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POLICE CHIEFS DIRECTIVE **2022-02**

**TO: ALL CHIEFS OF POLICE/POLICE DIRECTORS
SHERIFF JOHN A. KEMLER**

**FROM: ANGELO J. ONOFRI
MERCER COUNTY PROSECUTOR**

RE: NO KNOCK WARRANTS

DATE: JANUARY 3, 2022

In December of 2021, Acting Attorney General Andrew J. Bruck issued Attorney General Law Enforcement Directive 2021-12 concerning the procedures to apply for a “no-knock warrant”. The New Jersey Supreme Court has set forth certain limited circumstances where a law enforcement officer may apply to the court for approval of a no-knock warrant. See *State v. Johnson*, 168 N.J. 608, 619 (2001). It is well established that, in order to obtain a no-knock warrant, the law enforcement officer must have “a reasonable, particularized suspicion” that forcible entry is required for one of three reasons:

- to prevent the destruction of evidence;
- to protect the officer’s safety; or,
- to effectuate the arrest or seizure of evidence. *Id.*

In 2020, the Attorney General conducted a survey of the 21 county prosecutors to determine the number of warrants that contained a no-knock provision. The survey revealed that only a small percentage of warrants over the past few years contained a no-knock provision. Further, the survey revealed that there was no consistency in tracking no-knocks across the State.

Law Enforcement Directive 2021-12 now regulates the use of no-knock warrants. First and foremost, the Directive generally prohibits the use of no-knock warrants. Absent exigent circumstances, no-knock warrants may only be requested where there is a reasonable and particularized concern for officer safety or the safety of other persons and the no-knock must now be executed by a tactical team. Mercer County has always followed the reasoning that there must be an articulable concern for safety before requesting a no-knock warrant, but this Directive also puts in place certain approval and reporting requirements.

Effective immediately and until further notice. I will authorize any search warrant that has a no-knock provision. A Certification from a law enforcement officer requesting a no-knock warrant must contain probable cause to support the belief that a no-knock is necessary to reduce the risk of violence and ensure officer safety or the safety of others. To facilitate this, there is a checklist attached to the Directive that shall be prepared by the requesting officer. Everything that is applicable from that checklist should be supported by facts explained in the probable cause section of the officer's Certification.

The search warrant approval process will remain the same. Any law enforcement officer seeking a search warrant will contact the on-call Assistant Prosecutor to review the search warrant application. If a no-knock warrant is being requested, the officer must also provide the Assistant Prosecutor with the checklist. Once the Assistant Prosecutor approves the warrant, I will then review and authorize the no-knock provision. Once the no-knock has been authorized, the Assistant Prosecutor will present the search warrant application to the court.

Additionally, no-knock warrants should presumptively be executed between 5 a.m. and 10 p.m., with a preference for early morning no knock executions. Flash bangs should be used sparingly and with appropriate safety precautions. Lastly, the operations plan should take reasonable steps to identify the potential occupants of the target premises, including the presence of children or other vulnerable individuals, to be considered in determining whether a no-knock execution is practical or necessary.

Every execution of a no-knock warrant must undergo a review by the Mercer County Prosecutor's Office. This will include a review of BWC footage taken during the execution.

Finally, the Prosecutor's Office will be tracking the number of no-knock warrants requested and approved by the court.

Again, until further notice, I will approve all requests for no-knock warrants. Should you have any questions, please feel free to contact me at 609-610-5981.

Please note that Law Enforcement 2021-12 is now in effect and the procedures outlined in this Directive must be followed going forward.

cc: All Assistant Prosecutors
Investigative Staff

