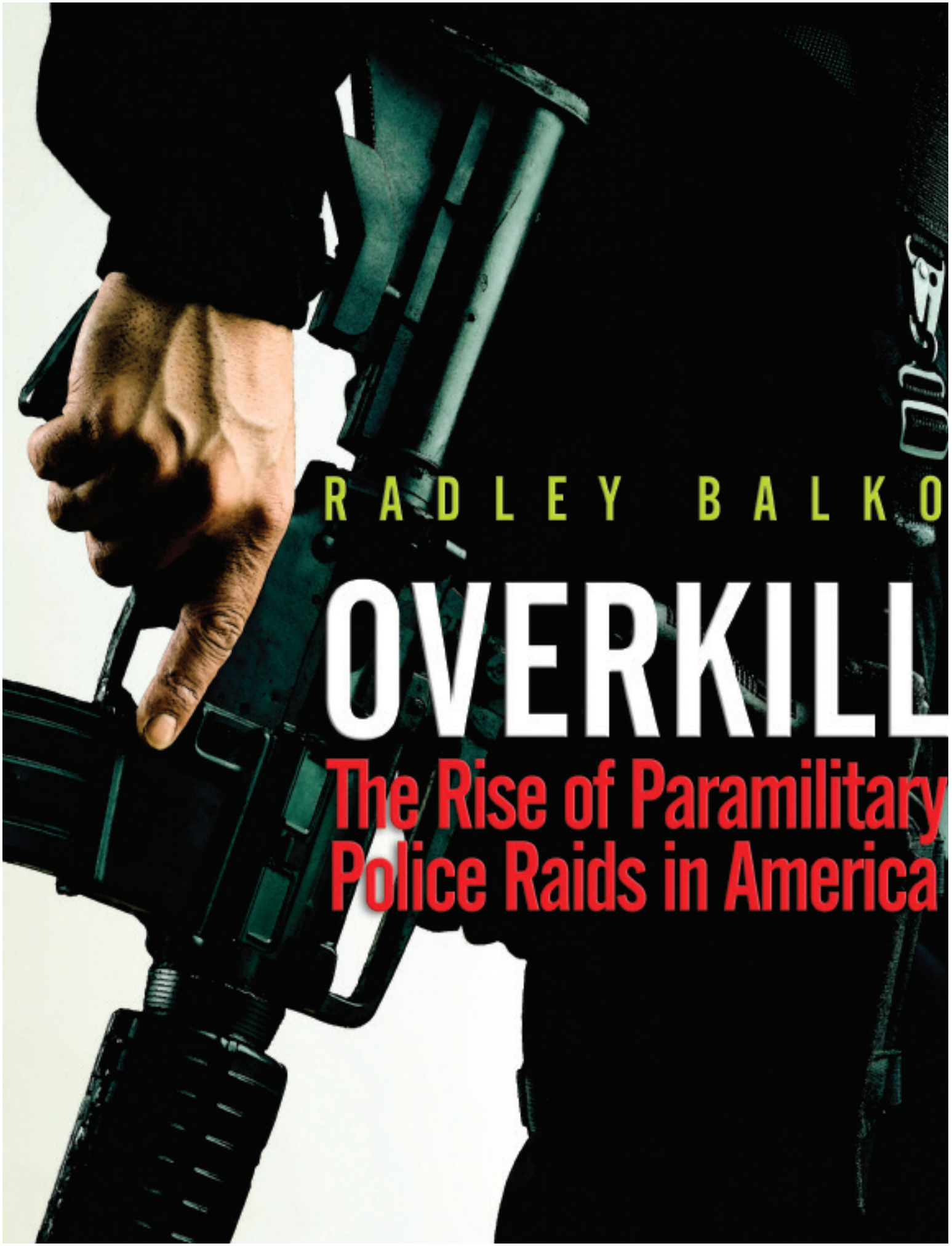
RADLEY BALKO
OVERKILL
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Executive Summary

Americans have long maintained that a man's home is his castle and that he has the right to defend it from unlawful intruders. Unfortunately, that right may be disappearing. Over the last 25 years, America has seen a disturbing militarization of its civilian law enforcement, along with a dramatic and unsettling rise in the use of paramilitary police units (most commonly called Special Weapons and Tactics, or SWAT) for routine police work. The most common use of SWAT teams today is to serve narcotics warrants, usually with forced, unannounced entry into the home.

These increasingly frequent raids, 40,000 per year by one estimate, are needlessly subjecting nonviolent drug offenders, bystanders, and wrongly targeted civilians to the terror of having their homes invaded while they're sleeping, usually by teams of heavily armed paramilitary units dressed not as police officers but as soldiers. These raids bring unnecessary violence and provocation to nonviolent drug offenders, many of whom were guilty of only misdemeanors. The raids terrorize innocents when police mistakenly target the wrong residence. And they have resulted in dozens of needless deaths and injuries, not only of drug offenders, but also of police officers, children, bystanders, and innocent suspects.

This paper presents a history and overview of the issue of paramilitary drug raids, provides an extensive catalogue of abuses and mistaken raids, and offers recommendations for reform.

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Police say that Diotaiuto's concealed-carry permit indicated he was potentially dangerous, which necessitated the involvement of the SWAT team.

Introduction

"They [police officers] made a mistake. There's no one to blame for a mistake. The way these people were treated has to be judged in the context of a war."

—Hallandale, Florida, attorney Richard Kane, after police officers conducted a late night drug raid on the home of Edwin and Catherine Bernhardt. Police broke into the couple's home and threw Catherine Bernhardt to the floor at gunpoint. Edwin Bernhardt, who had come down from his bedroom in the nude after hearing the commotion, was also subdued and handcuffed at gunpoint. Police forced him to wear a pair of his wife's underwear, then took him to the police station, where he spent several hours in jail. Police later discovered they had raided the wrong address.[1]

On August 5, 2005, at 6:15 a.m., a SWAT team converged around the Sunrise, Florida, home of Anthony Diotaiuto. They came to serve a search warrant based on an anonymous tip and an informant's purchase of a single ounce of marijuana from the 23-year-old bartender and part-time student.

Friends acknowledge that Diotaiuto was a recreational marijuana smoker, but they deny he was a drug dealer in any real sense of the term.[2] They would later tell the media that Diotaiuto had just bought the modest home with his mother after taking a second job and selling off his prized sports car—good evidence, they say, that he wasn't running any lucrative criminal enterprise. Also a part-time student in community college, Diotaiuto was described by the parents of one of his friends as "a gem," by a neighbor as a "beautiful person," and by others as a churchgoing, family-oriented man.[3] He had one previous conviction for possession of marijuana, when he was 16. Otherwise, Diotaiuto had no criminal record, and no history of violence or criminal conduct.

By 7 a.m. the raid was over. Police had broken down Diotaiuto's front door, and turned his home upside down looking for drugs, weapons, and drug paraphernalia. Diotaiuto lay dead in a bedroom closet. He had 10 bullet holes in his head, chest, torso, and limbs.

What happened between the time police arrived at his home and the time Anthony Diotaiuto's body arrived at the coroner's office is in dispute. Police say they announced themselves before breaking down Diotaiuto's door, consistent with the requirements of a "knock and announce" search warrant. Neighbors say they heard no such announcement.[4] The officers who conducted the raid also say Diotaiuto fled from the living room to the bedroom as the raid commenced, where he armed himself with a handgun. An investigative committee has yet to issue its final report, but police accounts of the raid have continued to change. Immediately after the raid, for example, Lt. Robert Voss, spokesman for the Sunrise Police Department, told reporters that Diotaiuto "had a gun and pointed it at our officers." Later the same day Voss revised, "In all likelihood, that's what happened. I know there was a weapon found next to the body."[5]

Police also found a BB gun, a shotgun, the handgun in question, and a rifle, all of which Diotaiuto owned legally. Diotaiuto also had a valid conceal-carry permit for the handgun.[6]

There are nagging questions about the account of the Diotaiuto raid given by Sunrise police. For example, police say that Diotaiuto's concealed-carry permit indicated he was potentially dangerous, which necessitated the involvement of the SWAT team and the early-morning raid.[7] But common sense suggests the opposite. Applicants for concealed-carry permits in Florida are required to fill out a variety of paperwork, undergo a criminal background check and fingerprinting, pay a fee, and enroll in a class on gun safety and firearms law.[8] If Diotaiuto were a hardened, professional drug dealer dangerous enough to merit the use of such overwhelming force, it seems unlikely that he'd go to the trouble of obtaining a permit for his guns. Diotaiuto's permit should have indicated to Sunrise police that, if anything, Diotaiuto was more likely a nonviolent, occasional drug user, rather than a volatile offender necessitating use of a SWAT team.

If, indeed, police had given sufficient notice of their presence, as mandated by a "knock and announce" warrant, it's difficult to understand why Diotaiuto's immediate reaction would be to flee to his bedroom to arm himself, given the small amount of marijuana in his possession. It's even more difficult to imagine him then knowingly pointing his weapon at police for such an insignificant amount of the drug. An ounce of marijuana hardly merits a lethal shootout. If Diotaiuto was indeed armed when police entered his home, it seems more likely that his neighbors' account is correct: The police didn't give sufficient notice of their presence and identity. Unaware that the armed men breaking down his door were law enforcement, Diotaiuto quickly retrieved his gun to defend himself and his property from what he likely thought were criminal intruders.

Finally, even assuming everything Sunrise police say to be correct, the outcome in the Diotaiuto case is simply unacceptable. As is often the case, the local police department assured the media soon after the shooting that the officers involved had stellar performance records. The *Ft. Lauderdale Sun-Sentinel* reported that both officers who shot Diotaiuto routinely received "above-average" or "excellent" reviews, garnered dozens of recommendations, and earned multiple "officer of the month" distinctions.[9] That may well be. But the problem with these types of drug raids is rarely that the officers themselves were in error in defending themselves in what was certainly a highly volatile situation. The problem is that bad policies made the situation unnecessarily volatile. As Eleanor Shockett, a retired Miami-Dade circuit judge, put it to *Fort Lauderdale Sun-Sentinel* columnist Michael Mayo with respect to the Diotaiuto case, "What in the hell were they doing with a SWAT team? To break into someone's home at six in the morning, possibly awaken someone from a deep sleep, someone who has a concealed weapons permit? What did they expect to happen?"[10]

The Diotaiuto case is far from unusual. Just a few months before the raid in Sunrise, in March 2005, police on a drug raid in Omao, Kauai, Hawaii, broke into the home of Sharon and William McCulley, at home at the time with their grandchildren. Police were tracking a box that allegedly contained marijuana, and believed it to be in the McCulleys' possession. After breaking down the elderly McCulleys' door, police threw the couple to the ground. They handcuffed Sharon McCulley and held her to the floor with a gun to her head—her grandchild lying next to her. William McCulley —who uses a walker and has an implanted device that delivers electrical shocks to his spine to relieve pain—began flopping around the floor when the device malfunctioned from the trauma of being violently thrown to the ground.[11]

Police had the wrong address. In fact, they conducted a *second* "wrong door" raid before finally tracking down the package.[12]

The use of hyper-militarized, heavily armed police units to carry out routine search warrants has become increasingly common since the 1980s. These raids leave a very small margin for error. A wrong address, bad timing, or bad information can—and frequently does—bring tragedy. The information giving rise to these raids is typically collected from confidential informants. These informants are sometimes no more than well-meaning members of the community who want to tip police to illicit activity. But more often they're professional "snitches"—people who regularly seek out drug users and dealers and tip off the police in exchange for cash rewards. A third, even more common class of informants is actual convicted or suspected drug dealers themselves, who are then rewarded with leniency or cash in exchange for information leading to other arrests. The folly of using informants of such questionable repute, who hold such obvious ulterior motives to conduct raids with such high stakes and such little room for error, would seem to be self-evident. Yet the practice grows more and more common, and the judges whom the criminal justice system entrusts to oversee the warrant process have grown more and more complacent.

Policymakers seem to be oblivious to this disturbing trend in police work. Few are will-

The folly of using informants of such questionable repute would seem to be self-evident. Yet the practice grows more and more common.

ing to question the policies that make the raids possible. Going to back to the Diotaiuto case, for example, one might ask why the town of Sunrise, Florida, a town with a population of just 90,000 and which reported only a single murder for all of 2003, would need a SWAT team in the first place. And why would the town use that SWAT team, first thing in the morning, to break into the home of a young man with no history of violence?

The use of paramilitary police units began in Los Angeles in the 1960s. Through the 1970s, the idea slowly spilled out across the country. But at least until the 1980s, SWAT teams and other paramilitary units were used sparingly, only in volatile, high-risk situations such as bank robberies or hostage situations. Likewise, "no-knock" raids were generally used only in situations where innocent lives were determined to be at imminent risk. America's War on Drugs has spurred a significant rise in the number of such raids, to the point where in some jurisdictions drug warrants are only served by SWAT teams or similar paramilitary units, and the overwhelming number of SWAT deployments are to execute drug warrants.

The Diotaiuto case is a prime example of the inherent danger in "no-knock" and "quick-knock" raids because it exemplifies so many of their troubling characteristics, including the following:

- The militarization of domestic policing, not just in big cities, but in small towns, suburbs, and exurbs like Sunrise.
- The increasingly frequent use of heavily armed SWAT teams for proactive policing and the routine execution of drug warrants, even for simple marijuana possession.
- The use of anonymous tips and reliance on dubious informants to obtain no-knock search warrants in the first place.
- Executing warrants with "dynamic entry," diversionary grenades, and similarly militaristic tactics once reserved for urban warfare.
- A tragic outcome resulting from these circumstances.

At least until the 1980s, SWAT teams and other paramilitary units were used sparingly, only in volatile, high-risk situations such as bank robberies or hostage situations.

In addition to nonviolent offenders like Anthony Diotaiuto such tragic outcomes also frequently involved people completely innocent of any crime. On September 4, 1998, for example, police in Charlotte, North Carolina, deployed a flashbang grenade and carried out a no-knock warrant based on a tip that someone in the targeted home was distributing cocaine.[13] When police got inside, they found a group of men playing cards. One of them, 56-year-old Charles Irwin Potts, was carrying a handgun, which he owned and carried legally. Potts was not the target of the raid. He had visited the house to play a game of cards. Police say Potts drew his gun and pointed it at them as they entered, at which time they opened fire, killing Potts with four shots to the chest. The three men in the house who saw the raid say the gun never left Potts's holster. Police found no cocaine in the home, and made no arrests.

The men inside the house at the time of the raid thought criminals were invading them. "Only thing I heard was a big boom," said Robert Junior Hardin, the original target of the raid. "The lights went off and then they came back on . . . everybody reacted. We thought the house was being robbed."[14] Despite Potts's death, an internal investigation found no wrongdoing on the part of the raiding officers.[15]

Of course, a paramilitary raid doesn't have to end in death to bring harm. Because of shoddy police work, overreliance on informants, and other problems, each year hundreds of raids are conducted on the wrong address, bringing unnecessary terror and frightening confrontation to people never suspected of a crime. On March 31, 2004, for example, six officers toting riot shields and assault weapons rapped on the door to the Brooklyn apartment of 84-year-old Martin Goldberg and his wife Leona, 82. When Goldberg opened the door, police stormed the apartment, pushing Mr. Goldberg aside and ordering him to the floor. "They charged in like an army," Goldberg, a decorated World War II vet, told the *New York Post*. "They knocked pictures off the wall."[16]

The police had the wrong apartment. The investigation apparently veered off course 10 days earlier, when an informant pointed police to one of two housing project buildings as the home of a drug dealer. Police stormed the wrong building. Shortly after the raid, Leona Goldberg was hospitalized with an irregular heartbeat.[17] "It was terrible. . . . It was the most frightening experience of my life. . . . I thought it was a terrorist attack," Mrs. Goldberg told the *New York Post*.[18] One officer would later tell the paper, "Obviously, there was a breakdown in communication. These were relatively inexperienced officers, and they may have been less than vigilant."

There are, of course, legitimate uses for both SWAT teams and forced entry. But those uses—barricades, hostage situations, and terror attacks, for example—are exceptionally rare. This study will not recommend the abolition of SWAT teams or unannounced police raids. Rather, it will critique the increasingly pervasive use of both, particularly when it comes to executing routine drug warrants, as well as the effect of an increasing presence of military equipment, training, and tactics on America's police departments.

This study will begin with an overview of how no-knock and quick-knock raids came into common practice. It will then examine the legal issues surrounding the use of such tactics; examine the problem of using information from anonymous, sometimes paid informants to obtain warrants; and prescribe the reforms needed to limit the use of paramilitary raids to the small set of emergency situations that warrant their use. Finally, the Appendix will give details of scores of documented examples in which these raids have gone awry, disproving the conventional belief that botched raids are infrequent "isolated incidents."

Overview

The typical SWAT team carries out its missions in battle fatigues: Lace-up, combat-style boots; black, camouflage, or olive-colored pants and shirts, sometimes with "ninja-style" or balaclava hoods; Kevlar helmets and vests; gas masks, knee pads, gloves, communication devices, and boot knives; and military-grade weapons, such as the Heckler and Koch MP5 submachine gun, the preferred model of the U.S. Navy Seals. Other standard SWAT-team weaponry includes battering rams, ballistic shields, "flashbang" grenades, smoke grenades, pepper spray, and tear gas. Many squads are now ferried to raid sites by military-issue armored personnel carriers. Some units have helicopters. Others boast grenade launchers, tanks (with and without gun turrets), rappelling equipment, and bayonets.[19]

Paramilitary raids are generally carried out late at night, or just before dawn. Police are technically bound by law to "knock and announce" themselves, and give occupants time to answer the door before forcing entry. But as will be discussed in this study, that requirement is today commonly either circumvented through court-sanctioned loopholes, ignored completely with little consequence, or only ceremoniously observed, with a knock and announcement unlikely to be noticed by anyone inside.

Police generally break open doors with a battering ram, or blow them off their hinges with explosives. Absent either, police have pried doors open with sledgehammers or screwdrivers, ripped them off by attaching them to the back ends of trucks, or entered by crashing through windows or balconies. After an entryway is cleared, police sometimes detonate a flashbang grenade or a similar device designed to disorient the occupants in the targeted house. They then enter the home under its cover. SWAT teams have entered homes through fire escapes, by rappelling down from police helicopters, and by crashing through second-story windows. Once police are inside, the occupants are quickly and forcefully incapacitated. They're instructed to remain in the prone position, generally at gunpoint, while police carry out the search warrant. Any perceived noncompliance is typically met with force, which can potentially be lethal, depending on the nature of the noncompliance.

"It was terrible. . . . It was the most frightening experience of my life. . . . I thought it was a terrorist attack."

Once rare, these procedures are now performed dozens of times per day in cities and towns all across the country.

The Birth of SWAT

Longtime Los Angeles police chief Daryl F. Gates is widely credited with inventing the SWAT team in early 1966, though there's some evidence that the idea was brought to Gates a year earlier, when he was inspector general, by Los Angeles Police Department officer John Nelson. The inspiration for the modern SWAT team was a specialized force in Delano, California, made up of crowd control officers, riot police, and snipers, assembled to counter the farm worker uprisings led by Cesar Chavez.[20]

Public horror at Whitman's slaughter quickly turned into support for Gates's idea of training elite teams to complement city policing in dangerous situations.

In search of new methods to counter the snipers and guerrilla tactics used against L.A. police during the Watts riots, Gates and other L.A. police officials quickly embraced the idea of an elite, military-trained cadre of law enforcement officers who could react quickly, accurately, and with overwhelming force to particularly dangerous situations. Gates brought in a team of ex-Marines to train a small group of police officers Gates handpicked for the new endeavor. Gates called his unit the Special Weapons Attack Team, or SWAT. City officials liked the idea, including the acronym, but balked at the word "attack." They persuaded Gates to change the units name to Special Weapons and Tactics, though the new moniker was purely cosmetic—no change in training or mission accompanied the name change.[21]

SWAT quickly gained favor with public officials, politicians, and the public. In August 1966, former Marine Charles Whitman barricaded himself at the top of a clock tower at the University of Texas and opened fire on the campus below. Whitman shot 46 people and killed 15. Police struggled for more than 90 minutes to remove Whitman from his tower perch. Public horror at Whitman's slaughter quickly turned into support for Gates's idea of training elite teams to complement city policing in dangerous situations like the Whitman massacre. SWAT teams subsequently began to pop up in larger urban areas across the country.[22]

Three years later, the L.A. SWAT team engaged in a highly publicized shootout with the city's Black Panther militia. Publicity from the standoff won the L.A. SWAT team and the concept of SWAT teams in general widespread public acclaim. In a recent interview with National Public Radio, Gates affirmed that the Black Panther shootout propelled the SWAT concept into the mainstream. "It was the first time we got to show off," Gates said.[23] The incident also earned the unit a measure of glamour, and inspired yet more police departments across the country to begin training their own SWAT-like units. Gates's L.A. SWAT team would again be featured in a celebrated standoff five years later, in May 1974, when SWAT officers traded thousands of rounds of gunfire with the Symbionese Liberation Army on live national television.[24]

The SLA and Black Panther shootouts brought continued public fascination with the SWAT mystique. Gates's experiment soon became a celebrated part of American pop culture. A SWAT-themed television show debuted in 1975, and the show's theme song hit the Billboard Top Forty. In 1995, Gates launched a SWAT video game franchise with Sierra Entertainment. The SWAT series spawned several award winning "first-person" style shooter games, the most recent version of which was released in early 2005. In January 2006, cable television channel A&E debuted a new reality television show called *Dallas SWAT*, which follows the lives of the members of a Dallas, Texas, SWAT team. Court TV now carries the show *Texas SWAT*, in which seasoned war journalist Jeff Chagrin tags along with several SWAT teams across the state.

But despite the American public's fascination with SWAT, until the 1980s, actual deployments of the paramilitary units were still largely confined to extraordinary, emergency situations such as hostage takings, barricades, hijackings, or prison escapes. Though the total number of SWAT teams gradually increased throughout the 1970s, they were mostly limited to larger, more urbanized areas, and the terms surrounding their deployment were still for the most part narrowly and

appropriately defined. That changed in the 1980s.

The Rise of Military Policing

The election of Ronald Reagan in 1980 brought new funding, equipment, and a more active drug-policing role for paramilitary police units across the country. Reagan's new offensive in the War on Drugs involved a more confrontational, militaristic approach to combating the drug supply, a policy enthusiastically embraced by Congress.[25] During the next 10 years, with prodding from the White House, Congress paved the way to widespread military-style policing by carving yawning drug war exceptions to the Posse Comitatus Act, the Civil War–era law prohibiting the use of the military for civilian policing. These new exceptions allowed nearly unlimited sharing of drug interdiction intelligence, training, tactics, technology, and weaponry between the Pentagon and federal, state, and local police departments.

The first of these exemptions was the Military Cooperation with Law Enforcement Act, passed in 1981.[26] This wide-reaching legislation encouraged the military to give local, state, and federal police access to military bases, research, and equipment for drug interdiction. It also authorized the military to train civilian police officers to use the newly available equipment, and not only encouraged the military to share drug-war–related information with civilian police but authorized the military to take an active role in preventing drugs from entering the country.

In a 1999 paper for the Cato Institute on the militarization of American policing, Diane Cecilia Weber outlined ensuing laws passed in the 1980s and 1990s that further eroded the clear demarcation between military and civilian drug enforcement set forth by Posse Comitatus. Among the laws cited by Weber are the following:

- In 1986, President Reagan issued a National Security Decision Directive, which declared drugs a threat to U.S. "national security." The directive allowed for yet more cooperation between local, state, and federal law enforcement and the military.
- In 1988, Congress ordered the National Guard to assist state drug enforcement efforts. Because of this order, National Guard troops today patrol for marijuana plants and assist in large-scale anti-drug operations in every state in the country.
- In 1989, President Bush created a series of regional task forces within the Department of Defense, charged with facilitating cooperation between the military and domestic police forces.
- In 1994, the Department of Defense issued a memorandum authorizing the transfer of equipment and technology to state and local police. The same year, Congress created a "reutilization program" to facilitate handing military gear over to civilian police agencies.[27]

Despite the fact that these laws were a significant departure from longstanding domestic policy, most were passed without much media attention or public debate. What debate there was was muted by assurances from politicians and drug war supporters that (a) the scourge of drugs was too threatening and too pervasive to be fought with traditional policing and (b) critics who feared for the civil liberties of American civilians under a more militarized system were alarmist and overstating their case. Rep. Charles Bennett (D-FL), for example, called the century-old Posse Comitatus Act—a law whose principles can be traced directly to concerns expressed by the Founding Fathers—a "sinful, evil law."[28] In 1989, Drug Enforcement Agency administrator Francis Mullen forthrightly asserted that Congress should green-light the use of the U.S. military in law enforcement because "there is sufficient oversight on the part of Congress and others to deter infringement on individual liberties."[29] Also in 1989, then–secretary of defense Dick Cheney declared, "The detection and countering of the production, trafficking and use of illegal drugs is a high priority national security mission of the Department of Defense."[30]

Reagan's new offensive in the War on Drugs involved a more confrontational, militaristic approach to combating the drug supply.

In 1997 alone, the Pentagon handed over more than 1.2 million pieces of military equipment to local police departments.

After each of these policies was enacted, police departments across the country helped themselves to the newly available equipment, training, and funding. By the late 1990s, the various laws, orders, and directives softening Posse Comitatus had added a significant military component to state and local police forces. Between just 1995 and 1997, the Pentagon distributed 3,800 M-16s, 2,185 M-14s, 73 grenade launchers, and 112 armored personnel carriers to civilian police agencies across the country.[31]

In 1997 alone, the Pentagon handed over more than 1.2 million pieces of military equipment to local police departments.[32] The same year, even as critics were beginning to question the growing militarism of civilian policing, Congress made it even easier for Main Street police departments to acquire military hardware from the Pentagon. The National Defense Authorization Security Act of 1997, commonly called "1033" for the section of the U.S. Code assigned to it, created the Law Enforcement Support Program, an agency headquartered in Ft. Belvoir, Virginia. The new agency was charged with streamlining the transfer of military equipment to civilian police departments. It worked. Transfers of equipment took off at an even greater clip than before. The *National Journal* reports that between January 1997 and October 1999, the agency handled 3.4 million orders of Pentagon equipment from over 11,000 domestic police agencies in all 50 states.[33] By December 2005, the number was up to 17,000.[34] The purchase value of the equipment comes to more than $727 million.[35] The *National Journal* reported that included in the bounty were

> 253 aircraft (including six- and seven-passenger airplanes, and UH-60 Blackhawk and UH-1 Huey helicopters), 7,856 M-16 rifles, 181 grenade launchers, 8,131 bulletproof helmets, and 1,161 pairs of night-vision goggles.[36]

Civilian police departments suddenly found themselves flush with military arms. The Los Angeles Police Department was offered bayonets.[37] The city of St. Petersburg, Florida, bought an armored personnel carrier from the Pentagon for just $1,000.[38] The seven police officers of Jasper, Florida—which has all of 2,000 people and hasn't had a murder in 14 years—were each given a military-grade M-16 machine gun, leading one Florida paper to run the headline, "Three Stoplights, Seven M-16s."[39] The sheriff's office in landlocked Boone County, Indiana, was given an amphibious armored personnel carrier.[40]

The *New York Times* reported in 1999 that the Fresno, California, SWAT team had two helicopters with night-vision goggles and heat sensors, a turret-armed armored personnel carrier, and an armored van.[41] In a similar article on the Fresno police department, the *Washington Post* reported that members have access to "battering rams, diversionary devices known as 'flashbangs,' chemical agents, such as pepper spray and tear gas, and . . . assault rifles." They wear "subdued gray-and-black urban camouflage and body armor," the *Post* reported, "and have at the ready, ballistic shields and helmets, M17 gas masks and rappelling gear."[42] A retired police chief in New Haven, Connecticut, told the *Times* in the 1999 article, "I was offered tanks, bazookas, anything I wanted."[43]

In a 1997 *60 Minutes* segment on the trend toward militarization, the CBS news magazine profiled the Sheriff's Department of Marion County, Florida, a rural, agricultural area known for its horse farms. Courtesy of the various Pentagon giveaway programs, the county sheriff proudly showed reporter Lesley Stahl the department's 23 military helicopters, two C-12 luxury executive aircraft (often called the "Rolls Royce with wings"), a motor home, several trucks and trailers, a tank, and a "bomb robot." This, in addition to an arsenal of military-grade assault weapons.[44]

With all of this funding and free or discounted equipment and training from the federal government, police departments across the country needed something to do with it. So they formed SWAT teams—thousands of them. SWAT teams have since multiplied and spread across the country at a furious clip.

In a widely cited survey, criminologist Peter Kraska found that as of 1997, 90 percent of cities with populations of 50,000 or more had at least one paramilitary police unit, twice as many as in the mid-1980s.[45] The increase has been even more pronounced in smaller towns: In a separate study, Kraska found that the number of SWAT teams serving towns with populations between 25,000 and 50,000 increased 157 percent between 1985 and 1996.[46] They've popped up in college towns like South Bend, Indiana, and Champaign, Illinois, where they're increasingly used for routine marijuana policing.[47] The University of Central Florida's campus police department actually has its own, separate SWAT team, independent of the city and county.[48] As of 1996, 65 percent of towns within the 25,000-50,000-population range had a SWAT team, with another 8 percent planning to form one.[49] Given that the trends giving rise to SWAT proliferation in the 1990s haven't gone away, it's safe to assume that all of these numbers have continued to rise and are significantly higher today. In fact, SWAT teams are increasingly popping up in even *smaller* towns. Harwich, Massachusetts (population: 11,000), has a 10-member SWAT team, as do Middleburg, Pennsylvania (population 1,363), Leesburg, Florida (population: 17,000), Mt. Orab, Ohio (2,701), Neenah, Wisconsin (24,507), and Butler, Missouri (4,201), to name just a few.[50]

In 2002, more than three years before the Diotaiuto shooting, the *Miami Herald* ran a prophetic report about the SWAT teams proliferating across small-town Florida, including in Broward County suburbs like Miramar (population 101,000), Pembroke Pines (150,000), and Davie (82,579). "Police say they want [SWAT teams] in case of a hostage situation or a Columbine-type incident," the paper reported, "But in practice, the teams are used mainly to serve search warrants on suspected drug dealers. Some of these searches yield as little as few grams of cocaine or marijuana."[51] The paper even cited experts who warned that the copious use of SWAT teams could eventually bring tragic consequences, foretelling the Diotaiuto shooting (though there had already been a number of botched paramilitary drug raids in Florida by that time).[52]

A subsequent investigation by the *St. Petersburg Times* found that many Florida police departments even fudged crime statistics and exaggerated local drug crimes in an effort to get more military weaponry. The "panhandle town of Lynn Haven (pop. 12,451) reported a 900 percent rise in armed robberies," the paper wrote, "without telling regulators that the raw number of robberies rose from one to 10, then fell to one again just as quickly."[53] The investigation also found that without the military's sophisticated anti-theft system tracking the weapons once they reached the police departments, many went missing or were stolen, meaning many officers could potentially later encounter the same weapons in the hands of criminals.[54]

As the *Miami Herald* reported was happening in Florida, it's commonplace for police officials who want a SWAT team to attempt to assuage community concerns by arguing the units are necessary to thwart the possibility of terrorism, school shootings, or violent crime. Once in place, however, SWAT teams are inevitably used far more frequently, mostly in the service of drug warrants. When the town of Ithaca, New York, reformulated its SWAT team in 2000, Assistant Commander Peter Tyler answered questions as to why the small town, which has virtually no violent crime, would need a paramilitary force by instructing critics to consider news reports of mass shootings and other violence all over the country. "I think it's naïve for anyone to think it couldn't happen here in Ithaca," Tyler added. Later, in the same article, Police Chief Richard Basile noted that Ithaca's newer, smaller team would be more efficient, because it would save the town money when serving drug warrants, the unit's primary function.[55]

In 2004, officials in the New York counties of Oswego and Cayuga defended their new SWAT teams (referred to by public officials by the less menacing moniker "Special Operations Units") as necessary in a post–September 11 world. "We're in a new era, a new time,

It's commonplace for police officials who want a SWAT team to attempt to assuage community concerns by arguing the units are necessary to thwart the possibility of terrorism, school shootings, or violent crime. Once in place, however, SWAT teams are inevitably used in the service of drug warrants.

here," said one sheriff. "The bad guys are a little different than they used to be, so we're just trying to keep up with the needs for today and hope we never have to use it." The same official later said in the same article that the unit would be used "for a lot of other purposes, too. High-profile arraignments. Just a multitude of other things, too."[56]

In 2001, Madison, Wisconsin's *Capital Times* reported that as of 2001, 65 of the state's 83 local SWAT teams had come into being since 1980, 28 since 1996, and 16 since 2000. Many of those newly established teams had popped up in absurdly small towns like Forest County (population 9,950), Mukwonago (7,519), and Rice Lake (8,320).[57]

Given that small towns generally don't have the money for high-tech military gear, this explosion of SWAT teams is almost certainly the result of the Pentagon's giveaway program, as well as federal programs that provide money to local police departments for drug control. In Wisconsin alone during the 1990s, local police departments were given nearly 100,000 pieces of military equipment valued at more than $18 million. Columbia County, Wisconsin (population: 52,468), was given more than 5,000 military items valued at $1.75 million, including, according to the *Capital Times*, "11 M-16s, 21 bayonets, four boats, a periscope, and 41 vehicles, one of which was converted into a mobile command center for the SWAT team." The county also received "surveillance equipment, cold weather gear, tools, battle dress uniforms, flak jackets, chemical suits, computers, and office equipment."[58]

Like the *Miami Herald* and upstate New York examples, the *Capital Times* investigation found that though paramilitary units are often justified to town councils and skeptical citizens as essential to fight terrorism, deal with hostage situations, and diffuse similarly rare but volatile situations; once established, they're rarely deployed for those reasons. Instead, they're almost always sent to serve routine search warrants, make drug arrests, and conduct similar drug-related proactive policing.[59]

Columbia County, Wisconsin, was given more than 5,000 military items valued at $1.75 million.

