



## Police Protection and Power

One of them envisions the police, or whatever the law-enforcement apparatus is called, as public servants, whose job is to protect the public against violent and fraudulent criminal elements that exist in every society. This mindset recognizes that the public must also sometimes protect themselves, since a police force limited to public service by definition cannot be everywhere at once. It also contemplates strict limits on police powers, such as those embodied in civil protections against arbitrary searches and seizures and in the hallowed right of habeas corpus. Where law enforcement exceeds its carefully defined and limited powers, it is held responsible, and officers guilty of abuse of power are subject to punishment like any other lawbreakers. This view of policing is embodied in the motto “To protect and to serve,” coined by the Los Angeles Police Department in 1955, and now used by many other police departments as well.



### **The Police and Power**

In a free society, the ordinary citizen sees the police officer as a respected and trusted public servant and his presence is welcome. The other, and withal, more prevalent view of law enforcement throughout history is that its primary function is to protect the class that wields political power. This class may be a monarchic dynasty, as in Rome under the Caesars; a tribe, as in Gadhafi’s Libya; or a gang of ideologues, as in the former Soviet Union and modern Communist China and Cuba. Call them what you will — frumentarii, mukhabarat, KGB, Gestapo, or secret police — the function of police forces charged with protecting such regimes from their own citizens is the same: to ensure the maintenance of power by terror and brute force. Their methods vary little from age to age, depending as they do upon their willingness to use violence to stifle dissent and to spy upon the public to identify and keep tabs on enemies of the regime, both real and imagined. They are implacably hostile to the private ownership of weapons; so absolute was the power of the secret police in despotic Venice in the final years of its independence that the possession of a weapon was punishable by death. And secret police by any name are conditioned, in exchange for impunity for their actions, to close ranks around the regime they protect. Thus did the secret police of Ceaucescu’s Romania reveal true priorities when it engaged in wholesale slaughter of peaceful demonstrators in an attempt to terrorize its citizenries into submission.

While recent incidents of police abuse — many of which have been caught on video and posted on the Internet — may make it rhetorically tempting to liken American police to the Gestapos and frumentarii of other times and places, America’s law enforcement has a long way to go before meriting any such



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comparisons. Most of the officers and deputies of America's local police agencies, no doubt, still view seriously their duty "to protect and to serve" their fellow citizens and hold sacred their oath to uphold the Constitution. But it is fatuous to dismiss the very real and very dangerous direction in which American law enforcement is headed. It is not so much the transformation of America's police forces into a full-blown Gestapo that is of immediate concern; rather, it is the more realistic fear that their objective is no longer civilian protection. Many countries of the world, while far from the full-blown tyrannies of Caligula, Hitler, and Stalin, nevertheless make use of a style of militarized law enforcement intermediate between servants of the people and protectors of the regime. The hallmarks of such military police include the surveillance camera, the checkpoint, and the use of some extreme measures with impunity — detention and occasional torture without charge, and excessive willingness to resort to lethal force in adversarial circumstances — while not generally resorting to the systematic terror tactics of true secret police. The usual justification for such police is an extraordinary internal threat like an insurgency or active terrorist network. Military police tend to be corruptible and to favor the rich and well-connected over the poor. Such are the Guardia Civil in Spain, the Carabinieri of Italy, and the Federales of Mexico, among many others.

I remember well my first encounter with militarized police. As a teenage boy in the late '70s, I traveled to Spain with my family on vacation for a few weeks. I noticed then the ubiquity of Spain's military police, the Guardia Civil, with their distinctive tricornered hats and automatic weapons. During the dictatorship of Franco, the Guardia Civil had been used to ferret out enemies of the regime, and had acquired a rather formidable reputation. Their officers were frequently targeted by Basque separatist terrorists, who correctly perceived them as an arm of the Spanish military. A large part of their resources over the last several decades has been dedicated to antiterrorist activities. The Guardia Civil have also served alongside Spanish military units in military deployments overseas, including a number of UN peacekeeping missions.

