

The Pink and Yellow Duplex: Howard Bowe and Police Militarization

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Pay no attention to the title. This is not the story of the pink and yellow duplex. The pink and yellow duplex is merely where the story takes place. The pink and yellow duplex is a symbol. It is a particularly ugly duplex that has a particularly ugly past. But this is not a story about the pink and yellow duplex. Rather, this is the story of a man who lived in the pink and yellow duplex. A man who would be fatally wounded in the pink and yellow duplex.

Howard Wallace Bowe Jr.

I didn't know Howard Bowe personally. I only found out after he died that we had been close nearly all of our lives. He was almost exactly a year younger than me, born just minutes away from where I was being raised. We went to the same middle school. We went to the same high school. When he died, he lived just a few houses down from me.

On Thursday, May 8, 2014, at approximately 6:00 a.m., armed intruders broke into Howard's home—shooting his dog and shooting him in the stomach and the chest. No need to ask if the police found who did it; it was the police. Today, Howard would have celebrated his 35th birthday.¹ [1. Howard's obituary is available [here](#). A father of three, he is remembered as a family man and a religious man.] Instead, Howard's story would end on May 19, after struggling for his life for eleven days.

What exactly happened inside Bowe's home that morning is up for debate. Police came to serve a search warrant on the suspicion that Bowe was a drug dealer. According to police, one of Bowe's dogs, a 13-year-old pit bull named Tank, broke free from its chain, forcing officers to shoot it. Police said that once inside, SWAT members were in fear for their safety and had to open fire. Police also stated that no one else was in the home at the time of the raid.

These accounts are contested by his family, who described Bowe as a caring father and small business owner, rather than the notorious drug dealer police thought he was. Moreover, Bowe's 16-year-old son said that he was inside at the time and that he was awoken by gunfire and forcefully dragged out of bed. Bowe's sister—who lived in the other half of the duplex—confirmed this, and told reporters that the minor was [beaten by police, wrongfully interrogated](#), and then [taken into custody](#).

Uncontested is the fact that Bowe was unarmed.

Questions still linger over the pink and yellow duplex.

- Why was it necessary to break in through the back door to serve a search warrant?
- Did the officers knock and announce their presence?² [2. This raises a number of other questions. Did police wait a reasonable time (15-20 seconds) to enter the duplex? See [United States v. Banks](#), 540 U.S. 31 (2003). Were there exigent circumstances? [Whittier v. Kobayashi](#), 581 F.3d 1304 (11th Cir. 2009). See also [Fla. Stat. § 933.09](#).]
- Wasn't there some way to know that somehow things could go terribly wrong?
- Did the police find what they were looking for?
- Was it worth it?

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“The Way These People Were Treated Has to Be Judged in the Context of War.”

Hallandale Beach is a small South Florida oceanfront community just north of the county line separating Broward and Dade counties. It is less than five square miles and has fewer than 40,000 residents.³ [3. See [Quick Facts, Hallandale Beach](#), U.S. Census Bureau.] It is known as the “City of Choice.” It is also, apparently, a war zone. Although the Ferguson Police illuminated the increased militarization of police forces around the country, the Hallandale police have been engaging in military tactics for years.

Hallandale Beach Police have been carrying out pre-dawn and nighttime raids since at least 1999. Bowe's death was not the first instance of things going terribly wrong. On February 9, 1999, around 20 Hallandale SWAT officers broke into the home of Catherine and Edwin Bernhardt.⁴ [4. Vanessa Bauza, [Couple Files Suit in Raid Gone Bad](#), Sun Sentinel, Apr. 17, 1999.] When Edwin heard the noise, he ran downstairs, naked, to confront the intruders. Officers pinned him to the wall with a rifle against his neck, handcuffed him, then grabbed him by the throat and threw him into a chair.⁵ [5. See Susannah Bryan, [Job on the Line for Police Sergeant in Hit-and-Run Cover-up](#), Sun Sentinel, Apr. 28, 2013.] Before taking him into custody, officers outfitted him in a dirty pair of his wife's shorts. Police made him sit in custody for hours

before realizing they raided the wrong house. The city settled the ensuing lawsuit for \$100,000.⁶ [6. *Id.*]

Perhaps the most telling detail of the ordeal was the unapologetic statement of then-City Attorney Richard Kane, who said, “They made a mistake. There’s no one to blame for a mistake. . . . The way these people were treated has to be judged in the context of war.”⁷ [7. Radley Balko, [Overkill: The Rise of Paramilitary Police Raids in America](#), at 60 (2006).] This slight misunderstanding aside,⁸ [8. Edwin Bernhardt stated, understandably, that he will “never feel secure again.” Bauza, *supra* note 4.] the war continued and the raids continued. In 2000, a Hallandale SWAT team broke into the home of Tracey Bell—who was nine months pregnant at the time—and her two daughters, ages 10 and 11. Although police found no drugs in Bell’s home, they [denied making any mistake](#). Police also disputed Bell’s accusations that they threw her to the ground and handcuffed her. Bell filed a lawsuit against the city, but the [final disposition](#) of that case is unclear.

