



## **Militarized police overreach: “Oh, God, I thought they were going to shoot me next”**

*Local law enforcement's often using SWAT teams to do regular police work. The results are frightening -- and deadly*

By: Radley Balko – July 10, 2013

---

*There is no crueller tyranny than that which is perpetuated under the shield of law and in the name of justice. — Charles De Montesquieu*

Cheye Calvo only intended to be home long enough to grab a bite to eat and walk his dogs. Calvo worked full-time at an educational foundation in Washington, D.C., but he also had an unusual part-time job: he was mayor of the small town of Berwyn Heights, Maryland. In 2004, at age thirty-three, he was the youngest elected mayor in the history of Prince George's County, Maryland. Now thirty-seven, he lived with his wife, Trinity Tomsic, her mother, Georgia Porter, and their two black labradors, Payton and Chase. Calvo was due back in town later that night for a community meeting.

As Calvo took the dogs out for a walk the evening of July 29, 2008, his mother-in-law told him that a package had been delivered a few minutes earlier. He figured it was something he had ordered for his garden. “On the walk, I noticed a few black SUVs in the neighborhood, but thought little of it except to wave to the drivers,” he would later recall. When Calvo and the dogs returned, he picked up the package, brought it inside, then went upstairs to change for his meeting.

The next thing Calvo remembers is the sound of his mother-in-law screaming. He ran to the window and saw heavily armed men clad in black rushing his front door. Next came the explosion. He'd later learn that this was when the police blew open his front door. Then there was gunfire. Then boots stomping the floor. Then more gunfire. Calvo, still in his boxers, screamed, “I'm upstairs, please don't shoot!” He was instructed to walk downstairs with his hands in the air, the muzzles of two guns pointed directly at him. He still didn't know it was the police. He described what happened next at a Cato Institute forum six weeks later. “At the bottom of the stairs, they bound my hands, pulled me across the living room, and forced me to kneel on the floor in front of my broken door. I thought it was a home invasion. I was fearful that I was about to be executed.” I later asked Calvo what might have happened if he'd had a gun in his home for self-defense. His answer: “I'd be dead.” In another interview, he would add, “The worst thing I could have done was defend my home.”

Calvo's mother-in-law was face-down on the kitchen floor, the tomato-artichoke sauce she was preparing still sitting on the stove. Her first scream came when one of the SWAT officers pointed his gun at her from the other side of the window. The police department would later argue that

her scream gave them the authority to enter the home without knocking, announcing themselves, and waiting for someone to let them in.

Rather than obeying the SWAT team demands to “get down” as they rushed in, Georgia Porter simply froze with fear. They pried the spoon from her hand, put a gun to her head, and shoved her to the floor. They asked, “Where are they? *Where are they?*” She had no idea what they were talking about. She told them to look in the basement. She would later tell the Washington Post, “If somebody puts a gun to your head and asks you a question, you better come up with an answer. Then I shut my eyes. Oh, God, I thought they were going to shoot me next.”

Calvo’s dogs Payton and Chase were dead by the time Calvo was escorted to the kitchen. Payton had been shot in the face almost as soon as the police entered the home. One bullet went all the way through him and lodged in a radiator, missing Porter by only a couple of feet. Chase ran. The cops shot him once, from the back, then chased him into the living room and shot him again.

Calvo was turned around and put on his knees in front of the door the police had just smashed to pieces. He heard them rummaging through his house, tossing drawers, emptying cabinets.

Calvo and Porter were held for four hours. Calvo asked to see a search warrant. He was told it was “en route.” The police continued to search the house. At one point, a detective got excited when she found an envelope stuffed with cash. According to Porter, the detective was deflated when she found only \$68 inside and noticed that the front of the envelope read: “Yard Sale.” At one point, Porter overheard a detective call to ask a relative to schedule a veterinary appointment. The sight of the dogs’ bodies apparently reminded her that she need to make an appointment for her own pet.

