



Fall 2020

Breonna's Law: The Genesis, Not the Culmination, for Policy Response to Violent Confrontation during No-Knock Search Warrants

Ethan S. Wilt
Gettysburg College

Follow this and additional works at: https://cupola.gettysburg.edu/student_scholarship

 Part of the [Other Public Affairs, Public Policy and Public Administration Commons](#), [Public Affairs Commons](#), [Public Policy Commons](#), [Race, Ethnicity and Post-Colonial Studies Commons](#), and the [Social Policy Commons](#)

Share feedback about the accessibility of this item.

Recommended Citation

Wilt, Ethan S., "Breonna's Law: The Genesis, Not the Culmination, for Policy Response to Violent Confrontation during No-Knock Search Warrants" (2020). *Student Publications*. 909.
https://cupola.gettysburg.edu/student_scholarship/909

This open access student research paper is brought to you by The Cupola: Scholarship at Gettysburg College. It has been accepted for inclusion by an authorized administrator of The Cupola. For more information, please contact cupola@gettysburg.edu.

Breonna's Law: The Genesis, Not the Culmination, for Policy Response to Violent Confrontation during No-Knock Search Warrants

Abstract

First, this paper constructs the background on search warrants, including the legal precedent, policy environment, and stakeholders involved. Second, and most importantly, it will analyze the outcomes, impacts, and, particularly, the disproportionate minority impact of each section of Breonna's Law. Lastly, this paper will contribute an informed assessment of the policy and further policy recommendations that can be taken into account to address the issue of violent confrontations and casualties, especially against people of color, during the execution of search warrants.

Keywords

Breonna Taylor, No-Knock Search Warrants, Breonna's Law, Police Procedure, Policy Analysis

Disciplines

Other Public Affairs, Public Policy and Public Administration | Public Affairs | Public Affairs, Public Policy and Public Administration | Public Policy | Race, Ethnicity and Post-Colonial Studies | Social Policy

Comments

Written for PP 221: Introduction to Public Policy

Creative Commons License



This work is licensed under a [Creative Commons Attribution 4.0 License](https://creativecommons.org/licenses/by/4.0/).

**Breonna's Law: The Genesis, Not the Culmination, for Policy Response to Violent
Confrontation during No-Knock Search Warrants**

Ethan S. Wilt

Department of Public Policy, Gettysburg College

PP 221: Intro to Public Policy

Professor Anne Douds

December 11, 2020

I affirm that I have upheld the highest principles of honesty and integrity in my academic work
and have not witnessed a violation of the Honor Code. **ESWilt**

Introduction

At around 12:40 a.m. on March 13, 2020, Louisville Metro police officers, equipped with a no-knock search warrant, began to knock on the door of Breonna Taylor's apartment. After a few knocks, one of the officers began to identify themselves as police serving a search warrant. These knocks startled both Breonna Taylor and her boyfriend, Kenneth Walker, who started yelling out asking who it was, which did not garner a response. After about a minute of no response, officers used a battering ram to force entry into the apartment while Taylor and Walker left the bedroom to try to answer the door with Walker grabbing his handgun. Walker, seeing the door busted open and still unaware of who was at the doorway, fired a warning shot, in self-defense, aimed at the ground. Officer Mattingly, along with Detectives Myles Cosgrove and Brett Hankison, returned by firing 32 rounds into the apartment. In the crossfire, Taylor was struck by five or six bullets in the hallway and officially pronounced dead at 12:48 a.m. At 3:53 a.m., sergeants of the Public Integrity Unit interviewed Walker, who insisted "the only reason I even had the gun out (was) because we didn't know who it was. If we knew who it was, that would have never happened" (Duvall, 2020).

Amid the nation's largest civil rights protest, Breonna Taylor represented another person of color killed at the hands of law enforcement, along with names such as George Floyd, Elijah McClain, Philando Castile, and so many others. Moreover, with the elevated attention towards the Black Lives Matter movement, protesters took to the streets to protest and advocate for justice and change on behalf of Breonna Taylor. Protesters and families of victims across the country placed substantial pressure on policymakers at the local, state, and federal level to enact policies aimed at combatting the proximate issue of police brutality while also bringing to the forefront the root causes associated with systemic racism and oppression of people of color in the United States.

Policymakers then are tasked with devising legislation and policies to satisfy the public, but it is critical to acknowledge that these policies will not solve systemic racism's inherent complexities. Instead, policymakers should focus on specific, timely, and achievable policies that can be measurable and significant to transform complex issues into complicated, but tangible solutions incrementally.

In the aftermath, on June 11, 2020, the Louisville Metro Council unanimously co-sponsored and voted in favor of *Breonna's Law*, an ordinance that would ban no-knock search warrants, regulate knock-and-announce search warrants more strictly, mandate body cameras during the execution of search warrants, and administer the Public Integrity Unit to process and rule on complaints and violations of the ordinance (*Breonna's Law*, 2020) This is in direct reaction to the killing of Taylor and represents policymakers' simplifying a highly complex issue and establishing baseline policy alternatives to address the crisis. The subsequent policy catalyzes the movement to ban no-knock search warrants and restore the eroded knock-and-announce rule into police procedure. This white paper will examine the crisis that was the tragedy of Breonna Taylor and the subsequent policy of *Breonna's Law*.

First, this paper constructs the background on search warrants, including the legal precedent, policy environment, and stakeholders involved. Second, and most importantly, it will analyze the outcomes, impacts, and, particularly, the disproportionate minority impact of each section of *Breonna's Law*. Lastly, this paper will contribute an informed assessment of the policy and further policy recommendations that can be taken into account to address the issue of violent confrontations and casualties, especially against people of color, during the execution of search warrants.

Background

Constitutional Stare Decisis

The application of knock-and-announce rulings can be traced back to English common law with *Semayne's Case*, which established the precedent requiring law enforcement, id est government, to knock-and-announce before gaining entry into a home (Blakey, 1964). The framer's utilized this precedent to ingrain the right of the people to be secure against unreasonable searches and seizures, known as the *Fourth Amendment*. It was not until 1958 that the Supreme Court, in *Miller v. the United States*, affirmed this right by decreeing the requirement of notice in the form of an express announcement of purpose is required before police gain entry into the home (Blakey, 1964; Sack, 2017). However, five years later in *Kev v. California*, the Court ruled that the rule of announcement was subject to an exception based on the reasonable possibility that evidence may be destroyed, which opened the flood gates to erosion of the exclusionary rule (Blakey, 1964).

In 1995, the Supreme Court ruling, *Wilson v. Arkansas*, further codified the exception that announcement is flexible in situations where exigent circumstances make it necessary for officers to enter premises without announcement, such as the risk of danger or safety and the imminent destruction of evidence (Philbin, 2002). In *Richards v. Wisconsin*, the Court upheld the constitutionality of no-knock search warrants by states, and state magistrates, if peace officers ahead of time expressed a reasonable suspicion that entry without announcement would be the most appropriate option (Philbin, 2002). Finally, the court, in *Hudson v. Michigan* (2006), attested that the Constitution does not require the exclusion of evidence to remedy knock-and-announce violations and completed the erosion of the exclusionary rule from the proceedings of police when executing search warrants, particularly no-knock search warrants (Reddish, 2016).

