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Federal Forces Have Gone Into U.S. Cities Before. Why This Time Is Different.

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Federal forces went into Los Angeles to control the Rodney King riots. They entered Washington, Chicago and Baltimore in the days after the killing of the Rev. Dr. Martin Luther King Jr. in 1968. They went into Detroit during a race riot in 1943, and then again in 1967. They were in Little Rock, Ark., during school integration. For the Pullman Strike of 1894 in Chicago, and across numerous cities during the Great Railroad Strike of 1877, they were there, too.

So in some ways, the scenes of officers clad in riot gear this week in Portland, Ore., have a long American lineage in federal responses to domestic unrest. But there is something different in this moment, too, in President Trump's repeated vows to send forces to other American cities for reasons that slip between protecting specific federal properties, restoring general order and combating violent crime.

'They Pushed Portland Too Far': How Trump's Crackdown Strengthened Protests

President Trump's deployment of federal agents is fueling the unrest in Portland, where protests have continued for over 50 consecutive days. Protesters told us the presence of federal forces is bringing more people to the streets.

"The idea of bringing in troops or law enforcement in its many forms to quell civilian protest is as American as apple pie — it is foundational to this nation," said Heather Ann Thompson, a historian at the University of Michigan. But then the president began talking about crime in Chicago, and naming cities where protests this summer haven't turned violent.

"This is what is alarming about where we are now," she said. "There is a way in which he is taking this to the next level."

And Mr. Trump has at his disposal a resource unlike what presidents had in 1968 or 1894: a vast array of federal law enforcement agencies that has grown in scale and increasingly come to resemble military troops. He can deploy forces that look and feel to local residents just like the military, without having to take the politically fraught step, which made some previous presidents deeply uneasy, of deploying the military itself into American cities.

With these forces — which have an intricate web of legal authorities to protect federal property, to operate far from the border, to interchange their roles — legal scholars across the political spectrum fear the president is trying to take on a job that the Constitution did not give to the federal government.

"That is the use of federal officers as a just run-of-the-mill domestic policing force," said Clark Neily, the vice president for criminal justice at the libertarian-leaning Cato Institute. "I

understand we're supposed to believe this is an extraordinary circumstance. But it is still fundamentally a local law enforcement responsibility to maintain order and protect lives and property.”

The mere fact that cities aren't doing that job to the president's satisfaction hasn't historically been justification for sending in federal forces, Mr. Neily said. And there is broad dispute today over whether we are, indeed, in extraordinary circumstances.

Elected officials in Oregon have said they do not need or want federal help managing what have become nightly clashes outside the federal courthouse in Portland. Residents in Oakland, Calif., and Detroit, two cities the president has also suggested have gotten out of control, point out that things have been relatively calm this summer. In Chicago, Mayor Lori Lightfoot said the city could use help containing violent crime, but cautioned that it “did not welcome dictatorship.”

This moment is notably different from 1968, when local officials requested federal troops to restore order in Washington, Chicago and Baltimore because they believed they could not do it themselves. It's different from Oxford, Miss., in 1962, or Little Rock in 1957, when local officials were openly defying federal court orders to desegregate.

“I don't think there's anywhere near the same kind of consensus at the federal level that federal authority is actually being subverted” today, said Stephen Vladeck, a law professor at the University of Texas at Austin. “What's new and troubling here is we have a very, very contested factual predicate. And it's not remotely clear to me what federal laws are going unenforced.”

If the federal presence in Portland were meant to restore order, it would have made more sense to send in National Guard officers, who have served and trained for such a role, not Customs and Border Protection agents, Mr. Vladeck said. Confrontations there have escalated since the arrival of federal forces, with a line of protesting mothers facing tear gas, and then, Wednesday night, Mayor Ted Wheeler of Portland experiencing the same.

“This is the very thing that scared the heck of the framers of the Constitution,” said Barry Friedman, a law professor at New York University. “There's been an over-tendency to cry wolf,” he said of the president's critics over the past four years. “Well, this is wolf. This is it.”

The fact that the Trump campaign has at the same time begun running numerous ads portraying American cities as overrun by violent left-wing mobs suggests that the president is motivated more by the optics of the federal response than its potential effectiveness, Mr. Vladeck said.

Further muddying matters, the president also announced Wednesday plans for a “surge” of law enforcement officers into American cities to work with local police combating violent crime. Attorney General Bill Barr suggested that a rise in violent crime in some cities over the past month had been “a direct result” of calls to defund and weaken local police forces amid Black Lives Matter protests.

He made a point of distinguishing the plans announced Wednesday from the administration's campaign to counter “riots and mob violence” in places like Portland.

“The operations we're discussing today are very different — they're classic crime fighting,” Mr. Barr said.

But that is precisely the problem, say critics like Mr. Vladeck and Mr. Neily: The federal government isn't responsible for classic crime fighting in local communities. Yet throughout their comments at the White House on Wednesday, President Trump, Mr. Barr and Chad Wolf, the acting head of the Department of Homeland Security, suggested that they believed restoring law and order in local communities was vital to the mission of the federal government.

Mr. Vladeck offered, in response, this quote from Chief Justice William Rehnquist, in a 2000 decision curbing the central federal role in the Violence Against Women Act: "Indeed, we can think of no better example of the police power, which the Founders denied the national government and reposed in the states, than the suppression of violent crime and vindication of its victims."

Aside from the debate over federal authority, the fast approach of the election makes it hard to separate politics from the president's actions. This week, Mr. Trump suggested that New York, Chicago, Philadelphia, Detroit, Baltimore and Oakland may all need federal intervention. That list of cities, all with large Black populations, includes some with no violent unrest right now. Through June, murders in Oakland were actually down relative to the same time last year.

"The through line here is not the protection of federal property," said Kelly Lytle Hernandez, a historian at U.C.L.A. "It's the effort to suppress the uprising for Black life. That sounds pretty familiar. That sounds pretty late 19th century."