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America and the World—The Effects of the Trump Presidency

## *Militarized Policing in the Trump Era and Beyond*

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After the killing of George Floyd in May 2020, demonstrations against police brutality and in support of the Black Lives Matter (BLM) movement broke out across the United States.<sup>1</sup> In response to the demonstrations, President Donald Trump sent federal police wearing camouflage and equipped with tactical gear to Portland, Oregon, Washington, D.C., and dozens of other cities—in some cases, over the explicit objections of local officials.<sup>2</sup> The protests, and the militarized police response to them, highlighted the extent to which police forces at both the local and federal level have adopted military weaponry, tactics, and organizational practices.

This essay examines the use of militarized police in the Trump era and beyond. While militarized policing long predates the Trump presidency, the ways in which Trump used the militarized federal forces he inherited represented a significant departure from recent practice. Trump's efforts to court police support, and the politicized nature of police deployments against protestors during his time in office, have made police reform all the more challenging.

### *The Origins of Militarized Policing in the United States*

While “police militarization” can refer to a number of things, it is generally understood as a “process whereby civilian police increasingly draw from, and pattern themselves around, the tenets of militarism and the military model.”<sup>3</sup> This can involve the adoption of the material, organizational, and operational aspects of military forces, as well as a police culture that views the use of force as appropriate in a wide range of circumstances. While some police forces, such as the French gendarmerie or Italian carabinieri, have been explicitly patterned along military lines since their creation, others, including local police forces in the United States, were initially fashioned as civilian alternatives to this paramilitary model.

However, even purportedly civilian police have also been militarized in important respects. To borrow Micol Seigel's phrasing, police forces were “always already military.”<sup>4</sup> In the United States, this is particularly true of their approach

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<sup>1</sup> Larry Buchanan, Quoc Trung Bui, and Jagal K. Patel, “Black Lives Matter May Be the Largest Movement in US History,” *New York Times*, 3 June 2020, <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>.

<sup>2</sup> Emily Badger, “How Trump's Use of Federal Forces in Cities Differs from Past Presidents,” *New York Times*, 23 July 2020, <https://www.nytimes.com/2020/07/23/upshot/trump-portland.html>.

<sup>3</sup> Peter B. Kraska, “Militarization and Policing—Its Relevance to 21st Century Police,” *Policing: A Journal of Policy and Practice* 1:4 (2007): 503. DOI: <https://doi.org/10.1093/police/pam065>.

<sup>4</sup> Micol Seigel, “Always Already Military: Police, Public Safety, and State Violence,” *American Quarterly* 71:2 (2019): 519-539, DOI: <https://doi.org/10.1353/aq.2019.0041>.

towards race and class-subjugated communities, where police often view residents “not as citizens facing social barriers or as victims needing protection...but as potential (or likely or already active) criminal targets in need of surveillance.”<sup>5</sup>

By the early twentieth century, urban police departments had already begun to adopt militarized techniques and organizational practices developed to rule foreign populations.<sup>6</sup> August Vollmer, who was the first chief of police in Berkeley, CA, and is often referred to as “the father of modern policing,” described to an audience of police officers how military tactics could be adopted for domestic use.<sup>7</sup> “For years, ever since Spanish-American War days,” he told them, “I’ve studied military tactics and used them to good effect in rounding up crooks. After all we’re conducting a war, a war against the enemies of society and we must never forget that.”<sup>8</sup>

Yet while the distinction between police and military forces has always been blurred, American policing *has* changed in concrete ways in recent decades—both in terms of the weaponry and organizational practices of local police forces, and in the rapid proliferation of militarized federal forces. American officials who helped to militarize police forces abroad as part of the US Agency for International Development’s Office of Public Safety program during the Cold War subsequently brought these same techniques home to police departments across the United States.<sup>9</sup> In the 1960s, police forces in a number of cities formed Special Weapons and Tactics (SWAT) teams and other tactical units, which were tasked with responding to hostage situations, barricaded suspects, terrorism, and riots.<sup>10</sup>

The militarization of local police forces has accelerated since the 1990s, when Congress passed laws that permitted the transfer of surplus Defense Department weaponry, vehicles, clothing, and drones to local police departments. The initial intent was to aid local police in counter-narcotic operations. The so-called “1033 program,” which was formally established by the National Defense Authorization Act (NDAA) of 1997, gave the Secretary of Defense authority to transfer defense material to federal and state authorities for a wider array of law enforcement purposes. Under the program, more than \$7.5

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<sup>5</sup> Joe Soss and Vesla Weaver, “Police Are Our Government: Politics, Political Science, and the Policing of Race–Class Subjugated Communities,” *Annual Review of Political Science* 20 (2017): 571, DOI: <https://doi.org/10.1146/annurev-polisci-060415-093825>; Fanna Gamal, “The Racial Politics of Protection: A Critical Examination of Police Militarization,” *California Law Review* 104 (2016), 979.

<sup>6</sup> Julian Go, “The Imperial Origins of American Policing: Militarization and Imperial Feedback in the Early 20th Century,” *American Journal of Sociology* 125:5 (2020): 1193-1254, DOI: <https://doi.org/10.1086/708464>.

<sup>7</sup> Willard Oliver, *August Vollmer: The Father of American Policing* (Durham: Carolina Academic Press, 2017).