This erosion of knock-and-announce has increasingly come into conflict with the castle doctrine, which entitles the presumption that a home resident who kills an intruder was reasonable to fear bodily harm, even if the intruder does not attack (Reddish, 2016). This maxim also has its roots in *Semayne's Case* since one of the propositions asserts “every man’s house is his castle, and defense of that house may extend even to death, and it is not a felony” (Blakey, 1964). It is imperative to consider the historical and constitutional underpinnings of searches and seizures since the tragedy of Breonna Taylor is an exemplar of the conflict between no-knock warrants and the castle doctrine. With no-knock warrants and the castle doctrine, also manifesting itself in stand-your-ground laws, at deadly odds with each other, a resolution is necessary to remedy the future loss of life, such in the case of Taylor, and the first step should be the banning of no-knock search warrants.

Origin, Use, and Effects of No-Knock Search Warrants

Once the brainchild of a Nixon Senate staffer and campaign aide, no-knock search warrants were a construction of the Nixon administration’s “War on Drugs” and coincided with the rapid militarization of police forces starting in the 1970s (Kelly, 2020; War Comes Home, 2014). Fundamentally, a no-knock search warrant authorizes peace officers’ entrance of premises and to search without giving prior notice of their authority, purpose, or intentions, usually upon reasonable suspicion that knocking would be dangerous (Dolan, 2019). No-knock search should, theoretically, only be reserved for the most egregious of crimes but, instead, they are most commonly used to execute search warrants for illegal drugs, as in the case of Breonna Taylor (The Justice Collaborative Institute, 2020). Next, in the process of obtaining a no-knock search or knock-and-announce search warrants, if peace officers or detectives, during a police investigation, most commonly drug investigations, have reasonable suspicion, they can petition for a search

warrant. The petition is received by a local judge, or magistrate, who decides whether or not to grant such a warrant and, if so, it allows officers to execute a search warrant on a suspect's home. Therefore, both peace officers and judges hold authority over no-knock search warrants with the judges determining the permissibility and officers, subsequently, executing the warrant. Police Departments, and by virtue police unions, also hold vast authority over police procedure and decide the protocols for search warrant executions.

Judges and police departments only constitute half of the no-knock search warrant execution process, and in order to comprehend the whole process, it is essential to bring in the other side: civilians and the surrounding area of people, including family and citizens of Louisville. Firstly, civilians, who have to endure a no-knock search warrant that leads to a violent confrontation, sustain irrecoverable damage, both physically and emotionally. Victims' families are the hardest hit by no-knock search warrant violent outcomes due to having to deal with the undue burden of losing a loved one. Even though *Breonna's Law*, and any other subsequent policies, cannot bring individuals back to life, the main objective is to ensure that another person is not taken by the same deadly practice. This policy also afflicts the community, at large, since one tragedy, such as Taylors', can spark a movement not only in Louisville but across the nation. Policymakers need to understand the dynamics of a specific area or community to be able to craft effective public policy initiatives, like *Breonna's Law*.

Antecedents and Concomitants to Breonna's Law

No-knock search warrants have been proven to increase the likelihood of violent confrontations for both the peace officers and civilians involved, especially among people of color who already face a disproportionate impact from the criminal justice system. For example, between 2010 through 2016, at least ninety-four people were killed during the execution of no-knock search

warrants, including thirteen of those being police officers (Dolan, 2019). However, when *The New York Times* conducted an investigation into drug raids in 2017, only one state, Oregon, had mandated that police knock-and-announce before gaining entry into a home, as shown in Table 1 (Sack, 2017). Nonetheless, in 1994, Florida State Supreme Court, in *Slate v. Bamber*, outright banned no-knock warrants and affirmed knock-and-announce (Sack, 2017). In response to Taylor's killing, Virginia Governor Northam signed a measure, of the same name as Louisville's ordinance, into law effectively banning no-knock search warrants. Since Taylor's killing, policymakers in ten states have introduced legislation to ban or restrict no-knock warrants along with a handful of local governments and police departments, including in Baltimore to Killeen, Texas (Van Ness, 2020).

Following the rush and pressure from protestors to enact policies aimed at reducing police violence against people of color, actual change, and substantive policy has been slow to come on racial justice issues, such as banning no-knock search warrants, especially at the federal level where partisan politics and deliberation stalled and suppressed any legislative efforts. Therefore, *Breonna's Law* exemplifies a constructive template for other police departments and local governments to utilize in their efforts to enact policies that address the dangers of no-knock search warrants. Policy analysis for *Breonna's Law* will not only give insights into the intended and unintended consequences for Louisville but also inform prospective policies, for localities, on addressing violent confrontation in search warrant executions.

Policy Analysis

Section 1: Ban of No-Knock Search Warrants

The Louisville Metro Council passed *Breonna's Law*, which was composed of four fundamental components, in direct response to the tragedy of Breonna Taylor. The first section

outlines how “No Louisville Metro Police Department (LMPD) police officer, Louisville Metro Department of Corrections (LMDC) officer, or any other metro law enforcement officer shall seek, execute, or participate in the execution of a no-knock search warrant at any location within the boundaries of Jefferson County” (*Breonna’s Law*, 2020). This provision prohibits the petitioning, granting, and executing of no-knock search warrants within Louisville. As well, it excises the tool of no-knock search warrants from peace officers and judges enumerated powers. The most notable and wide-ranging provision of the ordinance, section one acknowledges the crisis that preceded it and acts to directly remove the main instigator of violent confrontation in the search warrant execution process. Additionally, it takes the highly complex issue of the killing of Breonna Taylor and explicitly simplifies the policy response into one singular action to ensure the reduction, not elimination, of violence during search warrant execution by removing the possibility of utilization altogether.

Moving forward, section one alleviates the suffering caused by this tragedy and redirects it into a substantive change in police procedure, in the form of outright banning no-knock search warrants. The immediate output from this provision would be that no-knock search warrant would artificially drop to zero, in Louisville, and it takes the reactive approach that one death is too many. Aside from the evident direct output, section one also has both intended and unintended policy outcomes. Some intended outcomes include decreasing the likelihood of no-knock warrants and the castle doctrine conflicting, decreasing the likelihood of violent confrontations and deaths, decreasing drug prosecutions, and increasing safety precautions. While some unintended outcomes are the increase in the possibility of destruction of evidence, and, on the other hand, decreasing the safety of officers and civilians.

First, banning no-knock warrants will reduce, although not fully eliminate, the number of violent confrontations that could lead to injury or death. This problem is evidently due to the dangerous, sometimes deadly, conflict it has with the castle doctrine since around forty percent of Americans own guns (Dolan, 2019). It was only a matter of time until the two doctrines came to blows accentuating their problematic relationship that categorizes search warrant executions. Instead of deliberating on the complexities of which authority supplants which doctrine, the complicated, but more straight-forward, maneuver is to eliminate no-knock search warrants while protecting the anatomy of civilians and giving more direction and guidance to peace officers to decrease the likelihood of death for both peace officers and civilians. This provision aims to protect both the peace officer and suspect, in the process of search warrant execution and makes safety the number priority when conducting search warrants. By requiring the police officers to knock-and-announce, it ensures that the civilians do not mistake them for burglars or trespassers, like in Taylors' case where her boyfriend assumed it was someone trying to break in. Second, an overwhelming majority of no-knock search warrants were executed in pursuit of drug investigations and convictions, which was due to such warrants being rooted in the "War on Drugs" campaign in the 1970s (War Comes Home, 2014). With judges, not just in Louisville, giving peace officers blanket authority over search warrants in relation to drugs, the banning of no-knock search warrants will work to decrease the number of drug convictions since officers will not be able to obtain evidence unless they follow the stricter knock-and-announce protocols readily. With no-knock search warrants born out of the necessity to get tough on drugs, a ban on no-knock warrants will act to decrease the use of them during drug investigations and lead to fewer people, especially people of color, being dangerous searched.

