

**No-Knock Warrants in Massachusetts  
Criminology Forensic Science  
Mr. Krieger and Mrs. Ham**

**Massachusetts State Police Promise Higher Standard For  
No-Knock Warrants; Immediately Break It'  
Article by Tim Cushing**

No-knock warrants may have served a purpose when they first became a thing. It's not as though law enforcement's fear of evidence disappearing or a violent reaction to warrant service is completely unjustified. But no-knock warrants are being deployed extremely frequently, becoming the preferred method of warrant service any time drug sales are involved. The warrant requests are supposed to be subjected to a higher standard of review, but it's devolved to the point where officers are requesting no-knock warrants simply because the residence they're searching has locking doors and working toilets.

Now, cops and citizens are being killed or injured unnecessarily, simply because the SWAT team's armored personnel carrier seems like a waste of money if it's not deployed every six weeks or so. The higher standard is practically nonexistent, replaced by "upon information and belief" statements that work backwards from the desired form of warrant service.

Over in Massachusetts, state police pledged to hold themselves to a higher no-knock warrant standard after a botched raid of the wrong residence led to a civil rights lawsuit. The department said it would bring its no-knock requests directly to a judge, rather than whatever court clerk happened to be on hand when the request was made.

One year later, the state police appear to have made no changes at all, according to the Worcester Telegram's investigation. A review of no-knock warrants in all 10 courts in Worcester County shows that of the 10 no-knock warrants issued to state police since 2016, only one was reviewed by a judge.

Brendan T. Keenan, first assistant clerk-magistrate in Worcester's Central District Court, said last week he was never asked to accommodate the change. "I read that in the paper," he said of the pledge. "That's the only place I heard it."

Clerk-magistrates in Fitchburg and Leominster, the only other two courts that have issued no-knock warrants to state police since 2016, said they also had never been asked to kick the warrants up to a judge.

The higher standard the police promised ended up being no standard at all. And no standard at all is standard practice for many law enforcement agencies. The only defense offered for the department's renegeing on its judicial review standard is... well, it's terrible. Apparently, going in-house is just as stringent as placing a no-knock warrant app in the hands of an impartial judge.

"There is a heightened sense of review on these types of warrants now," Col. McKeon said April 15, noting all warrants are forwarded to the district attorney's office for review.

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<sup>1</sup> <https://www.techdirt.com/articles/20170429/10193237266/massachusetts-state-police-promise-higher-standard-no-knock-warrants-immediately-break-it.shtml>

There are very few prosecutors willing to turn down law enforcement requests. If anyone thinks a review by the DA's office is somehow more stringent than a clerk-magistrate's cursory glance, they probably work in a law enforcement agency's public relations department.

Clerks may have the word "magistrate" appended to their titles, but don't let that fool you into thinking they're only a small step down from actual judges.

Nine of the 10 no-knock warrants examined by the T&G were signed by assistant clerk-magistrates; in six of the cases, that person had no law degree.

A former judge with 16 years of experience says he knows why cops are bringing no-knock warrants to clerks: because judges will give warrant requests more scrutiny.

"This is the day-to-day bread and water of judges," said Mr. Borenstein, adding that it is not unusual for police to eschew judicial review.

"There have been major studies done over the years, and one consistent thing about the studies is that police like to avoid judges," he said. "They'd rather go to magistrates."

The police maintain the promise they broke still makes the entire process perfectly legal. As they see it -- in unofficial statements made in response to the investigation -- going to clerks gives officers more flexibility. The lack of judicial rigor is supposedly offset by the list of internal policy requirements cops must follow when obtaining no-knock warrants, which includes performing zero due diligence before asking a clerk for their autograph.

There are no requirements that police conduct surveillance on a home or determine whether children live there prior to serving a no-knock warrant.

And in two of the cases examined, the no-knock warrants were used to seize marijuana -- even as the state was holding a referendum to legalize personal possession and use. In other words, a drug that citizens felt could be safely legalized was treated as a threat so severe that warrant service could only be handled with a maximum amount of surprise and force.

Because of its unwillingness to voluntarily subject itself to higher standards, the Massachusetts State Police is setting itself up to be the recipient of additional civil rights and wrongful death lawsuits. It could have taken the small extra step to ensure no-knock warrants were subjected to a bit more judicial scrutiny, but obviously preferred to do things the old way. The easier way. The way that got the department sued.

That's the real "standard" of law enforcement: the bare minimum. As defenders of the practice point out in the Telegram piece, running no-knock warrants past assistant clerk-magistrates rather than judges is "legally sufficient." It's not better for cops or better for citizens. It's nothing more than ticking just enough boxes to avoid being punished by other arms of the state government.

***Massachusetts State Police No-Knock Warrant Policy & Procedures***  
***or***  
***Boston Police Department No-Knock Warrant Policy & Procedures***



**Discussion Question**

Imagine you are the head of the Massachusetts State Police OR the Boston Police Department. Write a No-Knock Warrant policy and procedure. In your policy and procedure, make sure you include the following:

- Guidelines for situations when a trooper or officer can apply for a no-knock warrant
- The steps a law enforcement would need to take to obtain a warrant
- Include criminal justice language
- References from the article on pages 1 and 2 showing what you learned from the article
- Identify whether a magistrate or judge will be required to approve the no-knock warrant. Explain why you selected a magistrate or judge.

**You may handwrite or type your policy and procedure. You may write in paragraph form, use bullet points, or a combination of both.**