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SWATstika Policing

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SWATSTIKA POLICING

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Overkill: The Rise of Paramilitary Police Raids in America

Radley Balko

Cato Institute, 2006

98 pp., paperback, \$10

"These elite [police SWAT] units are highly culturally appealing to certain sections of the police community. They like it. They enjoy it. The chance to strap on a vest, grab a semi-automatic weapon and go out on a mission is for some people an exciting reason to join. The problem is that when you talk about the war on this, and the war on that, and police officers see themselves as soldiers, then the civilian becomes the enemy."—Prof. Peter B. Kraska

"Polite, Professional, and Prepared to Kill"—Title of article by Chris Barfield published in *SWAT Magazine* in December 2005

"Power is a heady thing."—Justice William O. Douglas

At 9:35 p.m. on Tuesday, Jan. 24, 2006, in Fairfax county, Virginia, a police SWAT team, armed to the teeth, decked out in battle fatigues, helmets, flak vests, and other military accouterments, arrived at the townhouse of Dr. Salvatore J. Culosi, Jr., a 37-year old optometrist. Culosi was a suspected bookie who had been making illegal sports bets from his home, and Fairfax police had obtained a warrant for his arrest and a search warrant to search his residence for gambling paraphernalia. Culosi had no history of violent behavior and his alleged crimes were nondangerous, but the practice in Fairfax county is for the local SWAT team to serve almost all search warrants. The unarmed, unresisting Culosi was in front of his residence when they arrived, weapons drawn in accordance with police protocol. As they began encircling Culosi, one of the officers, apparently accidentally, fired his large .45 cal. Heckler & Koch handgun, striking Culosi in the chest and killing him instantly. Predictably, the fearsome, fascistic trend towards militarizing American police by, among other things, transforming the serving of warrants into paramilitary commando operations, had resulted once again in lethal police violence and the unjustified death of an American

citizen.

In Overkill: The Rise of Paramilitary Police Raids, published in July, Radley Balko, a news columnist and policy analyst, gives us an authoritative nonscholarly overview of what BBC newsman Matthew Davis calls the “explosion in the use of military-style police SWAT teams in the United States.” “Over the past 25 years,” Balko explains, “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 (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.” Balko continues:

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 are 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 only of 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.

Crimes statistics put out by law enforcement or other government agencies studiously omit information about crimes or acts of violence or improprieties committed by police against citizens. Furthermore, police departments apparently do not keep and at any rate certainly do not release to the public statistics on the activities of their SWAT teams unless those statistics reflect favorably on those teams. There are, for example, no official statistics on how many SWAT raids are “wrong address” raids, or on how many people SWAT police shoot or kill or injure or how frequently they discharge their weapons or how much property damage they inflict. Although he freely acknowledges that his investigation is incomplete, Balko has, after tireless research and consultation with scholars, compiled reliable, desperately needed statistics and other vital information about American police paramilitarism not available from official sources.

Here are a few of the causes for alarm documented in Balko’s book and the sources he cites:

■ Since 1995, there have been at least 292 botched SWAT raids—where, for example, an innocent person or nonviolent offender was killed or there was a “wrong address” raid.

■ Since 1995, SWAT raids have resulted in the deaths of at least 40 innocent persons and 20 nonviolent offenders, and in the death or injury of 22 police officers.

■ Since 1995, there have been at least 143 SWAT raids on innocent suspects.

■ In the 1980s there were about 3,000 SWAT team deployments annually across the country; by 1996, there were 30,000 per year; and currently, there are about 40,000 a year.

■ Each day in this country, SWAT units raid more than 100 homes.

■ SWAT raids are usually conducted “very late at night or very early in the morning.”

■ SWAT raids of residences usually involve so-called no-knock entry, which means that officers force entry without first giving the occupants notice of their presence and purpose and an opportunity to answer the door. (The police euphemism for this common practice of battering down doors or breaking windows to effect entry without first giving the residents a chance to open the door is “dynamic entry.”)

■ Increasingly, SWAT raids involve “explosive dynamic entry,” which means that, after breaking down the door or smashing in a window, but before entering, police detonate stun grenades in the residence. (My article [Explosive Dynamic Entry](#), which appeared in [Flagpole Magazine](#) on July 30, 2003, examined the increasingly frequent practice of American police units, almost always militarized SWAT teams, to use explosive devices when making unannounced entries into residences. Without attempting to be comprehensive, it also summarized the factual scenarios of 39 incidents between 1984 and 2003 when explosive dynamic entry occurred and in the course of which a total of four innocent persons were killed and other innocent persons, including pregnant women and infants, injured. That article is quoted from and cited in [Overkill](#).)

■It is not uncommon for SWAT police to wear hoods or masks.

■It is standard practice for members of a SWAT team carrying out a raid to keep their weapons drawn and to point them at suspects or alleged suspects.

■After forcing their way into the residence, it is standard practice for SWAT officers to bark out orders to occupants and force them at gunpoint to “prone out.” Noncompliance with these orders is typically met with force, sometimes deadly force. Occupants are automatically handcuffed with their hands behind them and kept face-down on the floor.