The proponents of no-knock search warrants usually implicate the prevention of evidence destruction or civilian escape and the increase in safety for both officers and civilians as the maxim to retain such warrants. The first reason infers that the fifteen second wait time between the knock and entrance could allow civilians to destroy evidence before police gain entry in the home (Yeaples-Coleman, 2012). The compounding and parallel argument that the time difference leaves the suspect adequate time to flee or escape the premise (Yeaples-Coleman, 2012). Even though these two variances of situations represent unintended consequences of banning no-knock warrants, it is apparent that one, fifteen seconds is not enough time to dispense of all incriminating evidence, and, two, usually police have the premises on lockdown so escape would be highly unlikely. The last argument used to defend no-knock warrants is that not knocking allows for greater police officer safety since it does not let civilians obtain a weapon to engage in a violent confrontation (Yeaples-Coleman, 2012). However, just by forcibly entering unannounced could very well lead to the same thing happening where the resident is startled and unaware of who is at the door, much like in the case of Walker, and firing a warning shot, which starts the violent confrontation. Thus, while proponents do bring forth worthy arguments as to why no-knock warrants are necessary, it is paramount to understand that knock-and-announce is still very much preferable and leads to fewer violent confrontations in the execution process. These cases highlight the unintended and negative consequences of deciding to remove no-knock search warrants from the menu of police officers.

The capstone of this policy is the abolishment of no-knock search warrants in Louisville, which represents a direct and immediate action to address violent and deadly confrontation within search warrant executions. Section one is a model for other localities and police departments to follow while also formulating a starting point for Louisville in their quest to memorialize Breonna

Taylor and curb the proximate effects of systemic racism. A majority of people believe that no-knock search warrants are dangerous and endanger the lives of innocent people and support banning no-knock warrants, as indicated in Table 2 and Table 3 (The Justice Collaborative Institute, 2020; Hamel et al., 2020). However, as shown in Table 4, there is a majority in support of banning no-knock warrants among Democrats and Independents but Republicans are less willing to support the initiative (Hamel et al., 2020). Clearly, *Breonna's Law* epitomizes the incremental policy change that works to dismantle aspects of the systemically racist system in place in the United States.

Although the inherent language of the policy is neutral, it would be a disservice to not analyze *Breonna's Law* impact on people of color, especially in the wake of the Black Lives Matter Movement. No-knock search warrants systematically and unfairly target people of color and marginalized communities and exhibit the racial disparity in law enforcement searches and raids. As shown in Table 5, a majority of SWAT deployments were conducted on people of color (War Comes Home, 2014). People of color are also overwhelming the subject to SWAT deployment in drug searches, as shown in Table 6 (War Comes Home, 2014). The “War on Drugs” primarily and disproportionately impacted people of color and the law enforcements’ utilization of no-knock warrants, as a mechanism to catch suspicious activity, has not helped the campaign and has even caused more harm to marginalized communities. This policy intends to limit such an effect on people of color by eliminating the mechanisms that led to the tragedy of Breonna Taylor while also placing more checks on law enforcement when executing warrants in the future. Essentially, *Breonna's Law* is simplifying the policy response to smaller, but less complex, solutions to allow for an incremental and impactful change instead of attempting to solve the whole issue of systemic racism and failing to address each specific problem, such as no-knock warrants.

Section 2: New Regulations on Knock-and-Announce Search Warrants

Section two of *Breonna's Law* underlines new procedures for peace officers when seeking, executing, and participating in the execution of search warrants and fills the gap left behind by banning no-knock search warrants. This provision will bring back knock-and-announce when conducting search warrants and indicates a rigid set of protocols for peace officers to follow when executing a search warrant. The first sub-section states “any LMPD police officer... charged with the execution of any search warrant shall be accompanied only by such other persons as may be reasonably necessary for the successful execution of the warrant with all practicable safety” (*Breonna's Law*, 2020). Second, before gaining entry into the premises, any executing officer shall: physically knock on an entry door to the premises in a manner and duration that can be heard by the occupants, clearly and verbally announce as law enforcement having a search warrant in a manner that can be heard by the occupants, and, absent of exigent circumstances, wait a minimum of fifteen seconds or for a reasonable amount of time for occupants to respond, whichever is greater, before entering the premises (*Breonna's Law*, 2020).

These guidelines establish a constant framework for officers to follow leading up to the time that entry is breached in the home. This provision re-establishes knock-and-announce as the primary mechanism for search warrants after decades of erosion and disuse by police officers. The killing of Breonna Taylor proved that the search warrant process needed to be amended to streamline the rules and allow for enhanced safety of both officers and civilians. Since this ordinance could not deem all search warrants to be unlawful, as it did with no-knock search warrants; it, instead, reprioritized knock-and-announce and stricter frameworks for police officers to abide by during the execution process. A generative output from this policy indicates that it will

largely reduce the possibility and likelihood of peace officers making spontaneous decisions, while in the heat of the moment, by giving them a playbook to follow and review beforehand to ensure a successful search warrant. After this provision is implemented, all subsequent search warrants will simplify peace officers' directions and make the execution process less complex and more straight-forward.

Consistent with section one, section two has very similar policy outcomes, including both intended and unintended consequences that shape the deliberation on how effective this policy will be. By refocusing peace officers' intentions with search warrants through stricter guidelines, this provision will allow for less deviation from the calibrated plan, which leads to a decreased likelihood of violent confrontation, a decrease in the likelihood of drug prosecutions, and an increase in safety. However, there are still questions of how effective and enforceable this clause when exigent circumstances arise during the search warrant execution. Currently, some outcomes of search warrant practices, pre-*Breonna's Law*, include injuries, damaged property, lost work, psychological harm, reduction in police legitimacy, and willingness to cooperate with the police (Bodah, 2019). Therefore, once implemented, this policy should assuage all of the concerning previous outcomes since it provides a standardized rubric for officers to adhere to while conducting search warrants. Again, a more reviewed playbook, by officers, leads to fewer violent confrontations since it gives more time for civilians and officers to begin to communicate and reduce the need to use force or firearms. Although no-knock search warrants better encapsulated the "War on Drugs," knock-and-announce warrants were still used to recover reasonable drug suspicions and further regulation of them will, indeed, suppress the number of drug-driven warrants. Finally, stricter regulations will lead to safer executions for both peace officers and civilians while still allowing for police investigations to be conducted. Along with the many

aforementioned outcomes from banning no-knock warrants, knock-and-announce not only avoids the likelihood of violent confrontation but also provides the homeowners the right to voluntarily comply with the law and protect against property damage and privacy (Dolan, 2019).

