

State of Michigan LAW DAY 2008 Essay Contest
"The Rule of Law: Foundation for Communities of Opportunity and Equity"

Nicolle Marie Zamponi ~ First Place ~ Eighth Grade
L'Anse Creuse Middle School North, Macomb, Michigan
Teacher – Mrs. Carlenda Goslin

Suppose a police officer fears that knocking and waiting twenty seconds before entering a suspected drug house will allow criminals too much time to dispose of drugs and prepare to harm entering police officers. Should a police officer have the discretion to determine whether to use a “no knock” entry when executing a search warrant?

One. Two. Three. Wham! You and your fellow officers ram open the door of a major drug cartel. Shelves full of plastic baggies with white powder are stacked in neat rows. Bales of marijuana are stacked as far as the eye can see. Caucasian males are strewn about the floor; some weighing "snow," others stacking more "hay" on another wall. The pungent smell wafted through your nostrils. All the men could do was freeze- they were caught in action. Even with the evidence the police found, did they have the right to barge into the house? I believe police officers should not have the discretion to determine whether to use a "no knock" entry when executing a search warrant.

In Hudson v. Michigan, 547 U.S. 586(2006), police obtained a court warrant to search the home of Hudson for firearms and drugs. The police announced their presence. Hudson sat in a chair with a loaded gun at his side and rocks of cocaine in his pockets. Because the police did not follow the warrant, Hudson demanded they suppress all evidence against him. The court granted his motion; the state appealed, and The Michigan Court of Appeals convicted Hudson of possession of drugs. Hudson further appealed, and the Supreme Court decided his case. According to Justice Breyer in his dissenting opinion, Justice Frankfurter wrote in an earlier case that to search without a warrant is “inconsistent with the conception of human rights enshrined in [our] history.” 547 U.S., at 600. If police officers have the right to use discretion in one case, what makes it different in another? Justice Breyer continued, "Officers will almost always know . . . that they can ignore the knock-and-announce requirement without risking the suppression of evidence discovered by their unlawful entry." If officers know that breaking in and seizing evidence would be included in trial, they could ultimately use the discretion whenever they felt it necessary.

Benjamin Franklin stated, "It is better a hundred guilty persons should escape than one innocent should suffer." The police should allow the suspects to escape, gather the evidence and catch the suspects another day because they would be following the Constitution that this country is founded on. By unlawfully attaining evidence, rights against unreasonable searches and seizures are violated.

Liberty guarantees us certain unalienable rights under the law, including equal treatment and presumably innocent until proven guilty under a court of law. Even though the police may have reasonable suspicion, I believe that if we give the police discretion to determine whether or not to use a "no knock" entry, we may give the police officer too much power, leading to the possibility of abuse.

When I think of Lady Justice with her weighing scales, I would definitely rather a criminal go free, than ever constrict Americans' Freedoms. Clarence Darrow once said, "[y]ou can only protect your liberties in this world by protecting the other man's freedom." I agree completely, which is why police officers should never have discretionary use of the "no knock" rule.