I knew none of this 33 years ago. But I was surprised, along with the rest of my family, when my father received in the mail, some six months after our return from Spain, a traffic citation from the Guardia Civil. Despite the fact that we had been American tourists driving a car rented in Paris, the Guardia had somehow identified my father and, despite grotesquely misspelling both his name and address, had succeeded in issuing a fine. From the citation, we gathered that a hidden camera had snapped a photo of our license plate. My father, amused that they had gone to such lengths to issue a \$20 speeding ticket, mailed off a check. The whole episode seemed unreal, since America in the 1970s made no use of hidden traffic cameras or checkpoints. Such were then regarded as the trappings of societies much less free than our own, where governments did not trust their own citizens.

Over the years, I have encountered military police in many countries, from Argentina to Sri Lanka, and have grown accustomed when abroad to the indignities of checkpoints and oddly dressed men on street corners with military-style weapons. But of far greater concern is that most of the activities of military police that were once so foreign have become familiar and even accepted in much of the United States. Checkpoints, where motorists are frequently hassled and questioned without cause, are routine in many areas of our country, and traffic cameras snapping pictures and recording the speed of every passing car are prevalent in many urban areas. The courteous neighborhood policeman helping a would-be runaway in Norman Rockwell's classic painting has given way in some precincts to officers seemingly schooled in thuggish, adversarial behavior, for whom foul language and the gratuitous use of physical violence are habitual (as any YouTube user can easily verify). The behavior is not ubiquitous, but it is alarmingly common.

**The Path Away From Protection**

What is changing the behavior of our police forces? In a word, federalization. Because of the longstanding War on Drugs, as well as the more recently launched War on Terror, local police have been dragooned into collaborating with federal law enforcement, including the quasi-military Transportation Security Administration (TSA) charged with airport security in the post 9/11 world. Such cooperation, it need hardly be said, has nothing to do with enforcing speed limits or investigating petty delinquency. Instead, especially since the latter part of the last decade, local police are being drawn particularly into the TSA's campaign of surveillance and intimidation of the American public, in the name of ferreting out terrorists. The TSA's Visible Intermodal Prevention and Response (VIPR) program, for example, has involved state and local law enforcement in massive security sweeps conducted along military lines, and displaying the same indifference toward civil rights and personal dignity shown by the TSA's airport security personnel.

In April of this year, for example, a team of TSA officers, attired and armed like SWAT personnel, swept into the Greyhound bus station in Tampa, Florida, and began subjecting bus passengers to the same indignities perpetrated against air travelers. Accompanying the TSA operatives were federal, state, and local law-enforcement officials, as well as federal government bureaucrats. This motley swarm conducted intrusive patdowns on unhappy passengers and warrantless searches of their luggage, with the help of canine sniffers.

According to TSA chief John Pistole, speaking to a Senate committee in June, the TSA conducted roughly 8,000 such sweeps across the country last year alone, and more is coming. Also in June, the TSA, in cahoots with state and local law enforcement, led an unprecedented three-state security sweep involving reconnaissance aircraft and Blackhawk helicopters, in a VIPR tour de force covering 5,000 square miles. John Pistole, never one to shy from controversy, has made public his intention to "take the TSA to the next level" and build it "into a national security, counterterrorism organization, fully integrated into U.S. government efforts."

The consequences of drawing local law enforcement into matters of alleged national security are plain enough. More and more local police are acting like agents of the federal government, and are willing to use tactics favored by military and counterinsurgency units for matters of local law enforcement.