While the previous section, banning no-knock search warrants, delineated a giant leap toward reducing violent confrontation, it has to be accompanied, in conjunction, by the more stringent regulations regarding knock-and-announce rules. Thus, *Breonna's Law* answers that inquiry by removing the instigator of violence and implementing further instruments to follow and utilize. Out of crisis and turmoil, *Breonna's Law* identifies the complex issues at stake and, through these first two sections, works to address critical aspects of a police policy that can have widespread effects on Louisville's citizens for the better. Similar to section one, these new regulations will have complementary outcomes in terms of a likely decrease in the racial disparity in search warrants and drug searches. People of color are disproportionately impacted by search warrants compared to other groups, with, in some cases, being over forty-times as likely to be impacted by SWAT raids than white people, as shown in Table 7 (War Comes Home, 2014). Particularly, African Americans are significantly more likely to be impacted by the execution of search warrants, as indicated in Table 8 (War Comes Home, 2014). Even though this provision's text is neutral, *Breonna's Law* explicates a pathway towards addressing the racial overtones embedded into previous law enforcement action and procedure by working to delineate complex racial situations, such as the Breonna Taylor killing, into timely and meaningful change at the local level.

Section 3: Body Camera Requirement

In the aftermath of the crisis, the killing of Breonna Taylor, all stakeholders were left in confusion and complexity when differing accounts of how the search warrant was conducted began

to transpire. With police stating that even though they had a no-knock search warrant, they knocked and announced themselves before forcibly entering the premises. However, there has been disagreement particularly among Taylor's boyfriend, Kenneth Walker, and other witnesses who said that they did not hear or see police knock and announce themselves before they began to exchange gunfire. This complexity cultivates a harsher public response to the crisis and undermines police legitimacy since neither of the three peace officers was wearing body cameras, which would have objectively captured the exchange and been essential in fully understanding what transpired on that night. Uniquely, LMPD had already deployed body cameras to almost all police divisions, including standard patrol, canine unit, and the SWAT team by the summer of 2016 (Schaefer, Campbell, Hughes, and Reed, 2016). Retrospectively, it is puzzling why those officers did not have body cameras since the whole crisis could have been averted, depending on one's perspective, if there was objective evidence of the proceedings of the warrant and considering the department already implemented body cameras four years earlier.

In order to rectify this lapse in evidence, *Breonna's Law* enumerates that body cameras will be worn at all times when executing a search warrant. Specifically, all LMPD officers must be equipped with an operating body camera and activate the recording device no later than five minutes prior to all warrant executions along with not being able to deactivate them any sooner than five minutes following the completion of the execution (*Breonna's Law*, 2020). Lastly, all recorded data must be retained for five years following the execution and stored in a separate electronic file designed for this purpose (*Breonna's Law*, 2020). This provision resolves, in part, the complexities that were allotted after the contentious case of Breonna Taylor,³ where they did not have body camera footage to rely on during the trial. The objective purpose, for the utilization of body cameras during the warrant process, is to add to the scope of evidence in investigations in

the aftermath of search warrants. The integral policy outcomes, of this measure, is that it increases the quality of evidence and police accountability along with mutual, public, and administrative benefits. However, under unintended consequences, implementation of this policy could cause an invasion of privacy, mounting financial difficulties, and the inability to deter or monitor police behavior.

The adoption and implementation of this provision will have numerous positive outcomes with the most consistent, based on findings, is its power to civilize police officers and the citizens they encounter in their business, which deters bad or malicious behavior while conducting operations, such as search warrants (Kampfe, 2015). In addition, a study on the Phoenix Police Department found a general decrease in the proportion of incidents when body cameras were utilized by peace officers (Katz, Kurtenbach, Choate, and White, 2015). By instituting an objective device to record, body cameras assist in resolving key questions within a contentious execution, such as Taylor's killing, while also lowering the stakes from complex to complicated when determining the credibility of the stakeholders involved in the warrant execution (Kampfe, 2015). Body cameras also augment testimony with higher quality evidence of the event from an objective source and provide an incredible level of protection for police officers who perform their duties in an appropriate manner (Kampfe, 2015). Instead of having to deal with more complaints and administration work, police officers can utilize body cameras, which have shown to decrease incidents, to spend more time in their respective community, and build up police legitimacy in the process (Kampfe, 2015).

While body cameras do provide a greater sense of police accountability during warrant executions, they could pose a threat to privacy since they, objectively, showcases some of the worst moments of peoples' lives and could compound the trauma experienced (Kampfe, 2015).

Therefore, it is imperative to comprehend that the implementation of body cameras rests solely on the assumption that the benefits of the technology outweigh the invasion of privacy contentions (Stanley, 2013). Henceforth, body cameras impact research stated that there may or may not be potential for behavioral decision-making changes, especially in violent confrontations, as well as introduced self-awareness into the equation for officers during search warrants (Coudert, Butin, and Metayer, 2015). However, on the other hand, body cameras can be used as a learning tool to review footage and offer constructive feedback on officer's decision-making, which makes it less likely for them to continually engage in violent confrontations (Coudert, Butin, and Metayer, 2015).

In essence, this provision holds officers to a higher standard during search warrants and collect higher quality evidence to use after the fact as an objective authority on the events. Body cameras introduce the theory of self-awareness that if people know they are being watched, then they will be less likely to engage in socially undesirable behaviors (Kampfe, 2015). They also increase police legitimacy and transparency with the public, which aids in increasing the public perception of policing tactics, especially after an event like the killing of Breonna Taylor and George Floyd. In the era of Black Lives Matter, confidence in the police is at an all-time low and increasing transparency and accountability on officers could help rebuild some of that trust, especially among people of color. Instead of a he-said-she-said situation, which was seen during the investigation of Taylor's death, an objective form of evidence clears the smoke and counters the contention and confusion seen in such a crisis. Ultimately, body cameras function as a device to lessen the complexities seen when circumstantial evidence is the only form of corroboration for an event and, retrospectively, clarifies the intent and actions of the stakeholders involved in the execution of a search warrant.

Section 4: Complaints and Discipline

The fourth, and final, section of *Breonna's Law* resolves the enforcement of this ordinance by introducing an official system to view, investigate, and resolve complaints and violations of the aforementioned sections. First, this provision lays out the disciplinary actions that can be utilized if an LMPD officer violates any of these sections during the warrant execution process. Some of the disciplinary actions come in the form of oral and written reprimands, suspension without pay, or discharge from duty, under the appropriate union, civil service, and department contract rules (*Breonna's Law*, 2020). Complaints and violations will be reviewed and investigated by the Professional Standards Unit (PSU), or the LMPD Public Integrity Unit if required (*Breonna's Law*, 2020). Lastly, the results of such investigations will be provided to the complainant in writing seven days after completion which shall occur no later than one year after the receipt of the complaint (*Breonna's Law*, 2020). The direct output, of this provision, is that there is a body that will scrutinize and investigate complaints pursuant to violations of *Breonna's Law*, which provides the teeth and deterrence behind the ordinance so that officers make sure to follow the new rules.

Now turning towards policy outcomes, the fourth section warrants both intended and unintended consequences that include an improved sense of procedural justice, deterrence, an increase in partiality, and a non-difference in misconduct. First, people mainly evaluate law enforcement and police departments on their action not in terms of outcomes but the procedural justice with which they are treated as well (Harris and Worden, 2014). With the enforcement of this provision, there should be an increase in procedural justice felt by the public, after the contentious case of Breonna Taylor, which will expand the public's trust and understanding in the institutions and procedure of law enforcement. Second, having an internal affairs unit specifically

prioritizing the investigation of search warrants, section four could act as a determinate for deterrence against violations or bad decision-making on the part of peace officers. Similar to self-awareness theory, if officers' understand that there are consequences for violations against *Breonna's Law*, they are much less likely to engage in such behavior. Through prioritizing enforcement, section four aims to rebuild public confidence and faith in police investigations and to actualize their efforts into making certain that officers will be held accountable for their transgressions during search warrants.

