Knocking Should Be the Norm, Not the Exception – Evaluating the Need for Reform to the Use of Dynamic Entries in Canada

KEENAN FONSECA*

ABSTRACT

The use of dynamic or no-knock entries by the police in Canada has been minimally examined. The majority's decision in *Cornell* upheld the precedent that police are to use their discretion to identify whether the existence of exigent circumstances requires a departure from the knock and announce rule and perform a dynamic entry. Dynamic entries have led to fatal consequences, raids performed on innocent people based on faulty information, and the practice of dynamic entries being used as a blanket policy by one of Canada's major police forces. This paper analyzes the law of dynamic entries in Canada, with the focus on a need for reform. First, the author evaluates the current state of the law regarding dynamic entries and its history. Second, it reviews Justice Fish's dissent in *Cornell*. Third, current issues with the use of dynamic entries are discussed and analyzed. Fourth, the state of the law of dynamic entries in the United States is reviewed. Fifth, the *Feeney* warrant is reviewed, as a guide for reform. Finally, the recommendation that Canada follow the United States' lead in *Feeney*, and codify both the common law knock and announce principle, and the ability to receive prior authorization to perform a dynamic entry based on an increased standard of exigent standards is proposed.

* Keenan Fonseca is in his third year of his J.D. at the University of Manitoba Faculty of Law (Robson Hall). He obtained a B.A., Hons. in Criminal Justice from the University of Winnipeg. He is current a Student Supervisor at the University of Manitoba Community Law Centre, and plans to practice Criminal Law after graduation.

Keywords: Dynamic Entry; No-Knock Warrant; Section 8; Exigent Circumstances; Police Discretion; Knock and Announce

I. INTRODUCTION

On the evening of November 22, 2016, eight armed police officers from the Ottawa Police Service tactical unit broke down the door of the Bahlawan residence using a battering ram, in a quiet suburban neighborhood.[1] Next, the officers threw a distraction device, known as a flash bang, into the front hallway creating a loud explosion, a blinding light, and a haze of smoke. The officers then entered the house screaming "police, don't move!" wearing dark grey military style gear, including helmets, balaclavas, vests, and carrying a long gun rifle.[2] The three residents home at the time had no idea what was going on, and the police forced them onto the ground, and handcuffed the father and brother.[3] The police stated that they were executing a search warrant for drugs, and offered no further explanation to the residents.

The Ottawa Police were executing a search warrant issued pursuant to s. 11 of the *Controlled Drug and Substances Act* ("*CDSA*") in support of a drug investigation of Ms. Tamara Bahlawan and her boyfriend, Ahmed Al-Enzi.[4] Ms. Bahlawan lived at the house with her parents but was not home at the time that the police raid had occurred. She was known by the police to be at another location with Al-Enzi, but this information did not prevent her family from having a dynamic entry performed on their home.[5] The police did not find any of the listed drug items in the warrant during their search, however, they did find an unregistered loaded handgun in a bedroom.[6] Ms. Bahlawan was charged with four counts of unlawful possession of a firearm and ammunition under the *Criminal Code* ("*Code*").[7] Ms. Bahlawan brought a s. 8 *Canadian Charter of Rights and Freedoms* ("*Charter*") challenge based on the unreasonable search of the Bahlawan residence, including the manner of dynamic entry used by the police and sought an order to exclude the

---

1 *R v Bahlawan*, 2020 ONSC 952 at para 1 [*Bahlawan*].
2 *Ibid*.
3 *Ibid* at para 3.
4 *Ibid* at para 6.
5 *Ibid* at para 30.
6 *Ibid* at para 6.
7 *Criminal Code*, RSC 1985, c C-46 ["*Code*"].

evidence seized by police.[8] The Ontario Superior Court found a serious s. 8 *Charter* violation based on the polices' casual disregard for established authority on how search warrants should be executed, but did not exclude the evidence, as it would not bring the administration of justice into disrepute.[9]

The use of dynamic entries, or no-knock entries, by police when executing search warrants has been a practice of growing concern in Canada and the United States. While the laws relating to this manner of entry have evolved differently in these countries, Canada has not taken steps to address the growing concern, and instead has relied on the discretion of police to determine when to perform a dynamic entry, and for the courts to determine if the police's actions were justified at trial if the admission of the evidence is challenged and must be evaluated by the courts. The United States has continued to evolve the law surrounding no-knock warrants, and following tragic events, including the death of Breonna Taylor, individual states have taken steps to limit the powers of police in their use of dynamic entry.[10]

Canada is no stranger to the fatal consequences of dynamic entries. The police's growing use of these entries as standard practice, and the lack of legislation establishing or limiting the power leads to the need to return to the case of *R v Cornell*. *Cornell* was decided by a 4-3 margin of the Supreme Court of Canada ("SCC") in 2010 on determining the grounds that

---

8 *Bahlawan*, *supra* note 1 at paras 7-8; *Canadian Charter of Rights and Freedoms*, s 8, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

9 *Bahlawan*, *supra* note 1 at para 72.

10 See John W. Lee, "Virginia Bans No-Knock Warrants" (01 March 2021), online: *JOHN W. LEE, P.C. LEGAL BLOG* <hamptonroadslawfirm.com/virginia-bans-no-knock-warrants/> [perma.cc/EMS7-AE2K]; Va Code Ann § 19.2-56 (2021); Mike Maherrey, "To the Governor: Connecticut Passes Bill to Prohibit "No-Knock" Warrants" (31 May 2021), online: *Tenth Amendment Centre* <blog.tenthamendmentcenter.com/2021/05/to-the-governor-connecticut-passes-bill-to-prohibit-no-knock-warrants/> [perma.cc/D3C5-J5AF]; Conn Gen Stat § 54-33a(e) (2021); Marlene Lenthang, "Is Minneapolis' ban on 'no knock' warrants enough to prevent another Amir Locke?" (17 April 2022), online: *NBC NEWS* <tinyurl.com/wepx4z94> [perma.cc/UA62-RQWD]; Minneapolis Government, "Mayor Frey enacts new warrant, entry policy" (05 April 2022), online: *Minneapolis Government* <www.minneapolismn.gov/news/2022/april/mayor-frey-enacts-new-warrant-and-entry-policy-/> [perma.cc/A5WQ-29AV].

required for police to conduct a dynamic entry.[11] It is the dissenting opinion that will be revisited, as focused on the common law and *Charter* protections entitled to Canadian citizens, and addressed a need to limit police tactics which disregard these interests.