<sup>8</sup> Quoted in Alfred Parker, *Crime Fighter, August Vollmer* (New York: Macmillan, 1961), 144.

<sup>9</sup> Schrader, *Badges Without Borders*; see also Radley Balko, *Rise of the Warrior Cop: The Militarization of America’s Police Forces* (New York: PublicAffairs, 2014).

<sup>10</sup> Peter B. Kraska and Victor E. Kappeler, “Militarizing American Police: The Rise and Normalization of Paramilitary Units,” *Social Problems* 44:1 (1997): 1-18, DOI: <https://doi.org/10.2307/3096870>; Schrader, *Badges Without Borders*.

billion in military weapons and equipment have made their way into the hands of local police forces.<sup>11</sup> These include assault rifles, body armor, rubber bullets, breaching kits, armored vehicles, personnel carriers, and aircraft.<sup>12</sup>

Today, the 1033 program is just one source of military gear for local police. Other programs that subsidize the purchase of military equipment and crowd-control items include the Defense Department's 1122 Program, the Department of Homeland Security's Urban Areas Strategy Initiative, and Byrne Justice Assistance Grants.<sup>13</sup> Since 2016, the federal government has issued public reports on the surplus equipment that it provides to police departments, but does not do the same for programs that help those departments purchase new material, making it more difficult to track. Some departments also purchase such equipment with their own funding or through police foundations.<sup>14</sup>

Less remarked upon than the militarization of local police—but no less important—has been the growth of federal police forces within the executive branch. This trend, too, pre-dates Trump's presidency by several decades. Expenditures on federal police forces have been rising since the 1980s.<sup>15</sup> Federal law enforcement agencies that administer and enforce US Immigration police have expanded at a particularly rapid clip. After September 11, George W. Bush's administration reorganized federal law enforcement, establishing the new Department of Homeland Security (DHS), which includes Immigrations and Customs Enforcement (ICE) and Customs and Border Protection (CBP). As Elizabeth F. Cohen describes, "slowly and quietly DHS and its subsidiary agencies—particularly ICE and CBP—have gained access to military-grade weapons, sprawling prison complexes, an army of field officers, and, critically, exemptions from some of the supervision that is supposed to keep law enforcement officers from going rogue."<sup>16</sup>

By 2020, there were 25 federal tactical units spread across eighteen different law enforcement agencies.<sup>17</sup> Several of these, including Federal Protective Service's Rapid Protection Forces, CBP's Border Patrol Tactical Unit, ICE's Enforcement Removal Operations Special Response Team, are housed under DHS; others are under the Departments of Justice, Energy, and Interior, among others. The number of distinct federal police forces in the United States makes it an outlier among democratic regimes.<sup>18</sup>

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<sup>11</sup> Barry Friedman, Jessica W. Gillooly, Maria Ponomarenko, Karen L. Amendola, Tom Clark, Adam Glynn, and Michael Leo Owens, "Police Militarization: A 1033 Program Analysis," The Policing Project at NYU School of Law, 20 December 2021, <https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/61c0891669f48d0d752c153d/1640007960630/Police+Militarization+1033+Analysis+%28Dec+2021%29.pdf>.

<sup>12</sup> Daniel H. Else, "The '1033 Program,' Department of Defense Support to Law Enforcement," Congressional Research Service Report, 28 August 2014.

<sup>13</sup> Friedman, Gillooly, Ponomarenko, Amendola, Clark, Glynn, and Owens, "Police Militarization."

<sup>14</sup> Michael Leo Owens, Tom Clark, and Adam Glynn, "Where Do Police Departments Get Their Military-Style Gear? Here's What We Know," *Washington Post*, Monkey Cage (blog), 20 July 2020, <https://www.washingtonpost.com/politics/2020/07/20/where-do-police-departments-get-their-military-style-gear-heres-what-we-dont-know/>.

<sup>15</sup> Chris Edwards, "Police Spending Soars at the Federal Level," Cato Institute, *Cato at Liberty* (blog), 8 June 2020, <https://www.cato.org/blog/police-spending-soars-federal-level>.

<sup>16</sup> Elizabeth F. Cohen, *Illegal: How America's Lawless Immigration Regime Threatens Us All* (London: Hatchette, 2020).

<sup>17</sup> US Government Accountability Office (GAO), "Federal Tactical Teams: Characteristics, Training, Deployment, and Inventory," GAO-20-710 (Washington, D.C.: GAO, 2020).

<sup>18</sup> Erica De Bruin, "International Trends in Militarized Policing: New Data and Puzzles," *Political Violence at a Glance*, 23 July 2020, <https://politicalviolenceataglance.org/2020/07/23/international-trends-in-militarized-policing-new-data-and-puzzles/>; see also

The growth of militarized federal forces has placed more coercive power within the executive branch. Federal law enforcement agencies have largely remained exempt from efforts to mandate more transparency and oversight over local police.<sup>19</sup> And while federal tactical units are primarily intended to support the operations of their parent agencies, they can be deployed for a wide range of purposes, including addressing domestic protests and civil disturbances. As a result, in response to the Black Lives Matter protests in the summer of 2020, President Trump could “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.”<sup>20</sup>

