

- **A Brief History of Policing**

- One of the most significant experiments in early policing came in 1798 with the creation of the Thames River Police in London.
 - This was the first regular professional police force in London.
 - Organized to reduce the thefts that plagued the world's largest port, the force was directed by Patrick Colquhoun and consisted of a permanent staff of 80 men and an on-call staff of more than 1,000.
 - Two features of the marine police were unique. First, it used visible, preventive patrols; second, officers were salaried rather than stipendiary, and they were prohibited from taking fees.
 - Every alternative to the stipendiary system required substantial public funding, and raising taxes was not popular. Also, the very idea that government would become actively involved in policing violated the basic tenets of the dominant political philosophy of the era, which held that the government that governed least governed best. Concerned about the threat of political centralization and aware of the political abuses of the French, or "Continental," police, many political leaders in England feared that a standing police force would be used for political purposes. Debate about the creation of such a force raged during the early part of the 19th century.
- The first modern police force - the London Metropolitan Police - was established by Sir Robert Peel in 1829.
 - Peel developed his ideas about law and order when he was managing the British colonial occupation of Ireland and seeking new forms of social control in the face of growing insurrections, riots, and political uprisings.
 - The "Peace Preservation Force" was meant to serve as a less expensive alternative to the British army, which had previously been tasked with quelling Irish resistance.
 - The Metropolitan Police Act of 1829 established the London Metropolitan Police Department, an organization that would become a model for future police departments in Great Britain, the British Commonwealth, and the United State.
 - Sir Robert Peel is believed to have said, "The police are the public and the public are the police."
- Boston adopted the London model of policing in 1838 and New York established a formal police force in 1844. The creation of similar agencies quickly followed in Chicago, New Orleans, and Philadelphia. By the late 1800s, almost every major city in the country had created some manner of formal police force.

- However, well before then, cities in the southern United States, such as New Orleans, Savannah, and Charleston, had paid full-time officers who wore uniforms, were accountable to local civilian officials, and were connected to a broader criminal justice system. These police officers were charged with preventing slave revolts. They had the authority to go onto private property to make sure enslaved people were not harboring weapons or conducting meetings, and they enforced laws against black literacy.
- The motto “to protect and to serve”—adopted by the Los Angeles Police Department in 1955 and later used by others around the country—has been a highly effective public relations tool for the police, as it obscures the main function of their work, which since its inception has been to act in an adversarial manner toward the wider community.
- **The role of police in America**
 - Today, there are more than 18,000 local, state, and federal law enforcement agencies who employ more than 420,000 officers.
 - There is an average of 2.2 law enforcement officers for every 1,000 individuals living in the US, and the size of police departments varies largely by location and population.
 - **Police in America: Warriors or Peacemakers?**
 - In the wake of well-publicized cases of excessive force and officer-involved shootings, police departments around the country are starting to roll out new training programs that emphasize de-escalation, conflict resolution, and empathy over the more force-oriented practices.
 - However members of the criminal justice community still warn that, while training is important, it alone is not going to stem police misconduct and, in some cases, might be part of the problem.
 - Seth Stoughton, an assistant law professor at the University of South Carolina School of Law and a former Tallahassee police officer, said in an interview, “Training becomes a simple solution. Whenever we’re talking about something as complicated as human dynamics, as complicated as racial interactions throughout the history of this country, as complicated as policing itself, I think we should be very skeptical of simple solutions.”
 - Training may help, but it does very little to change the underlying systems that govern police behavior. Though officers may receive some form of de-escalation training at the academy, a major problem is that this can often be immediately contradicted by the guidance they receive from their peers after moving into the field.

