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No-knock searches can pose risks to officers, residents

Bloody raids lead to questions about tactic in state where many own guns

By Paul Alongi • Staff writer • Published: December 27, 2010 2:00AM

An exchange of gunfire in Greenville that injured a sheriff's investigator and a Taylors man has brought scrutiny on no-knock search warrants, a tactic that allows authorities to barge into homes unannounced.

Judges can grant no-knock warrants when they believe the element of surprise could help officers avoid danger or keep people from destroying evidence. Critics said the tactic gives residents, some innocent, seconds to decide whether they face a police raid or a home invasion.

The situation can put residents and officers in harm's way, particularly in South Carolina, critics said. The state has a high level of gun ownership and laws that protect homeowners from prosecution when they shoot someone while defending their property from criminals.

At least 45 innocent bystanders and 30 officers have been killed in police raids nationwide since 1985, many involving no-knock tactics, according to the Cato Institute, a libertarian think tank.

The injuries in Greenville were the result of shooting that broke out Nov. 3 when Greenville County sheriff's deputies served what they said was a no-knock search warrant on a suspected gambling house. Aaron Arnett Awtry, 72, faces several charges, including operating a gambling house and attempted murder in the shooting of investigator Matthew May, according to warrants.

Awtry's attorney, Jeff Phillips, said his client had been robbed in the past and thought it was happening again as deputies tried to force their way into the house.

Investigator Chris Miller recently testified that deputies opted for the no-knock approach for officer safety. They found an armed security guard and shotgun while serving a search warrant in another location tied to Awtry in 2009, Miller testified.

Phillips said that Awtry, who was shot in the raid, let deputies into the house without resistance on previous occasions, making it unlikely that they could have feared for their safety.

"It appears they were using this situation as a training exercise or an excuse to play Rambo," Phillips said.

The law holds that police should knock and announce themselves, except in special circumstances and when they have approval from a magistrate, said Miller W. Shealy Jr., assistant law professor at Charleston School of Law.

But they don't need a no-knock warrant if changing circumstances at the scene give them reason to barge in quickly, Shealy said.

Even if police violate the knock-and-announce rule, the U.S. Supreme Court held in 2006 that it isn't enough to suppress any evidence they might find, Shealy said.

"We still have a rule, but we don't have a penalty," he said.

Sheriff Steve Loftis has called the Greenville raid a textbook example of how a search warrant should be served. The only change he planned to make, he said, is to send SWAT medics with teams serving high-risk warrants.

How many no-knock warrants the Sheriff's Office has served remains unknown because deputies don't keep statistics specifically tracking them, Lt. Shea

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Smith said.

Deputies plan to continue seeking the warrants, Smith said. He declined to release a copy of the search warrant in the Nov. 3 raid, saying it would be available after the case is resolved in court.

After high-profile mistakes, authorities tend to scale back no-knock warrants for a while but usually go back to them, said Radley Balko, a Reason magazine senior editor who has written extensively about the issue.

A small but important reform, he said, is a new Maryland law requiring each SWAT team in the state to report bi-annually how often they deploy, what they find and whether any shots were fired.

About 10 uniformed deputies went to 502 Pine Knoll Drive in Greenville after gathering information from neighbors and confidential informants and conducting months of surveillance, Miller testified.

Deputies approached the house about 9 p.m. without sirens or blue lights, he testified.

May tried to break down the door with a battering ram, Miller testified. When the door refused to fall, deputies announced several times it was the Sheriff's Office and turned on a marked patrol car's blue lights, Miller testified.

May tried about a dozen more times to breach the door, Miller testified. Two bullets flew through the wall and door, one of them passing through both of May's arms, Miller testified.

In a return barrage of 19 shots, Awtry, who was inside, was shot in the hand, and the bullet traveled up his arm, deputies said.

Someone eventually opened the door, Miller testified.

Inside, deputies found two poker machines, two poker tables, crack cocaine, about \$5,000 in cash and night-vision surveillance system with a 32-inch monitor, Miller testified. Twelve people inside were cited on misdemeanor gambling charges, deputies said.

Phillips said Awtry was lying on the floor and bleeding when a witness heard him ask, "Why didn't you tell me it was the police?"

Evidence shows that Awtry, who has severe hearing

loss, wasn't in the room with the surveillance monitor, Phillips said.

Awtry's charges have been sent to the grand jury, and he remains free on bond while awaiting trial.

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