



The Libertarian Moment in Ferguson

A new kind of politics is being born in the discussion over race and militarized policing in Ferguson.

By Nick Gillespie
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Just two weeks ago, *The New York Times Magazine* had the temerity to ask, “Has the Libertarian Moment Finally Arrived?” Among the evidence that America is becoming more socially tolerant, fiscally responsible, and interested in shaking things up: rapid increases in the acceptance of gay marriage, pot legalization, and other forms of self-expression; wariness toward our bipartisan interventionist foreign policy; widespread outrage at governmental invasions of privacy; continued antipathy toward Obamacare and declining approval ratings of Congress; and a general lack of belief that spending more money is going to fix the country anytime soon.

The usual grab bag of pundits invested in the political status quo was quick to dismiss the question. *Of course there’s no libertarian moment*, huffed Democratic and Republican partisans. Yet if you want more evidence that a libertarian moment is gathering in contemporary America—and that it is fundamentally a pre-political, pre-partisan impulse with the potential to seriously alter existing conversations and coalitions—look no further than Ferguson, Missouri, where a tragically delayed discussion about police militarization and race that has finally captured the public imagination.

In small towns and big cities alike, African Americans have long complained about having to deal with (predominantly white) cops who sometimes act like occupying armies. Sadly, there’s nothing particularly unique about the August 9 death of Michael Brown at the hands of police. Police kill unarmed people—especially unarmed black men—all the time, and it usually doesn’t touch off a wide-ranging national discussion about much of anything. For instance, how many Americans have heard about John Crawford III, who was shot and killed by police after picking up a toy gun in a Wal-Mart earlier this month?

One of the reasons Ferguson is different is because of the spectacularly ham-fisted response by local law enforcement when faced with protests after a highly questionable death. It goes without saying that there is still much to be learned about the

circumstances of Brown's shooting and the events surrounding it, all of which may exonerate the police. However, there's no question that local authorities helped to massively escalate a tense situation with every decision they made, from refusing at first to name the officer involved in the shooting, to confronting peaceful demonstrators with weapons of war, to releasing a videotape of Brown apparently robbing a convenience store the day he was shot.

What has helped the story to go fully national, however, is that the events surrounding it exemplify the concerns that libertarians have been raising for decades about the militarization of police, which has its roots both in the drug war and the post-9/11 terror-industrial complex. As my former colleague Radley Balko, now at *The Washington Post*, has documented for years (first at The Cato Institute, then at *Reason*, and most fully in last year's *Rise of the Warrior Cop*), "The buzz phrase in policing today is officer safety. You'll also hear lots of references to preserving order, and fighting wars, be it on crime, drugs, or terrorism. Those are all concepts that emphasize confrontation. It's a view that pits the officers as the enforcer, and the public as the entity upon which laws and policies and procedures are to be enforced."

Balko is just one of many libertarians who worked to highlight these issues long before Ferguson erupted. "Dress like a soldier and you think you're at war," Glenn Reynolds, a law professor at University of Tennessee and the proprietor of the massively influential libertarian aggregator site Instapundit, wrote in 2006. "And, in wartime, civil liberties—or possible innocence—of the people on 'the other side' don't come up much. But the police aren't at war with the citizens they serve, or at least they're not supposed to be."

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At the same time that libertarians have been archly critical of the Pentagon and other federal programs that have shipped surplus war gear to local police with little training and even less accountability, we've also been talking up the revolutionary power of cheap, decentralized technology that allows individual citizens to talk back to power, including by filming the police. "Watched cops are polite cops," after all, especially now that videos of police brutality can be spread through social media.

In Ferguson, minority outrage at police mistreatment has intersected with the libertarian critique of state power in a way that has brought the concerns of both groups to a national audience. Most interestingly, the coverage of Ferguson hasn't been dominated by figures such as Jesse Jackson or Al Sharpton. Even a few years ago, they would have been at the forefront of the coverage. Now, the people at the center of this conversation have been journalists on the scene and local community spokespeople.

And when it does come to the political class, Rand Paul's op-ed in *Time* was far and away the most trenchant (and early) sustained commentary on Ferguson and the issues it raises. "There is a systemic problem with today's law enforcement," he wrote. "When you couple this militarization of law enforcement with an erosion of civil liberties and due process that allows the police to become judge and jury—national security letters, no-knock searches, broad general warrants, pre-conviction forfeiture—we begin to have a very serious problem on our hands. Given these developments, it is almost impossible for many Americans not to feel like their government is targeting them. Given the racial disparities in our criminal justice system, it is impossible for African-Americans not to feel like their government is particularly targeting them."

Indeed, what Ferguson demonstrates is how tightly related abstract concerns libertarians have about the government's power and the very real-life fears of police harassment that many African Americans have really are. So too are other issues of interest to both groups, ranging from school choice to sentencing reform to occupational licensing. As these sorts of newly recognized common causes filter through the culture, all sorts of new coalitions and possibilities can come to fruition. Glimpses of this are already visible in actions such as the nearly successful effort by Republican Rep. Justin Amash and Democratic Rep. John Conyers to defund National Security Agency surveillance programs last summer.

The politics of exhaustion—that desperate attempt to maintain an increasingly dysfunctional and disheartening status quo that is swelling the ranks of independents and driving down political approval ratings to historic lows—is giving way to new sets of conversations that are as urgent as they are overdue. Exactly how those conversations play out, especially in terms of partisan politics, is far less important than the fact they are taking place and moving the country forward to new areas of common ground.