Even after they realized they had just mistakenly raided the mayor’s house, the officers didn’t apologize to Calvo or Porter. Instead, they told Calvo that they were both “parties of interest” and that they should consider themselves lucky they weren’t arrested. Calvo in particular, they said, was still under suspicion because when armed men blew open his door, killed his dogs, and pointed their guns at him and his-mother-in-law, he hadn’t responded “in a typical manner.”

Trinity Tomsic came home about an hour later to find a blur of flashing police lights and a crowd gathering on her front lawn. She was told that her husband and mother were fine. Then she was told that her dogs were dead. She broke down in tears. When she was finally able to enter her home, she found her dogs’ blood all over her house. The police had walked through the two large pools of blood that collected under Payton and Chase, then tracked it all over the home. Even once the police realized they had made a mistake, they never offered to clean up the blood, to put the house back together, or to fix the front door.

As Calvo and Porter were being interrogated, one of Calvo’s own police officers saw the lights and stopped to see what was going on. Berwyn Heights officer Amir Johnson knew this was his mayor’s house, but had no idea what the commotion was about because the Prince George’s

County Police Department hadn't bothered to contact the Berwyn Heights police chief, as they were required to do under a memorandum of understanding between the two agencies. Johnson told the Washington Post that an officer at the scene told him, "The guy in there is crazy. He says he is the mayor of Berwyn Heights."

Johnson replied, "That is the mayor of Berwyn Heights."

Johnson then called Berwyn Heights police chief Patrick Murphy. Eventually, Murphy was put in touch with the supervising officer, Det. Sgt. David Martini. Murphy recounted the conversation to the Post: "Martini tells me that when the SWAT team came to the door, the mayor met them at the door, opened it partially, saw who it was, and then tried to slam the door on them," Murphy recalled. "And that at that point, Martini claimed, they had to force entry, the dogs took aggressive stances, and they were shot."

If that indeed was what Martini told Murphy, he was either lying or repeating a lie told to him by one of his subordinates. There was never any further mention of Calvo shutting the door on the SWAT team—because it never happened. Calvo later had his dogs autopsied—the trajectories the bullets took through the dogs' bodies weren't consistent with the SWAT team's story.

But the lies, obfuscations, and stonewalling were only beginning.

The police department would first claim that they had obtained a no-knock warrant for the raid. They then backtracked and blamed Calvo's mother-in-law, arguing that when her scream blew their cover, they were no longer obligated to knock and announce themselves. (This was an interesting theory, given that the knock-and-announce requirement, by definition, would have required them to blow their own cover. That's the point of the requirement.) Maj. Mark Magaw, commander of the Prince George's County narcotics enforcement division, claimed that the SWAT team couldn't have obtained a no-knock warrant if they had wanted to, because the state of Maryland doesn't allow them. This too was false. The state had passed a bill allowing for no-knock warrants in 2005. It's the sort of law that one would think would have a day-to-day impact on the drug unit of a police department that conducts several raids each week. Yet the head narcotics unit in Prince George's County was completely ignorant of it. Three years later, Magaw would be promoted to Prince George's County police chief.

The affidavit for the search warrant was prepared by Det. Shawn Scarlata. It is incredibly thin. In a few paragraphs, Scarlata relates that he intercepted a FedEx package containing thirty-two pounds of marijuana at one of the company's warehouses. The package was addressed to Trinity Tomsic at her home address. A police officer disguised as a delivery man then took the package to Calvo's house, where it was accepted by Georgia Porter. There was also a one-paragraph description of Calvo's home. That's the only information in the warrant specific to Calvo and his family. The remainder of the six-page affidavit is a cut-and-paste recitation of Scarlata's training, qualifications, and assumptions he felt he could make based on his experience as a narcotics officer. As Calvo described the warrant in an online chat, "It talks about all the stuff a drug trafficker should have in his or her home and then says something like, 'Although we know

that the police have no evidence of these things, they can be inferred from the very nature of the charge.' It is circular reasoning that says because we are suspicious of you, there must be evidence of your guilt."

