



DATA FOR *PROGRESS*



THE JUSTICE
COLLABORATIVE
INSTITUTE

END NO-KNOCK RAIDS

The Justice Collaborative Institute

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EXECUTIVE SUMMARY

In the middle of the night on March 13, Louisville police executed a “no-knock” warrant and entered Breonna Taylor’s apartment. They fired shots and hit Breonna, a licensed EMT who worked for two local hospitals, at least eight times, killing her. Breonna’s boyfriend, believing that people were breaking into the apartment, used his licensed firearm and shot an officer in the leg. Police found no illegal drugs; in fact, the person they were searching for was already in custody.

While accounts vary—police claim they did knock and announce themselves before entering—one thing is clear. The tactics they used—a battering ram, the element of surprise—are used by police departments all over the country with disastrous results. Frequently, this type of forced entry involves both no-knock warrants and military-style raids, techniques we refer to here as “no-knock raids.”

Police chiefs, elected leaders, and communities have known for decades that no-knock raids are unsafe and cause injury and death. There is also a growing sense that they are unnecessary and contribute to community distrust. For example, no-knock warrants are not reserved for the most egregious of crimes but instead are most commonly used to execute search warrants for illegal drugs. According to a 2014 report by the ACLU, about 36% of no-knock search warrants found no illegal drugs; half of the no-knock warrants were executed against residences where there were no guns.

Minor tweaks to policies controlling how no-knock raids are carried out are not enough to protect people from injury and death. Local and state

governments should ban no-knock warrants and military-style raids. To do so, the following policies are recommended:

- ▶ Ban no-knock warrants and affirmatively require law enforcement to always both knock and clearly identify themselves as law enforcement.
- ▶ Drastically limit the practice of so-called “quick knock” raids, where law enforcement knock and/or announce themselves and then immediately and forcibly enter the home. Quick-knock raids include “forced entries,” “dynamic entries,” and “military-style raids.” This type of entry should only be permissible where two conditions are met:
 - The underlying investigation involves an offense that by its nature includes serious physical harm or death (e.g., murder, rape, terrorism, human trafficking); and
 - circumstances justify immediate entry to prevent imminent physical harm or death.
- ▶ The use of “quick knock” techniques, including “forced entries,” “dynamic entries,” and “military-style raids,” must be approved by the police chief or the chief’s designee, and reported to the city council or county board every three months.

These policies to address no-knock raids—banning no-knock warrants and strictly limiting the use of military-style raids—will protect both police officers and community members.

National polling shows that voters agree with implementing policies to strictly regulate and eliminate the use of no-knock raids:

- ▶ 72% of poll respondents agree that no-knock raids should be limited to exceptional cases where the police are investigating a crime that involves the risk of serious physical injury or death.
- ▶ 67% of respondents believe that no-knock raids are more dangerous for everyone involved—police officers, occupants, and bystanders.
- ▶ 65% believe that no-knock raids endanger the lives of innocent people, including children.
- ▶ 67% of respondents agree that no-knock raids are an extreme, military-style tactic that should only be used in rare circumstances when no other options are available.
- ▶ 64% believe that no-knock raids are riskier for police than executing other search warrants or arrest attempts, particularly because the use of flash-bang grenade, and the surprise of entering the house without knocking, mean that a homeowner might accidentally shoot and kill a police officer, mistakenly believing that officers are home invaders.

The Rise of No-Knock Raids

Law enforcement agencies have justified the use of military-style forced entry into people's homes—whether with a no-knock warrant or done by way of “quick knock” raids—based on the argument that serving a warrant in another fashion would be dangerous or futile, or that evidence might be destroyed. The use of no-knock raids grew exponentially during the 1990s as police devoted even more resources to the War on Drugs, accumulating military-grade weaponry to do so. A 2014 ACLU study found that 79% of

SWAT raids were conducted to search homes, and 60% of those searches were for drug offenses. As with most aspects of the criminal-legal system, no-knock raids are disproportionately used against Black and Hispanic communities. According to an ACLU study of 20 cities, 42 percent of those targeted by SWAT search warrant raids were Black; 12 percent were Hispanic.