■Once confined to situations involving acts of terrorism, hostage-takings, hijackings, and other emergencies, in many jurisdictions SWAT units are now deployed routinely in ordinary police work. In some jurisdictions they serve all drug warrants, including misdemeanor cases; in other jurisdictions they serve practically all warrants. Frequently they engage in routine police patrolling. “SWAT teams,” Balko drily states, “are now being used to respond even to calls about angry dogs and domestic disputes.”

■Steeped in the military mind set, trained to be confrontational, and eager to engage in overwhelming shows of force, SWAT units have an organizational culture that leads them to escalate situations rather than de-escalate them; far from defusing violent situations, most SWAT raids actually create them. SWAT units increase, rather than decrease, police violence.

■Increasingly, SWAT teams are being renamed to sugarcoat their image, e.g., Strategic Operations Group, Emergency Services Unit, Special Emergency Response Team, or Tactical Apprehension Containment Team. (Members of SWAT teams call themselves tactical officers. If you want to get a better idea of the mentality of these commando cops and see just how pervasive and numerous SWAT units are in our criminal justice system, just Google “tactical officers association.” In particular, take a look at the website of the Georgia Tactical Officers Association, www.gatactical.com.)

■There is no possibility that the federal courts, at least as presently constituted, will meaningfully protect citizens from SWAT team excesses. Indeed, stacked as they are

with right-wing, pro-state majoritarians, many of them ex-prosecutors or ex-government lawyers, these courts have been downright hostile to most claims that police conduct violated Fourth Amendment protections against unreasonable searches and seizures. Although constitutional law, statutory law, and the common law generally prohibit no-knock entries into residences by police executing a search warrant and require them instead to afford the residents an opportunity to open the door peacefully, the knock-and-announce requirement has been so watered down and so riddled with exceptions by the federal courts that it is now virtually meaningless. (In *U.S. v. Banks*, 540 U.S. 31 (2003), for example, the U.S. Supreme Court held that police did not violate the knock-and-announce requirement when they waited only 15 to 20 seconds after knocking before forcibly entering the defendant's two-room apartment to execute a search warrant.) The traditional legal requirement that police usually afford the inhabitants of a home an opportunity to answer the knock at the door before police violently enter has become, therefore, in the words of legal scholar E. Martin Estrada, "a toothless tiger in the constitutional jungle." As a result, the great majority of warrant-based home searches, especially those made by SWAT units, involve no-knock entry. Such entry, which is supposed to be the exception, has become the rule. Compounding the problem, on June 15 of this year, the U.S. Supreme Court, which tragically nowadays is unperturbed by lawlessness in law enforcement and views itself as a footsoldier in the war on drugs and crime and a cheerleader for the police rather than a guardian of the basic rights of Americans, startlingly overruled precedents and held by a 5-4 vote in *Hudson v. Michigan*, 126 S.Ct. 2159 (2006), that when police do violate the Fourth Amendment in effecting no-knock entry into a home to serve a search warrant, the evidence obtained inside will no longer be inadmissible in court. In his creepily pro-government opinion for the majority, Justice Scalia sank so low as to label a clear Fourth Amendment violation and police state-type outrage—police bursting into a residence in violation of the ban on no-knock entry—as "a preliminary misstep"! Furthermore, technical and procedural rules erected by the U.S. Supreme Court have made it very difficult and time-consuming to sue the police successfully for violating citizens' rights. Federal civil actions for damages against SWAT officers are therefore usually unsuccessful, and the majority of such actions are dismissed prior to trial.

■Criminal prosecutions of SWAT officers who exceed their lawful powers in the use of deadly or nondeadly force are extremely rare, and convictions of such officers are practically unheard of. Fairfax county, Virginia prosecutors, for example,

declined to bring charges against the officer who killed Dr. Culosi even though tests showed no defect in the officer's handgun.

In addition to cataloging the facts concerning the shockingly large number of mistaken raids and horrifying abuses committed by SWAT units, Overkill makes a number of sensible recommendations for reform (such as returning SWAT units to their original and only legitimate function—"defusing those rare, emergency situations in which a suspect presents an immediate threat to someone's life or safety").

Even if you decide not to purchase Overkill, you might want to look at the interactive map, "Botched Paramilitary Police Raids: An Epidemic of 'Isolated Incidents,'" prepared by Balko in conjunction with the release of his book. It may be accessed at www.cato.org/raidmap/index.php.

On the other hand, if after reading Overkill you crave more bad news about the spine-chilling signs that America is steadily turning itself into a police state, you might pick up a copy of the leading scholarly treatise on the militarization of police in this country: Militarizing the American Criminal Justice System: The Changing Roles of the Armed Forces and the Police, published in 2001 by Northeastern University Press, and edited by Peter B. Kraska, a professor at Eastern Kentucky University.

As the United States of America glides down the path of the Third Reich, as American police strain to emulate the Gestapo, it is impossible to disagree with Van Jones, Executive Director of the Ella Baker Center for Human Rights, who writes: "If this were happening in any other country in the world, this incredible militarization of the police, the incredible expansion of police power, [and] the increase in police weaponry ... we'd be screaming."