



Written by [Joe Wolverton, II, J.D.](#) on October 9, 2014

## Grand Jury Recommends No Criminal Charges in Georgia SWAT Raid

Earlier this week, a grand jury in Georgia recommended no criminal charges be filed in the SWAT raid that attracted international attention for the serious injuries the officers' actions caused to a toddler living in the home and caught in the crossfire.

Then-19-month-old Bounkham Phonesavanh ended up in a medically induced coma after a Cornelia, Georgia, SWAT team tossed a stun grenade into his crib during the execution of a "no-knock" warrant.



The baby was asleep in his crib when police broke open the front door around 3:00 a.m. on May 28 and threw the grenade into the front room. His mother, father, and three sisters were in the room as well.

"Everyone's sleeping. There's a loud bang and a bright light," the boy's mother, Alecia Phonesavanh, told local news station WSB-TV. "The cops threw that grenade in the door without looking first, and it landed right in the playpen and exploded on his pillow right in his face."

None of the frankly terrifying events of that night, however, reaches the level of probable criminal culpability, according to the 15-page presentment issued by the grand jury this week.

Although they resisted recommending criminal charges against the Haversham County law-enforcement officers who planned and participated in the raid, the grand jury did comment on the investigation itself.

WSB-TV in Atlanta reports:

The jury called it "sloppy and hurried" and "not in accordance with best practices." The grand jury said while they want law enforcement to pursue drug dealers "the zeal to hold them accountable must not override cautious and patient judgment."

They went on to say "there should be no such thing as an emergency drug investigation."

To that point, the grand jury recommended "that every effort should be made in determining presence of children."

Regardless of the grand jury's findings, the U.S. attorney continues its investigation into the matter.

At the heart of the matter is the SWAT unit's use of the "no-knock" raid.

Despite their frequent misuse, "no-knock" raids are becoming increasingly common. In his book *Overkill: The Rise of Paramilitary Police Raids in America*, Radley Balko reports that more than 40,000 such operations are conducted every year.

In the case of *United States v. McConney* (1984), the Supreme Court held that "exigent circumstances" could override Fourth Amendment protections of freedom from searches and seizures without a qualifying warrant. According to the *McConney* ruling, warrants exempt from Fourth Amendment



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mandates are appropriate in:

those circumstances that would cause a reasonable person to believe that entry (or other relevant prompt action) was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of a suspect, or some other consequence [that would] improperly frustrate ... legitimate law enforcement efforts.

Balko explained in a 2006 article that those standards are being loosely interpreted by an increasingly militarized police corps:

The tactic is appropriate in a few limited situations, such as when hostages or fugitives are involved, or where the suspect poses an immediate threat to community safety. But increasingly, this highly confrontational tactic is being used in less volatile situations, most commonly to serve routine search warrants for illegal drugs.

Steadily and speedily, the forces of the militarized police are denying citizens the protections of fundamental civil liberties afforded us by the Bill of Rights. While there remain legions of law-enforcement officers devoted to protecting and serving their fellow citizens, the federal government's proffer of powerful, free (or almost free) weapons, vehicles, gear, and tactical training is making the allure of becoming an unofficial branch of the armed forces irresistible.

When they are patrolling the streets of their cities, cops these days look more like soldiers or Darth Vader-esque Imperial Storm Troopers than police, thanks again to the buckets of cash dumped into coffers by Homeland Security. Self-serving bureaucrats inside the U.S. government are tirelessly trying to obliterate local police forces answerable to local citizens and promote the consolidation movement as a step toward nationalization of all law enforcement.

These proponents of regional and national police forces desire nothing less than the eradication of all local police departments and sheriffs' offices, the surrender of state and municipal sovereignty, and the conversion of cops into federal security agents sworn not to protect and to serve their neighbors, but to protect the prerogatives of politicians, precisely the type of tyrannical symbiosis that our Founders feared would one day obliterate the liberty they sacrificed so much to preserve.

Grand juries have been a powerful weapon in the people's arsenal against government officials bent on exercising powers not given to them. Unfortunately, it seems the grand jury in Georgia has failed to hold the Haversham County SWAT unit accountable for its apparent abuse of potentially lethal force.

Despite the dearth of follow-up reporting on this issue, WSB-TV reports, "The family's spokesman said the parents are distraught and not satisfied. The spokesman said they will likely move forward with a civil suit. They plan a news conference Tuesday to discuss the future plans in more detail."

The family currently resides in Wisconsin.

*Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels nationwide speaking on nullification, the Second Amendment, the surveillance state, and other constitutional issues. Follow him on Twitter @TNAJoeWolverton and he can be reached at [jwolverton@thenewamerican.com](mailto:jwolverton@thenewamerican.com).*



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