On August 7, police arrested a FedEx driver and an accomplice and charged them with various crimes related to drug trafficking. Trinity Tomsic was never supposed to receive that package of marijuana. A drug distributor in Arizona had used her address to get the package into the general Prince George's County area, at which point an accomplice working for the delivery company was supposed to intercept it. The police had found several similar packages. Worse, county police *knew* the scheme was going on and knew some packages had been delivered to residences unbeknownst to the people who lived in them. The Washington Post reported a couple of months later on cases in which innocent people had been arrested. "Defense lawyers who practice in the county said authorities appear to arrest and charge anyone who picks up a package containing marijuana without conducting a further investigation," the Post reported. "The more I think about that, the angrier I get," Calvo later told Post columnist Marc Fisher. "They knew this scheme was going on, yet it never occurred to them from the moment they found out about that package that we were anything but drug dealers." Prince George's County police chief Melvin High still couldn't bring himself to rule out the Calvos as suspects, telling the Washington Post, "From all the indications at the moment, they had an unlikely involvement, but we don't want to draw that definite conclusion at the moment."

Two days later, after the raid had made national and international news, the Prince George's County Police Department finally cleared Cheye Calvo and his family of any wrongdoing. They did it by way of a press release they put out at 4:30 p.m. on a Friday, the time and day of the week when bad news is typically buried. It also happened to be the night of the opening ceremonies for the 2008 Summer Olympics in Beijing.

Perhaps even more baffling, officials continued to insist that the raid shouldn't have happened any other way. Even as they acknowledged that Calvo and his family were innocent, in the months and years following the raid they would repeat again and again that not a single officer did anything wrong, and that no one had any reason for remorse. In 2010 Sheriff Michael Jackson was asked during his campaign for Prince George's County executive if he had any regrets about the raid. His response: "Quite frankly, we'd do it again. Tonight." Even when Chief High called Calvo to tell him that he had been cleared of any criminal suspicion, High made sure to explicitly tell the mayor that the call should not be interpreted as an apology. The statements from county officials over the next several months were also astonishingly callous. A day after he called Calvo, High told the press that the raiding cops showed "restraint and compassion" and insisted that they should be *credited* for not arresting Calvo or members of his family. (The only incriminating evidence found in the home was the unopened box of marijuana that the deputies themselves had delivered.) Months later, Prince George's County executive Jack Johnson said something even more preposterous. He insisted that once Prince George's County police agencies had cleared themselves, that was the only apology necessary—and in fact that they deserved praise for clearing Calvo's name after nearly killing him. "Well, I think in America that

is the apology, when we're cleared," Johnson said. "At the end of the day, the investigation showed [Calvo] was not involved. And that's, you know, a pat on the back for everybody involved, I think." On September 8, about five weeks after the raid, Sheriff Jackson's office announced that his internal investigation had cleared his deputies of any wrongdoing. Everything was done according to procedure. Or, as Jackson put it, "the guys did what they were supposed to do." Nine months later, Jackson's office would conclude another investigation, again clearing his deputies. Neither outcome was surprising, given that Jackson had been defending his deputies since the night of the raid. It's probably also worth noting that the father of Det. Shawn Scarlata—the officer who initiated the investigation leading to the raid— was on the internal affairs team that conducted the investigations.

The officials in Prince George's County, two of them elected, openly and without reservation stated that they had no problem with the collateral damage done to the Calvo family. It was part of the war against getting high—which even they had to know is a war that can't be won. They didn't even really think it was something to regret or learn from, or to try to avoid in the future. As Calvo himself pointed out on several occasions, this isn't a problem that can be laid at the feet of the police officers who raided his home. This problem can't be fixed by firing the police involved. This is a political problem. It's a policy problem.

