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## No-Knock Warrants: Unlawfully Legitimate

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NO-KNOCK WARRANTS: UNLAWFULLY LEGITIMATE

A Capstone Experience/Thesis Project Presented in Partial Fulfillment  
of the Requirements for the Degree Bachelor of Arts  
with Mahurin Honors College Graduate Distinction  
at Western Kentucky University

By

Isabel F. Pergande

May 2022

\*\*\*\*\*

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## ABSTRACT

On March 13, 2020, Breonna Taylor was fatally shot when officers of the Louisville Metro Police Department (LMPD) executed a search warrant at her apartment. Breonna Taylor's case brought national attention to no-knock warrants (NKWs), which allow police to enter private residences unannounced. It is estimated that 20,000-80,000 NKWs are executed by American police each year. This thesis explores the development of NKWs as a common, yet controversial, police tactic. The increase in NKWs is largely attributed to the federal government's War on Drugs, beginning with Richard Nixon's 1968 presidential campaign. However, the Supreme Court laid the foundation for NKWs to become a foundational police tactic, beginning in 1963. The Supreme Court has since shifted its focus away from protecting fourth amendment rights towards preserving evidence for criminal prosecution. Despite the risks of violence, property damage, and tragedy associated with NKWs, the federal government has continued to endorse and uphold the practice.

Public opinion on law enforcement actions does not always coincide with judicial interpretations or government policies. I conducted an original web survey to explore public opinion regarding NKWs and potential reform. While support for NKWs varies by circumstance, there are distinctions in how respondents view which crimes warrant an unannounced entry. High-profile tragedies influence how people perceive law enforcement actions. While people generally favor reform to reduce fatal encounters with police, they differ on which measures to take.

Dedicated to my dad, Tom Pergande, whom I think about every day.

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## INTRODUCTION

On March 13, 2020, Breonna Taylor was fatally shot when officers of the Louisville Metro Police Department (LMPD) executed a search warrant at her apartment. A narcotics investigation led the LMPD to believe that drugs were being sent to and stored inside the apartment. At the time the raid was conducted, the primary suspect, Jamarcus Glover, was already in custody. Breonna and her boyfriend, Kenneth Walker, were alone at the apartment. There is debate over whether the police knocked and announced their presence; the officers claim they did, Walker claims they did not. What is certain is that Breonna was shot multiple times because of the warrant and left without medical attention for over twenty minutes.<sup>1</sup> No drugs or any evidence of criminal activity was found. Breonna Taylor became a national rallying cry for police reform, specifically concerning no-knock warrants (NKWs), which allow police to forcibly enter private residences unannounced.

Research indicates that 20,000-80,000 NKWs are executed by American police each year.<sup>2</sup> Although designed for the most egregious crimes, such as human trafficking, hostages, barricades, terrorism, and murder, NKWs are most often employed in narcotics investigations. Tactically, NKWs are meant to position police to quickly invade a suspect's property, overwhelming residents before they can react violently or destroy

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<sup>1</sup> Richard A. Oppel Jr., Derrick Bryson Taylor, and Nicholas Bogel-Burroughs, "What to Know About Breonna Taylor's Death," *New York Times*, April 26, 2021.

<sup>2</sup> Brian Dolan, "To Knock or Not to Knock? No-Knock Warrants and Confrontational Policing," *St. John's Law Review* 93, no. 1 (2019): 215.

evidence. The surprise element of the entry is meant to serve law enforcement interests and evidentiary goals. To further enhance the element of surprise, NKWs are often conducted at night.<sup>3</sup> Although quickly gaining control of potentially violent situations is meant to ensure officer, suspect, and bystander safety,<sup>4</sup> that is not the reality of NKWs. Breonna Taylor's death was not the first tragedy resulting from no-knock and quick-knock police raids. Radley Balko, an investigative journalist who specializes in the war against drugs and the criminal justice system, estimates that a completely innocent person is killed due to a NKW 8-10 times per year.<sup>5</sup> A *New York Times* study found that since 2010, over 100 people have been killed by SWAT teams executing drug raids.<sup>6</sup>

Yet, in a series of decisions, beginning in the 1960s, the Supreme Court expanded police authority to execute NKWs under the Fourth Amendment. Officers may enter private residences unannounced and without a warrant if they suspect a crime has been committed or believe evidence may be destroyed. The easily disposable nature of narcotics makes it easy for law enforcement to justify a no-knock entry after the fact.<sup>7</sup> Once the Supreme Court justified entry without announcement, state and federal policies permitting NKWs followed. The federal government's War on Drugs coincided with the Supreme Court's shift in favor of NKWs to preserve evidence for criminal prosecution. As the number of NKWs executed per year skyrocketed, there were many reports of botched raids where police invaded the wrong home or acted on faulty information,

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<sup>3</sup> Task Force on Policing, "No-Knock Warrants and Police Raids," *Council of Criminal Justice*, January 2021.

<sup>4</sup> Donald B. Allegro, "Police Tactics, Drug Trafficking, and Gang Violence: Why the No-knock Warrant Is an Idea Whose Time Has Come," *Notre Dame Law Review* 64, no. 4 (1989), 552.

<sup>5</sup> Radley Balko, "No-Knock Warrants: How Common They Are and Why Police Are Using Them," interview by Mary Louise Kelly, *All Things Considered*, NPR, June 12, 2020.

<sup>6</sup> The Justice Collaborative Institute, "End No-Knock Raids," *Data for Progress*, June 2020: 4.

<sup>7</sup> "Exceptions to the Knock-and-Announce Rule; Drug Identification," *U.S. Department of Justice*, accessed April 16, 2022.

recovering no evidence of criminal activity. The Supreme Court had many opportunities to reconsider the practice but continued to uphold a flexible precedent for NKWs.

Unless a police raid receives considerable public and media attention, the victims can expect little compensation or legal recourse for their trauma, injuries, or damaged property. For example, the Daugherty family of Louisville, KY were victims of a no-knock police raid in 2018, just a year and a half before Breonna Taylor's death. Although the police were not issued a NKW, video footage clearly shows the LMPD using a battering ram to forcibly enter the home, without knocking first.<sup>8</sup> Initially, the botched raid resulted in zero charges and efforts by the city to dismiss the Daugherty's lawsuit. It was not until Breonna Taylor's case received national attention that the Daugherty family discovered that five of the officers involved in Breonna Taylor's case were also part of the raid conducted at their home.<sup>9</sup> Both Breonna Taylor and the Daugherty's cases were eventually brought to the U.S. Department of Justice's attention. If Breonna Taylor's case had not received the same attention, the Daugherty's case may have been ignored as an isolated incident. The Louisville Metro Government ultimately settled with the Daugherty family for \$460,000.<sup>10</sup>

After extensive protests and national coverage of Breonna Taylor's case, the city of Louisville agreed to a \$12 million settlement.<sup>11</sup> However, financial recompense does not resolve the fundamental issues NKWs pose. As a result, widespread calls persist for

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<sup>8</sup> "Louisville Police Carried Out a Botched Raid 17 Months Before Raiding Breonna Taylor," VICE News, August 25, 2020, YouTube video, 0:33. <https://www.youtube.com/watch?v=XGM61RFuGwo>.

<sup>9</sup> Roberto Ferdman, Juanita Ceballos, and Nicole Bozorgmir, "5 Cops Involved in Breonna Taylor's Case Were Also Part of a Botched Raid in 2018," *VICE News*, August 25, 2020.

<sup>10</sup> Kala Kachmar, "Louisville Agrees to Big Payout to a Family Held at Gunpoint by Police on a Bad Warrant," *Courier Journal*, February 28, 2022.

