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## When Police Break Down Your Door

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**An increase in the use of ‘no-knock’ warrants around the country has alarmed civil liberties advocates.**

On Nov. 17, 2007, Vergil Richardson was sitting at a table in the house he owns in the small northeast Texas town of Clarksville, playing dominoes with several relatives, including his half-brother Kevin Calloway, when the front door exploded inward and the living room was flooded with police.

“They just broke into the house,” Vergil recalled recently. “They had guns on us and threw me down on the floor.”

Vergil asked Red River County Sheriff Terry Reed, who was present at the raid—and who was standing alongside the county’s elected prosecutor Val Varley, who was also wearing a flak jacket and carrying a large caliber rifle—to see a search warrant.

The sheriff pulled out a piece of paper, no larger than a Walmart receipt, flashed it toward Vergil’s face, then swiftly tucked it back in his pocket.

Outside the home, Vergil’s older brother, Mark was sitting in a car with a friend, talking. Looking out the window just before 10:30 that night, Mark saw the police coming. They swarmed past the car and up the walk, onto the porch of the house and then went through the door.

“They were dressed like a SWAT team” with black clothes and body armor, he recalled, and carried assault rifles and riot shields.

For some reason, Mark says, the cops didn’t realize anyone was actually sitting in the car. His friend was scared and did not want to get out, but he convinced her to get out of the car with him. At that moment, an officer standing nearby yelled at them to get down on the ground.

Inside the house, Vergil was panicking. He remembered thinking, “what is this?”

It didn’t take long for the answer to surface. A half-hour after the raid began, Vergil Richardson, then 38, Mark Richardson, 40, and Kevin Calloway, then 25, were taken to jail, where each was charged with manufacture of a controlled substance, intent to deliver drugs and organized crime.

Six hours earlier, an undercover policeman had allegedly purchased \$200 worth of marijuana from Calloway. With that information, police had prepared a search warrant for the house in Clarksville where, police said, they found small amounts of cocaine and marijuana in the course of the night raid.

### **Charges Denied**

Vergil at the time was the head coach of a high school basketball team in Texarkana, and was no longer living at the Clarksville house. He and Mark vociferously denied any involvement with drugs. And Calloway, who was renting the place from Vergil while going to school in nearby Paris, Texas, backed them up.

Calloway told police that neither of his half-brothers had any idea that he kept drugs in a storage shed behind the house. But the

charges against Vergil and Mark were not withdrawn.

It took “three years of hell,” as Vergil and Mark would later describe it, for the charges to be finally dismissed.

But in the process, the case exposed what their lawyer would claim was an abuse of police search and seizure powers, under the so-called “no-knock warrant” procedure.

[No-knock warrants](#) are supposed to be reserved for potentially volatile situations where the element of surprise is essential to containing that potential violence. But, the incidence of no-knock warrants, often executed by Special Weapons and Tactics (SWAT) teams or SWAT-style narcotics squads – and often with very dangerous, and sometimes deadly, results—has also risen. Since the early 1980s, for example, 40 innocent bystanders have been killed during warrant executions. And according to 2006 research from the CATO Institute, over the previous 15 years there were roughly 200 instances where the raiding party hit the wrong house.

That has paralleled the rise in SWAT raids nationwide. According to [CATO Institute](#) Media Fellow Radley Balko, the number of SWAT call-outs averaged 3,000 annual between the 1980s and 2005. Now the annual figure is roughly 50,000.

### When are searches legal?

Attorney Mark Leshner, who represented Mark Richardson on the state criminal charges, now represents both brothers in a federal civil rights suit against members of the Clarksville Police Department, the Red River Sheriff’s Office and County Attorney Val Varley.

In a recent interview with *The Crime Report.*, he highlighted two serious problems with the 2007 raid at the Clarksville home.

First, and most striking, is that apparently neither the police nor the prosecutor had a valid search warrant at the time of the raid. According to court filings, the warrant was not issued until nearly 20 minutes after the raid began – which, he said, would explain why no one could produce a valid warrant when Vergil asked to see one.

Leshner said searching the house without a warrant was inexcusable. “You have the county attorney...the sheriff, the police chief” all present at the house, he said. “All three of the top policy-makers for law enforcement in the county are at that house, at that time. All three of them should (have known) that you need to show a search warrant when you get there.”

Prosecutor Varley did not respond to a request for an interview for this story.

Equally troubling, said Leshner, was that even if the warrant had been issued in a timely manner, it was still “defective as a matter of law,” he said.

