

THE HIDDEN FORCE BEHIND GEORGIA'S MOVE TO LEGALIZE NO-KNOCK SEARCHES



Unanimous Public Opposition at Senate No-Knock Search Warrant Hearings

On March 4, a Senate Non-Civil Judiciary Committee passed Chairman [Jesse Stone](#)'s SB159 bill that proposes to **legalize no-knock searches for the first time in Georgia history**. Two days earlier the committee heard testimony but did not vote on [SB45](#), Sen. Vincent Fort's bill that also introduces no-knock searches. Both bills mirror no-knock search language in Rep. Kevin Tanner's [HB56](#) which passed a subcommittee hearing two weeks prior. Stone submitted his bill immediately after citizens convinced Rep. Tanner to suspend pursuing his bill during the session due to growing public concern. Stone then scheduled a hearing for his bill the day after it was read in the Senate. [SB159](#) may have slipped through with no opposition but weather threats caused state offices to close and the hearing to be delayed.

During the rescheduled Senate hearings no member of the public or law enforcement spoke in favor of the bills. **All members of the public, two lawyers, a law enforcement officer and even the family member of a victim testified against it.** So many members of the public signed up to testify that they **ran out of time at the first hearing on Monday**. Most members of the public wore stickers indicating opposition to the bill and they sat directly in the first two rows in front of the Senators. Nevertheless, 7 senators voted for SB159 after amending it and it passed out of committee.

Illegal No-Knock Raids Result in Murder, Maiming

Awareness of Georgia no-knock searches escalated in 2014. On May 28, a 19-month-old toddler, Bou Bou Phonesavanh, was critically injured in his Habersham Co. home when deputies broke in expecting to arrest someone who had made a \$50 meth sale to an informant. Reports indicate that Nikki Autry issued [an illegal no-knock search warrant](#) signed by Judge James Butterworth while Deputy Charles Long [hurled a flash-bang grenade](#) into "Bou" "Bou's" crib causing severe injuries to his face and chest. Over 35,000 people signed Sen. Fort's petition to pass "Bou" "Bou's" law that would require officer training and raise a standard from reasonable suspicion to probable cause. But SB45 has no provision for officer training and it actually would lower the standard in Georgia code from illegal to allowable with probable cause.

On Sept. 24 in Dublin Georgia, Laurens Co. undercover deputies broke into the home of David Hooks, a 59-year old construction company owner and grandfather. They fired at least **17 shots inside, [some through walls, and Hooks died from multiple wounds](#)**. He was **shot twice in the back while lying on the floor**, according to family attorney Mitchell Shook. Hooks, a hunter, offered no known resistance even though he and his wife Teresa, thought they were being burglarized again. Sheriff Bill Harrell indicated that deputies were **justified** in killing Hooks because he had an unloaded shotgun on his person but the sheriff did not explain why Hooks would have picked up an unloaded weapon to defend his property. **Deputies searched the home for 44 hours and did not find a single trace of drugs.**

The deputies acted on a tip from a methamphetamine addict who burglarized Hooks' home and stole his SUV two nights earlier. Despite tipster Rodney Garrett's lack of credibility, Deputy Chris Brewer obtained a "knock and announce" warrant and got Magistrate Judge Faith Snell to sign it. But the deputies broke in instead, according to Teresa Hooks who survived the attack. Brewer has a long history of questionable tactics. In 2002, he filed a suit against District Attorney, Ralph Walke for libel, slander and breach of contract in performing his duties. Walke had [refused to prosecute](#) Brewer's warrants and contended to Brewer's superiors that Brewer had committed perjury at least six times.

Disinformation Campaign Misleads Media, Public

After studying the three no-knock bills, it is apparent that there is a [massive disinformation campaign of myths](#) behind them. Bill sponsors claim that no-knock searches are legal in Georgia, however, the clear plain text of [O.C.G.A. 17-5-27](#) requires officers to give "good faith verbal notice of intent" describing their "authority and purpose" before executing a search warrant.

Sponsors justify their argument that no-knock searches have been legalized in case law, by referencing to two court rulings that have each made an exception for a specific case. Case law applies only to rulings in specific cases. There is no provision in the Georgia Constitution for the judicial branch to create legislation. That power is granted solely to the General Assembly. Judges can interpret law for a case but **a Judge cannot override a Georgia law unless the judge declares it unconstitutional.**

Bill sponsors claim the bills will place restrictions on no-knock searches but the bills actually remove the ultimate restriction by attempting to legalize them. Sponsors also assert that the bills will reduce the number of no-knock searches but it is obvious that legalization **will increase, not decrease, the number.** Thus, the public is being enticed to support the bills based on claims that the bills add controls on no-knock search warrants when the bills actually lower the standard to obtain no-knock search warrants.