One sheriff, for example, convinced his county to give him a SWAT team after one of his deputies was killed in a shootout. Now, he told the *Capital Times*, he uses the unit primarily for "drug searches and stuff." A police captain in Green Bay noted that armed barricades are happening "less and less," and so the SWAT team instead "assists the drug task force on a regular basis." The Jackson County, Wisconsin, SWAT captain likewise told the paper that the most common use of the teams is for "drug search warrants." Columbia County, Wisconsin, put its $1.75 million Pentagon bounty to use at "Weedstock" in nearby Saulk County, where cops in full SWAT attire stood guard to intimidate while, as the *Times* reports, "hundreds of young people gather[ed] peacefully to smoke marijuana and listen to music."[60]

The *Capital Times* also found that in addition to free equipment, the federal government gave money to the states for drug control, primarily through the Byrne Justice Assistance Grant program, as well as various federal law enforcement block grants. The states then disbursed the money to local police departments on the basis of each department's number of drug arrests. The extra funding was *only* tied to anti-drug policing. In some cases, the funding could offset the entire cost of establishing and maintaining a SWAT team, with funds left over. The paper found that the size of the disbursements was directly tied to the number of city or county drug arrests, noting that each arrest in theory would net a given city or county about $153 in state and federal funding. Jackson County, Wisconsin, for example, quadrupled its drug arrests between 1999 and 2000. Correspondingly, the county's federal subsidy quadrupled, too.[61]

Drug arrests, then, made cities and counties eligible for federal money. And federal money and equipment allowed for the creation of SWAT teams. Non-drug-related policing brought *no* federal dollars, even for violent crime. The result: Federal policies allowed small police departments to claim surplus military equipment, which many then decided to put to use by forming a SWAT team.

Federal funding for drug arrests then created an incentive for officials to then increasingly deploy those units for drug crimes, the only kind of crime for which arrests brought in money.[62]

Perhaps most perversely, the *Times* found that in several cases new SWAT officers were hired under President Clinton's "community policing" program.[63] Community policing was originally billed as a less authoritarian, more civil-minded form of law enforcement designed, in Clinton's words, "to build bonds of understanding and trust between police and citizens."[64] Part of that program was Clinton's resurrection of the Vietnam era "Troops to Cops" programs, which promised federal funding for local police departments who hire and train war veterans as civilian police officers, a program embraced by both Democrats and Republicans.[65] It's not impossible, of course, for a former solider to be trained as an effective civilian police officer. But that the federal government would be encouraging an en masse transition from the battlefield to Main Street displays a lack of understanding of the differences between the ideal military mindset and the ideal mindset of a civilian police officer.

Clinton's "community policing" program was distorted in other areas of the country, too. In Portland, for example, from 1989 to 1994, the ratio of common patrol officers to citizens in Portland actually *fell*. But the number of police in the paramilitary Tactical Operations Branch of the Portland Police Bureau increased from 2 to 56.[66]

In one survey of law enforcement officers who worked in departments with paramilitary units, nearly two-thirds responded that those units "play an important role in community policing strategies."[67] Most criminal justice experts reject that possibility. "Community policing initiatives and stockpiling weapons and grenade launchers are totally incompatible," one criminal justice professor at the University of Wisconsin-Milwaukee told the *Capital Times*.[68]

Thanks to the federal subsidies for drug arrests, then, not only did the number of SWAT teams soar through the 1980s and 1990s, so too did the frequency with which they were deployed. In 1972, there were just a few hundred paramilitary drug raids per year in the United States.[69] According to Kraska, by the early 1980s there were 3,000 annual SWAT deployments, by 1996 there were 30,000, and by 2001 there were 40,000.[70] The average city police department deployed its paramilitary police unit about once a month in the early 1980s. By 1995, that number had risen to seven.[71] To give one example, the city of Minneapolis, Minnesota, deployed its SWAT team on no-knock warrants 35 times in 1987. By 1996, the same unit had been deployed for drug raids more than 700 times that year alone.[72]

In small- to medium-sized cities, Kraska estimates that 80 percent of SWAT callouts are now for warrant service. In large cities, it's about 75 percent. These numbers, too, have been on the rise since the early 1980s.[73] Orange County, Florida, deployed its SWAT team 619 times during one five-year period in the 1990s. Ninety-four percent of those callouts were to serve search warrants, not for hostage situations or police standoffs.[74]

Many SWAT teams are now deployed for routine police duties beyond even the drug war. For several years, the heavily armed Fresno SWAT team mentioned earlier was used for routine, full-time patrolling in high-crime areas. The Violent Crime Suppression Unit, as it was called, was given carte blanche to enter residences and apprehend and search occupants in high-crime, mostly minority neighborhoods. The unit routinely stopped pedestrians without probable cause, searched them, interrogated them, and entered their personal information into a computer. "It's a war," one SWAT officer told a reporter from the *Nation*. Said another, "If you're 21, male, living in one of these neighborhoods, and you're not in our computer, then there's something definitely wrong."[75] The VCSU was disbanded in 2001 after a series of lawsuits alleging police brutality and wrongful shootings, though officials claim the unit was dissolved because it had "fulfilled its goals."[76]

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"We stop anything that moves," the commander said. "We'll sometimes even surround suspicious homes and bring out the MP5s."

But this incorporation of paramilitary tactics into routine, even non-drug-related policing goes well beyond Fresno. Paramilitary units now also conduct routine patrols in cities such as Indianapolis and San Francisco, a development one *Boston Globe* reporter remarked gives these communities "all the ambience of the West Bank."[77] The Bay Area in California has a separate SWAT team just to guard its subway system.[78] About 18 percent of paramilitary units across the country now at least periodically conduct roving patrols in high-crime areas.[79] Explains one official in what Peter Kraska describes as a "highly acclaimed community policing department":

> We're into saturation patrols in hot spots [high-crime areas]. We do a lot of our work with the SWAT unit because we have bigger guns. We send out two, two-to four man cars, we look for minor violations and do jump-outs, either on people on the street or automobiles. After we jump-out the second car provides periphery cover with an ostentatious display of weaponry.[80]

Another SWAT commander in a medium-sized Midwestern town sends paramilitary units out on routine patrols in an armored personnel carrier. "We stop anything that moves," the commander said. "We'll sometimes even surround suspicious homes and bring out the MP5s."[81] Another official, a police chief, explained his department's "community policing" efforts in particularly militaristic jargon:

> It's going to come to the point that the only people that are going to be able to deal with these problems [in high-crime areas] are highly trained tactical teams with proper equipment to go into a neighborhood and clear the neighborhood and hold it; allowing community policing and problem oriented policing officers to come in and start turning the neighborhood around.[82]

The deployment of SWAT teams for routine police work, even independent of the drug war, has reaped unfortunate—though predictable—results, from general police overreaction to mass raids on entire neighborhoods, to the deaths of innocent people. In January 1999, for example, a SWAT team in Chester, Pennsylvania, outraged the local community when it raided Chester High School in full tactical gear to break up a half dozen students who had been loitering outside the school in the early afternoon.[83]

An incident like that is troubling enough. But the use of heavily armed police tactics in response to nonviolent offenses can have far more tragic consequences. In 1998, the Virginia Beach SWAT team shot and killed security guard Edward C. Reed in a 3 a.m. gambling raid on a private club. Police say they approached the tinted car where Reed was working security, knocked, and identified themselves, at which point Reed refused to drop his handgun. Reed's family insists that the police version of events is unlikely, given that Reed was a security guard and had no criminal record. More likely, they say, Reed mistakenly believed the raiding officers were there to do harm, particularly given that the club had been robbed not long before. According to police, Reed's last words were, "Why did you shoot me? I was reading a book."[84] Club owner Darrin Hyman actually shot back at the SWAT team. Prosecutors would later decline to press felony charges against Hyman, concluding he had good reason to believe he was under attack.[85] Hyman was convicted of a misdemeanor gambling offense (playing a game of dice with friends) and of discharging a firearm.[86]

A similar scene unfolded in Virginia in January 2006, when police in Fairfax used a SWAT team to serve a search warrant on Salvatore Culosi Jr., whom they suspected of gambling on sporting events. When the SWAT team confronted Culosi as he came out of his home, one officer's gun discharged, striking Culosi in the chest and killing him. Police concede that Culosi had no weapon and made no menacing gestures as police prepared to arrest him. The *Washington Post* reported that Fairfax

County, Virginia, conducts nearly *all* of its search warrants with a SWAT team, including those involving white-collar and nonviolent crime.[87] Fairfax County prosecutor Robert Horan declined to press charges against the officer despite the fact that tests found no defect in the officer's weapon.[88]

SWAT teams are also increasingly—and oddly—being called in to negotiate with suicide cases, again sometimes yielding tragic results.[89] In one case that made national headlines in 1995, the family of a depressed 33-year-old Albuquerque, New Mexico, man named Larry Harper called police out of fear that Harper was about to commit suicide. Police responded with a nine-member SWAT team, dressed in full military gear and armed with automatic rifles and flashbang grenades. Harper's family overheard one member say, "Let's go get the bad guy," before the SWAT team chased Harper through the woods of a local park. According to the *New York Times*, Harper died when the SWAT team "found him cowering behind a juniper tree and shot him to death from 43 feet away."[90]

Even Larry Glick, former executive director of the National Tactical Officers Association, an organization that represents the interests of SWAT teams and paramilitary police units, told the *National Journal* in 2000: "The original mission of SWAT teams has changed. If the SWAT team is not busy responding to initial barricades, people say they're lazy. Departments want to give them something to do. Some agencies have given them too much to do. Some are overused."[91] The article went on to report that SWAT teams are now being used to respond even to calls about angry dogs and domestic disputes.

The proliferation of SWAT teams has extended to the federal government, too. In addition to the much-criticized, high-profile use of federal paramilitary troops in the 1993 siege at Waco and the use of more than 150 SWAT officers to seize six-year-old Cuban refugee Elian Gonzalez in 1999, federal SWAT teams are proliferating in other odd departments. As of 2000, at least 10 federal agencies had SWAT teams, including such unlikely agencies as the Department of Energy, the National Park Service, and the State Department. Former FBI director William Webster told NBC News in 2000 that the federal government is becoming "too enamored with SWAT teams, draining money away from conventional law enforcement."[92]

SWAT proliferation is also having another effect: it's introducing the military culture, military equipment, and the military mindset even to parts of the civilian police force not involved in SWAT teams or like paramilitary units. In 2004, the Washington, D.C., police department switched to military-style uniforms. The uniforms are dark blue, similar to those worn by the city's SWAT team, and feature a cap patterned after that worn by the U.S. Marines.[93] Patrol officers in Indianapolis are now armed with M-16 rifles supplied by the military. The officers are trained at the Camp Atterbury military base in Edinburgh, Indiana.[94] Several Chicago-area police departments now use the M-16 as well, including police in Waukegan, Zion, Mundelein, and Lake Zurich, Illinois. A spokesman for the Illinois Association of Chiefs of Police cited the 1999 Columbine High School massacre as justification for the high-powered weaponry.[95] Patrol officers in Orlando, Portland, and even tiny Pinole, California, now carry military-grade weapons.[96]

Private suppliers of military equipment have been eager to tap their new clients. *Covert Action Quarterly* reported in 1997 that "gun companies, perceiving a profitable trend, began aggressively marketing automatic weapons to local police departments, holding seminars and sending out color brochures redolent with ninja-style imagery."[97] Suppliers of paramilitary gear frequently sponsor "SWAT games" around the country, in which members of paramilitary teams compete in shooting, strength, endurance, and rescue competitions.[98] Websites and brochures from sponsor-suppliers at these competitions make little distinction between cop and soldier, blending battle images with photos and depictions of SWAT raids and civilian policing. NTOA actually publishes its own magazine, *Tactical Edge*, though civilians are prohibited from subscribing to it.[99] Another, *SWAT*

SWAT teams are now being used to respond even to calls about angry dogs and domestic disputes.

Heckler and Koch's slogan for the MP5 is, "From the Gulf War to the Drug War—Battle Proven."

magazine, abounds in ads featuring soldiers in full military garb and features articles such as "Polite, Professional, and Prepared to Kill" (to its credit, *SWAT* magazine at least does invite writers with contrarian points of view to submit critiques of police militarization).[100]

NTOA spokesman Glick told the *Washington Post* in 1997 that Heckler and Koch, makers of the popular MP5 used by Navy SEALs and SWAT teams across the country, puts on some of the most popular tactical seminars in the business. Most seminars feature "retired military personnel who don't know what they're doing," Glick said, while Heckler and Koch's is "very successful and credible, among the best. Their ultimate goal is to sell guns."[101]

Heckler and Koch's slogan for the MP5 is, "From the Gulf War to the Drug War—Battle Proven."[102] As the Independence Institute's David Kopel points out, such baldly militaristic marketing has real-world consequences:

> When a weapon's advertising and styling deliberately blur the line between warfare and law enforcement, it is not unreasonable to expect that some officers—especially when under stress—will start behaving as if they were in the military. That is precisely what happened at Waco when BATF agents began firing indiscriminately into the building, rather than firing at particular targets. . . . It is ironic that many city governments, at the behest of the gun prohibition lobbies, are suing gun manufacturers for truthful advertising stating that firearms in the responsible hands of law-abiding citizens can provide important protection. At the same time, many American cities are equipping their police departments with machine pistols and other automatic weaponry whose advertising (like Heckler & Koch's) encourages irresponsible, military-style use of weapons in a civilian environment.[103]

As if outfitting soldiers in war gear weren't enough, many SWAT teams and paramilitary units now train with elite military units. In 1989, then–defense secretary Dick Cheney created Joint Task Force Six, a unit based in Fort Bliss, Texas, that conducts highly specialized military-style training for domestic law enforcement in such areas as helicopter attacks, sniping, and urban combat techniques. The unit was established to provide military assistance in drug interdiction and border control. In addition to Joint Task Force Six, the U.S. Army Military Police, the Marine Corps, the Navy SEALs, and the Army Rangers also each provide training for domestic police departments, respectively.[104] Two years after Joint Task Force Six's creation, one assistant secretary of defense said at an army conference, "We can look forward to the day when our Congress . . . allows the Army to lend its full strength toward making America drug free."[105]

Forty-six percent of the paramilitary units surveyed by Kraska in the 1990s reported that their SWAT teams or paramilitary units had been trained by current or former members of a military special forces unit—generally either the Navy SEALs or the Army Rangers. According to one commander: "We've had teams of Navy SEALs come here and teach us everything. We just have to use our own judgment and exclude the information like: 'at this point we bring in the mortars and blow the place up.'"[106]

Before 1993, the U.S. Army held a prohibition against teaching close-quarters, urban combat techniques to civilian police forces.[107] In part because of political pressure to mount a more aggressive approach to the drug war, that prohibition was lifted. The U.S. military now routinely conducts joint paramilitary training operations with civilian police departments.[108]

The National Guard, an organization that in some ways brides the gap between the federal military and state and local police forces, has also become more involved in drug interdiction efforts. In 1992, the chief of the Drug Demand Reduction Section of the National Guard asserted that "the rapid growth of this drug scourge has shown that military force

must be used to change the attitudes and activities of Americans who are dealing and using drugs."[109] At about that time, the National Guard was making 20,000 drug arrests, searching more than 100,000 automobiles, entering more than 1,000 privately owned buildings, and encroaching on private property in drug search operations more than 6,500 times per year.[110] In 1998, the Indiana National Guard helped raze more than 40 suspected crack houses in Gary, Indiana.[111] And by 2000, the National Guard was routinely making sweeps of open fields in California, Kentucky, and several other states looking for marijuana.[112] The Coast Guard is also now routinely used in drug intervention efforts on waterways.[113] And in some instances, the Navy SEALS and Army Rangers themselves have been called in to provide assistance on drug efforts.

Problems with Paramilitary Drug Raids

The next two sections will scrutinize both the increasing militarization of civilian policing and the practice of using paramilitary police units to conduct the routine execution of drug warrants.

Criticism of Military Policing in General

The most obvious problem with the militarization of civilian policing is that the military and the police have two distinctly different tasks. The military's job is to seek out, overpower, and destroy an enemy. Though soldiers attempt to avoid them, collateral casualties are accepted as inevitable. Police, on the other hand, are charged with "keeping the peace," or "to protect and serve." Their job is to protect the rights of the individuals who live in the communities they serve, not to annihilate an enemy. Former Reagan administration official Lawrence Korb put it more succinctly: soldiers are "trained to vaporize, not Mirandize."[114]

Given that civilian police now tote military equipment, get military training, and embrace military culture and values, it shouldn't be surprising when officers begin to act like soldiers, treat civilians like combatants, and tread on private property as if it were part of a battlefield. Of course, it's hard to overlook the fact that the soldiering-up of civilian police forces is taking place as part of the larger War on Drugs, which grows more saturated with war imagery, tactics, and phraseology every day.

Many longtime police officials are concerned. The new organization Law Enforcement Against Prohibition, for example, has grown to more than 3,500 members since its inception in 2003.[115] LEAP represents current and former police officers and prosecutors who support drastic reforms in the nation's drug laws. The organization's president, retired narcotics officer Jack Cole, cites the pervasiveness of mistaken SWAT raids as one regrettable consequence of the War on Drugs. "There are too many WRONG houses," Cole writes. "It does not need to happen."[116] In 1997, one retired sergeant wrote a letter to the editor of the *Washington Post* in protest of the move toward a more militarized police force. "One tends to throw caution to the wind when wearing 'commando-chic' regalia, a bulletproof vest with the word 'POLICE' emblazoned on both sides, and when one is armed with high tech weaponry," he warned. "We have not yet seen a situation like [the British police occupation of] Belfast. But some police chiefs are determined to move in that direction."[117]

Though most military officials tend to support the idea of separate policing and fighting forces, the sentiment isn't universal. One prominent military scholar, in fact, confirmed the worst fears of the retired sergeant in Washington, D.C., by *recommending* a Northern Ireland approach to high-crime areas in the United States. Thomas A. Marks, a widely published expert and consultant and adjunct professor at the U.S. Joint Special Operations University in Florida, wrote that crime in certain areas of the United States is worse than it was in Northern Ireland at the height of the province's struggles with the British. "What we have, then, are human

It's hard to overlook the fact that the soldiering-up of civilian police forces is taking place as part of the larger War on Drugs, which grows more saturated with war imagery, tactics, and phraseology every day.

cesspools—in every sense already centers of criminal activity, as well as economic and spiritual poverty, well beyond anything Northern Ireland can throw up in terms of misery and death—waiting for some jolt to create waves that leap out of the pool." That jolt, Marks believes, is a permanent military policing presence. He recommends domestic police forces adopt an approach similar to what the British utilized in Northern Ireland, a military policing force to "seize and clear" areas, and adopt a warlike counterinsurgency strategy in high-crime areas.[118]

But most military officials understand the threat such a presence would pose to civil society. In the 1980s, as Congress was preparing to gut the Posse Comitatus Act, several U.S. military officials protested. Marine major general Stephen G. Olmstead, for example, the deputy assistant secretary of defense for drug policy, told a U.S. Senate subcommittee in 1987 that it was about to make a grave mistake:

> One of [America's] greatest strengths is that the military is responsive to civilian authority and that we do not allow the Army, Navy, and the Marines and the Air Force to be a police force. History is replete with countries that allowed that to happen. Disaster is the result.[119]

Col. Charles J. Dunlap, a distinguished graduate of the National War College, has written prolifically on the dangers of the creeping militarization of civilian life. "[U]sing military forces for tasks that are essentially law enforcement requires a fundamental change in orientation," he writes. "To put it bluntly, in its most basic iteration, military training is aimed at killing people and breaking things. . . . Police forces, on the other hand, take an entirely different approach. They have to exercise the studied restraint that a judicial process requires; they gather evidence and arrest 'suspects.' . . . These are two different views of the world."[120]

There are also at least a few police officials that understand the threat of overly militarized policing. Nick Pastore, a New Haven police chief, now retired, was one of few police chiefs to turn down the Pentagon's military bounty. Pastore told the *New York Times* that outfitting cops in soldier gear "feeds a mind-set that you're not a police officer serving a community, you're a soldier at war. I had some tough-guy cops in my department pushing for bigger and more hardware. They used to say, 'It's a war out there.' They like SWAT because it's an adventure."[121] Pastore warned that the military approach paints civilians as the enemy in the eyes of police officers. "If you think everyone who uses drugs is the enemy, they you're more likely to declare war on the people."[122] In an interview with the *Nation*, Pastore recalled that before he took over, New Haven's SWAT team was being called out several times per week. "The whole city was suffering trauma," he said. "We had politicians saying 'the streets are a war zone, the police have taken over,' and the police were driven by fear and adventure. SWAT was a big part of that."[123] After Pastore's reforms, New Haven's SWAT team was called out just four times in all of 1998. Defying SWAT supporters who say "get tough" policing is responsible for the recent drop in crime rates, New Haven's crime rate dropped at rates greater than the rest of Connecticut, from 13,950 incidents in 1997 to 9,455 in 2000.[124]

Another chief who bucked the tide was Marquette County, Wisconsin's, sheriff, Rick Fullmer. He disbanded his county's SWAT team in 1996. "Quite frankly, they get excited about dressing up in black and doing that kind of thing," Fullmer told a local media outlet. "I said, 'this is ridiculous.' All we're going to end up doing is getting people hurt."[125]

More evidence for the effect militarization is having on the mindset of civilian police officers can be found in the words and actions of civilian officers and police officials themselves. Los Angeles police chief Daryl Gates, for example, once suggested that casual drug use amounts to "treason," and that offenders should be "be taken out and shot."[126] Marion County, Florida's, Ken Ergle, the sheriff *60*

"Quite frankly, they get excited about dressing up in black and doing that kind of thing. I said, 'this is ridiculous.' All we're going to end up doing is getting people hurt."

Minutes profiled for having accumulated a hangar full of free helicopters and luxury planes, explained to Lesley Stahl, "Well, with any county, with any state, with any nation, you always have to prepare for the threat of war. . . . My war is on the streets, fighting the criminals."[127]

Of course, police officials like Gates and Ergle are only following the lead of elected officials and appointed policymakers. War imagery and the endorsement of indiscriminate, military battle tactics for the War on Drugs has become common in political discourse. For example, the nation's first Drug Czar, William Bennett, recommended in 1989 that the United States abolish habeas corpus for drug offenders.[128] "It's a funny war when the 'enemy' is entitled to due process of law and a fair trial," Bennett later told *Fortune* magazine.[129] On the *Larry King Show* Bennett suggested that drug dealers be publicly beheaded.[130]

In 1986, President Ronald Reagan issued a directive declaring illicit drugs a threat to national security. "We're taking down the surrender flag that has flown over so many drug efforts," Reagan said. "We're running up a battle flag."[131] In the same speech, he likened the drug war to the World War I battle of Verdun, an analogy that journalist Dan Baum notes in his book *Smoke and Mirrors* is both amusing and appropriate: "[T]he battle is famous for killing half a million people on each side," Verdun writes, "while resolving absolutely nothing."[132] Battle rhetoric continued through the George H. W. Bush and Clinton administrations and certainly continues through the current Bush administration, which has run national ad campaigns equating recreational drug use with support for international terrorism.

Given such rhetoric, it isn't all that surprising when civilian agencies police drug crimes like soldiers instead of peacekeepers and treat civilians like combatants instead of citizens with rights. Under Bennett's reign as Drug Czar, cities like Boston declared the equivalent of a state of war in some areas (mostly inhabited by minorities), with all the accompanying civil liberties restrictions. One judge criticized Boston's efforts as "a proclamation of martial law . . . for a narrow class of people—young blacks." Baum reports that Bennett was supportive of such efforts, attributing them to "the overriding spirit of our front-line drug enforcement officers—which we should be extremely reluctant to restrict within formal and arbitrary lines."[133]

Twenty-five years of an infusion of military hardware, training, and tactics has also trained police officers—particularly SWAT officers and drug police—to adopt the win-at-all-costs mentality of a soldier. The Hoover Institution's Joseph McNamara, a former police chief for Kansas City, Missouri, and San Jose, California, told the *National Journal* in 2000 that he's seen the battle mentality on display at the increasing number of SWAT conventions and SWAT competitions now held across the country. Speaking about a trip to a recent NTOA convention, McNamara said: "Officers at the conference were wearing these very disturbing shirts. On the front, there were pictures of SWAT officers dressed in dark uniforms, wearing helmets, and holding submachine guns. Below was written: 'We don't do drive-by shootings.' On the back, there was a picture of a demolished house. Below was written: 'We stop.'"[134]

Peter Kraska saw similar attitudes while doing field research with paramilitary units. As officers trained in preparation for the formation of a regional paramilitary unit in the Midwest and shot at "head-sized jugs of water," one officer wore a T-shirt emblazoned with an image of a city in flames. Beneath it were the words, "Operation: Ghetto Storm."[135] The two military reserve officers who conducted the training operation offered Kraska a glimpse into the minds of the civilian police officers they were training. "This shit [the creation of paramilitary units] is going on all over. Why serve an arrest warrant to some crack dealer with a .38?" one told Kraska. "With full armor, the right shit [pointing to a small case that contained a nine-millimeter Glock], and training, you can kick ass and have fun." The other officer added, "Most of these guys just like to play war; they get a rush

"With any nation, you always have to prepare for the threat of war. . . . My war is on the streets, fighting the criminals."

out of search-and-destroy missions instead of the bullshit they do regularly."[136] Another SWAT commander told Kraska, referring to his unit, "When the soldiers ride in, you should see those blacks scatter."[137]

Such us-versus-them, search-and-destroy sentiment has been on display in a number of incidents in which drug agents have invaded entire streets, city blocks, and even entire towns in drug interdiction efforts, which commonly include no-knock raids. In 1998, more than 90 police officers in San Francisco in full SWAT attire raided 13 apartments in the city's Martin Luther King–Marcus Garvey housing co-op. Police blew doors off their hinges, deployed flashbang grenades, and, according to residents, slapped, beat, and stepped on the necks of the people inside. Police put gun muzzles against the heads of some occupants. One family's pet dog was shot in front of its owners, then dragged outside and shot again. Children as young as six were handcuffed, which Police Chief Fred Lau said was to done to prevent them from "running around." The raid was apparently conducted to scare and intimidate a local gang.[138]

"The rate of killings by police was just off the charts," Walker would later report. The SWAT team "had an organizational culture that led them to escalate situations upward rather than de-escalating."

In the late 1990s, things got so bad in Albuquerque, New Mexico, the city had to hire an outside investigator. After a series of botched drug raids and shootings such as the Larry Harper suicide call, the city hired University of Nebraska criminologist Sam Walker to conduct an investigation of the city's police tactics. Walker was astounded. "The rate of killings by police was just off the charts," Walker would later report. The SWAT team "had an organizational culture that led them to escalate situations upward rather than de-escalating."[139] In response to Walker's and the city's own investigation, Albuquerque hired a new police chief, Jerry Galvin. Galvin immediately concluded that a city of some 400,000 didn't need a full-time paramilitary unit. He also began to demilitarize the city's police force and instill a sense of community policing. Galvin told the *New York Times* in 1999, "If cops have a mind-set that the goal is to take out a citizen, it will happen."[140] In 1999, Albuquerque also instituted a crisis counseling division in lieu of the SWAT team to handle suicides and domestic disputes.[141]

Reforms in places like New Haven and Albuquerque have unfortunately been the exception. Much of the rest of the country has marched forth with police militarization. The weapons, training, and federal money are too lucrative to turn down. And once they've acquired the equipment and training, police officials feel compelled to put it to use. Lt. Tom Gabor of the Culver City, California, police department began noticing the phenomenon in the early 1990s and criticized the practice in a 1993 article for the FBI's *Law Enforcement Bulletin*. Gabor wrote that increases in the deployments of SWAT teams have more to do with "justifying the costs of maintaining units" than with ensuring public safety. Even back in the early 1990s, Gabor noticed, "In many organizations, patrol leaders feel pressured to call for SWAT assistance on borderline cases, even though field supervisors believe that patrol personnel could resolve the incident."[142]

And the trend continues. In 2003, police in Goose Creek, South Carolina, conducted a schoolwide commando-style raid on Stratford High School. Police lined students face down on the floor at gunpoint while officers searched their lockers and persons for drugs. Some were handcuffed. Police dogs sniffed students, lockers, and backpacks. The incident made national news and was captured on videotape by the school's security cameras. It's difficult to see why such tactics were necessary. Police found no illegal drugs, and the school was described in media reports as having one of the best academic reputations in the state.[143] The principal of the school later resigned, and the city recently settled a class-action suit with the affected students.[144]

Another troubling development is the use of SWAT teams and other paramilitary units to search and arrest medical marijuana and prescription painkiller offenders. In some cases, these people are abiding by state law, or even working for the state. Yet the federal

government insists not only on prosecuting them, but on using SWAT teams to arrest them. It's difficult to understand why SWAT teams and paramilitary tactics are necessary to apprehend sick patients, convalescent center workers, and white-collar doctors. But it's common practice.

On September 5, 2002, for example, a DEA SWAT team clad in flak jackets and armed with M-16s raided the Wo/Men's Alliance for Medical Marijuana, a treatment center operated by medical marijuana activists Michael and Valerie Corral. One patient there, Suzanne Pfeil, who suffered from post-polio symptoms, awoke in her bed to find five federal agents pointing assault weapons at her head. When agents yelled at her to get up from the bed, Pfeil responded that she wasn't physically able. They ordered her up again. Again, she answered that she couldn't. The agents handcuffed Pfeil to her bed and proceeded to search her belongings. Pfeil, who is allergic to most pharmaceutical drugs, uses marijuana for the muscle and nerve pain brought on by her condition.[145]

Since the DEA has begun targeting physicians who the agency believes are prescribing too many prescription painkillers, these suspects too are generally apprehended and arrested by paramilitary units, despite the fact that most all of them are white-collar, professional doctors in private practice, with no history of violence. The *Village Voice* reported in 2003 that the DEA's tactics include "storming [pain treatment clinics] in SWAT-style gear, ransacking offices, and hauling doctors off in handcuffs."[146]

Dr. Cecil Knox of Roanoke, Virginia, is one example. When federal agents came to arrest Knox for overprescribing prescription painkillers, they stormed his office in flak jackets. A clinic employee reported: "I thought I was going to die. My husband was helping out that day, and a DEA agent came in and pointed a gun at his head and said, 'Get off the phone, now.'"[147] The *Voice* reported that in June 2003, DEA agents raided a Dallas pain clinic, where they "kicked own doors, ransacked the office, and handcuffed patients, including an elderly woman with a stroller and an oxygen tank."[148] And when federal agents arrested pain specialist Dr. William Hurwitz after years of investigation, they did so with 20 paramilitary agents who raided his home with assault weapons and arrested him in front of his two young daughters.[149]

David Brushwood, a pharmacy scholar and expert on pain care at the University of Florida, says that where federal agents once worked with doctors to single out problem patients, they now go after doctors with SWAT teams. Agents "watch as a small problem becomes a much larger problem. They wait, and when there is a large problem that could have been caught before it got large, they bring the SWAT team in with bullet-proof vests and M16s, and they mercilessly enforce the law," Brushwood told one reporter.[150]

It's difficult to come up with a reason why such brazen shows of force against suspects who pose no risk of violence and present no threat of harm to anyone around them would be necessary, other than simply to intimidate. This, again, is a trait more associated with an occupying army than with a civilian police force.

Why Paramilitary Drug Raids Are Problematic

Escalation of Violence. The most obvious criticism of paramilitary drug raids is that, contrary to assertions from proponents that they minimize the risk of violence, they actually *escalate* provocation and bring unnecessary violence to what would otherwise be a routine, nonviolent police procedure. SWAT teams typically serve drug warrants just before dawn, or late at night. They enter residences unannounced, or just seconds after announcing. Targets, then, are suddenly awoken from sleep, and confronted with the prospect that their homes are being invaded. Police sometimes deploy diversionary devices such as flashbang grenades, designed to cause temporary blindness and deafness, intentionally compounding the confusion.

