

NEW REPUBLIC

Libertarians Who Oppose a Militarized Police Should Support Gun Control—But They Don't, of Course

By Alec MacGillis
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The current issue of *The Economist* contains a striking factoid: “Last year, in total, British police officers actually fired their weapons three times. The number of people fatally shot was zero.”¹ By contrast, there are about 400 fatal shootings each year by local police in the United States.

When I tweeted out this stunning stat earlier this week, no shortage of people noted an obvious explanation for why British police were so much less likely to fire their guns: there were far fewer guns around them. The U.K. has some of the world’s strictest limitations on gun ownership—handguns are all but prohibited, while shotguns and rifles require a police certificate and special justification (self-defense does not qualify.) There are an estimated 14,000 handguns in civilian hands in the U.K. (population 63 million) and slightly more than 2 million shotguns and rifles. Estimates for the number of total firearms in civilian hands in the U.S. float north of 300 million. Simply put, if the police in the U.S. seem a lot more on edge than those across the pond, they have good reason to be.

As obvious as this explanation for the militarization and trigger-happiness of U.S. police may be, it has gotten relatively little attention amid the alarming spectacle that has played out in Ferguson, Missouri following the fatal police shooting of an unarmed black 18-year-old and, more recently, the fatal shooting just a few miles away of a mentally-ill man holding a knife. That oversight may be partly because this aspect of the debate undermines one of the most popular media narratives to emerge from Ferguson: the notion of a growing right-left coalition united against heavy-handed police tactics.

There is indeed agreement between many liberals and libertarians that the militarization of the police, especially in its dealings with racial minorities, has gone too far. But this consensus may crumble pretty quickly when it’s confronted with the obvious police counter-argument: that the authorities’ heavy firepower and armor is necessary in light of all the firepower they’re up against. At that point, many liberals will revert to arguing for sensible gun control regulations like broader background checks to

keep guns out of the hands of violent felons and the mentally ill (the measure that police organizations successfully argued should be the gun control movement's legislative priority following the Newtown, Connecticut shootings) or limits on assault weapons and oversized ammunition clips. And liberals will be reminded that the libertarians who agree with them in opposing police militarization are very much also opposed to the gun regulations that might help make the environment faced by police slightly less threatening.

The inherent tension in this nascent right-left alliance was laid out in sharp terms this week by Josh Horwitz, head of the Coalition to Stop Gun Violence. He noted that the ballyhooed caution against police militarization by Rand Paul, the libertarian senator from Kentucky, looked a bit more dubious in the broader context of Paul's politics:

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"There is a systemic problem with today's law enforcement," Paul declared. "Not surprisingly, big government has been at the heart of the problem ... The militarization of our law enforcement is due to an unprecedented expansion of government power in this realm." The Senator then claimed that there is a "cartoonish imbalance between the equipment some police departments possess and the constituents they serve," citing a .50-caliber gun owned by Bossier Parish police in Louisiana as an example.

That's an odd choice of examples for the Senator given that he is the premier spokesman for a group, the National Association for Gun Rights (NAGR), that gives away free .50-caliber sniper rifles to civilians. These weapons remain legal on the civilian market because of politicians like Rand Paul, who voted against renewing the assault weapons ban in April 2013, just months after a troubled young man used an AR-15 equipped with 30-round magazines to massacre 20 children and six adults. Paul's position on guns is absolute. "I will not vote for any federal regulation of firearms," he has declared. "I don't think the federal government should be involved at all."

Horwitz goes on to note that Paul was the featured speaker at an Open Carry rally in Frankfort, Kentucky in 2010, and that he had little to say against Cliven Bundy's anti-government standoff in Nevada, two of whose adherents went on to fatally shoot two police officers. Horwitz concludes: "When Senator Paul tells us that police work is 'an unquestionably difficult job, especially in the current circumstances,' the man knows what he's talking about. Few politicians have done more to facilitate the transfer of military-style firearms to private hands and encourage anger against government than Rand Paul. *That* is what's driving the militarization of the police in the first place."