The use of dynamic entry by police is a search tactic that directly engages both common law and constitutional protections of Canadians and has led to unpredictable results. This paper will explore whether amendments can be made to provide greater protections to citizens from retroactively justified *Charter* infringing police conduct. The introduction of legislation codifying the knock and announce principle, as well as allowing no-knock warrants to be authorized by the judiciary based on an increased level of exigent circumstances, would reduce the issues around dynamic entries in Canada while balancing the interests of all involved.

Part II of this paper will summarize the history of dynamic entries, the protections that surround them in Canada, and the current process that police in Canada must take to justify the execution of a dynamic entry. Part III will outline the dissenting opinion in *Cornell*. Part IV will outline and analyze the current issues with the law as it relates to dynamic entries. Part V will provide an overview of the law of dynamic entry and no-knock warrants in the United States, and how individual states have attempted to limit the powers of police in using these techniques. Part VI will involve an analysis of the *Criminal Code* section that was added following the SCC's decision in *R v Feeney*.[12] The final Part will contain recommendations regarding what changes, if any need to be taken to address the constitutional concerns of the use of dynamic entry in Canada.

II. DYNAMIC ENTRY IN CANADA

A. Common Law Knock and Announce Principle

Prior to the *Canadian Charter of Rights and Freedoms* ("*Charter*") being enacted, the privacy interests protecting one's home originated from the common law. The knock and announce principle was first developed in the 1604 English decision in *Semayne's Case*, where the castle doctrine was developed under the principle that every man's house is his castle.[13] This

---

11 *R v Cornell*, 2010 SCC 31 [*Cornell*].

12 *R v Feeney*, [1997] 2 SCR 13, [1997] SCJ No 49 [*Feeney*].

13 *Semayne's Case* (1604), 5 Co Rep 91a.

indicated a high privacy interest in one's home, but the Court did indicate an exception for those member of the King's party to enter ones home when it was for the purpose of arrest or other process. However, they were required to signify the cause of their coming and make a request to open the doors.[14]

The SCC solidified the common law knock and announce principle first mentioned in *Semayne's Case* in 1974 in *Eccles v Bourque*. The common law knock and announce rule was stated as:

> In the ordinary case police officers, before forcing entry, should give (i) notice of presence by knocking or ringing the doorbell, (ii) notice of authority, by identifying themselves as law enforcement officers and (iii) notice of purpose, by stating a lawful reason for entry.[15]

The fundamental justification of this rule is that an unexpected intrusion into one's home can give rise to violent incidents, and it is in the best interests for the safety of the occupants and police that prior to entering the police announce themselves.[16] Despite this decision occurring prior to the implementation of the *Charter*, the SCC stated the privacy of the individual required by the law must also be considered.[17] Similar to the castle principle, the SCC provided a limit to the knock and announce rule, finding that it could be departed from where the police identified exigent circumstances, such as to save someone from death or injury or to prevent the destruction of evidence.[18] This limit indicates the public's interest in justice will at times outweigh the need to protect individuals security and privacy within their home.

B. Section 8 of the *Charter*

With the implementation of the *Charter* in 1982, an additional layer of protection was added regarding the privacy interest of one's home. Specifically s. 8 of the *Charter*, which provides that everyone has the right to be secure against unreasonable search or seizure. The SCC has reviewed the individual's reasonable expectation of privacy in different areas, stating in *R v Silveira* that "a person's home is their refuge ... It is there that the

---

14 *Ibid.*

15 *Eccles v Bourque*, [1974] 2 SCR 739 at 758, 19 CCC (2d) 129.

16 *Ibid* at 747.

17 *Ibid.*

18 *Ibid* at 747-748.

expectation of privacy is at its highest and where there should be freedom for external forces, particularly the actions of agents of the state, unless those actions are dually authorized."[19] This indicates that the combination of the common law knock and announce rule and s. 8 of the *Charter* provide for a high reasonable expectation of privacy of Canadians when it comes to police searching their homes.

C. Dynamic Entry

A dynamic entry, or no-knock entry, occurs when police depart from the knock and announce rule, gaining entry to a residence without knocking and announcing that they are the police. A dynamic entry is a police tactic designed to gain rapid entry into a location, which is usually a private home.[20] A dynamic entry generally involves the use of a police tactical team, and is conducted in a militaristic style where police break open the door using a battering ram and enter bearing weapons and body armour.[21]

D. Departure from Knock and Announce

In Canada, police continue to be governed by the knock and announce rule as articulated in *Eccles v Bourque*. However, the SCC in *Cornell* has further developed the exigent circumstances needed to depart from this rule: requiring reasonable grounds in the circumstances "to be concerned about the possibility of harm to themselves or occupants, or about destruction of evidence."[22] It was stated by Justice Cromwell that "experience has shown that it (the knock and announce principle) not only protects the dignity and privacy interest of the occupants of dwellings, but it may also enhance the safety of the police and public."[23]

In Canada, the police are required to submit an Information to Obtain a Search Warrant ("ITO") prior to receiving a search warrant for a residence.[24] The decision to execute a warrant using dynamic entry as opposed to following the knock and announce rule does not require prior

---

19 *R v Silveira*, [1995] 2 SCR 297 at para 141, [1995] SCJ No 38.

20 See Brendan Roziere & Kevin Walby, "Analyzing the Law of Police Dynamic Entry in Canada" (2020) 46:1 Queen's LJ 39 at 42 ["Roziere & Walby"].

21 See *Cornell*, *supra* note 11at para 10.

22 *Ibid* at para 20.

23 *Ibid* at para 19.

24 See *Code*, *supra* note 7, s 487(1).

judicial authorization.[25] The decision to depart from the rule is determined solely by the discretion of the police, and the onus is on them to explain why they thought it necessary to do so.[26]

In *Cornell*, Justice Cromwell stated that to depart from the knock and announce rule, police must be satisfied that there were grounds to be concerned about the possibility of violence or that there was a low risk of weapons being present.[27] Regarding destruction of evidence, it was determined that the police must have reasonable grounds to expect that the drugs are both likely to be present in the home and are easily destroyable to justify a dynamic entry on this ground.[28] It was found that police are to be given a certain amount of latitude in the manner in which they decide to enter the premises.[29]

It has been argued before the courts in Canada that prior authorization should be found necessary when police choose to execute a dynamic entry and depart from the knock and announce rule.[30] However, this has been rejected by the courts in multiple jurisdictions across Canada, solidifying that it is not necessary for the police to receive prior judicial authorization to depart from the knock and announce rule.[31] Judicial oversight of dynamic entry by police is instead dealt with after the fact, where it occurs at trial. If the police's choice to use dynamic entry is challenged by the accused, the onus lies on the Crown to lay an evidentiary framework to support the conclusion that the police had reasonable grounds to believe that exigent circumstances were present; the exigent circumstances being the possibility of harm to themselves or the occupants, or concerns about the destruction of evidence.[32] The onus will be heavier on the police/Crown where the departure from the knock and announce principle has occurred.[33] When justifying the actions of police, the Crown must rely on the evidence that is in the record and available to the police at the time that they acted.[34] It was

---

25 See *R v Pilkington*, 2013 MBQB 86 at para 69.

26 See *Cornell*, *supra* note 11at para 20.

27 *Ibid.*

28 *Ibid* at para 27.

