



Written by [Bob Adelman](#) on February 10, 2014

## War on Drugs Claims SWAT Team Member Using No-Knock Warrant

Hank McGee should be thankful that he didn't wind up dead or dreadfully disabled in the [no-knock raid](#) that took place on his trailer house in Texas early Thursday morning, December 19. Instead, reacting in fear that he was being robbed, he grabbed his pistol and shot and killed a SWAT team member. On Thursday, February 6, a grand jury in Burleson County declined to indict him for murder, the first time in recent memory such a verdict had been handed down, according to McGee's attorney, Dick DeGuerin.



DeGuerin added that the jury's verdict was just because McGee thought someone was breaking into his home, where he and his girlfriend were living:

We felt that the grand jury acted fairly and reasonably and had all of the information that it needed to make the decision that it did: that this was a justified shooting.

But we need to say that this is a tragedy.

It need not have happened. [The SWAT team] could have walked up to his house in the daylight and he would have let them in, or they could have stopped him as he left his house to go to the store.

The no-knock warrant was issued the day before by a judge who had been persuaded by an informant that McGee was growing marijuana inside his house, and that he had a cache of rifles and pistols there as well. Deputy Adam Sowders, who died at the scene, told the judge that giving McGee advance warning of the raid would be "dangerous, futile, or would inhibit effective investigation."

This is in line with the Supreme Court's ruling in *United States v. McConney* stating that "exigent circumstances" could override Fourth Amendment guarantees for a probable-cause search warrant "particularly describing the place to be searched and the persons or things to be seized" in the ordinary way. In *McConney* the court held that exigent or emergency circumstances that allow otherwise unconstitutional warrants are,

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.

Despite being let off by the grand jury on murder charges, McGee is not in the clear from a legal standpoint; he is out on bond pending other charges being brought by the district attorney, charges that the DA intends to prosecute to the full extent of the law. Said the DA:

December 19, 2013 was a tragic day for the Sowders' family and Burleson County, Texas. Investigator Sergeant Adam Sowders was a law enforcement officer who was passionate about



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serving his community. He was generous, respectful and admired in Burleson County and by our office.

The events on December 19, 2013 are tragic. In my opinion, the Burleson County Sheriff's Office did nothing illegal by securing and executing a "no knock" search warrant that day. I believe the evidence also shows that an announcement was made. However, there is not enough evidence that Mr. Magee knew that day that Peace Officers were entering his home. The events occurred in a matter of seconds amongst chaos.

The self-defense laws in Texas are viewed in the mindset of the actor, not the victim, which allows for tragedies to occur when one party is acting lawfully, but it can be reasonably seen as a threat of deadly force by another.

However, the Burleson County Sheriff's Office would not have been there that day if Mr. Magee had not decided to live a lifestyle of doing and producing illegal drugs in his home. Therefore, we will fully prosecute the drug charges against him. This event should wake the community up that drug crimes are not victimless.

If convicted of these lesser charges, McGee could spend the next two to five years in jail. But at least he's alive.

Kathryn Johnson wasn't so lucky. In similar circumstances, when a no-knock warrant, also based on an informant's tip that hers was a drug house, was served by a SWAT team breaking [down her door in 2006](#), she reached for her legally owned gun and fired off several rounds, wounding three officers before they returned fire and killed her.

Or McGee could have suffered the ghastly miscarriage of justice that was visited upon Tracy Ingle, who was asleep when he heard his front door being crushed at the same time his bedroom window was being smashed by SWAT team members using a no-knock warrant. Thinking his home was being invaded by thugs, Ingle grabbed a non-working gun to defend himself. Said Ingle:

I could see that they weren't robbers, so I threw my gun down. A second later I heard one of the police officers say, "He's got a ... gun" ... and he started shooting.

Ingle might have wished he had been killed to avoid the agony of what followed in the aftermath. From the *Arkansas Times'* eight-page report on the incident:

He knew he had been shot, Ingle said, and his first instinct was to try to get off the bed — away from the window, at least, where the two officers were now pouring fire into the room. As Ingle tried, he got tangled up in the blankets and his ruined leg folded under him, the shattered bone grating inside. He fell to the floor in agony.

As he fell, the officers outside the window kept shooting, hitting him four more times — arm, calf, hip and chest. The round that hit him in the chest is still there, too close to his heart to be removed.

Days later, Ingle's brother, Eric, would dig four more bullets out of a space heater that was only a foot from where Ingle's head lay, and spackle up nine bullet holes in the wall over Tracy's bed. Some of those rounds had gone completely through and into the bathroom on the other side of the wall, two of them blowing ragged holes through both sides of a plywood shelf.

Finally, the shooting stopped.

"After that," Ingle said, "all the police rushed in, and were standing over me and calling me



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Michael. They kept calling me Michael or Mike, and I wouldn't answer them. One of them asked me why I wouldn't answer them, and I said, 'My name's not Mike.' I don't remember much after that except them taking me out of the house to an ambulance."

The number of no-knock raids has escalated to more than 40,000 a year according to Bradley Balko, author of *Overkill: The Rise of Paramilitary Police Raids in America* and increases the likelihood of additional confrontations between SWAT teams operating under no-knock warrants and innocents who find themselves being targeted at home. As Balko wrote in his introduction:

Americans have long maintained that a man's home is his castle and that he has the right to defend it from unlawful intruders.

Unfortunately, that right may be disappearing.

Jacob Sullum, a *Forbes* contributor, commented on McGee's remarkable grand jury dismissal of an indictment for killing Officer Sowders during that botched raid:

[Sowder's] death is doubly senseless: because violence is not an appropriate response to cultivation of an arbitrarily proscribed plant and because, even if we take pot prohibition as a given, there is no need to enforce it by breaking down people's doors while they are sleeping, a tactic that inevitably results in tragedies like this one.

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