

Court Rejects a 'No-Knock Rule'

The State Supreme Court yesterday refused to "judicially legislate" what the majority said would amount to a no-knock rule.

In a 4 to 3 decision written by Justice Stanley Mosk, the court held that a search warrant specifically providing that a police officer can enter a house without announcing himself cannot be issued.

Under the California Penal Code, an officer with a warrant may enter a house only if he is refused admittance after identifying himself and stating his purpose.

Exceptions, the court said, pertain to emergency situations existing "at the time of entry."

ISSUED

Mosk noted in his opinion that 12 per cent of all search warrants issued in Los Angeles county for the year April 1, 1972, to March 31, 1973 authorized the officer to make an unannounced entry.

"Were we to approve this practice," Mosk wrote, "there would be an understandable temptation for agencies to use pre-prepared request forms and to seek

exemption in most cases.

"This would, for all practical purposes . . . judicially legislate a de facto no-knock rule."

In making its ruling, the court ordered narcotics charges against a Riverside man and woman set aside. In their case, the arresting officer, acting on a no-knock warrant, climbed through a bedroom window.

CONCLUSION

The majority concluded that the officer was not acting on any emergency basis.

Mosk was joined by Chief Justice Donald Wright and Justices Mathew Tobriner and Raymond Sullivan.

Justice William Clark wrote the dissenting opinion, which was also signed by Justices Marshall McComb and Louis Burke.

Clark contended that if the police have information that an emergency situation may exist at the house to be searched, a no-knock warrant should be issued.

He observed that in this case, an unidentified informant and other sources had told police one of the defendants had a habit of answering the door with a loaded shotgun.