Hallandale Beach is not the only city to use these tactics; at least three other drug raids in Broward County over the last decade have resulted in the occupant’s death. In a 2005 pre-dawn raid, Sunrise Police shot Anthony Diotaiuto ten times [while he was crouched in a closet](#).⁹ [9. The civil suit against the police that followed was dismissed on qualified immunity grounds. See *Whitter v. Kobayashi*, *supra* note 2.] In 2008, a pre-dawn drug raid in Pembroke Pines resulted in the death of 46-year-old Vincent Hodgkiss.¹⁰ [10. Michael Mayo, [Overzealous Drug War Claims Another Victim](#), Sun Sentinel, June 15, 2008.] In 2010, a midnight raid in Pompano Beach left a 51-year-old grandmother dead.¹¹ [11. Michael Mayo, [After Another Fatal SWAT Drug Raid, Is it Time for Better Approach?](#), Sun Sentinel, Mar. 24, 2010; Janie Campbell, [Grandma Killed in Fatal Drug Raid](#), NBC Miami, Mar. 14, 2010.] Around the country, deaths from these raids constantly call into question the increased militarization of the police.¹² [12. See [Armed and Dangerous](#), *The Economist*, Mar. 22, 2014; [Cops or Soldiers?](#), *The Economist*, Mar. 22, 2014.] The raids are common and the tragic outcomes are too numerous to list. The Cato Institute has put together an incredible interactive map detailing botched raids that have occurred in the U.S. and the terrible outcomes for suspects and police officers alike.¹³ [13.

Botched Paramilitary Police Raids ([Cato Institute](#)) / [CC BY-NC-SA 3.0](#)

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Understanding that such an outcome is highly probable under the circumstances is common sense. As one attorney stated, “You can imagine what that does to you if you’ve been awakened by someone breaking into your house. How can you expect someone to respond intelligently?”¹⁴ [14. Mayo, *supra* note 11.] The simple answer is: you can’t.

Awoken

Flash back to 2005. 2:30 a.m. In a dead sleep. Then, a noise. Worse than a noise. A voice. Worse. *Voices*. In the house.

The ears alert you to the danger, but the body responds in its own way. There is no fight-or-flight mechanism when there are strangers in your home in the dead of night. The body does not prepare for running. It prepares for war.

Adrenaline pours into every available outlet. The eyes, on full alert, do their best to see through the dark. The muscles tense. To whatever extent possible, the skin will attempt to transform into steel.

Thoughts race through the head; far too many to process. The mind, which knows that it is bad at making quick decisions, nevertheless must act under pressure. Once the scenario begins, you hope for the best, but fear for the worst. You look for a weapon.

That situation diffused itself. Three friends, fresh from last call, had decided to throw me an impromptu housewarming. In that story, everyone lives. However, the sense of vulnerability never goes away.

No one should ever have to experience the inherent fear involved when their home is invaded. Police raids not only rely on this fear, but police attempt to heighten the fear to occupants as much as possible, sometimes even by using flash grenades.¹⁵ [15. This practice recently resulted in horrific injuries when a SWAT team conducting a no-knock raid at 3 a.m. threw a flash grenade into the crib of 19-month-old Bounkham “Bou Bou” Phonesavanh. See Alecia Phonesavanh, [A SWAT Team Blew a Hole in My 2-Year-Old Son](#), Salon, June 24, 2014.] Police, clad in camouflage, black jumpers, bulletproof vests, and masks, using the element of surprise, will burst in on unsuspecting suspects, creating as much noise and chaos as they can. Much more terrifying, however, is that the police conduct such raids clothed in plenary state power.

The Castle Doctrine

Entering one’s home without legal authority and neglect to give the occupants notice have been condemned by the law and the common custom of this country and England from time immemorial. It was condemned by the yearbooks of Edward IV, before the discovery of this country by Columbus. . . This sentiment has moulded our concept of the home as one’s castle as well as the law to protect it. . . . There is nothing more terrifying to the occupants than to be suddenly confronted in the privacy of their home by a police officer decorated with guns and the insignia of his office. This is why the law protects its entrance so rigidly.¹⁶ [16. [Benefield v. State](#), 160 So. 2d 706, 709 (Fla. 1964).]

