The Militarization of Policing and the Future of U.S. Politics

Christopher J. Coyne

Rise of the Warrior Cop: The Militarization of America's Police Force. By Radley Balko. New York: Public Affairs, 2013. 400p. $17.99.

In August 2014, police in the city of Ferguson, Missouri shot and killed teenager Michael Brown, leading to widespread protests throughout the city. The response from the local police to the protests drew national attention in terms of the equipment and tactics they employed. The protestors were met with officers dressed in full military garb, including body armor, helmets, and gasmasks. In addition to their dress, police were armed with military-grade rifles. Who can forget the now famous picture of a sniper perched atop a tactical operations vehicle pointing his rifle with a high-powered scope at the protestors? These and other images from Ferguson could have easily come from ongoing U.S. military operations in Afghanistan or Iraq. The police response shed a spotlight on the militarization of domestic policing—a national phenomenon that had been quietly unfolding for decades. How, exactly, did military equipment and tactics become so prevalent throughout the United States? The answer to this question can be found in Radley Balko's excellent book, *Rise of the Warrior Cop*.

For over a decade, Balko, a journalist and blogger, has been documenting the disturbing trend of police militarization across America. In the process, he has repeatedly raised concerns about the implications of this trend for the freedoms and liberties of U.S. citizens. *Rise of the Warrior Cop* can be seen as a culmination of Balko's research on the topic. It provides a well-researched, yet very readable, history of the changing role of police in the United States and documents the factors influencing the trajectory toward increased militarization. The book consists of nine chapters, but it is best to think of it as consisting of two main parts.

Christopher J. Coyne (ccoyne3@gmu.edu) is F.A. Harper Professor of Economics at George Mason University.

The first part, including the first three chapters, provides historical context on the role of police from the Roman Empire to the early American republic. Balko makes clear that the U.S. Constitution contains specific constraints intended to limit the scope of domestic policing. For example, he argues that the spirit of the Third Amendment goes well beyond placing restrictions on the quartering of soldiers in the private homes of citizens. Instead, it captures "a long-standing, deeply ingrained resistance to armies patrolling American streets and policing American communities" (p. 13). Similarly, the Fourth Amendment was designed to protect citizens from unreasonable search and seizures by requiring a warrant to be issued with probable cause and reason. These restrictions were established in response to the writs of assistance used by British customs officials in colonial America to enter private homes and search for illegal or untaxed items.

Balko goes further and traces the spirit of both amendments to the "Castle Doctrine," established in English law in the 1570s (p. 6). This doctrine holds that a person's home is a private sphere protected from invasion. Accordingly, homeowners may protect their "castle" from both criminal and government invaders. Understanding the spirit of this long-established doctrine is crucial for understanding how policing has evolved, since it stands in fundamental contrast to the methods and tactics used by domestic police today. For example, no-knock raids, which are often carried out by well-armed paramilitary teams, allow the police to enter a private home without any kind of warning or announcement.

The second part of the book, including the remaining six chapters, focuses on the changing nature of policing in the United States since the 1960s. This portion of the book attempts to trace the acceleration of militarization in domestic policing. Balko emphasizes two key events which have driven this process. The first was the creation of Special Weapons and Tactical (SWAT) units. The first

doi:10.1017/S1537592715001346

SWAT team in the United States was organized in 1967 by the Los Angeles Police Department in response to the Watt Riots. In order to create the initial SWAT unit, Los Angeles Police Department Chief Daryl Gates imported military tactics and training, which had been employed in guerilla warfare in Vietnam, to Los Angeles. Balko documents how the number of SWAT units has increased over time and across geographic space such that they can be found throughout the United States in most major cities, as well as in many suburban areas.

The second major event was the so-called "War on Drugs" which began in the 1970s under President Richard Nixon. According to Balko, drugs were chosen as the centerpiece of Nixon's anti-crime program for two main reasons. First, drug use "was the common denominator among the groups—low income blacks, the counterculture, and the antiwar movement"—that the Nixon administration framed as being the main cause of lawlessness throughout America (p. 71). Second, given the national and international nature of the drug trade, the drug war avoided issues of federalism. This allowed the administration to increase the budgets of agencies associated with the war on drugs. For example, the Law Enforcement Assistance Administration (LEAA)—which was tasked with providing federal assistance to local police departments in the form of grants and equipment—received increased funding under the Nixon administration. This began a trend whereby state and local agencies and police departments became increasingly dependent on the national government for resources. Of course, along with these resources came a loss of control, as the political periphery became subject to the mandates and control of the political center that controlled the purse strings.

The War on Drugs was continued, and expanded, under the Reagan administration. While paying lip service to limited government, Reagan simultaneously called for massive expansions in the scale and scope of state power to combat drugs. This involved not just increased funding and training but also expansions in the number of government agencies involved and fundamental changes to the law, which expanded the scope of state power over the lives of U.S. citizens. For example, Reagan made moves to involve both the Justice Department and FBI in the War on Drugs. Further, "[t]he very first change in public policy that Reagan pushed through the Congress was the 1981 Military Cooperation Law Enforcement Act," allowing for greater engagement between domestic police and the military (p. 145). These and similar maneuvers by the Reagan administration were attempts to redefine and weaken the Posse Comitatus Act of 1878, which attempted to place constraints on the use of the military domestically. The Reagan administration sought ways to work around the spirit of this act by integrating the military with domestic police under the guise of the drug war.