- “Every cop has heard some version of, ‘Forget everything that you learned in training, now it’s time to learn how we do it on the street,’” said Stoughton.
 - Stoughton is quick to warn that policies and procedures are different for every department in the country, as are their training programs. “The variety from agency to agency can be staggering,”
 - With no national standards, two departments in two neighboring towns may have completely different rules for procedure and training.
- A 2017 [study](#) from APM Reports shows that, despite growing support for de-escalation training, only 8 states have officially mandated it for all of their officers. 34 other states have no de-escalation requirement.
 - In a survey conducted by PERF of nearly 300 agencies, they were asked what percentage of time was spent on firearms training versus de-escalation, crisis intervention, and communication.
 - According to PERF’s 2015 [survey](#), among more than 280 law enforcement agencies, new recruits received an average of 58 hours of firearms training, and only eight hours of de-escalation training.
 - The survey also found that the fragmented nature of the training, where different elements such as using a firearm and the legal issues governing lethal force are discussed often days, weeks, or even months apart, makes it difficult for officers to understand how everything fits together.
 - For Tom Wilson, director of PERF’s Center for Applied Research and Management, part of that education means replacing what he says has become the traditional decision model of most departments today: described as the “use-of-force continuum.”
 - “The use-of-force continuum assumes if someone has a rock I use a baton, if someone has a knife I use a gun, increasing the level of force,”
 - *Graham v Connor*
 - The 1989 Supreme Court ruling in [Graham v. Connor](#), declared that an officer’s use of force is considered constitutional if it would be considered reasonable, considering the facts and circumstances of the case, from the perspective of an officer on the scene.
 - The Court added that this “calculus of reasonableness” must take into account that police officers often have to make split-second decisions, in often tense and

- training, and actually training with former military special forces units.
- SWAT was pioneered in Los Angeles and other big cities in the late 1960s and early 1970s in response to civil unrest and raging wildfires. Today, almost every police agency with at least 100 officers, and about a third of all smaller ones, either has its own full-time unit or participates in a part-time or multijurisdictional team, according to the [Bureau of Justice Statistics](#).
 - Once the teams were formed, their existence had to be justified. Drug searches became the answer. Dr. Peter B. Kraska, a criminologist at Eastern Kentucky University, [estimates that SWAT deployments increased roughly fifteenfold](#) between 1980 and 2000 as the war on drugs escalated.
 - There is no way to know the true number of forcible entries because there is no federal mandate that police agencies report on SWAT operations. Only two states have required it, and efforts by news and watchdog groups to compile national figures have been frustrated by police stonewalling.
 - Utah is currently the only state that reports annual data about tactical raids.
 - Results show that many departments use dynamic entry almost by default. SWAT units in Utah did so in 61 percent of 1,016 deployments reported in [2014](#) and [2015](#). About 40 percent of the warrants they served were no-knocks, usually for drugs, mostly at night.
 - Maryland had a similar [reporting requirement from 2010 to 2014](#)
 - More than 90 percent of 8,249 SWAT deployments during those years were to serve search warrants, and more than two-thirds involved forcible entry. Firearms were discharged in 99 operations, civilians were killed in nine and injured in 95, officers were injured in at least 30 and animals were killed in 14.
 - Among the cities examined in the recent ACLU study was Little Rock, Ark., where the SWAT team broke down doors and detonated flash-bangs in more than 90 percent of 147 narcotics search warrant raids between January 2011 and March 2013, according to data shared with The Times.
 - Deadly outcomes did not slow them down. In 2010, two team members were shot, neither fatally, and a suspect was killed, in a no-knock raid that uncovered half an ounce each of marijuana and crack. Less than two years later, a SWAT officer killed an armed 31-year-old man during an early morning raid that turned up three marijuana plants. The unit then conducted five more raids in the ensuing two weeks.

- What distinguishes SWAT raids from other risky interactions between the police and citizens, like domestic disputes, hostage-takings and confrontations with mentally ill people, is that they are initiated by law enforcement.
- Police tacticians argue that dynamic entry provides the safest means to clear out heavily fortified drug houses and to catch suspects with the contraband needed for felony prosecutions.
 - Critics of the forcible-entry raids question whether the benefits outweigh the risks. The drug crimes used to justify so many raids, they point out, are not capital offenses. And even if they were, that would not rationalize the killing or wounding of suspects without due process.
- Forcible-entry methods have become common practice over the last quarter century through a confluence of the war on drugs, the rise of special weapons and tactics squads, and Supreme Court rulings that have eroded Fourth Amendment protections against unreasonable searches.
- While the officers are typically seeking narcotics, there also have been deaths and serious injuries when warrants were served on people suspected of running illegal poker games, brewing moonshine and neglecting pets. In 2011, officers in Marine City, Mich., conducted a dynamic-entry raid to serve a search warrant for “any and all evidence pertaining to graffiti including but not limited to, spray paint containers, markers, notebooks, and photographs.” After forcing residents to the floor at gunpoint, they found nothing, according to depositions by the residents.
- The Defense Department’s [excess property program](#), distributed more than \$6 billion in military vehicles, weapons and other equipment to law enforcement agencies since 1997. Until last May, the Pentagon required that any transferred equipment be “placed into use within one year of receipt.”
- From 2010 to 2015, an average of at least 30 federal civil rights lawsuits were filed a year to protest residential search warrants executed with dynamic entries. Many of the complaints depict scenes in which children, elderly residents and people with disabilities are manhandled at gunpoint, unclothed adults are roused from bed and houses are ransacked without recompense or apology.
 - Louise Milan, 68, of Evansville, Ind., alleged in her filing that she and her 18-year-old daughter were handcuffed in front of neighbors during a door-busting 2012 raid prompted by threats against the police made by someone who had pirated her wireless connection.
 - At least seven of the federal lawsuits have been settled for more than \$1 million in the last five years. They include a \$3.75 million