Calvo understood all of this almost immediately. Someone sent him a copy of "Overkill: The Rise of Paramilitary Police Raids in America," the paper on police militarization I had written for the Cato Institute two years earlier. A policy wonk at heart, Calvo devoured the paper, reading it on his subway rides to and from work. Still traumatized from the raid, his wife didn't like the image on the cover—a close-up of a SWAT officer with his hand on a machine gun. Calvo then began reading up on the case law behind these raids. Within a few weeks, the charismatic, accessible small-town mayor had become a compelling advocate for reform. I moderated a forum about the raid at the Cato Institute in September 2008. As Calvo spoke about what he had gone through—and particularly about his dogs, and how angry he was that the police tried to blame the dogs for their own deaths—about a fourth of the audience was in tears. He told his story on CNN, the morning network talk shows, and the BBC. And to his credit, he recognized that what had specifically happened to him was part of a broader problem of policy, not of individual cops.

"The reality is that this happens all the time in this country, and disproportionately in Prince George's County," Calvo told CNN. "Most of the people to whom it happens don't have the community support and the platform to speak out. So I appreciate you paying attention to our condition, but I hope you'll also give attention to those who may not have the same platform and voice that we have."

As Calvo continued to advocate for reform, he started to hear from other victims of mistaken police raids, both in Prince George's County and around the state of Maryland. Several included the routine, sometimes callous killing of the family dog. Within a week of the raid, for example, Prince George's County residents Frank and Pam Myers came forward to say that they too were raided by sheriff's department deputies. Indeed, that raid the previous November had been covered by some local media. When the couple told the deputies that the address on the warrant

was two doors down, the police refused to leave. They continued to look around the couple's house for another forty-five minutes. Then two shots rang out from the backyard. A deputy had gone into the backyard and shot the couple's five-year-old boxer, Pearl. He claimed that he feared for his life. Pam Myers told a local news station, "I said, 'You just shot my dog.' I just wanted to go out and hold her a bit. They wouldn't even let me go out."

Amber James, another Prince George's County resident, also came forward. Police raided her home in May 2007 looking for her sister, who didn't live in the house. According to James, when their search came up empty, they promised to return the next day—and to kill James's dog when they did.

A series of police raid horror stories from Howard County, Maryland, also emerged. Kevin and Lisa Henderson said they were the victims of a mistaken raid in January 2008. At 10 p.m. the night of January 18, a raid team opened the family's unlocked front door. Inside were the couple, a twenty-eight-year-old houseguest, their two teenage sons, and their sons' friend. The police first met the family dog, a twelve-year-old lab/rottweiler mix named Grunt. According to the lawsuit, one officer distracted the dog while another shot it point-blank in the head. When one of the couple's sons asked why they had shot the dog, one officer pointed his gun at the boy's head and said, "I'll blow your fucking head off if you keep talking." The police found marijuana in a jacket pocket of the Hendersons' house guest. He was arrested. Four days later, after Lisa Henderson called to complain about the raid, she and her husband were also arrested for possession of marijuana, even though the police hadn't found any drug anywhere else in the house. Ten months later, a state judge acquitted the couple of all charges. The Hendersons believe that the police intended to raid a different house in the neighborhood that looked a lot like their own. A subsequent raid on that house turned up marijuana, scales, and cash.

Karen Thomas, also a resident of Howard County, told a Maryland State Senate hearing in 2009 that police shot and killed her dog during a mistaken raid on her home in January 2007. Even after they had surrounded her in her bedroom, she said they still hadn't yet identified themselves, and she thought the gunshot had been directed at her son. "In my mind, terrorists had just killed my son, and they were going to kill me next." Boyd Petit told the same committee, "Our collective lives flashed before our eyes" during a mistaken raid on him and his family in April 2008. Mike Hasenei, his wife, and their twelve-year-old daughter were subjected to a nighttime raid when police received a tip that Hasenei's stepson and a friend might have stolen items from a police car, including a rifle and ammunition. They also raided the home where the stepson actually lived, as well as the friend's home. They found none of the stolen items and made no arrests. Hasenei and his wife Phyllis told the Baltimore Sun that they were still reeling from the trauma. "They had their guns drawn, Angel and I were screaming," Phyllis Hasenei said. "They had their black-on-black uniforms. All you could see were their eyeballs." Hasenei added that had police done a bit more investigating, "they would have found out that neither of us are violent criminals, we don't have criminals records at all."