When police break into a home, they do so not only armed with automatic and semi-automatic weapons, they do so with the full force and authority of the state. For the citizens whose lives are disrupted by brutal police tactics, there is often no recourse. The people learn not to fear the police when a confrontation occurs, but to fear the police as a way of life. When the police shoot an unarmed victim, there is always a justification for it. In Howard Bowe’s case, the officer opened fire because he was in fear for his safety. One can only imagine how Howard felt.

When the War on Drugs first began in 1970, Congress passed a controversial law authorizing no-knock warrants for most drug cases. The experiment lasted four years, predictably failing miserably.

During the four-year period when “no-knock” warrants were issued, horror stories were legion. Over one hundred newspaper articles, reproduced in the Congressional Record, described a repeated scenario: terrified citizens, thinking themselves targets of burglary or more frightening acts, discovered that they were instead being searched by law enforcement officers who had entered their homes without notice.¹⁷ [17. Charles P. Garcia, *The Knock and Announce Rule: A New Approach to the Destruction-of-Evidence Exception*, 93 Colum. L. Rev. 685, 705 (1993); *State v. Bamber*, 630 So. 2d 1048, 1051 (Fla. 1994).]

Paramilitary raids, whether preceded by a knock and announcement or not, committed in a violent, disruptive manner can only increase the likelihood of more violence.¹⁸ [18. See *Bamber*, 630 So. 2d at 1050 (“As a matter of policy, no-knock warrants are disfavored because of their staggering potential for violence to both occupants and police.”).] Confused homeowners are put into a defensive posture as soon as they are alerted to the presence of strangers. “[U]nnounced breaking and entering into a home could quite easily lead an individual to believe that his safety was in peril and cause him to take defensive measures which he otherwise would not have taken had he known that a warrant had been issued to search his home.”¹⁹ [19. *Bamber*, 630 So. 2d at 1052 (quoting 2 Wayne R. LaFave, *Search and Seizure* § 4.8(a) (2d ed. 1987)).] If people dressed in black wearing hoods wielding guns kick in your door in the middle of the night, it is only reasonable to believe they are burglars and reach for a gun or other weapon to defend yourself.²⁰ [20. See, e.g., *Crider v. State*, 632 So. 2d 1058 (Fla. Dist. Ct. App. 1994).] Even if a suspect does not have a gun, the intensity of the situation may lead officers to believe that lethal force is necessary, as was the case with Howard Bowe.

What Shooting?

There were no protests in Hallandale Beach. News of Bowe’s death has mostly stayed local. The *Sun Sentinel* and *Washington Post*²¹ [21. Radley Balko, *Meet Howard Bowe and Detective Charles Dinwiddie, Your Latest Casualties in the War on Drugs*, *Washington Post*, May 12, 2014.] seem to be the only newspapers to have taken notice at all. The Hallandale Police never issued a press release about Bowe. Requests for information have gone unanswered. There is an overwhelming sense that the City and the HBPD would like to chalk up Bowe’s death to human error and move on. There is the sense that the lingering questions will linger until forgotten.

Meanwhile, the HBPD, like many police departments around South Florida²² [22. See, e.g., Michael E. Miller, *Miami’s Smallest Police Forces Got M16s, Armored Cars, and Grenade Launchers From Military*, *Miami New Times*, Aug. 22, 2014.] and the country²³ [23. See, e.g., Andrew Grossman, *Senators Criticize Growing Militarization of Police Departments*, *Wall St. J.*, Sept. 9, 2014.] has gotten in on the military surplus game. Nestled among the palm trees, the HBPD MRAP—a Mine-Resistant Ambush Protected armored personnel vehicle—sends a distinct

message to the people of Hallandale Beach: Be afraid.



On the left, a *Miami New Times* cartoon depicts the absurdity of the Hallandale Beach Police MRAP. On the right, the actual HBPD MRAP is nothing to be laughed at.

And so it goes. Howard's death is written off as a mistake. A tragedy. A casualty of war. One can only hope that this incident leads to some good and helps to bring an end to the dangerous practices that led to Howard's untimely end.

After he passed, his family moved and the owner renovated the duplex. The dull pink façade was replaced with the bright pink and yellow paint job pictured above. It stands as a symbol of loss. A symbol of failed policies. A symbol of overkill. Not far away, the HBPD MRAP looms ominously. A symbol of war.

Every time I pass by the pink and yellow duplex, I am reminded of Howard Bowe and Tank. I am reminded of the terrible imbalance of power between law enforcement and everyone else. I am reminded that at any given point in time, police may break through my door and shoot me and my dog.

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