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first instinct upon waking under such conditions would be to disregard whatever the intruders may be screaming at him, and reach for a weapon to defend himself. Even public officials have expressed that sentiment. In 1992, police in Venice, Illinois, mistakenly raided the wrong home on a paramilitary narcotics raid. Fortunately, no one was home. But the house turned out to be the home of Tyrone Echols, Venice's mayor. "To tell the truth, I don't remember what they said because I was furious," Echols told the *St. Louis Post-Dispatch*. "If I'd been here and heard that going on I probably would have taken my pistol and shot through the door. I'd probably be dead. And some of the officers would probably be dead, too."[151]

Even former police officers have instinctively reached for their weapons when SWAT teams have mistakenly entered their homes on faulty, no-knock search warrants.[152] So have many civilians—some guilty of drug crimes, some completely innocent—who were then shot and killed by police officers who understandably mistook an otherwise nonviolent suspect's attempt to defend himself as an act of aggression. Should a suspect or any occupant of the residence be asleep in a room far away from the point of entry, or perhaps on another floor, it's not difficult to see how he might be awoken by the commotion but not hear the announcement that the intruders are police (assuming such an announcement was made in the first place).

The intentionally inflicted confusion and disorientation, the forced entry into the home, and the overwhelming show of force, then, make these raids excessively volatile, dangerous, and confrontational. Were they only utilized against violent criminals who pose an immediate threat to the community and public safety, one could argue that their utility outweighed their risk. But the vast majority of paramilitary raids are executed against drug offenders, and many of those against marijuana offenders with no history of violence. Which means that far from defusing violent situations, most SWAT raids actually create them.

Posing as Police. Another problem with military-style, late-night drug raids is that there's good reason for civilians to suspect late night intruders *aren't* police. Spurred on in part by the frequent nature and popularization of surprise drug raids, it is not uncommon for criminals to disguise themselves as raiding police to gain entry into homes and businesses.

One infamous example took place in 1994, when a group of men entered the home of Lisa Renee and abducted her as retribution for a drug deal, which they'd conducted with her brothers, gone wrong. In a chilling 911 call, as Renee pleads with the operator to send help, one of the men announces through the door that he's the "FBI." Renee says to the operator, "Oh, they're the FBI." One intruder then says, "Open the door and we'll talk." Renee says again, "They're the FBI. They say they're the FBI, ma'am," and opens the door. The call ends with screaming.[153] The men kidnapped Renee, raped and beat her over the next several days, then buried her alive in a shallow grave.[154] Given its sensational elements, the Renee case is perhaps the most famous case of armed intruders posing as police. But it's by no means the only example. New York City alone reports *more than 1,000 cases each year* of people pretending to be police officers, many of them in attempts to rob homes and businesses.[155] Here are just a few examples from recent headlines:

- In January 2006, Jonathan Dodson of Des Moines, Iowa, was charged with impersonating a public official in burglary after he and another man gained entry to a home by claiming to be U.S. Marshals.[156]
- In October 2005, a couple in Clay County, Kansas, broke into a 79-year-old man's home while pretending to be police officers. They ransacked his home and stole a wallet, credit cards, and two bottles of medication.[157]
- On July 15, 2005, two intruders claimed to be police officers to gain entry to a home in Oak Park, Michigan. Once

inside, the assailants forced residents to the floor and made off with cash, jewelry, and a shotgun.[158]

- On November 29, 2005, two men staged a fake drug raid while holding up a residence in Syracuse, New York. Authorities believe the men had conducted similar phony raids four or five times before.[159]
- In January 2005, an Alexandria, Virginia, lawyer was dragged from his home by three gunmen, who gained access after telling the man's son they were police. Kenneth Labowitz was kidnapped after gunmen—still claiming to be federal agents—shocked his wife with a stun gun. Labowitz was beaten, hit with a stun gun, and taken to a remote area where the men said they had already prepared his grave. Labowitz eventually escaped, and the gunmen were prosecuted.[160]
- In October 2004, five men pretending to be police invaded a home near Collierville, Tennessee. The men broke open the door at 3 a.m., then yelled "FBI!" to throw the couple inside off-guard. All were wearing black shirts emblazoned with the word "POLICE." Michael and Katrina Perry were then bound, beaten, and tortured. The intruders then searched the home for valuables and left in the couple's SUV.[161]
- In July 2004, several men stormed a home near Houston, Texas, screaming "HPD, HPD!" referring to the Houston Police Department. Once inside, they took cash and jewelry and shot both of the home's occupants. One was grazed, the other was critically injured.[162]
- In January 2003, at 1 a.m. on a Sunday, several men in ski masks claiming to be police knocked on a window, then broke open the door to a home in Edinburg, Texas. It was the latest in a string of incidents in which drug dealers had broken into homes posing as police on fake drug raids. Once inside, the men tied up six young men they found inside and in an adjacent shed and shot them to death.[163]

These are just a few examples. There are dozens more from just the last several years.[164]

Informants and Forfeiture. An overwhelming number of mistaken raids take place because police relied on information from confidential informants. These informants are notoriously unreliable. Most tend to be drug dealers themselves looking to knock off competitors, convicted criminals or charged suspects looking to trade information for a reduction in sentence or less serious charges, or professional informants who get a cut of any money or assets seized. After a 1998 "wrong door" raid on an elderly couple in New York City, for example, one police source told the *New York Times* that the informant in the case, one described in police affidavits as reliable, wasn't so reliable after all. Just 44 percent of the tips he'd given police over the years had produced actual drug evidence.[165]

A 1999 investigation by the *Chicago Tribune* detailed dozens of cases in which jailhouse informants blatantly lied to win shortened sentences, some in cases that resulted in the death penalty.[166]

Police routinely secure warrants for paramilitary drug raids on the basis of a tip from a single, confidential informant, many of whom are paid, or rewarded with leniency in their own criminal cases. Back in 1995, *National Law Journal* estimated that money paid to informants jumped from $25 million in 1985 to about $97 million in 1993.[167] It's safe to assume that number's significantly higher now. Those figures also don't include money seized by police from drug suspects, a portion of which often gets filtered back to informants. In a scathing editorial, the publication warned, "Criminals have been turned into instruments of law enforcement, while law enforcement officers have become criminal co-conspirators." The piece warned that judges weren't doing a satisfactory job of verifying the credibility of informants, some of whom are "invented out of whole cloth."[168]

One of the more egregious examples of how the informant system can lead to tragedy is the case of Pedro Oregon Navarro. In the summer

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of 1998, two police officers in Houston pulled over a car with three men inside. One of them was subsequently arrested for public intoxication. Already on probation, the suspect came up with a bargain for the arresting officers. He'd give them a tip on a drug dealer if they'd let him off. They agreed. The man made up a story and gave police Navarro's address. At 1:40 a.m., six police from the city's anti-gang task force raided Navarro's house. The informant knocked on the door, and Navarro's brother-in-law answered. At that point, the officers stormed Navarro's bedroom, where the man awoke, startled and frightened, and reached for his gun. Police opened fire. They shot Navarro 12 times, killing him. Navarro never fired his gun.[169] The officers who shot Navarro were eventually terminated. In August 2005, two of them applied for reinstatement, adding that they'd hoped to be "vindicated" in the Navarro shooting.[170]

Rev. Accelyne Williams is perhaps the most infamous case of a bad tip leading to a fatally flawed no-knock raid. Williams, a 75-year-old retired minister, died of a heart attack on March 25, 1994, after struggling with 13 members of a heavily armed Boston SWAT team that had stormed his apartment in black masks.[171] One police source told the *Boston Herald*, "Everything was done right, except it was the wrong apartment."[172]

Police later discovered that an informant had given them incorrect information. The *Herald* reported:

> A warrant authorizing the raid was approved by Suffolk County Assistant District Attorney Mary Lou Moran, even though the application supporting the warrant did not specify which apartment on the building's second floor was to be targeted. It also failed to provide any corroboration of the confidential informant's tip that a Jamaican drug posse operated out of the building.[173]

One police source told the *Herald*: "You'd be surprised at how easily this can happen. An informant can tell you it is the apartment on the left at the top of the stairs and there could be two apartments on the left at the top of the stairs. Or people could rent rooms within an apartment that the informant doesn't know about. You are supposed to verify it, and I'm not making excuses, but mistakes can be made."[174]

A week after the Williams raid, media investigations discovered that three of the officers involved had been accused in a 1989 civil rights suit of using nonexistent informants to secure drug warrants. The three had erroneously raided the home of Jean-Claude and Ermite David in 1989, resulting in a $50,000 settlement from the city of Boston. According to one witness, Philbin apologized as officers were leaving the scene, telling the home's occupants, "This happens all the time."[175] Five years before the Williams raid, Boston detective Sherman C. Griffiths was killed in another late night drug raid gone wrong. A jury acquitted the man who shot Griffiths when Detective Carlos A. Luna confessed that, to speed up the warrant process, he had made up the informant whose alleged tip led to the raid.[176]

In the fall of 1995, the First Circuit Court of Appeals affirmed the conviction of a man on charges precipitated by an informant but warned of the increasing abuse of the informant system. Appellate Judge Michael Boudin cautioned:

> In his dual role as both instigator and witness, the informant has a special capacity—as well as strong incentive—to tilt both the event itself and his testimony about it. If the government is going to use its informants in a role just short of provocateur, it would be well advised to consider devising restrictions that will at least lessen the likelihood for abuse. Otherwise, the lesson of history is that the courts themselves are likely to take precautions and their adjustments are usually more rigid and far-reaching.[177]

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Accelyne Williams and Sherman Griffiths cases, the *Boston Globe* ran a story in 1995 that profiled several men who lived entirely off of the fees they collected as police informants and who, consequently, often used entrapment to generate new tips for police.[178] Other examples of informant corruption abound, including these recent examples:

- In 2005, Oregon's *News-Register* ran a lengthy profile of career informant Marc Craven, who befriended immigrants and other low-wage workers, then tempted them with promises of high-paying construction jobs if they could find him small amounts of marijuana or methamphetamine. In some cases, he badgered his targets for weeks, playing off their dreams of a better life, then tipped off police when his targets managed to get him minuscule amounts of illicit drugs.[179]
- In 2005, the *Denver Post* reported that the Denver DEA had an ongoing relationship with an informant dating back to 1993, and continued to let the informant deal drugs as he gave up rival dealers. By 2003, the local U.S. Attorney's office had become concerned enough with informant Gerardo Guitierrez-Velazquez's credibility that they told the DEA they would stop prosecuting cases based on tips that originated with him. Of course, by that time, Velazquez had already put several people in prison.[180]
- In 2004, Riverside County, California, prosecutors had to review more than 15 convictions after it was revealed that a confidential informant routinely used in narcotics sting operations had been kept secret from judges. Among other transgressions, the informant allegedly planted drugs in a suspect's car, then smashed one of the car's taillights to give police reason to pull the suspect over. Prosecutors insisted on keeping the informant secret despite the fact that serious questions arose about his credibility in a number of cases. "The DA resisted every attempt we made to identify the informant even though it was clear from the beginning that he was a material witness," one defense lawyer told the Associated Press.[181] The informant problems came to light after a Riverside officer was implicated in an incident in which an informant was permitted to steal money from a drug suspect. In the ensuing investigation, one detective said informants routinely played key roles in drug raids, and prosecutors and defense attorneys were kept in the dark about their involvement.[182]
- In 2001, a scandal broke in Dallas in which a police drug informant had been planting fake cocaine on dozens of Mexican immigrants. Dallas police would then conduct field tests on the "drug," which in many cases was ground-up billiards chalk. Miraculously, tests repeatedly showed the substance to be cocaine. After the scandal broke, investigators found more than 80 cases that had been manufactured by the informant. He made $1,000 for every kilo of cocaine seized from his tips.[183] Only one street-level detective was charged in the case, and he was later acquitted in federal court. The subsequent city investigation, closed to the public and conducted by city officials and no outside investigators, was described by one journalist as "a tight-lipped whitewash."[184] In 2005, the *Dallas Morning News* reported that three years before the scandal a police lieutenant had issued a blistering report on the Dallas Police Department's informant system, noting that informants were frequently paid under false Social Security numbers, some informants were never documented at all, and in many cases, supervisor signatures approving the use of informants were forged, post-dated, or never obtained at all.[185]

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tice system entrusted with safeguarding the Fourth Amendment. In truth, the process has become little more than a rubber stamp exercise.

The 2003 botched New York City raid that killed Alberta Spruill was also based on information from a confidential informant. For years, activists, citizens, and media outlets had warned about the city's reliance on informants before conducting such volatile raids. This was particularly true of the city's Civilian Complaint Review Board, billed as an agency designed to act on citizen complaints of police brutality. Review board members were growing increasingly concerned about botched drug raids emanating from faulty informant tips but were powerless to do anything about it. A *New York Times* article warned about the increasing number of no-knock police raids and use of confidential informants. It was published five years before the raid ending in Alberta Spruill's death:

> Confidential informers—called snitches and rats by the narcotics officers who depend on them—are a central, if little-discussed, weapon in the war on drugs. Since the apartments many drug dealers now use are difficult and dangerous to infiltrate, investigators have come to rely more and more on their underworld contacts. Interviews with police officials, prosecutors, judges, and lawyers paint a picture of a system in which police officers feel pressured to conduct more raids, tips from confidential informants are increasingly difficult to verify, and judges spend less time examining the increasing number of applications for search warrants before signing them.[186]

There isn't much data available on just how often judges or prosecutors turn down search warrants because of the untrustworthiness of a confidential informant or on how often they turn down drug search warrants in general. But most criminal justice experts agree that it's rare.

A 2000 *Denver Post* investigation found that judges exercise almost no discretion at all when it comes to issuing no-knock warrants.

One study of Chicago-area judges, prosecutors, drug police, and public defenders conducted in 1992 by University of Minnesota law professor Myron Orfield, for example, suggests that the system of administering search warrants is far from the careful balance of crime control and civil liberties many Americans might envision.[187] Orfield found that more than a fifth of Chicago judges believe police lie in court more than half the time when it comes to Fourth Amendment issues. Ninety-two percent of judges said police lie "at least some of the time." Thirty-eight percent of judges said they believe police superiors encourage subordinates to lie in court. More than 50 percent of respondents believed that at least "half of the time" the prosecutor "knows or has reason to know" that police fabricate evidence at suppression hearings. Another 93 percent (including 89 percent of the prosecutors) reported that prosecutors had knowledge of perjury "at least some of the time." Sixty-one percent of respondents, including half of the surveyed prosecutors, believed that prosecutors know or have reason to know that police fabricate evidence in case reports, and half of prosecutors believe the same to be true when it comes to warrants. Prosecutors also described several techniques in dealing with police that would probably surprise much of the public, including articulating cases to police in terms such as, "if this happens, we win. If this happens, we lose."[188]

A 2000 *Denver Post* investigation found that judges exercise almost no discretion at all when it comes to issuing no-knock warrants. The *Post* found that Denver judges had denied just five of 163 no-knock applications over a 12-month period (local defense attorneys were surprised to learn there were even five).[189] "No-knock search warrants appear to be approved so routinely that some Denver judges have issued them even though police asked only for a regular warrant," the *Post* wrote. "In fact, more than one of every 10 no-knock warrants issued over the past seven months *was transformed from a regular warrant*

with just a judge's signature."[190] Among the paper's other findings:

- In 8 of 10 raids, police assertions in affidavits that weapons would be present turned out to be wrong.
- Just 7 of the 163 affidavits for no-knock warrants offered specific allegations that a suspect had actually been seen with a gun, evidence that's essential to procuring a no-knock warrant. Even here, police found weapons in just two of the seven searches.
- About one-third of the no-knock warrants were never reviewed by a district attorney before going to a judge, a violation of the police department's stated policy. Many of the prosecutor reviews that did take place took place over the telephone.
- Nearly all of the warrants were for narcotics and were granted solely on the tip of an anonymous informant and an officer's assertion (minus any corroborating evidence) that weapons would be found at the scene or that the suspect was likely to dispose of evidence.[191]

Judge Robert Patterson, the presiding judge for Denver's criminal court system provided an astonishing defense. "We are not the fact gatherers," he said. "It's pretty formulaic how it's done. If you sign your name 100 times, you can look away and sign in the wrong place. We read a lot of documents. We may, just like anyone else, sign something and realize later that it's the wrong place or the wrong thing. Is it wrong not to be paying attention? No. It's just that we're doing things over and over again."[192]

It's difficult to say just how often SWAT raids are precipitated on information from confidential informants, but anecdotal evidence suggests it's disturbingly common. One 1998 review in the Raleigh-Durham area, for example, found that 87 percent of drug raids in that city originated from tips from confidential informants.[193]

Asset Forfeiture. Civil asset forfeiture generally refers to the policy that allows police departments to seize assets found in a drug raid, auction them off, then keep the proceeds for the department's budget, even though the property owner may never have been convicted of any crime. The policy creates questionable incentives, invites corruption, and can push departments to be extra aggressive in their drug policing, if for no other reason than to make up for budgetary shortfalls or to outfit the department with amenities and equipment.[194]

In 1999, for example, the El Monte, California, police department conducted a botched drug raid in which police shot and killed Mario Paz, an innocent grandfather who had no idea the men invading his home were police. The El Monte police department was renowned in California for its prowess in seizing cash and assets from drug raids. Even after Paz was determined to be innocent, police attempted to seize the $10,000 they found at the Paz home, invoking forfeiture laws that put the burden of proof on the Paz family to show the money *wasn't* earned from drug sales (the Paz family later produced receipts confirming the money had been obtained through legitimate means).[195] Immediately after the Paz raid, El Monte assistant police chief Bill Ankeny said that though police had already nabbed their main suspect in the investigation, they nonetheless went on to the Paz home "to further the investigation . . . to find further evidence and proceeds." In the 10 years prior to the Paz raid, the small town's police department had seized some $4.5 million from drug suspects.[196]

Subsequent investigations also determined forfeiture to be the main motivation behind the raid on millionaire Donald Scott's home in Malibu, California. Scott, who feared that authorities had designs on taking his home, was gunned down in a joint no-knock drug raid conducted by several local police organizations. Police found no illicit drugs anywhere on Scott's property. Friends of Scott's would later tell reporters that Scott in fact abhorred drug use.[197]

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Of 146 no-knock raids conducted in Denver in 1999, only 49 produced charges of any kind. And of those, just 2 resulted in prison time for the targets of the raids.

Asset forfeiture has a long and troubling history in drug cases and has been frequently and thoroughly assailed by critics. But it has a unique application in the case of paramilitary raids. SWAT teams are typically expensive to maintain. Federal grants and free equipment get them up and running, but local departments are often then forced to foot the costs of keeping members up to date on tactics and weapons training as well as the upkeep of equipment. Because the more traditional uses of SWAT teams—emergency situations like barricades, hostage takings, and bank robberies—don't bring lucrative forfeiture opportunities (or federal funding), police officials feel increasing pressure to send SWAT teams out on drug assignments, where the assets seized come back to the department and can help offset the costs of having a SWAT team in the first place. As the *New York Times* summarized in a 1999 article on SWAT proliferation:

> Most of the [SWAT] squads stay in existence because there is too much incentive not to, police officers say. Forfeiture laws passed by Congress at the height of the crack scare were designed to take the profit out of drug dealing; assets like cars, boats, guns, and cash can be seized, regardless of whether the person who owns them is later convicted.[198]

The trend of using SWAT teams for routine drug policing, which then leads to forfeiture funds used in turn to support the SWAT team, is common across the country.[199]

Raids Are Ineffective. Perhaps what's most troubling about the use of no-knock and quick-knock raids is that for all the peril and confrontation associated with them, the little evidence available suggests they aren't even all that effective. The public scrutiny that followed the botched no-knock raid in Denver that killed immigrant Ismael Mena in 2000, for example, enabled Denver's *Rocky Mountain News* to get access to warrants and court records for all of the no-knock raids conducted in the city in 1999. The paper's findings were alarming: Of 146 no-knock raids conducted in the city that year, only 49 produced charges of any kind. And of those, just 2 resulted in prison time for the targets of the raids.[200] In comparison, the paper noted that while 21 percent of the city's felony defendants on average are sent to prison, just 4 percent of its no-knock defendants were. One former prosecutor said of the results, "When you have that violent intrusion on people's homes with so little results, you have to ask why." The *Rocky Mountain News* continued:

> Almost all of the 1999 no-knock cases were targeted at people suspected of being drug dealers. . . . Often the tips went unsubstantiated, and little in the way of narcotics was recovered. The problem doesn't stem only from the work of inexperienced street cops, which city officials have maintained. Even veteran narcotics detectives sometimes seek no-knock warrants based on the word of an informant and without conducting undercover buys to verify the tips.[201]

A 1997 investigation by the *Palm Beach Post* found that in a sampling of 50 of the 309 arrests made by Palm Beach County's 12 SWAT teams, the longest jail sentence meted out from any of the raids was five years. The vast majority produced sentences of less than six months, parole, or no sentence at all.[202] Of the defendants actually found guilty, most were sentenced to less than six months in jail, suggesting they were hardly the hardened, violent, dangerous criminals police and prosecutors say require the use of a heavily fortified paramilitary team. Reporters found similar results in Orange County, Florida. A 1998 *Orlando Weekly* investigation found that SWAT raids resulted in actual arrests in just 47 percent of callouts. A broader review of teams in Orange, Osceola, Orlando, and Maitland, Florida, found that they're typically called out to serve warrants for crimes that are misdemeanors, resulting in only small fines, or no charges at all.[203]

After the New York City raid that killed Alberta Spruill, Police Chief Raymond Kelly estimated that at least 10 percent of the city's 450+ monthly no-knock drug raids were served on the wrong address, under bad information, or otherwise didn't produce enough evidence for an arrest. Kelly conceded, however, that NYPD *didn't keep careful track* of botched raids, leading one city council member to speculate the problem could be even worse.[204]

More broadly, this increased militarization of drug policing hasn't done much to diminish either the drug supply or the use of illicit drugs. The percentage of people reporting illicit drug use in their lifetimes, for example, rose from 31.3 percent in 1979 to 35.8 percent in 1998. Between 1999 and 2001, the figure went from 39.7 to 41.1 percent (data prior to 1998 aren't comparable to data after 1998 due to changes in methodology).[205] The percentage of college students reporting having used marijuana in the last year went from 27.9 percent in 1993 to 33.7 percent in 2003; the number using in the past month went from 14.2 percent to 19.3 percent; and the number reporting daily use went from 1.9 percent to 4.7 percent. There were similar increases in percentages reporting use of cocaine.[206]

Answering Proponents of Paramilitary Drug Raids. Supporters of the increased use of paramilitary tactics often say that such aggressive tactics are necessary because drug dealers are increasingly arming themselves with heavier and more sophisticated weaponry. The only way to counter that trend, they say, is to keep police well ahead in the arms race, and to show overwhelming force when serving drug search and arrest warrants. Supporters often cite the decreasing number of police shootings over the last 20 years, and among SWAT teams in particular, as evidence that increased militarization is working.

Of course, a reduction in police shootings correlating with a rise in SWAT teams doesn't mean SWAT teams are responsible for the decline in police shootings. It's more likely that the decline in police shootings and shootings by police officers (if the latter is actually true, as will be discussed below) have coincided with an overall drop in violent crime over the last 15 years, a drop explained in part by a strong economy, falling unemployment, and changing demographics.

Moreover, there's simply not much evidence that criminals are arming themselves with heavy weaponry. In a paper by David Kopel and Eric Morgan published by the Independence Institute in 1991, about a decade into the militarization of civilian policing that began in 1980, the authors point to a number of statistics showing that high-powered weapons, which are often cumbersome and difficult to conceal, simply aren't favored by criminals, including drug peddlers.[207] The authors surveyed dozens of cities and found that, in general, less than 1 percent of weapons seized by police fit the definition of an "assault weapon." Nationally, they found that fewer than 4 percent of homicides across the United States involved rifles of any kind. And fewer than one-eighth of 1 percent involved weapons of military caliber. Even fewer homicides involved weapons commonly called "assault" weapons. The proportion of police fatalities caused by assault weapons was around 3 percent, a number that remained relatively constant throughout the 1980s.[208] It was during the 1980s that SWAT teams first began to proliferate.

Kopel and Morgan also interviewed police firearms examiners. The examiners in Dade County, Florida—home to Miami—for example, found that contrary to the *Miami Vice* depiction of the South Florida drug trade in the 1980s, the use of assault weapons in shootings and homicides in Miami was in *decline* throughout the decade. One lieutenant from the Washington, D.C., police department told the authors that the preferred weapon of criminals in the nation's capital was the pistol.[209]

In 1995, the Justice Department released a study showing that 86 percent of violent crimes in the United States involved a handgun. The most popular weapon used in homicides at the time wasn't an automatic weapon but the large-caliber revolver. Just 3 percent of

There's simply not much evidence that criminals are arming themselves with heavy weaponry.

murders in 1993 were committed with rifles, and just 5 percent with shotguns.[210]

The 1997 *Palm Beach Post* investigation cited earlier also found that of the 309 arrests made by the 12 SWAT teams in Palm Beach County, Florida, only 60—or 19 percent—produced weapons of *any* kind.[211] A five-year investigation in Orange County, Florida, in the mid-1990s likewise found that just 13 percent of SWAT raids turned up weapons of any kind.[212]

Just before the federal assault weapons ban was set to expire in 2004, the National Institute for Justice released a study looking at the use of assault weapons in the commission of violent crimes. Drawing on crime data from several American cities, the report found that assault weapons were "rarely used in gun crimes, even before the ban" was put in place. Moreover, because assault weapons are so rarely used by criminals, it found that "should it be renewed, the ban's effects on gun violence were likely small at best, and perhaps too small for reliable measurement." The report also found that the use of such high-powered weaponry to kill police officers was "very rare."[213]

As for alleged declines in shootings by police over the past 25 years, the truth is, there simply isn't much data available. One CBS News survey of SWAT encounters between 1994 and 1998 suggested a 34 percent *increase* in the use of deadly force by police over that five-year period.[214] But truly comprehensive data are difficult to come by. Just as police and prosecutors don't keep track of botched paramilitary drug raids, they also don't keep statistics on the number of times police officers shoot at, strike, or kill a suspect. As criminologist and University of Georgia law professor Donald Wilkes Jr. writes, "Although the government collects and disseminates gigabytes of crime statistics on crimes or acts of violence committed by citizens against other citizens, or by citizens against police, there are hardly any official statistics on crimes or acts of violence committed against citizens by police."[215]

The *New York Times* reported in 2001, "Despite widespread public interest and a provision in the 1994 Crime Control Act requiring the attorney general to collect the data and publish an annual report on them, statistics on police shootings and use of nondeadly force continue to be piecemeal products of spotty collection, and are dependent on the cooperation of local police departments." The paper added, "No comprehensive accounting for all the nation's 17,000 police departments exists."[216]

Despite the 1994 law requiring the federal government to *compile* data on policing shootings, Attorney General Janet Reno acknowledged in 1999 that there's no federal law requiring local police agencies to *provide* it. And many haven't.[217] University of South Carolina criminology professor Geoffrey Alpert called the lack of reporting "a national scandal," adding, "These are public servants who work for us and are paid to protect us."[218] While it's far from clear that it should be a federal undertaking, Alpert is correct that we should demand accountability and transparency from local police departments when it comes to police shootings and use of force.

Of course, if it's true that the percentage of SWAT shootings in relation to the total number of callouts is low or in decline, a big reason for that would be that SWAT teams are increasingly being called out to apprehend nonviolent offenders. In other words, measuring the percentage of times a SWAT callout leads to the discharge of a weapon is probably not the best way to measure the harm done by the increasing use of SWAT teams. If SWAT teams were limited to the role originally envisioned for them, and that critics recommend for them—volatile, dangerous situations in which a suspect posed a direct and immediate threat to the community—one would expect the percentage of callouts leading to some sort of gunfire to be *high*, not low.

Measuring the threat posed by paramilitary raids solely in terms of the number of police shootings, then, misses the point. There's harm done each time a SWAT team raids the home of an innocent person or family, even if no deaths or serious injuries result.

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There's also harm done when the raid is directed at the correct home of a nonviolent offender who poses no real threat to the community. Recreational marijuana users are breaking the law, but the offense certainly doesn't merit their homes being invaded by a battalion of police officers.

The massive increase in SWAT callouts over the last two decades ought to be of concern for reasons other than the fact that it presents more opportunities for a botched raid on an innocent person to end in gunfire. It represents the needless terrorizing of American citizens and an increased perception that the drug war is just that: a war. It suggests that in terms of civil liberties, American citizens are given little more consideration than the citizens of a country with which the United Sates is at war: No real rights or protections against unwarranted searches, and in some neighborhoods, the real possibility that lives and homes could become collateral damage. It's striking how many police and government officials have responded to paramilitary raids on the homes of innocents by dismissing them as regrettable, but inevitable and acceptable, consequences of the War on Drugs.

A final, similar argument from supporters of paramilitary police squads is that even if botched raids occur as frequently as critics suggest, they're still a very small percentage of the total number of raids executed. Of course, even a small percentage of the 40,000 annual SWAT callouts is a large number. Taking such thinking to its logical conclusion, we could double or triple or quadruple the number of SWAT callouts, or expand them to include policing for misdemeanor crimes and traffic offenses, so long as the overall *percentage* of innocents harmed remains low. One police chief responded to criticisms of his department's botched drug raids by observing that he'd only see reason for concern if the number of botched paramilitary raids approached 25 percent or more of the total number of raids.[219] Such thinking is the recipe for a police state. The idea of sending battalions of men dressed, trained, and armed like soldiers to do civilian police work *should* give us great discomfort. It's not a tactic that should be employed by free societies except in the imminent peril situations discussed earlier.

The American criminal justice system is rooted in the principle that every citizen has certain rights and protections, and the government is obligated to respect those rights, even when doing so proves inconvenient to broader crime control goals.

Legal Background

The roots of the common law principle that a man has the right to defend his home as his castle, and that police should announce themselves before entering private residences, are generally accepted to extend back to 17th-century English common law, as recognized in *Semayne's Case*.[220] The common law has long recognized a man's home as his "castle of defence and asylum" and requires authorities to identify themselves before entering. But in the United States, that principle has come under attack.[221]

It took nearly four decades after its first knock-and-announce case in 1958 for the Supreme Court to finally affirm that the common-law principle of announced entry is ingrained in the Fourth Amendment.[222] Justice Clarence Thomas wrote in a unanimous opinion in the landmark 1995 case *Wilson v. Arkansas* that the "common-law 'knock and announce' principle forms a part of the reasonableness inquiry under the Fourth Amendment," adding that while "the common-law principle of announcement is 'embedded in Anglo-American law,' . . . we have never squarely held that this principle is an element of the reasonableness inquiry. We now so hold."[223]

Unfortunately, in the same opinion, the Court created significant exceptions to the announcement requirement (exceptions that, admittedly, also share a long tradition in common law). Just after holding that the principle of knock-and-announce is embedded in the

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Fourth Amendment, Justice Thomas laid out a series of "exigent circumstances" under which police could skip the requirement and enter a home unannounced. The first exception concerns searches in which police reasonably believe that announcing themselves could imperil the safety of police officers. The second allows entry without announcement when police are pursuing a fleeing suspect into a home. And the third exception is when an announcement would give suspects the opportunity to destroy important evidence.[224]

The Court has largely left it up to the states to hash out when these circumstances exist. Most states have since shown an unhealthy deference to the judgment of police officers at the scene of a search and subsequently put few real restraints on the proliferation of heavily armed no-knock or short-notice execution of search warrants. In effect, the exceptions to knock-and-announce have overwhelmed the rule.[225]

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The federal statute governing "knock and announce" procedures states that an officer may forcibly enter a home "if, after notice of his authority and purpose, he is refused admittance."[226]

In the 1998 *U.S. v. Ramirez*, the Supreme Court found that the "exigent circumstances" exceptions Thomas articulated in *Wilson* are part of the federal statute, even though the statute itself doesn't specifically mention them.[227] The Court reasoned that the absence of language outlining the exigency exceptions in the federal law doesn't mean Congress didn't intend for those exceptions to be available. The Court concluded that the law is intended to broaden police authority, not to limit it.[228]

The two circumstances under which police may enter a home unannounced most pertinent to this paper are the "destruction of evidence" exception and the "apprehension of peril" exception. They're worth considering separately.

Destruction of Evidence

Until 1997, courts had generally taken two approaches in establishing parameters to the "destruction of evidence" exception. The first, often called the "blanket approach," assumes that certain kinds of evidence, drugs or bookkeeping records, for example, are by their very nature susceptible to destruction upon a police knock at the door. Therefore, such cases create a per se exception for any warrants involving evidence that's easily destroyed. Until the mid-1990s, several states, including Wisconsin, issued no-knock warrants on just about any case involving narcotics.

