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Conservatives, libertarians push back on Portland crackdown: 'Cannot give up liberty for security'

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President Trump's deployment of federal officers to quell rioting in Portland, Oregon, and possibly elsewhere is seeing pushback not only from Democrats but also from conservatives and libertarians who say the federal government can't indiscriminately throw its weight around and trample on constitutional rights.

The White House insists the federal forces are necessary to stop the marauding mobs in Portland, but civil libertarians object to reports that unidentified officers are sweeping people up and detaining them.

"It's pretty straight-up unconstitutional," said Nicholas Sarwark, a former chairman of the Libertarian National Committee. "I wish I could nuance this one — it's just all garbage. There's nothing good there."

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The White House said the law that created the Department of Homeland Security after the Sept. 11, 2001, terrorist attacks gives the agency authority to protect federal property, which is the administration's reason for the deployment in Portland to protect a federal courthouse.

Mr. Trump has said he might send federal agents into Chicago and other big cities wracked by violent crime in the wake of the racial justice upheaval and calls to defund police departments.

The federal government does have “disturbingly broad authorities” to send law enforcers anywhere in the country if it chooses, said Walter Olson, a senior fellow at the Cato Institute, a libertarian Washington think tank.

“That doesn’t mean that there shouldn’t be a political fight about it,” he said.

White House press secretary Kayleigh McEnany said the protests, which have lasted nearly two months in Portland since touched off by the death of George Floyd in Minneapolis, escalated into violent attacks and mobs hurling feces and batteries at law enforcement officers.

“When a federal courthouse is being lit on fire, commercial fireworks being shot at it, being shot at the officers, I think that falls pretty well within the limits” of the law, Ms. McEnany said.

Federal officers also sprayed protesters with tear gas, and there was at least one instance in which questionably identified law enforcement reportedly whisked someone away in an unmarked minivan.

Sen. Rand Paul, Kentucky Republican, objected to the Trump administration’s sending “unidentified” federal agents to Portland.

“We cannot give up liberty for security,” Mr. Paul said on Twitter. “Local law enforcement can and should be handling these situations in our cities, but there is no place for federal troops or unidentified federal agents rounding people up at will.”

Rep. Justin Amash of Michigan, a Libertarian who quit the Republican Party last year, said on Twitter: “Donald Trump is deploying unmarked federal police, decked out like a paramilitary force, to grab Americans off the streets. He’s not protecting liberty; he’s practicing tyranny.”

Federal officials do have less-publicized powers such as the ability to assist agents from other agencies if they need help.

U.S. Customs and Border Protection has jurisdiction of areas in the U.S. that are within 100 miles of an external boundary.

“That gives broader authority for Customs and Border [Protection] in particular to operate than folks may realize,” said Jonathan Adler, a professor at the Case Western Reserve University School of Law.

But there is no “generic federal police authority,” he said. “Nor should there be ... there is no general police power in the federal government. That’s the sort of power that was reserved to the states.”

Mark Morgan, the acting chief of Customs and Border Protection, said deployed officers wear clearly marked uniforms that have personal identifiers.

He said he has supported removing officers’ names from their uniforms because many have been “doxxed” and their private information targeted.

“In each and every instance when we approach somebody who we have probable cause who has committed a federal crime, we do identify ourselves as either police or a federal agent,” Mr. Morgan told reporters Tuesday. “That’s the truth.”

Mr. Morgan also said the use of unmarked vehicles is standard practice and pointed out that marked patrol vehicles have been targeted by rioters elsewhere.

Mr. Olson said that from a practical perspective, it can be difficult for a member of the public to tell the difference between a federally authorized officer and a random “freelancer” trying to bark orders at them.

“Aside from the question of whether or not federal troops or federal law enforcement should be sent in the first place, if they are going to be sent, let’s get some understanding of what practices we want them to follow so that people can be sure, if they are inclined to comply with law enforcement, who they are,” he said.

Some of Mr. Trump’s Republican allies say it’s well within the federal government’s authority to protect federal property.

“It makes sense to defend federal facilities,” said Senate Judiciary Committee Chairman Lindsey Graham, South Carolina Republican. “They’ve taken the courthouse out of operation, so yeah, he should be defending federal property.”

Sen. Ted Cruz said there are not federal “troops” in place.

“There’s federal law enforcement that’s protecting courthouses and federal buildings that are under assault right now from violent rioters,” the Texas Republican said. “Federal law enforcement has not only the authority but the responsibility to protect federal facilities.”

Mr. Sarwark said that people backing the president’s actions can’t seriously defend the situation from a constitutional perspective.

“This will separate the sheep from the goats,” he said. “If you don’t oppose secret police disappearing people off of American streets because they’re leftists, then you’re not really opposed to secret police — you’re just opposed to it being used against people you like.”