



Mint Press News

## **Fatal Shooting Of Octogenarian Fuels Concern Over SWAT Team Drug Raids**

*Law enforcement says SWAT teams are a response to the increase in well-armed suspects, but critics worry about the militarization of civil law enforcement.*

By Matthew Heller

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LOS ANGELES — Early on the morning of June 27, 2013, a SWAT team of nine Los Angeles County Sheriff's Department officers went searching for a clandestine methamphetamine lab in the dusty desert community of Littlerock.

They pulled up in front of a property that consisted of a 600-square-foot main house and several smaller structures, including a barn, trailers and storage containers. Meth labs are not uncommon in the small towns of the Mojave Desert outside Los Angeles, and the SWAT team had arrived prepared, wearing full-body armor.

After Sgt. John Bones opened the front gate of the property, he and Detective Patrick Hobbs approached the front door of the main house. According to an audio recording of the raid, Hobbs knocked on the door and announced, "Sheriff's Department! Search warrant! Demand entry." There was no response. After Bones repeated the announcement, again without a response, he and four other officers entered the home through the unlocked door.

About one minute later, Bones fired six shots from his Heckler & Koch submachine gun, killing the only person in the home — 80-year-old retired electrical engineer Eugene Mallory.

That the Sheriff's Department deployed so much manpower in search of a meth lab was not unusual. According to Peter Kraska, a professor at Eastern Kentucky University's School of Justice Studies, police agencies in the U.S. now conduct about 40,000 SWAT team raids a year, most of them narcotics-related.

While law enforcement officers say they are reacting to the dangers of confronting well-armed suspects, critics believe the raids reflect the growing militarization of civilian law enforcement.

"These increasingly frequent raids ... are needlessly subjecting nonviolent drug offenders, bystanders, and wrongly targeted civilians to the terror of having their homes invaded while

they're sleeping, usually by teams of heavily armed paramilitary units dressed not as police officers but as soldiers," Radley Balko wrote in a research paper for the Cato Institute titled "Overkill: The Rise of Paramilitary Police Raids in America."

A search warrant, moreover, can become a death warrant. The Cato Institute has reported that at least 45 innocent people, eight of them in California, have been killed by police in SWAT team raids since 1985.

In Mallory's case, police obtained a search warrant based on an affidavit in which Sheriff's Detective Patrick Hobbs said he had formed the opinion that the Littlerock property was being used as a meth lab and as a space to store and sell the drug. While conducting surveillance, he had smelled "the strong odor of chemicals coming from the location."

The Los Angeles District Attorney's Office investigated the shooting, finding that Bones "acted lawfully in self-defense" after Mallory "armed himself with a handgun and abruptly confronted Bones at the doorway to his bedroom."

But no meth lab was found on his property. Now Mallory's widow, Tonya Pate, is suing the Sheriff's Office for \$50 million in damages, alleging there was no probable cause for the search in the first place and that Mallory, who had been sleeping in bed, posed no "threat or danger of any nature to anyone."

"This was a battlefield mindset," Pate's attorney, Mark Algorri, told MintPress News in an interview. "This was not policing ... It's a testosterone-driven, steroid-driven, hyper-military operation."

## **High school lockdown**

SWAT team operations in California are by no means restricted to the homes of suspected narcotics offenders. Last month, after a carrying case for a firearm was found in the parking lot of a high school in the sleepy coastal community of Dana Point, a team from the Orange County Sheriff's Department responded to the scene, with some of the officers arriving in a \$250,000 armored personnel carrier.

For four hours, the entire campus of Dana Hills High School was locked down as the SWAT team searched the premises. Confined to their classrooms, some students reportedly had to urinate in their desks. "It is scary to them to see guard dogs and SWAT team members going up and down their school," one parent told a local TV station.

"It's almost videogame-ish," Algorri said. "The big armored personnel carrier rolling down the street — it's just gone over the top."

While the Dana Hills operation could be excused as a necessary post-Columbine precaution, it illustrates how far SWAT teams have come since they were first deployed in Los Angeles in the wake of the Watts riots in 1965.

According to Balko, Daryl Gates, then an inspector for the Los Angeles Police Department, saw them as "an elite, military-trained cadre of law enforcement officers who could react quickly,

accurately, and with overwhelming force to particularly dangerous situations.” In 1969, a shootout with Black Panthers brought the LAPD’s SWAT team nationwide publicity.

