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Missouri Unrest Leaves the Right Torn Over Views on Law vs. Order

By Jeremy W. Peters
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WASHINGTON — When the police bring the hammer down, whether on Occupy Wall Street in Manhattan’s Zuccotti Park in 2011 or outside the Democratic National Convention in Chicago in 1968, the response from conservatives tend to be fairly consistent: The protesters got what they had coming.

But demonstrations this week over the shooting of Michael Brown, an unarmed teenager, by a police officer in Ferguson, Mo., and the overwhelming law enforcement response that followed have stirred more complicated reactions, with many on the right torn between an impulse to see order restored and concern about whether the crackdown is a symptom of a state run amok.

With broadcasts from Ferguson showing the streets engulfed in smoke as officers looked on wearing military fatigues and carrying high-powered rifles, some prominent conservative commentators and leading Republican politicians began questioning whether the police had gone too far.

These reactions point to a larger debate inside the conservative movement today as Republicans struggle with how enthusiastically to embrace an ascendant strain of libertarianism within their ranks. Senator Rand Paul of Kentucky, a likely candidate for president in 2016, starkly laid out one side of the argument in an op-ed published on Time.com on Thursday.

“There should be a difference between a police response and a military response,” he wrote. “The images and scenes we continue to see in Ferguson resemble war more than traditional police action.”

Other conservatives have focused on instances in which chaos has broken out in the streets. Images and headlines on The Drudge Report and Breitbart.com have singled out acts of violence among demonstrators and shown looters breaking store windows.

In one segment broadcast on Fox News on Thursday, a reporter walked down the street with demonstrators who he said were members of the New Black Panther Party, a radical group.

Since Richard M. Nixon made cracking down on crime a central issue of his 1968 presidential campaign, Republicans have held themselves up as the alternative to a Democratic Party they have derided as soft on issues of law and order. But an appetite for changes in the criminal justice system has been building among Republicans, many of whom believe the tough-justice approach has run its course.

Mr. Paul, Senator Rob Portman of Ohio and Representative Paul D. Ryan of Wisconsin are among those who say that the federal and state governments need to rethink the way convicts are sentenced and imprisoned, arguing that the current system is inhumane and too costly.

Mr. Paul's remarks on Thursday were similar to those of other leading conservatives who have weighed in on the events in Ferguson.

"Reporters should never be detained — a free press is too important — simply for doing their jobs," Senator Ted Cruz, Republican of Texas, wrote on his Facebook page on Thursday, reacting to news that journalists from The Washington Post and The Huffington Post had been held by the police. "Civil liberties must be protected, but violence is not the answer."

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Erick Erickson, a conservative writer, took to Twitter to question why the police needed to display so much firepower. "It is pretty damn insane that people who spend all day writing speeding tickets," he wrote, "hop in tanks with AR-15s at night."

For days after the death of Michael Brown, protesters faced off with the police as racially charged demonstrations gripped the streets of Ferguson, Mo.

Many conservatives were unsettled by the militaristic response from law enforcement officials in Ferguson — a show of force that they said dangerously resembled the actions a police state would take.

Mr. Paul, quoting from research by the libertarian-leaning Cato Institute and the conservative Heritage Foundation, noted the trend of police departments' buying military-style vehicles and weapons, condemning "the cartoonish imbalance between the equipment some police departments possess and the constituents they serve."

"When you couple this militarization of law enforcement," he added, "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, preconviction forfeiture — we begin to have a very serious problem on our hands."

But that attitude was not universally shared. In much of the conservative news media, the protesters in Ferguson are being portrayed as “outside agitators,” in the words of Sean Hannity, the Fox News host.

Mr. Erickson said, “The natural reaction of conservatives, I think, has always been in defense of law and order.”

But lately, he added, there has been an awakening among many on the right. Many see an increasingly disproportionate response to crime as a sign of a larger problem that should rattle the consciences of conservatives who are wary of centralized authority, he said.

“As more and more people become aware of how overcriminalized the law and regulatory system of the United States is, they become aware of just how easily it is for them to be carted off to jail for innocuous behavior,” Mr. Erickson said. “That necessarily increases distrust of the system over all.”

Another question raised by the unrest in Ferguson — one that poses far more discomfort for Republicans — is how race plays into unequal treatment under the justice system.

On this delicate issue, Mr. Paul went a step further than many other conservatives this week. With a system so broken, he wrote, it is no wonder black people in Ferguson feel singled out.

He added a personal aside. “If I had been told to get out of the street as a teenager, there would have been a distinct possibility that I might have smarted off,” Mr. Paul wrote. “But I wouldn’t have expected to be shot.”