29 *Ibid* at para 24.

30 See Roziere & Walby, *supra* note 20at 45.

31 See *R v Perry*, 2009 NBCA 12; *Pilkington*, *supra* note 25; *R v Al-Amiri* 2015 NLCA 37.

32 See *Cornell*, *supra* note 11at para 20.

33 *Ibid.*

34 *Ibid.*

reiterated in *Cornell* that the Crown cannot rely on ex post facto justifications.[35] A departure from the knock and announce rule must be justified on a case by case basis, which does not support blanket policies to use dynamic entries in all instances of a particular offence, as this does not comply with s. 8 of the *Charter*.[36] In *Bahlawan*, the court highlighted the importance that the police must consider complying with the knock and announce rule before they decide on the use of a dynamic entry.[37]

III. DISSENT IN *R V CORNELL*, 2010

While the majority's decision has become the framework applied to cases involving dynamic entry, it is important to consider the strong dissent of the 4-3 decision in *Cornell* by Justice Fish. Justice Fish agreed with the majority regarding police being afforded considerable latitude, and that courts should not light interfere with these decisions. However, he emphasized that the decisions must be reasonable, and to be reasonable "they must be informed by a fact-based assessment of the particular circumstances of the search and the force necessary to preserve evidence and to neutralize perceived threats to their safety".[38] He goes on to highlight the fact that it was clear from the evidence the police had that none of the residents living at the Cornell house had a criminal or violent record, that no other persons lived in their home, and that it was not a gang house or a drug house.[39] Regarding the officer's safety concerns, he criticized the majority's acceptance that since another suspect, Nguyen, was found prior to the search wearing body armour, that the Cornell residence was then a safety concern.[40] This is in addition that there was no evidence that weapons would be present at the house, as the ITO outlined the items as "cocaine, packaging equipment, score sheets and cash."[41] Justice Fish outlined the danger in setting the bar too low for safety concerns to justify dynamic entries, considering the lack of a nexus that existed between Nguyen and the Cornell residence.

---

35 *Ibid.*

36 See Roziere & Walby, *supra* note 20at 71-74.

37 *Bahlawan, supra* note 1 at para 43.

38 *Ibid* at para 48.

39 *Ibid* at para 49.

40 *Ibid* at para 50.

41 *Ibid* at para 74.

On the topic of destruction of evidence, Justice Fish conceded that illicit drugs are easily concealed or discarded, however he questions the assumption of the police that the occupants of the home would or could destroy the evidence.[42] He suggest that the police should make some attempt to ascertain whether there is a real likelihood that without a dynamic entry there would be enough time to destroy the evidence.[43] He stated that "generic assertions in this regard are plainly insufficient to justify a violent entry of the kind that occurred here."[44] Further the police never supplied the risk analysis to any member of the tactical team, which is an internal record of the police designed to inform the duty inspector of any potential risk involved to the public and police when executing a warrant.[45] This led Justice Fish to conclude that the risk analysis was not relied upon by the police when deciding to conduct a dynamic entry.[46]

The strong dissent in *Cornell* outlines the dangers in setting the standard for satisfying exigent circumstances too low, and basing them on broad conclusions, such as using a dynamic entry because cocaine is expected to be found and is an easily disposable drug. It also points to the dangers in police failing to properly assess risk and share risk analyses with the tactical teams, which would result in unofficial blanket policies to use a dynamic entry whenever a warrant is for easily disposable drugs. The dissent agrees police need to have discretion in their execution but calls for a more reasonable standard for dynamic entries to be used. The dissent stresses the need for police to comply with the citizens protections, including the knock and announce principle and s. 8 of the *Charter.* There have been multiple issues with the use of dynamic entries by the police in Canada and likely would have been less if one of the Justices joining the majority had joined Justice Fish in his decision.

IV. Current Issues with Dynamic Entries in Canada

A. Fatal Consequences

---

42 *Ibid* at para 106.
43 *Ibid.*
44 *Ibid* at para 41.
45 *Ibid* at paras 81-82.
46 *Ibid.*

The execution of dynamic entries in Canada, whether directly or indirectly, has resulted in five deaths, including one police officer.[47] That the use of this police tactic for executing a search warrant can have fatal consequences suggests the frequency of dynamic entry use should be limited to specific circumstances. The execution of these searches already involves the implication of *Charter* and common law protections, but can also carry the risk that someone, on either side of the entry, could be killed.

1. Anthony Aust

On October 7th, 2020, the Ottawa Police executed a search warrant by way of dynamic entry on the 12th floor apartment where Anthony Aust lived with his family.[48] The decision to perform the entry in a dynamic fashion was based on tips to police from three confidential informants that Aust was trafficking firearms, cocaine, and fentanyl from his residence, along with his criminal record which indicated he had been charged, along with two others, after police found drugs, cash, and a loaded handgun during a traffic stop. This information was contained in the ITO, along with the police's belief that Aust was posting guns for sale using a cell phone application, despite no photos of these ads being seen by the CBC investigation team.[49] It is further important to note that at the time of search Aust was out on bail, wearing a GPS ankle bracelet and was on house arrest. In addition to these measures, a security camera was also installed in the apartment.

The police rammed the door of Aust's residence and threw a flash-bang grenade into the apartment prior to their entry. After the police entered the apartment, Aust jumped from his bedroom window, falling 12 storeys to death. Police found approximately 33 grams of heroin and 86 grams of fentanyl, along with cash and other drug dealing paraphernalia, but they did not find the gun.[50] Since the police's choice to use a dynamic entry is reviewable at the trial if charges are laid, no court has had the opportunity

---

47 See Michael Spratt, "No-Knock police raids need to stop" (01 April 2021), online: *Canadian Lawyer* <www.canadianlawyermag.com/news/opinion/no-knock-police-raids-need-to-stop/354577> [perma.cc/N59L-RUKW].