In the 1997 case *Richards v. Wisconsin*, the Supreme Court repudiated the blanket approach.[229] The Court overturned a Wisconsin law stipulating that police could break down a suspect's door without announcing themselves in any search or arrest warrant pertaining to possession or distribution of drugs. Justice John Paul Stevens wrote that "If a *per se* exception were allowed for each category of criminal investigation that included a considerable—albeit hypothetical—risk of danger to officers or destruction of evidence, the knock-and-announce element of the Fourth Amendment's reasonableness requirement would be meaningless."[230]

Even in ending one bad policy, however, *Richards* created a new one. After striking down the blanket policy, the Court struck a blow against judicial oversight over the initiation of no-knock and knock-and-announce raids, writing that "a magistrate's decision not to authorize a no-knock entry should not be interpreted to remove the officers' authority to exercise independent judgment concerning the wisdom of a non-knock entry at the time the warrant is being executed."[231] Perhaps most disturbing, the Court found in *Richards* that police only need to have "reasonable suspicion" that one of the three exigent circumstances exists, and that the standard of evidence for "reasonable suspicion" is "not high."[232]

The net effect of *Richards*, then, is to give extraordinary leeway to police in determining at the scene whether or not to execute a search warrant without first announcing themselves, regardless of instructions from a court. Like *Wilson*, the decision in *Richards*,

while on its face an obstacle to no-knock raids, in effect made them easier to execute.

Of course, states are free to pass their own restrictions limiting the use of no-knock entries. But local police departments can—and have—gotten around those restrictions simply by bringing federal agents along on raids, thereby invoking the less restrictive federal laws.[233]

After *Richards*, courts fell back on the alternate method of determining if the threat of the destruction of evidence warrants an exception to the knock-and-announce rule. This alternate method is often called the "particularity approach." Under this approach, police and judges are required to determine on a case-by-case basis if a suspect is likely to destroy evidence. The particularity approach, while preferable to the blanket approach, is also troubling in that it sets no reliable, predictable standard as to when a no-knock raid is and isn't warranted. In the absence of such guidelines the emerging default position seems to be substantial deference to the judgment of police.

To give one example, prosecutors and police have argued that the mere presence of indoor plumbing at a drug suspect's residence is sufficient to satisfy the destruction of evidence exception, because drug suspects routinely flush evidence down the toilet once police announce themselves.[234] The particularity approach has also created a patchwork of rulings applying different standards to different scenarios. Different jurisdictions have determined exigent circumstances differently, depending, for example, on the time of day of the raid, whether lights are on in the home, and where informants have reported the suspect normally stores the drug supply. The particularity approach gives police no set guidelines, and instead determines the legitimacy of an unannounced entry *after* the fact.

Even when no-knock warrants go horribly wrong, so long as police make a reasonable effort to show why an entry without announcement was necessary, courts have been reluctant to second-guess their judgment.

Apprehension of Peril

Like the destruction of evidence exception, the "apprehension of peril" exception outlined in *Wilson* has been interpreted in vastly different ways by courts in different jurisdictions. But there's also a more fundamental problem with the exception: Its logic is precisely backward. No-knock raids don't decrease the violence associated with serving a search warrant, they aggravate it—not just for suspects, but for police and anyone else who happens to be in or around the home at the time of a raid.

The idea that breaking into someone's home late at night without an announcement might incur a violent reaction would seem to be intuitive. And indeed, at least some on the Court have recognized as much. In a widely cited dissent in the 1963 case *Ker v. California*, Justice William Brennan wrote:

> Rigid restrictions upon unannounced entries are essential if the Fourth Amendment's prohibition against invasion of the security and privacy of the home is to have any meaning. . . . First, cases of mistaken identity are surely not novel in the investigation of crime. The possibility is very real that the police may be misinformed as to the name or address of a suspect, or as to other material information. That possibility is itself a good reason for holding a tight rein against judicial approval of unannounced police entries into private homes. Innocent citizens should not suffer the shock, fright or embarrassment attendant upon an unannounced police intrusion. Second . . . [w]e expressly recognized in *Miller v. United States* that compliance with the federal notice statute "is also a safeguard for the police themselves who might be mistaken for prowlers and be shot down by a fearful householder." Indeed, one of the principal objectives of the English requirement of announcement of authority and purpose was to protect the arresting officers

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"We do bang on the door and make an announcement—'It's the police'—but it kind of runs together. If you're sitting on the couch, it would be difficult to get to the door before they knock it down."

> from being shot as trespassers, " . . . for if no previous demand is made, how is it possible for a party to know what the object of the person breaking open the door may be? He has a right to consider it as an aggression on his private property, which he will be justified in resisting to the utmost."[235]

As previously explained, police typically serve these warrants just before dawn, or in the hours just before sunrise. They enter the residence unannounced or with very little notice. The subjects of these raids, then, are awoken from deep sleep, and their waking thoughts are confronted with the prospect that their homes are being invaded. Their first reaction is almost certainly alarm, fear, and a feeling of peril. Disorienting devices like flashbang grenades only compound the confusion.

It isn't difficult to see why a gun owner's first instinct upon waking to a raid would be to disregard whatever the intruders may be screaming at him and reach for a weapon to defend himself. This is particularly true of someone with a history of violence or engaged in a criminal enterprise like drug dealing. But it's also true of a law-abiding homeowner who legally owns guns for the purpose of defending his home and family.

The "apprehension of peril" exception fails, then, because no-knock raids make violent confrontation and, consequently, peril, *more* likely than apprehending suspects with less aggressive tactics. No-knock and short-notice raids *invite* violence and confrontation, they don't mitigate them. And the tactics used in their deployment are by their very nature designed to catch victims at their most vulnerable, disoriented, and in a state of mind least capable of sound judgment.

A Distinction without a Difference?

If the legal landscape surrounding the issue of *no-knock* warrants is murky, the circumstances surrounding *knock-and-announce* warrants only further complicate the picture. The knock-and-announce procedure has become so watered-down by court decisions, and is in practice so abused and misused by police, there's really become no practical distinction between "no-knock" and "knock-and-announce."

For example, if police knock and quietly announce themselves at 3 a.m. at a home where the occupants are asleep upstairs, then break down the door a few seconds later, it's difficult to see how such a scenario is really different than a no-knock raid. There's certainly no real distinction for the people inside.

After a SWAT raid that led to the shooting death of California resident Mario Paz, Bill Ankenny, assistant police chief for the town of El Monte, told the *Los Angeles Times*, "We do bang on the door and make an announcement—'It's the police'—but it kind of runs together. If you're sitting on the couch, it would be difficult to get to the door before they knock it down."[236] More so for someone upstairs, and/or asleep.

Given that defenders of so-called dynamic entry say the aggressive tactics are necessary to preserve the element of surprise, it shouldn't be surprising that police aren't offering full-throated notice before breaking down a suspect's door. It's absurd for lawmakers to give the okay to paramilitary raids on the justification that the element of surprise is crucial to securing officer safety, but then require police to knock before entering in order to fulfill the requirements in *Wilson*. On the ground, police have done exactly what one might expect them to do. They've fulfilled the letter of the announcement requirement but preserved the element of surprise. Of course, that renders the entire reasoning behind the announcement requirement useless.

Like the legal mess of what defines "exigent circumstances," just how much time is necessary to legally distinguish a knock-and-announce raid from a no-knock raid also varies from state to state and between federal circuits. In general, courts have found that less than 5 seconds isn't enough time, but more than 10 usually is.[237]

What is clear is that in dozens of the knock-and-announce raids gone wrong where police had the wrong address, occupants of a targeted home were rarely given the opportunity to answer the door before the SWAT team broke it down. Police typically wait no more than 10 or 15 seconds, even at times of day when the occupants of a home are likely to be asleep. If the knock-and-announce rule is intended to give innocent people the chance to answer the door before being subject to the violence of a forced entry, the dozens of examples where they weren't given such an opportunity provide yet more evidence that even if there's some begrudging respect for the letter of the knock-and-announce rule among courts and police officers, its spirit is all but dead.

As UCLA law professor Sharon Dolovich wrote in the *Los Angeles Times* after a raid resulting in the accidental shooting death of an 11-year-old boy, the concern "is not the type of warrant issued but the use of military tactics."[238] Whether or not police officers knock and perfunctorily utter "police" before crashing in matters little to the people inside.

In 2003, the Supreme Court ruled in *U.S. v. Banks*, a narcotics case, that a 15–20 second wait after knocking before making forced entry was sufficient to satisfy Fourth Amendment protections against unreasonable search and seizure.[239] Oddly, the Court specifically noted that drug cases might justify a shorter wait than warrants for other crimes, given the disposability of drug evidence—suggesting a blanket approach might be appropriate when it comes to determining wait times. More disturbing, however, is the way Justice Souter came to determine that 15–20 seconds is sufficient and the method of analysis he suggests for further jurisprudence on the matter:

> On the record here, what matters is the opportunity to get rid of cocaine, which a prudent dealer will keep near a commode or kitchen sink. The significant circumstances include the arrival of the police during the day, when anyone inside would probably have been up and around, and the sufficiency of 15 to 20 seconds for getting to the bathroom or the kitchen to start flushing cocaine down the drain. That is, when circumstances are exigent because a pusher may be near the point of putting his drugs beyond reach, *it is imminent disposal, not travel time to the entrance, that governs when the police may reasonably enter*; since the bathroom and kitchen are usually in the interior of a dwelling, not the front hall, there is no reason generally to peg the travel time to the location of the door, and no reliable basis for giving the proprietor of a mansion a longer wait than the resident of a bungalow, or an apartment like Banks's.[240]

Souter's emphasis on *disposal* time instead of *travel* time to the door is directly at odds with the long-held common law view that the purpose of announcement is to give innocents (or even the guilty) the chance to compose themselves and answer police before having their doors broken down. As recently as the *Richards* case, for example, the Court wrote:

> The common law recognized that individuals should be provided the opportunity to comply with the law and to avoid the destruction of property occasioned by a forcible entry. These interests are not inconsequential.
>
> Additionally, when police enter a residence without announcing their presence, the residents are not given any opportunity to prepare themselves for such an entry, The State pointed out at oral argument that, in Wisconsin, most search warrants are executed during the late night and early morning hours. The brief interlude between announcement and entry with a warrant may be the opportunity that an individual has to pull on clothes or get out of bed.[241]

Souter's reasoning in *Banks* disregards these concerns. It doesn't account for the pos-

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sibility that police may target the wrong home, or give a wrongly targeted suspect the opportunity to explain to police that they have the wrong address. Instead, it suggests that all targets of drug raids be treated as guilty offenders and potential disposers of evidence. After *Banks*, police no longer need to consider the possibility that the people inside aren't guilty and consider the time they may need to compose themselves. Instead, police need only calculate the time it might take someone in the house to find a sink or toilet. Though acknowledging that the call in *Banks* was "a close one," Souter left the door open to allowing for even shorter wait times between announcement and entry.[242] The Supreme Court's requirement of a police announcement set forth in *Wilson* was further eroded in the 2006 case, *Hudson v. Michigan*.[243] In *Hudson*, the Court ruled that evidence seized in a clearly illegal no-knock raid can still be used against a defendant at trial. In removing the only real sanction for illegally conducted no-knock raids, the suppression of evidence (successful lawsuits against police in such cases are unheard of), *Hudson* obliterated the already weak knock-and-announce rule put forth in *Wilson*.[244] Entering without announcement is still in theory against the law, but with no sanction for breaking it, police no longer have any incentive to follow the law. And they have plenty of incentive to ignore it. The long-established common law requiring announcement before forced entry is effectively dead. The *Hudson* ruling may in practice turn every drug search warrant into a no-knock raid.

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Ignoring the Law

Even with the already-considerable leeway courts have given police to obtain no-knock warrants, many police departments still conduct no-knock searches without even going through the perfunctory motions. In addition, many departments also continued to conduct no-knock raids despite the fact that the warrant they've been issued specifically calls for them to announce or that they operate in states where most no-knock raids are illegal. A few examples follow:

- In the 1997 Bethlehem, Pennsylvania, raid on the home of John Hirko, police knocked, announced their presence, broke down the door, and tossed a flashbang grenade, "all within a few seconds," according to trial transcripts reported in the *Allentown Morning Call*.[245] That's in direct defiance of a 1992 Pennsylvania Supreme Court decision finding a 10- to 15-second pause insufficient. Police shot Hirko 11 times, most of them in the back. Once the police stopped firing, a SWAT officer threw a second flashbang in Hirko's direction, setting fire to both Hirko and his home. Hirko's body was burned beyond recognition.[246] In a lawsuit filed by Hirko's estate against the city and police, experts testified that the disorienting effects of the grenade and its deployment in such close proximity to the alleged announcement, along with the lack of clear police insignia on the black, military-style uniforms would make most anyone unable to determine whether they were being invaded by police or unlawful intruders. In 2004, a federal jury found the SWAT team guilty of violating Hirko's civil rights.[247] The city of Bethlehem settled with Hirko's estate for $8 million.[248] Just months earlier, Bethlehem police had broken down the door of another apartment on a drug warrant. After handcuffing a half-dressed woman in front of her sleeping toddler, they realized they'd made a mistake.
- In 2003, a federal judge in Kansas overturned the conviction of a drug offender because police conducted a no-knock raid on his home without ever explaining to a court why it was necessary to enter without announcing. Kansas City police testified at the time that they *routinely* conduct no-knock raids in drug cases without specifically articulating why they're necessary, an approach that clearly amounts to a blanket drug exception to the knock-and-announce requirement, in defiance of *Richards*. Legal experts said at the time that the magis-

trate's ruling could have affected "hundreds" had it been applied more broadly.[249]

- An investigation into the 1999 SWAT shooting of drug suspect Troy Davis found that police in North Richland Hills, Texas, routinely served all narcotics search warrants with no-knock raids, again in direct defiance of *Richards*.
- The *Denver Post* investigation into the Ismael Mena shooting found that no-knock warrants on narcotics cases in Denver were rubber-stamped by the city's judges in a way that amounted to the kind of blanket approach prohibited by *Richards*. "Along with an officer's anonymous source, nearly all no-knock warrant requests over the past seven months—most of which involved narcotics cases—were approved merely on police assertions that a regular search could be dangerous for them or that the drugs they were seeking could be destroyed," the paper wrote. "That violates the spirit of a 1997 U.S. Supreme Court decision that requires specific allegations behind every no-knock request."[250]
- In the criminal trial of a woman who says she shot at SWAT team members because she thought they were criminal intruders, Muncie, Indiana, police testified they typically wait only five seconds after announcing before entering a residence by force, an allotment of time deemed too short by nearly all courts, and that effectively renders every warrant a no-knock warrant.[251]

These examples were revealed only after investigations into high-profile or locally publicized shootings and botched raids. It's unlikely that they're the only places in the country where police continue to defy the guidelines set out in *Wilson* and *Richards*. That is particularly troubling given that those guidelines were rather easy to comply with in the first place.

A System Stacked against Victims

The prevailing legal standard states that if a police officer reasonably believes his life to be in peril, he's permitted to use deadly force to defend himself.[252] Given the high-stakes, adrenalin-fueled nature of highly militarized drug raids, that standard allows police to shoot at suspects in such situations with virtual impunity, even in cases where it was clearly an error on the government's part that led police to the wrong residence. Grand juries and prosecutors have neglected to press criminal charges against police even in cases where they shot unarmed victims, much less victims who were armed but justifiably in fear for their lives.

On the surface at least, those decisions not to prosecute were probably correct. Given the high stakes and volatile nature of drug raids, and the predicament in which they put both officers and targets, it wouldn't seem to take much for someone to reasonably believe his life was in danger.

The fault lies with the bad public policy that puts police officers in such unnecessarily perilous situations in the first place. Worse, the *victims* of erroneous raids are forced to determine in their first waking moments if the intruders into their homes are police or someone there to do them harm. It's a good bet that some of the targets of these raids are going to fire back, and it's a good bet that police are going to return fire. The fault lies not with the officers who fire out of fear for their lives but with the judges, prosecutors, politicians, and police officials who have let highly militarized no-knock and short-notice raids become so common in the first place.

To make matters worse, while courts have been extremely deferential to police who fire on innocent civilians, they've been far less forgiving of citizens—even completely innocent citizens—who fire at police who have mistakenly raided their homes. Victims who have used force to defend themselves from improper raids have been prosecuted for criminal recklessness, manslaughter, and murder and have received sentences ranging from probation, to life in prison, to the death penalty.

The dichotomy is troubling. Victims of botched paramilitary raids are expected to

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show remarkable poise and composure, exercise good judgment, and hold their fire, even as teams of armed assailants are swarming their homes. Victims of paramilitary raids have no training in how to act or what to expect as a raid transpires. The police officers who conduct the raids, on the other hand, are usually required to undergo at least an hour of training per month.

Yet civilians who fire back at police officers who wrongly conduct forced-entry raids on their homes are frequently prosecuted, whereas police who erroneously fire at innocents during botched raids are almost never disciplined, let alone fired or charged with a crime. Civilians are expected to exhibit extraordinary judgment. Egregious mistakes by raiding police officers are readily forgiven.

Unless a botched raid generates significant media coverage, the civilians on the other end can expect little compensation for their trauma.

There are accountability problems, too. Botched raids on innocent people are frequently dismissed as unfortunate by-products of the War on Drugs. Unless a botched raid generates significant media coverage, the civilians on the other end can expect little compensation for their trauma. Though judgments like the one in the Hirko case do occur, they're generally only granted in high-profile cases. Worse, they're rarely followed up by any meaningful reform. In cases where victims aren't seriously injured or killed, they have no legal recourse, nor are there any mechanisms put in place to follow up on the errors to be sure they don't happen again. Many victims aren't even repaid for the damage police do to their homes.

Search warrants—even for erroneous raids—are too often sealed. This not only denies victims of these raids knowledge of where the system went wrong but prevents the media and watchdog groups from peeking into the system to make sure that, for example, judges, prosecutors, or police aren't getting lax in ensuring the reliability of the information they've collected to obtain the warrant.

Again, the New York City case of Alberta Spruill provides a good example. Throughout the mid- and late-1990s, media outlets in New York began to report a disturbing trend in the number of no-knock drug warrants served on the wrong residence. As the number of no-knock raids in New York City increased during the 1990s, authorities told victims that their only recourse was the city's Civilian Complaint Review Board. But the review board's jurisdiction was so limited. The agency was essentially powerless to give victims the information they needed to seek compensation or at least an apology and an admission of error. The review board was only permitted to review cases in which police themselves act improperly. It wasn't allowed to look at the substance of an individual warrant to determine, for example, if it was proper for a judge to have issued it in the first place.

As media reports throughout the mid- and late-1990s continued to highlight cases in which innocent families in New York were being terrorized by police donning assault weapons and paramilitary gear, and as the same stories were also pointing out the disturbing frequency with which police were relying on tips from shady confidential informants, the review board's jurisdiction remained limited only to the conduct of police *after* the warrant was issued. If police followed proper procedures in conducting the raids, the review board was powerless to act. It wasn't permitted to investigate if a raid should ever have been conducted in the first place.

A 2003 *Newsday* article interviewed several former investigators on the board and found that many of them were frustrated, feeling powerless to address a growing problem:

> In a series of interviews, former review board investigators told *Newsday* the agency could have done more over the years to draw attention to the frequency of wrong-door raids and the kind of errors highlighted in the Spruill case, such as faulty tips from confidential informants or the failure to double-check the information before a raid.
>
> "There were instances in which the information given was totally erroneous, and the policy was the same,"

said former review board investigator Earl George. "It didn't matter whether the information was false or inaccurate, we had to exonerate." A current review board member who did not want to be identified conceded that such complaints were usually exonerated, but added, "We can't look behind the warrant. . . . If the warrant said 'no knock,' there is no direct abuse of authority."[253]

Supervisors also told the review board that it lacked the authority to investigate broader, policy-related issues such as lax evidentiary standards for warrants and the disturbing increase in the number of botched raids.[254] As *Newsday* reported in a subsequent article, "One of the difficulties in the debate about wrong-door cases is that there are no available statistics on their frequency or studies analyzing parallels in cases."[255] In fact, *Newsday* found that many courts in the city didn't even keep no-knock warrants on file after they were issued and executed. According to the paper, Judge Juanita Bing Newton, who oversees New York's criminal courts, said, "She doesn't necessarily believe the court's role in record-keeping is as a 'Big Brother,' to check the police and district attorney."[256]

The tragedy here is that despite media reports and concerns from review board members clearly indicating a foreboding trend, nothing was done. Then came the raid that killed Alberta Spruill. In 2003, an error from an informant caused police to conduct a mistaken no-knock raid on the home of the 57-year-old Spruill. The woman, who had done nothing wrong, suffered a heart attack as police broke into her home and deployed a flashbang grenade. She died hours later.

It was a raid that included all of the questionable tactics that had been raising red flags among media critics and helpless review board members for nearly a decade. And it could have been prevented.

But even *after* Spruill's death, despite a flood of media coverage, a judge would continue the trend of covering up the details of paramilitary raids gone wrong. New York State Supreme Court judge Brenda Soloff found there was "no significant need" to unseal affidavits and the search warrant leading up to the raid on Spruill's home.[257] She cited concerns about the safety of the confidential informant, despite the fact that that informant's "faulty tip" was why Spruill was dead. The mention of the informant's identity also seemed disingenuous, given that the media requests she ruled against didn't ask for the informant's identity, only for the supporting evidence that led to the warrant. In fact, Judge Soloff didn't even bother to hear the case from lawyers for the media petitioners. When they showed up for oral arguments, they were handed the ruling, which she had already written.[258]

Despite public outcry, intense media coverage, and promises for reform by public officials, change in New York City after the Spruill raid was slow and spare.

There were a few positive developments. The city did implement a few procedures that increased the amount of time it takes to obtain a drug raid warrant from 2 to 24 hours. Consequently, the total number of drug raids did drop, from 5,117 in 2002 to 3,577 in 2003.[259] Judges and police were also forced to attend training workshops on proper drug investigation techniques and the issuance of narcotics warrants.[260]

But there's still no oversight or transparency in New York. In January 2003, months before the Spruill raid, the review board requested that NYPD set up a database to track search warrants, from application through execution. The review board recommended the database include the name of the prosecutor who drafted the warrant, whether the affidavit for the warrant was based on information collected from a confidential informant, the name of the office and unit that obtained the warrant, the address of the premises to be searched, evidence seized during the search, and that the database track errors in the entire process, including cases in which those errors led to searches of the wrong residence.[261]

Despite media reports and concerns from review board members clearly indicating a foreboding trend, nothing was done.

Matos, who is deaf and speech-impaired and has asthma, was handcuffed at gunpoint in front of her children, ages eight and five. Police had the wrong apartment.

It wasn't until May 2003, likely in reaction to public outrage over the death of Spruill, that NYPD finally acted on that request, announcing it would spend $24,000 to implement the database. By July 1, 2003, the database was up and running. The problem is that it's limited to internal use. The review board can access it only under limited circumstances and still has no authority to look into why a warrant was issued in the first place or to scrutinize the judges and prosecutors who sign off on warrants. The database is also largely off limits to the public and the media, even for warrants that have run their course.[262]

So despite the existence of the database, it's still difficult for parties outside the police department to monitor the way search warrants are issued and executed in New York. It's still impossible for the media or any outside groups to scrutinize (a) the way prosecutors collect information from confidential informants, (b) the accuracy and thoroughness of their applications for search warrants, or (c) the track records of judges in reviewing and approving those warrants.

Consequently, mistaken raids still happen in New York, although they do seem to be less frequent. On January 15, 2005, nearly two years after Spruill's death, NYPD officers conducted a botched predawn, no-knock raid on the Coney Island home of Mini Matos and her two children. The three were pulled from their beds early in the morning. Matos, who is deaf and speech-impaired and has asthma, was handcuffed at gunpoint in front of her children, ages eight and five. Police had the wrong apartment.[263] Less than a year earlier, police conducted the aforementioned botched raid on the home of Martin and Leona Goldberg.[264]

The New York example is typical. In most jurisdictions, search warrants are sealed, accessible only by court order. As Paul Rogosheske, attorney for the victim of a botched no-knock in St. Paul, Minnesota, told the alternative weekly *Minneapolis City Pages* in 1997: "Judges will sign anything at 3 in the morning, especially when they know they have complete immunity. You think that you're safe in your house, that cops and judges are liable for their mistakes. . . . They aren't."[265]

Here are some other examples of how cities have failed to reform the warrant process, even after high-profile tragedies and corruption scandals:

- In 1998, after complaints about the increase in forced-entry drug raids, Colorado state senator Jim Congrove (R), a retired undercover narcotics detective, introduced legislation that would have put tighter regulations on the deployment of SWAT teams, the issuance of no-knock warrants, and the use of no-knock raids. The bill was rejected, due in large part to lobbying from the District Attorneys Association.[266] The next year a Denver SWAT team would shoot and kill 45-year-old Ismael Mena in a mistaken raid.
- In 2002, the *Miami Herald* conducted an investigation into the city's SWAT team and the police department's internal affairs division. The report came after 13 Miami officers were indicted on federal charges of inventing stories and planting evidence to justify questionable shootings by the city's SWAT team. The report found that that officers were permitted to stay on the city's SWAT teams despite repeated incidents of questionable conduct, including incidents in which officers planted guns on unarmed civilians shot by the SWAT team. From 1994 to 2001, in fact, an officer who ran the SWAT team also ran the department's internal affairs unit, which, according to the paper, he filled with SWAT-friendly officers he could trust.[267] The result: the Miami police department rarely found wrongdoing on the part of its SWAT team, even in cases where officers were later indicted by federal prosecutors for planting evidence.[268] By 2003, four Miami officers had been convicted on federal charges of corruption, planting evidence, and cover-up. The *Miami Herald*

reported more than 290 allegations of excessive force against the four officers, including planting drugs at the scene of drug raids. One federal investigator told the paper that shootings were never thoroughly investigated by the department. "It's too political," he said. "They never fired dirty cops."[269]

- The *Los Angeles Times* found a similar pattern in the L.A. police department. Like New York, Los Angeles has a civilian review commission that investigates police shootings. Members are appointed by the mayor. The commission was meant to serve as a check on internal affairs investigations, or the conflict of interest problems that arise when police officers investigate other police officers.

  But a *Times* investigation in October 2004 found significant flaws in the review process. "In at least 28 shootings, 15 of them fatal, the commission ruled that the use of force was justified—without knowing about evidence that pointed to the opposite conclusion," the *Times* reported. "The practice of sanitizing shooting reports has persisted under successive mayors and police chiefs. It reflects an entrenched resistance to civilian oversight at LAPD that dates back decades."[270]

  The investigation found 101 police shootings that later resulted in jury awards or settlements to victims, amounting to $68.5 million in compensation, funded by Los Angeles taxpayers. In 77 of those cases, the civilian review commission had determined the shootings to be "in policy," meaning that officers had acted properly. The *Times* detailed several cases in which police reports described a shooting victim as armed despite evidence (never shown to the review commission) to the contrary. One former commission president told the paper, "I never felt we received 100% of the story."[271]

  The *Times* reviewed several cases in which significant evidence contradicting the police department's account of a shooting was withheld from the review commission. When asked to explain the discrepancies, one assistant police chief told the paper: "There are multiple possible explanations, and they go all the way from very evil people at the department hiding facts to very poor or incompetent people. . . . The truth is probably somewhere in the middle."[272]

- In the course of a year, police in Pinellas County, Florida, shot and killed two suspects in cases that generated public outrage. In one case, a police officer shot Jarrell Walker to death in front of his three-year-old son during a paramilitary drug raid. Walker was unarmed, though police did find a gun on the other side of the room. In the other case, police shot 17-year-old Marquell McCullough 14 times while he was sitting in his truck. In McCullough's case, police later conceded they had the wrong man. In October 2005, Pinellas County Sheriff Jim Coats, after promising to take a "hard look" at police procedures, announced a new deadly force policy for his officers. Remarkably, the new policy actually *broadened* the parameters under which police could fire, adding such categories as "escapes," and authorizing the use of deadly force on people suspected only of misdemeanors and/or nonviolent offenses.[273]
- After the accidental shooting death of 11-year-old Alberto Sepulveda in a joint raid carried out by federal agents and the Modesto, California, SWAT team, California attorney general Bill Lockyer assembled a blue-ribbon commission to review procedures, guidelines, and performance of the state's hundreds of SWAT teams. The *Modesto Bee* reported in 2001 that the commission would look at the way SWAT teams are deployed, the use of intimidating clothing and equipment, and, in the words of one commissioner, the "overbearing-type attitudes" of SWAT teams. The panel's co-chair, Stanislaus County sheriff Les Weidman, remarked as the commission proceeded that the sheer

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number of SWAT teams across the state surprised him. The commission also found that although SWAT teams are generally justified, defended, and thought of as responders to emergency situations such as hostage crises and terror attacks, they are most commonly used for drug search and arrest warrants.[274]

But the panel's final recommendations stopped well short of reining in the frequent deployment of paramilitary units. The panel's chief complaints were that SWAT teams were undertrained and underfunded, clearly implying that states and municipalities should be directing *more* funding toward SWAT teams, not less.[275] The recommendations consisted largely of standardizing procedures, definitions, and guidelines, and communicating better with the public. The commission didn't address the most pertinent issues, including the use of SWAT teams to serve routine search warrants, the lack of sufficient supervision or oversight of warrant procedures, the problem of bystanders and children caught in SWAT raid crossfire, and the use of SWAT teams to apprehend suspects with no history of violence. There were also no recommendations aimed at bringing more transparency to the informant and warrant processes. In fact, it's unlikely that any of the panel's recommendations would have prevented the death of Alberto Sepulveda, the reason the panel was assembled in the first place.[276]

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Recommendations

The unsettling trend of paramilitary drug raids is of course an outgrowth of the War on Drugs. Troubling as they are, these raids are merely one small part of a wholesale assault on individual liberty and the Bill of Rights brought on by America's futile, 30-year attempt to eradicate the drug supply. The awful consequences of the drug war have been recognized even by many leading conservatives, such as *National Review*'s William F. Buckley Jr., former secretary of state George Shultz, and the Hoover Institution's Thomas Sowell. Renowned intellectuals like Milton Friedman and Thomas Szasz have also voiced support for an end to the drug war, as have mainstream politicians such as former New Mexico governor Gary Johnson and former Baltimore mayor Kurt Schmoke.[277]

While ending the drug war would be the most obvious and prudent recommendation, politicians don't seem to be anywhere near ready to admit the futility of America's drug laws.

Thus, here are some other, second-best recommendations for policy changes to phase out the use of paramilitary tactics for drug policing.

Policy Changes for the Federal Government

End the Pentagon Giveaways. The primary reason so many police departments across the country can afford SWAT teams is the Pentagon's policy of making surplus military equipment available to those departments for free, or at steep discounts. The Pentagon used its defense budget to buy that equipment, a budget given to it by Congress on behalf of American taxpayers for the purpose of defending Americans from threats from abroad. It's perverse to then use that equipment against American citizens as part of the government's war on domestic drug offenders.

Set a Good Example. Some of the most egregious and infamous abuses of paramilitary police tactics have come courtesy of the federal government, including the infamous raid of the Branch Davidian compound in Waco, Texas, and the Miami, Florida, raid on the family of Cuban refugee Elian Gonzalez. In addition, the DEA also routinely conducts SWAT-style paramilitary raids on suspected drug offenders, including medical marijuana offenders, and professional doctors the agency has accused of prescribing too many prescription painkillers. Such heavy-handed tactics are especially deplorable when they're conducted

in communities that have approved marijuana for medicinal use, or have chosen to make the treatment of pain a higher priority than the diversion of narcotic painkillers.

Let Federalism Rule. In states and localities where policymakers have put tight restrictions on the use of paramilitary police units, local police can merely call up the DEA, which then sends an agent or two along for the raid.[278] The investigation then becomes a "federal" investigation, governed by more lax federal policing standards instead of more stringent local standards. Congress should end this practice. DEA agents should be forced to abide by the policing standards of the communities in which they're conducting drug investigations.

Recommit to Posse Comitatus. The military is—and should be—trained only to annihilate a foreign enemy. Civilian police are trained to keep the peace and to protect our rights while upholding our civil liberties. The federal government's gradual erosion of these principles in pursuit of fighting the drug war needs to be halted and reversed. Congress should forbid the military from engaging in civilian policing, including drug policing, and revoke the license it has granted over the years for cooperation between the military and the police in the sharing of training, intelligence, and technology. Elite military units shouldn't be training civilian police, and civilian police shouldn't be using military tactics and weaponry on U.S. citizens.

Policy Changes for State and Local Governments

Return SWAT Policing to Its Original Function—defusing those rare, emergency situations in which a suspect presents an immediate threat to someone's life or safety. SWAT teams should not be executing search or arrest warrants, conducting routine police patrols, or engaging in similarly proactive police work. SWAT teams should never be used to serve search warrants on drug offenders with no history of violence.

