	Go to Page
Time and Manner of Entry and Execution	4	Go to Page
The Times (and Law) May be a-Changing	6	Go to Page
Breonna Taylor	7	Go to Page
City of Buffalo's Response	8	Go to Page
NYS Proposed Legislation to Restrict NKSW's	8	Go to Page
Other Requirements	9	Go to Page
Remedy for Violations	10	Go to Page
Final Thought	10	Go to Page

THE DOOR MAY BE CLOSING ON NO-KNOCK SEARCH WARRANTS

Thomas P. Franczyk
Deputy for Legal Education
Assigned Counsel Program
April, 9th, 2021

INTRODUCTION:

In 1604, English Jurist, Sir Edward Coke declared in Semayne's case (3 Edw. 303), that "the home of everyone is to him (her), a castle and fortress as well as a defence against injury and violence (and a place for) ...repose." The abridged version is: " A man's (woman's) home is his/her castle."

Ironically, the ruling in Semayne's case actually authorized sheriffs to make forcible entry into a person's dwelling to issue a writ for the return of stolen property and goods owed upon a debt, but only if officers followed certain strict procedures, including announcing their presence and requesting permission to enter. If they did not adhere to such procedures, the homeowner was within his/her rights to refuse them entry (which probably did not stop them from storming the manor).

Several hundred years later, police are still entering people's homes (often forcibly and unannounced), pursuant to judicial authority expressed in warrants to search for property that they believe to be stolen, unlawfully possessed, used to commit or constituting evidence of a crime (CPL 690.10). In some instances, they may be seeking to search a residence (of someone other than the target of the warrant), for a person who is the subject of an indictment warrant of arrest or a bench warrant upon a felony offense. (CPL 690.05 [2][b][i]).

SOME BASICS:

The whole idea behind a search warrant is to interpose a neutral and detached magistrate between law enforcement and citizens to prevent the police from entering people's homes indiscriminately and without probable cause to believe that evidence of criminality will be found there, and conduct unbridled searches (guided only by individual discretion), in the hopes that something incriminating might turn up somewhere on the premises. (see generally People v Bigelow 66 NY2d 417 [1985]), and People v PJ Video 65 NY2d 566 [1985]).

The facts presented to the magistrate, whether in the form of sworn allegations contained in the application of the warrant-seeking officer based on personal knowledge, or upon apparently reliable hearsay from an informant whose track record of reliability and basis of knowledge have been sufficiently established (Aguilar v Texas 378 US 108 [1964], Spinelli v US 393 US 410 [1968] either by the officers' corroborating observations (People v Hendricks 25 NY2d 129, 134 [1969], or an in-camera interrogation of the informant by the issuing magistrate (People v Martinez 80 NY2d 549 [1992]), must provide probable cause to believe that the property, contraband or persons sought are likely to be found at the targeted location. (see generally People v Nieves 36 NY2d 396 [1975]).

THE FACTS SHOULD BE FRESH:

The information with respect to alleged criminality should be reasonably current (i.e. fresh) vis-a-vis the timing of the application, but courts tend to be more tolerant when the alleged criminal conduct is deemed to be of an on-going or continuing nature so as to increase the likelihood that contraband or whatever evidence is involved is likely to be present when the search goes down.

See for example People v Telesco 207 AD2d 920 (2d dep't 1994]: three week delay since last drug transaction at target location was not fatal where the suspect's enterprise was described as on-going.

In contrast, see People v Loewel 50 AD2d 483 (4th dep't 1976) where information from an informant that the defendant had nine suitcases filled with stolen coins in a house that he owned (but did not live in), while verified in some respects by the police investigation, was deemed to be too vague (as to location in this multi-family dwelling), and too stale (four-and-a-half months old), to provide probable cause to believe that the coins would be located in the house. (The coins were discovered behind a wall in the basement).

PARTICULARITY IS PREFERRED:

In order to minimize the risk of hitting the wrong house/building or searching beyond the places where the incriminating evidence is believed to be, search warrants are supposed to designate the target location (whether by address, apartment number, specific description) with particularity and enumerate the things to be seized (and their most likely location based on the information obtained in the investigation).

As stated in CPL 690.15(1), a search warrant must direct the search of:

a. a designated or described place or premises;
b. a designated or described vehicle;
c. a designated or described person.

2. A search warrant that directs a search of a designated/described place, premises or vehicle, may also direct a search of any person present thereat or therein.