48 See Judy Trinh, "Police raid on Anthony Aust's apartment didn't match tipster information, court documents show" (15 December 2020), online: *CBC News* <www.cbc.ca/news/canada/ottawa/anthony-aust-ottawa-court-documents-1.5841481> [perma.cc/HT5C-8XCY].

49 *Ibid.*

50 *Ibid.*

to evaluate the police's decision. If not for the news reports surrounding this incident, the public would be unlikely to know exactly what information the police had to justify their actions.

2. Officer Daniel Tessier

In the early morning, just before 5:00 a.m. on March 2nd, 2007, the Laval Municipal Police force conducted a dynamic entry on the home of Basil Parasiris.[51] The police obtained a warrant for the search of Parasiris's home based on seeing Parasiris interacting with two other suspects, Xanthis and Mavroudis, who police believed to be trafficking drugs.[52] Parasiris had been seen with them on multiple occasions, at the store owned by Parasiris, as well as at Parasiris's residence.[53]

After ramming down the front door and the vestibule door, officers entered the residence and began their ascent up the stairs. Parasiris, believing that his house was being raided by unknown persons opened fire on the police, wounding one officer and fatally wounding another.[54] Parasiris testified that he believed his family was being attacked by home invaders on the night in question, testifying that he had no choice but to shoot and did not realize they were police until after he shot.[55] The Police Chief stated that they had found a variety of drugs and 17 cell phones and pagers in the home.[56]

The Judge found that the information police relied on was insufficient to establish a reasonable probability that Parasiris was involved in the drug trafficking.[57] The information was sufficient to satisfy warrants for the other suspects, but there was not enough information to establish a link to Parasiris and the Court concluded that the search warrant for Parasiris's residence should never have been issued.[58] The court also commented that despite s. 11 of the *CDSA* authorizing a search warrant to be executed at any

---

51 *R v Parasiris,* 2008 QCCS 2460 at para 11 [*Parasiris*].

52 *Ibid* at para 54.

53 *Ibid* at para 84.

54 *Ibid* at para 17.

55 See CBC News, "Quebec man acquitted in police officer slaying" (13 June 2008), online: *CBC News* <www.cbc.ca/news/canada/montreal/quebec-man-acquitted-in-police-officer-slaying-1.698274> [perma.cc/BCH8-ZGGB] [CBC News].

56 *Ibid.*

57 *Parasiris, supra* note 51at para 94.

58 *Ibid* at para 101.

time, the information in this case did not include any fact that could justify a night search.[59]

The use of force by way of dynamic entry was not justified by the circumstances in the record, as it fails to show any fact establishing that a proper announcement would lead to the imminent loss or destruction of evidence.[60] The police were under the belief that there were no firearms in the Parasiris residence, as the officer did an address check, but failed to run a check using Parasiris's name.[61] Further, the Judge found that is was in contravention of the requirements of s. 12 of the *CDSA*.[62] Ultimately, the search of the Parasiris residence was found to amount to a s. 8 *Charter* violation, and Parasiris was later acquitted of the first-degree murder charge.[63]

In both situations described there were fatal consequences to those involved in the police use of a dynamic entry. The Court in *Parasiris* made clear that both the grounds contained in the ITO and the decision to use dynamic entry were problematic. However, in Anthony Aust's situation the police's decision in the execution of dynamic entry and the grounds in the ITO could not be reviewed by a court. This suggests that the current process is problematic, specifically the after the fact justification of the choice to utilize a dynamic entry. While it was stated by Justice Cromwell in *Cornell* that the knock and announce rule may enhance the safety of the police and public, the preceding examples suggest the departure from this rule can have fatal consequences.

B. Dynamic Entry as a Blanket Technique for Police

As highlighted by the majority in *Cornell,* the police must use their discretion to determine if exigent circumstances exist prior to departing from the knock and announce rule.[64] Further developing this concept, Justice Mainella of the Manitoba Court of Queen's Bench (as he then was) described blanket policies in relation to dynamic entry in *R v Pilkington* as the practice of "officers performing no knock entries when executing *CDSA* search warrants when they had no reason to believe either evidence would

---

59 *Ibid* at para 120.
60 *Ibid* at para 124.
61 *Ibid* at para 43-49.
62 *Ibid* at para 129.
63 *Ibid*; see CBC News, *supra* note 55.
64 *Cornell, supra* note 11.

be destroyed or there was a risk to their or others' safety."[65] The use of blanket policies in relation to marijuana grow ops were found to violate s. 8 of the *Charter*.[66] Police are required to base their decision to use a dynamic entry on assessment of the circumstances known to police at the time.[67] In addition, circumstances can change, and police are expected to re-evaluate their decisions based on these circumstances.[68]

Bahlawan was introduced in the introduction of this paper. It involved Justice Gomery finding a s. 8 *Charter* violation based on the manner of dynamic entry used by the police. More specifically, Justice Gomery rejected the Crown's argument of exigent circumstances justifying the entry as the evidence did not show that the Ottawa police ever considered the possibility of a non-dynamic entry.[69]

Constable Cox was responsible for swearing the ITO for the search warrants of the Bahlawan residence, as well as the Heron apartment, and Al-Enzi's residence.[70] His testimony indicated that it was policy that the tactical unit conduct all search warrants for private premises, and that the decision on dynamic entry is made by the duty inspector.[71] Constable Cox indicated that he had provided the duty inspector, Medeiros, and the team leader, Constable Wright, with the operations plan on executing the warrants at the three locations.[72] Following this he briefed them on the ITO and all three agreed that the tactical unit should precede by dynamic entry, with the use of distraction devices at each location.[73] It is important to note that the officers agreed to conduct further surveillance to locate Bahlawan and Al-Enzi, and that modifications to the plan to proceed by dynamic entry could be changed depending on their locations.[74] This surveillance led to police locating Bahlawan and Al-Enzi at the Huron apartment, yet police

---

65 *Pilkington*, *supra* note 25 at para 71.
66 *Ibid.*
67 *Ibid* at para 73.
68 *Ibid* at para 74.
69 *Bahlawan*, *supra* note 1 at para 21.
70 *Ibid* at para 22.
71 *Ibid* at para 24.
72 *Ibid* at para 25.
73 *Ibid* at para 26.
74 *Ibid.*

did not use this information to re-evaluate the need to perform a dynamic entry.[75]

The testimony of Inspector Medeiros raised multiple concerns, as he indicated that the knock and announce principle is only used in situations where there is zero risk of exigent circumstances and that in all other cases forced entry was used to allow the officers the element of surprise.[76] He further testified that a non-dynamic entry of the Bahlawan residence was not considered and the police would only knock and announce if there were non-disposable evidence identified in the search warrant.[77]

The Judge found that dynamic entry of the Bahlawan residence was a foregone conclusion and there was no evidence of any consideration to proceed with alternative tactics by the members of the police involved in the investigation.[78] The tactics used by the Ottawa Police Service in this case clearly run contrary to the restriction of dynamic entry as a blanket policy as outlined in *Pilkington*. The blanket policies of the Ottawa Police Service are of great concern overall, as they indicate a clear departure of the consideration of the knock and announce rule, as well as the constitutional protections under s. 8 of the *Charter*.