payment in 2016 to the family of Eurie Stamps, the unarmed Framingham grandfather who was accidentally shot while compliant and on his stomach; and \$3.4 million in 2013 to the family of Jose Guereña, a 26-year-old former Marine shot more than 20 times as agents broke into his house in Tucson. No drugs were found.

- Officers receive constant messages about the dangers of the job which can further ingrain officers with the false bias that they are stepping out into a war zone, one with enemies on all sides.
- **How the law concerning search and seizure and no-knock warrants has evolved**
 - A historical timeline:
 - **1604:** In English Common Law, the “castle doctrine” protected residents from unannounced government intrusion
 - **1791:** The Fourth Amendment to the US Constitution bans “unreasonable searches”.
 - **1914:** In *Weeks v. United States*, the Supreme Court says evidence from illegal searches must be excluded from trials.
 - **1958:** In *Miller v. United States*, the Courts said prior notice is required before police can force entry.
 - **1995:** In *Wilson v. Arkansas*, the Courts said police don’t need to knock if there is a risk of danger or destruction of evidence.
 - **1997:** In *Richards v. Wisconsin*, the Courts concluded that only reasonable suspicion of danger or evidence destruction is needed to force entry.
 - **2003:** In *US v. Banks*, the courts ruled that police can force entry 15 seconds after knocking.
 - After a series of **rulings** in the 1990s, officers were able to obtain a warrant to forcibly enter a house with merely a “reasonable suspicion” that announcing would be dangerous or allow the destruction of evidence. Paradoxically, that standard allowed the use of the most extreme force in pursuit of the smallest amounts of drugs, since a few grams are more quickly flushed than a few bales.
 - In 2003, the Supreme Court **affirmed** the right of officers to break into a residence with a standard warrant after knocking and waiting only 15 to 20 seconds. Three years later, it undercut even that requirement by **concluding** that evidence remains admissible even when the police barge in more quickly.
 - 13 states have enacted laws authorizing no-knock warrants. Another 13 have blessed them through rulings by appellate courts. In seven states, no-knock warrants are routinely granted in the absence of explicit authority by statute or the courts. In 16 states and the District of

Columbia, no-knock warrants are not customary but the police can nonetheless make unannounced entries with standard warrants.

- Oregon is the only state with a law requiring the police to always announce themselves before serving a search warrant.

- **Civil Asset Forfeiture**

- Civil asset forfeiture originated in the British fight against piracy on the open seas. It continued during prohibition, with police officers seizing goods, cash, and equipment from bootleggers in a similar manner to today. The War on Drugs, however, is the biggest cause of contemporary civil asset forfeiture.
 - In 1984, civil asset forfeiture entered a new phase. The [Comprehensive Crime Control Act](#), championed by then-President [Ronald Reagan](#), allowed for police agencies to keep the assets they seized. This highly incentivized the seizure of assets for the purpose of funding police departments rather than pursuing criminal charges. However, the game changed completely in 1996 – the year of the landmark Supreme Court decision [Bennis v. Michigan](#)(516 U.S. 442). This ruling held that the innocent owner defense was not sufficient to recover assets seized during civil asset forfeiture.
 - In 1986, as First Lady Nancy Reagan [encouraged America's youth](#) to “Just Say No,” the Justice Department started the [Asset Forfeiture Fund](#). This sparked a boom in civil asset forfeiture that's now become self-reinforcing, as the criminalization of American life and asset forfeiture have continued to feed each other.
- In 2014 alone, law enforcement [took more stuff from American citizens than burglars did](#).
 - In 2014, the total amount of civil asset forfeiture seizures in the United States was \$4.5 billion. The total value of property stolen in burglaries was \$3.9 billion.
- Criminal asset forfeiture vs. civil asset forfeiture
 - The primary difference is that criminal asset forfeiture requires a conviction while civil asset forfeiture does not.
 - Civil asset forfeiture is a lawsuit against the seized object in question rather than a person.
 - The legal burden of proof varies from one state to another, but the most common is preponderance of evidence, *not* reasonable doubt. What this means is juries decide if the state's case is more likely to be true than not – not beyond a reasonable doubt. In a civil asset forfeiture trial, courts can weigh the use of the Fifth Amendment. This is not true in criminal trials.
 - The burden of proof question becomes crucial when it comes to retrieving property. In criminal cases, assets are

