**The No-Knock Warrant and Its Origins in the**

**Race-Baiting Politics of the Law and Order Movement**

In the wake of the killing of Breonna Taylor and the ensuing protests related to it, new critical attention has recently been focused on the policy of judicially granted No-Knock Warrants. Although it is now disputed whether the police in her case actually did announce themselves before entering, their raid on her home had been authorized by a judge as a no-knock warrant and now joins a long list of violent and destructive outcomes related to the policy. One could argue them to be patently unjust insofar as they badly fail to meet what philosopher John Rawls called the “Original Position” test. According to Rawls we may judge things to be just or not based on an intuitive “open forum” thought experiment involving our imagining ourselves each in an “original position” of not knowing whether in this life we will be rich or poor, of favored or unfavored birth, male or female, etc. Deeming all things as just or unjust from this position, we are rationally motivated to hedge our bets to assure one class of people will not be arbitrarily or unfairly privileged over any other. Arguably, whatever tendency we may have to favor no-knock warrants has to do with the tacit assumption that they will not occur to us, to our loved ones, or in our neighborhoods. Otherwise, their reckless and escalatory nature would be blatantly clear and we would oppose them. This should be enough to warrant our opposition to the policy even if it were not the case, as we shall see it is, that the policy was conceived in the first place to be racially divisive in order to yield a political boon.

Sane minds struggle to grasp the logic of this policy, which though it was conceived in controversy, has made its way into common usage in many states, while only officially banned in two (Oregon by the legislature; Florida by judicial order). The rationale for No-Knock raids comes from legislative language stipulating exceptions to the more ordinary Knock-and-Announce policy, which countenances two reasons to forego announcement before initiation of forceful entry by law enforcement: to prevent danger to officers and to prevent the destruction of evidence. In the absence of No-Knock warrants, there will still be instances where raids are initiated without knocking and announcing, and these are adjudicated later in courts of law on a case by case basis. The No-Knock warrant, on the other hand, gives prior legal justification to unannounced raids.

One wonders, in particular, what kinds of danger there could be, whether to officers or to other human beings and property, that could be reliably averted by forced no-knock entry without at the same time introducing even greater dangers to all persons and property involved. In fact, in the period from 2010-2016 alone, this policy caused the death of 81 civilians and 13 officers, more than half the civilians being minorities, most of whom were Black. Criminologist Radley Balko estimates that 8 “perfectly innocent” citizens each year die from these raids, along with 20-30 others who are either police officers or suspects.

No-knock raids are typically associated with SWAT (Special Weapons and Tactics) teams. These became popular after Los Angeles police chief Daryl Gates, seconding a proposal of an aide, created the first of these teams after the Watts Riot of 1965, even doing the honors of coming up with the name SWAT, originally intended by him to stand for “Special Weapons Attack Team”. That is the same Daryl Gates whose racially divisive and escalatory policies instituted over the course of his tenure in the L.A. law enforcement hierarchy from 1965 to 1992 are widely blamed for the Rodney King riot of 1991, the worst riot of our times. In 2005, SWAT teams were deployed 50,000 times in this country, 80% of the time to serve warrants, usually for drug offenses. More specifically, 45,000 no-knock warrants were issued in 2010.

If one assumed that judicially warranted No-Knock raids had originated in the laboratory of criminologists studiously seeking better ways to fight crime, one would be sadly mistaken. In fact, the idea arose in the sixties in the murky waters of political campaigning in the heyday of the Law and Order movement, which now after having lain fallow in presidential politics for some time has recently been resurrected by President Trump in his bid for re-election.

The first modern Law and Order campaigning arose in the 60’s during the time of racially charged riots that usually were triggered by or exacerbated by bad relations between police and the African American community. It was then when politicians with presidential aspirations such as Richard Nixon, Nelson Rockefeller, and Ronald Reagan recognized that the fear incited in White America by these riots could be manipulated for political gain. Alternately titled “The War on Drugs” the Law and Order movement was a textbook application of the Wedge Strategy, in this case aimed at dividing whites from blacks and motivating whites to vote Republican based on these stoked fears. It worked to elect both Nixon and Reagan twice, and helped Rockefeller keep his presidential hopes alive. As governor of New York, he passed the now notorious Rockefeller Drug Laws of 1973, which by the year 2000 had resulted in a doubling and more of total state incarcerations a whopping 90% of which were Black or Hispanic males. The irony of this is that his advocacy of these laws had represented a sudden about-face from a previous political career of championing rehabilitation, job training and housing strategies as the way to prevent crime.

As reported by the aforementioned Radley Balko in his work The Rise of the Warrior Cop, (2013), the idea of the No-Knock warrant first came up in the discussion of campaigning strategy in the Nixon camp. It was first suggested by an aide in the context of pursuing the Law and Order campaign strategy and later pounced upon and pushed into federal law by the Nixon administration in 1970, at the time only famously opposed by Senator Sam Ervine of North Carolina. So bad were the results of this legislation, however, whose application had been mainly limited to Washington D.C. - which at the time was 71% Black - that it was later unceremoniously repealed by Congress in 1975 and dutifully signed into law by President Ford. Since then it has never made its way back into federal law. Bear in mind that Ford himself had been a big player of the Law and Order game, as witnessed in his quote on the floor of Congress dating to 1966:

 "How long are we going to abdicate law and order in favor of a soft social theory that the man who heaves a brick through your window or tosses a firebomb into your car is simply the misunderstood and underprivileged product of a broken home?"

At the time of its revocation as a federal statute in 1975, there as yet existed no state laws authorizing No-Knock warrants. Then with Reagan’s election into office in 1980, laws began to go on the books in state after state, and their utilization skyrocketed in tandem with the popularity of SWAT teams, until we ended up with the numbers cited above.

Lest any of us might yet wonder whether there may be a core of innocence to the advent of the Law and Order movement in this country, consider the following unsolicited quote from former Nixon cabinet member John Ehrlichman from 1994, regarding Nixon’s “war on Drugs”:

“The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”

This was spoken to Dan Baum in 1994, who had been interviewing Ehrlichman for his work to be published two years later, Smoke and Mirrors: The War on Drugs and the Politics of Failure. The quotation itself was only made public in 2016 in Harper’s Magazine.

To be sure, there really was a crime problem in the Sixties, and politicking can’t be blamed for bringing it into existence altogether. But as we have been seeing recently, politics does have the nefarious ability to exacerbate crime, to escalate it by sowing divisions in the people. Using law enforcement tactics to do this is the abomination of abominations. The crime political messaging can cause is not only that caused by fomenting racial divisions, but also that “caused” by directing some segments of our society to be systematically over-policed while other segments are under-policed, thus projecting as a mirage crime statistics that do not represent the way things really are. The Law and Order movement is guilty of doing both of these things, both then and now. A first step in turning things around would be to abolish No-Knock warrants in this country from coast to coast.