This furthers the highlighted concern of police having the sole discretion to determine whether to perform a dynamic entry and the potential abuse that can result. Despite the Courts focus on the blanket policy of the Ottawa Police, the Police proceeded to perform the dynamic entry on the Aust residence later in the year. The situation with the Ottawa Police may indicate the overuse of dynamic entries in relation to internal policies of other police forces in Canada, as the number of dynamic entries has been increasing across other police forces.[79]

C. Faulty Information

Another issue that has arisen in police execution of dynamic entries is when police mistakenly target a home, and the evidence supporting the

---

75 *Ibid* at para 31.

76 *Ibid* at para 32.

77 *Ibid* at para 35.

78 *Ibid* at para 43.

79 See Zach Dubinsky, Judy Trinh & Madeline McNair, "Police smash couple's living room window with armoured vehicle in drug raid that finds nothing" (18 June 2021), online *CBC News Canada* <www.cbc.ca/news/canada/no-knock-raid-airdrie-calgary-couple-1.6069205> [perma.cc/8A82-K63J] see statistics referring to police services in Montreal, Surete du Quebec, Ontario Provincial Police, London & Calgary.

warrant and entry are inaccurate or non-existent. Further difficulty arises in these circumstances as the police cannot be held directly accountable by the courts regarding the obvious s. 8 *Charter* breaches that occur, and instead the victims are left the sole remedy of pursuing a civil claim against the police.

This situation happened to Joshua Bennett and Jennifer Hacker, who lived just outside of Calgary. The couple was awoken to their door being bashed in, while an armoured vehicle smashed through the living room window which was followed by both tear gas and a stun grenade being thrown into their residence.[80] The couple attempted to get out of their house through the garage where they were greeted at gun-point by the police, who repeatedly asked "where is the meth" and "where's the hard drugs."

The ITO contained a tip from a confidential information that a woman "uses stash houses to hide her drugs and likes using rural areas." This woman had sold marijuana to Bennett weeks prior, and Bennett had picked up some clothes she was selling a week earlier, which were in a garbage bag.[81] The police mistakenly inferred that the garbage bag picked up by Bennett at the woman's home must have been drugs and submitted it as part of the ITO to obtain a search warrant.

Ultimately, Bennett and Hacker were not charged and released by police, however the home they were renting had over $50,000 worth of damage done to it, and the pair state that they have suffered psychological damage from the raid. The pair are currently involved in suing the police for $1.5 million in damages over the raid.[82] The RCMP Superintendent, Gord Corbett stated "these actions were necessary, acceptable, and effective based on the risk present at the time."[83]

This situation is not a one-time occurrence in Canada, as Peter Schneider had a similar experience occur when police raided his house

---

80 *Ibid.*

81 *Ibid.*

82 See Judy Trinh & Zack Dubinsky, "Alberta pair sue police for $1.5M over 'malicious' drug raid that found nothing" (12 April 2022), online, *CBC News Canada* <www.cbc.ca/news/canada/calgary/alberta-couple-lawsuit-violent-no-knock-police-drug-raid-1.6416385> [perma.cc/8D8Z-NFRF].

83 *Ibid.*

based on inaccurate informant information.[84] These examples represent another situation where citizens have had their s. 8 *Charter* rights breached, and where the evidence in the ITO would likely not be found sufficient to support the warrant if it were to be reviewed by a court. While inaccurate information from informants is likely to continue to occur, if police had chosen to knock and announce themselves, or further pursued the investigation, both physical and psychological damage could have been prevented.

V. UNITED STATES

In addressing potential reforms to the practice of dynamic entries, it is helpful to look to the United States, where no-knock warrants and the tragic consequences of these practices have been brought to the forefront of attention in the deaths of Breonna Taylor and Amir Locke. In this Part, the evolution of no-knock warrants in the United States will be reviewed, followed by an examination of the individual states who have put in full or partial bans on the use of no-knock warrants and dynamic entries.

A. Dynamic Entries in the United States

Like Canada, the United States finds the precedent for the reasonable expectation of privacy from the castle doctrine of the English common law. The castle doctrine was an absolute defence from all criminal and civil liability when a homeowner reasonably defended his or her home.[85] The castle doctrine further led to the knock and announce rule which was woven into the fabric of early American law.[86] Citizens of the United States also enjoy a constitutional protection to their privacy in their homes, under the Fourth Amendment, which guarantees the right to "be secure in their persons, house, papers and effects, against unreasonable search and seizures."[87]

---

84 See Judy Trinh, Virginia Smart & Zach Dubinsky, "Botched no-knock raids prompt calls to limit police tactic" (10 March 2021) <www.cbc.ca/news/canada/no-knock-raids-dynamic-entries-calls-limit-police-tactic-1.5942819> [perma.cc/C68U-34TQ].

85 See Kolby K Reddish, "A Clash of Doctrines: The Castle Doctrine and the Knock-and-Announce" (2016) 25 Widener L J 171.

86 See *Wilson v Arkansas*, 514 US 927 at 932 (1995) [*Wilson*].

87 Jessica M Weitzman, "They Won't Come Knocking No More: Hudson v. Michigan and the Demise of the Knock-and-Announce Rule" (2008) 73 Brooklyn L Rev 1209 at 1209.