<sup>11</sup> Andrew Wolfson, Darcy Costello, and Tessa Duvall, "Louisville Agrees to \$12 Million Settlement, Police Reforms in Breonna Taylor Lawsuit," *Courier Journal*, published September 15, 2020, updated January 24, 2021.

no-knock police reform and criminal charges against the officers involved. For many citizens, NKWs are not worth the risks of property damage, unnecessary violence, or tragedy among citizens and law enforcement.

I conducted an original web survey to further gauge public opinion on the practice of NKWs and potential reform. While support for NKWs varies by circumstance, there is general disapproval of the tactic. Additionally, citizens do not associate the same level of danger between drug-related cases and cases involving human trafficking and terrorism. High-profile tragedies, such as Breonna Taylor's, influence public opinion on certain police tactics. Awareness of such tragedies also influences public support for future police reform.

Many obstacles prevent comprehensive no-knock police reform. While NKWs challenge some of the United States' longest-standing legal principles, such as the Castle Doctrine and the knock-and-announce rule, the Supreme Court has largely made the practice judicially sound. Additionally, the federal government's campaign against drug abuse consistently endorsed the practice in the name of public safety. Public opinion on the matter provides meaningful insight into the status and future of police reform, concerning controversial law enforcement tactics.

## HISTORY

### **Origins in English Common Law**

Some of America's longest-standing legal principles were derived from British law. Therefore, English common law provides important context to the history of NKWs in the United States. The Castle Doctrine is a common law principle that allows individuals to defend their property from intruders. The doctrine holds that every home is a "castle," where residents enjoy security and asylum. Citizens are permitted to use force to protect themselves and their property from intrusion. In addition to the terror residents experience when their home is invaded, the doctrine stresses that invasions undermine individual liberties and the sanctity of the home. The Castle Doctrine was incorporated into British law as early as 1604 with *Semayne's Case*,<sup>12</sup> which limited the power of state authorities to enter people's homes. Specifically, state authorities were required to signal their presence and identify themselves before entering or searching a residence. This requirement, also known as the knock-and-announce rule, was meant to protect state officials and respect individual liberty within the home. For instance, the knock-and-announce rule prevented police from being confused as intruders and subsequently shot.<sup>13</sup> The rule also gave individuals the opportunity to avoid unnecessary violence and the

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<sup>12</sup> Sarah McKibbin, "The Strange Fruit of *Semayne's Case*: No-Knock Warrants," *University of Southern Queensland*, May 8, 2021.

<sup>13</sup> Radley Balko, "Overkill: Rise of Paramilitary Police Raids in America," *CATO Institute*, 2006, 31-32.

destruction of property by complying with state officials.<sup>14</sup> Ultimately, the knock-and-announce rule from British law served both citizen and law enforcement interests.

While the knock-and-announce rule was fundamental to British law, it was not universally followed. For instance, the British crown often exercised authority over American colonists by “writs of assistance”<sup>15</sup> or general search warrants, which state officials used to search any property suspected of illegal or controversial activity. American colonists rejected these writs as arbitrary infringements of their individual rights and privacy within the home. After severing ties with the British crown in 1776, conscious efforts were made to prevent unreasonable home invasions by state officials. Specifically, the U.S. Constitution incorporated the spirit of the Castle Doctrine and the intent of the knock-and-announce rule in the Fourth Amendment to protect individual liberties and uphold the sanctity of the home.

#### **Fourth Amendment to the U.S. Constitution**

The Fourth Amendment strikes a balance between protecting legitimate government or public interests and constitutional rights. The Fourth Amendment states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.<sup>16</sup>

The spirit of the Castle Doctrine is evident in the Fourth Amendment. Individuals are afforded the highest level of protection from government intrusion in their homes. To further enhance protection, search warrants must be issued by magistrates or judicial

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<sup>14</sup> Balko, “Overkill,” 2006, 33.

<sup>15</sup> “Fourth Amendment: Search and Seizure,” *GovInfo*, accessed April 5, 2022.

<sup>16</sup> “Fourth Amendment,” *Legal Information Institute*, accessed January 4, 2022.



officials. This clause is meant to prevent law enforcement from indiscriminately entering private property. Officers must have probable cause, or a reasonable belief that a search would uncover criminal evidence,<sup>17</sup> before entering. Although a testament to the United States' commitment to individual rights in theory, the ratification of the Fourth Amendment was just the beginning of the debate on how much authority law enforcement should be awarded when pursuing criminal activity. Subsequent interpretations of the Fourth Amendment by the Supreme Court would influence how searches and seizures were conducted by American police.

### **American History of No-Knock Warrants**

Four Supreme Court cases – *Ker v. California* (1962), *Wilson v. Arkansas* (1995), *Richards v. Wisconsin* (1997), and *Hudson v. Michigan* (2006) – are particularly important to the history of NKWs. The Supreme Court laid the foundation for NKWs to become a common police tactic, beginning in 1963. The federal government's War on Drugs followed the Supreme Court's initial relaxation of the knock-and-announce rule, which resulted in a significant increase in the number of NKWs executed per year. Expanding the circumstances in which police could legally ignore the knock-and-announce rule gave many government officials pause. Concerns about violating individual liberties and reports of botched raids led no-knock policies to be temporarily revoked in the mid-1970s. However, growing fears of crime would continue to lend support for NKWs. The Supreme Court continued to interpret the Fourth Amendment broadly, upholding the practice of NKWs.

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<sup>17</sup> "Probable Cause," *Legal Information Institute*, accessed April 5, 2022.

*Ker v. California* (1963)

*Ker v. California* involved police following several people suspected of illegally purchasing marijuana. After identifying George Ker in public with a known drug offender, the police used Ker's license plate number to locate his home address. Upon arriving, the officers obtained a pass key from the manager and entered Ker's apartment without a warrant, unannounced. The police arrested both George and Diane Ker, then found several packages of marijuana between their apartment and vehicle. The question before the Supreme Court was whether the police's warrantless entry and seizure of evidence was reasonable under the Fourth Amendment.

The Court concluded that the warrantless entry by police into Ker's apartment was reasonable. Because the police witnessed Ker interact with a recognized marijuana dealer, it "was sufficient to support a reasonable belief of the officers that Ker was illegally in possession of marijuana."<sup>18</sup> Despite the Fourth Amendment's general requirement of a judicially sanctioned search warrant, the Court justified police entry into Ker's home unannounced and without a warrant based solely on the officers' general experience in narcotics investigations.

Police can legally ignore the knock-and-announce rule in exigent circumstances, in part because of the *Ker* decision. Customarily, exigent circumstances involve extraordinary situations where the manner of entry could result in physical harm to police officers or bystanders, the escape of a suspect, or the frustration of legitimate law enforcement interests, like rescuing a victim in immediate danger. The Supreme Court specifically identified the destruction of evidence as an exigent circumstance. As a result,

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<sup>18</sup>*Ker v. California*, 374 U.S. 23 (1963).

the destruction of evidence became a common exception to the knock-and-announce rule. This judicially sound exception opened the doors for legislation endorsing NKWs.

Shortly after the *Ker* decision, the phrase “no-knock” appeared in New York legislation for the first time. Governor Nelson Rockefeller introduced a bill that would afford New York police broad power to execute NKWs and seize evidence, provided that one of the exigent circumstances cited in the *Ker* decision existed.<sup>19</sup> The bill passed with little controversy, marking the beginning of what would become a highly controversial police tactic.