If the warrant is for a person, such individual should be described with sufficient specificity (by name if known, and identifying physical characteristics), so that innocent people (who may be victims of location and circumstance), are not deprived of their liberty for no good reason. And if the police decide to search "any person present therein or thereat," there should be a substantial probability that everyone present during the warrant's execution possesses the evidence specified in the warrant. (People v Mothersell 14 NY3d 358 [2010]).

Consequently, any officer executing the warrant (who may or may not be the one who procured it), should be able to reasonably identify the place to be searched (Haberman v Sobol 138 AD3d 838 [3d dep't 2008]), and confine the search to the locations designated therein and avoid a motion to suppress on the grounds of exceeding the scope of the warrant.

See, for example, People v Sciacca 45 NY2d 122 [1978]: tax investigators who had warrant to search the defendant's van were NOT authorized to enter the defendant's private garage (after the defendant left his home) in order to gain access to the van. The court said that the constitutional mandate that a warrant particularly describe the place to be searched may not

be circumvented by implication, and the entry into a private garage was not permissible under a warrant that was limited in its scope to the van.

See also People v Velez 138 AD3d 1041 (2d dept 2016) where the court held that a search warrant authorizing the search of the defendant's home, residence and yard did NOT authorize the search of a detached shed on the defendant's property.

The requirement of particularity does not necessarily mean that warrants must be written with picayune particularity and searches conducted with timid restraint. As noted by the Court of Appeals in People v Hanlon 36 NY2d 549 (1975), "warrants are not composed by lawyers in quiet libraries but ...by police officers ...acting under stress and within the context of (often) volatile situations. So, search warrants should be read not in a hyper-technical manner (as if an an entry in an essay contest), but considered in the clear light of everyday experience with reasonable inferences."

See also People v Kane 75 AD2d 881 [2d dep't 1991]) and People v Glen 30 NY2d 252 (1971): Search warrants should be read in a common sense, realistic fashion.

SUBSTANTIAL COMPLIANCE IS REQUIRED:

Courts will also look for SUBSTANTIAL COMPLIANCE with the requirements for search warrants (CPL 690.35) such that certain technical or ministerial errors (e.g. absence of the magistrate's signature from the application) will not necessarily be fatal to the warrant. (See People v Rodriquez 150 AD2d 622 [2d dep't 1989]: reviewing court inferred that the officer must have signed the application in the issuing judge's presence in order to obtain a search warrant signed by the judge). (see also People v Summers 20 AD3d 516 [2d dep't 2005]: the law requires substantial rather than perfect compliance with warrant requirements).

TIME AND MANNER OF ENTRY AND EXECUTION:

The law has historically and routinely expressed a strong preference, absent extraordinary circumstances, for search warrants to be executed during the daytime (between 6:00am and 9:00pm) and upon an announcement by the police of their authority ("POLICE") and purpose: ("WE'VE GOT A WARRANT TO SEARCH THE PLACE").

Perhaps it is born of a recognition of the fact that, as Lord Coke opined, a person's home is his/her castle (and sanctuary), and it is one of the few remaining places where one has (or at least should have) the right to feel safe, sound and secure from forcible intrusion by armed intruders bent on turning the place upside down and inside out in search of evidence of crime.

CPL 690.30 (1) directs that a search warrant MUST BE EXECUTED not more than 10 days after the date of its issuance and 2. MAY be executed on any day of the week and ONLY BETWEEN 6:00am and 9:00pm UNLESS the warrant EXPRESSLY AUTHORIZES execution thereof at any time of the day or night, as provided by CPL 690.45.

Subdivision 6 section of CPL 690.45 states that a search warrant (in order to allow such a search), MUST CONTAIN a direction that it be executed between 6:00am and 9:00pm or, WHERE THE COURT HAS SPECIALLY SO DETERMINED, an authorization for execution thereof at ANY TIME OF DAY OR NIGHT; AND

7. An authorization, WHERE THE COURT HAS SPECIALLY DETERMINED, that the executing police officer enter the premises to be searched WITHOUT GIVING NOTICE OF HIS AUTHORITY AND PURPOSE.