The increasingly militarization of both local and federal police forces in the United States has resulted in higher rates of police violence, without reducing crime or making police officers safer.<sup>21</sup> In defense of militarization, police officials and politicians have pointed to two studies showing the positive effects of militarization on crime rates.<sup>22</sup> However, these studies used a version of the federal government’s 1033 database that aggregated at the county level. Because counties can include multiple police agencies, using aggregated data can mistakenly attribute crime reductions under one agency to the acquisition of military gear by another. A recent re-analysis of the 1033 data that corrects for this issue finds no evidence that surplus military equipment reduces crime.<sup>23</sup> Another study, which tracked what happened when some classes of military weapons and vehicles were recalled under an executive order by the Obama administration, similarly concluded that the loss of military equipment had no impact on crime rates or violence against police officers.<sup>24</sup>

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Erica De Bruin, “Mapping Coercive Institutions: The State Security Forces Dataset, 1960-2010,” *Journal of Peace Research* 58:2 (2020): 315-325. DOI: <https://doi.org/10.1177/0022343320913089>.

<sup>19</sup> Rachel Seiner, Peter Hermann, and Tom Jackman, “Social Justice Protests Have Resulted in More Police Transparency and Accountability. But Federal Officers Don’t Have the Same Rules,” *Washington Post*, 5 June 2021, [https://www.washingtonpost.com/local/legal-issues/police-reform-federal-agencies/2021/06/03/50dbbba-a130-11eb-a7ee-949c574a09ac\\_story.html](https://www.washingtonpost.com/local/legal-issues/police-reform-federal-agencies/2021/06/03/50dbbba-a130-11eb-a7ee-949c574a09ac_story.html).

<sup>20</sup> Emily Badger, “How Trump’s Use of Federal Forces in Cities Differs from Past Presidents,” *New York Times*, 23 July 2020, <https://www.nytimes.com/2020/07/23/upshot/trump-portland.html>.

<sup>21</sup> Jonathan Mummolo, “Militarization Fails to Enhance Police Safety or Reduce Crime but May Harm Police Reputation,” *Proceedings of the National Academy of Sciences* 115:37 (2018): 9181-9186, DOI: <https://doi.org/10.1073/pnas.1805161115>; Casey Delehanty, Jack Mewhirter, Ryan Welch, and Jason Wilk, “Militarization and Police Violence: The Case of the 1033 Program,” *Research & Politics* 4:2 (2017): 1-7, DOI: <https://doi.org/10.1177/2053168017712885>; Edward Lawson, Jr., “TRENDS: Police Militarization and the Use of Lethal Force,” *Political Research Quarterly* 72:1 (2019): 177-189, DOI: <https://doi.org/10.1177/1065912918784209>.

<sup>22</sup> Vincenzo Bove and Evelina Gavrilova, “Police Officer on the Frontline or a Soldier? The Effect of Police Militarization on Crime,” *American Economic Journal: Economic Policy* 9:3 (2017): 1-18, DOI: <https://doi.org/10.1257/pol.20150478>; Matthew C. Harris, Jinseong Park, Donald J. Bruce, and Matthew N. Murray, “Peacekeeping Force: Effects of Providing Tactical Equipment to Local Law Enforcement,” *American Economic Journal: Economic Policy* 9:3 (2017): 291-313, DOI: <https://doi.org/10.1257/pol.20150525>.

<sup>23</sup> Anna Gunderson, Elisha Cohen, Kaylyn Jackson Schiff, Tom S. Clark, Adam N. Glynn, and Michael Leo Owens, “Counterevidence of Crime-Reduction Effects from Federal Grants of Military Equipment to Local Policy,” *Nature Human Behavior* 5 (2021): 194-204, DOI: <https://doi.org/10.1038/s41562-020-00995-5>. For a summary of recent evidence, see Jonathan Mummolo, “Re-Evaluating Police Militarization,” *Nature Human Behavior* 5:2 (2021): 181-182, DOI: <https://doi.org/10.1038/s41562-020-01010-7>.

<sup>24</sup> Kenneth Lowande, “Police Demilitarization and Violent Crime,” *Nature Human Behavior* 5 (2021): 205-211, DOI: <https://doi.org/10.1038/s41562-020-00986-6>.

Finally, militarized forces disproportionately target race and class-subjugated communities. Even after controlling for crime rates, militarized police are more often deployed in communities with larger shares of African American residents.<sup>25</sup> Similarly, a report by the American Civil Liberties Union found that 80 percent of SWAT raids target homes disproportionately in communities of color; only seven percent of SWAT deployments were for hostage, barricade, or active shooter situations—the types of situations frequently cited as justification for the establishment of tactical units.<sup>26</sup> Police forces that acquire militarized gear also tend to be those that are more predatory in their practices. For instance, under the 1033 program, mine-resistant ambush-protected vehicles, or MRAPs, have been disproportionately acquired by agencies that use asset forfeiture for revenue.<sup>27</sup>

### *Police politics*

Police forces in the United States have long engaged in political action. The New York Police Benevolent Association (NYPBA) was founded in 1894 both as a self-help organization, and as a way to push for higher wages, retirement benefits, and improved working conditions. The Fraternal Order of Police (FOP), the largest police organization in the United States, was founded in 1915 to improve working conditions for police. In the first part of the twentieth century, police officers frequently worked in service of partisan political machines. As Stuart Schrader describes, “political loyalty was the primary job requisite.”<sup>28</sup>