### War on Drugs

The Supreme Court’s initial relaxation of fourth amendment principles coincided with the federal government’s War on Drugs, which greatly contributed to the rise of NKWs. The War on Drugs originated with Richard Nixon’s 1968 presidential campaign. Nixon argued that the chaos of the 1960s, from the anti-Vietnam War effort to the Civil Rights Movement to countercultural movements, required an increased emphasis on anti-crime policy, specifically concerning drug abuse. While presenting his anti-crime program to Congress, Nixon identified drug abuse as “public enemy number one.”<sup>20</sup> His declaration to Congress invited increasingly aggressive policies to stop illegal drug use, distribution, and trade. In order to combat increasing crime and drug abuse nationwide, the Nixon administration was preparing for a “new, all-out offensive.”<sup>21</sup> Nixon took advantage of the wide latitude police were given to execute NKWs under the Fourth

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<sup>19</sup> Douglas Dales, “Rockefeller Signs Bills Increasing Powers of Police,” *New York Times*, March 4, 1964.

<sup>20</sup> “President Nixon Declares Drug Abuse ‘Public Enemy Number One,’” Richard Nixon Foundation, aired June 17, 1971, YouTube video, 0:30. <https://www.youtube.com/watch?v=y8TGLLQID9M>.

<sup>21</sup> “Public Enemy Number One: A Pragmatic Approach to America’s Drug Problem,” *Richard Nixon Foundation*, June 29, 2016.

Amendment. In the summer of 1970, Nixon's District of Columbia (D.C.) crime bill passed, authorizing federal agents to execute no-knock raids in search of narcotics.<sup>22</sup> In support of no-knock raids, Senator Thomas Dodd of Connecticut commented that, "The hoodlums are watching us, the dope peddlers are watching us. They want to know if we mean what we say."<sup>23</sup> No-knock raids became a signal that the federal government was serious about combatting drug abuse.

There was some hesitation about Nixon's aggressive anti-drug policies among individual politicians and federal bureaucracies. As a result, President Nixon created a separate organization to temporarily bypass opposition and enforce his anti-crime initiatives. The Office of Drug Abuse Law Enforcement (ODALE), which later became a part of the Drug Enforcement Administration (DEA), was formed in 1971.<sup>24</sup> ODALE served primarily as a way for Nixon to promote new resources and tactics, including no-knock raids, in the fight against drugs. Within six months of its creation, ODALE executed more than 100 no-knock raids.<sup>25</sup> Between April 1972 and May 1973, ODALE executed 1,439 no-knock raids.<sup>26</sup> One such raid occurred on the night of April 23, 1973, in Collinsville, Illinois. Eight ODALE agents and three local police mistakenly invaded Herbert and Evelyn Giglotto's home as part of a narcotics investigation.<sup>27</sup> Before realizing their mistake, the agents held a gun to Herbert's forehead while his wife begged the officers not to kill him. A study by the *New York Times* indicated that the trauma the

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<sup>22</sup> Radley Balko, *Rise of the Warrior Cop: The Militarization of America's Police Forces* (New York: Public Affairs, 2013), 83-4.

<sup>23</sup> Warren Weaver Jr., "Narcotics Raids Without Warning Voted by Senate," *New York Times*, January 28, 1970.

<sup>24</sup> Balko, *Rise of the Warrior Cop*, 105.

<sup>25</sup> Balko, *Rise of the Warrior Cop*, 119.

<sup>26</sup> Balko, *Rise of the Warrior Cop*, 121.

<sup>27</sup> Andrew H. Malcolm, "Drug Raids Terrorize 2 Families – by Mistake," *New York Times*, April 29, 1973.

Giglottos experienced was not an isolated incident.<sup>28</sup> In fact, citizens across the country had experienced similar circumstances.

Reports of botched drug raids garnered opposition for the tactic. For example, Senator Sam Ervin (D-NC) led legislative efforts to repeal no-knock policies and hold the federal government responsible for damages in botched raids. Senator Ervin insisted that no-knock statutes threatened to destroy individual liberties.<sup>29</sup> Specifically, he argued that “it is better to allow a few criminals to escape than it is to destroy or crucify on an altar of fear or doubt the principle that every man’s home is his castle.”<sup>30</sup> Endorsing a tactic that undermines some of America’s longest-standing legal principles set a dangerous precedent. Efforts to repeal no-knock policies were successful for a brief period when Nixon resigned in 1974. However, politicians and government officials would continue to use crime, most notably drug use and distribution, as a fear tactic to gain back support for aggressive, tough-on-crime policies.

Fifteen years after Nixon’s designation of drug abuse as “public enemy number one,” Ronald Reagan declared illegal drugs a threat to national security in 1986,<sup>31</sup> revitalizing the War on Drugs. Reagan’s anti-crime strategy paralleled Nixon’s in that no-knock raids were central to narcotics investigations. However, Reagan’s War on Drugs was intensified by the militarization of policing. Throughout the 1980s and 1990s, the federal government further emboldened law enforcement by equipping them with military tools and tactics when conducting search warrants.

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<sup>28</sup> Walter Rugaber, “12 Law officers Indicted for Mistaken Drug Raids,” *New York Times*, August 25, 1973.

<sup>29</sup> Radley Balko, “Senator Ervin, ‘No-Knock’ Warrants, and the Fight to Stop Cops from Smashing into Homes the Way Burglars do,” *ACLU*, July 10, 2013.

<sup>30</sup> Stephen Green, “Hill Conferees Vote Repeal of No-Knock,” *Washington Post*, September 25, 1974.

<sup>31</sup> “President Reagan’s Address to the Nation on the Campaign Against Drug Abuse,” Reagan Foundation, aired September 14, 1986, YouTube Video, 13:18. [https://www.youtube.com/watch?v=Gj8gAQ\\_cQ7Q](https://www.youtube.com/watch?v=Gj8gAQ_cQ7Q).

The federal government created legislation to supply local and state police departments with sophisticated military weapons and tactics. For example, the 1981 Military Cooperation with Law Enforcement Act encouraged local, state, and federal law enforcement to utilize military resources for drug prohibition purposes.<sup>32</sup> In 1988, Congress ordered the National Guard to help states enforce drug policies. In 1990, the Law Enforcement Support Office, also known as the 1033 Program, funneled more than \$6 billion worth of excess military supplies from the Department of Defense to local, state, and federal law enforcement units.<sup>33</sup> Local and state police departments became inundated with military equipment. Assault rifles, armored vehicles, bayonets, night vision gear, and stun grenades were among the regularly transferred items. Rather than reserving such overwhelming weapons and tactics for extreme crimes, law enforcement began utilizing heavily armed units for routine police work.<sup>34</sup> Supplying local and state police departments with military equipment and training made the execution of NKWs that much more dangerous.

Not only had the Supreme Court made it easier for police to justify invading people's homes, but the federal government was also endorsing the formation of paramilitary units to execute warrants. Daryl Gates, former chief of the Los Angeles Police Department, was vocal in his support for providing police departments with military equipment and training. Gates favored law enforcement units, consisting of elite, military-trained officers that could quickly overwhelm a suspect. These units were

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<sup>32</sup> Christopher J. Coyne, "The Militarization of Policing and the Future of U.S. Politics," *Perspective on Politics* 13, no. 3 (2015): 779.

<sup>33</sup> Wayne Mcelrath and Sarah Turberville, "Poisoning our Police: How the Militarization Mindset Threatens Constitutional Rights and Public Safety," *Project on Government Oversight (POGO)*, June 9, 2020.