The vision of John Pistole and the rest of the TSA/Homeland Security crowd was articulated, perhaps unintentionally, by Senator Barack Obama during his run for the presidency. "We cannot continue to rely only on our military in order to achieve the national security objectives that we've set," Obama told an audience of enthusiastic supporters on July 2, 2008, in Colorado Springs. "We've got to have a civilian national security force that's just as powerful, just as strong, just as well-funded." Obama made these unscripted comments in the midst of a series of proposals to grow everything from the Peace Corps and USA Freedom Corps to employment and benefits for veterans, so it is not entirely clear what he may have had in mind. But it is difficult to escape the inference that he meant essentially what he said, namely, that America needs a military-style national police force. And part of this vision, if the behavior of the TSA is any guide, involves militarizing existing state and local police forces in the name of combating terrorism.

A series of studies by the Rand Corporation for the United States Army over the past several years suggests that federal policymakers intend to accelerate the nationalization and militarization of our police forces. One 2009 Rand study, *A Stability Police Force for the United States*, contemplates greatly expanding either the U.S. Marshals Service or the Military Police of our Armed Services. According to



the Rand study:

An SPF [Stability Police Force] is a high-end police force that engages in a range of tasks such as crowd and riot control, special weapons and tactics (SWAT), and investigations of organized criminal groups. In its ability to operate in stability operations, it is similar to such European forces as the Italian Carabinieri and French Gendarmerie.

Indeed, the Rand authors are highly positive toward the model exemplified by the European Gendarmerie, the new transnational SPF formed by several countries of the European Union in 2006. Although the SPF proposed for the United States is, ostensibly, to be used primarily overseas, to stabilize those countries where U.S. military forces are engaged in nation-building operations, the study also focuses on the possible uses of the SPF for "HLS" (Homeland Security) operations within the United States. To this end, it proposes ways in which various SPF options may be exercised by evading the restrictions on the use of military forces for policing imposed by our federal Posse Comitatus Act.

The Rand authors also speak of the need to "fix" the U.S. Constitution's limitations on federal policing powers. *A Stability Police Force for the United States* notes:

In the United States, policing functions are generally carried out at the state and local levels, with only limited law enforcement powers granted to the federal government. For example, agencies such as the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA) investigate suspected violations of federal law and lack jurisdiction over state and local matters. Limits to federal power are constitutionally rooted in the Tenth Amendment and have been recognized, especially in the policing arena, since the earliest days of the country.

"The cost of not fixing this gap is significant," say the Rand authors. But what they see as a "gap" that needs "fixing" is the very heart of the checks and balances in our system of federalism that our Founders intended as a bulwark against the dangers of tyranny, which naturally flow from the centralization and concentration of governmental powers. In the *Federalist*, No. 45, James Madison underscored a fundamental premise of our constitutional system: "The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite."

Madison went on to say: "The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

In the minds of Madison and the other Founders, the police powers were preeminent among those "reserved powers" that were to remain the closely guarded domain of the states and local governments.

Richard Mack, the former sheriff of Graham County, Arizona, and the founder of the Constitutional Sheriffs and Peace Officers Association, is one of many law enforcement officers who share this view with the Founders and see the trend toward nationalization of our police as a grave danger. Sheriff Mack, together with Sheriff Jay Printz of Montana, won the historic 1997 Supreme Court case against the Clinton administration and the notorious Brady gun control bill. "The founders of our nation were afraid of one thing more than any other ... government having too much power!" says Sheriff Mack. Which is why he is working with other law enforcement officers to keep police control local and -reverse the trend toward nationalization.

Although Hitler's Gestapo and S.S. are automatically associated with terror, tyranny, and oppression, too few Americans realize that the road to empowerment of those infamous police agencies was



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ominously similar to the path our nation has been taking.

In *The Rise and Fall of the Third Reich*, historian William L. Shirer traces the fateful path that led to Germany's fatal embrace of the centralized Nazi state. "A series of laws decreed between 1933 and 1935," he notes, "deprived the municipalities of their local autonomy, and brought them under the direct control of the Reich Minister of the Interior."