The Supreme Court of the United States (SCOTUS) in the case of *Wilson v Arkansas* held that the knock and announce principle forms a part of the reasonableness inquiry under the Fourth Amendment.[88] This strengthened the protection offered to those being searched. However, the Court was careful to provide a limit on the Fourth Amendment, where certain circumstances may exist that would require an officer's unannounced entry into a home.[89] The determination of whether an unannounced entry was reasonable was found to be a responsibility of the lower courts.[90]

In the case of *Richard v Wisconsin* the SCOTUS rejected the Wisconsin Supreme Court's finding that the Fourth Amendment permitted a blanket exception to the knock and announce requirement when executing a search warrant in a felony drug investigation, upholding the case-by-case evaluation of the search executed by police.[91] In this case, the police had requested a warrant that would provide them with permission to conduct a no-knock warrant on Richard's residence, but the magistrate deleted the no-knock portion.[92] In its analysis, the Court finds that a blanket exception to the knock and announce rule for felony drug cases would unfairly affect those present at a home who have no connection to the drug activity or a situation where no one was home, and ultimately the proposed blanket rule would impermissibly insulate these cases from judicial review.[93] The Court ultimately found that the Fourth Amendment did not permit a blanket exception to the knock and announce requirement, and that a case-by-case evaluation of the search execution by police would continue to be the standard.

When referring to exigent circumstances justifying the use of a no-knock entry by the police, the SCOTUS stated that "this standard, strike[s] the appropriate balance between the legitimate law enforcement concerns at issue in the execution of search warrants and the individual privacy interests affected by no-knock entries."[94] This decision can be seen as

---

88 *Wilson, supra* note 86 at 929.

89 *Ibid* at 934.

90 *Ibid* at 936.

91 *Richard v Wisconsin*, 520 US 385 (1997) at 387-388 [*Richard*].

92 *Ibid* at 388.

93 *Ibid* at 393.

94 *Ibid.*

upholding the right of state magistrates to issue no-knock warrants to police forces, but requires that sufficient evidence be provided to justify it.[95]

The next major decision of the SCOTUS considering the knock and announce rule occurred in *Hudson v Michigan*. This involved the determination of whether a violation of the knock and announce rule by the police required suppression of the evidence found in the home.[96] In the United States, the suppression of evidence occurs where a constitutional right is violated, however Justice Scalia stated that the "suppression of evidence as having 'always been our last resort, not our first impulse.'"[97] When determining whether evidence should be suppressed, it should only apply where the remedial objectives are thought most efficaciously served and where its deterrence benefit outweigh its substantial social costs.[98]

In addressing dynamic entries, the Fourth Amendment's protection exist until a valid warrant is issued, and the knock and announce rule are not as far-reaching as the constitutional protections.[99] Essentially, the SCOTUS separates the search from the entry by police, leading to the conclusion that just because the knock and announce principle was violated does not contribute to the need to suppress evidence because the evidence still would have been found despite the action of the dynamic entry.[100] In the situation where police violate the knock and announce rule, but have a valid search warrant for the residence, the evidence is not to be immediately suppressed.

B. Comparison Between Canadian and United States Jurisdictions

Canadians and Americans enjoy similar common law protections under the knock and announce principle, as well as constitutional protections under s. 8 of the *Charter* and the Fourth Amendment of the United States *Constitution*. Following the development of evidence suppression in the United States, the law is similar to s. 24(2) of the *Charter* in Canada, in that evidence is not automatically excluded, and an analysis should be

---

95 *Ibid.*

96 *Hudson v Michigan*, 547 US 586 (2006) at 589 [*Hudson*].

97 *Ibid* at 591.

98 *Ibid.*

99 *Ibid* at 593.

100 *Ibid* at 600.

conducted. In both countries the justification of dynamic entries based on exigent circumstances is to be done by the lower courts.

However, the main difference between the laws regarding dynamic entries is that in most of the states in the United States, police can apply for authorization through a no-knock warrant to perform a dynamic entry. Whereas in Canada, prior authorization to perform a dynamic entry cannot be approved by the judiciary and falls solely to the discretion of the police. While the process of prior authorization appears to offer greater scrutiny of police evidence, the state of this practice in the United States has been under a great amount of scrutiny in the last decade and has resulted in certain states banning the use of no-knock warrants.

C. States Banning No-Knock Warrants

The United States is unique in comparison to Canada in how individual states have control over their criminal laws and can pass legislation to address any shortcomings in SCOTUS decisions. At this time, the use and execution of no-knock warrants is banned in four states. Florida and Oregon have had the knock and announce rule codified in statute for many decades, while Virginia and Connecticut have added reforms to address recent tragedies.

The tragic death of Breonna Taylor in Louisville, Kentucky in 2020 has sparked outrage among citizens, and has directly contributed to political discussions about the use of no-knock warrants. The police mistakenly believed that Breonna was involved in a drug operation and that she was home alone conducted a dynamic entry on her residence.[101] While the police knocked, they failed to announce themselves, which resulted in Taylor's boyfriend firing his weapon when the door was crashed in. The police opened fire, killing Breonna Taylor and injuring her boyfriend, Mattingly. This no-knock raid led to no drugs or other evidence being found.

Deaths as a result of these dynamic entries, like Breonna Taylor's, are not a one-off occurrence, as there have been an estimated 94 people, including 13 police officers, killed in no-knock searches in the United States

---

[101] See Scott Glover, Collette Richards, Curt Devine & Drew Griffin, "A key miscalculation by officers contributed to the tragic death of Breonna Taylor", online: *CNN* <www.cnn.com/2020/07/23/us/breonna-taylor-police-shooting-invs/index.html> [perma.cc/DN8R-GS2G].

between 2010 and 2016.[102] This led the State of Virginia to amend § 19.2-56 of the *Code of Virginia* that effectively nullifies and makes irrelevant the decision of the SCOTUS, which bolstered the use of no-knock entries in the United States. Subsection (b) of § 19.2-56 reads "No law-enforcement officer shall seek, execute, or participate in the execution of a no-knock search warrant..."[103] In addition to banning no-knock warrants, § 19.2-56 now places stricter limits on authorizing warrants executed outside of daytime hours.[104] In 2021, Connecticut passed similar reform to amend § 54-33a of the *Connecticut General Statutes* to ban the seeking, execution, and participation in the execution of a no-knock warrant.[105]

In *State v Bamber*, the Florida Appeal Court confirmed that § 933.09 was a statutory codification of the knock and announce rule, and that "no statutory authority exists under Florida law for issuing a no-knock search warrant."[106] However, the Court provided that a no-knock entry could be justified when exigent circumstances exist, such as the destruction of evidence.[107] Further, the Court held that "an officer's belief in the immediate destruction of evidence must be based on particular circumstances existing at the time of entry and must be grounded on something more than his or her generalized knowledge as a police officer and the presence of a small quantity of disposable contraband in a home with standard plumbing."[108] In support of the policy position for banning no-knock warrants, the Court identified the staggering potential of violence to both occupants and police when executed.[109] The Court found that the police were not justified in the search of the Bamber home, and they did not have a reasonable fear that Bamber would likely destroy evidence.