On the contrary, systems build and maintained by law enforcement still will fare harshly when trying to negotiate with the public of how they will be effective in keeping search warrant violent confrontations in check. Since a super-majority of police departments conduct internal closed-door investigations and review of conduct, this provision does not allow external conversation and thought on certain issues, which could maintain the same amount of social distrust in the police (West, 1988). Thus, this process could allow for peace officers, who violate this ordinance, to get off easily with a slap-on-the-wrist instead of substantive consequences. Nonetheless, a level-headed, impartial, and professional review of the complaint is expected and under strict guidance based on facts, evidence, and data. Finally, some make the argument that Professional Standards Units (PSU) and the threat of punishment is not enough to deter officers from misconduct and only cast more doubt about the efficacy of the systems and institutions in place (Harris and Worden, 2014). Even though internal affairs units may represent an imperfect construction of police accountability, it, at least, establishes systems and mechanisms for officers to be reviewed and investigated on their actions during search warrant executions. This provision streamlines the process of investigation and is effectively the enforcement clause on this policy and without it, this policy could be considered ineffective or moot.

Determinately, this section makes an effort to establish a regulatory unit to combat search warrant violations, including violent confrontations, and ameliorate the tragedy of Breonna Taylor by holding police officers accountable during the search warrant execution process. Instead of complex maneuvering to figure out how to address and investigate violations, section four institutes an enforcement mechanism that discourages malicious behavior, and, in turn, aids in the reduction of the possibility of violent confrontation. It also encourages further transparency and procedural justice in police policy, which works to increase faith and legitimacy in law enforcement and allows for greater, positive dialogue between civilians and police. The aftermath of a crisis is always the most complex and difficult to piece together and effectively respond to, especially in the case of Breonna Taylor who captured the attention of the nation and placed considerable pressure on the Louisville government to enact policies that address the racial issues at hand.

Policy Recommendations

In recognition of the danger and casualties no-knock search warrants present, a ban represents a step in the right direction in curtailing the number of violent confrontations. *Breonna's Law* effectively establishes the proposition that no-knock search warrants are inherently deadly and taking that tool away from police officers and judges challenges them to find other ways to conduct police investigations safely. Therefore, no-knock search warrants and their functional equivalents should be eliminated from police procedure for the danger they pose to both peace officers and civilians during the search warrant execution process (The Justice Collaborative Institute, 2020). Although, it is not enough to just eliminate no-knock search warrants. Activists have realized the need to focus on all types of search warrants, especially knock-and-announce warrants, and place more stringent regulations on their execution (Kaste, 2020). This policy, in

fact, does both by, first, banning no-knock warrants and, second, instituting more regulations on knock-and-announce warrants. However, even though the policy is only an ordinance, it does not have enough specificity and still leaves room for officers to decide for themselves what to do at that moment and use exigent circumstances as the clause for their action. If this policy were replicated or revised, I would look for more particular language and rules on knock-and-announce warrants, which still have a sizable impact on violent confrontations. Nevertheless, it is essential to assert that *Breonna's Law* acts as the genesis for other similar policies on search warrant execution and provides other localities with a template to update and scrutinize.

The third section fills the high-quality evidence gap seen after the killing of Taylor and establishes an objective record for both officers and civilians to use, retrospectively, to piece together the events of a contested search warrant. Bringing body cameras into the fold of search warrants was a resolute and easy action to increase police accountability and transparency. Many critics complain about the financial burden that accompanies body cameras but LMPD has already implemented them for the department so financial difficulties are not the driving factor as to why they were not used in Taylor's case (Van Ness, 2020; Schaefer, Campbell, Hughes and Reed, 2016). However, other localities may encounter problems with implementation if they do not have the funding to effectively utilize the body-worn cameras. Body cameras can also have the effect of influencing police officers' behavior for the better and causing them to deliberate before taking such drastic actions since they know that it would be recorded. Overall, I am puzzled why they were not used during Taylor's search warrant and I reason that they would have provided critical evidence for police and the public that would have shaped the crisis that ensued due to the contentious nature of the response.

The last section maintains the Professional Standards Unit (PSU) to investigate violations in the prior three sections. Even though this indicates a step forward, this seems to only keep the course on how search warrant violations are investigated and do not do more to place more deterrence towards malicious behavior. Again, like section two, section four also is not specific and particular as I would want to be in considering punishments for violators. This is the only provision that does not directly affect the nature of the search warrant execution process but it provides the enforcement mechanism necessary for this policy to have teeth. Even if this internal affairs unit is ineffective in checking officers' behavior and violations, it serves as the first step toward greater accountability and leads to further revisions to exact the best outcome for violent confrontation deterrence.

Sadly, the passage of *Breonna's Law*, and any other subsequent policies, will not bring back the people lost to no-knock search warrants but it will memorialize their names and turn them into vehicles for incremental change. *Breonna's Law*, while making strides for change, is not the end-all and be-all solution. It is, instead, the starting point for other policies to take hold and render meaningful reform on law enforcement actions against people of color and marginalized communities. Thus, it is vital to produce more solutions to counteract the large and complex racial justice issues and break them down into actual policy responses. First, the practice of so-called "quick knock" raids, which is where law enforcement officers knock-and-announce and then immediately and forcibly enter the home, should be either banned, along with no-knock warrants, or used on a highly limited basis (The Justice Collaborative Institute, 2020; Sanchez, 2020). I lean towards banning them due to the possibility of them being corrupted into de facto no-knock search warrants is likely and police could use the guise that they "knocked and announced" (The Justice

Collaborative Institute, 2020). These quick knock raids have the same effects of increasing the possibility of violent confrontation and deadly interaction between civilians and officers.

Second, the only way to completely ensure police compliance with the knock-and-announce rule is to reapply the exclusionary rule for knock-and-announce warrants and violations (Reddish, 2016; Dolan, 2019). This clause would compel officers to follow the knock-and-announce rules tightly to ensure they are allowed to use the evidence they gained from the warrant in their investigation. If officers violate the terms of the rules for knock-and-announce, and the exclusionary rule is applied, then their mission would be rendered moot since they cannot use that evidence, which creates a generative deterrence for officers. I would also recommend making section 2 more clear and detailed so that officers have a checklist of conditions that they have to follow during the execution process (Kaste, 2020). In my view, section two of *Breonna's Law* still leaves too much up to chance with their somewhat vague language and exceptions for exigent circumstances. There can never be enough preparation and detail so more is needed to create the best environment for successful search warrants and no violent confrontation.

Third, policymakers should enact further policies that require executions of search warrants to be conducted during the daylight hours, roughly between 6 a.m. and 10 p.m. (Dolan, 2019). As was the case for Taylor, it is relatively common for police officers to execute warrants at night (Dolan, 2019). It defeats the purpose of knock-and-announce since people are less likely to respond if they are asleep and then have to take crucial time to get to the door when police officers only need fifteen seconds until they can gain entry into the premises. By only allocating the daytime hours as times to execute search warrants would reduce the risk of violent confrontation and increase the possibility of the search warrant instructions being followed and executed safely.

Fourth, instead of listing out disciplinary punishments as section four did, police departments could make discipline matrices that effectively showcase what type of violation would lead to potential disciplinary action. For example, Table 9 indicates a template discipline matrix that can be used for violations of search warrant protocols, with it providing a straight-forward method to understand the repercussions of officers' transgressions (Stephens, 2011). This matrix makes it easier for the public to understand how a violation would be treated within the internal affairs unit and increase the level of transparency.

