

November 18, 2022

Ontario Police Chiefs

Thomas Carrique

Commissioner

Ontario Provincial Police

Dear Sirs and Madams:

**Re: Notification Letter to Ontario Police Services
“Knock and Announce” Rule (Dynamic Entries)**

The Office of the Independent Police Review Director (OIPRD) has a statutory obligation to monitor issues that result in a loss of public trust in the police. The agency has fulfilled this obligation by conducting systemic reviews which dealt with issues from policing the [right to protest](#), and [systemic racism](#).

However, I introduced a notifications program to proactively identify issues which, if left unaddressed, are likely to result in a loss of public trust in the police. The overall goal of this program is preventing policing issues from becoming systemic. For example, I issued a notification about [strip search](#) and Ontario police services responded positively by revising policies, procedures, and training to align with current caselaw and best policing practices. The [Guideline for Publishing Notification Letters](#) sets out the content of notification letters, the expectations of police services and police services boards, and highlights that the notifications letters and any responses from the police services and/or police services boards would be published on the OIPRD’s website.

Dynamic Entries

My review of public complaints arising from dynamic entries, or police departing from the “knock and announce” rule during the execution of search warrants at residences, indicates that if chiefs of police and the OPP Commissioner examine dynamic entries they could prevent further public complaints related to them, enhance public trust, and promote best policing practices that align with current caselaw.

Legal Context

Section 8 of the *Canadian Charter of Rights and Freedoms* states that everyone has a right to be secure against unreasonable search or seizure and in order to safeguard this right during the execution of search warrants at residences, the police must, as a general rule, knock and announce their presence before entering a home. However, public safety and preventing the destruction of evidence may relieve police of the “knock and announce” requirement. In other words, in certain situations, it would be reasonable for the police to utilize a dynamic entry when executing a search warrant.

There is an established body of case law addressing the requirements of the police when they depart from the “knock and announce” rule. Notably, the onus is on the police to explain why, based on evidence known to them at the time of executing the search, they departed from the general rule.

OIPRD Review of Dynamic Entries

In exercising my mandate under the *Police Services Act*, I reviewed police policies on the execution of search warrants and identified deficiencies that require attention. For instance, some police services’ policies are silent on the issue of dynamic entries and departing from the “knock and announce” rule. Others do not have a clear approval process for departing from the “knock and announce” rule or make it clear that doing so should be exceptional rather than the norm. Many policies also did not provide clear guidelines for record keeping or documentation of the process.

Notably, I found that some police officers did not adequately document in their notes or otherwise, their assessment of the “knock and announce” rule and why they determined that a dynamic entry was warranted in a given situation. Moreover, in reviewing public complaints, I noted that the public lacks an understanding of police powers during a search, and police officers were unable to properly articulate their reasons for departing from the “knock and announce” rule.

In my view, if left unaddressed, such deficiencies combined with a lack of understanding by the public, and inability of the police to explain their actions, are likely to result in further public complaints and erode public trust in the police.

Accordingly, I’m issuing this notification on the issue of dynamic entries. Overall, it is recommended that police services review and modify their relevant policies and

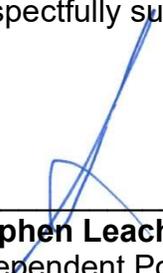
procedures on dynamic entries to ensure that it is reflective of case law and include various mechanisms for monitoring and documenting the process. Key elements include supervisory oversight and approval; a documented plan with clearly stated reasons and a consideration of alternative approaches; required note taking and reporting after execution as well as the provision of information to the impacted person to promote a better understanding for members of the public. To this end, I am offering the following specific recommendations and encouraging each service to review, compare, and evaluate the “best practices” within their specific context.

- Conduct a review of your policies relating to the execution of search warrants to ensure it complies with established jurisprudence with respect to dynamic entries and the departure from the “knock and announce” rule.
- Consider developing policies on the execution of search warrants and dynamic entries which identify the parameters set out by the courts and expressly set out the following:
 - The departure from the “knock and announce” rule only occurs in exigent circumstances.
 - The requirements before departing from the “knock and announce” rule. For instance, a clear supervisory approval process; what information needs to be known to officers; and prescribed circumstances when officers may depart from the rule.
 - The need for a documented plan and risk assessment to be created prior to the execution of all search warrants. The plan and risk assessment could include information about the presence of suspect(s) in the premises; presence of firearms; history of firearms in the premises; potential for violence by suspect(s) or occupants; an assessment of risk; the entry plan, including the feasibility of a non-dynamic entry; and justification for the entry plan.
 - The reporting requirements after the execution of a search warrant. For instance, police officers should include in their notes and other records whether a door knock occurred, who made the decision to depart from the “knock and announce” rule, and any injuries sustained on the part of the police and the occupants.

- Review and consider best practices from other police services in Ontario that outline the expectations of police officers.
- While keeping in mind investigative integrity and any privacy concerns, consider providing information to occupants of residences to increase their understanding of why the police departed from the “knock and announce” rule. Further, consider providing information to address damage to property that often occurs during a dynamic entry.
- Consider tracking how often your officers depart from the “knock and announce rule”; how often such departures involve arrests or the seizure of evidence; and the injuries sustained during these types of searches.
- Consider the development and delivery of periodic training for your members on police *Charter* obligations during the execution of search warrants.

I ask that each chief of police, and the OPP Commissioner consider these recommendations, and reply to this letter with their proposed course of action. As per the [Guideline for Publishing Notification Letters](#), this notification letter and your individual responses will be published on the OIPRD’s website.

Respectfully submitted,



Stephen Leach
Independent Police Review Director

Encl. Summary of Jurisprudence on the Knock and Announce Rule

cc.
Ken Weatherill
Inspector General of Policing