With respect to the authority for an anytime-of-day/no-knock search warrant, CPL 690.35(4) states that an application may contain:

a. A request that the search warrant be made executable at any time of day or night, upon the ground that there is REASONABLE CAUSE to believe that: (i) it CANNOT be executed between 6:00am and 9:00pm; or (ii) the PROPERTY SOUGHT will be REMOVED OR DESTROYED if not SEIZED FORTHWITH; or (iii) in the case of an application for authorization to search premises of a third party in order to arrest a person against whom a an indictment warrant (or felony bench warrant) has been issued (CPL 690.05[2][b]), the person sought is LIKELY TO FLEE OR COMMIT ANOTHER CRIME, OR MAY ENDANGER THE SAFETY OF THE EXECUTING OFFICER OR ANOTHER PERSON, if not seized forthwith or between 6:00am and 9:00pm.

b. A request that the search warrant authorize the executing officer to enter the premises to be searched WITHOUT GIVING NOTICE OF HIS AUTHORITY AND PURPOSE, on the ground that there is REASONABLE SUSPICION to believe that:

i. the property sought may be EASILY AND QUICKLY DESTROYED or disposed of, or
ii. giving notice of authority and purpose MAY ENDANGER THE LIFE OR SAFETY of the executing officer or another person; or
iii. in the case of a warrant to search for and arrest an indicted person on an indictment warrant or a person against whom a felony bench warrant has issued (CPL 690.05[2][b]), the person sought is likely to COMMIT ANOTHER FELONY, OR MAY ENDANGER THE LIFE OR SAFETY of the executing officer or another person.

In cases where the targeted individual(s) is/are alleged to be dealing drugs (which have always been thought of as readily disposable), or in cases involving the likely presence of firearms on the premises, courts have not been hesitant to authorize no-knock/nighttime (NKNT) warrants on the theory that knocking, announcing and waiting for someone to answer the door may well give the people inside a chance to flush away evidence or place the officers in imminent danger by arming themselves.

Since the justifications for no-knock and night time executions are generally the same, it is not uncommon for police to ask for (and receive) both, and even when they don't, reviewing courts have upheld warrants that lacked one or the other designation if the sworn information set forth in the application would have supported such authorization had it specifically been requested.

In People v Sherwood 79 AD3d 1286 (3d dep't 2010), the detective's affidavit in support of the warrant application averred that "as part of a burglary sting operation, information revealed that a drug dealer named "G" (for Guns) was trading crack cocaine out of his house at a specified address for stolen property taken in burglaries. Sworn affidavits from two burglars (who presumably got arrested and decided to cooperate), indicated that they had brought stolen TV'S, laptops and jewelry that they had stolen and "sold" them to the target at his home for crack cocaine.

At 6:50pm, the magistrate signed a no-knock warrant executable between 6:00am and 9:00pm but at 8:00pm, on-scene officers who were aware of the warrant, advised that the defendant had left the premises, and they wanted to delay execution of the warrant until he returned.

The officer called the judge who provided ORAL PERMISSION to execute the search warrant after 9:00pm. The defendant returned at 10:30pm and the police entered the property and seized incriminating evidence. The defendant made admissions about stolen property and drugs.

At 11:00pm, the police called the judge and obtained a second (written warrant) which amended the first one to permit the after-9:00pm search. The trial court denied the defendant's motion to suppress physical evidence and statements.

On appeal, the defendant argued that there was no legal basis for a search after 9:00pm. The court noted, first, that the written amendment (to permit the nighttime search) was ineffective because the warrant had already been executed. (citing People v Ming 35 AD3d 962 [3d dep't 2006]). As for the over-the-phone application, it was deemed equally ineffective inasmuch as it was neither sworn to nor recorded as required by CPL 690.36(3). (citing People v Crandall 108 AD2d 413 [3d dep't 1985]).

In the court's view, however, the failure to comply with the timing element was only a technical violation which did not warrant suppression because there was a basis for a nighttime search IN THE INITIAL WRITTEN APPLICATION. (Citing People v Silverstein 74 NY2d 768 [1989]).

Citing People v Bell 299 AD2d 582 (3d dep't 2002), the court stated that "where there is PROBABLE CAUSE to believe that a particular location contains SALEABLE AMOUNTS OF A CONTROLLED SUBSTANCE, an ALL-HOURS, NIGHTTIME SEARCH WARRANT IS AUTHORIZED." Under such circumstances, the court reasoned, an issuing judge could PROPERLY INFER that the drugs can be EASILY DESTROYED, thereby providing the necessary basis for the issuance of a NK SW. (citing People v DeLago 16 NY2d 289 [1965], and People v Lewis 25 AD3d 824 [2006]).