<sup>34</sup> Balko, "Overkill," 2006, 3.

originally called “Special Weapons Attack Teams.”<sup>35</sup> However, after some consideration and controversy over the word “attack” describing a unit meant to ensure public safety, the groups were renamed “Special Weapons and Tactics”<sup>36</sup> or SWAT teams. The number of SWAT teams increased by 1,500% from 1980 to 2000.<sup>37</sup> As the number of SWAT teams increased, they became more common in routine police work. Drug warrants were increasingly executed by SWAT teams, using battering rams, flashbang grenades, and other military-style weapons to invade people’s homes. Peter Kraska, a leading scholar in militarized policing, found that while only a few hundred paramilitary drug raids were deployed in 1972, over 3,000 drug raids were deployed by the early 1980s, 30,000 by 1996, and 40,000 by 2001.<sup>38</sup>

Like Nixon’s era, reports of botched raids and tragedies made people weary of NKWs. In 1993, twenty-four officers burst into Brian and Elizabeth Davis’ home in Pennsylvania. Brian was held at gunpoint, Elizabeth was stripped searched, and their two children were apprehended by the authorities. The police acted solely on information from a neighbor, who claimed there were drug-related smells coming from the Davis’s apartment, convincing her that they were operating a drug lab. Brian and Elizabeth Davis felt that the unnecessary invasion into their home violated their civil liberties.<sup>39</sup> Although no drugs were found, the police defended their decision to conduct the raid based on the neighbor’s tip. The Regional Director of the Pennsylvania Bureau of Narcotics Investigations, Phoebe Teichert, reasoned that “had we not taken action and something

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<sup>35</sup> Balko, “Overkill,” 2006, 6.

<sup>36</sup> Balko, “Overkill,” 2006, 6.

<sup>37</sup> “Poisoning our Police,” *POGO*, 2020.

<sup>38</sup> Balko, “Overkill,” 2006, 11.

<sup>39</sup> John Cheves, “Drug Raid Upsets Innocent Family Allentown Couple Contends Authorities Didn’t Do Homework,” *The Morning Call*, July 20, 1993.

terrible had happened, there would have been a public outcry against us.”<sup>40</sup> Essentially, law enforcement officers were arguing that invading people’s homes was a necessary preventive act for the greater good or public safety.

Police departments even authorized raids on entire communities to curb criminal activity. These sweeping raids often targeted communities of color and lower-income communities. Once such large-scale drug raid occurred in San Francisco on October 30, 1998. Over 90 law enforcement officers raided the MLK – Marcus Garvey Square Cooperative apartments, indiscriminately kicking in doors and holding people at gunpoint.<sup>41</sup> The Deputy Police Chief Richard Holder defended the raid, arguing that the “drug dealers and gang members”<sup>42</sup> were ultimately responsible for breaking the law. It did not matter that many innocent people’s homes were invaded, the mere suspicion of criminal activity justified aggressive action. Innocent and nonviolent civilians continued to be subjected to great terror and trauma as the police hunted for drugs.

Growing opposition to NKWs and the number of botched raids presented an opportunity for the Supreme Court to reconsider its relaxation of Fourth Amendment principles. However, the Court continued to expand the circumstances in which law enforcement could reasonably execute NKWs under the Fourth Amendment.

#### *Wilson v. Arkansas (1995)*

*Wilson v. Arkansas* further expanded the circumstances in which a NKW is considered reasonable. After Sharlene Wilson sold narcotics to undercover agents, the

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<sup>40</sup> Cheves, “Drug Raid Upsets Innocent Family,” 1993.

<sup>41</sup> James Kilgore, “The War on Drugs,” in *Understanding Mass Incarceration: A People’s Guide to the Key Civil Rights Struggle of Our Time* (New York: The New Press, 2015), 64.

<sup>42</sup> Susan Sward, “Claims Against S.F. in Cop Raid Case / Police turned co-op into ‘Vietnam,’ Residents say,” *SFGATE*, April 29, 1999.



police obtained a warrant for her arrest and to search her home. Upon arriving at her residence, the main door was open. The police opened the screen door, entering Wilson's home without knocking or announcing themselves. They arrested Wilson and discovered substantial amounts of illegal drugs. Wilson petitioned to have the evidence suppressed due to the police's failure to knock and signal their presence before entering. The Supreme Court focused on whether police officers must knock and announce themselves in order for a search to be reasonable under the Fourth Amendment.

In a unanimous decision, the Supreme Court concluded that "the common-law knock and announce principle forms a part of the Fourth Amendment reasonableness inquiry."<sup>43</sup> Failure by police to knock and announce must be considered in the analysis of whether a search warrant is reasonable under the Fourth Amendment. The reasonableness of the search then determines the admissibility of evidence.<sup>44</sup> The *Wilson* decision formally recognized the knock-and-announce rule as part of the Fourth Amendment question.

While the Supreme Court highlighted the knock-and-announce rule, it also stressed the circumstances in which officers can ignore it. In his majority opinion, Justice Clarence Thomas explained that "the Fourth Amendment's flexible requirement of reasonableness should not be read to mandate a rigid rule of announcement that ignores countervailing law enforcement interests."<sup>45</sup> In other words, police officers have broad authority to ignore the knock-and-announce rule when they feel threatened or suspect evidence may be destroyed. The Supreme Court left lower courts to determine which

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<sup>43</sup> "Wilson v. Arkansas," *Oyez*, accessed April 5, 2022.

<sup>44</sup> Philip S. Jackson, "Wilson v. Arkansas: The 'Knock & Announce' Renaissance," *University of Baltimore Law Forum* 26, no. 2 (1996): 16.

<sup>45</sup> *Wilson v. Arkansas*, 514 U.S. 927 (1995).

additional circumstances warrant an unannounced entry. The Supreme Court would continue interpreting the Fourth Amendment loosely and prioritize maintaining police authority to invade people's homes. Just between *Ker* and *Wilson*, the Supreme Court endowed police with leeway to enter homes unannounced and without a warrant.

*Richards v. Wisconsin* (1997)

*Richards v. Wisconsin* expanded police authority to execute search warrants even further. The police's initial request for a no-knock warrant was rejected by a magistrate. When police knocked on Steiney Richards' hotel door, they identified themselves as hotel custodians. When Richards saw the police officers, he slammed the door shut, causing the officers to kick the door in. The police caught Richards attempting to flee and found illegal drugs in the room. The questions before the Court were whether the no-knock entry was reasonable and whether the Fourth Amendment permits a blanket exception to the knock-and-announce rule in narcotics investigations.

The Wisconsin Supreme Court, along with several other states, had previously concluded that the "special circumstances of today's drug culture"<sup>46</sup> justified a blanket exception to the knock-and-announce rule in felony drug cases. In a unanimous decision, the Supreme Court held that the Fourth Amendment does not permit a blanket exception to the knock-and-announce requirement. The reasonableness of a no-knock entry must be determined on a case-by-case basis. While the Supreme Court rejected the blanket exception, it further advanced police authority to exercise independent judgement when executing search warrants.

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<sup>46</sup> *Richards v. Wisconsin*, 520 U.S. 385 (1997).

Despite the police officers' use of deception and force, the Supreme Court held that the entry was reasonable under the Fourth Amendment. Specifically, the officers' decision to enter was reasonable in the moment based on Richards' response. The Court elaborated that the magistrate "could not have anticipated in every particular the circumstances that would confront the officers"<sup>47</sup> upon arrival. Not only could officers override a magistrate's search warrant, but they could reasonably use deception and force under the Fourth Amendment. The *Richards* decision signaled that securing evidence for criminal prosecution was of the utmost importance, regardless of how officers go about it.