Rescind Asset Forfeiture Policies. Letting police departments keep the assets they seize in drug raids creates perverse incentives and leads to aggressive policing and a disregard for civil liberties. State and local policymakers should remove the temptation for police officials or individual officers to "seek out" drug offenses for the purpose of generating revenue for their departments.

Pass Legislation Protecting the Right to Home Defense. If police have invaded a home illegally, the homeowner should never be prosecuted for mistaking them for intruders and lawfully defending his property and family. States should look at so-called Make My Day laws, which indemnify civilians from criminal charges for certain conduct in defending their home from intruders with no legal right to be there.[279]

Policy Changes for Government at All Levels

Strict Liability. Congress and state legislatures should pass legislation holding the police agencies involved with carrying out a forced-entry drug raid strictly liable for any mistakes they make. Should police target the wrong home, wrongly shoot an innocent person, or wrongly injure or kill a nonviolent offender, damages would come directly from the budgets of the responsible police organizations. Such a policy would put financial pressure on police and city officials to balance drug policing priorities with civil liberties, and to take seriously the consequences of the overuse of paramilitary teams. Too many mistakes would cause taxpayers and municipal insurers to call for reform.

Tighten Search Warrant Standards. Search warrants—particularly those that lead to paramilitary raids—shouldn't be issued on the basis of tips from a single confidential informant, no matter how reliable police might assume that informant to be. Police should be required to find corroborating information. Police and prosecutors should also be required to reveal to judges and magistrates—and later to defense attorneys—if an informant has a criminal record, if a tip was given in exchange for leniency in sentencing or charging, and whether or not the informant was paid. Judges and magistrates

Elite military units shouldn't be training civilian police, and civilian police shouldn't be using military tactics and weaponry on U.S. citizens.

should ask more questions and exercise more scrutiny of police and prosecutors seeking warrants.

More Transparency. All forced raids should be videotaped. A video recording of each raid would serve to clear up any doubts about whether or not police knocked and announced themselves or how long they waited between announcement and entry.

Police departments should track warrants from the time they're applied for to the time they're executed, in a database that's accessible to civilian review boards, defense attorneys, judges, and in some cases, the media (acknowledging that the actual identities of confidential informants need not be revealed). Botched executions of warrants should be documented, including warrants served on the wrong address, warrants based on bad tips from informants, and/or warrants that resulted in the death or injury of an officer, a suspect, or a bystander. Police departments should also keep running tabs of how many warrants are executed with no-knock entry versus knock-and-announce entry, how many required a forced entry, how many required the deployment of a SWAT team or other paramilitary unit, and how many used diversionary devices like flashbang grenades. Local police departments that receive federal funding should also be required to keep records on and report incidents of officer shootings and use of excessive force to an independent federal agency such as the National Institute for Justice or the Office of the Inspector General.

Civilian Review Boards. In cases of shootings or allegations of excessive force, civilian review boards are a good idea and are always preferable to internal police investigations. But review boards need to be given comprehensive access to all documents related to botched raids, including search warrants, affidavits, and information about confidential informants. Review boards should be permitted to subpoena and question judges and prosecutors, given that both are critical parties to the process of obtaining warrants for paramilitary raids. In most jurisdictions today, prosecutors and judges are completely free from oversight when a raid goes wrong. Review boards' jurisdiction, therefore, should not only cover the actions of police officers but should extend to every aspect of investigating, procuring, issuing, and executing a warrant.

No Intimidation. Policymakers should make sure that the threat of criminal charges isn't used against the victims of botched raids in an effort to intimidate them from filing civil lawsuits. Lawmakers should rescind any law or regulation stating that a suspect who pleads guilty of a minor charge stemming from a botched raid is barred from later filing a civil lawsuit for excessive force or violation of the suspect's civil rights.

More Accountability. Police officers are rarely, if ever, disciplined for mistakes that lead to botched raids. If a botched raid resulted from an officer relying on a bad informant, the informant should be dropped, and the officer should be disciplined. Officers who misread, miscopy, or poorly communicate an address or the location of a raid resulting in a wrong-door raid on innocent civilians should be punished as well. Shootings are more difficult. A botched raid ending in a needless death—officer or civilian—is quite often the result of a bad policy that puts well-meaning people in volatile, unpredictable, no-win situations.

Certainly, to the extent that an officer was shown to be careless or callous, he should be disciplined. But to the extent that an officer fired after justifiably believing himself to be in danger, even from a citizen whose home was wrongly raided, the blame belongs with the officers, prosecutors, and judges whose actions wrongly put him in that situation, not with the officer himself.

A video recording of each raid would serve to clear up any doubts about whether or not police knocked and announced themselves or how long they waited between announcement and entry.

Conclusion

This paper isn't intended to be a critique of police officers themselves. Rather, it's a critique of bad policies that over the last two decades have created a military mindset among civilian police departments, a sense among civilians that they're under siege, and

a litany of botched paramilitary raids that have resulted in the needless terrorizing, injuring, and killing of innocent citizens, police officers, and nonviolent offenders. The vast majority of police officers are well-meaning public servants. Unfortunately, they've been led to overly militaristic policing habits by politicians and policymakers too enamored with the idea of a warlike approach to fighting drugs.

Periodically over the last 25 years, a high-profile incidence of a botched drug raid ending in the death of an innocent person has given rise to public debate and reflection on these policies. But with just a few exceptions, any resulting reforms have been spare, inconsequential, and localized. Meanwhile, the list of victims of botched paramilitary raids continues to grow longer.

Policymakers, media outlets, and citizens across the country should use the Supreme Court's unfortunate recent ruling the *Hudson* case as an opportunity to evaluate the state of their own local police departments. They should gauge whether they're becoming too militaristic in tactics and attitude. They should encourage the creation of civilian review boards and force transparency. They should consider the possibility that ever increasing "get tough" drug policing has perhaps unwisely tipped the balance toward crime fighting, to the detriment of civil liberties. Finally, they should put an end to the kinds of police practices outlined in this paper, practices that 25 years of experience have shown that, should they continue, will inevitably end in more tragedy.

Appendix of Case Studies

Paramilitary drug raids have been growing in number for 25 years. As they've become more frequent, so too have incidents in which these raids have gone wrong. Criminologist Peter Kraska says his research shows that between 1989 and 2001, at least 780 cases of flawed paramilitary raids reached the appellate level, a dramatic increase over the 1980s, where such cases were rare, or earlier, when they were practically nonexistent.[280] Yet despite the ongoing reporting of botched raids in media outlets, the phenomenon is still consistently dismissed by supporters of paramilitary policing as a series of "isolated incidents."

The truth is, mistaken raids continue to happen with disturbing regularity. They can't all be isolated incidents. This section will catalogue an extensive list of botched raids between 1995 and April 2006 found over the course of several months of research. It is by no means comprehensive.

The Cato Institute has also plotted an expanded list of cases on an interactive map, which can be found at http://www.cato.org/raidmap.

The aim of this section is to demonstrate that botched paramilitary drug raids—and the death, injury, and terrorizing of innocents that come with them—aren't merely a regrettable, infrequent consequence of an otherwise effective police tactic. Rather, they're the inevitable consequence of a flawed, overbearing, and unnecessary form of drug policing.

Wrong Address

The botched drug raids that seem to generate the most public outrage are those in which police force entry into a home that turns out to be the wrong address. It's bad enough to have a system in place that is needlessly violent and provocative for known or suspected drug offenders. But it's particularly frustrating to see wholly innocent people terrorized, injured, and killed because police, policymakers, and judges cling to a flawed policy.[281]

No case better illustrates the preventable, tragic consequences of this flawed system than the death of Alberta Spruill.

Alberta Spruill. On May 16, 2003, a dozen New York City police officers stormed an apartment building in Harlem on a no-knock warrant. They were acting on a tip from a confidential informant who told them a convicted felon was dealing drugs and guns from the sixth floor. There was no felon. The only resi-

With just a few exceptions, any reforms have been spare, inconsequential, and localized.

The officers who conducted the raid did no investigation whatsoever to corroborate the informant's tip.

dent in the building was Alberta Spruill, described by friends as a "devout churchgoer."[282] Before entering, police deployed a flashbang grenade. The blinding, deafening explosion stunned the 57-year-old city worker. As the officers realized their mistake and helped Spruill to her feet, the woman slipped into cardiac arrest. She died two hours later.

A police investigation would later find that the drug dealer the raid team was looking for had been arrested days earlier and was still in police custody. He couldn't possibly have been at Spruill's apartment. The officers who conducted the raid did no investigation whatsoever to corroborate the informant's tip.[283] Worse, a police source later told the *New York Daily News* that the informant had offered police tips on several occasions, none of which had led to an arrest. His record was so poor, in fact, that he was due to be dropped from the city's informant list.[284] Nevertheless, police took his tip on the ex-con in Spruill's building to the Manhattan district attorney's office, which approved the application for a no-knock entry. A judge then issued the warrant resulting in Spruill's death. The entire process took only a matter of hours.

After the Spruill case, the media began to take notice of other victims of botched no-knocks, including the following three cases in the fall of 2002, about six months before the raid that killed Spruill.

- **Williemae Mack.** On September 3, 2002, police broke down the door of Brooklyn resident Williemae Mack in a pre-dawn drug raid. Her twin 13-year-old sons were asleep at the time. One, frightened by the noise and the explosive device police used to gain entry, hid under the bed. Police pulled him out and put a gun to his head. Police then handcuffed both boys at gunpoint. They found no drugs. They had raided the wrong address.[285]
- **Robert and Marie Rogers.** On October 15, 2002, about 20 police armed with pistols and shotguns served a no-knock warrant on the home of retired police officer Robert Rogers and his wife Marie. The two were watching television when the officers stormed their home in Queens. Mr. Rogers initially grabbed his handgun, believing the police to be intruders. Once he recognized they were law enforcement, he dropped his weapon and covered it with his body. Rogers later told *Newsday* that had the raiding officers seen his gun, "I'd be dead." Again, the police had the wrong address.[286] Marie Rogers would take the news of Alberta Spruill's death especially hard. "When I heard about what happened to this woman, I broke down and cried," Rogers later told the *New York Post*, "You would have thought that I knew her. Then I was angry."[287]
- **Michael Thompson.** A day before the raid on the Rogerses, police also burst into the home of Michael Thompson, also of Queens. That raid left the man's large mahogany front door broken into pieces. The police then trained their guns on Thompson's chest while they searched his home and the upstairs apartment of a tenant for drugs. Once again, they had raided the wrong address.[288]

The victims of the above three raids were represented in civil suits filed by Norman Siegel, former director of the New York Civil Liberties Union. Mr. Siegel told the *New York Times* in the fall of 2003 that according to police data, police were conducting about 460 such searches of private residences each month, with the vast majority of those served under no-knock warrants.[289]

In fact, just days after the raid on the Rogerses' home, Siegel held a press conference and pled with police to end the practice of no-knock raids. Nearly predicting the Spruill raid that would happen a year later, Siegel warned: "We must do a better job of no-knock search warrants. Otherwise, someone might wind up dead as a result of how we implement this procedure."[290]

- **Timothy Brockman.** Just two days before the Spruill raid, police from NYPD and the federal Bureau of Alcohol, Tobacco and Firearms displayed extraordinary ineptitude in executing another botched no-knock raid, this time on the home of former Marine Timothy Brockman. Acting on a tip from a confused anonymous informant, police stormed the public housing apartment of the 61-year-old Brockman, who used a walker to get around.

  Police deployed a flashbang grenade, setting Brockman's carpet on fire, then handcuffed the man and threw him to the floor while they searched his home for drugs. They had the wrong address. Brockman would later be cleared of all charges.[291]

The Brockman case is another illustration of how the mishmash of court precedents governing the use of no-knock raids can lead to errors. In Brockman's case, New York police wanted to raid the apartment on the basis of the testimony of a single informant who had visited the targeted residence on just one occasion. State law required more evidence for a no-knock warrant. Federal law, however, is more deferential to police and, in this case, allowed for a no-knock entry. New York investigators merely called the U.S. attorney for the Southern District of New York, who sent an agent from Alcohol, Tobacco and Firearms along for the raid. The Brockman raid was now a federal case, governed by federal guidelines.

Miscommunication between local and federal police led to series of errors that caused the police to mistakenly break down Brockman's door. Though a potentially grave and inexcusable error on the part of federal and local police, the Brockman case was ignored by the media and treated with indifference by the police. As the *Times* writes, "At the time, the incident received no publicity and no serious attention from the police leadership."[292]

In a follow-up piece published months after Spruill's death, the *Village Voice* reported that complaints about police abuses with respect to no-knocks had been pouring in for years. "Until Spruill's death, the NYPD had done nothing to stem the number of incidents," the *Voice* wrote, "despite receiving a memo from the Citizen Complaint Review Board in January noting the high number of raid complaints. Last March, the NAACP also approached NYPD commissioner Raymond W. Kelly about the raids."[293]

Indeed, the *New York Times* ran a story back in 1998, a full five years before Spruill's death, headlined, "As Number of Police Raids Increase, So Do Questions."[294] The paper noted that the number of narcotics search warrants issued in New York City doubled from 1,447 in 1994 to 2,977 in 1998. Most of these, according to the *Times*, were no-knock warrants.[295] The *Times* also profiled several cases of botched no knocks from the late 1990s. Among them were the following:

- **Mary and Cornelius Jefferson.** The article began with a description of a botched no-knock on the home of Cornelius and Mary Jefferson, a couple in their 60s, in which police used a battering ram to obliterate the front door of an apartment "where plastic slipcovers protect the sofas and diplomas and awards line the walls." Cornelius told the *Times*, "I thought they were coming to rob us, coming to kill us." They had the wrong address.[296]
- **Ellis Elliott.** On February 27, 1998, police conducted a no-knock raid on the Bronx home of Elliott, on the basis of information they later determined to be "miscommunication with an informant." As police attempted to break down his door, Elliott feared he was being attacked and fired a shot through the door. Police responded with a barrage of 26 bullets, all of which miraculously missed Elliott. Elliott was then dragged out of his home, naked, allegedly peppered with racial epithets, then arrested on charges of possessing an unlicensed weapon. Police later admitted their error

The *Village Voice* reported that complaints about police abuses with respect to no-knocks had been pouring in for years.

and paid $1,000 to have Elliott's door repaired.[297] Elliott pled guilty to disorderly conduct for firing at the officers and was given a conditional discharge. No police officers were charged or disciplined for the error.[298]

- **The Crown Heights Raid.** On May 1, 1998, police broke down the door to a home in Brooklyn's Crown Heights neighborhood in a no-knock raid that was based on the word of a single confidential informant. They expected to find a drug den. Instead, according to the *Times*, police found "a retired banker, a home health attendant, and their two daughters." One of the daughters was mentally disabled, and was showering at the time of the raid. Police pulled her from the shower, handcuffed her, and despite her pleas to the officers that she was menstruating, refused to give her a sanitary pad until she began visibly bleeding.[299]
- **Sandra Soto.** On June 5, 1997, police carried out a no-knock warrant based on information from an anonymous informant in the East New York area of Brooklyn. The warrant instructed them to raid a gray door marked "2M." Finding no such door, they simply broke down the nearest door, which was red and marked "2L." They found a woman, Sandra Soto, and her two children—but no drugs.[300]
- **Shaunsia Patterson.** *New York Times* columnist Bob Herbert later reported that on the *same day* as the raid on Ellis Elliott's home, New York City police raided the Bronx apartment of Shaunsia Patterson and her two children, ages three and two. Patterson was eight months pregnant. Police first grabbed Patterson's sister Misty, 15, who was also in the room, and threw her to the floor. They then confronted Patterson, who was sitting on her bed. One officer pushed Patterson onto her back. Another jumped on top of her. Patterson was eventually pushed to the floor and handcuffed while, in Patterson's words, "one of the cops stepped on the side of my face and pressed my face into the floor." When Patterson asked what the police wanted, she says, she was told to "shut the fuck up."

  Police handcuffed Patterson while she wore only her underwear. Officers then screamed expletives at the two women while they scoured the apartment for drugs—demolishing the furniture, kitchen, and floor in the process. The raid so frightened Patterson, she urinated on herself. The police refused to allow her to change. Police also refused to show her a warrant. Hours later, an officer told her, "We got the wrong apartment," and released her from her handcuffs. One confidential police source told *New York Times* columnist Bob Herbert, referring to the Patterson and Elliott raids, "Two in one day—that's bad. But I'll tell you what I honestly believe—I don't think this happens that often."[301]

Those kinds of assurances from police officials are common in New York and elsewhere. Despite repeated media reports of "wrong door" raids throughout the late 1990s, city officials continued to insist such incidents were uncommon—and nothing to be alarmed about. But in February 1998, the New York Police Department circulated a memo among the city's police officers instructing them how to contact locksmiths and door repair services should they break down the door to the wrong address, suggesting that mistakes were in fact fairly common.[302]

As discussed earlier, the review procedures New York City had in place to deal with police brutality failed as well. The Civilian Complaint Review Board, hamstrung by bureaucracy, limited jurisdiction, and squabbles with the police union, was helpless to effect any real change to stem the tide of "wrong door" warrants. New York had plenty of warnings that a case like Spruill's might happen. The city's public officials did little to heed them.

The review procedures New York City had in place to deal with police brutality failed.

Just after Spruill's death and ensuing media coverage, Manhattan Borough President C. Virginia Fields set up a hotline for victims of erroneous no-knock raids. For the first time, city officials encouraged victims of mistaken raids to come forward. The hotline received more than 100 calls in its first week of operation.[303] Fields's staff followed up with many of those calls, and her office published a report detailing its findings. Among the cases included in that report are the following:

- **Lewis Caldwell.** On March 6, 2003, six police officers in riot gear broke down the door to the home of Lewis Caldwell. Police handcuffed Caldwell, a lung cancer patient, and forced him to the floor. Caldwell's wife returned home from work to find her home filled with police officers and dogs. She pled with the officers to release her husband from the handcuffs. They kept him restrained for more than an hour. Caldwell says police were "laughing and joking" while searching his apartment. When the Caldwells filed a complaint, a lieutenant called to tell them the raid was justified, and "there's nothing you can do about it." No drugs were found, and no criminal charges were ever filed against either of the Caldwells.[304]
- **Kim Stevenson.** On April 9, 2003, about 20 police officers broke down the door of the West Harlem home of Kim Stevenson, asking "where the drugs were." They handcuffed Stevenson and took her to another room, while other officers kept their weapons fixed on her 12-year-old daughter. Stevenson pled with police to explain why they were in her home, but they refused to answer her. A female officer took Stevenson into a bathroom to do a body search. After finding no drugs on her, the officers again handcuffed her while other officers finished searching her apartment. According to Stevenson, officers "made jokes and ridiculed" her during the search. When they left, they told her to "have management fix her door." Her landlord refused. At the time the Fields report was published, Stevenson's door had yet to be repaired. She was never charged with a crime.[305]
- **Kim Yarbrough.** On May 2, 2003, police broke into the Staten Island home of Kim Yarbrough, an employee at the city's Department of Corrections. No one was home at the time, but Yarbrough's son was told by his brother-in-law that "20 to 30" police had raided his mother's home. When her son came to the house to investigate, he was handcuffed and thrown on the couch. Yarbrough came home from work with a supervisor to see that her door had been broken down and her home trashed. She and her son say police laughed and made jokes when she asked for names and badge numbers. Neither Yarbrough nor her son was ever charged with a crime.[306]
- **Margarita Ortiz.** On February 29, 2003, police broke into the home of Margarita Ortiz. Police handcuffed the woman and her 12-year-old son for two and a half hours while searching the apartment. After five hours of searching, police left without explanation. Ortiz says that the police knew "within 15 minutes" that her apartment had no drugs and that they never showed her their badges or provided a search warrant. At the time of the Fields report, Ortiz had been unable to get any information from the city regarding the raid on her home.[307]
- **Sara Perez.** On November 27, 2001, police broke into the Harlem home of. Sara Perez and put a shotgun to her head. They held her children and grandchildren at gunpoint, including one-month-old twins. Police never showed Perez a search warrant, nor did they explain why they were in her home. Perez later learned that the raid was based on faulty information supplied by a 15-year old informant. After five months, the police department paid to repair her door.[308]

The hotline for victims of erroneous no-knock raids received more than 100 calls in its first week of operation.

Swanson got a copy of the search warrant in the mail three years later. Police had mistakenly entered the wrong apartment building.

- **Jeanine Jean.** On May 7, 1998, police broke down the door and deployed a flashbang grenade in the home of Jeanine Jean. Frightened, Jean ran into a closet with her six-year-old son and called 911. Police pulled Jean from the closet, handcuffed her, then questioned her at gunpoint in front of her son. Jean, who had had surgery the day before, began bleeding when her surgical wound ruptured during the raid. After 90 minutes, police realized they had the wrong apartment and left without explanation. They left Jean's door hanging from its hinges.[309]
- **Atlee Swanson.** On July 9, 1997, police conducted a 6 a.m. no-knock raid at the East Harlem home of Atlee Swanson. Police broke into Swanson's home and demanded to know where "Joey, Jason, and Sean" were. Swanson said she knew no one by those names. The officers refused to show Swanson a search warrant, handcuffed her, and told her she faced 7 to 15 years in prison for selling drugs from her home. Police then put her in a holding cell for 31 hours. She returned home to find her apartment "trashed and vandalized." Swanson got a copy of the search warrant in the mail *three years* later. Police had mistakenly entered the wrong apartment building.[310]

The following raids weren't mentioned in the Fields report, but they also occurred at about the same time as the Spruill raid.

- **Cynthia Chapman.** Chapman was in the shower at about 6 a.m. on April 2, 2003, when police broke open her door and deployed a flashbang grenade. The grenade struck Chapman's son Bobby, 15, in the foot. Police found Chapman in the bathroom, forced her to the ground, and put a gun to her head. According to Chapman, one officer asked, "Where is it," and when Chapman responded that she didn't know what he was talking about, he replied, "Don't get smart with me or I'll kill you." Chapman and her son were handcuffed, taken to a police station, and released hours later when police discovered they'd raided the wrong home. In 2004, Chapman settled with the city of New York for $100,000.[311]
- **Ana Roman.** In 2004, the family of Ana Roman filed an $11 million lawsuit against the city of New York. The suit stemed from a September 12, 1996, no-knock raid on the home Roman, then 70, shared with her husband and adult son. Police were acting on a faulty tip from a confidential informant that drugs were being dealt from Roman's home. Roman emerged from her bedroom to find police pointing assault weapons at her, her husband, and her son. Roman had a heart attack and spent the following two weeks in a cardiac unit. Her family maintains that Roman never fully recovered and died of congestive heart failure six years later as a direct result of the attack she suffered during the raid.[312]
- **Mary Bardy.** Bardy went to the city council hearings to give her account of a January 2002 botched raid on her home. Police mistakenly believed her son was dealing drugs. The raiding officers broke down her door and, at gunpoint, ordered everyone inside—including her 2-year-old granddaughter—to lie down.[313] "I saw what happened to that poor woman [Spruill] and I said, this is crazy. This can't keep happening," Bardy told the *New York Daily News*.[314] Bardy, who had recently retired after an administrative career with the NYPD, said she wrote "dozens of letters" and "made lots of phone calls" after the raid on her home but found no one who could give her answers about the circumstances of the investigation leading to the night police broke into her home. Her son was never charged.[315]

A day after the Spruill city council hear-

ings, Manhattan Borough President Fields held hearings of her own. According to the *Village Voice*:

> Dozens of black and Latino victims—nurses, secretaries, and former officers—packed her chambers airing tales, one more horrifying than the next. Most were unable to hold back tears as they described police ransacking their homes, handcuffing children and grandparents, putting guns to their heads, and being verbally (and often physically) abusive. In many cases, victims had received no follow-up from the NYPD, even to fix busted doors or other physical damage.

The *Voice* then echoed the *Newsday* report:

> Some complainants reported that they had filed grievances with the [Citizen Complaint Review Board] and were told there was no police misconduct. Unless there is proven abuse, the CCRB disregards complaints about warrants that hold a correct address but are faulty because of bad evidence from a [confidential informant].[316]

The key recommendation from the Fields report was that NYPD produce an annual report detailing "all statistics regarding the execution of warrants." Fields believed such a report would provide some transparency and accountability in the issuance and execution of drug warrants, particularly those authorizing no-knock raids. NYPD issued no such report in 2005. Less than a year after Spruill's death, NYPD was back in the headlines with the mistaken raid on Martin and Leona Goldberg, mentioned earlier.[317]

Another high-profile wrong-door raid that provoked local media and public officials to take a harder look at the use of paramilitary drug raids was the Denver, Colorado, case of Ismael Mena.

Ismael Mena. On September 29, 1999, a Denver SWAT team executed a no-knock drug raid on Mena's home. Mena, a Mexican immigrant, believed he was being robbed and confronted the SWAT team with a gun. Police said they fired the eight shots that killed Mena only after Mena ignored repeated warnings to drop his weapon and first fired at them. Mena's family says police never announced themselves, and that it was the police who fired first.[318]

Police later discovered they had raided the wrong home, on the basis of bad information from a confidential informant.[319] They found no drugs in Mena's house, nor were any found in his system.[320] Subsequent investigations by the city police department's internal affairs division and by a special prosecutor found no wrongdoing on the part of the SWAT team.

But weeks later, new details began to emerge about the Mena case. An aide to the special prosecutor, for example, said that Mena's body had been moved at least 18 inches after he was shot. A lab report then found that the gunshot residue found on Mena's hand didn't match Mena's gun but was instead only consistent with the residue given off by the submachine guns the SWAT team uses. Police found no fingerprints on Mena's gun, or on the ammunition inside it, raising speculation that the gun was tampered with or planted.[321]

An internal affairs investigation cleared the SWAT team of wrongdoing but did find that the officer who prepared the search warrant for Mena's home falsified information.[322] As the shooting gained traction in the media, Denver city officials began to portray Mena as a Mexican criminal refugee wanted for murder (Mena had shot a man in Mexico in self-defense but had been cleared of any wrongdoing), a "blame the victim" strategy unfortunately common in police brutality cases.[323] Members of the police department also later started what local media would call a "spy file" on a citizens' organization agitating for a more thorough investigation of Mena's death. Worse, the head of the police intelligence unit that kept a "spy file" on Mena's supporters was also the head of the SWAT team that conducted the raid on Mena's home.[324]

"Most were unable to hold back tears as they described police ransacking their homes, handcuffing children and grandparents, putting guns to their heads, and being verbally (and often physically) abusive."

"One of them put a knee on my head and ground it into the floor."

Mena's family eventually hired former FBI agent James Kearney to conduct a private investigation. Over the course of that investigation, Kearney became convinced that Denver police murdered Mena, then planted the gun to cover up the botched raid. Kearney found evidence not uncovered by previous investigations, including two slugs in the floor of Mena's apartment that suggest the raid didn't happen as SWAT officials said it did. Kearney made his accusations on a local radio station, leading to a lawsuit against the station and Kearney by members of the SWAT team. The radio station settled. Kearney in turn filed suit against the SWAT team and sought to prove his allegations of a cover-up in court.[325] The suit was thrown out in federal court, but as of November 2005 Kearney was still waiting on word of his appeal.[326]

Mena's family ultimately settled with the city of Denver for $400,000.[327] To its credit, the city of Denver instituted some strong reforms in response to Mena's death. The reforms drastically cut down on the number of no-knock warrants carried out in the city, though reforms stopped short of an outright prohibition on no-knock warrants for drug raids.[328]

Denver is the exception, however. Most high-profile SWAT tragedies temporarily put reporters on the scent for similar abuses, light a fire under activists, and put policymakers on the defensive. But that public scrutiny is usually followed by a return to business as usual.

The case that spurred the *Capital Times* in-depth investigation of SWAT team proliferation to small-town Wisconsin stemmed from an incident in tiny Dalton, a rural town 50 miles north of Madison.

Wendy and Jesus Olveda. Wendy Olveda, who was five months pregnant, her husband Jesus, and their three-year-old daughter Zena were at home one evening in October 2000 when a black-clad SWAT team broke down their front door and threw the couple face-first to the floor. Zena Olveda looked on from the couch. Jesus Olveda told the paper that as he lifted his head to tell police they had the wrong address, "one of them put a knee on my head and ground it into the floor."[329]

Police had the wrong address. When they realized their error, they rushed through the Olveda's garage door to the home next door. The *Times* reported that one officer went back to the Olveda's home minutes later to retrieve the search warrant. The Olvedas filed a claim for compensation against the police departments in charge of carrying out the raid. The claim was rejected.[330]

Two years before the Olveda raid, police in another small Wisconsin town mistakenly raided the home of Daniel and Cythia Cuervo, holding the couple at gunpoint while the officers ransacked their home. The Cuervos eventually accepted a settlement in their lawsuit against the responsible local police agencies. The mistaken raid on their home inspired a significant reorganization of the Multi-jurisdictional Enforcement Group narcotics unit in the Lake Winnebago area of Wisconsin.[331]

But the rash of media reports of botched raids in Wisconsin in the year 2000 came a full five years after the state had already done some introspection on paramilitary police tactics when such tactics had ended with a man's death.

Scott Bryant. On April 17, 1995, police in Dodge County, Wisconsin, forcefully entered the mobile home of Scott Bryant after finding traces of marijuana in his garbage. The officers would later say they knocked and announced before entering, but neighbors who witnessed the raid say police entered without doing either. Moments later, Detective Robert Neuman shot an unarmed Bryant in the chest, killing him. Bryant's eight-year-old son was asleep in the next room. Neuman told investigators he "can't remember" pulling the trigger.[332] Dodge County sheriff Stephen Fitzgerald compared the shooting to a hunting accident.[333]

Two years later, Bryant's family was awarded a $950,000 settlement by Dodge County.[334] After the Bryant case made headlines, three victims of a similar raid by the Dodge County Sheriff's Department also

filed suit. According to that lawsuit, police raided a home in Juneau, Wisconsin, after finding traces of marijuana and material "suspected of packing cocaine" in garbage bags outside the house. Police entered the home "suddenly and violently" at 2:45 a.m., threw the three occupants to the floor, and handcuffed them. Police then searched the house for more than three hours. No charges were filed.[335]

After the settlement in the Bryant case, and a year after the shooting, Sheriff Fitzgerald seemed remorseful. He told the *Milwaukee Journal-Sentinel* that his own department would make substantial changes to the way it conducts searches. "It's safe to say any time there's a tragic accident like this that people would want to do things differently," he said.[336] Unfortunately, that message didn't make it to other small towns in Wisconsin. According to the *Capital Times*, 18 new SWAT teams have been formed across the state since the Bryant shooting.[337]

Although the case studies listed here cut off in the mid-1990s, the epidemic of botched military-style drug raids goes back to the early 1980s.[338] As far back as 1990, an article in *Playboy* magazine took note of a curious rise in media accounts of botched drug raids and published a list of more than a dozen documented "wrong door" raids from the 1980s.[339] In 2004, *USA Today* ran an editorial citing the Spruill and Goldberg raids and calling for reform in the execution of drug warrants. But the same paper ran a similar story more than a decade earlier, in 1993 (and even earlier, in 1989), ticking off a list of botched raids and a critique of no-knock and paramilitary raids in general, including the problems with confidential informants, asset forfeiture, lack of oversight, and the militarization of civilian policing described in this study.[340] The editorial also included responses from law enforcement officials dismissing botched raids as "isolated incidents."[341]

So not only is the problem of mistaken raids not new, neither is the cycle of media and public officials temporarily taking notice of them, then neglecting to enact any real reforms. Here, in reverse chronological order, is a partial list of other documented wrong-door raids dating back to 1995:

- **H. Victor Buerosse.** On December 30, 2005, police in Pewaukee, Wisconsin, broke into the home of 68-year-old H. Victor Buerosse in a predawn raid. Buerosse was thrown into a closet door, then to the ground, and hit in the head with a police shield. Despite his protests that police had the wrong address, they didn't concede their mistake until a sergeant arrived later. They left without an apology. The SWAT team eventually raided the correct residence, where they found a small amount of marijuana. Buerosse, a retired attorney, told a local reporter: "SWAT teams are not meant for simple pot possession cases. The purpose of SWAT teams it to give police departments a specially trained unit to react to a violent situation, not to create one. This should not happen in America. To me you can't justify carrying out simple, routine police work this way."[342]
- **Michelle Clancy.** At 5:30 a.m. on December 21, 2005, police in Paterson, New Jersey, stormed the home of Michelle Clancy on a drug warrant, breaking off her doorknob. Clancy, her 65-year-old father, and her 13-year-old daughter were home at the time. Police later confirmed they had raided the wrong apartment. Police spokesman Lt. Anthony Traina told one reporter, "These things do happen."[343]
- **The Baker Family.** Early in the morning on September 30, 2005, police in Stockbridge, Georgia, conducted a no-knock raid on the home of Roy and Belinda Baker. Officers broke down the couple's front door with a battering ram and tossed in flashbang grenades. The police held the couple at gunpoint, handcuffed them, and then sent them out onto their porch, only partially

The epidemic of botched military-style drug raids goes back to the early 1980s.

clothed. Police ruined a family Bible and antique coffee table during the raid. The raiding officers eventually realized the intended target of their raid lived next door. Police Chief Russ Abernathy called the raid "inexcusable" and "not acceptable" and blamed poor street lighting for the mistaken address. But Abernathy added that no one would be fired and that the raids would go on, albeit after "reviewing procedures." The Bakers are considering a lawsuit.[344]

- **Harold and Carolyn Smith.** In September 2005, police in Bel Aire, Kansas, raided the home of Harold Smith, the town's *former mayor*, after mistaking sunflowers in the man's backyard for marijuana plants. Police had taken pictures of the plants and showed them to a judge, who then approved the search warrant. Police rifled through the mayor and his wife's belongings and took videotape of their home before realizing their mistake.[345]
- **David Scheper.** On August 18, 2005, police in Baltimore, Maryland, forced their way into the home of David Scheper and Sascha Wagner. Thinking they were being robbed, Wagner called 911, telling the operator, "There's someone breaking into my house." Scheper had already slammed the door on the officer, who never announced they were police. The police then shattered the glass on the home's front door.