As police forces professionalized over the course of the twentieth century, however, they became less tied to political parties and more adept at organizing to advance their own institutional interests. In the 1960s, the FOP began endorsing political candidates and attempting to advance legislation.<sup>29</sup> The International Association of Chiefs of Police, a membership organization for police chiefs across the country, became a key supporter of President Lyndon Johnson’s “war on crime.”<sup>30</sup> In 1968, the FOP invited George Wallace, the Alabama segregationist, to speak at its national convention, and subsequently endorsed him for president. Police forces also increasingly engaged in collective action to advance their interests. In the 1970s, police in several major cities orchestrated a series of strikes and slowdowns in pursuit of wage increases.<sup>31</sup>

In more recent decades, police organizations have successfully backed legislation to compensate families of slain officers and to allow officers to carry concealed firearms. FOP lobbying has also resulted in state laws to protect officers accused of misconduct and make the killing of a police officer a hate crime. While typically favoring Republican candidates for office,

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<sup>25</sup> Mummolo, “Militarization Fails to Enhance Police Safety or Reduce Crime.”

<sup>26</sup> American Civil Liberties Union, “War Comes Home: The Excessive Militarization of American Policing,” June 2014, 5.

<sup>27</sup> Brett C. Burkhardt and Keith Baker, “Agency Correlates of Police Militarization: The Case of MRAPs,” *Police Quarterly* 22:2 (2019): 161-191, DOI: <https://doi.org/10.1177/1098611118800780>.

<sup>28</sup> Stuart Schrader, “To Protect and Serve Themselves: Police in US Politics Since the 1960s,” *Public Culture* 31:3 (2019): 602, DOI: <https://doi.org/10.1215/08992363-7532667>.

<sup>29</sup> Michael Zoorob, “Blue Endorsements Matter: How the Fraternal Order of Police Contributed to Donald Trump’s Victory,” *PS: Political Science & Society* (April 2019): 244-245, DOI: <https://doi.org/10.1017/S1049096518001841>.

<sup>30</sup> Schrader, “To Protect and Serve Themselves,” 601-623.

<sup>31</sup> Gerda Ray, “Police Militancy,” *Crime and Social Justice*, Spring-Summer 1977: 40-48.

the FOP endorsed Democratic presidential nominee Bill Clinton in 1996, and declined to endorse anyone in 2012, viewing Democrat Barak Obama as too critical of law enforcement and Republican Mitt Romney as anti-union.<sup>32</sup>

In the run-up to the 2016 election, candidate Trump worked to cultivate perceptions of police as political allies.<sup>33</sup> In this respect, his behavior departed from that of other presidential candidates in recent decades. In one primary debate, Trump stated, “police are the most mistreated people in this country...We have to give power back to the police because crime is rampant.”<sup>34</sup> In speeches during the campaign, Trump frequently emphasized the extent to which he believed officers should have more latitude to use force against protestors.<sup>35</sup> Trump also actively courted police unions. He ran a television ad featuring uniformed Phoenix police officers, resulting in a cease-and-desist letter from the city.<sup>36</sup> Trump lavished similar praise upon members of immigration agencies. “We respect and cherish our ICE officers and Border Patrol Agents,” he told a crowd in Phoenix, Arizona.<sup>37</sup>

Many police and immigration officers were receptive to these overtures.<sup>38</sup> In September 2016, the FOP gave a high-profile endorsement to Trump—one which he which boasted about frequently. In explaining the endorsement, FOP Executive Director Jim Pasco emphasized the enthusiasm for Trump among members. “Police officers are not seen with the level of respect and esteem that they might have been in the past,” he said; Trump seemed to acknowledge and want to rectify the issue.<sup>39</sup> That same month, the union that represents ICE officers gave its endorsement as well, with the support of 95

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<sup>32</sup> Zoorob, “Blue Endorsements Matter,” 245.

<sup>33</sup> Trump worked to similarly portray the military as a partisan ally. Risa Brooks, “Through the Looking Glass: Trump-Era Civil-Military Relations in a Comparative Perspective,” *Strategic Studies Quarterly* (Summer 2021): 69-98.

<sup>34</sup> Quoted in Kurtis Lee, “Campaign 2016 Updates: Donald Trump Concedes Obama Was Born in US after Years of Stoking Conspiracy Theory,” *Los Angeles Times*, 16 September 2016, <https://www.latimes.com/nation/politics/trailguide/la-na-trailguide-updates-09162016-htmlstory.html>.

<sup>35</sup> Mark Berman, “Trump Tells Police Not to Worry About Injuring Suspects During Arrests,” *Washington Post*, 28 July 2017, <https://www.washingtonpost.com/news/post-nation/wp/2017/07/28/trump-tells-police-not-to-worry-about-injuring-suspects-during-arrests/>.

<sup>36</sup> Dustin Gardiner, “Phoenix Demands Trump Campaign Pull Ad with City Police Officers,” *The Republic*, 19 September 2016, <http://www.azcentral.com/story/news/local/phoenix/2016/09/29/phoenix-demands-trump-campaign-pull-ad-over-depiction-officers/91300312>.

<sup>37</sup> Donald J. Trump, “Remarks at a ‘Make America Great Again’ Rally in Phoenix, Arizona, 22 August 2017,” <https://www.govinfo.gov/content/pkg/DCPD-201700581/html/DCPD-201700581.htm>.