*Hudson v. Michigan* (2006)

*Hudson v. Michigan* involved the validity of evidence when police violate the knock-and-announce rule. Traditionally, evidence seized in an unlawful search cannot be admitted against the defendant in court. This standard, also known as the exclusionary rule, serves as a "legal incentive"<sup>48</sup> for police to comply with the knock-and-announce requirement, deterring unlawful searches and seizures and protecting individual liberty.

When executing a search warrant at Booker T. Hudson's residence, police did not wait enough time after knocking, before entering. The question before the Court was whether the exclusionary rule automatically applies when the knock-and-announce rule is violated. In a 5-4 decision, the Court held that evidence does not have to be excluded in all cases where police violate the knock-and-announce rule.

The majority argued that the only constitutional violation was the manner of entry. While the knock-and-announce principle prevents violence, protects property, and

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<sup>47</sup> *Richards v. Wisconsin*, 520 U.S. 385 (1997).

<sup>48</sup> *Hudson v. Michigan*, 547 U.S. 586 (2006).

ensures individual privacy, it was never “designed to prevent government from seeking or taking evidence described in a warrant.”<sup>49</sup> Since the interests violated in the case “have nothing to do with the seizure of evidence, the exclusionary rule is inapplicable.”<sup>50</sup> The logic follows that the police would have searched the premises and seized the criminal evidence regardless of the violation. According to the majority, the “substantial social costs”<sup>51</sup> associated with the suppression of evidence, including setting criminals free, trumped any deterrence benefits. In contrast, the dissenting Justices argued that the decision destroyed the “strongest legal incentive to comply with the Constitution’s knock-and-announce requirement.”<sup>52</sup> The Supreme Court made it extremely easy for law enforcement to invade people’s homes and justify the act after the fact.

Justice Scalia argued that police misconduct may be alternatively deterred through civil suits. He also claimed that the “increasing professionalism of police forces, including a new emphasis on internal police discipline,”<sup>53</sup> fostered accountability. These ideas regarding consequences and accountability for police misconduct directly contradict current insight into law enforcement departments.

After a no-knock warrant is executed, the narrative of events between police and civilians are often disputed. As technology has developed, policies requiring officers to wear body-cameras during search warrants have been adopted to promote police accountability. When a botched raid occurs, legal actors often request the video footage in hopes that it will expose police misconduct or help pressure governments to pass

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<sup>49</sup> “Hudson v. Michigan (2006),” in *Encyclopedia of the Fourth Amendment*, edited by John R. Vile and David L. Hudson Jr. Washington, D.C.: CQ Press, 2013.

<sup>50</sup> *Hudson v. Michigan*, 547 U.S. 586 (2006).

<sup>51</sup> “Hudson v. Michigan (2006),” in *Encyclopedia of the Fourth Amendment*, 2013.

<sup>52</sup> *Hudson v. Michigan*, 547 U.S. 586 (2006).

<sup>53</sup> *Hudson v. Michigan*, 547 U.S. 586 (2006).

reform. The officers involved in Breonna Taylor's death did not utilize body-cameras. Without video footage, police can hardly be held accountable for any misconduct. Investigations into botched raids may rely on incident reports to piece together the full story. However, the initial incident report after the LMPD's raid on Breonna Taylor's apartment was nearly blank. Although Breonna Taylor was shot several times, the incident report cites that there were no victim injuries.<sup>54</sup> If there is no requirement or incentive for police to accurately detail an incident, it is nearly impossible to hold officers accountable. Uncertainties in police conduct while in private property has increased public distrust and fear of encounters with law enforcement.<sup>55</sup>

The bar for charging and convicting police officers is higher than the bar for regular citizens because police are expected to act in the interest of public safety.<sup>56</sup> Additionally, the Fraternal Order of Police provides officers involved in criminal proceedings with significant assistance and resources. Beyond giving officers the benefit of the doubt or the resources available to officers during legal proceedings, it is unlikely that an officer will be convicted and charged for a tactic that the Supreme Court has recognized as judicially sound and the federal government continues to endorse in the name of public safety.

### **Modern Considerations of No-Knock Warrants**

People often assume that NKWs will never happen to them. However, simple mistakes and uncorroborated information can lead the police to break down anyone's door. In 2008, a Prince George SWAT team in Maryland invaded the home of local

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<sup>54</sup> LMPD, "Incident/Investigation Report," March 13, 2020.

<sup>55</sup> The Justice Collaborative Institute, "End No-Knock Raids," *Data for Progress*, June 2020: 2.

<sup>56</sup> Rashawn Ray, "How Can We Enhance Police Accountability in the United States?" *Brookings*, August 25, 2020.

Mayor, Cheye Calvo. After shooting both of Calvo's dogs, the police tied him and his wife up for roughly four hours.<sup>57</sup> The police were following a package containing marijuana, which ended up on Calvo's doorstep. Both the Mayor and his wife were cleared of any wrongdoing soon after the raid.

In 2003, the New York Police Department estimated that of more than 450 NKWs, 10% were conducted at the wrong address.<sup>58</sup> Assuming the data is accurate, a minimum of 45 people were subjected to great terror and trauma for no reason. Hundreds of NKWs are executed at the wrong address or based on false information across the country. There have even been instances where police exaggerate or lie about information to secure a NKW. For example, in 2006, several Atlanta police officers coerced a suspected drug dealer to give them information on a local drug operation. The informant pointed to Kathryn Johnston, a 92-year-old woman who did not use or deal drugs. The officers then lied to a judge to secure a warrant, claiming they had purchased drugs directly from Ms. Johnston.<sup>59</sup> Ms. Johnston was shot five times when the police invaded her home. When the police found no drugs, they planted evidence and attempted to coerce another individual into testifying that Ms. Johnston sold drugs. Three of the Atlanta officers ultimately pled guilty to conspiracy to violate civil rights, resulting in Ms. Johnston's death.<sup>60</sup>

No-knock police raids have consistently subjected innocent civilians with no history of violence to great terror and trauma. In 2010, a Detroit SWAT team executed a

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<sup>57</sup> "Mayor's Home Ransacked in Botched Police Raid," *NPR*, February 23, 2009.

<sup>58</sup> Dara Lind, "Cops do 20,000 No-Knock Raids a Year. Civilians Often Pay the Price When They Go Wrong," *Vox*, May 15, 2015.

<sup>59</sup> Vin Suprynowicz, "What's the Problem with 'No-Knock' Searches? They Tend to get People Killed," *Las Vegas Review-Journal*, June 3, 2007.

<sup>60</sup> "Three former Atlanta Police Officers Sentenced to Prison in Fatal Shooting of Elderly Atlanta Woman," *Department of Justice News*, February 24, 2009.

search warrant at the wrong address and killed 7-year-old Aiyana Stanley Jones.<sup>61</sup> In 2014, a Georgia SWAT team mistakenly invaded a family's home. The SWAT team used a flashbang grenade, which detonated in 19-month-old Bounkham Phonesavanh's playpen,<sup>62</sup> resulting in severe injuries, including cuts and burns that exposed his ribs. In 2019, Chicago police executed a NKW based on faulty information. The officers invaded Anjanette Young's home, handcuffing her while naked. The officers left her handcuffed for roughly an hour as they searched for drugs, which they did not find. Anjanette Young said, "there's no amount of money that will right this wrong."<sup>63</sup> Many victims of NKWs prefer comprehensive reform that will prevent future tragedies and injustice.