Finally, overall, there is so little data on no-knock and knock-and-announce search warrants that it is difficult to fully comprehend how much this is an issue. Communities and governments should have an understanding of the usage, details, and reasons for search warrants (The Justice Collaborative Institute, 2020). Everything from names of officers, race and gender of occupants, offenses, justifications, et cetera should be recorded for all search warrant executions and be made public so that people are aware of these proceedings (The Justice Collaborative Institute, 2020). More data on this issue will only inform future policy responses and help inform the public of the disproportionate and dangerous impact it has on people, especially people of color.

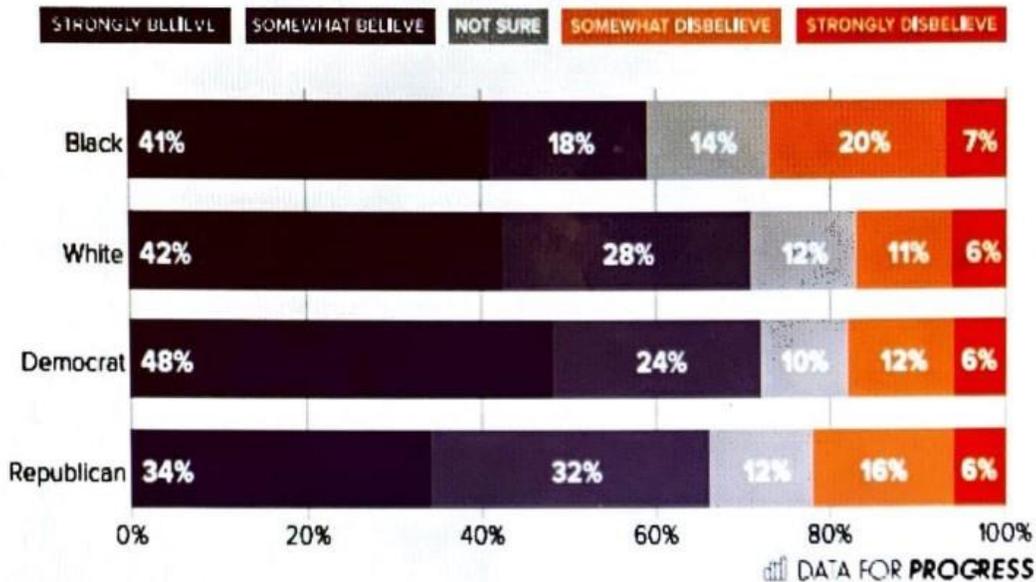
Conclusion

On the 50th anniversary of “Bloody Sunday,” a watershed moment in the 1960s civil rights movement, civil rights leader and congressman John Lewis uttered “there’s still work left to be done. Get out there and push and pull until we redeem the soul of America” (Bobic, 2015). With Breonna Taylor and George Floyd’s killings becoming the watershed moments in the Black Lives Matter movement, in 2020, people of color are still subject disproportionately to violence from law enforcement. *Breonna’s Law* is a step forward toward progress on one particular issue relating

to racial justice. Although it does not solve the issue of no-knock search warrants disproportionately affecting people of color, it does eliminate the deadly police tool and provide a framework for further policies on the matter. In the midst of these crises, bold and encompassing policies are promoted to solve those crises but, after the dust clears is where the real work begins. While immense federal policy aims to create overarching changes to the system, it also takes local and state governments, in conjunction with the national government, to truly advocate, implement, and resolve complex issues. *Breonna's Law* will not eliminate the absolute possibility of violent confrontation during search warrants. But prolonged and consistent policy advocacy and response to the unjust killing of Breonna Taylor will push and pull towards greater accountability, transparency, and safety to the execution process. Hence, *Breonna's Law* combined with additional policy recommendations and sections serves to memorialize her name and ensures further progress on violent confrontations between police and civilians, particularly for people of color.

Table 2:

Do you believe or disbelieve that no-knock raids are more dangerous for everyone involved - police officers, occupants and bystanders?



Do you believe or disbelieve that no-knock raids endanger the lives of innocent people, including children?

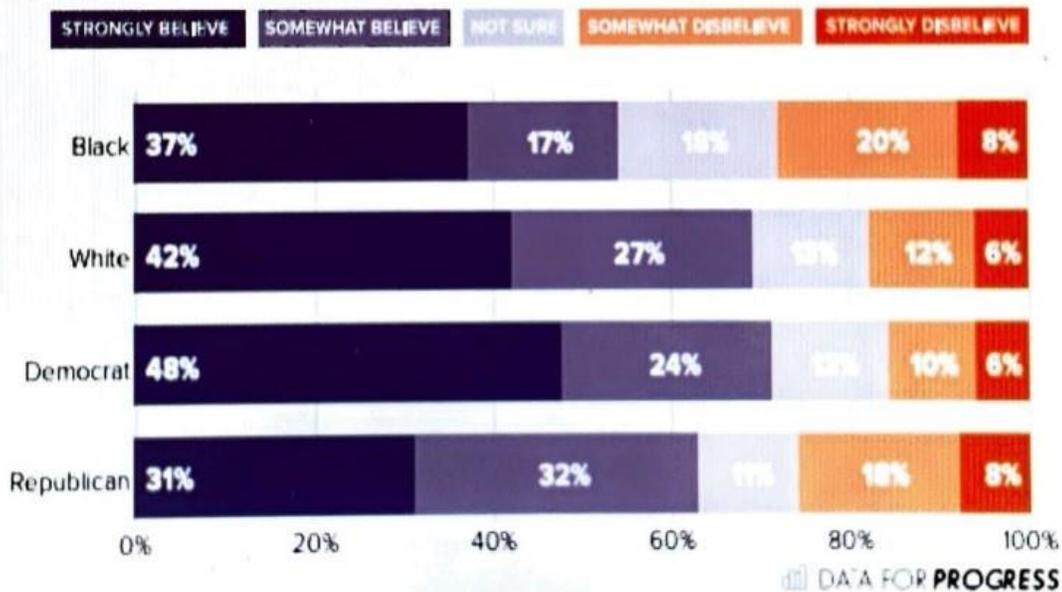
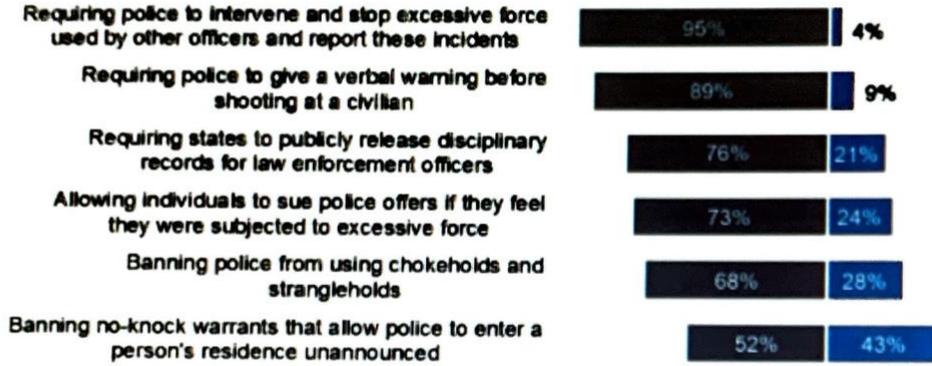


Table 3:

Majorities Support Various Proposals Aimed At Reducing Excessive Use Of Force By Police Officers