No-knock warrants and the use of “quick knock” techniques are usually accompanied by “dynamic entry,” which refers to the SWAT-team style entry into a residence, where a team of armed police officers enter a residence as if executing an invasion. They are usually conducted at night or in the early morning hours, when people are assumed to be home and asleep, and involve flash-bang grenades, automatic weapons, battering rams, and military-style vehicles. Whether police announce themselves immediately prior to entering a home, or force entry without notice, the process is intended to be disorienting, upsetting, and confusing for the occupants.

There's no question that the entire premise of these procedures is to frighten and shock residents, which means that mistakes and disorientation—and increased danger for all involved—are expected, not an unintentional by-product. In the case of Breonna Taylor, police assert that even though they possessed a no-knock warrant, they nonetheless announced themselves before entering; Ms. Taylor's estate and her surviving boyfriend claimed in a lawsuit that there was no announcement before police entered the residence. No matter the underlying truth, the manner in which the raid was carried out was unquestionably dangerous.

The over-militarization of serving warrants has been encouraged both by a warrior culture of policing and government programs that authorize the transfer of military equipment to local law enforcement. The percentage of cities with greater

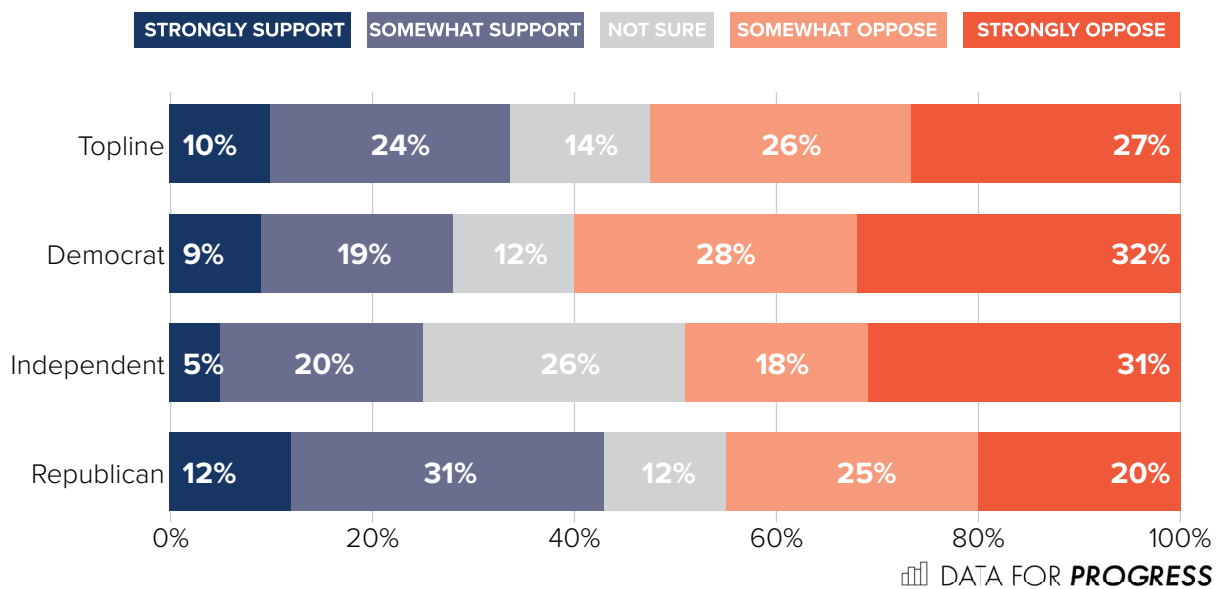
than 50,000 residents that had police department SWAT teams grew from 60% in the 1980s to 90% by the late 1990s. This militarization was not exclusive to big cities, as the percentage of small towns with SWAT teams grew from 20% in the 1980s to over 80% by the mid-2000s.

Over the last four decades, the use of no-knock raids has increased dramatically. According to data collected by Professor Peter Kraska, no-knock warrants grew from 3,000 in 1981 to 60,000 today. Reports of botched raids show that no-knock warrants are used for an array of activities that simply do not justify the level of intrusion and inherent risk involved. Indeed, they have been deployed on high school students, in simple drug possession cases, and even for unpaid utility bills.