### **Breonna Taylor and Calls for Reform**

Proponents of NKWs argue that banning them will enhance the risk of serious injury or death for police officers. An unannounced entry gives officers an advantage against dangerous criminals, especially when carrying military-grade weapons.<sup>64</sup> In contrast, those opposed to NKWs argue that there is too much room for confusion and error.<sup>65</sup> In addition to the risks of serious injury or death, no-knock raids "erode trust in police and increase significantly the trauma and stress of communities that are already over-policed."<sup>66</sup>

Many states reconsidered NKWs after Breonna Taylor's death. As of January 2021, various legislation banning or restricting no-knock warrants has been introduced in

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<sup>61</sup> Charlie LeDuff, "What Killed Aiyana Stanley-Jones?" *Mother Jones*, November 2010.

<sup>62</sup> Kevin Sack, "Door-Busting Drug Raids Leave a Trail of Blood," *New York Times*, March 18, 2017.

<sup>63</sup> The Associated Press, "Woman in Botched Police Raid: Money won't right this wrong," *ABC News*, January 21, 2022.

<sup>64</sup> Balko, "No-Knock Warrants: How Common They Are and Why Police Are Using Them," 2020.

<sup>65</sup> "End No-Knock Raids," *Data for Progress*, 9.

<sup>66</sup> "End No-Knock Raids," *Data for Progress*, 9.

twenty-two states and twenty cities.<sup>67</sup> For example, the Louisville Metro Council banned no-knock warrants in the immediate aftermath of Breonna Taylor’s death. The city of Lexington, KY followed suit, also banning NKWs. Kentucky state legislators developed bills to address the dangers of no-knock raids. The original bill, entitled “Breonna’s Law,” did not gain bipartisan support because it would ban the tactic statewide, and some officials maintain that NKWs are necessary in certain circumstances. Senate Bill 4 (SB4) aims to limit NKWs and reduce fatalities by requiring emergency medical technicians to be on-site whenever a NKW is conducted. Critics of SB4 argue that the measures did not go far enough to curb the risks associated with NKWs.<sup>68</sup>

Various organizations have made it their mission to ban NKWs entirely. The organization #EndAllNoKnocks encourages individuals to contact their elected officials to advocate for reform. Their website asserts that 59% of U.S. voters support banning NKWs.<sup>69</sup> Another study by the *Morning Consult* found that 64% of respondents support banning NKWs, including 75% of Democrats and 52% of Republicans.<sup>70</sup> Additionally, 58% of Americans say policing needs major changes.<sup>71</sup> At least four states have banned NKWs, including Florida, Oregon, Connecticut, and Virginia.<sup>72</sup> Other states, like Kentucky, have restricted NKWs to certain circumstances. It is important to note that

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<sup>67</sup> Task Force on Policing, “No-Knock Warrants and Police Raids,” *Council of Criminal Justice*, January 2021.

<sup>68</sup> Carmen Mitchell, “SB4 Would Limit No-knock Warrants and Reduce Harm, but New Amendments Undermine Positive Impact,” *KyPolicy*, March 14, 2021.

<sup>69</sup> “No-Knock Raids Have Terrorized Our Communities for too Long,” *End All No Knocks*, accessed March 23, 2022.

<sup>70</sup> Eli Yokley, “Both Democratic and GOP Voters Back Bans on Chokeholds, No-Knock Warrants,” *Morning Consult*, June 24, 2020.

<sup>71</sup> Steve Crabtree, “Most Americans Say Policing Needs ‘Major Changes,’” *Gallup*, July 22, 2020.

<sup>72</sup> Peter Nickeas, “There’s a growing consensus in law enforcement over no-knock warrants: The risks outweigh the rewards,” *CNN*, February 12, 2022.



local and statewide restrictions or bans do not prevent federal law enforcement from executing NKWs.

After the death of George Floyd and Breonna Taylor, the city of Minneapolis pledged to limit the use of NKWs. However, not even two years later, another young, innocent person was killed because of a NKW. A 22-year-old Black man, named Amir Locke, was fatally shot in an apartment in Minneapolis, MN.<sup>73</sup> The family attorney Ben Crump said: “If we learned anything from Breonna Taylor it is that no-knock warrants have deadly consequences for innocent, law-abiding Black citizens.”<sup>74</sup> As the number of tragedies resulting from NKWs continue to increase, calls for reform persist.

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<sup>73</sup> Holly Bailey, “What to know about the police shooting of Amir Locke, the Minneapolis man killed during a ‘no-knock’ raid,” *Washington Post*, February 15, 2022.

<sup>74</sup> Jon Collins, “Locke Family: Amir law-abiding, ‘loved by all’; attorneys blast no-knock entry,” *MPR News*, February 4, 2022.

## RESEARCH DESIGN AND SURVEY RESULTS

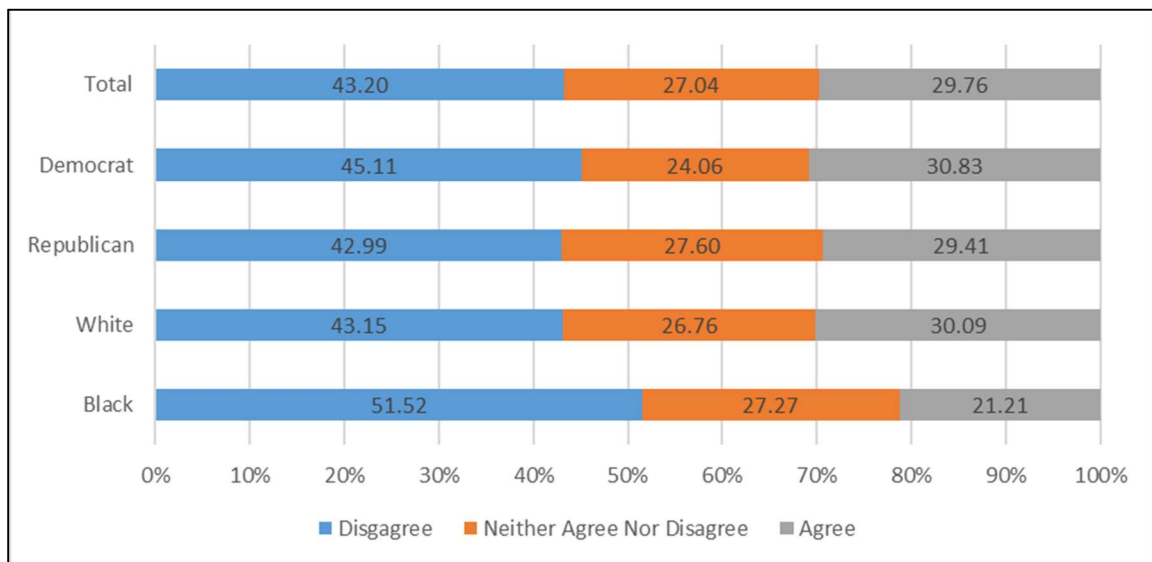
To further analyze perceptions of no-knock warrants, I conducted an original web survey in the United States through Qualtrics using quota sampling. In June 2021, 625 American respondents completed the survey. The survey included demographic questions and questions regarding the respondents' opinions on the use of no-knock warrants and potential reform measures. Respondents evaluated several questions using a five-point Likert scale, ranging from (1) strongly disagree to (5) strongly agree. When analyzing the data, the five-point scale was recoded to three categories, combining "strongly disagree" with "disagree" and "strongly agree" with "agree." Respondents were provided the following information at the outset:

No-knock warrants allow police to forcibly enter a residence unannounced. The knock-and-announce requirement for search warrants is overruled when officers face a threat of violence, or the suspect is likely to flee or destroy evidence.