<sup>38</sup> Michele McPhee, “The Hidden Trump Voter: The Police.” *Boston Globe*, 9 November 2016, <http://www.bostonglobe.com/opinion/2016/11/09/the-hidden-trump-voter-police/71MUxHoqBzNCKZZcpH42nO/story.html>.

<sup>39</sup> Martin Kaste, “What Trump’s Election Means to Police—and Police Reform,” *National Public Radio*, 10 November 2016, <http://www.npr.org/2016/11/10/501613514/many-police-across-the-country-feel-emboldened-by-trumps-victory>. Of course, not all police officers were receptive to these overtures. Organizations of Black officers, including Blacks in Law Enforcement of America and the Black Peace Officers Association, broke with the FOP and denounced Trump. See Corky Siemaszko, “Black Cops at Odds with Fraternal Order of Police over Trump Endorsement,” *NBC News*, 22 September 2016, <http://www.nbcnews.com/news/us-news/black-cops-odds-fraternal-order-police-over-trump-endorsement-n652071>.

percent of voting members.<sup>40</sup> After winning the general election, President Trump told FOP members visiting the White House, “I will always have your back—100 percent, like you’ve always had mine, and you showed that on November 8th.”<sup>41</sup>

### *Protest Policing under Trump*

President Trump’s efforts to cultivate support among local and federal law enforcement, and to foster public perceptions of police as his partisan allies, were reinforced by police responses to protest, particular during Trump’s last year in office. As Risa Brooks concludes in her review of Trump-era civil military relations, President Trump attempted “to use the country’s security forces’ coercive power as a political symbol and, in some instances, potentially as a means to coerce or harm social opponents.”<sup>42</sup>

This was illustrated in the response to the demonstrations that began in May 2020 in the wake of the killing of George Floyd. On conference call with governors, Trump told them to “dominate” protestors.<sup>43</sup> In Portland, federal police agents dressed in camouflage and equipped with tactical gear aggressively pursued protesters and flooded the streets with tear gas.<sup>44</sup> As one report described at the time, “federal agents dressed in fatigues have been patrolling the city in unmarked vans, grabbing and detaining protesters, often with no indication of whether they’ve been charged with any crime.”<sup>45</sup> In Washington, D.C., after three days of largely peaceful protest in Washington D.C., President Trump ordered National Guard troops and federal riot police to forcefully clear Lafayette Square; they did so using tear gas and rubber projectiles.<sup>46</sup> Federal troops from dozens of different agencies deployed in response to the protests.<sup>47</sup> Some were sent in without identifying information, raising fears that abuses would go unchecked.<sup>48</sup>

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<sup>40</sup> Franklin Foer, “How Trump Radicalized ICE,” *The Atlantic*, September 2018, <https://www.theatlantic.com/magazine/archive/2018/09/trump-ice/565772/>; “ICE Union Endorses Trump,” *Politico*, 26 September 2016, <https://www.politico.com/story/2016/09/immigration-customs-enforcement-union-endorses-trump-228664>.

<sup>41</sup> Quoted in Zoorob, “Blue Endorsements Matter,” 243.

<sup>42</sup> Brooks, “Through the Looking Glass,” 81.

<sup>43</sup> Ed O’Keefe, “Trump Tells ‘Weak’ Governors They ‘Have to Dominate’ as Civil Unrest Divides the Nation,” CBS News, 1 June 2020, <https://www.cbsnews.com/news/trump-united-states-governors-weak-dominate-protest-civil-unrest/>.

<sup>44</sup> Mike Baker, Thomas Fuller, and Sergio Olmos, “Federal Agents Push into Portland, Stretching the Limits of Their Authority,” *New York Times*, 25 July 2020, <https://www.nytimes.com/2020/07/25/us/portland-federal-legal-jurisdiction-courts.html>.

<sup>45</sup> Charlie Warzel, “50 Nights of Unrest in Portland,” *New York Times*, 17 July 2020, <https://www.nytimes.com/2020/07/17/opinion/portland-protests-federal-agents.html>; see also Stuart Schrader, “Trump Has Brought America’s Dirty Wars Home,” *The New Republic*, 21 July 2020, <https://newrepublic.com/article/158580/trump-portland-dirty-wars>.

<sup>46</sup> Dalton Bennett, Sarah Cahlan, Aaron C. Davis, and Joyce Sohyun Lee, “The Crackdown Before Trump’s Photo Op,” *Washington Post*, 8 June 2020, <https://www.washingtonpost.com/investigations/2020/06/08/timeline-trump-church-photo-op/>.

<sup>47</sup> GAO, “Federal Tactical Teams.” CBP also used drones and helicopters to surveil the protests. See Zollen Kanno-Youngs, “US Watched George Floyd Protests in 15 Cities Using Aerial Surveillance,” *New York Times*, 19 June 2020, <https://www.nytimes.com/2020/06/19/us/politics/george-floyd-protests-surveillance.html>.

<sup>48</sup> Philip Bump, “A Dangerous New Factor in an Uneasy Moment: Unidentified Law Enforcement Officers,” *Washington Post*, 4 June 2020, <https://www.washingtonpost.com/politics/2020/06/03/dangerous-new-factor-an-uneasy-moment-unidentified-law-enforcement-officers/>.