No-Knock Raids Are Dangerous and Ineffective

According to a New York Times study, no-knock raids involving SWAT-style tactics have led to the deaths of at least 100 people since 2010. Some of these are deaths of children, like seven-year-old Aiyana Stanley-Jones in Detroit who was shot in the head by police during a SWAT raid while she was sleeping next to her grandmother. (The officer in this case was charged with involuntary manslaughter, but, after two hung juries, the criminal charges were dropped.) Sometimes, believing that they are being robbed or attacked, the subjects of no-knock warrants shoot or injure police officers in self-defense. Because officers often wear unmarked clothing and seek to maximize confusion when entering a home, the likelihood of intense fear and confusion for any occupants is quite high.

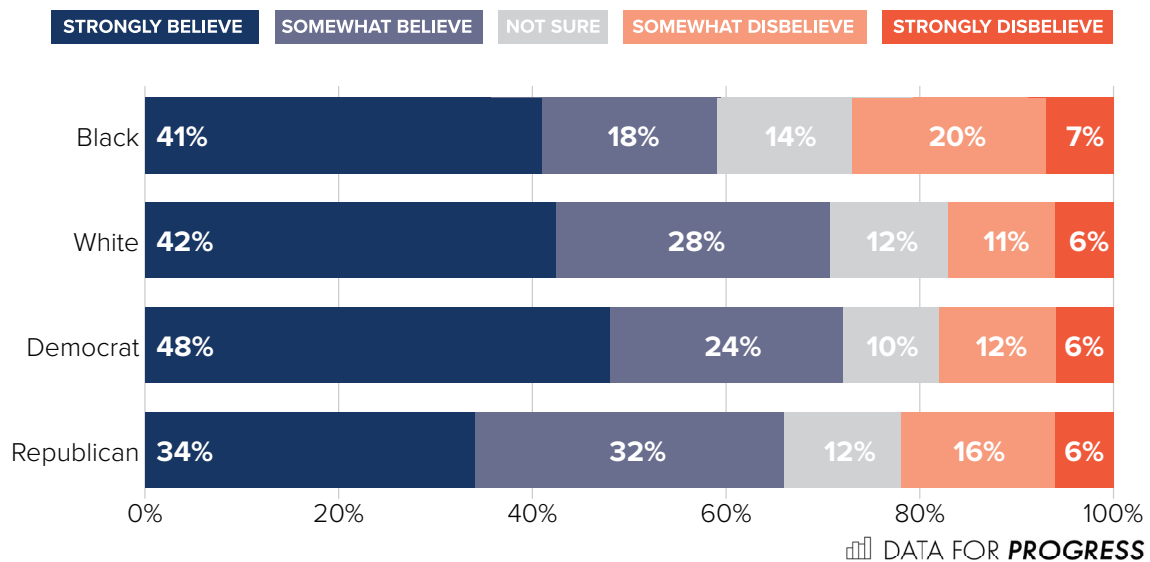
Do you support or oppose the use of no-knock raids entirely?