*[ED NOTE: for details of the warrants issued in the Clarksville raid, please click [here](#) and [here](#).]*

### Complicated Law

“The area of search-and-seizure [law] is complicated, but you have to be able to specify articulable facts, from credible folks who are giving reliable information in order to legally justify the search,” Leshner continued, adding that in this case, the earlier pot buy from Calloway had not occurred at the Clarksville house, nor was there any information – credible or otherwise – to suggest that there were additional drugs to be found at the house, or that Calloway was a violent person.

Nonetheless, Leshner says, the county’s justice-of-the-peace signed off on a no-knock warrant, allowing the SWAT-style, heavily-armed coterie of local police to burst into the house without announcing their presence.

Similar questions have arisen in connection with other search-and-seizure raids elsewhere in the country—sometimes with deadly results. In [November 2006](#), an Atlanta Police narcotics squad executing a no-knock warrant shot and killed 88-year-old Kathryn Johnston in her home.

Johnston, startled by the unannounced entry, had armed herself with a revolver, shooting several of the officers before she was shot in turn. (Each of the officers recovered from their injuries.)

Police claimed that that a confidential informant told them a drug dealer lived at the house. But the informant later came forward to say the police version of the story wasn’t true, and added that they had only contacted him after the shooting in order to justify their botched raid. The city of Atlanta this summer settled a federal lawsuit with Johnston’s family for \$4.9 million.

More recently, in [July 2008](#), Prince Georges County, Md., police shot and killed two family dogs inside the home of Berwyn

Heights, Md., Mayor Cheye Calvo and his wife Trinity Tomsic, during a no-knock raid at the couple's home. Police thought the couple had someone send 32-pounds of marijuana to their home through the mail.

As it turned out, a delivery person in Arizona was responsible for the smuggling operation, which mailed pot to random addresses in Maryland to be picked up by members of the drug-dealing conspiracy.

Given the hit-and-miss success of SWAT-executed no-knock raids, the Cato Institute's Balko, who is also a senior editor at *Reason*, a libertarian leaning monthly magazine, said it was lucky that no one inside the Clarksville home the night of the raid was killed,

"Imagine if they'd had a gun in the house for protection and someone was in the back of the house, heard the commotion, [didn't know what was going on] and came out with a gun," he says. "He'd be dead."

### The Rubber-Stamp Warrant

Unfortunately, says Leshar, the Richardson case was not the first time he's seen defective no-knock warrants in Red River County. At present, he has "about 10-12 other search warrant affidavits that are" equally as defective as the one in the Richardson case. It happens "all the time," he says. "It's called rubber-stamp."

Despite the serious legal questions surrounding the raid, it took nearly three years for the charges against Vergil and Mark Richardson to be dismissed. Leshar was successful in having Varley recused from trying the case, but even after special appointed prosecutors from the Texas Office of Attorney General recommended that the charges against the brothers be dropped, District Judge John Miller refused to do so.

Leshar claims that Miller tried to make a deal with the attorneys: if they would drop the federal civil rights suit that Leshar had filed against the county and city officials—in which the brothers are seeking at least \$2 million in compensation—Miller would then dismiss the state charges. The lawyers refused and Miller set a trial date. Miller did not respond to a request for an interview for this story.

It wasn't until this October that Leshar and fellow attorney Clyde Lee (who was handling Vergil's criminal case) were successful in having the charges [dismissed](#). The attorneys had Judge Miller. The new judge, Robert Mohoney, swiftly approved the dismissals.

It was too late to save Vergil's job, however. A week after the charges made local headlines, he says, his school district fired him. Since then he hasn't been able to find a job.

"He's been blackballed," Leshar says. "Who's going to have somebody accused of dealing dope [be] a coach for kids?"

All things considered, says Vergil, his half-brother Calloway got off fairly easy. While he and Mark were still trying to have the charges against them dismissed, Calloway was sentenced to 10 years probation. He went to drug rehab and has so far been successful on probation.

The experience has taken a psychological toll as well. Mark says he's nervous ever time he sees a cop in his rearview mirror, and Vergil says he's been battling with bouts of depression. Still, the brothers are adamant about pressing forward with their civil rights suit, hoping to stop the local law enforcers from doing the same thing to others.

Vergil says his half-brother Calloway's involvement with drugs was wrong, "but what they did was wrong also."

When innocent people become the victims of over-zealous law enforcement, he declares, "How can [the authorities responsible] not face the consequences?"

*Jordan Smith is a staff writer for The Austin Chronicle, and a winner of the 2010 [John Jay/HF Guggenheim Award for Excellence in Criminal Justice Journalism](#).*

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