



U.S. Department of Justice
Office of the Deputy Attorney General

The Deputy Attorney General

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MEMORANDUM FOR ACTING DIRECTOR, BUREAU OF ALCOHOL, TOBACCO,
FIREARMS & EXPLOSIVES
ADMINISTRATOR, DRUG ENFORCEMENT
ADMINISTRATION
DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
DIRECTOR, FEDERAL BUREAU OF PRISONS
DIRECTOR, UNITED STATES MARSHALS SERVICE
INSPECTOR GENERAL, OFFICE OF INSPECTOR GENERAL
HEADS OF LITIGATING COMPONENTS
DIRECTOR, EXECUTIVE OFFICE FOR UNITED STATES
ATTORNEYS
UNITED STATES ATTORNEYS

FROM: THE DEPUTY ATTORNEY GENERAL *Lin M. M. M.*

SUBJECT: CHOKEHOLDS & CAROTID RESTRAINTS;
KNOCK & ANNOUNCE REQUIREMENT

As members of federal law enforcement, we have a shared obligation to lead by example in a way that engenders the trust and confidence of the communities we serve. As part of that obligation, we are updating our Department of Justice policies on certain physical restraint techniques and on the execution of certain types of warrants.

In the wake of a number of recent tragedies, law enforcement around the nation is reexamining the way it engages with individuals who come into contact with the criminal justice system. The Department of Justice has undertaken a similar review and determined that the Department did not have consistent written policies across its law enforcement components on the use of “chokeholds” and the “carotid restraint” technique to subdue resisting suspects, or on the use of “no knock” entries when executing a warrant. Therefore, I am directing the Department’s law enforcement components to revise their policies to explicitly prohibit the use of chokeholds and the carotid restraint technique unless deadly force is authorized, and to limit the circumstances in which agents may seek to enter a dwelling pursuant to a warrant without complying with the “knock and announce” rule.

Chokeholds and Carotid Restraints

The use of certain physical restraint techniques – namely chokeholds and carotid restraints – by some law enforcement agencies to incapacitate a resisting suspect has too often led to tragedy. Chokeholds apply pressure to the throat or windpipe and restrict an individual’s ability to breathe. The carotid restraint technique restricts blood flow to the brain causing temporary unconsciousness. It is important that Department law enforcement components have an articulated policy in this area because these techniques are inherently dangerous.

It is a long-standing Department policy that “[l]aw enforcement officers and correctional officers of the Department of Justice may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.” Policy Statement Use of Deadly Force, Approved by the Attorney General July 1, 2004. Given the inherent dangerousness of chokeholds and carotid restraints, and based on feedback from our law enforcement components on these techniques, Department law enforcement agents and correctional officers are hereby prohibited from using a chokehold or a carotid restraint unless that standard of necessity for use of deadly force is satisfied. Accordingly, Department law enforcement components will revise their policies to reflect this guidance prohibiting the use of chokeholds or carotid restraints by Department law enforcement agents and correctional officers, including federal task force officers, unless deadly force is authorized. Component heads will also ensure that personnel receive notice of this policy and that it is appropriately incorporated into training.

“No Knock” Entries

Federal agents are generally required to “knock and announce” their identity, authority and purpose, and demand to enter before entry is made to execute a warrant in a private dwelling. U.S. Const., amend. IV; 18 U.S.C. § 3109; see Hudson v. Michigan, 547 U.S. 586 (2006). Once that announcement is made, agents must wait a reasonable amount of time based on the totality of the circumstances to permit the occupant to open the door before making entry into a dwelling. See United States v. Banks, 540 U.S. 31 (2003). The Supreme Court has recognized, however, that there are certain situations where it is not constitutionally necessary to “knock and announce” before entering a dwelling—namely, where the officer has reasonable grounds to believe that knocking and announcing would create a threat of physical violence, likely result in destruction of evidence, or be futile. See Hudson, 547 U.S. at 589-90. Because of the risk posed to both law enforcement and civilians during the execution of “no knock” warrants, it is important that this authority be exercised only in the most compelling circumstances.

Today, I am announcing that law enforcement agents of the Department of Justice, including federal task force officers, will limit the use of “no knock” entries in connection with the execution of a warrant in the following ways.

First, an agent may seek judicial authorization to conduct a “no knock” entry only if that agent has reasonable grounds to believe at the time the warrant is sought that knocking and announcing the agent’s presence would create an imminent threat of physical violence to the agent and/or another person. Prior to seeking judicial authorization for a “no knock” entry, an agent must first obtain approval from both the Criminal Chief of the relevant U.S. Attorney’s Office (or a Deputy Chief in a Main Justice litigating component) and an Assistant Special Agent in Charge or Chief Deputy Marshal in the district. Once judicial authorization is obtained, agents may proceed without “knocking and announcing” their presence unless they learn of facts that negate the circumstances that justified this exception to the “knock and announce” rule.

Second, if an agent did not anticipate the need for a “no knock” entry at the time the warrant was sought, the agent may conduct a “no knock” entry only if exigent circumstances arise at the scene such that knocking and announcing the agent’s presence would create an imminent threat of physical violence to the agent and/or another person. If the agent relies on this exigent-circumstances exception in executing the warrant, the agent shall immediately notify his/her Special Agent in Charge or United States Marshal and provide written notice to the United States Attorney or relevant Assistant Attorney General.

Because this policy limits “no knock” entries to instances where there is an imminent threat of physical violence, it is narrower than what is permitted by law – for example, agents must “knock and announce” even when they have reason to believe that doing so could result in the destruction of evidence. In setting the policy this way, the Department is limiting the use of higher-risk “no knock” entries to only those instances where physical safety is at stake at the time of entry. Should an exceptional circumstance arise (e.g., in a national security matter) where no imminent threat of physical violence is present but an agent believes the evidence is so significant, and the risk of its destruction so pronounced, that a “no knock” entry is warranted, judicial authorization for a “no knock” warrant can be sought if approval is first obtained from the head of the law enforcement component and the United States Attorney or relevant Assistant Attorney General, with notice provided to the Office of the Deputy Attorney General.

Policy Revisions by Department Law Enforcement Components

The Department's law enforcement components shall immediately revise their policies to reflect this guidance prohibiting the use of chokeholds and the carotid restraint technique unless deadly force is authorized, and limiting "no knock" entries. Law enforcement component heads shall also report quarterly to the Deputy Attorney General regarding the number of "no knock" entries their agency executed during the prior quarter.