  Scheper stood just inside, holding his 12-gauge shotgun. He didn't have ammunition but hoped that racking the gun within earshot of the door would scare off the intruders. When they wouldn't leave, Scheper retreated to his basement and grabbed the only functioning weapon in his house, a CZ-52 semiautomatic. As Scheper struggled to load the weapon, it accidentally discharged, sending a round into the floor of his basement.

  Police took $1,440 in cash Scheper says he had recently withdrawn to buy a used truck. According to the *Baltimore City Paper*, police also "hit a 70-year-old art-deco-style metal desk with an ax. They took 18 of Scheper's guns—mostly inoperable antiques, he says. 'They threatened to blow up my safe,' Scheper says, so he opened it for them."

  The police were mistaken. They were looking for a tenant Scheper had evicted weeks earlier. Nevertheless, police still put Scheper's antique gun collection on display for the local news as part of a "roundup" of illegal weapons they'd found in two raids. Police charged Scheper for firing the weapon in his basement, a charge that carried a possible $1,000 fine and a year in prison. Prosecutors eventually dropped that charge, but only after Scheper's lawyer successfully fought to get Wagner's 911 call admitted as evidence.[346]
- **Cedelie Pompee.** In August 2005, police in Newark, New Jersey, raided a home owned by 59-year-old Cedelie Pompee while looking for drugs and guns. Pompee, her family, and the family to whom she rents an apartment said police cursed them while ravaging through their belongings. Officials from the state police SWAT team and the DEA later realized they had raided the wrong address. The Associated Press reports that state police had made a similar mistake four months earlier.[347]
- **John Simpson.** On June 15, 2005, Nampa, Idaho, police serving a search warrant tossed a flashbang grenade into the home of Vietnam veteran John Simpson. The frightened Simpson first took cover and attempted to protect his wife. He then composed himself, assumed he was being attacked by intruders, and ventured out with the only weapon he could find, the hose from his vacuum cleaner. The police had targeted the wrong side of Simpson's duplex. "I guess we're going to have to seek psychological help, I hate to say that," Simpson told the Associated Press. "I'm not nuts or anything, but I'm still shaking.

Police raided the home of the town's *former mayor*, after mistaking sunflowers in the man's backyard for marijuana plants.

Put a shotgun next to your ear and pull the trigger to get an idea of the noise." Police later picked up Simpson's neighbor with four ounces of marijuana.[348]

- **The Chidester Family.** In May 2005 in Utah County, Utah, Larry Chidester awoke to hear explosions at the home next to his. He went outside and saw members of a local SWAT team preparing to raid his neighbor's home. According to a lawsuit filed by the Chidester family, one of the SWAT officers spotted Larry Chidester, pointed at him, and exclaimed, "There's one!" Chidester threw his hands in the air and repeatedly said, "I'm not resisting." The officer tackled Chidester and, according to Chidester, "shoved his face into the ground and rocks." Larry Chidester was later taken to the emergency room for treatment. Police then kicked open a side door to the Chidester home and swarmed the bedroom where Lawrence Chidester—Larry's father—was dressing. They threw him to the floor and trained a gun to the back of his head. SWAT officers later conceded they had raided the wrong home.

  Utah County sheriff Jim Tracy later admitted the Chidester home wasn't the original target of the raid, but that police decided to raid their home as "an ancillary issue." He said police disputed the accuracy of the Chidesters' account of the raid, but wouldn't give details.[349]
- **Queen Moore.** On October 10, 2004, police in Omaha, Nebraska, conducted a narcotics raid on the home of Queen Moore, an elderly woman. When Moore filed suit for the damage officers did to her home, the police initially refused to be interviewed, on advice from the police union. Worse, the police department told Moore her complaint wasn't valid because union rules required it to be handwritten, not typewritten. Moore's lawyer responded that requiring her to personally write out her complaint "is not only illegal, but unduly burdensome and harassing," as Moore could barely sign her own name. Police found no contraband in Moore's home. She was never charged or arrested.[350]
- **Teresa Guiler and James Elliott.** In September 2004, a SWAT team in Clarksville, Tennessee, erroneously raided the home of Teresa Guiler, 55, and James Elliott, 54. Elliot, who is deaf, was recovering from a liver transplant at the time of the raid. The warrant had identified the wrong home. Police Chief Mark Smith said he would investigate to make sure the same mistake didn't happen again.[351]
- **Blair Davis.** On July 27, 2004, police in Houston, Texas, broke open the door of Blair Davis, a landscape contractor. Police screamed "Down on the Floor! Down on the Floor!" while pointing an assault weapon at Davis's head. Davis's first thought was that the invaders were criminals dressed as police, a continuing problem in the Houston area. A team of 8–10 police officers pushed Davis to the ground and handcuffed him while they searched his home. They were acting on a tip from a confidential informant who said Davis was growing marijuana in his home. The plants in question turned out to be hibiscus plants. Police never apologized to Davis. Dan Webb, operations commander for the police team that conducted the raid, later said it was "unfortunate" that Davis "got caught up in this situation," but that "if the situation came up today, we would've probably done the same thing." Webb added, "It's not a mistaken search warrant . . . if we believe it's marijuana, until we go look at it, we're not really going to know for sure," overlooking the fact that an innocent person was needlessly terrorized due to his unit "not knowing for sure."[352]
- **Donald and Amber Mundy.** In February 2004, police in San Bernardino, California, looking for cocaine broke open the door to an apartment occupied

Police were acting on a tip from a confidential informant. The plants in question turned out to be hibiscus plants.

Police handcuffed Perez and her 13-year-old daughter, while her 11-year-old daughter and three-year-old son watched in horror as police destroyed her house looking for drugs. They found nothing.

by Donald Mundy and his twin sister, Amber. When officers realized they had raided apartment "204" instead of apartment "214" as specified in the warrant, they conducted a search anyway and arrested Amber Mundy on charges of misdemeanor marijuana possession.[353]

- **Marion Waltman.** In September 2003, an informant's tip led police in Gulfport, Mississippi, to raid land leased by Marion Waltman. Waltman was growing kenaf plants, which are commonly used for deer food. Police raided the property and mistakenly destroyed more than 500 plants, believing they were marijuana. A judge later ruled that the city wasn't obligated to compensate Waltman for the destruction of his property because the sheriff's department made an "honest mistake."[354]
- **Earline Jackson.** At 3 a.m. on September 5, 2003, a dozen Chicago police officers used a battering ram to break down the door of 73-year-old widow Earline Jackson's apartment. "I asked them, 'What did I do?' And they told me to get out of the way because they were looking for drugs," Jackson told the *Chicago Tribune*. A warrant for Jackson's address said police believed a man was using her apartment to sell drugs. Police had mistaken Jackson's apartment for an apartment one block south.[355]
- **Francisca Perez.** On August 2, 2003, police from the Bexar County, Texas, sheriff's department raided the home of Francisca Perez and her children. The raid was based on a tip from an informant that a woman named Rosalinda Mendez was selling cocaine from the house. Police handcuffed Perez and her 13-year-old daughter, while her 11-year-old daughter and three-year-old son watched in horror as police destroyed her house looking for drugs. They found nothing incriminating. Four weeks later, police still hadn't told Perez whether or not she was under investigation. According to the latest media reports available, Perez, the widow of a Gulf War veteran, was still attempting to get the police to clear her name. She told a local newspaper that she was reluctant to take legal action because her children were terrified that if she did, the police would come back to raid their home again.[356]
- **Gabrielle Wescott.** On July 29, 2003, police in Montana raided the home of Gabrielle Wescott and her daughter Annabelle Heasley. According to a 2005 lawsuit, agents from the Northwest Drug Task Force donned black hoods and SWAT gear and raided their home at 7:30 a.m. on a marijuana warrant. Police forced the two to the ground, handcuffed them, and according to the lawsuit, "mistreated, threatened, cursed at, and terrorized" them, while police "ransacked the house" and "cut pieces of drywall out of the basement." The complaint alleges that the police affidavit leading to the search warrant "contains half-truths and inaccuracies and clearly was not completed in good faith," and that police never identified themselves. The women were never charged.[357]
- **The Phoenix Hell's Angels.** In July 2003, police in Phoenix, Arizona, conducted a pre-dawn drug raid on a Hell's Angels club. Police knocked, then waited just six seconds before deploying a flashbang grenade and forcing their way into the clubhouse. Michael Wayne Coffelt, who was asleep at the time, awoke to the grenade and quickly armed himself with a pistol. When Coffelt, who thought the clubhouse was being robbed, approached the door, Officer Laura Beeler shot and wounded him. Beeler claims Coffelt fired at her, though a ballistics test later confirmed that Coffelt never discharged his gun. Police did not find any drugs in the clubhouse. Prosecutors later brought charges against Coffelt for assaulting a police officer. In dismissing the charges, Maricopa Superior Court judge Michael

Wilkinson described the raid as an "attack" in violation of the Fourth Amendment, and said Coffelt's actions were "reasonable behavior, given the hour and the fact that the house was under attack." Wilkinson also determined that Beeler's mistaken belief that Coffelt had fired at her was also understandable, given the volatility of such a raid and that the officer may have misinterpreted the flashbang grenade for a gunshot.[358]

- **The Holguin Family.** According to court documents filed in conjunction with a lawsuit, the Holguin family of Albuquerque, New Mexico, say police blew their door off its hinges, deployed flashbang grenades, then stormed their home on June 5, 2003. Carmen Holguin, 80, required medical treatment for injuries she sustained during the raid. The lawsuit also alleges that Julia Holguin, 55, was injured when an officer stepped on her back, and that police kicked an unnamed 14-year-old girl while executing the warrant. None of the four were charged, and police seized nothing from the home. A paralegal for the family's lawyer told the Associated Press that police had made a controlled cocaine buy on the street where the Holguins lived and indicated they may have mistaken the family's home for the place they had bought the drugs.[359]
- **Sandy Cohen.** In 2002, police in Philadelphia raided the home of 85-year-old Sandy Cohen as she was taking a shower. Cohen got to her door just as police were blowing it off its hinges. When she protested to police that they had raided the wrong home, one replied, "That's what they all say." Police later conceded they'd made a mistake. Cohen's neighbors had told the raiding officers they were making a mistake while they were planting the explosives outside her door.[360]
- **The Huerta Family.** On November 20, 2002, a San Antonio, Texas, SWAT team deployed tear gas canisters, shattered a glass door with bullets, then stormed an apartment occupied by three Hispanic men. "We were kicked and punched at least 20 times. I couldn't talk. I was good and scared," Salvador Huerta told the *San Antonio News-Express*. His cousin Marcos Huerta was taken to the hospital with a cut face and bruised head. Vincent Huerta added, "The way they entered, I never thought it could be police." All three thought the raid was a robbery. Police had the wrong address.[361] Police later blamed the mistake on darkness, and "a cluster of look-alike buildings," despite the fact that officers stated on the warrant that they had conducted surveillance on the suspected residence for two days.[362]
- **Irene Gilliam Hensley.** On August 14, 2002, police in La Porte, Texas, stormed the home of 88-year-old Irene Gilliam Hensley on a paramilitary raid after a tip that her grandson Charles Gilliam was growing marijuana in her backyard. The tip came from an aunt who had had an argument with Gilliam, and police decided to raid after an officer peeked over Hensley's fence and confirmed the presence of marijuana. According to the *Houston Chronicle*, the warrant specifically stated that the officer who peeked over the fence had experience identifying marijuana plants. The plants turned out to be okra. Police found no drugs in the home.[363]
- **The Gilbertson Family.** In February 2002, a SWAT team in Denver's Highland neighborhood shattered a window in anticipation of a raid. Upon looking inside, they discovered they had broken into the wrong townhouse. They were preparing to deploy a flashbang grenade in the home, occupied by Erik Gilbertson and his pregnant wife. The couple was at the opera at the time of the raid. A police spokesman called the raid an "understandable mistake."[364]
- **Maria Flores.** In May 2001, police in Austin, Texas, raided the home of Maria Flores, a grandmother. A flashbang

"We were kicked and punched at least 20 times. I couldn't talk. I was good and scared."

The plants turned out to be tomatoes.

grenade shattered her window, and the SWAT team entered behind by kicking in her door. Police shoved Flores to the ground, bound her, and held her at gunpoint while they tore apart her home in a search for cocaine. They had mistaken her house for the house next door. Flores was taken to the hospital with internal bruising. "For about 20 minutes, I was on the floor crying, wondering 'What's going on?'" Flores told the *Austin American Statesman*. "I'm just glad my grandkids weren't here." Six months after the raid, police acknowledged the raid was a "terrible mistake." Assistant Police Chief Jim Fealy said, "We violated that woman's privacy and needlessly [*sic*] by mistake." He attributed the error to "sloppy police work."[365]

- **Estelle Newcomb.** In October 2001, a drug task force in Middlesex, Virginia, broke down the door of 50-year-old Estelle Newcomb and her 80-year-old aunt. Police had targeted the wrong home after miscommunicating with an informant. The investigating officer told the Associated Press: "I knew this was not right. To be honest with you, it was sloppy police work—not being thorough enough." The previous July, the same task force, along with the National Guard and state police, conducted a raid on a suspect they thought was growing marijuana. The plants turned out to be tomatoes.[366]
- **Charles and Debora Alexander.** On August 17, 2001, police in Waco, Texas, served a drug warrant on the home of Debora and Charles Alexander. According to the *Waco Tribune-Herald*, police charged the residence with guns drawn, yelling "Police, search warrant!" before realizing they had entered the wrong apartment. The Alexanders' visiting nine-year-old grandson, who has Down's Syndrome, went into a seizure. Debora Alexander fainted. Charles Alexander says that upon realizing their mistake, police left without apologizing, or offering to help either Debora or the grandson. Just seconds before the raid, Debora had been unpacking boxes, one of which contained her husband's gun. Charles told the *Tribune-Herald*, "God only knows what would have happened if they would have walked down that hall with her holding that gun." Remarkably, on August 20—three days after the raid—Lieutenant Gary McCully told the paper he wasn't aware that his own officers had entered the wrong apartment until a reporter had called and told him.[367]
- **Sandra Smith.** In May 2001, a Travis County, Texas, SWAT team conducted a raid on the home of Sandra Smith for suspicion of growing marijuana. After departing from a helicopter, storming Smith's home, kicking her dog, ransacking her belongings, and holding her and three visitors at gunpoint, police discovered the plants were ragweed. "This is the most terrifying thing that's ever happened to me in my life," Smith said. "I've never been in trouble with the law." Smith filed a lawsuit against the city for damage to her home. At the time the suit was filed in 2002, her name was in the department's database as a narcotics offender. Travis County settled with Smith and her visitors for $40,000. The Travis County SWAT team was later dissolved after a series of questionable raids.[368]
- **Henry and Denise McKnight.** On February 27, 2001, at about 10:30 p.m., police in Topeka, Kansas, kicked open the front door, detonated a flashbang grenade, and held Henry and Denise McKnight and their seven children at gunpoint on a drug warrant. They had mistaken the McKnight's home for the home next door. The McKnights' subsequent lawsuit alleged that police questioned them at gunpoint and continued to search the home even after realizing they'd made a mistake. Police Chief Ed Klumpp acknowledged the mistake and said that the police department would

make "minor adjustments" to its procedures, though he wouldn't say what those adjustments would be "because it would jeopardize the safety of our officers." The Topeka City Council eventually settled with the family for $95,000.[369]

- **Susan Wilson.** On February 15, 2001, a SWAT team dressed in full-assault attire stormed the home of Muskego, Wisconsin, resident Susan Wilson, 49. Wilson was standing in her driveway with her dog when the Waukesha County Metro Drug Enforcement Group apprehended her. Police forced her face down on her snow-covered drive, handcuffed her, and held her at gunpoint while police searched her home. They had the wrong address.[370]
- **Sandra Hillman.** On January 19, 2001, police from Russellville and Franklin County, Alabama, raided the home of Sandra Hillman and her daughter Marquita. Agents with a no-knock warrant kicked down the door to Hillman's apartment and held the two women handcuffed and at gunpoint while conducting their search. Police never identified themselves. Hillman made two subsequent trips to an emergency room for heart problems related to the raid. Police had the wrong address.[371]
- **John Adams.** On October 4, 2000, at about 10 p.m., police in Lebanon, Tennessee, raided the home of 64-year-old John Adams on a drug warrant. In what Lebanon police chief Billy Weeks would later say was a "severe, costly mistake," police had identified the wrong house. According to Adams's wife, police would not identify themselves after knocking on the couple's door. After she refused to let them in, they broke down the door and handcuffed her. Adams met the police in another room with a sawed-off shotgun. Police opened fire and shot Adams dead. One officer was fired after the incident, and several others were suspended, but no criminal charges were filed.[372] Adams's widow eventually won a $400,000 settlement from the city.[373]
- **Daniel and Rosa Unis.** In 2000, federal agents in Pueblo, Colorado, stormed the home of Daniel and Rosa Unis after suspecting their sons of cocaine distribution. With no warrant, police in black ski masks broke into the Unis home at gunpoint and arrested Marcos and David Unis. The two were kept in custody for two days but were never charged. When the Unis family filed a federal lawsuit in 2005, the lawyer for the agent in charge of the raid conceded that the raid was illegal. One officer described the incident as "unfortunate" and said "miscommunication" led to the wrongful raid, arrests, and detainments.[374]
- **William and Geneva Summers.** On May 22, 2000, police in Pulaski, Virginia, conducted a 4 a.m. raid on the home of William and Geneva Summers. The SWAT team broke through the couple's back door, woke them, and held them at gunpoint. Police had the wrong address. They had raided the home on the basis of a tip from a "reliable" informant that there was a methamphetamine lab inside. Magistrate Judge Jill Long concluded that police assertions that the informant was "reliable" were sufficient to establish probable cause for a pre-dawn, forced-entry search. The informant later admitted he had lied.[375]
- **Brandon and Richelle Savage.** On April 6, 2000, police in Chicago raided the apartment of Brandon and Richelle Savage on bad information from an informant. Police broke down the door and ordered the couple out of bed at gunpoint before realizing their mistake. Police officials then ignored the Savages' request to pay for damage done to their apartment until a columnist reported the incident in the *Chicago Sun-Times*.[376]
- **Dovie Walker.** On December 4, 1999, police in El Dorado, Arkansas, conducted a drug raid on the home of Dovie Walker. Officers tore the woman's front door from its hinges with a battering ram, damaged another door to her bed-

One officer was fired after the incident, and several others were suspended, but no criminal charges were filed. Adams's widow eventually won a $400,000 settlement from the city.

room, broke a latch on a third door, overturned and broke Walker's furniture, and generally "demolished" her house. Police officers had handcuffed Walker's three children at gunpoint before realizing they had mistaken her house for the one next door. Walker was also babysitting children of ages one, two, and three at the time of the raid. When a police department spokesman told a local newspaper police had no intention of paying for the damage they did to Walker's home, El Dorado's mayor promised four days later to begin work on the damage to Walker's house "as soon as possible."[377]

- **The Tyson Family.** On October 20, 1999, police from the DEA, the FBI, and Connecticut Department of Public Safety conducted 30 drug raids at locations around the Hartford area. One of those raids was on the home of 59-year-old Emma Tyson, her daughter-in-law, and her 13-year-old grandson. Twelve police officers broke into Tyson's home, causing her to have an asthma attack. Police were looking for a suspected drug dealer who had moved out of the home four months earlier, when Tyson bought it. Tyson filed a lawsuit two years later, when federal and local police authorities had yet to apologize or make an effort to clear her name.[378]
- **Mario Paz.** On August 9, 1999, 20 police officers from the El Monte, California, SWAT team conducted a late-night raid on the home of 65-year-old Mario Paz. By the end of the raid, Paz had been fatally shot in the back by police. The police version of events changed several times from the night of the raid. Police first said Paz was armed. They next said he wasn't armed but was reaching for a gun. Their final account was that Paz was reaching not for a gun but to open a drawer where a gun was located.

Paz was unarmed when he was shot. Police later revealed that they had conducted the raid after finding the Paz address on the driver's license, vehicle registration, and an old cell phone bill of suspected drug dealer Marcos Beltran Lizarraga (charges against Lizarraga were subsequently dropped, in part because the videotape that was supposed to contain a recording of the search of his home turned up blank).[379] As mentioned earlier, one El Monte police official would later say that anticipated "proceeds" from the Paz family in asset forfeiture also played a part in the raid.

By the end of the raid, Paz had been fatally shot in the back by police.

The Paz family explained that Lizarraga had lived next to them in the 1980s and had convinced Mario Paz to let him receive mail at their residence after he moved. Three weeks after the raid, the El Monte Police Department announced that they had no evidence that anyone in the Paz family was involved in any illicit drug activity, nor did the SWAT team have any reason to think so on the night Paz was shot.[380]

During the raid, police seized more than $10,000 in cash and announced plans to claim the money for themselves via asset forfeiture laws. Police backed off those plans when the Paz family proved the money to be their life savings.

Shortly after the Paz shooting made headlines, El Monte police conducted another raid on the home of an immigrant family. Police confronted Rosa Felix on September 22, 1999, after breaking into her home. According to a lawsuit Felix would later file, the officers told her that they knew her family was trafficking drugs, that they had information that she knew Paz, and that unless she gave them incriminating information about Paz, they would handcuff her, arrest her, and take away her children. Felix refused, insisting that her only interaction with Paz was from buying used cars from him. Charges were never filed against Felix.[381]

In October 2001, the officer who shot Paz was exonerated in investigations by

both the Department of Justice and the LAPD. A county prosecutor insisted that Officer George Hopkins "acted lawfully in self-defense" during the raid.[382]

El Monte's police department was known to be highly militaristic—but also effective. The town's police department boasted an assault vehicle with gun turret dubbed the "peacekeeper," as well as a helicopter. In 1992—five years before the Paz shooting—a federal appeals court had found "Chief Wayne Clayton, as a policymaker, acquiesced in a custom of complacency, if not hostility, toward allegations of misconduct by the department's officers." One mayor who tried to clean up the police department was voted out of office with help from the town's police union. "They run city hall. Nobody has control over the police," former El Monte mayor Pat Wallach told the *Los Angeles Times*. "They can do as they damn well please. They have a helicopter, a tank. They have carte blanche."[383]

In 2002, the city of El Monte settled with the Paz family for $3 million. The city also agreed to 13 conditions put forth by the family, mostly reforms in the way it carries out search warrants and deploys its SWAT team. Even in agreeing to the settlement, however, many city officials insisted the police did nothing wrong. "We don't view it as whether we were liable for his death," said city attorney Clarke Moseley. "We believe the family was involved [in narcotics trafficking] to some extent." No member of the Paz family was ever charged with a crime.[384]

- **Ralph Garrison.** On December 16, 1996, a SWAT team wearing black balaclavas raided a rental property owned by 69-year-old Ralph Garrison. Police were acting on a tip that the property contained equipment being used by methamphetamine addicts to print counterfeit checks and currency. Police conducted the 6 a.m. raid with the aid of a helicopter from U.S. Customs and two K-9 units. As the raid commenced, Garrison confronted the police and asked why they were on his property. Raiding officers claim they told Garrison they were police executing a warrant. Just how clear they were is in dispute. Garrison immediately returned to his home to call 911. He asked the dispatcher to send police, because vandals with "axes and all kinds of stuff" were breaking into his rental property. Garrison later told the dispatcher, "I've got my gun. I'll shoot the son of a bitch." According to raiding officers, Garrison then emerged from his house with a gun, whereupon three officers opened fire on him with AR-15 assault rifles, killing him. Police handcuffed Garrison after shooting him, then searched his home. They also shot his dog, a 14-year-old chow, and handcuffed his wife, 69-year-old Molly Garrison, who said police didn't remove their hoods or identify themselves until after the raid. Police made no arrests.

  One of the officers involved in the Garrison raid, Howard Neal Terry, had been subject to three federal excessive-force lawsuits in the previous six years, causing the city of Albuquerque to pay a total of $375,000 in settlements.

  In 1999, a federal court dismissed the Garrison estate's lawsuit against the police department, holding that the officers had "qualified immunity," which protects them from civil damages in any lawsuit where it is determined that police did not clearly violate any established constitutional protections.[385]
- **Catherine Capps and James Cates.** In May 1999, police stormed the Durham, North Carolina, home of 73-year-old Catherine Capps. Also in the house at the time was Capps's friend, 71-year-old James Cates. Police say they obtained a warrant for the home after a confidential informant bought crack cocaine there. Capps had poor vision, was deaf, and according to her family, "could not even cook an egg without being extremely out of breath." When police raided the

"They can do as they damn well please. They have a helicopter, a tank. They have carte blanche."

Cates, 79, wasn't permitted to use the bathroom during the search, causing him to urinate on himself.

home, they ordered Cates to stand. Hobbled by a war wound and frightened, Cates stumbled at the order and fell into a police officer. Sgt. L. C. Smith apparently mistook Cates's stumble as a lunge for the officer's pistol. Smith responded by punching the elderly man twice in the face.

Cates, 79, wasn't permitted to use the bathroom during the search, causing him to urinate on himself. Both Cates and Capps were also strip-searched. No drugs were found in the home or on Capps's or Cates's person.[386]

Capps later died from health maladies her family says she incurred during the raid. She was never charged with selling crack cocaine to the informant because, according to prosecutors, trying her would have required them to release the informant's name.[387] Subsequent investigations conducted by the Durham Police Department, the FBI, and the local district attorney found no wrongdoing on the part of police.[388]

About six months prior to the Capps-Cates raid, the city of Durham had set up a citizens' review board, in part due to community complaints about other allegations of excessive force on the part of police. But like similar review boards in other parts of the country, proceedings were often conducted in secret, complainants weren't given access to witnesses or evidence, and laws regarding search warrants kept vital information sealed. When Capps's family attempted to file a complaint with the review board, the board instituted a new rule denying a hearing to any complainant who had previously sought financial compensation from the city, and applied the rule retroactively. Though neither Capps nor her family had asked for compensation, Cates had, giving the review board cause to refuse to even listen to a complaint about the raid.[389]

- **Tina and Margie Peterson.** On April 4, 1999, police conducted a drug raid on a home in Kaysville, Utah, four days after obtaining the warrant and three weeks after obtaining the information to get the warrant. Despite the fact that a moving van sat in front of the apartment the officers carried on with the raid. They burst in on Tina and Margie Peterson, two sisters who were just moving into the apartment. Police charged in with guns drawn, and ordered the sisters and their two guests to the floor. According to the Petersons, officers continued to detain and question them even after they showed identification and proof that they were new tenants. The sisters filed suit against the police department in 2004.[390]
- **Edwin and Catherine Bernhardt.** On February 9, 1999, police in Hallandale, Florida, conducted a late-night raid on the home of Catherine and Edwin Bernhardt. Edwin, whose job requires him to get up at 4 a.m., was asleep. Catherine was on the couch. Police busted open the Bernhardt's window and jammed an assault rifle inside. Edwin Bernhardt woke up and ran downstairs in the nude. Police pushed Catherine to the floor and handcuffed her at gunpoint. They then subdued, handcuffed, and forced Edwin Bernhardt down into a chair, while a police officer outfitted him with a pair of his wife's underwear. He was arrested and spent several hours in jail, still clad only in the underwear, until police realized their mistake and drove him home.

  When the couple later filed suit, the city of Hallandale fought back. City attorney Richard Kane told the *Miami Herald* that citizens should expect such tactics as the price of the drug war. "They made a mistake. There's no one to blame for a mistake," Kane said. "The way these people were treated has to be judged in the context of a war." When asked to comment on the suit, Fort Lauderdale police captain Tom Tiderington said: "There's no perfect formula for success. It could happen at any time." The *Herald* reported

recent similar "wrong door" raids in Seminole County (twice), Largo, and Tampa.[391]

A year later, police in Hallandale made another botched raid, storming the home of a pregnant woman and her three young children. Police insisted they had the correct house, based on a tip from an informant who said he'd bought drugs there. They didn't find any drugs. The woman whose home was raided, Tracy Bell, had complained to police about drug activity in the neighborhood and says police had confused her home with the one next door. Bell's neighbor, who had a criminal record, admitted to having friends involved in drug distribution. Bell had no record.

Hallandale police insisted that this time, unlike with the Bernhardt raid, they had the correct address. Bell's attorney noted that police seem to have made the same mistakes, and offered the same excuse, for this raid as they had with the Bernhardt raid. Attorney Gary Kollin told the *Miami Herald*, "It appears that they continue to use informants as their scapegoats when they mess up and then they hide behind the confidentiality of the informants to avoid a proper investigation into who is telling the truth."[392]

- **Earl Richardson.** In June 1998, police in Raleigh, North Carolina, broke down the door of 66-year-old Earl Richardson in a mistaken drug raid. Police ordered Richardson to the floor while they rummaged through his belongings. They had meant to raid an unmarked apartment to the rear of Richardson's home. After an apology from Raleigh mayor Tom Fetzer, Richardson said: "I don't have anything against the city. I'm just glad I didn't get shot."[393] Five months later, Raleigh police would conduct another botched raid at the home of Priscilla Clark. "I looked out my bedroom door and saw this big gun coming down the hall and a man dressed in black," said Clark, who was pregnant at the time. Police locked Clark and her two children in a bedroom for more than hour before realizing they'd raided the wrong home.[394]
- **LaDana Ford.** In March 1998, state troopers and local police in Harvey, Illinois, deployed a flashbang grenade then initiated a no-knock raid on the home of LaDana Ford. Police handcuffed Ford's 13-year-old and questioned her 7-year-old, while keeping the entire family at gunpoint. They later realized they'd raided the wrong address. Harvey police chief Phil Hardiman was unapologetic. "We make out search warrants when we get information from drug informants," he told the *Chicago Sun-Times*. "Sometimes they give us incorrect information, and warrants are made out for one house when we're really looking for the house next door. I think that's what happened here. That happens from time to time in any police department." When asked if the department would apologize, Hardiman replied: "I don't know if we'd apologize. It's not unusual for that to happen sometimes, but I will say it doesn't happen that often."[395]
- **The Fulton Family.** On March 18, 1998, police raided the Bronx apartment of a grandmother, her daughter, and her six-year-old grandson. The Fulton family was watching television when police pounded on the door, then broke it open and began tearing through the apartment looking for drugs. They had the wrong apartment.[396]
- **Jennifer Switalski and Tenants.** On February 2, 1998, police in Milwaukee conducted a 6:30 a.m. raid on a building owned by Jennifer Switalski. Switalski wasn't home at the time, but her two tenants were. After breaking down the door, police handcuffed the two tenants while a terrified two-year-old girl looked on. Police had the wrong address. Switalksi later tried to sue the city for emotional distress and loss of income after her

A year later, police in Hallandale made another botched raid, storming the home of a pregnant woman and her three young children.