These four states have addressed issues surrounding no-knock warrants and responded by codifying the knock and announce rule. While this bans the issuance and execution of no-knock warrants, it does not expressly prohibit the use of dynamic entry by police when encountering exigent circumstances. The state of the law around dynamic entry and no-knock

---

102 See Brian Dolan, "To Knock or Not to Knock: No-Knock Warrants and Confrontational Policing" (2019) 93:1 St John's L Rev 201 at 220.

103 Va Code Ann § 19.2-56 (2021).

104 *Ibid*.

105 Conn Gen Stat § 54-33a(e) (2021).

106 *State v Bamber*, 630 So 2d 1048 (Fla 1994) at 1050 [*Bamber*].

107 *Ibid* at 1052.

108 *Ibid* at 1055.

109 *Ibid* at 1050.

warrants in these states is similar to Canada, where a no-knock warrant cannot be obtained but falls upon the discretion of the police to execute a search warrant by way of dynamic entry. A key takeaway to the reasoning behind these legislative reforms is the overuse of dynamic entries and the insufficiency and inaccurate information used to authorize the warrants. However, of the law in Canada continues to contribute issues in the use of dynamic entries.

VI. *FEENEY* WARRANTS

In Canada, following the case of *Feeney*, ss. 529-529.5 were added to the *Code* which established the legislative framework for executing arrests in dwelling houses.[110] These sections were added as *Feeney* determined that the *Code* failed to provide specifically for a warrant containing such prior authorization to address exigent circumstances.[111] Subsection 529.4(1) allows a judge or justice to authorize a peace officer to perform a dynamic entry, if satisfied by the information on oath that exigent circumstances exist.[112] The specific exigent circumstances referred to are a) expose the police officer or any other person to imminent bodily harm or death; or b) result in the imminent loss or imminent destruction of evidence relating to the commission of an indictable offence.[113] This amounts to what is known in the United States as a no-knock warrant, however s. 529.4(2) requires that the peace officer evaluate the situation again immediately prior to execution to ensure that exigent circumstances remain present.

This section applies only to situations where police officers are attempting to arrest an accused within a dwelling house and is not applicable to the use of dynamic entries in other key areas, such as drug, firearm, and child sexual abuse material offences. However, what this section represents is the codification of the knock and announce rule in specific circumstances, as well as the ability for peace officers to obtain prior

---

110 See Michael A. Johnston, "Knockin' On Feeney's Door? A Case Comment on R. v. Cornell" (2012) 58 CLQ. 379 at 397 ["Johnston"].

111 *Ibid.*

112 *Code*, *supra* note 7, s 529.4.

113 *Ibid* [emphasis added].

judicial authorization for a no-knock warrant, although contingent on the continuation of the existence of exigent circumstances.[114]

The exigent circumstances under s. 529.4(1) and the use of the term imminent in both subsections point to a much higher standard to meet than those set out by the SCC in *Cornell* in relation to dynamic entries generally.[115] The SCC found exigent circumstances to be low risk of weapons, possibility of harm, or if the drugs sought could be easily destroyed.[116] It is suggested by Johnston that the approach to dynamic entry outlined by the majority in *Cornell* has lowered the bar of the knock and announce principle and provided a satisfactory analysis to determine whether it was justified.[117] This can be contrasted to the Court's decision in *Feeney*, leading Parliament to enact a new section of the *Code*, specifically codifying the knock and announce principle and providing a standard for the exigent circumstances that could lead to the approval, and then to the execution of a dynamic entry of the police.

VII. RECOMMENDATION

With the growing concerns of the use of dynamic entries by police across Canada and the United States,[118] the fatal consequences that can and have resulted, and the concerning reliance on these tactics by police as highlighted in *Bahlawan*, there is a need for reform. The increasing use of dynamic entries because of a low threshold for their justification from the majority decision in *Cornell* points to the need for a higher bar. This is needed to ensure citizens' *Charter* rights are an important consideration when they may be potentially breached, rather than justification occurring after the breach has occurred.

The implementation of a *Code* section like s. 529.4 would address the shortcomings of the law in dynamic entries in Canada, while balancing the interests of all parties involved. A return to the knock and announce

---

114 See Johnston, *supra* note 110 at 397-398.

115 *Ibid.*

116 *Cornell*, *supra* note 11at para 24.

117 Johnston, *supra* note 110 at 399.

118 See Spratt, *supra* note 47; Zach Dubinsky, "More protections needed against police no-knock raids, lawyers say" (19 June 2021), online: *CBC News* <www.cbc.ca/news/canada/no-knock-raids-lawyers-solutions-1.6072238> [perma.cc/Y6KK-CW4K]; Dolan, *supra* note 102.

principle is needed, as stated by Justice Cromwell in *Cornell*: "experience has shown that it [knock and announce principle] not only protects the dignity and privacy interests of the occupants of dwellings, but it may also enhance the safety of the police and public."[119] This principle, combined with the protections of s. 8 of the *Charter*, requires a higher justification for the intrusion into one's home.

The proposed section would allow a judge or justice to authorize the police to depart from the knock and announce rule where the existence of exigent circumstances exist, and the exigent circumstances involve either the imminent threat of bodily harm or death or the imminent threat of destruction of evidence, directly borrowing the language of s. 529.4. Further, following this section, the police would be required to revaluate the exigent circumstances directly prior to executing the dynamic entry to ensure they are still present. While this power would be codified, the police would retain the discretion to enter a residence where prior authorization was not given, but would be required to satisfy the new level of exigent circumstances, involving an imminent threat.

The codification of the common law knock and announce principle as it relates to dynamic entries would increase the merit of the rule. It would extend from a common law protection to a statutory protection. The introduction of a no-knock warrant option outside of the dwelling house arrest under s. 529.4(2) for the purposes of dynamic entries would have both potential strengths and weaknesses. These will be discussed as they would apply to the current issues with dynamic entries in Canada and compared to the United States.