Nationalizing the local police departments was the next critical step. Shirer writes:

On June 16, 1936, for the first time in German history, a unified police was established for the whole of the Reich — previously the police had been organized separately by each of the states — and [Heinrich] Himmler was put in charge as Chief of the German Police. This was tantamount to putting the police in the hands of the S.S., which since its suppression of the Roehm "revolt" in 1934 had been rapidly increasing its power. It had become not only the praetorian guard, not only the single armed branch of the party, not only the elite from whose ranks the future leaders of the new Germany were being chosen, but it now possessed the police power. The Third Reich, as is inevitable in the development of all totalitarian dictatorships, had become a police state.

Since the terror attacks of September 11, 2001, our federal government has assumed vast new police powers and hired tens of thousands of new federal police officers. With more than 200,000 employees, the recently formed Department of Homeland Security (DHS) is already well on the way to becoming, in President Obama's words, a "civilian national security force that's just as powerful, just as strong, just as well-funded" as the military. In addition, the federal Department of Justice (DOJ) and DHS have greatly expanded and accelerated the already dangerous trend under way for several decades of co-opting local police departments through federal grants for equipment (police cruisers, motorcycles, helicopters, armored vehicles, bullet-proof vests, computers, etc.), training, hiring additional personnel, traffic safety, emergency preparedness, overtime pay support, and other supposed "necessities."

Of course, the fact that the federal government is already broke and hopelessly in debt has not stopped the politicians and bureaucrats in Washington from escalating this false largesse; they simply have the Federal Reserve print up more money, something the states and local governments cannot do. Unfortunately, state, county, and city politicians and chief law-enforcement officers all too often find the lure of "free" federal money to be irresistible.

### **The Politics of Federalized Policing**

One of the proliferating federal programs that has already bared some alarming fangs is the federal-state-local police operations known as "fusion centers." In her testimony to the Senate Committee on Homeland Security and Governmental Affairs in September 2009, DHS Secretary Janet Napolitano spoke of the Obama administration's ambitious plans to expand the number and scope of fusion centers, which at the time of her testimony already stood at 72 centers nationwide.

DHS has already demonstrated the dangers inherent to this baleful centralizing trend in American law enforcement. In the months prior to Secretary Napolitano's testimony, DHS and the Office of Intelligence and Analysis had issued a hyper-alarmist report to law-enforcement agencies entitled "Rightwing Extremism" that smeared military veterans, pro-life activists, gun-rights advocates, and political conservatives and constitutionalists as dangerous "extremists" closely akin to terrorists. A similarly hysterical report distributed by the federal-state fusion center in Missouri, entitled "The Modern Militia Movement," went even further, warning police agencies that they are being targeted — and the inference is that they are being targeted for violence — by supporters of presidential candidate





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Ron Paul and people who are opposed to the United Nations and the Federal Reserve.

These and similar incidents are ominous signs that the growing federal police powers are already being used as weapons against political opponents. Incidents such as these not only endanger the citizens who may be subjected to unwarranted harassment (and even lethal force) by misinformed and jumpy police officers, but they also endanger the law enforcement officers by promoting situations that may lead to violent confrontation and creating an adversarial attitude and wall of distrust between officer and citizen. These indicators should cause every lover of liberty to demand a screeching halt to this mad rush toward a nationalized police force.

As long as America remains in the thrall of an open-ended “War on Terror,” the temptation will persist to continue federalizing (and, as a consequence, militarizing) our local police. Our once-trusted local police are gradually morphing into a force more to be feared and avoided. And should the campaign to militarize our local police succeed, we may then anticipate even worse developments, chief among them the creation of a bona fide secret police to secure the interests of a regime altogether hostile to the people it once purported to serve.

The corruption and militarization of America’s police is not a trend to be taken lightly. While there is undeniably some need for specially trained units to deal with extraordinary circumstances, like a terrorist attack or a hostage situation, Americans must insist that their local police remain local — and faithful to the twin goals of protection and service that prompted their creation in the first place.

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