At one point, Trump also threatened to invoke the insurrection Act, which would have allowed him to deploy troops to states without the approval of their governors. He went so far as to bring 10,000 active-duty troops into the Washington, D.C., before backing down under pressure from military leaders.<sup>49</sup> As the summer wore on, Trump continued to threaten to send federal troops to Chicago and other cities, even those that were not experiencing protest, on the pretext of suppressing crime.<sup>50</sup>

At the time, many observers emphasized the contrast between the government's response to BLM protests and those that had been occurring against pandemic restrictions in a number of states. In April 2020, for instance, during a protest against Governor Gretchen Whitmer's coronavirus orders in Michigan, armed protestors in tactical gear occupied the state capitol. No federal forces were deployed. Democrats in Congress later criticized US Attorney General William Barr for ignoring or downplaying the threat.<sup>51</sup> As Danielle Lupton, David Burbach, and Lindsay Cohn put it, "the message is that, while 're-open America' protesters were simply exercising their rights, Black Lives Matter and related protesters are not part of the normal democratic political process—but outside of it—and therefore require forceful suppression."<sup>52</sup>

The contrast between the response to BLM protests and the "Stop the Steal" rally on 6 January 2021 was even more stark. In the *Washington Post*, Rachel Chason and Samantha Schmidt argued that "these two demonstrations, as the most prominent symbols of democracy in the nation's capital, will define Trump's legacy, highlighting the divisions he has stoked and the disparate treatment of Black and White people in America by law enforcement."<sup>53</sup> President-elect Biden drew the same comparison. "You can't tell me that if it had been a group of Black Lives Matter protesters yesterday they wouldn't have been treated very differently than the mob of thugs that stormed the Capitol," he said in a speech in Wilmington, Delaware, the day after the insurrection.<sup>54</sup>

Indeed, the explicit efforts President Trump made to cultivate police support, and the politicized nature of federal police deployments during his presidency, raised fears that police might deliberately be aiding the insurrection through inaction. In advance of the protest, D.C. Mayor Muriel Bowser had discouraged the deployment of federal law enforcement, requesting

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<sup>49</sup> David Martin, "Trump Demanded 10,000 Active-Duty Troops Deploy to Streets in Heated Oval Office Meeting," *CBS News*, 6 June 2020, <https://www.cbsnews.com/news/trump-demanded-10000-active-duty-troops-deploy-to-streets-in-heated-oval-office-meeting/>; Caitlin Oprysko, "Trump Threatens to End Protests with Military," *Politico*, 1 June 2020, <https://www.politico.com/news/2020/06/01/trump-slams-governors-as-weak-crackdown-on-protests-294023>.

<sup>50</sup> Peter Baker, Zolan Kanno-Youngs, and Monica Davey, "Trump Threatens to Send Federal Law Enforcement Forces to More Cities," *New York Times*, 20 July 2020, <https://www.nytimes.com/2020/07/20/us/politics/trump-chicago-portland-federal-agents.html>.

<sup>51</sup> Malachi Barrett, "House Dems Star with Barr Over Response to Michigan Stay-Home Protests, Police Brutality Demonstrations," *MichiganLive*, 30 July 2020, <https://www.mlive.com/public-interest/2020/07/house-dems-spar-with-barr-over-responses-to-michigan-stay-home-protests-police-brutality-demonstrations.html>.

<sup>52</sup> Danielle Lupton, David T. Burbach, and Lindsay P. Cohn, "Authoritarian Tactics on US Soil," *Political Violence at a Glance*, 5 August 2020, <https://politicalviolenceataglance.org/2020/08/05/authoritarian-tactics-on-us-soil/>.

<sup>53</sup> Rachel Chason and Samantha Schmidt, "The Freedom to Assemble, In Two Acts: Lafayette Square, Capitol rallies Meet Starkly Different Policing Responses," *Washington Post*, 21 January 2021, <https://www.washingtonpost.com/dc-md-va/interactive/2021/blm-protest-capitol-riot-police-comparison/>.

<sup>54</sup> Annie Linskey, Chelsea Janes, and Amy B. Wang, "Biden Denounces Racial Inequalities in Blasting Capitol Riot," *Washington Post*, 7 January 2021, [https://www.washingtonpost.com/politics/biden-racial-inequity-capitol-mob/2021/01/07/07d5961e-5112-11eb-b96e-0e54447b23a1\\_story.html](https://www.washingtonpost.com/politics/biden-racial-inequity-capitol-mob/2021/01/07/07d5961e-5112-11eb-b96e-0e54447b23a1_story.html).



only a small contingent of National Guard troops to help control traffic and protect public transit.<sup>55</sup> On 6 January, as protestors breached barricades around the Capitol and began attacking law enforcement personnel, Capitol Police, along with several other federal and DC government officials, began requesting support from National Guard forces and other federal police. However, it took about three hours for the National Guard to respond. D.C.'s federal status means that requests for National Guard troops have to go through the Army Secretary and Secretary of Defense.

While investigations into the events of January 6 are still underway, an independent review by the Defense Department's Office of Inspector General concluded that DOD officials did not delay or obstruct the federal response.<sup>56</sup> Congressional testimony by Christopher Miller, the acting Secretary of Defense on 6 January, also casts doubt on the idea that police or military officials engaged in deliberate inaction.

