

Paramilitary Police Are Troubling

By: Gary Gerard - July 12, 2013

A report by the Cato Institute, “Overkill: The Rise of Paramilitary Police Raids,” was troubling to me.

I stumbled onto it while reading about the case of Elizabeth Daly.

She is the University of Virginia student who was busted for buying a 12-pack of water. According to the Charlottesville (Virginia) Daily Progress, seven overzealous alcohol beverage control agents swarmed and jailed the student after watching her leave a store with what they thought was booze.

Mistaking the sparkling water she had just purchased for beer, plain-clothes agents with “unidentifiable badges” swarmed her vehicle, frightening the 20-year-old and two companions. When she started the car to lower the power windows, the agents began yelling, beating on the windows and jumping on the hood.

One of them allegedly pulled a gun. One of Daly’s friends dialed 911 on a cell phone and told Daly to drive. She did.

It wasn’t long before she was pulled over and arrested. She spent the night in jail for “assaulting” the agents and fleeing. Her car brushed up against a couple of them. No one was hurt. Fortunately, she won’t be prosecuted on the three Class 6 Virginia felonies she was initially charged with.

At least nobody died.

The Cato report I mentioned earlier chronicles paramilitary police raids gone wrong. There are dozens of them and many people have died.

An example:

In September 2012, a 61-year-old man was shot to death by police while his wife was handcuffed in another room during a drug raid on the wrong house.

Police admitted their mistake, saying faulty information from a drug informant contributed to the death. They intended to raid the home next door.

If you Google the phrase, “botched paramilitary police raids” it will take you to an interactive map of the U.S. where you can click on and read about these incidents.

I want to point out that I don't really think this applies to our local police. I don't think we are plagued with overzealous cops around here.

Nonetheless, the Cato report is a little frightening.

Also disconcerting is a growing trend of people being arrested for non-criminal acts.

The Huffington Post reports Jeff Olson, a 40-year-old man from San Diego, Calif., will face jail time for charges stemming from anti-big bank messages he scrawled in water-soluble chalk outside Bank of America branches last year.

He wrote things like, "Stop big banks," and "Stop Bank Blight.com" One time he drew an octopus with wads of cash wrapped in the ends of its tentacles.

A judge decided to prohibit Olson's attorney from "mentioning the First Amendment, free speech, free expression, public forum, expressive conduct, or political speech during the trial." Unhappy with all the adverse publicity the case is generating, the judge issued a gag order prohibiting Olson and others involved in the case from speaking to the press.

Olson must stand trial on 13 counts of vandalism, charges that together carry a potential 13-year jail sentence and fines of up to \$13,000.

HuffPo also reports that A.J. Marin was arrested after a protest in Pennsylvania. Protesters were putting pressure on Gov. Tom Corbett to expand Medicaid under Obamacare.

Apparently, demonstrators were escorted out of the capitol, but afterward, some of them went back to the governor's mansion. While there, Marin was arrested for "chalking" on a public sidewalk. According to his citation, he was arrested for writing a "derogatory remark about the governor on the sidewalk." The remark? "Governor Corbett has health insurance, we should too."

Aside from these unwarranted prosecutions is just the sheer number of laws out there that you can unwittingly break.

Harvey Silverglate is counsel to the Boston law firm Zalkind, Rodriguez, Lunt & Duncan. He specializes in criminal defense, civil liberties, academic freedom and student rights law. He has written a book, "Three Felonies A Day."

The book "reveals how federal criminal laws have become dangerously disconnected from the English common law tradition and how prosecutors can pin arguable federal crimes on any citizen of any social class or profession, for even the most seemingly innocuous behavior." He argues the concept of mens rea is out the window. That's the idea that there needs to be criminal intent for a crime to be committed. He believes that most Americans actually do commit felonies every day and if the government takes a dislike to you for any reason, they'll dig in and find a felony you're guilty of.

An example from Silverglate's threefeloniesaday.com:

Violation of Foreign Law (The Lacey Act)

Hypothetical: You are a small business proprietor who supplies restaurants with fish and produce. One shipment of lobsters comes in unusual packaging – usually sent in cardboard

boxes, these lobsters arrived in clear packaging. By purchasing this shipment, you have arguably committed a federal felony. The imported lobsters originated in a country that bans the shipping of lobsters in clear plastic bags, and the U.S. Lacey Act makes criminal an importer who violates “any foreign law” – regardless of whether you knew of the foreign regulations.

Real-life example: American businesswoman Diane Huang was convicted under this far-reaching provision, despite her unawareness of the supposed Honduran law banning the shipment of lobsters in clear plastic bags. Lack of criminal intent, the Washington Legal Foundation argued on behalf of Huang and her co-defendants, should make the government’s criminal charges inappropriate. To make matters worse, the Honduran law governing such shipments was not valid at the time of Huang’s arrest – a fact that the Honduran government pointed out to the 11th Circuit Court of Appeals. Nonetheless, the federal court found Huang guilty in March 2003 and imposed a two-year prison sentence.

Be careful out there, people.