Adam Winkler, a UCLA law professor who specializes in the history of gun control, also sees a clear link between the nation's gun laws (or lack thereof) and police behavior:

Because there are so many guns out there, police officers are trained to live in fear of the very people they are supposed to protect and serve. Anytime a police officer pulls over a car, he or she must worry that the person inside that car will have a gun that could be turned on them. At training academies throughout the nation, new recruits are taught

that cop-killers need two things: a will to kill and an opportunity to act. There's little an officer can do about will; anyone can have it without anyone else knowing. Officers can, however, limit the opportunities for a cop-killer to act by being prepared and quick to defend themselves.

In many police departments, the training involves the use of high-tech video simulations that put prospective officers in real-life situations where they'll have to decide whether to use force. A recruit will be shown a video of an encounter, shot from the point of view of the officer. In one, an officer will approach a vehicle pulled over for speeding when suddenly the driver pulls a gun and shoots. In another, an officer responding to a report of an armed robbery will enter a store when a potential suspect approaches and unexpectedly pulls what could be a gun out of his back pocket, only this time the gun is a wallet. The training is designed to prepare officers for a career on streets where a lot of people are armed and police have to make split-second decisions about the use of force. Police are trained, in other words, to be on edge.

I called up several of the leading libertarian voices warning against police militarization to ask them: wasn't there a conflict between that demand and their opposition to gun control?

"Complete bullshit," said one of them, David Kopel, an associate policy analyst at the Cato Institute and research director of the Independence Institute in Colorado. Elaborating, Kopel noted that back in the 1960s, before police forces became militarized in the war on drugs and war on terror, there was also very little gun control. He noted that as the country has proceeded to pass what few gun control laws are on the books (the 1993 Brady Law requiring background checks at licensed firearms dealers, the since-lapsed assault weapons ban, etc.) the militarization of police departments has only proceeded apace. He noted that the light hand of policing in England (where few beat cops even carry guns) long predates the country's strict gun control laws. He granted one point often cited by the pro-militarization side: that a notorious 1997 police shootout in North Hollywood with bank robbers who were armed with machine guns had further spurred police to obtain heavy weaponry, but he said incidents like that did not justify the broader use of heavy weaponry in police operations such as, say, raiding a basement where someone's suspected of growing marijuana.

Simply put, Kopel said, gun control regulations are a "separate issue" from police militarization, no more directly relevant than arguing that "it would be better to improve the public schools to have fewer 17-year-old gangsters." Not to mention that with so many guns already in civilian hands, "you're not going to reduce the firepower that's out there," no matter what regulations you pass. "If you want to divide this coalition [against militarization], there are a million things to divide it politically," he said. "The point is, you find the thing you can agree on and do that."

I got a similar response from Radley Balko, a former Cato analyst now with the *Washington Post* who wrote the definitive book on police militarization, *The Rise of the Warrior Cop*. Balko noted that only a small proportion of gun homicides, and of shootings of police officers, are done with assault rifles or other high-powered firearms,

undermining the notion that a lack of regulations on such guns obligates police to armor up as they have. OK, but wouldn't expanding background checks on handgun purchases—as the national police organizations adamantly support—make it somewhat less likely that *those* guns wouldn't end up in the hands of people who might pose a threat to the police? Maybe so, said Balko, but he was doubtful that police would respond to such a change in policy by letting down their (literal) guard: “It doesn't seem to me the police are going to sort of voluntarily pull back,” he said. Generally speaking, he said, his libertarianism made him wary of “the idea that government is abusing its power and authority and thereby we should put more restrictions on what citizens should have.”

There may well be some left-right middle ground to be found here, short of engaging the broader gun-law debate. Balko and Kopel are right that just because we live in a country where some people keep stockpiles of high-powered rifles, SWAT teams don't need to use military-style weaponry on routine drug raids or crowd-control confrontations. For that matter, no amount of firepower in civilian hands really explains why police in this country are apparently free to gun down mentally-ill people wielding knives, scissors or gardening shears, as happens all too often.

But with such a gulf of disagreement between left and right over the laws that should govern firearms, it is very hard to envision any broad and lasting alliance between them in restraining the police forces whose job it is to patrol and secure this gun-ridden land.

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The article went on with several equally remarkable stats: “In 2012 the figure was just one. Even after adjusting for the smaller size of Britain's population, British citizens are around 100 times less likely to be shot by a police officer than Americans. Between 2010 and 2014 the police force of one small American city, Albuquerque in New Mexico, shot and killed 23 civilians; seven times more than the number of Brits killed by all of England and Wales's 43 forces during the same period.”