In explaining the decision not to have a militarized, federal presence at the Capitol during the protest, Miller emphasized concerns about the optics, particularly after the backlash it caused during the Black Lives Matter protests, as well as concerns that President Trump might be able to co-opt any forces that were deployed for his own ends.<sup>57</sup> "Fears promulgated by many about the prior use of the military in the June 2020 response to protests near the White House and the fears that the President would involve the Insurrection Act to politicize the military in an anti-democratic manner," he stated.<sup>58</sup> In his interview with the Defense Department Inspector General, Miller also emphasized his belief that putting US military personnel on the Capitol "would have created the greatest Constitutional crisis probably since the Civil War."<sup>59</sup>

### *Prospects for Police Reform*

The militarization of local and federal police forces will be difficult to walk back. The track record of prior efforts at police reform do not bode well. In 2015, partly in response to public pressure in the wake of the police shooting of Michael Brown in Ferguson, Missouri, the Obama Administration restricted some forms of military gear that law enforcement agencies were able to receive under the 1033 program, and established new oversight mechanisms. It also undertook efforts to improve police-community relations in nearly two dozen cities.

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<sup>55</sup> Mark Mazzetti, Helene Cooper, Jennifer Steinhauer, Zollen Kanno-Youngs, and Luke Broadwater, "Inside a Deadly Siege: How a String of Failures Led to a Dark Day at the Capitol," *New York Times*, 10 January 2021, <https://www.nytimes.com/2021/01/10/us/politics/capitol-siege-security.html>. On earlier clashes over federal police in DC, see Emily Badger and Katie Benner, "Why Washington's Streets Have Filled with Troops the Mayor Did Not Want," *New York Times*, 4 June 2020, <https://www.nytimes.com/2020/06/04/upshot/george-floyd-protests-dc-statehood.html>.

<sup>56</sup> US Department of Defense (DOD) Inspector General, "Review of the DOD's Role, Responsibilities, and Actions to Prepare for and Respond to the Protest and its Aftermath and the US Capitol Campus on January 6, 2021," Report No. DODIG-2-22-03, 16 November 2021, <https://media.defense.gov/2021/Nov/16/2002893918/-1/-1/1/DODIG-2022-039.PDF>.

<sup>57</sup> Ryan Goodman and Justin Hendrix, "Crisis of Command: The Pentagon, the President, and January 6," *Just Security*, 21 December 2021, <https://www.justsecurity.org/79623/crisis-of-command-the-pentagon-the-president-and-january-6/>.

<sup>58</sup> Christopher C. Miller, "Statement for Committee on Oversight and Reform, US House of Representatives, 117th Congress of the United States, 12 May 2021, <https://www.justsecurity.org/wp-content/uploads/2021/12/january-6-clearinghouse-house-oversight-hearing-chris-christopher-testimony-may-2021.pdf>.

<sup>59</sup> Quoted in US DOD, "Review of the DOD's Role, Responsibilities, and Actions," 30.

However, these reforms were quickly reversed by the Trump administration. In April 2017, the Justice Department, led by Attorney General Jeff Sessions, began a review of all police reform agreements.<sup>60</sup> In August, he announced that the Obama-era restrictions on military gear would be lifted. In speech to the FOP in Nashville, Tennessee, Sessions told officers that allowing them access to military equipment “will ensure that you can get the lifesaving gear that you need to do your job and send a strong message that we will not allow criminal activity, violence, and lawlessness to become the new normal.”<sup>61</sup>

In the wake of George Floyd’s killing, and the protests that followed, Trump issued an executive order that encouraged police to use the latest standards on the use of force and put some restrictions on the use of chokeholds, but ignored calls for more substantial reforms. In announcing the order, Trump also continued to defend the actions of police, hailing their efforts during the protests. “Without police, there is chaos,” he said.<sup>62</sup> The order was followed, ten days later, with another that insisted monuments, memorials, and statues were at risk from “rioters, arsonists, and left-wing extremists.”<sup>63</sup>

In the meantime, American lawmakers began to draft legislation that would restrict police access to military-style gear.<sup>64</sup> The George Floyd Justice in Policing Act, which would have restricted the transfer of military equipment to police, better regulated police use of force, and established several mechanisms for increased accountability and oversight of police, passed the House in June 2020. However, it failed in the Senate a little over a year later, in September 2021, after bipartisan negotiations collapsed. That same month, four separate amendments to the National Defense Authorization Act, which would have put restrictions on the 1033 program or ended it entirely, all failed, in part due to lobbying by police organizations.<sup>65</sup> Some reforms have been more successful at the sub-national level. At least 30 states and Washington, D.C., enacted some reforms that addressed police use of force or the reporting of police misconduct.<sup>66</sup>

Even so, broader reform efforts faltered. In Los Angeles, Oakland, and San Francisco, proposals to cut police department budgets faced staunch resistance. In Minneapolis, where the city council voted to disband its police force, the decision was overruled by a charter commission.<sup>67</sup> And none of the state and local efforts that have passed focuses directly on police

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<sup>60</sup> Sherly Gay Stolberg and Eric Lichtblau, “Sweeping Federal Review Could Affect Consent Decrees Nationwide,” *New York Times*, 3 April 2017, <https://www.nytimes.com/2017/04/03/us/justice-department-jeff-sessions-baltimore-police.html>.