"The taxpayer should not have to pay for hurt feelings because those deputies inadvertently entered the wrong home."

frightened tenants moved out. City officials balked. "If it happened to me, I would be upset, too," said city attorney Louis Elder. "But the taxpayer should not have to pay for hurt feelings because those deputies inadvertently entered the wrong home." Elder also said Switalski was filled with "grandiose ideas" for attempting to sue the city, though she herself hadn't witnessed the raid.[397]

- **The Baines Family.** On November 8, 1997, police in Suffolk County, New York, received a tip from a drug suspect that residents of a home in Wyandanch were stashing " a black automatic pistol, two machine guns, a stainless steel sawed-off shotgun, ammunition, bullet-proof vests, crack cocaine, proceeds from drugs sales and drug paraphernalia." Within hours of the tip, and with no corroborating investigation, a judge issued a no-knock warrant and police executed a raid on the address given by the informant. The address turned out to be the home of Denise Baines and her two sons. Baines's 10-year-old son's bedroom was trashed in the raid. Police apologized to the Baineses upon realizing they'd raided the wrong home but defended the practice of executing quick, no-knock raids based on the tip of a single informant, even one who himself was a drug suspect.[398]
- **June Nixon.** On August 19, 1997, police in Kaufman County, Texas, kicked down the door to the home of June Nixon, her daughter Melissa Cheek, and her granddaughter. Police handcuffed the women and strip-searched them at gunpoint before realizing they'd raided the wrong house. The same sheriff's department was forced to apologize to two families in 1989 for mistaken drug raids that, according to the *Dallas Morning News*, "turned up no drugs, but left houses damaged and family members shaken."[399]
- **Salt Lake Tortilla Factory Raid.** In 1997, police in Salt Lake City, Utah, raided a tortilla factory and restaurant owned by Rafael Gomez, a naturalized citizen. Seventy-five heavily armed police officers stormed the business on a tip from a confidential informant. Expecting to find heroin and cocaine, they found only two 24-pill packs of the painkiller Darvon and two bottles of penicillin. Gomez says he was struck in the face and knocked to the floor, and that police trained a gun on his six-year-old son. One secretary says she was dragged to the floor by her hair. Police handcuffed 80 people, mostly Hispanic, in the raid and forced them to lie down for up to three hours as police searched the premises. Gomez spent a large sum of money fighting charges resulting from the raid, which were later dismissed. Bad publicity from the raid and the length of time it took to clear his name killed Gomez's business and dashed his hopes of opening a large shopping center in the area. He settled with the city of Salt Lake in 2004 for $290,000.[400]
- **The Tarkus Dillard Family.** In June 1996, police raided the Pontoon Beach, Illinois, home of Tarkus Dillard, Vickie Blakely, and the couple's two young children. According to Dillard and Blakely, one officer pointed a gun directly in the face of their three-year-old daughter. Police had mistakenly raided their home instead of the home next door. Police Chief Michael Crouch apologized to Dillard and Blakely but insisted police had done nothing wrong. A federal judge threw out a $1 million lawsuit against the police department in 1998. A lawyer for the police officers called the suit's dismissal a "tremendous vindication" of the officers' actions and said he was contemplating suing Dillard and Blakely, to recoup the city's legal costs.[401]
- **Jeffrey and Phyllis Hampton.** In May 1995, police in Concord, North Carolina, mistakenly stormed the home of Jeffrey and Phyllis Hampton. The Hamptons were relaxing at around 9:30 p.m. when

police broke down the Hamptons' door, came into the house with assault weapons, and ordered the couple to the floor. Police realized their mistake after about a half hour of interrogation.[402]

Three years later, Concord police would wrongly raid another home, that of Leonard Mackin, Charlene Howie, and their four children. Police burst into that home with guns drawn on the night of May 22, 1998, and ordered the family to the floor. After repeated pleas by Mackin to police that they had the wrong house, Detective Larry Welch recognized Mackin as a co-worker with the city and asked, "Leonard, is that you?" A confidential informant had given police the wrong address.[403]

In 1999, police in the same town shot 15-year-old Thomas Edwards Jr. in the back while he was on his hands and knees under orders from another police paramilitary unit on a drug raid. Edwards and five other children, all aged 13–17, were at the house playing video games when police conducted the raid. Officer Lennie Rivera shot Edwards just below the hip when, according to an internal police investigation, "a sudden movement jolted his gun, causing him to tighten his grip on it and pull the trigger." Police found a small amount of marijuana and cocaine at the home. Police Chief Robert E. Cansler said that his officers had done surveillance on the home an hour or two prior to the raid and that "at that time there were no indications of a group of children present." Officer Rivera was found to have improperly held his finger on the gun's trigger and was assigned to more training.[404]

- **Richard Brown.** On March 12, 1996, acting on a tip from an informant, a Miami SWAT team fired 122 rounds into the home of 73-year-old Richard Brown, while his 14 year-old great-granddaughter feared for her life in the bathroom. Brown was killed in the gunfire.[405] Police found no drugs in Brown's home. The city has since paid a $2.5 million settlement to Brown's survivors, and police on the SWAT team that raided Brown's home were later indicted for lying about the details of the raid. Internal Affairs supervisor and 25-year police veteran John Dalton, now retired, told the *Herald* that the head of internal affairs at the time, a former SWAT team member, discouraged a thorough investigation of the Brown case. "They were very defensive about this shooting from the beginning," Dalton said, adding that he'd been "chewed out" for asking difficult questions.
- **Charles Inscor.** In March 1995, police in Oldsmar, Florida, smashed through a glass door, deployed flashbang grenades, and stormed what they thought was the apartment of a drug dealer. Instead, they found 31-year-old Charles Inscor, a wheelchair-bound man with a respiratory problem. The SWAT team soon realized it had raided the wrong home. Inscor was hospitalized for a week as a result of the raid. An ensuing investigation found that though deputies made many mistakes during the investigation and raid, no disciplinary action would be taken because no rules were broken. According to the *St. Petersburg Times*, police couldn't be disciplined because "the Sheriff's office had no policies concerning how the SWAT team should serve search warrants."[406]

Caught in the Crossfire

Even when police have the correct address and have identified the correct suspect, and even if the suspect is correctly considered dangerous, too often they don't take note of innocent relatives, acquaintances, neighbors, or children who may be present during the raid and unnecessarily put in harm's way. Perhaps the most notable example of an innocent caught in drug raid crossfire is the case of 11-year-old Alberto Sepulveda.

Alberto Sepulveda. Early in the morning on September 13, 2000, agents from the DEA, the

A Miami SWAT team fired 122 rounds into the home of 73-year-old Richard Brown. Police found no drugs in Brown's home.

FBI, and the Stanislaus County, California, drug enforcement agency conducted raids on 14 homes in and around Modesto, California after a 19-month investigation. According to the *Los Angeles Times*, the DEA and FBI asked that local SWAT teams enter each home unannounced to secure the area ahead of federal agents, who would then come to serve the warrants and search for evidence. Federal agents warned the SWAT teams that the targets of the warrants, including Alberto Sepulveda's father Moises, should be considered armed and dangerous.[407]

After police forcibly entered the Sepulveda home, Alberto, his father, his mother, his sister, and his brother were ordered to lie face down on the floor with arms outstretched. Half a minute after the raid began, the shotgun that officer David Hawn had trained on Alberto accidentally discharged, instantly killing the 11-year-old. No drugs or weapons were found in the home.[408]

The *Los Angeles Times* reports that when Modesto police asked federal investigators if there were any children present in the Sepulveda home, they replied, "Not aware of any."[409] There were three. A subsequent internal investigation by the Modesto Police Department found that the DEA's evidence against Moises Sepulveda—who had no previous criminal record—was "minimal." In 2002 he pled guilty to the last charge remaining against him as a result of the investigation—using a telephone to distribute marijuana.[410] The city of Modesto and the federal government settled a lawsuit brought by the Sepulvedas for the death of their son for $3 million.[411]

When Modesto police asked federal investigators if there were any children present in the Sepulveda home, they replied, "Not aware of any." There were three.

At first, Modesto police chief Roy Wasden seemed to be moved by Sepulveda's death toward genuine reform. "What are we gaining by serving these drug warrants?" Wasden is quoted as asking in the *Modesto Bee*. "We ought to be saying, 'It's not worth the risk. We're not going to put our officers and community at risk anymore.'"[412]

Unfortunately, as part of the settlement with the Sepulvedas, while Modesto announced several reforms in the way its SWAT team would carry out drug raids, there was no mention of discontinuing the use of paramilitary units to conduct no-knock or knock-and-announce warrants on nonviolent drug offenders.[413]

Here are some other cases of people caught in drug-raid crossfire who weren't suspects:

- **Michael Meluzzi.** On July 8, 2005, a Sarasota, Florida, SWAT team conducted a drug raid on a home where several children were playing in the front yard. The SWAT team descended from a van, deployed flashbang grenades in front of and inside the house, then swarmed the home. Forty-four-year-old Michael Meluzzi, who had a criminal record, fled when he saw the armed agents exit the van. Police chased Meluzzi down and fired a Taser gun at him, only partially hitting him.

  According to Officer Alan Devaney, Meluzzi then reached into his waistband, leading Devaney to believe Meluzzi was armed. Devaney opened fire, killing Meluzzi. Police found no weapon on or near Meluzzi's body.[414]
- **Ronnie Goodwin.** On May 26, 2005, a SWAT team conducted a drug raid on the Syracuse, New York, home of Sonya Goodwin while looking for drug suspect Angelo Jenkins. Police had Ronnie Goodwin, 13, on the living room floor at gunpoint when a deputy on the SWAT team fired off several shots at the Goodwin's dog. One of those bullets ricocheted, striking the boy in the leg. Goodwin's mother later filed a lawsuit, claiming the boy suffered "severe and debilitating" injuries as a result of the bullet.[415]
- **Cheryl Lynn Noel.** On January 21, 2005, Baltimore County, Maryland, police raided the Dundalk neighborhood home of Charles and Cheryl Noel at around 5 a.m. on a narcotics warrant. They'd obtained the warrant after finding marijuana seeds and stems in the

Noels' trash. They deployed a flashbang grenade, then quickly subdued the first-floor occupants—a man and two young adults. When officers entered the second-floor bedroom of Cheryl Lynn Noel, they broke open her door to find the middle-aged woman in her bed, frightened, pointing a handgun at them. One officer fired three times. Noel died at the scene.[416] Friends and acquaintances described Noel as "a wonderful person." One man collected 200 signatures from friends, neighbors, and coworkers vouching for her character.[417]

One possible reason Noel brandished a gun to defend herself: Nine years earlier, her stepdaughter had been murdered.[418] Police charged Noel's husband and two children with misdemeanor possession of marijuana and marijuana paraphernalia.[419] A subsequent investigation found no wrongdoing on the part of the police.[420]

- **Rhiannon Kephart.** In January 2005, 18-year-old Rhiannon Kephart was hospitalized in serious condition after she received severe burns during a pre-dawn paramilitary raid on a Niagara Falls apartment.

  Kephart—who wasn't the target of the raid—suffered second- and third-degree burns on her chest and stomach after the flashbang grenade tossed through a window by the raiding officers landed on the bed where she was sleeping. The grenade ignited the bed sheets, setting off a fire in the apartment.[421]
- **James Hoskins.** On February 6, 2004, Middletown, Pennsylvania, police stormed the home of James Hoskins on a drug warrant. They were looking for Hoskin's brother Jim, whom they eventually arrested for possessing "a small amount of marijuana, a glass pipe, and about $622," according to the *Philadelphia Inquirer*.[422]

  When Hoskins heard the loud thud of police breaking into his home, he got up from his bed to investigate, naked and unarmed. As he approached the bedroom door, a Middletown detective pushed his way into Hoskins' bedroom. Hoskins and his girlfriend say the detective never identified himself. Later explaining that he mistook the T-shirt Hoskins was using to cover his genitalia for a gun, the detective fired. The bullet entered Hoskins' abdomen, then ripped through his stomach, small intestine, and colon. It eventually lodged in his leg, which later had to be amputated. It wasn't until weeks later, after he emerged from a coma, that Hoskins learned the man who shot him was a police officer, not a criminal intruder.[423]

  Remarkably, the Middletown Township police department saw no need to conduct an internal investigation of the shooting until prodded by the district attorney.[424] The district attorney's own investigation found no evidence of wrongdoing on the part of the shooting officer.[425] Hoskins settled a lawsuit with the city of Middletown in 2005 for an undisclosed amount of money. He settled with the local township for $250,000.[426]
- **Desmond Ray.** On December 11, 2002, police in Prince George's County, Maryland, were preparing for a SWAT raid on a suspected drug dealer. Just as the raid commenced, Desmond Ray—who wasn't the target of the raid—got out of a parked car. Cpl. Charles Ramseur says Ray reached for his waistband when exiting the car. Ray says he put his hands in the air.

  Ramseur fired his weapon at Ray, striking him in the spine and paralyzing him. Ray wasn't armed and was never charged with a crime.

  In April 2004, an "Executive Review Panel" found that Ramseur had no justification for shooting Ray and recommended administrative charges against him for using excessive force. But that recommendation was overruled when the internal police review board later found no wrongdoing. Ramseur was reinstated. The county police settled a

Weeks later, after he emerged from a coma, Hoskins learned the man who shot him was a police officer, not a criminal intruder.

civil suit with Ray for an undisclosed sum of money.[427]

- **Meredith "Buddy" Sutherland.** On October 4, 2002, police raided a home in Windsor, Pennsylvania, on suspicion of drug activity. According to news reports, the raid was doomed from the start—the SWAT team was aware that someone inside the home had spotted them, meaning they'd lost the element of surprise SWAT proponents say is the main reason for conducting paramilitary drug raids in the first place. Police raided anyway.

  Once inside, police went from room to room in the dark home. Trooper Gregory Broaddus entered a bedroom where Meredith "Buddy" Sutherland Jr. was sleeping. Sutherland didn't live in the house, but was visiting a friend. Officer Broaddus mistakenly thought Sutherland was clutching a weapon when he entered the room, and fired, striking Sutherland. Sutherland had no weapon and was never charged with a crime.

  Other occupants were eventually charged with drug crimes. Sutherland sued in June 2004 for compensation for his injuries. The state attorney general asked that the suit be dismissed, arguing that the officer in question had immunity and that Sutherland was ultimately responsible for his own injuries.[428]
- **Julius Powell.** On August 22, 2001, police conducted a paramilitary marijuana raid on the Powell family in North Minneapolis, Minnesota. As they were approaching the house to conduct the raid, police shot and killed a pit bull a man was walking just outside the house. One of the bullets ricocheted and struck the forearm of 11-year-old Julius Powell, who at the time was taking out the family trash. Police did find some marijuana in the home. The incident—the latest in a series of police shootings in the city—sparked riots and protests.[429]
- **Tony Martinez.** On December 20, 2001, police in Travis County, Texas, stormed a mobile home on a no-knock drug warrant. Nineteen-year-old Tony Martinez, nephew of the man named in the warrant, was asleep on the couch. When Martinez rose from the couch as police broke into the home, deputy Derek Hill shot him in the chest, killing him.[430] Martinez was unarmed and never suspected of a crime.

  A grand jury later declined to indict Hill in the shooting.[431] The shooting occurred less than a mile from the spot of a botched drug raid that cost Deputy Keith Ruiz his life a year earlier. Hill was also on the raid that ended with the death of Ruiz.[432] The same Travis County paramilitary unit would later erroneously raid a woman's home after mistaking ragweed for marijuana plants.
- **Lynette Gayle Jackson.** On September 22, 2000, police in Riverdale, Georgia, shot and killed Lynette Gayle Jackson in an early morning, no-knock drug raid.

  A few weeks earlier, Jackson had been at home alone when burglars broke into her house. She escaped out a window and called the police while the intruders ransacked her home. When police arrived to answer the burglary call, they found a small amount of cocaine in the bedroom, which belonged to Jackson's boyfriend. While the quantity of cocaine wasn't sufficient to press charges, police began a subsequent investigation of Jackson's boyfriend. That investigation led to the September no-knock raid. Jackson, believing she was again being robbed, was holding a gun in her bedroom when the SWAT team entered. Her maintenance man said Jackson had been frightened by the previous burglary, telling the *Atlanta Journal and Constitution*, "I think she was scared and she probably thought it was another break-in."[433]
- **Willie and Charles Alford.** On February 27, 2002, police raided the home of 77-year-old Willie Alford on a narcotics warrant issued for his daughter and two

When Martinez rose from the couch as police broke into the home, deputy Derek Hill shot him in the chest, killing him.

grandchildren. Police from the federal Drug Enforcement Agency; the Cumberland County, North Carolina, Sheriff's Office; and the North Carolina State Bureau of Investigation broke into the home at 8 p.m. and, according to Alford, "came in shooting." Two children were also present in the home. Police shot Alford's son Charles, a truck driver visiting from out of town who wasn't a suspect, in the arm, legs, and side. Police found no weapons in the home. Two suspects named in the warrant were arrested at the site of the raid, and one was arrested the following day.[434]

- **Jose Colon.** On April 19, 2002, police were preparing to conduct a heavily armed late-night drug raid (it included a helicopter) on a home in Bellport, New York. As four paramilitary unit officers rushed across the front lawn, 19-year-old Jose Colon emerged from the targeted house. According to the police account of the raid, as officers approached, one officer tripped over a tree root, then fell forward and into the lead officer, causing his gun to accidentally discharge three times.[435] One of the three bullets hit Colon in the side of the head, killing him. Police say they screamed at Colon to "get down" as they approached, though two witnesses told a local newscast that (a) their screams were inaudible over the sound of the helicopter. The witnesses also stated that (b) the officers appeared to be frozen before the shooting—no one tripped.[436] Though he was visiting the house at the time, Colon was never suspected of buying or selling drugs. Police proceeded with the raid and seized eight ounces of marijuana. A subsequent investigation found no criminal wrongdoing on the part of police.[437] Colon had no criminal record and was months away from becoming the first member of his family to earn a bachelor's degree. His family is pursuing a lawsuit.[438]
- **Christie Green.** In December 1998, police in Richmond, Virginia, conducted a paramilitary drug raid on an apartment whose occupant was suspected of drug activity. During the raid, Sgt. George Ingram fired "breaching round" shotgun shells—intended to blow the locks off doors—into the door leading to the apartment's kitchen. Ingram fired five rounds, one of which went through the door, striking 18-year-old Christie Green in the chest. Green later died from the wound.

  Green didn't live at the apartment, and police concede they had no reason to believe she was involved in any drug activity or that she knew any was going on in the apartment. Green's family sued both the city of Richmond and the manufacturer of the round, which is designed to dissolve on impact. In 2002, a circuit court jury found that the manufacturer of the round wasn't liable for Green's death. Then, in 2004, a judge in Richmond found that the officer who fired the round wasn't liable either.[439] In March 2005, the Virginia State Supreme Court reinstated the case against the city and the officer, ruling that a jury, not a judge, should make the determination of liability. In January 2006, a jury found Officer Ingram grossly negligent in the raid and awarded the Green family $1.5 million in damages.[440]
- **Delbert Bonar.** On October 15, 1998, deputies in Washington County, Ohio, made an unannounced nighttime entry into the home of 57-year-old Delbert Bonar, a retired school janitor. Police had a search warrant to look for stolen weapons and marijuana in the possession of Albert Bonar, Delbert's son. Police claim that upon their entering the home, the elder Bonar grabbed a shotgun and ignored orders to release it. Albert Bonar's wife disputes this account of the raid. Police shot Delbert Bonar eight times, killing him. Police found a small amount of marijuana in the house. Though the Washington County sheriff insisted his men acted

"I think she was scared and she probably thought it was another break-in."

Though never charged, Cauthorne served more than six weeks in jail.

properly, the county paid the Bonar family a $450,000 settlement in 2003.[441]

The Threat to Law Enforcement

Because SWAT raids escalate the violence associated with executing a search warrant, they not only increase the odds of unintended civilian casualties, but they can lead—and have led—to tragic consequences for police officers, too. The volatility of these raids means that the slightest of errors—not just in ensuring that the information on the warrants is correct but in the actual execution of the raids—can be catastrophic for everyone involved. The following is a partial list of raids in which police officers were killed or injured:

- **The Jillian King Raid.** On January 14, 2003, Jillian D. King shot and wounded a Muncie, Indiana, police officer as a SWAT team in black masks and camouflage conducted a raid on her boyfriend's home. Officers were serving a no-knock warrant after finding cocaine inside the car of another resident of the house. King, who had been previously robbed at gunpoint, fired at what she thought were intruders.[442] "I saw what appeared to be a burglar jerking at the door," she told the court. "I ran down and got a gun and shot out a window." King was never charged with drug possession but was charged with felony criminal recklessness. During her trial, King said if she had known the intruders were police, "I would have opened the door." The prosecutor described her as having "an itchy trigger finger." Though individual Muncie SWAT team members testified they "always" announce themselves and wait before entering a residence, they also said they typically wait just five seconds between knocking and forcing entry, clearly not enough time for a suspect in another room or asleep to answer. Video of the raid in question showed officers prying open doors *before* knocking or announcing.[443] King originally pled guilty to the charge, but a judge refused to accept her plea. The jury deadlocked in her trial.[444]
- **The Lewis Cauthorne Raid.** On January 7, 2003, prosecutors in Baltimore, Maryland, announced they would *not* seek charges against Lewis S. Cauthorne for firing a .45-caliber handgun at police who broke down his door during a no-knock raid in November 2002. Cauthorne, at home with his mother, girlfriend, and three-year-old daughter, heard screaming when police broke open the door to his home and began searching for drugs without identifying themselves. Prosecutors determined that Cauthorne, who had no arrest record and whose father had been robbed and killed as a cab driver, had reason to believe his life was in danger when he fired and wounded four of the raiding police officers. Police fired back, but fortunately, no one in the family was hurt.

  Police were acting on a tip from a confidential informant and claim to have found six bags with traces of marijuana, empty vials, a razor with cocaine residue, and two scales in Cauthorne's home. But the ensuing investigation found peculiarities with the evidence that precluded Cauthorne from being charged with even a misdemeanor. There was no record of where exactly in the home the drugs had been found, for example, and police told crime lab technicians not to photograph the evidence. The officers who conducted the raid were also unavailable for interviews with investigators until days or weeks after the raid took place. Though never charged, Cauthorne served more than six weeks in jail before the charges against him were dismissed.[445]
- **Officer Ron Jones.** On December 26, 2001, police in Prentiss, Mississippi, served search warrants on two apartments in a duplex. One apartment was occupied by Jamie Smith, named in the warrant as a "known drug dealer." The other was occupied by Cory Maye, who had no criminal record and wasn't

named in the warrants. At the time of the raid, Maye was asleep with his 18-month-old daughter. After attempting to enter through the front door, police moved to the back and broke down the door to Maye's bedroom. Officer Ron Jones was the first police officer to enter. Maye, who says he feared for his life, fired three times, striking Jones once. Maye's bullet hit Jones in the abdomen, just below his bulletproof vest. Jones died a short time later. Police found only traces of marijuana in Maye's apartment, after first telling reporters they'd found no drugs at all. Officer Jones was the only officer who conducted the investigation leading up to the raid and apparently kept no notes of his investigation. According to the district attorney and prosecutor in the Maye case, all evidence of the investigation leading to the raid on Maye's home "died with Officer Jones."[446] In January 2004, Maye was convicted of capital murder for the death of Jones and sentenced to die by lethal injection.[447]

- **Deputy Keith Ruiz.** On February 15, 2001, police raided the Del Valle, Texas, mobile home of Edwin Delamora, where he lived with his wife and two children. As two deputies beat down his door with a battering ram, Delamora fired, fearing he was under attack. One bullet from his gun struck and killed sheriff's deputy Keith Ruiz. Delamora had no previous criminal record and his defense attorney says the raid on his home was influenced by an anonymous informant who turned out to be the brother of two sheriff's deputies. Information about the informant's relationship with the police was suppressed at trial. Delamora was eventually convicted of capital murder and sentenced to life in prison. Police found less than an ounce of methamphetamine and one ounce of marijuana in his home. Prosecutors declined to seek the death penalty because of substantial doubt over whether Delamora knew the officers were police or whether he genuinely believed them to be intruders.[448]
- **Deputies James Moulson and Philip Anderson; George Timothy Williams.** On January 3, 2001, Jerome County, Idaho, sheriff's deputies James Moulson and Phillip Anderson conducted a raid on the home of George Timothy Williams. The warrant for the raid contained information from a confidential informant asserting that Williams was one of the leading suppliers of marijuana in the county. Moulson and Anderson conducted the raid at night, wearing camouflage. It's unclear whether they announced themselves before entering. Williams fired when the deputies entered, and the deputies returned fire. All three died in the shootout. A subsequent search turned up less than four grams of marijuana. Lawsuits brought by the families of both slain deputies and by Williams's family revealed that the informant was a woman who lived with Williams. One suit alleges that the sheriff's department threatened to take away the woman's child if she didn't give them the information they needed to get the warrant. The county settled with the family of one deputy.[449] A federal court dismissed the lawsuit brought by Williams's family. An Idaho state police investigation found no wrongdoing on the part of the sheriff's department or the deputies who conducted the raid.[450]
- **Officer David Eales.** On September 24, 1999, police in Sallisaw, Oklahoma, procured a no-knock warrant on the home of Eugene Barrett, suspected of trafficking methamphetamine. As the police vehicles descended upon his home, Barrett opened fire. One bullet struck and killed Oklahoma Highway Patrol Officer David Eales. Barrett claims he was acting in self defense. After a state jury declined to give Barrett the death penalty, he was tried again in federal court, convicted, and sentenced to death.[451]

At the time of the raid, Maye was asleep with his 18-month-old daughter.

- **The Mary Lou Coonfield Raid.** In August 1996, Tulsa police raided the home of 70-year-old Mary Lou Coonfield on a drug warrant. Coonfield awoke to find a man in black standing in her bedroom, holding a gun. She grabbed a .22-caliber pistol and fired, wounding Tulsa County Deputy Sheriff Newt Ellenbarger. The warrant for Coonfield was later thrown out, ruled in both 1996 and 1997 to be illegal. In 1999, a jury acquitted Coonfield of assault and battery with a dangerous weapon and feloniously pointing a weapon. Coonfield was acquitted because of Oklahoma's "Make My Day" law, which states that "an occupant of a house is justified in using physical force, including deadly force, against another person who has unlawfully entered the house if the occupant reasonably believes that the other person might use any physical force, no matter how slight, against any occupant of the house." Coonfield, who's both hard of hearing and has poor eyesight, says she didn't hear police announce themselves before entering, and thought she was being robbed.[452]
- **Officer James Jensen.** On March 13, 1996, the Oxnard, California, SWAT team conducted an early morning drug raid on a home that turned out to be unoccupied. In the maze of smoke and light that followed the deployment of a flashbang grenade, a fellow SWAT team member, who would later reveal that his judgment was clouded by Vicodin, mistook Officer James Jensen for a hostile occupant of the house and shot him dead. Jensen's family won a $3.5 million settlement from the city of Oxnard in 1999.[453]
- **The Andre Madison Raid.** On November 7, 1995, police in North Minneapolis, Minnesota, raided the home of Andre Madison. After local media merely recounted the police version of events, *Minneapolis City Pages* conducted an in-depth investigation. According to the paper's account, police obtained a no-knock warrant on Madison's home after a confidential informant allegedly purchased some marijuana at the residence.[454]

At about 8 p.m., the Minneapolis paramilitary unit, called ERU, deployed flashbang grenades at the front of Madison's home. At the same time, police from the city's housing unit were entering the home from the rear. Reports at the time say police began firing when Madison fired his shotgun at them. But a forensics team later determined that Madison's gun was never fired the night of the raid. Instead, an investigation conducted by a police chief from a nearby county speculated that the housing unit officers mistook the flashbang grenades deployed by the ERU unit for gunfire from the suspect and opened fire themselves. The two police units then mistook one another for assailants and began to fire upon one another. When Officer Mark Lanasa went down, shot in the neck by a colleague, the commanding officer called for "suppressive fire," giving officers carte blanche to shoot at will. Upon hearing that a fellow officer had gone down, more police soon arrived at the scene. They too joined in the shooting. Hundreds of rounds were fired into the building. There were bullet holes found in neighboring buildings, as well. Madison, the suspect, was shot in the neck and the arm. Miraculously, no one was killed.[455]

The two police units then mistook one another for assailants and began to fire upon one another.

Police found only a small amount of marijuana in Madison's home. He was never charged with a drug crime. He was charged with four felony counts of second-degree assault with a firearm—not for shooting, but for *pointing* his shotgun at police. He could have been sentenced to 12 years in prison. Madison insists he thought the police were intruders. Prosecutors then offered to let Madison plead to a misdemeanor count of reckless use of a firearm, which carries a sentence of just 90 days. The

hitch was that a guilty plea to the lesser charge would have prevented Madison from suing the city.

The subsequent investigation and report from the outside police chief concluded that Minneapolis's ERU unit "executes too many warrants and relies too heavily on dynamic (door-ramming) raids," explaining that "there are other alternative tactics that ERU is aware of. However when so many raids are conducted using dynamic entry, other tactics may be forgotten."[456]

Confronting Nonviolent Offenders with Violent Tactics

Drug war supporters and casual observers often find it difficult to criticize paramilitary raids ending in the death or injury of nonviolent drug users or dealers, noting that those people are, after all, breaking the law. If drugs are found at the scene, even raids ending in a suspect's death are somehow deemed less troubling than raids ending in the deaths of innocents. The case against the suspect and in favor of the decision to raid with a paramilitary unit seems to grow stronger if the suspect also possesses weapons, or worse, points them at or attempts to use them against the raiding police officers. Perhaps it's true that such scenarios shouldn't trouble us as much as raids on the homes of innocents. But they're still troubling, for two reasons.

First, by some estimates, more than 96 million Americans have consumed marijuana at some point in their lives.[457] The overwhelming majority of them have done so peacefully and at the expense of no one else. Legalizing marijuana is a debate for another time. But it would be absurd to suggest that the 96 million Americans who have tried or continue to smoke marijuana have effectively given up their Fourth Amendment rights. Smoking marijuana, or even selling it to someone else, isn't a violent crime and, consequently, doesn't merit a home invasion by police armed with the weaponry and mindset of soldiers. It certainly doesn't merit death. Yet a troublingly high number of these raids are aimed at marijuana offenders.

Second, as discussed earlier, given the tactics associated with no-knock warrants, it isn't difficult to see why people might grab weapons to defend themselves and their families when police violently storm a home late at night or just before dawn. That a suspect pointed a weapon at police serving a no-knock warrant doesn't prove that the suspect was violent or a threat to the public. It only proves that someone in the privacy of his own home was understandably threatened by the presence of armed intruders.

The fact that police find weapons or marijuana at the scene of a raid, then, still doesn't mean paramilitary tactics and forced entry were justified. It's possible—likely, even—that millions of Americans are both harmless recreational marijuana users and legal gun owners. The presence of both doesn't make them a threat to the community. And the only legitimate use of paramilitary units like SWAT teams, indeed the reason they were originally implemented, is to deal with real, immediate, and obvious threats to the public safety.

Perhaps the best example of how such violent tactics unleashed on nonviolent drug users invite tragedy is the case of Clayton Helriggle.

Clayton Helriggle. Helriggle, 23, lived in a house with four roommates in West Alexandria, Ohio. In September 2002, a local SWAT team conducted a no-knock raid on the house. Local police had only recently put the SWAT team together—the most experienced members of the team had less than four hours of tactical training. Others had never trained with the SWAT team before. A post-raid report would later find that "wrong dates were used in an affidavit, and investigators questioned why so little time was provided for surveillance of the house and why there were no controlled narcotic purchases from the house."[458] According to the *Dayton Daily News*, the search warrant was "largely based on overheard conversations, a few hours of surveillance, and the word of a convicted felon who

The search warrant was "largely based on overheard conversations, a few hours of surveillance, and the word of a convicted felon."

had recently lied to a court to remain free on bond." Informant Kevin Leitch insisted there were "pounds and pounds" of marijuana at the residence and specifically identified Helriggle as a dealer. Leitch later told investigators he was mistaken. Helriggle's family says he was a recreational marijuana smoker, though not a dealer.[459]

On September 27, 2002, 25–30 police officers emerged from nearby woods and swarmed the farmhouse. SWAT officers detonated several flashbang grenades on the first floor, then used a battering ram to force their way into the rented farmhouse. As police in shields and body armor subdued three of the house's occupants, Helriggle, asleep in an upstairs bedroom, was awakened by the commotion and descended the stairs. Police at the scene say he was carrying a handgun at the time. Helriggle's roommates insist that while Helriggle did own a licensed handgun, he'd left it in the bedroom and was holding a blue cup of water. Whatever Helriggle was holding, his last words—"What's going on?"—indicate he wasn't aware that the armed intruders in his home were police. A SWAT team member interpreted the item in his hand to be a gun and put a single shotgun blast into Helriggle's chest. He died at the scene, in the arms of one of his roommates.[460]

"Wow, they took down a farm of unarmed hippies."

Immediately after the raid, police told local reporters that they'd found marijuana, pills, weapons, drug paraphernalia, and drug "packaging materials" at the home. The pills proved to be a bottle of prescribed codeine. The weapons were Helriggle's legal handgun, an old shotgun, and a .22-caliber rifle, not particularly unusual for an Ohio farmhouse. The "packaging materials" turned out to be a box of sandwich bags. And police found less than an ounce of marijuana. No charges were filed against any of the house's occupants.[461]

In addition to the tip from an unreliable informant, police raided the farmhouse on the basis of evidence they say they collected while conducting surveillance. As it turns out, that evidence too was questionable. Officer George Petitt, who both conducted the surveillance and planned the raid, told investigators he concluded the farmhouse was a "dope house, just by the activity" of cars pulling in and out of the driveway. But when pressed, he conceded that he had no first-hand knowledge of a single marijuana deal that took place at the farmhouse.[462] The absurdity of using a highly armed, poorly trained SWAT team to carry out a violent, volatile raid on a house rented by recreational marijuana users was captured by Ian Albert, a resident of the farmhouse who also happened to have just completed Navy SEAL training. It was Albert who held Helriggle in his arms as he bled to death. According to the *Dayton Daily News* Albert's first thought at the time was "Wow, they took down a farm of unarmed hippies."