Balko does an excellent job of highlighting the perverse incentives created by the policies of the Nixon and Reagan administrations. For example, he notes how the War on Drugs raised the price of drugs, which attracted an even stronger criminal element into the drug trade. This, in turn, led to calls for more funding, higher-grade equipment, and more advanced training which only further exacerbated the problem. As another example, consider the introduction of asset forfeiture in 1984. Among other things, the Comprehensive Crime Control Act of 1984 established the Department of Justice Assets Forfeiture Fund to administer assets seized through drug cases. The proceeds were to be shared by the lead federal agency and any state and local agencies involved. This had the effect of creating a profit-sharing agreement by the national and local levels with the funding coming from assets seized as part of the drug war. This created an incentive for law enforcement to seize as many assets as possible, even if there was a weak link between the private property seized and drug-related activity. Stories of citizens' property being confiscated and kept by government agencies, even if no charges are filed or if they are ultimately found to be innocent, continue to make national headlines today.[1]

The drug war continued unabated under both the presidential administrations of George H.W. Bush and Bill Clinton. Although the latter paid lip service to community policing and to the liberalization of drug laws, in reality "many police agencies were actually using the money [intended for local policing programs] to militarize" (p. 219). Under the presidency of George W. Bush, the militarization of domestic policing further accelerated in the wake of the 9/11 attacks. The attacks and resulting War on Terror provided an opening for further expansions in the scale and scope of domestic policing. Members of the administration and various government agencies made dubious links between drugs and the funding of terrorist activities.

The newly established Department of Homeland Security (DHS) provided millions of dollars in anti-terrorist grants to local police departments throughout the country to support the purchase of military-grade equipment and training. This further solidified the power of the political center over local level governments while facilitating the distribution and flow of military equipment to local police as seen in Ferguson. The War on Terror, like the War on Drugs before it, cast members of the domestic police as soldiers who sought to combat potential domestic enemies, including U.S. citizens. This approach to policing, which is focused on eradicating an enemy, is fundamentally different from the notion of policing as tasked with serving and protecting the person and property of U.S. citizens.

In concluding his analysis, Balko makes a series of recommendations which might contribute to reversing

the trend of militarization and reduce the harms that have been caused to date. These include: taking steps to end the War on Drugs, limiting the use of SWAT raids, improving the transparency and accountability of police departments to the citizens they supposedly serve, embracing genuine community policing, and working to improve the police culture in order to emphasize protecting citizens, as compared to framing interactions as being "them" (citizens) against "us" (the police).

Overall, *Rise of the Warrior Cop* is well researched and documented while remaining accessible. It will be of great interest to scholars, policymakers, and laypeople. In the context of the readership of this journal, the book will be of interest to those who consider themselves Americanists, as well as those working in the fields of comparative politics, public law, public administration, and even international relations. The accessibility of the book is welcomed given the importance of the topic. There are several important issues which Balko's analysis raises for scholars. Many of these are not explicitly discussed in the book but, rather, emerge from his analysis. I will briefly discuss three of these issues and highlight potential areas for future research.

First, at the heart of police militarization is the issue of the proper scope of government. Many scholars—in both political science and economics—tend to focus on the scale, or size, of government while neglecting the scope of government activities. While scale provides insight into the magnitude of government expenditures, scope is necessary to explain how the expenditures are used by government actors. This is important because even a relatively small-scale government can engage in activities which impose great harms on private citizens. The tendency to neglect scope is likely due to the ease of measuring scale—e.g., state expenditures, state expenditures per capita, etc.—versus the more complex and messy process of tracing the evolution of what activities government undertakes and why. Ultimately, however, understanding whether government is productive or predatory requires a deep appreciation of issues of scope for understanding what government is currently doing, and how it got to this point, as well as for considering what the proper role of government ought to be in a free society.

One of the insights emerging from Balko's analysis is that the provision of what at first might appear to be productive state activities—i.e., policing—may actually be predatory and unproductive by undermining the liberty and freedom of domestic citizens. Where the state does engage in unproductive activities, a significant portion of the costs will be borne by disadvantaged—economically, socially, politically—individuals and groups who are least able to protect and insulate themselves from such harms.

This, in turn leads to a second issue—the importance of constraining government and the ability to do so in practice. The militarization of domestic policing brings to the forefront the fundamental paradox of government—a government strong enough to protect the person and property of citizens is also strong enough to violate the rights it is tasked with upholding. One conception of policing entails protecting and serving citizens to facilitate harmonious social cooperation. As Balko makes clear, however, an alternative reality has emerged where, instead of viewing citizens as clients who need protecting, police often view citizens as potential or actual enemies to be defeated. As the issue of asset forfeiture makes clear, many police departments have moved beyond protection to become de facto revenue collection agencies for local governments.