Respondents were first asked to evaluate the statement, "I support no-knock warrants." Overall, a plurality of total respondents (43.2%) said they disagree with the statement. There was not a substantial partisan or racial distinction. In fact, there was only slightly greater opposition among Democrat (45.11%) respondents compared to Republican (42.99%) respondents. There was also only slightly greater opposition among Black (51.52%) respondents compared to their white (43.15%) counterparts. Ultimately, the most common response in every group was to express disapproval for no-knock warrants. Such broad opposition to a standard police tactic is noteworthy.

The percentage of respondents who were supportive and indifferent to no-knock warrants were roughly equal in size. This indifference could be attributed to respondents wanting more context before accepting or rejecting a common police tactic. Fourth Amendment cases are to be decided on a case-by-case basis, according to the Supreme Court. The public seems to agree with the Court that no-knock warrants are justifiable in some circumstances and not others.

**Figure 1: I Support No-Knock Warrants**



Next, I included an experimental design question to assess in which circumstances respondents find the use of no-knock warrants acceptable. Respondents were randomly assigned one of the following six prompts to evaluate. The first version serves as a baseline, concerning the justifiableness of no-knock warrants in general. The subsequent versions are conditional based on presumed criminal acts.

*V1: No-knock warrants are justifiable.*

*V2: No-knock warrants are justifiable in drug possession cases.*

*V3: No-knock warrants are justifiable in human trafficking cases.*

*V4: No-knock warrants are justifiable in murder cases.*

*V5: No-knock warrants are justifiable in terrorism cases.*

*V6: No-knock warrants are justifiable in cases like Breonna Taylor's.*

I found a statistically significant difference between support under V3 (human trafficking) compared to V1, and under V5 (murder) compared to V1. Although the remaining versions are not statistically significant, the question still produced interesting results.

Support for no-knock warrants clearly varies by circumstance. A majority indicated that no-knock warrants are justifiable in cases involving human trafficking (66.35%) and terrorism (59.05%). Both human trafficking and terrorism are the type of criminal acts that no-knock raids were originally designed to address. Unannounced entries are acceptable in situations involving exceptional violence and societal harm. However, no-knock warrants are most used in narcotics investigations.<sup>75</sup> The data indicates a clear distinction in how respondents view human trafficking and terrorism cases compared to drug-related cases. The Supreme Court argues that drug dealers are often armed, making them exceptionally dangerous to police officers and society at large. However, respondents do not associate the same danger with drug-related cases.

While 44.66% agreed that no-knock warrants are justifiable in drug possession cases, only 33.66% agreed that no-knock warrants are justifiable in cases like Breonna Taylor's. The prominence of Breonna Taylor's case likely influenced respondents. People

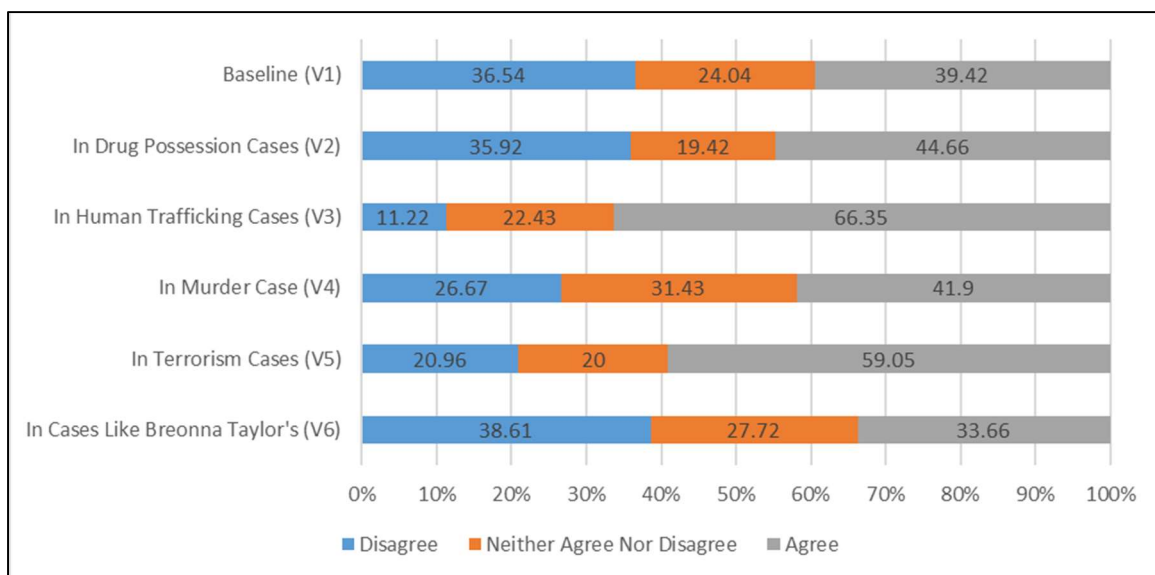
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<sup>75</sup> Radley Balko, "No-Knock Warrants: How Common They Are and Why Police Are Using Them," interview by Mary Louise Kelly, *All Things Considered*, NPR, June 12, 2020.

are less likely to support a police tactic when confronted with a well-known case where an individual lost their life.

Overall, there is an acknowledgement that no-knock warrants may be necessary in certain circumstances. However, high-profile tragedies, like Breonna Taylor’s, decrease public support for police tactics. For example, the Louisville Metro Council unanimously voted to ban no-knock warrants after the tactic resulted in the death of a local civilian.<sup>76</sup> As tragedies due to no-knock warrants mount, civilians fear the possibility of similar incidents in their own communities. This fear lends support to policies restricting the use of common police tactics.

**Figure 2: No-Knock Warrants are Justifiable**



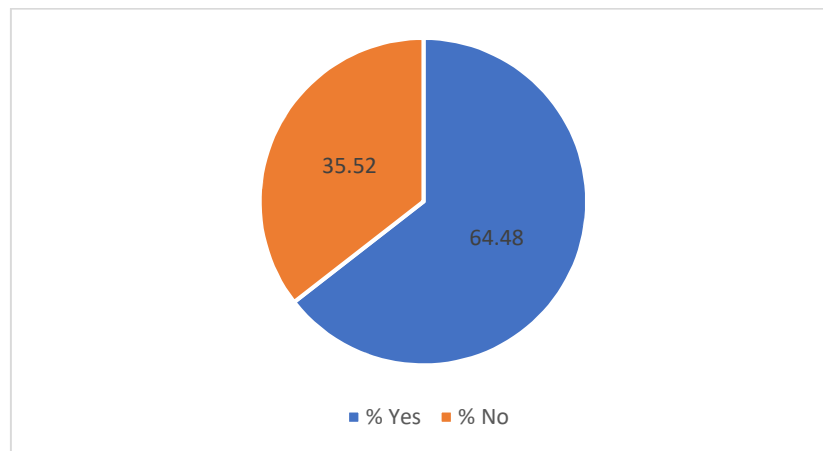
<sup>76</sup> Alisha Haridasani Gupta and Christine Hauser, “New Breonna Taylor Law Will Ban No-Knock Warrants in Louisville, KY,” *New York Times*, September 15, 2020.

Next, respondents were asked if recent Kentucky legislation was an effective measure of reducing fatal encounters when police execute no-knock warrants. They were provided the following information:

Kentucky recently passed a law, restricting the use of no-knock warrants. No-knock warrants may be executed, but only in extreme circumstances and within a narrower time frame. Emergency medical technicians are required on-site when a no-knock warrant is executed.

Overall, a majority of respondents (64.48%) believed the legislation to be an effective means of reducing fatal encounters. White (64.32%) and Black (65.15%) respondents alike indicated support for the legislation. Democrats (64.66%) and Republicans (63.35%) indicated similar support. This broad support along demographics suggests that Americans favor policies or restrictions that reduce fatal encounters with police. However, the policies in which Americans support vary widely.