Furthermore, in the court's analysis, where a no-knock provision is justified (on the basis of drugs being sold on the premises), as a result of the initial application, a nighttime search will ALSO BE JUSTIFIED EVEN WHEN IT IS NOT REQUESTED as part of the initial application (People v Henderson 307 AD2d 746 [2003]), and EVEN THOUGH THE SEARCH WARRANT DID NOT PROVIDE FOR NIGHTTIME EXECUTION. (People v Rodriguez 270 AD2d 956 [4th dep't 2000]).

In Rodriguez, the Fourth Department held that even though the application did not request nor did the warrant authorize a nighttime search, the application did contain a request for "execution without notice." Also, the application stated that the defendant would be arriving in town that night and the search was for large amounts of narcotics which could "readily be disposed of." That was enough, in the court's view, to support the nighttime search which would have been authorized had proper request been made.

THE TIMES (AND THE LAW) MAY BE A-CHANGING:

While NKNT SW'S have often been upheld in drug cases based on the disposability of controlled substances, New York State Legislators have been trying (unsuccessfully) since 2003 (when a NYC employee, 57-year-old Alberta Spruill, died from a heart attack after police raided her Harlem apartment at 6:00am (in error), and set off a flash grenade while executing a NKSW. Legislation was introduced shortly thereafter to tighten the procedures for obtaining no-knock search warrants and limit their execution to the daytime except upon specific, on-the-record findings (by the issuing court) that it cannot be executed between 6:00am and 9:00pm.

That legislation went nowhere but times have changed, and the number of victims (both civilian and law enforcement) of violent (mostly shooting) injuries and death during the executions of NKSW'S has called the use of this type of warrant into serious question.

According to a study by the New York Times, from 2010-2016, 81 civilians and 13 police officers were killed during forcible-entry police raids across the country. Some of the more egregious incidents include the 2008 fatal shooting of a young Ohio mother who was holding her 14-month-old baby while police were looking for her boyfriend, and a 2014 Georgia raid where police tossed a flash grenade into a crib, causing severe burn injuries to a 19-month-old baby who had to be placed into a medically-induced coma. In 2010, a seven-year-old child was shot and killed during a no-knock invasion as she slept on the couch.

Peter Kraska, a professor of Criminology at Eastern Kentucky University (who has researched police raids and is assisting New York State legislators in changing the law with respect to NKSW'S), was quoted in a May 20, 2020 article (by Samantha Michaels of Mother Jones) as saying that the incidence of NKSW'S has risen from about 3000 in 1981 to about 45,000 per year. (If one factors in the "'quick-knock" warrants where police announce and burst right in, the numbers may be as high as 60,000).

Kraska also pointed to a 2014 ACLU study of 800 raids which indicated that 61% of the people targeted were minorities (African American and Latino), and two-thirds of the searches were for drugs (with drugs actually being recovered only 33% of the time.)

BREONNA TAYLOR:

On March 13, 2020, Breonna Taylor, a medical technician with no criminal history, was asleep in her Louisville Kentucky home with her boyfriend (who owned a legal firearm and had no criminal record), when several police officers, not wearing uniforms busted through the door to search for drugs that they believed (based on months-old information pertaining to Taylor's ex-boyfriend who was already in jail), were stashed somewhere in the in the dwelling.

The police reportedly had obtained a NKSW which was later changed to a knock-and-announce (K&A) warrant (which the police claimed they did and the boyfriend said he never heard).

When the police rushed in, the boyfriend (who had called 911 earlier), fired a shot whereupon the police responded with a flurry of shots, several of which struck and killed Breonna Taylor. In the aftermath, the police chief vowed to review all further search warrant applications himself (considered by some to be a hollow gesture), but the local council voted to outlaw NKSW'S.

Virginia became the third state in the country to ban NKSW'S altogether (following Florida and Oregon), and several states (including New York) have taken steps to either eliminate or severely restrict their use.

The officers involved in the Breonna Taylor shooting were not indicted by the Grand Jury but the City of Louisville reportedly settled the wrongful death lawsuit brought by the victim's family for 12 million dollars.