<sup>61</sup> “Sessions Announces Lifted Restrictions on Military Gear for Police,” NBC News, 28 August 2017, <https://www.nbcnews.com/video/sessions-announces-lifted-restrictions-on-military-gear-for-police-1034224195905>.

<sup>62</sup> Kevin Liptak, “Trump Offers Full-Throated Defense of Police in Executive Action Signing,” CNN Politics, 16 June 2020, <https://www.cnn.com/2020/06/16/politics/police-reform-order-donald-trump/index.html>.

<sup>63</sup> Executive Order 13933, “Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence,” 26 June 2020, <https://www.federalregister.gov/documents/2020/07/02/2020-14509/protecting-american-monuments-memorials-and-statues-and-combating-recent-criminal-violence>.

<sup>64</sup> Catie Edmondson, “Lawmakers Begin Bipartisan Push to Cut Off Police Access to Military-Style Gear,” *New York Times*, 1 June 2020, <https://www.nytimes.com/2020/06/01/us/politics/police-military-gear.html>.

<sup>65</sup> Alice Speri, “Lawmakers Take on Militarization of Police in Defense Budget Talks,” *The Intercept*, 20 September 2021, <https://theintercept.com/2021/09/20/ndaa-military-equipment-police-1033/>.

<sup>66</sup> Ram Subramanian and Leily Arzy, “State Policing Reforms Since George Floyd’s Murder,” Brennan Center for Justice, 21 May 2021, <https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder>.

<sup>67</sup> Steve Eder, Michael H. Keller, and Blacki Migliozi, “As New Police Reform Laws Sweep Across the US, Some Ask: Are They Enough?” *New York Times*, 18 April 2021, <https://www.nytimes.com/2021/04/18/us/police-reform-bills.html>.

militarization. Despite indicating that it would be a priority,<sup>68</sup> President Biden has also thus far refrained from issuing an executive order that would reinstate Obama-era restrictions on the 1033 program.<sup>69</sup> Nor have any efforts been made to attempt to streamline or demilitarize the now-sprawling web of militarized police forces under federal control.

As proponents of police reform have found, once established, police forces are remarkably adept at resisting reform. Electoral incentives often make police reform a political liability. In her study of the police reform efforts in Latin America, Yanilda María González demonstrates that “policing in democracies can create electoral incentives and generate patterns of demand-making that reproduce authoritarian coercion.”<sup>70</sup> In particular, where political preferences are fragmented, police reform comes with too many risks for politicians. This is the case in the United States today. While stopping further transfers of military weapons to police departments is broadly popular among voters, support is much higher among Democrats than Republicans.<sup>71</sup> Perceptions about whether police are already too militarized are also divided along partisan lines.<sup>72</sup> Trump’s efforts to cultivate police as political allies have only exacerbated the problem.

More broadly, because of their key role as instruments of state power, police are almost uniquely well-positioned to protect their own institutional autonomy.<sup>73</sup> This is particularly true of more militarized police forces. Militarization provides police forces with additional resources that can be leveraged to effectively water down reform efforts and avoid accountability. It also involves changes in the organizational structures and cultural changes that facilitate collective action.<sup>74</sup> As a result, the longer lawmakers wait, the more difficult reform will be.

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<sup>68</sup> Sarah N. Lynch and Trevor Hunnicutt, “Biden Plans to Limit Private Prisons and Transfer of Military Equipment to Police,” *Reuters*, 26 January 2021, <https://www.reuters.com/world/us/biden-plans-limit-private-prisons-transfer-military-equipment-police-2021-01-26/>.

<sup>69</sup> Speri, “Lawmakers Take on Militarization of Police in Defense Budget Talks;” “Biden Delays Issuing Executive Orders Impacting Law Enforcement,” *The Washington Report: The Newsletter of the National Police Organizations*, 5 February 2021, [http://www.napo.org/files/5916/1254/0462/Washington\\_Report\\_-\\_February\\_5\\_2021.pdf](http://www.napo.org/files/5916/1254/0462/Washington_Report_-_February_5_2021.pdf).

<sup>70</sup> Yanilda María González, *Authoritarian Police in Democracy: Contested Security in Latin America* (Cambridge: Cambridge University Press, 2021), 4.

<sup>71</sup> Kelsey Wright, “Voters Don’t Want Police Departments to Have Military Equipment,” Data for Progress, 1 July 2020, <https://www.dataforprogress.org/blog/2020/7/1/voters-dont-want-police-departments-to-have-military-equipment>.

<sup>72</sup> González, *Authoritarian Police in Democracies*; Richard K. Moule, Jr., Bryanna Hahn Fox, and Megan M. Parry, “The Long Shadow of Ferguson: Legitimacy, Legal Cynicism, and Public Perceptions of Police Militarization,” *Crime & Delinquency* 65:2 (2019): 151-182, DOI: <https://doi.org/10.1177/0011128718770689>.

<sup>73</sup> Mercedes Hinton, *The State on the Streets: Police and Politics in Argentina and Brazil* (Boulder, CO: Lynne Rienner Publishers, 2006); González, *Authoritarian Police in Democracy*.

<sup>74</sup> Erica De Bruin, “Police Militarization and its Political Consequences,” *CP: Newsletter of the Comparative Politics Organized Section of the American Political Science Association* XXXI:1 (Spring 2021): 103-111.