“Though the total number of SWAT teams gradually increased throughout the 1970s, they were mostly limited to larger, more urbanized areas, and the terms surrounding their deployment were still for the most part narrowly and appropriately defined,” Balko wrote.

That, however, changed in the 1980s when, amid the Reagan administration’s anti-drug offensive, the Pentagon began sharing drug interdiction intelligence, training, technology and weapons with civilian police departments. Between 1995 and 1997, according to a Cato Institute briefing paper by Diane Cecilia Weber, the hardware distributed to police agencies across the country included 3,800 M-16 rifles, 2,185 M-14s, 73 grenade launchers, and 112 armored personnel carriers.

SWAT teams “were not designed for [drug raids],” Algorri said. “They were designed for riots and insurrections.”

As SWAT teams became a routine feature on drug raids, critics charged that police were relying on dubious informants to obtain search warrants and using aggressive tactics once reserved for urban warfare. They sometimes showed up at the wrong address or found no evidence of criminal activity. And sometimes, as Balko put it, there was a “tragic outcome.”

## **Military “mindset”**

Eugene Mallory was a retired engineer for Lockheed Martin and a well-liked figure around Littlerock, which has a population of about 1,400, many of them senior citizens.

“He was Mr. Law-and-Order,” Algorri told MintPress. “He Had nothing to do with meth labs or anything else.”

What happened to him on that June morning a year ago, he said, “just makes no sense.”

According to the search warrant affidavit of Detective Hobbs, he received a tip in May 2013 from “a citizen informant about a possible clandestine methamphetamine lab operation” at Mallory’s address. While surveilling the property, he drove around it and, once he was downwind, detected the chemical odor.

Even though Hobbs did not report seeing any other evidence of narcotics activity, such as people coming and going from the property at odd hours, he “formed the expert opinion” that the location was being used as meth lab.

The search warrant “was completely erroneous,” Algorri said. “At a bare minimum, it had to be based on grotesque negligence or intentional misconduct.” He noted that code enforcement officers had visited the location on multiple occasions over the previous year and did not observe any illegal activity.

When the SWAT team arrived at the property, Mallory's wife was asleep in a trailer behind the main house. Three other people, including her son, were in another trailer. What happened after Sgt. Bones and the four other officers entered the house is in dispute.

Bones told investigators that when he and another officer, Robert Mittlburn, reached the doorway to the bedroom, he realized there was a person lying on the bed. Mallory, he said, stood up and, as he raised his right hand in the direction of the officers, Bones saw he was holding a gun.

"Fearing for his life, and the life of Mittlburn, Bones discharged his service weapon at Mallory," the District Attorney's Office reported.

Homicide detectives found Mallory lying on the bed, the mattress soaked with his blood. The coroner's office concluded he had suffered six gunshot wounds, five of which were fatal.

The district attorney said Mallory pointed his loaded firearm at the two officers, "placing Bones in actual and reasonable fear of death." But Tonya Pate, Mallory's wife, alleges in her \$50 million lawsuit that the shooting was "without provocation, cause or necessity, and was an objectively unreasonable, unjustified, unwarranted and excessive use of deadly force."

According to Algorri, sheriff's deputies initially said they first encountered Mallory in the hallway wielding a gun and stumbling toward them. They later changed the story, Algorri said, when the bloodstains on the mattress indicated Mallory was in bed at the time of the shooting.

Investigators also found that the audio recording of the raid indicated a discrepancy in Bones' account. Before listening to the recording, he believed that he told Mallory to "Drop the gun" before the shooting. The recording revealed, however, that the command came immediately after Bones opened fire.

No matter how the shooting occurred, Algorri maintains that the SWAT team should never have stormed the home in the first place. If the officers had used a bullhorn to announce their presence, he says, Pate and others on the property would have been alerted and explained to them that only Mallory, who was hard of hearing, was inside the home.

Algorri plans to put not only the SWAT team on trial, but the military "mindset" that they represent. "We've gotten so far afield from the idea of what SWAT was," he said.

"That's our theory of the case — this was the culture," Algorri added. "It is a pattern and practice."