CITY OF BUFFALO'S RESPONSE:

In late August 2020, Buffalo Mayor Byron Brown, as a direct result of the Breonna Taylor shooting, signed an EXECUTIVE ORDER (EO #2020-002), directing that ALL SEARCH WARRANTS executed by the Buffalo Police Department (BPD) SHALL BE DONE BY THE KNOCK-AND-ANNOUNCE (K&A) method whereby they must: knock on the door, identify themselves (city leaders are considering the use of an amplified electronic method), and state why they are there and what they intend to do. They must also wait a REASONABLE TIME for the occupants to ANSWER THE DOOR. (What is a reasonable time would undoubtedly have to depend on the situation).

Acknowledging that there may be situations where the K&A method could lead to increased risk to the police or citizens, a NKSW may ONLY OCCUR " WHERE THE K&A METHOD WOULD CLEARLY AND LIKELY INCREASE THE RISK TO SAFETY OF THE POLICE OR CITIZENS".

As an ADDITIONAL SAFEGUARD, officers who seek a NKSW must FIRST OBTAIN THE APPROVAL OF THE BPD CHIEF OF DETECTIVES OR THE DEPUTY COMMISSIONER OF OPERATIONS.

The FACTS IN SUPPORT of the NKSW MUST BE DETAILED IN THE APPLICATION AND MUST EXPLAIN WHY THE K&A METHOD WOULD INCREASE THE RISK TO OFFICER (OR CITIZEN) SAFETY. If approved administratively, the officers would then apply to a judge who would then (as always), make the call whether a NKSW is warranted.

It should be noted that while the City policy, as per the Executive Order, undoubtedly affects the way city officers go about obtaining warrants, (and could conceivably be a factor in any civil lawsuit in which an officer violated department policy resulting in injury or property damage during the execution of a search warrant), Article 690 the CPL still governs the legality of search warrants with respect to their issuance and execution. But, if proposed legislation recently introduced in both the State Senate (Senate Bill S11) and Assembly (Assembly Bill A2683), are passed into law, then the incidence of NK/NT SW'S will likely DROP DRAMATICALLY

NYS PROPOSED LEGISLATION TO RESTRICT NKSW'S:

Specifically, NK SW'S would be LIMITED to specific, (extreme) cases involving IMMINENT THREAT OF HARM TO HUMAN LIFE including: the investigation and pursuit of suspected offenses/offenders involving MURDER, ACTIVE SHOOTERS, KIDNAPPING, TERRORISM, HUMAN TRAFFICKING OR WHERE AN INDIVIDUAL HAS BARRICADED HIMSELF IN A SPECIFIC LOCATION AND HAS A HISTORY OF VIOLENCE. (CPL 690.35[1][b] as amended).

A new section of CPL 690.35 ([4][b], would require the officer applicant to ascertain whether any person other than the target will be present during the execution of the warrant, and state their estimated age, gender, any known physical or mental disability, (including pets likely to be present), and a statement of any alternatives to conducting a search in their presence.

With respect to times, search warrants must be APPLIED FOR AND EXECUTED between 6:00am and 9:00pm unless the circumstances (which must be clearly set forth on the application) require that the application be made at another time, and specific facts are provided (and set forth on the record or in writing on the application) that provide reasonable cause to believe that the warrant cannot be obtained and executed during daytime hours.

CPL 690.40(1)(b) would be amended to state that the court, in assessing an application based in whole or in part on CPL 690.35(4)(b), (NKSW), SHALL STATE WITH SPECIFICITY in writing or on the record (or on the application itself), the FACTUAL BASIS FOR THE ISSUANCE OF THE SW.

Under the proposed CPL 690.45(6), in a K&A situation, the police would have to WAIT 30 SECONDS after knocking to give the occupants time to answer before entering. (Police will likely interpret this waiting period as affording suspects time to "ditch their drugs," "grab a gun" or "head for the back door").

Pursuant to CPL 690.50(7) as amended, after execution of the SW, police would have to file a DCJS form (in addition to submitting a search warrant inventory/return to the court), indicating the following:

1. the section of the CPL and sub paragraph upon which the warrant was based;
2. police agency that obtained the warrant;
3. the ADA who drafted or reviewed the SW;
4. whether the facts in support of the SW came from a citizen or confidential informant;
5. the date and time the warrant was applied for and signed;
6. the date the SW was executed;
7. the judge/court who signed the SW;
8. whether the application was submitted previously to any other judge (and the result);
9. the age, sex and race of the target;
10. whether physical force or deadly physical force was used during the execution of the SW;
11. whether anyone was injured or killed during the execution of the SW (including identifying information with respect to anyone injured or killed);
12. address of SW execution;
13. result of the SW execution (what was seized).
14. whether any property was damaged during SW execution.