Percent who say they support or oppose each of the following proposals aimed at reducing excessive use of force by police officers:



SOURCE: KFF Health Tracking Poll (conducted June 8-14, 2020) See topline for full question wording

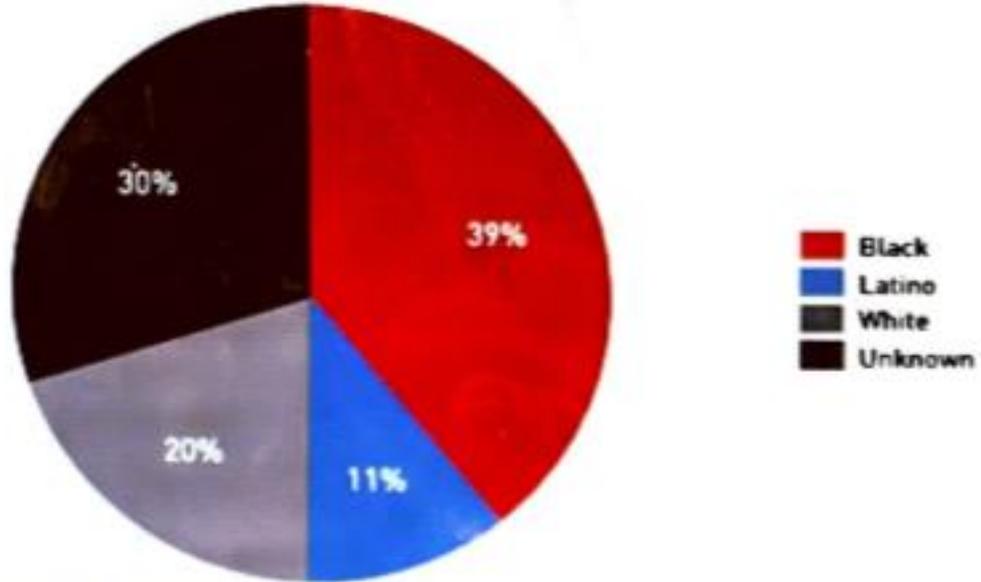


Table 4:

Table 1: There is bipartisan support for many policies aimed at reducing police violence.			
Percent who support each of the following proposals:	Democrats	Independents	Republicans
Requiring police to intervene and stop excessive force used by other officers and report these incidents	97%	96%	95%
Requiring police to give a verbal warning before shooting at a civilian	95	90	83
Requiring states to publicly release disciplinary records for law enforcement officers	89	75	62
Allowing individuals to sue police officers if they feel they were subjected to excessive force	85	74	55
Banning police from using chokeholds and strangleholds	82	70	52
Banning no-knock warrants that allow police to enter a person's residence unannounced	65	56	34

Table 5:

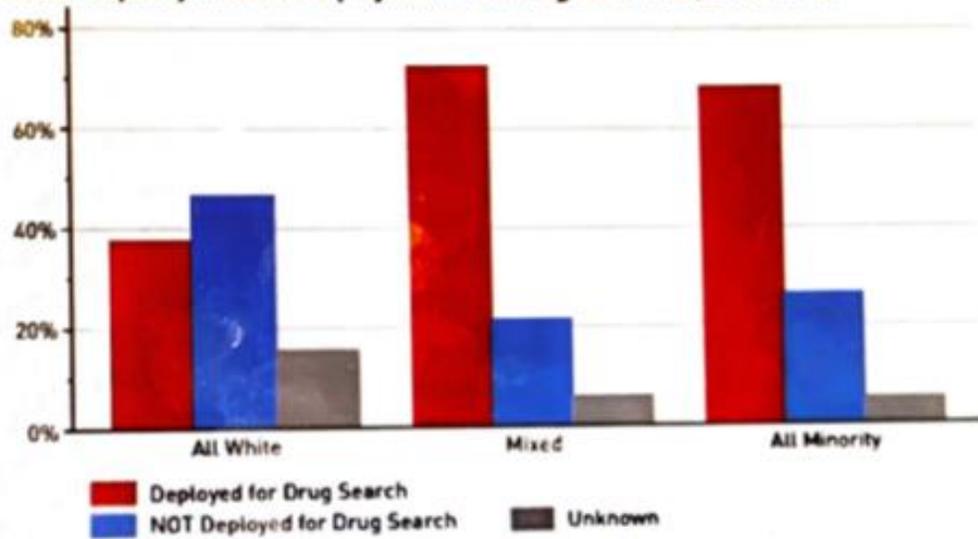
FIGURE 3
SWAT Deployments by Race of Individuals Impacted (2011-2012)



Source: Data provided by local law enforcement agencies for ACLU investigation.

Table 6:

FIGURE 4
Racial Disparity in SWAT Deployments for Drug Searches (2011-2012)



Source: Data provided by local law enforcement agencies for ACLU investigation.

Table 7:

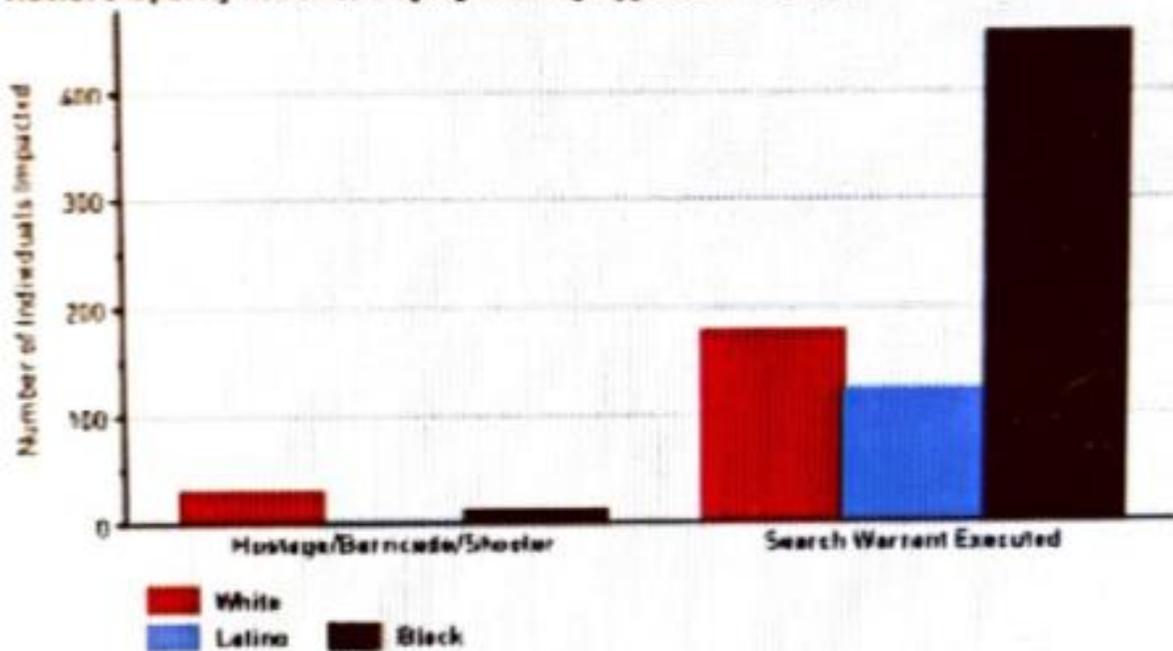
SWAT Impact Rates by Agency (2011-2012)

