



## Could Privatization of Police Help Prevent Mass Armed Atrocities?

After the initial shock of the murder of 58 people and wounding of 546 others on October 1 in Las Vegas, Nevada, wore off, many Americans began searching for an answer to the question of how such an atrocity could be avoided in the future.

Whereas most pundits promoted the infringement of the right to keep and bear arms as the way to prevent psychopaths from killing people, there were some more serious, constitutionally minded observers who have suggested an institutional rearrangement in the way we handle law enforcement.

In a blog post published by the Mises Institute, Ryan McMaken questions whether “private sector establishments ought to be expected to be more concerned about the safety of their customers.”

In other words, perhaps the privatization of police forces — terminating the over 100 years of government monopoly on official law enforcement — would serve to incentivize the protection of safety in a way only a free market solution could.

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McMaken detects a lack of proper preventative measures not only by Mandalay Bay (the casino/hotel from which the gunman purportedly fired on the crowd at a concert nearby), but as he sees it, “it appears the organizers of the event did not take steps to prevent a shooting of this nature. The police response to the shooting, not surprisingly, appears to show disorganization and lack of knowledge about the situation.”

Undoubtedly, in the century or more of the exercise of monopolistic control by government of police power, companies as well as individuals have become accustomed to “calling the police” after something criminal has occurred. This reliance has resulted in a dependence that in turn has atrophied the muscle of self-reliance in matters of crime prevention and prosecution.

In addition to the atrophy, though, there is the fact that the Supreme Court has issued an opinion that absolves the police of the obligation to protect citizens. McMaken reports on the result of this pronouncement.

“As a result, de facto policy is that the lives of police officers receive priority over that of members of the public. It also means that government police are protected from any liability should they be AWOL or incompetent when homicidal maniacs unleash themselves on the public. Thus, there is absolutely no reason to expect public-sector police agencies to provide security at night clubs, movie theaters, or large public events,” he writes.

Regardless of the body count, most opinion leaders seem to oppose the transfer of responsibility for





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safety to the property owner, preferring rather “to just trust in government, and hope for the best.”

That attitude is antipodean to that of our Founding Fathers, who rejected the idea that great power should be placed in the hands of government, at any level.

Hence, it should not be surprising that the Constitution grants no authority to the federal government to participate in law enforcement.

Even state constitutions at the time of the ratification of the federal Constitution did not contain provisions granting police power to the government. Most of these constitutions plainly set out the universally accepted policy that law enforcement was, as one writer explained, “a universal duty that each person owed to the community, rather than a power of the government.”

Constitutions drafted or in force at the time of the Founding mention law enforcement and the state together only insofar as the latter is explicitly excluded from encroaching upon the people’s natural right to execute the former.

In an article published in the *Seton Hall Constitutional Law Journal*, constitutional attorney and former federal prosecutor Roger Roots rehearses a forgotten aspect of American history regarding the role of the people in the carrying out of law-enforcement duties and how those duties came to be regarded as governmental rather than public responsibilities. Roots writes:

Law enforcement in the Founders’ time was a duty of every citizen. Citizens were expected to be armed and equipped to chase suspects on foot, on horse, or with wagon whenever summoned. And when called upon to enforce the laws of the state, citizens were to respond “not faintly and with lagging steps, but honestly and bravely and with whatever implements and facilities [were] convenient and at hand.” Any person could act in the capacity of a constable without being one, and when summoned by a law enforcement officer, a private person became a temporary member of the police department. The law also presumed that any person acting in his public capacity as an officer was rightfully appointed.

There are those, of course, who would argue that while it may be true that, historically, much of the enforcement of laws in America was handled by the people in communities, times are different now and we have had publicly funded police for too long to go back.

In reality, however, according to the figures collected by Bruce Benson, there are today approximately three times as many private security personnel than government police forces employed in the United States.

In fact, the railroads in both Canada and the United States are secured by a private police force.

With that in mind, imagine the solutions to the problems of police brutality and brutality against police that American entrepreneurs could create if they were not prevented from doing so by government’s zealous protection of its exclusive control of law enforcement.

While the foregoing does not answer all the critical questions created by the crescendo of criminal killing of innocents, the idea of privatization of police deserves to be among the proposals being considered to restore law and order to the United States and place responsibility for safety on property owners rather than police. Under the American system of federalism, states possess the sovereignty to experiment in this area. If some states were to do so, the results would shed light on the best way(s) to protect the liberties of citizens.

On the other hand, nationalizing local police and confiscating privately held firearms under the guise of



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protecting the public would be unconstitutional and deathblows to liberty, since they would give the national government in Washington a monopoly of power. By contrast, local, independent police forces that are *truly beholden* to the citizens they are entrusted to protect and serve, and that complement armed citizens in the protection of their rights, are instruments of freedom not tyranny.

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