returned if the prosecution fails to prove the guilt of the accused. In a civil asset forfeiture trial, the accused effectively has to prove their innocence to get their property back. Thus, civil asset forfeiture is a highly attractive option for police departments looking to scare up extra scratch in tight budgetary times. What's more, the accused is not entitled to legal counsel. This is why, in most cases, it's not economically advantageous to try and get one's property back. The lawyer fees will quickly eclipse whatever value the seized assets have.

- Civil asset forfeiture has exploded since 1986, when total seizures were at **\$93.7 million**. By 2005, this had passed the **\$1 billion mark**. That was double the 2004 amount, **\$567 million**. By 2010, this figure jumped to **\$2.5 billion** with more than **15,000 forfeiture cases** – **11,000 of which were civil**, not criminal.
 - By 2014, this figure climbed to **\$4.5 billion**, with **\$29 billion seized between 2001 and 2014**. Between 1985 and 1991, **federal forfeitures increased by 1,500 percent, an increase of over 26 times**. The Justice Department's forfeiture fund (that does not include customs forfeitures) ballooned **from \$27 million in 1985 to \$644 million in 1991**. By 1996, this fund grew to over **\$1 billion for the first time**. **By 2008, it had tripled again to \$3.1 billion**.
- Cash seizures in Tennessee have gotten so widespread that **the state legislature has begun investigating it**.
 - Traffic stops have turned into shakedown operations. **Interstate 40 was described as "a major profit center" by Phil Williams**, a reporter for Channel 5 in Nashville.
 - Much like gangs, police in Tennessee have started engaging in turf warfare over the spoils of civil asset forfeiture. The Dixon Interdiction Enforcement (DICE) and the 23rd Judicial District Drug Taskforce were caught on video trying to cut one another off in their vehicles to stop civilians and search for cash. The head of DICE admitted that it was funded entirely by civil asset forfeiture cash.
 - In Tennessee, officers set up a post to bust drug traffickers on a known highway used for muling drugs from Mexico into the United States. However, their post was not set up to stop the flow of drugs into the United States, which one would think would ostensibly be the goal of the "War on Drugs". Instead, the post was set up to bust cars bound for Mexico that might be carrying cash, a far more valuable commodity for the police departments.
- A 1994 study found that **police delay drug busts to increase the value of a forfeiture**. A **2001 study of 1,400 police departments** published in the

Journal of Criminal Justice found that half of the departments surveyed agreed that civil asset forfeiture was “necessary as a budget supplement.” And a 2004 report showed that police departments keep wish lists for items they wish to obtain via civil asset forfeiture.