SEARCH WARRANTS NOT EXECUTED WITHIN SEVEN DAYS OF THE SW'S ISSUANCE, ARE DEEMED TO BE NULL AND VOID.

OTHER REQUIREMENTS:

The officer applicant must provide SURVEILLANCE INFORMATION WITHIN 24 HOURS OF SW EXECUTION TO VERIFY THAT THE TARGET WILL BE PRESENT.

POLICE OFFICERS EXECUTING THE WARRANT MUST BE IN UNIFORM WITH VISBLE BADGES.

ABSENT VERIFIABLE EXIGENT CIRCUMSTANCES (i.e. real-time and life threatening), THE OCCUPANTS MUST BE GIVEN AT LEAST 30 SECONDS TO ANSWER THE DOOR BEFORE ENTRY IS EFFECTED.

NO FLASH BANG DEVICES, STUN GUNS OR OTHER SUCH DEVICES MAY BE USED ABSENT VERIFIABLE EXIGENT CIRCUMSTANCES.

NO EXECUTION OUTSIDE OF WHEN ALLOWED WITHOUT VERIFIABLE EXIGENT CIRCUMSTANCES.

IF A PERSON ARRESTED IS NOT CONVICTED OF ANY CRIME CONNECTED TO THE SEARCH/SEIZURE, ALL SUCH PROPERTY SHALL BE IMMEDIATELY RETURNED TO HIM/HER.

PER CPL 690.60, FOLLOWING EXECUTION OF THE SW PER CPL 690.35 (4)(b) (NKSW), THE OWNER OF THE PROPERTY SHALL BE ENTITLED TO PROMPT RESTITUTION FROM THE STATE/MUNICIPALITY THAT EMPLOYS THE EXECUTING PO'S FOR PROPERTY DAMAGED OR DESTROYED DURING THE EXECUTION OF THE SW UNLESS HE/SHE HAS BEEN CONVICTED OF A CRIME INVOLVING OR RELATING TO SUCH PROPERTY SEIZED OR RELATING TO THE SW.

REMEDY FOR VIOLATIONS OF SW REQUIREMENTS;

PER CPL 690.65, WHERE A SW IS EXECUTED IN VIOLATION OF THIS ARTICLE, ANY EVIDENCE OBTAINED IN CONNECTION THEREWITH SHALL BE INADMISSIBLE IN EVIDENCE BY THE PROSECUTION.

ANY OFFICER INVOLVED IN A VIOLATION (presumably intentional or grossly negligent) OF THE SW PROVISIONS, IS SUBJECT TO DISCIPLINE INCLUDING POSSIBLE SUSPENSION OR TERMINATION.

THE CHIEF ADMINISTRATOR OF THE COURTS IS DIRECTED TO IMPLEMENT PROGRAMS TO EDUCATE JUDICIAL PERSONNEL ON SEARCH AND SEIZURE LAW WITH EMPHASIS ON THE STANDARDS FOR ISSUANCE OF SEARCH WARRANTS.

FINAL THOUGHT:

While no-knock search warrants have long been a powerful weapon used by law enforcement to search for drugs and other contraband, capitalizing on the elements of surprise and fast-moving force intended to prevent destruction of easily disposable evidence and minimize the risk of an armed or violent response, the increasing loss of human life (in particular innocent victims), and property damage suggest that the costs may outweigh the benefits in terms of evidence seized and criminals convicted.

While some might argue that the proposed changes to CPL Article 690, (not unlike those pertaining to bail and discovery) represent a legislative over-reaction to real and perceived injustices that will hamper and endanger law enforcement, others might say that laws that compel the police to justify the extraordinary relief they seek and judges to closely and carefully review (rather than rubber stamp) official requests to storm into someone's home, armed and unannounced, in search of evidence, may not be too much to ask.

It seems that time will tell whether requiring knock-and-announce search warrants in drug cases will increase the danger for police, facilitate the disposal or destruction of evidence (thereby enabling criminals to deal another day), but reduce the risk of harm to homeowners and occupants (many of them innocent people who happen to be in the wrong place at the wrong time). Hopefully, the proposed legislation will strike a proper balance between matters of public safety, effective law enforcement and the right of citizens to be free from unlawful (and often dangerous) searches and seizures in their dwellings.