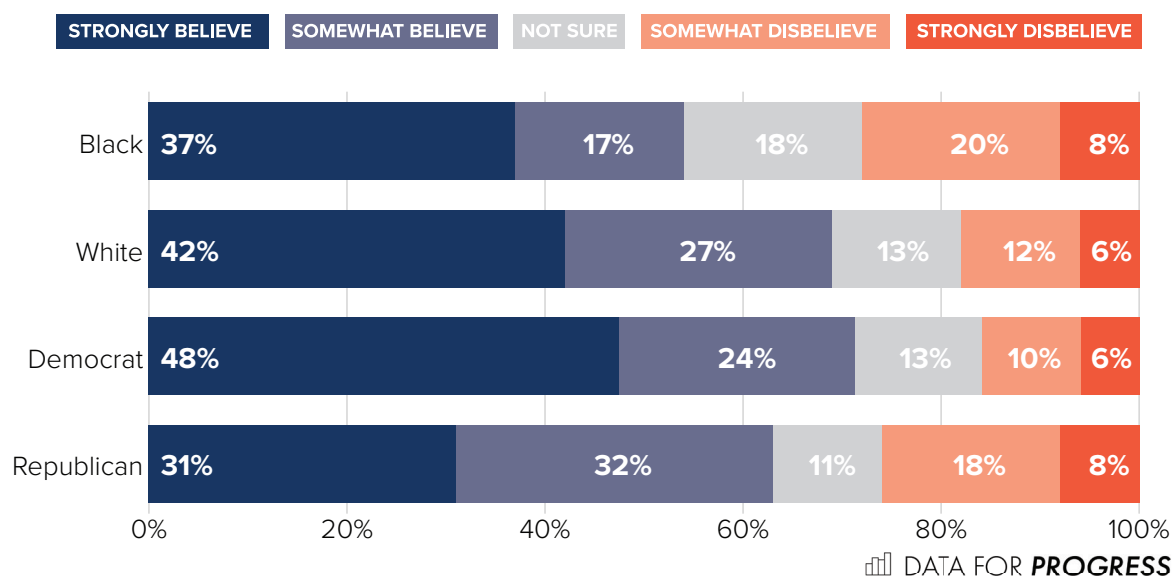
Police often conduct no-knock raids in the presence of children and family. In 2014, law enforcement officers in Georgia conducted a no-knock, military-style raid on a small ranch house where informants had previously purchased \$50 of meth. The sheriff's deputy who wrote up the no-knock warrant claimed there were no children in the house despite a minivan parked out front.

Ten officers rolled up in a humvee armored vehicle and smashed through the front door. One officer tossed a flash-bang grenade into a portable crib. The baby was caught in the melting mesh of the crib, burned so badly that his ribs were exposed. Bou Bou, the injured baby, has already had over a dozen surgeries as a result of the botched raid.

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?



These tactics, unsurprisingly, have resulted in immense and irreparable harm. Unannounced, aggressive forced entry using military-style tactics introduce violence into generally nonviolent settings. The approach succeeds in surprising occupants; but homeowners surprised by unknown intruders in the middle of the night often respond with gunfire. This predictable outcome has resulted in the death, injury, and often criminal charges for the residents who did not realize they were firing at police officers. As the Florida Supreme Court succinctly noted when it banned the use of no-knock warrants: they have a “staggering potential for violence to both occupants and police.”

Aside from tragic injuries and deaths, forced-entry methods cause substantial collateral damage. Most no-knock raids involve a battering ram that smashes the front door beyond repair. Occupants of residences targeted by raids are placed at significant risk of being stunned by flash-bang grenades, held at gunpoint by unidentified people, and injured. Family pets have been shot by law enforcement. Police departments do not take responsibility for cleaning up the mess, paying to repair a broken front door, or compensating residents for their losses.

Scholars have pointed out that the very point of a no-knock raid is to confuse and disorient. Seth Stoughton, a former police officer who is a law professor at University of South Carolina and an expert in police use of force, wrote, “A half-century of experience and work by police departments across the country have resulted in

the development of sophisticated tactics that are designed to confuse and disorient the occupants of a building that is being searched.”

In fact, the associations which train officers on paramilitary tactics have also begun to question the purpose of SWAT-style raids altogether and recommend restraint in cases where there is no imminent risk to life. In 2017, Robert Chabali, the chairman of The National Tactical Officers Association from 2012 to 2015 and a retired assistant chief of police in Dayton, Ohio, told the New York Times, “It just makes no sense. Why would you run into a gunfight? If we are going to risk our lives, we risk them for a hostage, for a citizen, for a fellow officer. You definitely don’t go in and risk your life for drugs.”

There are also many troubling ways in which police departments have made mistakes. Police may fail to substantiate criminal activity, rely on lying informants, or exaggerate the evidence in support of a warrant in the hopes of making a big arrest and seizure. There is also little oversight—and no nationwide standards—concerning how the raids are carried out. And, in many places, smaller police departments have obtained military-grade equipment through federal programs, but lack the funding to provide full training sessions. In the case of Bou Bou, the baby injured in Georgia, the local SWAT team—for a town of 5,000 people—trained on their own time for four hours a week.