Armed with these incidents, Calvo went to the Maryland legislature to push for reform. The bill he proposed was modest. It required every police agency in Maryland with a SWAT team to

issue a quarterly report—later amended to twice yearly—on how many times the team was deployed, for what purpose, and whether any shots were fired during the raid. It was a simple transparency bill. It put no limits or restrictions on how often or under what circumstances SWAT teams could be used.

Yet it was the only bill of its kind in the country. And it was opposed by every police organization in the state. One Maryland lawmaker attempted to amend the bill to prohibit the use of SWAT teams in cases involving known misdemeanors, a seemingly reasonable restriction. That measure was rejected after more lobbying from police groups.

But the main bill passed the Maryland house in March 2009 by a vote of 126–9, and the state’s senate in April by a vote of 46–0. It was signed into law by Gov. Martin O’Malley. Calvo sent the media a response to the legislation.

Although the botched raid of my home and killing of our dogs, Payton and Chase, have received considerable attention in the media, it is important to underscore that this bill is about much more than an isolated, high-profile mistake. It is about a growing and troubling trend where law enforcement agencies are using SWAT teams to perform ordinary police work. Prince George’s County police acknowledges deploying SWAT teams between 400 and 700 a year— that’s twice a day—and other counties in the state have said that they also deploy their special tactical units hundreds of times a year. The hearings on these bills have brought to light numerous botched and ill-advised raids in Anne Arundel, Baltimore, Carroll, Howard, Montgomery, and Prince George’s counties that also have had devastating effects on the lives of innocent people and undermined faith in law enforcement. . . .

Although I applaud lawmakers for passing this bill over the objections of law enforcement, I was disappointed that state law enforcement groups decided to oppose this measure rather than embrace it as an opportunity to restore the public trust. I remain especially concerned with the argument put forward that only law enforcement should police itself and that it is somehow inappropriate for elected leaders to legislate oversight and accountability. I cannot disagree with this argument more. As elected officials, we must take full responsibility for the law enforcement departments that we fund and authorize, and we must hold our law enforcement officials to the highest standards and ideals.

By the following spring, the Maryland Governor’s Office of Crime Control and Prevention released the first batch of statistics. They were predictably unsettling. For the last half of 2009, SWAT teams were deployed 804 times in the state of Maryland, or about 4.5 times a day. In Prince George’s County alone, which has about 850,000 residents, a SWAT team was deployed about once a day. According to an analysis by the Baltimore Sun, 94 percent of the state’s SWAT deployments were to serve search or arrest warrants, leaving just 6 percent that were raids involving barricades, bank robberies, hostage takings, and other emergency situations. Half of Prince George’s County’s SWAT deployments were for what were called “misdemeanors and nonserious felonies.” More than one hundred times over a six-month period, Prince George’s County sent police barreling into private homes for nonserious, nonviolent crimes. Calvo

pointed out that the first set of figures confirm what he and others concerned about these tactics have suspected: SWAT teams are being deployed too often as the *default* way to serve search warrants, not as a last resort.

In January 2011, Calvo settled his lawsuit with Prince George's County. Although the details haven't been made public, we know that it involved a substantial sum of money as well as reforms to the way Prince George's County uses its SWAT teams, the types of cases in which the teams are deployed, and better training in dealing with the pets they encounter in raids, as well as treating them more humanely.