For those interested in matters of public law and constitutional political economy, a host of difficult issues emerge. How effective are constitutional rules and laws that maintain a divide between the policing and military functions of government? Can such rules be established and maintained?[2] Much research remains to be done regarding the feasibility of constitutional constraints as a genuine solution to the paradox of government as it relates to policing and the military.

Further, given the status quo, is change possible? And, if so, how? Even if we assume that citizens generally agree that the demarcation between the police and military functions must be reestablished (an admittedly large assumption in itself), there is a massive, drug-terror complex benefiting from a permanent state of war domestically and internationally, which would actively work to undermine such efforts. This complex includes an array of government bureaucracies, private contractors, unions, and consultants whose very existence is predicated on the continuation of maintaining a culture of fear and crises regarding drug use and terrorism. Understanding the role of these various parties, both in arriving at the status quo, as well as implementing feasible reforms, is a research area deserving of further attention. A related issue deals with understanding how the opinions of U.S. citizens toward the War on Drugs, War on Terror, and militarization of police has evolved over time and what this means for potential reforms.

Third, the issue of police militarization requires studying the effects of what happens when perpetual wars are carried out on the homeland. Both the War on Drugs and the War on Terror take place domestically and internationally. Further, there is no clear enemy and no clear endpoint. As Balko illustrates, these ongoing wars have created a set of conditions conducive to the expanding militarization of policing at home. It is common to think of wars as taking place "over there," in another country far away from the homeland. But Balko forces us to consider the implications and costs of engaging in "wars" which are loosely defined and which are carried out, at least partially, on domestic soil. From this perspective *Rise of the Warrior Cop* has important implications for the study of foreign policy.

Foreign policy is often modeled and framed as being separate from domestic policy. But what the militarization of police highlights is that these two policy spaces are interconnected. Specifically, foreign policy can generate effects which perversely influence domestic policy and the lives of domestic citizens.[3] As noted, the activities undertaken under War on Drugs and War on Terror have affected the freedoms and liberties of domestic citizens. The inflow of military-grade equipment to the homeland further illustrates how foreign policy can quickly blur into domestic policy.

To the extent that these dynamics are at work, one implication is that the costs of foreign interventions are typically understated. Focusing purely on explicit monetary costs or on potential lives lost neglects the fact that, under certain conditions, foreign interventions can erode domestic liberties and freedoms. This often-overlooked cost can be significant because narrowing the scope of government activities once they have been expanded is no easy task. Granted, the costs of lost liberties and freedoms are difficult, if not impossible, to quantify and monetize, but Balko's analysis reminds us that the cost-side of the cost-benefit analysis of wars will tend to be understated in that they ignore the long-term effects on the composition of domestic political institutions.

Civil libertarians are often accused of overstating the effects of expansions in government power.[4] Critics note that the supposed garrison state and authoritarian despot that civil libertarians warn of never seems to appear. But this mis-specifies the concern. The worry is not that there will be a single upheaval or event resulting in the immediate rise of an authoritarian dictator. Rather, the concern is that a series of small and seemingly minor changes over time will ultimately result in the significant loss of liberties which cannot be recovered. James Madison (1788) captured this concern when he wrote that, "[t]here are more instances of the abridgement of freedoms of the people by gradual and silent encroachments of those in power than by violent and sudden usurpations." The *Rise of the Warrior Cop* is an important book precisely because it documents how such encroachments can evolve to pose a real threat to the freedom of people who believe their liberties are being protected by a government which is, in reality, engaging in activities which actively undermine them.

Notes

1 See, for instance, Sallah, O'Harrow Jr., and Rich 2014 who discuss the prevalence of asset forfeiture.

2 In his review of efforts to constitutionally constrain the state, Scott Gordon 1999 (361) concludes that constitutional "polities have avoided the general and unremitting suppression of freedom that is common in regimes based on the hierarchical model, but gross injustices are not unknown, or even rare, in them. In wartime, or when the safety of the established order appears to be threatened . . . the checks and balances system has proved incapable of protecting civil liberty . . . ".

3 See Coyne and Hall 2014 for a further discussion of the mechanisms through which coercive foreign interventions can "boomerang" back to the intervening country.

4 See, for instance, Posner and Vermeule 2006.

References

Coyne, Christopher J. and Abigail R. Hall. 2014. "Perfecting Tyranny: Foreign Intervention as Experimentation in State Control." *The Independent Review: A Journal of Political Economy* 19(2): 165–189.

Gordon, Scott. 1999. *Controlling the State: Constitutionalism from Ancient Athens to Today*. Cambridge: Harvard University Press.

Madison, James. 1788. "Address at the Virginia Convention to Ratify the U.S. Constitution." (June 6). (http://www.constitution.org/rc/rat_va_05.htm), accessed March 24, 2015.

Posner, Eric and Adrian Vermeule. 2006. *Terror in the Balance: Security, Liberty, and the Courts*. New York: Oxford University Press.

Sallah, Michael, Robert O'Harrow Jr., and Steven Rich. 2014. "Stop and Seize: Aggressive police take hundreds of millions of dollars from motorists not charged with crimes." *The Washington Post* (September 6). (http://www.washingtonpost.com/sf/investigative/2014/09/06/stop-and-seize/), accessed March 24, 2015.