The Hidden Agenda to Eliminate Criminal Liability

Some legislators insist that they have no alternative other than to legalize no-knock search warrants but there are a variety of restrictions that legislators could place into the code to protect Georgia citizens. For example they could:

- Precisely define the conditions of a good faith verbal notice of intent to search
- Create penal statues for law enforcement officers who execute illegal search warrants
- Exclude any evidence collected in an illegal search from being used at a trial
- File impeachment charges against judges who fail to discharge duties in agreement with the law

Deputies and police do not seem enthralled with the bills since they may be called to unnecessarily risk their lives in a no-knock search raid that conflicts with [O.C.G.A. 16-3-23](#), the right to use force in defense of habitation. Once police are not required to identify themselves, residents may think home is being burglarized during a nighttime raid and choose to defend their property. That creates a risk of gun battles between police and innocent law abiding citizens inside their home. So who benefits from that?

The text of the original bills have one overriding primary purpose: That is **to prevent law enforcement from being held criminally liable for crimes committed during highly profitable, illegal raids.** Ironically, the Georgia General Assembly proposes to remove this protection of accountability just as the public all across America is demanding more accountability from law enforcement and judges. **Riots and unrest that other states have experienced could now increase in Georgia** if such a law is passed. After

eliminating the possibility of finding law enforcement criminally liable for an illegal raid, the families of future victims will have **little or no legal recourse** in Georgia courts. This hidden agenda is **exactly opposite** of what the public is being led to believe about how the bills will control no-knock searches.

The Force behind Georgia's Move to Legalize No-Knock Searches

When SB159 was introduced suspicion intensified as to why three bills that had nearly identical language to legalize no-knock searches had been submitted to the legislature. The bills spanned both the House and the Senate and included versions by both the Democrats and Republicans. Although senators were unwilling to conform to public demand during the Senate hearings, those hearings revealed that the hidden force behind all of the strange behavior is the [Prosecuting Attorneys Council](#) of Georgia.

The Prosecuting Attorneys Council (PAC) is a taxpayer funded entity within the judicial branch of the Georgia state government. It is separate from the Attorney General's office which is in the executive branch. PAC is somewhat of a rogue organization that reports to no one in the judiciary. The council is essentially run by Executive Director Chuck Spahos and PAC Chairman Danny Porter. Spahos, the Henry Co. Solicitor General and Porter, the Gwinnett Co. District Attorney, testified for SB159 on March 4.

During his SB159 testimony, Chuck Spahos admitted that he assisted in drafting the language of the bills. Each bill has an identical clause to provide for no-knock search warrants that override current Georgia code. [O.C.G.A. 17.5.27](#) requires an officer to provide *an "attempt in good faith to give verbal notice"* of the *"authority and purpose"* in executing a search. However, each bill prefixes current law with a clause that starts: *"When a search warrant does not contain a no-knock,..."* That clause exempts law officers from current requirements and subverts the protections that the law provides Georgians against unreasonable search and seizure. It is Spahos who is primarily responsible for the bill language that proposes to legalize no-knock search warrants. Thus, Spahos is a key individual behind the hidden agenda to eliminate criminal liability for law enforcement and judicial officers who violate the law by authorizing illegal raids.

The hidden agenda of the Prosecuting Attorneys Council became more obvious throughout the Senate hearings. Porter, who favored SB159, signed up to testify **against** SB45, which required probable cause for a no-knock search warrant instead of reasonable suspicion. Sen. Fort's probable cause amendment eventually passed onto SB159 along with another amendment from Sen. Bethel. That amendment required any judicial officer who issued a no-knock search warrant and any law enforcement official who obtained such a warrant to explain the usefulness of that warrant to the next impaneled grand jury. The amendment would have helped end the practice by judicial activists of executing illegal no-knock search warrants in Georgia. Once they passed, Chairman Jesse Stone expressed his disappointment with the will of the committee. The Prosecuting Attorneys Council then lost most of its interest in the bill.

Cover-Up Expected in Hooks Investigation

Ironically while working on this legislation, Chuck Spahos was recently [appointed](#) by Attorney General Sam Olens to investigate the role of law enforcement in the murder of David Hooks. Since Spahos is the primary individual behind the bill language that proposes to eliminate criminal liability for law enforcement, it is now clear that he has a supreme conflict of interest in heading an investigation of the Hooks case. Thus, it is likely that the Hooks investigation will go the way of a cover-up similar to other investigations that have been conducted nationally. [In several of those cases](#) law enforcement officers were absolved of responsibility after murdering innocent, unarmed citizens who posed no threat to

them and committed no crime. Given that the credibility of Spahos in investigating the Hooks matter is now compromised by his role in drafting the highly controversial legislation, one key question remains: What does Attorney General Sam Olens, plan to do about the appointment of Spahos?

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