A. Advantages

The first strength of a codified no-knock warrant would be the move to prior judicial authorization from a judge or justice, as opposed to having the ITO and other circumstances of the investigation reviewed after the fact. It would follow that to receive authorization, a greater threshold would have to be met than what the majority in *Cornell* has found. This can be found under s. 529.4(1), which lays out the exigent circumstances that must exist to satisfy the no-knock warrant, which include the imminent threat of bodily harm or death, and the imminent loss or destruction of evidence.[120]

---

119 *Cornell*, *supra* note 11at para 19.

120 *Code*, *supra* note 7, s 529.4(1).

With the elevated justification needed to obtain the no-knock warrant, police may choose to investigate further and obtain more information to support the need for a dynamic entry. By taking these additional steps to corroborate the evidence, the police could likely identify situations where a dynamic entry would no longer be required, based on further investigation.

In *Cornell*, the information police had in the ITO would likely not have been enough to satisfy the standard of imminent threat to safety or imminent threat of destruction of evidence. As the dissent had identified, the nexus between the threat to safety was very small, and as identified further investigation into the residents of the Cornell home would have suggested a dynamic entry was not necessary.[121] In *Parasiris*, the Court found that there were not reasonable grounds to issue a warrant for Parasiris' residence, nor perform a dynamic entry.[122] If brought before a judge or justice for permission, this warrant would have been rejected and a tragic result may have been prevented. Another case where the ITO was found by the Court to not contain accurate information to justify a warrant occurred in *R v Garabet*, where the Ontario Court of Appeal found that the evidence was dated, imprecise, and inconclusive.[123] The three preceding cases all involved a risk to the destruction of evidence, and no firearms were expected to be present from the evidence contained in the ITOs.

The next strength of codified no-knock warrants would be the return to the protections that citizens enjoy under the knock and announce principle and s. 8 of the *Charter*. A greater justification for police to depart from these standards would result in these interests being at the forefront of the decision to depart from these protections, rather than being retroactively justified. This benefit may have likely prevented the dynamic entries based on faulty information, as pursuit of evidence would no longer outweigh the protections.

Finally, the police and the Crown would have an easier process to justify the use of a dynamic entry due to the obtaining of the warrant. The high bar of justification would occur prior to the execution of the warrant and would likely contain a higher degree of evidence contained in the ITO.

B. Weaknesses

---

121 *Cornell*, *supra* note 11at para 50.

122 *Parasiris*, *supra* note 51at para 94

123 *R v Garabet*, 2017 ONCA 139 at para 10.

While the addition of a no-knock warrant appears to have advantages, it is important to look to the United States where the practice of no-knock warrants is standard in over 40 states and has been banned in four. The problems identified with no-knock warrants in the United States are the danger to both officers and occupants, the possibility of mistaken identity, inaccurate information and insufficient judicial scrutiny, and the overuse of the practice on racial minorities.[124] It was stressed in the case of *Bamber* that the exigent circumstances must be assessed on the scene at the time the warrant is executed.[125]

The implementation of a no-knock warrant statute in Canada would likely address the possibility of mistaken identity, inaccurate information, and insufficient judicial scrutiny by providing the high bar of justification regarding the presence of exigent circumstances. Further, to address the Court's concern in *Bamber*, the police would be required to reassess the exigent circumstances prior to entry on each warrant execution as is required under s. 529.4. While there is a risk that this practice may not be followed in every circumstance, a departure from the practice represents a departure from the statutory authority. This would be preferable compared to the current practice of police relying solely on their discretion to depart from the knock and announce rule.

Another potential weakness of the no-knock warrant would the increased risk to the police, as they would have to prove a higher likelihood that their safety would be at risk to obtain the warrant. This is a legitimate concern; however, a balance must be obtained between the interests of those being searched and the police. In situations where firearms are either confirmed to be present, or highly likely to be present, then police will be able to obtain authorization for a dynamic entry. This must be balanced against justification used in prior cases: that dangerous criminals are involved with drugs, and therefore they may be violent and possess firearms. Additionally, under this new statutory regime, the police would still be able to conduct a dynamic entry in situations where they did not obtain a no-knock warrant. They would however have to evaluate the exigent circumstances based on the criteria containing imminent threat, and if found would be able to proceed with a dynamic entry. This would be evaluated in the same after the fact procedure that is currently used.

---

124 See Dolan, *supra* note 102.

125 *Bamber*, *supra* note 106at 1050.

Finally, if the judiciary authorizing the no-knock warrants chose to authorize these warrants without meeting the high bar set out in the statute a risk of the overuse of these warrants would be present. In addition, police could make the ITO appear more detailed, and possibly include assumptions to obtain the no-knock warrant. The proposed solution to this would be defence counsel having full disclosure to the ITO and being able to challenge the approval of the warrant based on the validity of the information it contained.

VIII. CONCLUSION

The use of dynamic entry by police in Canada has resulted in multiple issues concerning the protections Canadians possess under the knock and announce principle and s. 8 of the *Charter*. It is recognized that situations do and will continue to exist where the police must use a dynamic entry to address when exigent circumstances are present, and to protect themselves, occupants, and the destruction of evidence. However, the issues identified have demonstrated that there is an imbalance when considering police power and the protections of the common law and *Charter*. The police should not be allowed full discretion to decide whether to perform a dynamic entry, as they are too involved with the investigation and a third party offers a better consideration of balancing the interests at play. The dissent in *Cornell* stressed the importance of the protections Canadians have from the practice of dynamic entries. The dissent spoke of the need for an increased justification for dynamic entries to allow the police to breach the *Charter* rights of Canadians suspected of crimes.

This paper has resulted in the recommendation that the common law knock and announce rule be codified, as well as the introduction of a no-knock warrant regime in Canada like Parliament's steps following *Feeney* and the introduction of s. 529 of the *Code*. The introduction of no-knock warrants in Canada would result in a higher justification to be met by the police to obtain a warrant and precede by dynamic entry. The exigent circumstances mentioned in *Cornell* would be more onerous and require an imminent threat to bodily harm or death or an imminent threat to destruction of evidence be present. While this standard may be difficult for the police to satisfy, this is an intended consequence. The use of dynamic entries in Canada has resulted in fatal consequences, innocent people have

their homes damaged and raided, and police forces have adopted blanket policies to abuse the practice of dynamic entry.

The likely result of implementing this statutory regime will be that dynamic entries by police will be the exception as opposed to the norm. Dynamic entries will be limited to situations where evidence exists that exigent circumstances are imminent and the need to forego the rights of the occupants of the home will be justified. This balancing of interests is key to maintaining the rights of those involved and preventing the harms that dynamic entry has resulted in.