"If they would have come to the door and said, 'Give us your dope, hippies,'" he added, "we'd have gotten about a $100 ticket."[463]

A grand jury and internal investigation later found no criminal wrongdoing on the part of police officers but did find the SWAT team "ill prepared" and "lack[ing] experience in dangerous searches."[464] The grand jury report also noted that the officers who conducted the raid had refused to cooperate with investigators.[465]

In January 2004, Greene County, Ohio, prosecutor Bill Schenk suggested the possibility of reopening the Helriggle case, saying that he was concerned that Helriggle had been publicly portrayed as a drug dealer. "I think it's fair to say that there was no drug dealing by Mr. Helriggle," he told the *Dayton Daily News*.[466]

Despite the fact that he was at the time awaiting sentencing for more than a dozen crimes, including forgery, theft, burglary, breaking and entering, and safecracking, informant Kevin Leitch was never charged for lying to police officers, nor was he charged for lying under oath to the grand jury investigating the raid.[467] These kinds of cases are increasingly common. It's now routine for police to deploy SWAT teams to serve search warrants on nonviolent marijuana suspects for crimes that in many cases barely qualify as misdemeanors. These unnecessari-

ly violent and confrontational tactics are, also, increasingly bearing tragic results. Some examples:

- **Leesburg, Virginia.** In January 2006, police in Leesburg used flashbang grenades while raiding the home of a marijuana suspect. Police obtained the warrant after sifting through trash bags outside the house. They found one small bag of marijuana.[468]
- **Decatur, Alabama.** In October 2005, police in Decatur raided a family home on a marijuana warrant. Police shot and killed two of the family's dogs and, according to the targets of the raid, made jokes about the dead pets while the suspects were in custody. Police seized eight grams of marijuana, or about enough to fill a ketchup packet.[469]
- **Shannon Hills, Arkansas.** In February 2005, police in Shannon Hills stormed a home with their guns drawn during a toddler's birthday party. The target was a pregnant woman attending the party. Police arrested her on suspicion of distributing marijuana. Police Chief Richard Friend told one reporter, referencing the birthday, "We got them something they wish they could return."[470]
- **Angela King.** On May 17, 2004, Perry County, Kentucky, police raided the home of Dennis Ray and Angela King on suspicion of marijuana distribution. Deputy Sheriff John Couch shot Angela King twice, once in the head, in the course of the raid. Police say King fired a weapon at them first, though the couple's 14-year-old-son—also in the home at the time of the raid and who was subdued with a policeman's foot on his shoulder—says he heard only two shots. The police were cleared of all wrongdoing in the shooting. Dennis Ray was arrested on charges of distributing marijuana.[471]
- **Linda Florek.** On December 7, 2004, at 10 p.m., police in Mundelein, Illinois, broke down the door to the home of 48-year-old Linda Florek. They then ordered Florek and her son to the floor and handcuffed them. Shortly into the raid, Florek—who has a cardiac condition—told police she was having chest pains, possibly a heart attack. According to a lawsuit later filed by Florek, police refused to let her take an aspirin or to call an ambulance. Ninety minutes later, the officers finally believed her and called an ambulance. Florek was eventually admitted to a hospital, where doctors determined she'd had a heart attack and needed immediate surgery. Police issued Florek a ticket and fine for the misdemeanor possession of less than 2.5 grams of marijuana.[472]
- **Shay Neace.** On March 22, 2003, police in SWAT attire raided a home in Canton, Ohio, on a marijuana warrant, looking for a man with a history of marijuana distribution. There was a party at the home that night. As the raid commenced, Officer William Watson of the Perry Township Police Department made his way to the home's second floor, and pulled open the door to a bathroom. Inside, 24-year-old Shay Neace and his brother Seth were smoking marijuana. Watson pushed a gun through the door and ordered everyone in the bathroom to the floor. Neace and his brother say Watson never announced himself. They thought they were being robbed. Shay Neace grabbed Watson's gun and pushed it away. He then pushed the gunman—Watson—out into the hall. At that point, Watson fired, hitting Neace in the shoulder and in the back. The second shot left Neace paralyzed. Officer Watson was cleared of all charges by a grand jury. Neace was indicted by a separate grand jury, then acquitted in a criminal trial of obstructing an investigation and resisting arrest. Neace's civil suit against Watson is still pending.[473]
- **Robert Filgo.** On September 2, 2003, police in Fremont, California, forced open the door of 41-year-old marijuana

Police entered, forced Filgo to the floor at gunpoint, then shot his pet Akita nine times, killing it.

When Monroe asked if she could put on some clothing, one officer put a black bag over her head and tightened it around her neck.

patient Robert Filgo, who had both a doctor's prescription and a certificate from the city of Oakland permitting him to possess the drug. Police entered, forced Filgo to the floor at gunpoint, then shot his pet Akita nine times, killing it. The Alameda County District Attorney's Office later declined to press charges against Filgo.[474]

- **Marcella Monroe and Tam Davage.** In October 2002, police in Eugene, Oregon, assembled a massive show of force—52 police officers from four agencies in full SWAT attire, assault weapons, shotguns, and an armored vehicle borrowed from the Oregon National Guard—to conduct a raid on three homes in the Whitaker neighborhood they suspected of growing marijuana. All three homes were owned by one couple, Marcella Monroe and Tam Davage. Davage and Monroe lived in one of the homes, with two tenants. They were renovating the other two houses, which had been destroyed in a windstorm. Police officers were aware that there were likely to be only three or four people at most in the three homes, despite the force of 52 officers they brought for the raid.[475]

  The massive SWAT team was dressed in black or in camouflage and wore ski masks. They deployed flashbang grenades, then forced entry into the home occupied by Davage, Monroe, and their tenants without announcing themselves. They pulled the two couples out of bed and wrestled them to the ground. They put assault weapons to residents' heads, tightly handcuffed them, and refused to let the two women, who were partially nude, cover themselves (they also took photos of the women before allowing them to dress).[476]

  When Monroe asked if she could put on some clothing, one officer put a black bag over her head and tightened it around her neck. Because police at that point had still failed to identify themselves, Monroe says she believed she was about to be executed (as for the black bag tactic, the Eugene Police Department had been warned to discontinue the practice by the National Tactical Officers Association, who cautioned that "this practice is not acceptable in the law enforcement community," that it "has no lawful purpose," and though it is commonly used in military operations, "it has no place in civilian operations").[477] Monroe also sustained a cut on her head after one officer pushed her to the ground and put a boot on the back of her neck.[478]

  Police found no plants, no weapons, and only "residue" of marijuana in a couple of plastic bags, for which the couple's tenant was issued a misdemeanor citation. Neither Monroe nor Davage had a criminal record, and none of the occupants had any history of violent crime.[479]

  Nevertheless, police still charged Davage and Monroe with felony manufacture of a controlled substance. They cited the evidence they'd found: fans, fluorescent lights, plastic sheeting, timers, potting equipment, sandwich bags, a scale, 24 electrical outlets, and a shop vacuum. Of course, none of those items is illegal, and in the case of Davage and Monroe, all were perfectly sensible to have around: Davage was a work-at-home jeweler, explaining the lights and the outlets. Monroe owned a landscaping business, explaining the potting supplies and vacuum. Of course, as noted, the two were also renovating all three houses, as police could have easily ascertained, both during the raid and during the undercover visit one officer paid to the couple (posing as a potential tenant) before securing a warrant for the raid.[480] Monroe had come to the attention of police when they'd busted a marijuana growing operation in Portland, where they found cashier's checks made payable to her. What the officer failed to mention in the affidavit, however, was

that the checks were clearly identified as payment for landscaping services and were made in the name of Monroe's business. The most recent check was dated 1997, five years before the raid.[481]

In a subsequent lawsuit, Monroe and Davage outlined a host of other misleading assertions and questionable omissions in the affidavit that led to the raid on their home. The officer, for example, cites unusually the high use of electricity, the presence of potting soil, an electrical cord, and a "humming noise," as grounds to suspect cultivation of marijuana. The affidavit never mentioned Monroe's landscaping business, Davage's jewelry business, or the fact that the couple was repairing their home from storm damage, though the officer was aware of all three. The affidavit also makes no mention of the possibility of weapons, disposability of evidence, or violent tendencies of any of the home's occupants, all of which would have been required to justify a no-knock raid.[482]

Police defended the raid as entirely necessary and appropriate, given the well-known danger posed by people who grow marijuana. The spokesman for one of the task forces involved in the raid added that "the community at large" approved of such tactics. The Whitaker Community Council later condemned the raid at a public neighborhood meeting, as well as in a press release.[483]

- **Jeffery Robinson.** On July 30, 2002, police stormed the home of Jeffery Robinson, a 41-year-old gravedigger in South Memphis, Tennessee. Robinson lived in a small building on the site of the cemetery that employed him. Police conducted the raid on the basis of an anonymous tip that someone was selling marijuana on the cemetery grounds. Raiding officers kicked in Robinson's bedroom door and immediately shot Robinson in the neck. Robinson died three weeks later. Police say Robinson charged them with a box cutter. They also found a small amount of marijuana near a camper in Robinson's backyard and charged him with possession, even as he lay in a hospital fighting for his life. A review by the Memphis police department's internal affairs unit and the Attorney General's Office found no wrongdoing on the part of the police. For two and a half years, the officers who participated in that raid remained on the Memphis police force. But in October of 2004, the jury in a federal civil suit brought by Robinson's family made some striking findings:

  The jury concluded that the box cutter police say Robinson charged them with—which was never fingerprinted—was planted on Robinson after the raid. During the trial, a medical examiner and blood spatter expert also testified that the shooting couldn't possibly have happened the way the officers say it did. Further, the shirt Robinson wore, as well as the shirt of the officer who shot him, vanished after the raid. Trial testimony revealed that police bought a new polo shirt, still in its wrapper, and tagged it as the shirt Robinson wore the night he was shot.

  The federal jury concluded that the officers shot Robinson without justification, then tampered with the evidence to cover up their mistakes. The jury also cast doubt on the ensuing investigation by the police department's internal affairs division.[484] In February 2005, the eight officers involved in the raid were finally suspended, more than two years after the raid.[485] Robinson's family won a $2.85 million verdict against the officers and negotiated a $1 million settlement from the city of Memphis.[486]

- **Vernard Davis.** In January 2001, police in Rochester, New York, conducted a late-night drug raid at the home of Vernard Davis. During the raid, Officer David Gebhardt's shotgun accidentally

The eight officers involved in the raid were finally suspended, more than two years after the raid.

discharged as he stumbled through a dark room. The blast hit Davis in the chest, killing him. Davis left behind two toddlers and one six-year-old. Police did find a significant amount of drugs in the room, but no weapons. In 2004, the city of Rochester awarded Davis's children a $300,000 settlement. The presiding judge called the shooting "a tragic, unintended accident."[487]

- **Jacqueline Paasch.** In early 2000, a SWAT team from the Milwaukee County, Wisconsin, sheriff's department broke into the home of Jacqueline Paasch and her two brothers on a no-knock drug warrant for suspicion of marijuana possession. Paasch says she heard footsteps rumbling up the stairs, but before she could figure out what was happening, her door was kicked in, a gun went off, and she was on the floor, bleeding.

  Paasch was hit in the leg, incurred $19,000 in medical expenses, endured a year of rehabilitation, and was told she'll always walk with a limp. Police found a "very small amount of marijuana and a pipe" in the house, according to local news reports, though not enough to press charges against anyone in the house. In 2000, Paasch settled with the Village of West Milwaukee for $700,000. "The fact that this can happen to me and my family has made me realize that it can happen to anyone," Paasch told one media outlet. "And that's really frightening because the police are the ones you're supposed to count on to protect you."[488]
- **Troy Davis.** On December 15, 1999, police in North Richland Hills, Texas, raided the home of Troy Davis, the son of a well-known "true crime" writer. The raid was based on the word of a single, anonymous informant that Davis was growing marijuana in one of the house's closets. That informant turned out to be Davis's uncle, who had tipped off police after a long-running dispute with Davis's mother.

According to officers at the scene, Davis's last words were, "I didn't know. I didn't know."

A local municipal judge had originally denied Sgt. Andy Wallace's initial attempt to obtain the no-knock warrant, citing insufficient evidence. So Wallace merely went to a second judge in Fort Worth and got his approval. On the night of the raid one team pried open (with some difficulty) Davis's back door, while another team went around to the front. According to police, Davis came to investigate the noises outside his home while carrying a gun (his family denies he was holding a weapon). Upon seeing the gun, raiding officers shot Davis in the chest, killing him. According to officers at the scene, Davis's last words were, "I didn't know. I didn't know."

Though police did find three marijuana plants, GHB, and a few small bags of marijuana in Davis's home, ensuing investigations revealed significant problems in the way Richland Hills police executed the search warrant. In fact, further investigation found flaws in the way the same police department conducted nearly all of its drug raids.

First, attorneys for the Davis family found that the police department had a policy of conducting no-knock raids for every narcotics search warrant issued, a clear violation of the Supreme Court's ruling in *Richards*. Second, according to the *Ft. Worth Star-Telegram*, "A year before the [Davis raid], two of the team's members told superiors they were concerned that lax standards for the unit could leave it vulnerable to lawsuits." Team leader Joe Walley later told a court that he was "very uncomfortable" about the Davis raid and that he felt the team was "doing a tactical operation without anything to go on." Another officer came back from sniper school and told superiors that nearly everything the North Richland Hills SWAT team was doing was wrong. Yet another later said in a deposition of the Davis raid, "We should never have been there." According to

court records reviewed by the *Star-Telegram*, Sergeant Wallace did little corroborating investigation after getting the tip from Davis's uncle. There were no controlled buys or surveillance.[489]

After the Davis raid, the two officers who had warned superiors about inadequacies with the SWAT team were suspended. Another officer who told the media and the Davis family attorneys about his concerns quit five months after the raid, citing harassment by superiors. Two other officers who were forthcoming with criticism of the police department also quit.[490]

In 2004, a state appeals court ruled the warrant for the raid that killed Davis was invalid. The court found that the warrant failed to show that the informant for the raid was reliable, and that Sgt. Wallace failed to do any independent investigation to corroborate the informant's tips.[491]

Even after the raid and ensuing revelations about poor training and preparation, North Richland Hills officials couldn't or wouldn't say what changes police had implemented to be sure a similar mistake wouldn't occur again. The *Forth Worth Star-Telegram* reported that in 2005, during depositions for the civil suit brought by Davis's family, responses from city officials indicated that raid procedures were never examined after the raid. Attorney Mark Haney, representing the Davis family, expressed frustration that no one from the city would claim responsibility for overseeing police procedures.

"Is there anybody? . . . Who is it? Who can talk about this topic?" he asked of North Richland Hills city attorney Greg Staples.

Staples replied, "That's not my problem. That's your problem."[492]

The mayor of North Richland Hills testified that neither he nor the city council were responsible for oversight of the city's police department. The city manager testified that he oversaw hiring and firing but that police procedures were determined by the police chief. The police chief said he answered to the city manager.

When Haney asked the city manger if he had ordered any investigation into the death of Davis, he replied, "No I did not." When asked if he had knowledge of any subsequent city investigation, he answered, "I'm not aware of any."[493]

- **Linda Elsea.** Elsea smoked marijuana to treat her fibromylagia after the successful campaign for Initiative 692, a Washington State measure authorizing the use of cannabis for medical purposes. In 1999, she came out of the bathroom to find a team of SWAT soldiers armed with assault weapons barreling up her driveway. She was handcuffed, subject to a body cavity search, and taken to the police station.[494]
- **Rusty Windle.** In early 1999 in Wimberly, Texas, a paid police informant and former felon befriended electrician's assistant Alexander "Rusty" Windle after meeting him at a bar frequented by tradesmen. The informant had been working the area for more than four months, winning friends by throwing parties stocked with beer and food. The informant convinced Windle to get him two half-ounce bags of marijuana, the Texas minimum for a felony charge. When Windle delivered, police obtained an arrest warrant. One witness said of the informant, "He asked everybody to get him pot, he practically begged you for it."[495]

  On May 17, 1999, nine police officers conducted a pre-dawn raid on Windle's home. Officer accounts differ on whether or not they announced they were police, though the other targets of raids that night (based on information gathered from the same informant) say police never announced themselves before executing the warrants.

  The police who raided Windle's home were dressed entirely in black. Windle

One witness said of the informant, "He asked everybody to get him pot, he practically begged you for it."

awoke, and came to the door with a gun. Police say that when they heard the slide action of a rifle bolt, Officer Chase Strapp backed away from the door. As he did, he tripped over a potted plant. Seeing armed men in black approaching his house, and watching one retreat from his porch, Windle pointed his weapon at Strapp. Strapp fired four rounds, hitting Windle three times, killing him.

Police found less than an ounce of marijuana in Windle's home.[496]

- **Lisa Swartz and the Medical Marijuana Raids.** In August 2004, 38 medical marijuana patients filed simultaneous lawsuits against state law enforcement agencies in California for seizing marijuana from their homes in violation of state law. One of them was Lisa Swartz, who described a raid on her home to the online publication *AlterNet*:

> During the conference call, she told of being raided at gunpoint in 1999. "They came with a narc SWAT team, pointing semi-automatic weapons at my grandkids' heads," she said before breaking into tears. "It was a terrible experience and totally changed my view of everything. I used to believe the police were there to protect and defend us. It is just so bizarre that they do this to people," said Swartz. "Even if we get our property back, this still takes a terrible toll on our families."

Swartz spent 18 months and $50,000 on her defense before authorities dropped the charges. "They never apologized and they never gave me my medicine back," she said.[497]

- **Willie Heard.** On February 13, 1999, police in Osawatomie, Kansas, conducted a 1:30 a.m. raid on the home of 46-year-old Willie Heard. Police say they announced themselves, though Heard's daughter, who was home at the time, told the *Topeka Capital-Journal*, "[A]ll I heard them say was 'Get Down! Freeze!'"

Heard awoke, and met officers in his bedroom with a .22-caliber rifle. Seeing the gun, a raiding officer opened fire and shot Heard dead. Though the search warrant was for crack cocaine and related paraphernalia, police found only the burnt remnants of an herb that couldn't be tested. If it had been marijuana, it would have barely been enough for two cigarettes.[498] Prosecutors declined to press charges against the police who conducted the raid.[499] In 2001, Heard's family won a $3.5 million settlement from Miami County and the cities of Osawatomie and Paola. The lawsuit contended that police had targeted the wrong home. At least one member of the SWAT team later apologized to Heard's family for their mistakes.[500]

- **David Doran.** In August 1998, police in Kansas City, Missouri, conducted a no-knock raid on the home of David Doran on suspicion that he was dealing methamphetamine. Doran says he was asleep when police entered and that because he thought he was being robbed, he came out of his bedroom holding a gun.

Police say Doran didn't comply with orders to get down. Doran says he tried to surrender. Raiding officers shot Doran, inflicting injuries that required a two-week hospital stay and the loss of his only functioning kidney. A jury subsequently awarded Doran $2 million, but in June 2005 the Eighth Circuit Federal Appeals Court overturned the award, concluding that police were justified in conducting a no-knock raid on Doran's home. Police found no methamphetamine, nor did they find any evidence that Doran had ever operated a methamphetamine lab. They did find a small amount of marijuana.[501]

- **Michael Swimmer.** In the summer of 1998, police in Orange County, Florida, shot and killed 27-year-old Michael Swimmer in a 2:30 a.m. drug raid. Police

Raiding officers shot Doran, inflicting injuries that required a two-week hospital stay and the loss of his only functioning kidney.

shot Swimmer six times after he confronted the raiding SWAT team with a handgun. Police conducted the raid after a tip from a confidential informant that Swimmer, an amateur bodybuilder, was selling ecstasy.[502]

- **Chinue Tao Hashim.** On February 21, 1998, a deputy in Greenville County, South Carolina, shot and killed unarmed drug suspect Chinue Tao Hashim during a SWAT raid. While negotiating a drug deal with Hashim, one undercover officer said over the radio that "a gun is on the table," meaning that a gun was part of the bargain. When the SWAT team raided, Master Deputy John Eldridge interpreted the radio remark about the gun to mean that Hashim was armed. As the raid commenced, Eldridge thought he saw Hashim reaching for a gun and opened fire. A subsequent investigation revealed that what Eldridge thought was a gun was actually the glint from a wristwatch.[503] Prosecutors declined to press charges against Eldridge.[504]
- **Barry Hodge.** On August 4, 1997, police in Selmer, Tennessee, broke down the door to the home of Barry and Sheila Hodge on a no-knock drug raid. According to a $25 million lawsuit filed by Hodge's widow in 1998, police never announced themselves before entering. By the time the raid was over police had shot Barry Hodge in the arm and chest, killing him. Sheila Hodge claims she was thrown to the floor and handcuffed, and the Hodge's daughter was locked in her bedroom. Press accounts don't say if police found marijuana in the home.[505]
- **Richard Paey.** In March 1997, police in Pasco County, Florida, arrested Richard Paey on charges of prescription fraud. Paey, a multiple sclerosis patient suffering from the effects of a car accident and subsequent botched back surgery, is wheelchair-bound and paraplegic. His various ailments required him to take significant quantities of painkillers to lead a normal life. Unfortunately, Florida law made it difficult for him to get the medication he needed. Prosecutors accused Paey of forging prescriptions, though they conceded that there's no evidence he was selling or distributing. Despite Paey's condition, and the fact that he obviously posed no threat to anyone, prosecutors sent a SWAT team to arrest him. Officers in ski masks and body armor, armed with assault weapons, broke down the door to Paey's home, needlessly terrorizing him, his wife, and their children.[506]
- **Doug Carpenter and Carlos LeBron.** On January 11, 1996, a SWAT team in Maitland, Florida, used a 60-pound steel ram to break down the door to the apartment of Doug Carpenter and his roommate, Carlos LeBron. Police conducted the raid after a member of Maitland's police "New Resident Visitation Team" came to their apartment shortly after the two had moved in and noticed "a strong odor of what he believed to be cannabis." The two men were handcuffed at gunpoint for three hours while police searched their apartment. The search turned up 3.5 grams of marijuana, and earned each a $150 fine. Police didn't suspect either man of dealing marijuana, nor were there any complaints from neighbors. Maitland police chief Ed Doyle said the warrant was executed because the two men were new to the area and were renters, which together present "a potential problem to be nipped in the bud." Doyle added that the raid wasn't "one we're going to put on the mantle."[507]

Other Incidents of Paramilitary Excess

Finally, there are several examples from the past decade in which SWAT teams and paramilitary tactics have been used unnecessarily and recklessly, but that defy easy categorization. Here are a few of those incidents:

- **The Utah Rave Raid.** In August 2005, more than 90 police officers from sever-

A subsequent investigation revealed that what Eldridge thought was a gun was actually the glint from a wristwatch.

"You get to play with a lot of guns. That's what's fun. You know, everybody on this teams is—you know, loves guns."

al state and local SWAT teams raided a peaceful outdoor dance party in Utah attended by 1,500 people. Police were armed with assault weapons, full-SWAT attire, police dogs, and tear gas. Many in attendance say police beat, abused, and swore at partygoers. Police deny the allegations, though amateur video audio clearly captures police issuing orders laced with profanity. Police also arrested security guards on drug possession charges, though the guards possessed the drugs because they'd *confiscated* them from partygoers.[508]

- **The Easton, Pennsylvania, SWAT Team.** The small town of Easton, Pennsylvania, chose to disband its SWAT team in 2005 after a series of incidents, including the shooting death of one SWAT team member. An editorial in the *Allentown Morning Call* praised the decision, noting that the SWAT team had become "rude, arrogant, and disrespectful," and had "lost the confidence of the civilians who supervise them and sign their paychecks."[509]
- **The Ahwatukee Raid.** In 2004, police in Ahwatukee, Arizona, conducted a massively armed, thoroughly bumbling raid on a home they suspected contained illegal assault weapons and ammunition. In a densely populated, upscale neighborhood, a SWAT team from the Maricopa County Sheriff's Department, complete with an armored personnel carrier, used grenade launchers to fire at least four rounds of tear gas into the windows of the home. The home then caught fire. As the owners of the home evacuated, police officers actually chased the family's dog back into the burning house with a fire extinguisher, where it perished in the flames. Andrea Baker, the dog's owner, says police laughed as she cried at their cruelty. Later, the brakes would fail on the SWAT team's armored personnel carrier, causing it to lurch down the street and smash into a parked car. The car was owned by Julie Madrigal, who had fled the car just moments earlier with her nine-year-old daughter after the two grew frightened at the sight of the SWAT team as it fired canisters of tear gas.

  The fire completely destroyed the home, putting homes nearby in the dense neighborhood at risk, too. For all of this, police found no assault weapons. They found only an antique shotgun and a 9-millimeter pistol, both of which were legally owned. They still arrested 26-year-old Erik Kush, on outstanding traffic violations.[510]

  CBS News reported in 1997 that the Maricopa County Sheriff's Department's SWAT team was doing an average of one callout per week. In an on-camera interview, one member of the team told reporter Jim Stewart the best part of being on the SWAT team was that, "you get to play with a lot of guns. That's what's fun. You know, everybody on this teams is—you know, loves guns." Another added, "Hey, the bottom line is it's friggin' fun, man. That's the deal. Nobody wants to take burglary reports."[511]
- **The Racine Rave Raid.** In 2002, police in Racine, Wisconsin, conducted an early-morning raid on a rave dance party, kicking in doors, dragging young people from bathroom stalls, throwing others to the floor, and holding them all at gunpoint. Police issued more than 450 citations to partygoers for merely *attending* a party where some drugs were present, but made only 3 arrests. The city of Racine later dismissed nearly all of the charges but still faces a civil lawsuit from attendees who claim police violated their civil rights.[512]
- **The Farmerville Raids.** In 2002, 40 police offices from more than 10 different agencies conducted a pre-dawn raid on a suspected drug hub in Farmerville, Louisiana, in what one local sheriff called "a dream come true." The raid did yield ten arrests, but the violent tactics enraged the local community. Around 100 people marched through the small

town the next day to protest the operation, in which police forced entry into several homes. "They could have arrested them any time and any day," protest organizer Sheila Lewis told the Associated Press. "They are not violent, they are just normal people. . . . It was like a war zone. People were scared to death."[513]

- **The Colorado–Colorado State Football Game.** In 1999, a SWAT team took the field when rowdy fans attempted to bring down the goalposts—a tradition in college football—after a Colorado State–Colorado football game. Armed with weapons and mace, police roughed up dozens of fans for 30 minutes after the game, including Colorado State student Britney Michalski, who nearly died after an allergic reaction to the mace. When one of Michalski's friends attempted to get aid for her from one of the police, she too was maced.[514]
- **"Operation Jump Start."** In 1997, a multitude of police officers from three separate SWAT teams conducted a massive raid on multiple low-income neighborhoods in New Britain, Connecticut. The *New Haven Advocate* reported:

> They wore navy blue camouflage fatigues over their body armor. Kevlar helmets covered their heads; black masks covered all but the noses and eyes of their faces.
>
> A state trooper flew above the scene in a small Cessna aircraft, keeping in radio contact with commanders on the ground. The state troops swept onto city streets inside "Peacekeepers," trucks with battering rams in the front.[515]

"Operation Jump Start" netted 49 arrests.[516]

- **Ramon Gallardo.** In 1997, a SWAT team from Dinuba, California, a town with just 12 regular police officers and 15,000 people and which hadn't a single reported homicide in its history, shot and killed 64-year-old farm worker Ramon Gallardo.[517] Officers in black masks broke down Gallardo's bedroom door while he and his wife were sleeping. Carmen Gallardo told the *Los Angeles Times* she thought the police "were robbers" when they entered. According to police, Gallardo reached for a folding knife to defend himself, though his family says Gallardo didn't own the knife. Gallardo was shot 12 times. Gallardo had no criminal history. Police were looking for a stolen gun they say was in the possession of Gallardo's son. The gun was never found. A subsequent investigation by the Tulare County district attorney found no improper behavior on the part of police. A federal jury later ordered the town of Dinuba to pay the Gallardo family $12.5 million in compensation. Dinuba later dissolved its SWAT team.[518]
- **The Heflin Family.** In 1996, a SWAT team in La Plata County, Colorado, descended on a ranch owned by Samuel Heflin. They were looking for evidence related to a bar brawl—a cowboy hat, shirt, and a pack of cigarettes. On the way in to Heflin's home, police forced two children to the ground at gunpoint. They then trained a laser-sighted assault weapon on Heflin's four-year-old daughter as she ran screaming into the house. Upon asking to see a search warrant, Heflin was told by SWAT officers to "shut the fuck up."[519]
- **The Fitchburg SWAT Incidents.** In 1996, the Fitchburg, Massachusetts, SWAT team burned down an apartment complex after deploying flashbang grenades in a no-knock raid. The fire left six police officers injured and 24 people homeless.[520] In an article on the raid and fire, the *Boston Globe* noted the that the Fitchberg SWAT team was formed in 1990 with the charge, "To establish an organized response to unusual high-risk situations, barricaded suspects, hostage situations, and other similar life-threatening events where citizen safety or officer safety is at risk."[521]

In 1997, a SWAT team from Dinuba, California, which hadn't a single reported homicide in its history, shot and killed 64-year-old farm worker Ramon Gallardo.

But the 1996 raid wasn't the first time the unit had come under criticism. The team had a history of botched raids and faced at least one suit for violating the civil rights of a group of loiterers the SWAT team was called to break up.[522]

Notes

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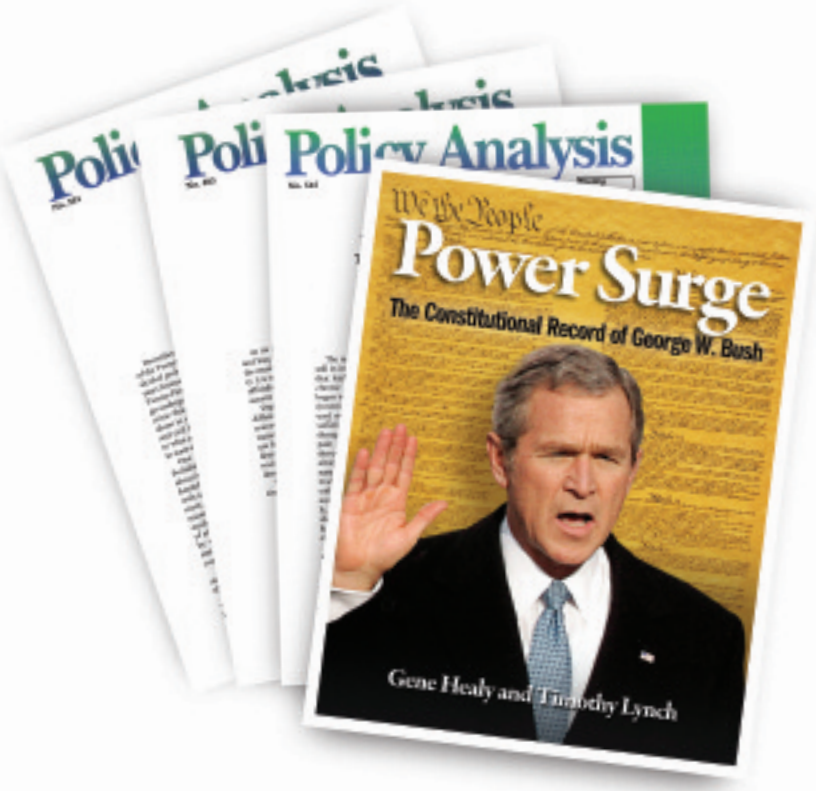

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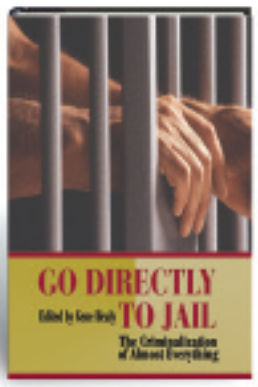

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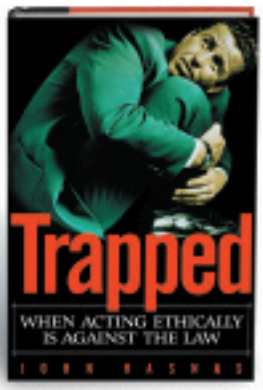

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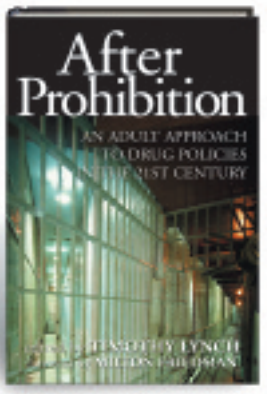

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