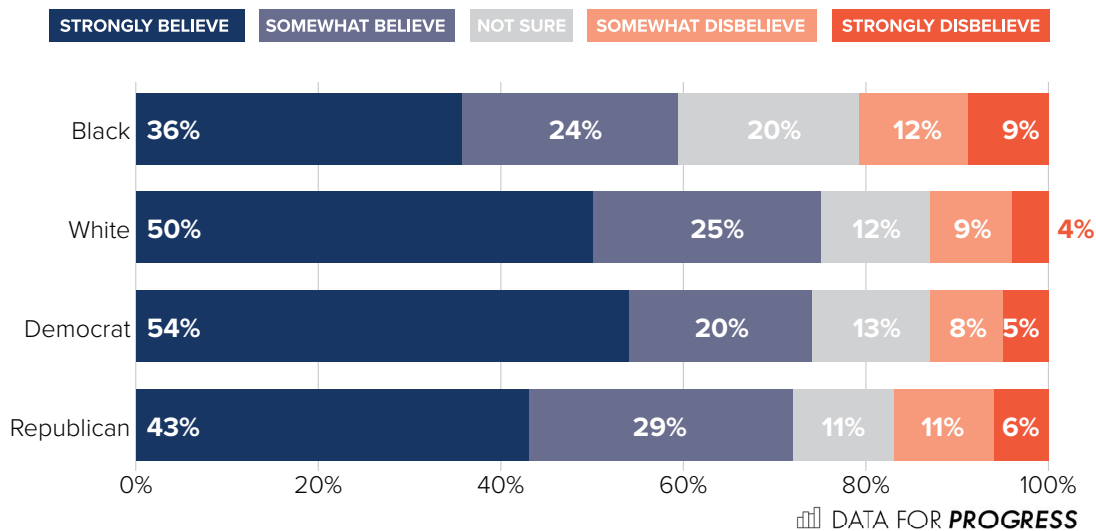
Change Is Necessary

In recognition of the danger SWAT-style tactics present, an increasing number of jurisdictions have reconsidered the use of no-knock raids. In 2015, for example, Utah passed a [law](#) banning the use of no-knock warrants in drug possession or intent to deliver cases. The Little Rock Police Department implemented [new policies](#), including

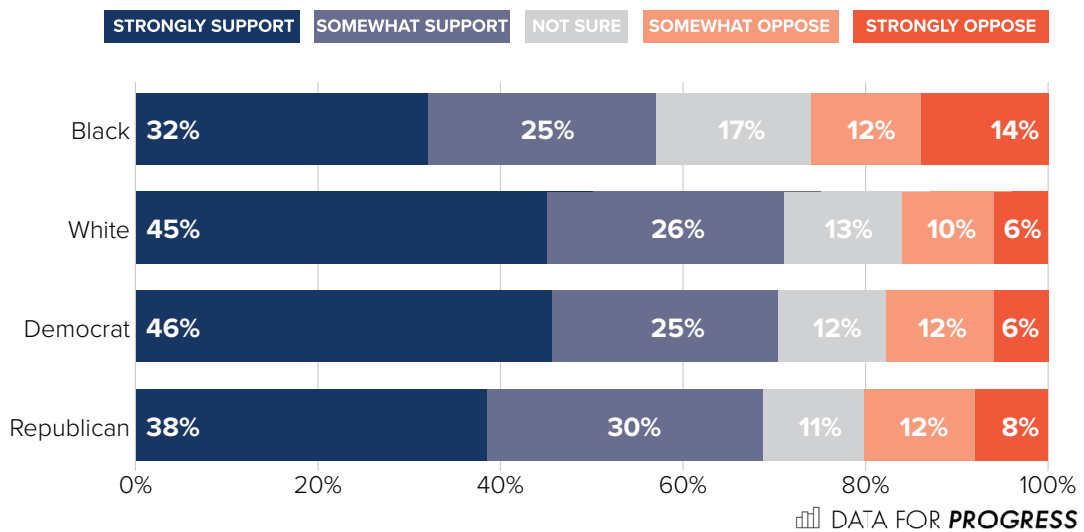
the thorough vetting of confidential informants, after a spate of lawsuits. And, the Houston Police Department implemented a [near ban](#) on no-knock raids after the death of two residents during one raid. An appendix with model legislation is available [here](#).