Law Enforcement Agency	SWAT Impact Rates per 100,000				
	White	Latino	Black	Times More Likely Latinos Impacted	Times More Likely Blacks Impacted
Allentown, PA, Police	12	348	281	29.09	23.51
Bay County, FL, Sheriff	6	0	39	0.00	1.56
Burlington, NC, Police	9	0	414	0.00	47.05
Caldwell County, NC, Sheriff	54	0	215	0.00	4.01
Chatham County, NC, Sheriff	74	0	1,146	0.00	15.51
Concord, NC, Police	44	92	485	2.09	11.06
Fort Worth, TX, Police	12	11	154	0.90	12.86
Gwinnett County, GA, Sheriff	1	1	7	0.53	5.49
Huntington, WV, Police	11	0	415	0.00	37.12
Little Rock, AR, Police	3	26	40	9.29	14.13
North Little Rock, AR, Police	6	0	200	0.00	34.54
Ogden, UT, Police	8	85	300	11.16	39.55
Salt Lake City, UT, Police	5	25	36	4.93	7.33
Spokane County, WA, Sheriff	57	14	588	0.25	10.35
Unified, UT, Police	3	13	26	5.18	10.26
Wilson County, NC, Sheriff	16	0	98	0.00	6.02

Table 8:

FIGURE 5

Racial Disparity in SWAT Deployment by Type (2011-2012)



Source: Data provided by local law enforcement agencies for ACLU investigation

Table 9:

Offense Class	First Offense		Second Offense		Third Offense	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
1	N/A	Memo of Correction	N/A	Written Reprimand	Memo of Correction	1-Day Suspension
2	Memo of Correction	Written Reprimand	Memo of Correction	Written Reprimand	1-Day Suspension	3-Day Suspension
3	Memo of Correction	1-Day Suspension	Written Reprimand	3-Day Suspension	1-Day Suspension	5-Day Suspension
4	Written Reprimand	3-Day Suspension	1-Day Suspension	5-Day Suspension	3-Day Suspension	15-Day Suspension
5	1-Day Suspension	5-Day Suspension	3-Day Suspension	15-Day Suspension	10-Day Suspension	Termination
6	5-Day Suspension	Termination	15-Day Suspension	Termination	Termination	N/A
7	Termination	N/A	N/A	N/A	N/A	N/A

Bibliography

- Blakey, G.R. (1964). The Rule of Announcement and Unlawful Entry: *Miller v. United States and Ker v. California*. *University of Pennsylvania Law Review* 112: 499-562. (Accessed December 7, 2020)
- Bobic, I. (2015, March 7). John Lewis At Selma Anniversary: ‘There’s Still Work Left To Be Done.’ *The Huffington Post*. (Accessed December 10, 2020)
- Bodah, D.O. (2019, November 16). Fixing Broken Doors: Rethinking NYPD Search Warrant Practices. *CUNY Graduate Center: John Jay College of Criminal Justice*. (Accessed December 9, 2020).
- Breonna’s Law, Public Ordinance No. 069, Series 2020. (2020, June 12). *Louisville Metro Council*. (Accessed December 9, 2020)
- Dolan, B. (2019). To Knock or not to knock: No-knock warrants and confrontational policing. *St. John’s Law Review* 93(1): 201-232. (Accessed December 8, 2020)
- Duvall, T. (2020, September 23). Breonna Taylor shooting: A minute-by-minute timeline of the events that led to her death. *Louisville Courier Journal*. (Accessed December 7, 2020)
- Coudert, F., Butin, D., and Metayer, D.L. (2015). Body-worn cameras for police accountability: Opportunities and risks. *Computer Law & Security Review* 31: 739-762. (Accessed December 10, 2020)
- Hamel, L, et all. (2020, June 26). Racism, Protests, and Racial Disparities. *Kaiser Family Foundation (KFF)*. (Accessed December 9, 2020)
- Harris, C.J. and Worden, R.E. (2014). The Effect of Sanctions on Police Misconduct. *Crime & Delinquency* 60(8): 1258-1288. (Accessed December 10, 2020)
- Kampfe, K. (2015). Police-worn body cameras: Balancing privacy and accountability through state and police department action. *Ohio State Law Journal* 76(5): 1153-1200. (Accessed December 10, 2020)
- Kaste, M. (2020, November 27). Movement To Limit Police Raids Looks Beyond ‘No-Knock’ Warrants. *NPR*. (Accessed December 10, 2020)
- Katz, C.M., Kurtenbach, M., Choate, D.E., and White, M.D. (2015, September). Phoenix, Arizona, Smart Policing Initiative: Evaluating the Impact of Police Officer Body-worn Cameras. *Bureau of Justice Assistance (BJA)*. (Accessed December 10, 2020)
- Kelly, M.L. (2020, June 12). No-Knock Warrants: How Common They Are and Why Police Are Using Them. *All Things Considered (NPR)*. (Accessed December 8, 2020)
- Philbin, P.F. (2002, June 12). Authority of Federal Judges and Magistrates to Issue “No Knock”. *Opinions of the Office of Legal Counsel of the United States Department of Justice* 26: 44-55. (Accessed December 7, 2020)
- Reddish, K.K. (2016). A Clash of Doctrines: The Castle Doctrine and the Knock-and-Announce Rule. *Widener Law Journal* 25(2): 171-194. (Accessed December 7, 2020)
- Sack, K. (2017, March 18). Door-Busting Drug Raids Leave a Trail of Blood. *The New York Times*. (Accessed December 7, 2020)

- Sanchez, R. (2020, October 10). Laws ending no-knock search warrants after Breonna Taylor's death are 'a big deal' but not enough. *CNN*. (Accessed December 10, 2020)
- Schaefer, B., Campbell, B., Hughes, T., and Reed, J. (2016, July 5). LMPD's Wearable Video System Implementation: Year One Report. *A Report to Louisville Metro Police Department*. (Accessed December 10, 2020)
- Slate v. Bamber, 630 So. 2d 1048 (1994). (Accessed December 8, 2020)
- Stanley, J. (2013, October). Police Body-Mounted Cameras: With Right Policies in Place, a Win For All. *American Civil Liberties Union (ACLU)*. (Accessed December 10, 2020)
- Stephens, D.W. (2011, June). New Perspectives in Policing: Police Discipline: A Case for Change. *Harvard Kennedy School: Program in Criminal Justice Policy and Management, National Institute of Justice (NIJ)*. (Accessed December 10, 2020)
- The Justice Collaborative Institute. (2020, June). End No-Knock Raids. *Data for Progress*. (Accessed December 8, 2020)
- Van Ness, L. (2020, January 14). Body Cameras May Not Be the Easy Answer Everyone Was Looking For. *The PEW Charitable Trust*. (Accessed December 10, 2020)
- (2020, October 27). Breonna Taylor Killing Spurs Action Against No-Knock Warrants. *The PEW Charitable Trust*. (Accessed December 8, 2020)
- War Comes Home: The Excessive Militarization of American Policing. (2014, June). *American Civil Liberties Union (ACLU)*. (Accessed December 8, 2020)
- West, P. (1988). Investigation of complaints against the police: Summary report of national survey. *American Journal of Police* 7(2): 101-122. (Accessed December 10, 2020)
- Yeaples-Coleman, A.M. (2012). Reviving the Knock and announce rule and constructively abolishing no-knock entries by giving the people the ground they can stand on. *University of Dayton Law Review* 37(3): 381-402. (Accessed December 9, 2020)