- Civil asset forfeiture is applied to crimes like DWI or violating the National Halibut Fishing Act. In 85 percent of all cases, no one is ever charged with a crime.
- 94 percent of California seizures in 2013 were for \$5,000 or less, but the average DEA seizure in 1998 was \$25,000 – precisely the cap on what attorneys advise against trying to reclaim due to legal fees and court costs.
 - 88 percent of Department of Justice seizures are “administrative,” meaning they were never challenged in court, likely due to the high cost and risk associated with challenging a seizure.
- United States courts have repeatedly ruled that simply having a large amount of cash on hand is “strong evidence” of criminal wrongdoing, in particular drug trafficking. Then it’s up to you to prove you didn’t get the money from drug trafficking.
 - The Patriot Act created a new crime called “bulk cash smuggling,” which expanded the scope of civil asset forfeiture of cash.
- **Equitable sharing is a process allowing police organizations to circumvent existing laws and it makes money for both the federal government and local police departments.**
 - This process further incentivizes civil asset forfeiture as a means of funding police departments at the federal, state and local levels.
 - With equitable sharing, state and local law enforcement turn assets over to federal authorities for federal crimes. The feds then return up to 80 percent of the assets back from whence it came. This effectively allows state and local authorities to circumvent relevant local laws by bringing in the feds.
 - For example, in Missouri, seized money is supposed to go to the schools. When equitable sharing is used, nothing goes to schools.
 - From 2000 to 2013, equitable sharing payments to states tripled from \$198 million to \$643 million. Only \$3 million of this was actually seized in cooperation with federal authorities.
 - Between 2008 and 2015, \$5.3 billion was seized through equitable sharing. Where the burden of proof is higher, equitable sharing payouts increase.
 - In 2009, the federal government paid out \$500 million in assets under “equitable sharing” schemes. This is up 75 percent from the previous year.

- North Carolina law enforcement agencies get more than \$11 million per year through their participation in the federal equitable sharing program, even though the state banned civil asset forfeiture and redirects all forfeiture proceeds into a fund for public schools.
- Civil asset forfeiture laws by state
 - Civil asset forfeiture laws vary by state and if you're innocent, it can be a real challenge to get your property back.
 - At the federal level and in 35 states, the burden of proof is on the owner.
 - In five states, it depends on what kind of property was seized.
 - In the remaining states and the District of Columbia, the burden of proof is on the government.
 - In some states, fighting seizure in court means the risk of paying the state's legal fees.
 - In half of all states, law enforcement keeps 100 percent of all forfeited assets. In an additional nine states, 80 percent or more is retained by law enforcement.
- Proponents say that asset forfeiture stops crimes at their roots; if law enforcement officers are able to cut off the tools used to commit a crime—such as the car driven during a drug exchange—then crime rates should decrease, the thinking goes.
 - In practice, though, it has a [negligible impact on crime rates](#), and merely provides a perverse incentive for police to seize as much property as possible in order to fund their departments.
- The Institute for Justice found that more forfeiture proceeds did not result in more solved crimes or less drug use.
 - The study also found that asset forfeiture activity increased in times of local economic stress.
 - By comparing crime clearance rates to asset forfeiture revenue, the study found that the impact of forfeiture funds on crime-fighting was, at worst, insignificant and at best wildly overstated. For example, the study reported that a \$1,000 increase in forfeiture funding per officer "would mean solving just 2.4 more crimes per 1,000 reported offenses."
- A recent survey of 560 civil asset forfeiture cases in four Texas counties conducted by the *Texas Tribune* found that half of the cash seizures were for less than \$3,000, and 20 percent of the cases were not accompanied by criminal charges.
 - Another [investigation](#) earlier this year by several South Carolina news outlets reported that more than 55 percent of the time when South Carolina police seized cash, they took less than \$1,000.

that man was doing. Any use of force looks horrible even if it's completely necessary.”

- “Cops think that the public underestimates the threats to their life—and why the use of force is sometimes necessary. Most of the officers interviewed say that guns poison policing in America. “They’re literally everywhere,” says one. ‘And the problem with dealing with guns is that if I’m talking to you and you’ve got a gun, action always beats reaction.’”
 - “One female street cop points that having to carry a firearm automatically escalates violent situations. “If I take a punch and I’m knocked out, they could take my gun,” she says. “We need to stay a step ahead of them, so we sometimes use a higher-level of force.”
- “Several of the half a dozen cops interviewed argued, in one way or another, that if people did not resist arrest, they would not be hurt by police officers. “If somebody is fighting with the police and they end up getting shot, I guarantee you, there is a point where the officer gave lawful orders and you have to stop resisting,” says one. Another argues that people need to get used to cops acting forcefully: “I would say that we need to train the public.” These cops—a significant minority—seemed to suggest that the use of force is always justified when people resist arrest or disobey orders.”
- “Another problem is that officers are often judged according to how many people they arrest, not how many crimes they prevent. “It’s all about numbers now,” laments one suburban cop. “Does an officer spend two shifts working on a burglary or does he go out and write 20 speeding tickets?” There are few incentives for trying to solve problems, explains another: “The people who get promotions, the people who get specialised jobs, are the people who get arrests.”

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