Voters also agree that no-knock, paramilitary raids should be severely limited, if used at all.

Do you believe or disbelieve that no-knock raids should be limited to exceptional cases where the police are investigating a crime that involves the risk of serious physical injury or death?



Do you agree or disagree that no-knock raids are an extreme, military-style tactic that should only be used in rare circumstances when no other options are available?



Ban No-Knock Warrants

No-knock warrants and their functional equivalents should be eliminated. They are too dangerous—for occupants and officers—to be used in any case.

Ban “Quick Knock” Raids with Limited Exceptions

The practice of so-called “quick knock” raids, where law enforcement knock and/or announce themselves and then immediately and forcibly enter the home, should be limited to a very narrow set of circumstances where the underlying investigations involves an offense that by its nature includes a grave risk of serious physical harm or death (e.g., murder, rape, terrorism, human trafficking), and where circumstances justify immediate entry to prevent imminent physical harm or death.

No Dynamic Entries without Chief Approval and Tactical Team Execution

In addition, any “dynamic entry” methods, including all SWAT-style raids, should be strictly limited to circumstances where people are in imminent danger of harm, like kidnappings or active shooting situations. Dynamic entries, which rely on aggressive, military-style tactics, should only be executed by trained, specialized officers and should be limited with multiple levels of approval. The decision to use a tactical team to serve a search warrant should be one approved by the police chief. Before approving such a request, the chief should ensure that procedure is necessary to prevent imminent physical harm and that these tactics are only used in cases where a serious crime involving physical harm

has occurred, such as murder, rape, terrorism, or human trafficking. Importantly, the belief that imminent physical harm is present must be supported by actual knowledge of specific circumstances.

Collect and Share Data

In general, too little information is collected regarding police activities. The use of dynamic entry and SWAT-style raids is no exception. Communities and governments should have a comprehensive understanding of how often, for what reasons, and in what ways local police are aggressively intruding into private property. Local governments should require that police departments collect this information and share it regularly with the public. For each request to use a tactical deployment or dynamic entry, the following information should be collected:

- ▶ the name of requesting officer;
- ▶ the race and gender and age of the occupants staying at the home or present at the time of entry;
- ▶ the offense(s) being investigated;
- ▶ the justification for using “dynamic entry” or SWAT-style technique;
- ▶ whether force was used during execution;
- ▶ whether firearms were discharged during execution, which ones, and how many times’;
- ▶ which approved tactics were used during execution;
- ▶ any injuries that occurred during execution;
- ▶ whether evidence was found and what it was; and
- ▶ whether anyone was arrested and on what charges.

All data collected should be maintained in a publicly accessible database and reported monthly.

CONCLUSION

No-knock raids are too dangerous and should be banned entirely. Because there is too much room for confusion and error, the use of all SWAT-style raids to conduct searches of private residences should only be permitted with specific conditions and careful data tracking. Overall, the militarization of police has not made communities safer, and, in fact, the use of military-grade weapons and tactics only makes it more difficult for police to do their jobs and serve their communities. People like Breonna Taylor should not be concerned that they will be killed in their homes. But beyond the obvious risk of death, these incidents erode trust in police and increase significantly the trauma and stress of communities that are already over-policed.

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This report was written with the consultation of the following experts:

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David Harris, Professor of Law at University of Pittsburgh School of Law

David Moran, Clinical Professor of Law at the Michigan Innocence Clinic at the University of Michigan School of Law

Seth Stoughton, Associate Professor at the University of South Carolina School of Law

METHODOLOGY

From 5/21/2020 to 5/25/2020 Data for Progress conducted a survey of 1,513 likely voters nationally using web panel respondents. The sample was weighted to be representative of likely voters by age, gender, education, urbanicity, race, and voting history. The survey was conducted in English. The margin of error is ± 2.5 percent