



14 June 2005

The Honorable J. Dennis Hastert
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our strong opposition to any amendment offered to H.R. 2862, the "Science, State, Justice Commerce, and Related Agencies Appropriations Act," which would end or limit the requests to a court to delay notice of search warrants under 18 USC 3103a(b).

Section 3103a(b), adopted as Section 213 of the USA PATRIOT Act, allows courts to authorize investigators to give delayed notice that a search warrant has been executed in certain narrow circumstances. Delayed notice under Section 213 can only be used when immediate notification may result in endangering the life of an individual, flight from prosecution, destruction or tampering with evidence, intimidation of potential witnesses, or seriously jeopardizing an investigation or delaying a trial. Law enforcement has had this legal authority for years, and the courts have consistently held that the Fourth Amendment does not require law enforcement to give immediate notice of the execution of a search warrant. However, because of differences between jurisdictions, the law was a mix of inconsistent standards that varied widely across the country. Section 213 resolved this problem by establishing a uniform statutory standard.

Section 213 is an important law enforcement tool that the Department of Justice has used sparingly, but to great effect. For example, in Operation Candy Box, a multi-jurisdictional Organized Crime and Drug Enforcement Task Force (OCDETF) investigation targeting a Canadian-based ecstasy and marijuana trafficking organization, the Department obtained a delayed notification search warrant to interdict a large quantity of narcotics crossing the U.S.-Canadian border en route to Florida. After the suspect vehicle crossed into the U.S. near Buffalo, Drug Enforcement Administration (DEA) agents followed the vehicle until the driver stopped at a restaurant just off the highway. Thereafter, one agent used a duplicate key to enter the vehicle and drive away while other agents spread broken glass in the parking space in order to create the impression that the vehicle had been stolen. A search of the vehicle revealed a hidden compartment containing 30,000 ecstasy tablets and ten pounds of high-potency marijuana. Because investigators were able to obtain a delayed notification search warrant, the drugs were seized, the investigation was not jeopardized, and over 130 individuals were arrested on 31

March 2004. Without the delayed notification search warrant, however, agents would have been forced to prematurely reveal the existence of the investigation, which would have almost certainly resulted in the flight of many of the targets of the investigation.

On behalf of the more than 321,000 members of the Fraternal Order of Police, we strongly urge the rejection of any amendment that would prohibit the use of this important law enforcement tool. Thank you in advance for your attention to our concerns on this issue. Please do not hesitate to contact me, or Executive Director Jim Pasco, through our Washington office if we can provide you with any additional information or assistance on this matter.

Sincerely,

A handwritten signature in black ink that reads "Chuck Canterbury". The signature is written in a cursive, slightly slanted style.

Chuck Canterbury
National President

cc: The Honorable Thomas D. DeLay, Majority Leader, U.S. House of Representatives
The Honorable Nancy Pelosi, Minority Leader, U.S. House of Representatives
The Honorable Steny H. Hoyer, Minority Whip, U.S. House of Representatives