***Figure 3: Effectiveness of KY Legislation***



Many policies aim to increase police accountability, addressing current misconduct while deterring future misconduct. Respondents were asked which one of the following suggested reforms would be most effective in increasing police accountability:

1. Creative civilian boards to review public complaints of police misconduct.
2. Require officers to use body-cameras.
3. Press criminal charges against police officers who use deadly force.
4. Expand public access to police officer disciplinary records.
5. Don't know / No opinion

A plurality of total respondents (41.6%) indicated that requiring officers to use body-cameras would be most effective in increasing accountability. This policy is not new. After Michael Brown's death at the hands of police in 2014, the Obama administration allocated \$23 million to help law enforcement agencies purchase body-worn cameras.<sup>77</sup> By 2016, roughly half of American police departments obtained the cameras.

In cases like Breonna Taylor's, body-cameras were not utilized. As a result, several facts of the case are uncertain. As previously mentioned, the officers insist they announced themselves at the door, but Breonna Taylor's boyfriend insists they did not. This crucial factor now rests on a witness, who provided inconsistent statements. Video footage has the potential to corroborate evidence. In such high-profile cases, transparency is preferred. However, in terms of accountability, many studies suggest that body-cameras do not have a significant effect on police behavior.<sup>78</sup> The effectiveness of body-

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<sup>77</sup> Lindsey Van Ness, "Body Cameras May Not Be the Easy Answer Everyone Was Looking For," *PEW*, January 14, 2020.

<sup>78</sup> Van Ness, *PEW*, 2020.

cameras depends on how police use them, including when the camera is turned on, whether police review the footage before writing incident reports, and whether footage is released to the public. Simply requiring police to wear body-cameras does not alter their behavior nor prevents misconduct or subsequent tragedy.

Only 21.28% of respondents indicated that pressing criminal charges against police officers who use deadly force would be most effective in increasing accountability. This result is interesting, considering the numerous calls to prosecute the officers involved in Breonna Taylor's case. Less than 15% of respondents indicated that civilian review boards or increasing access to police disciplinary records would be most effective in increasing police accountability.

To further gauge public perceptions of police accountability, respondents were asked, "How confident are you that police officers who use excessive force against civilians will face consequences?" Overall, respondents indicated low levels of confidence that police would be held accountable for excessive force. Such low confidence likely has to do with previous cases of police brutality where officers were not charged or punished for severe injury or murder. These low levels of confidence challenge the assumptions Justice Scalia put forth in *Hudson v. Michigan* (2006) about accountability measures within police departments. The public does not share Justice Scalia's confidence that police will be held accountable when people are severely injured or killed because of a NKW.



**Figure 4: Confidence in Consequences for Police Excessive Force**



Since law enforcement is charged with ensuring public safety, it is important to consider how the public views common police tactics. Public opinion can provide meaningful insight into police-community relations, especially since public opinion on law enforcement actions does not always coincide with legal or government policies. For instance, the Supreme Court expects a high level of danger in narcotics investigations. However, the public does not view drug-related cases to be as dangerous as cases involving terrorism or human trafficking. Such trends are important to consider when pursuing police reform.

## CONCLUSION

Between Supreme Court precedent and executive campaigns, the U.S. federal government has continued to endorse and uphold the practice of NKWs. Together, *Ker v. California* (1962), *Wilson v. Arkansas* (1995), *Richards v. Wisconsin* (1997), and *Hudson v. Michigan* (2006) demonstrate an enduring shift of Supreme Court practice from protecting fourth amendment rights to preserving evidence for criminal prosecution. The Supreme Court has made it easy and commonplace for police to claim exigent circumstances in narcotics investigations, justifying unannounced entries. Additionally, the federal government's War on Drugs stoked public fears about crime, legitimizing NKWs as a tough-on-crime tactic. As a result, NKWs are no longer a last-resort tactic reserved for the most egregious crimes or exceptionally violent offenders. NKWs are regularly employed in routine search warrants, and police are explaining the circumstances and justifying their actions in court after the fact.<sup>79</sup>

The federal government's authorization of NKWs clashes with public opinion in several areas regarding the tactic and reform measures. Public support for NKWs hinge on specific circumstances and presumed criminal acts. Since the Supreme Court has held that the reasonableness of no-knock entries is to be determined on a case-by-case basis, there is an assumption that each case is reviewed with a certain level of judicial scrutiny.

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<sup>79</sup> Balko, *Rise of the Warrior Cop*, 93.

However, research by the *Washington Post* demonstrates that judges generally trust police and rarely question the merits of requests.<sup>80</sup> The *Washington Post* found that between 2016 and 2018, judges in Little Rock, Arkansas approved 103 of 105 of the NKWs requested by police.<sup>81</sup> The *Denver Post* found that NKWs are approved with such regularity that judges issue NKWs even when police request regular search warrants.<sup>82</sup> Judicial officials routinely grant requests for NKWs without corroborating or scrutinizing the evidence.

Deference to law enforcement in the form of flexible precedents for NKWs recognize that police occasionally have to make split-second decisions in exigent circumstances. NKWs may have a place in law enforcement for cases involving human trafficking or terrorism, but not for narcotics investigations. The public does not associate the same level of danger in narcotics investigations as it does in human trafficking or terrorism cases. For many people, executing NKWs to preserve criminal evidence is not worth the risks of property damage, unnecessary violence, and tragedy for civilians and law enforcement.<sup>83</sup>

Although people typically favor reducing fatal encounters with police, the federal government continues to uphold and endorse aggressive tactics in the name of public safety. When the highest court in the land deems a tactic judicially sound, there are few incentives for reform. Additionally, the success rates of the practice are largely unknown

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<sup>80</sup> Nicole Dungca and Jenn Abelson, “No-knock Raids Have Led to Fatal Encounters and Small Drug Seizures,” *Washington Post*, April 15, 2022.

<sup>81</sup> Radley Balko, “How Little Rock’s Illegal Police Raids Validate the Exclusionary Rule,” *Washington Post*, October 19, 2018.

<sup>82</sup> David Migoya, “Judges Rubber-Stamp No-Knocks: Easy Approval Among Flaws in Process, Records Show,” *Denver Post*, February 27, 2000.

<sup>83</sup> Lisa Rosborough, “No-Knock Warrants – Are they Worth the Risk? Should they Go Away?” *Houston Public Media*, February 11, 2022.

because there is little data kept on search warrants. NKWs will continue to result in tragedies and injustice because the federal government has created a flexible precedent for the tactic.

The federal government's endorsement of NKWs as a legitimate law enforcement tool raises questions about institutional racism. High-risk searches disproportionately target Black and Hispanic homes.<sup>84</sup> Violence resulting from NKWs is just one form of police brutality against under-represented communities.

This thesis shows that acquiring evidence for narcotics convictions seems to take priority over the safety and civil rights of individual American citizens. High-profile tragedies resulting from NKWs influence public opinion about the tactic. Widespread protests after tragedies like Breonna Taylor's and Amir Locke's<sup>85</sup> suggest that the tactic should be re-evaluated. Americans are open to reform to reduce fatal encounters with police. The ways in which communities are policed can always be improved.

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<sup>84</sup> Nicole Dungca and Jenn Abelson, "No-knock Raids Have Led to Fatal Encounters and Small Drug Seizures," *Washington Post*, April 15, 2022.

<sup>85</sup> "Police Killing of Amir Locke Spurs More Protests in Minneapolis Amid Calls to End No-Knock Warrants," *CBS News*, February 7, 2022.

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