

From “Protect and Serve” to “Comply or Die?”

The Militarization of U.S. Police

Abigail R. Hall

JIN Fellow in Economics, Mercatus Center

George Mason University

ahall15@gmu.edu

Introduction



Other Examples

- ◆ Paragould, Arkansas: Police chief sends SWAT teams to ask every person in public to show ID (town population: 27,000).
- ◆ “They may not be doing anything but walking their dog, but they’re going to have to prove it.” –Paragould Mayor



WHEN DID
THESE GUYS.. BECOME
THESE GUYS?

Where to Go From Here?

- ◆ The puzzle of government power
- ◆ A look at militarization trends and the types of militarization
- ◆ The role of crisis and the structure of government
- ◆ Some history
- ◆ The War on Drugs, War on Terror and the rise of militarized police
- ◆ Conclusion

The Puzzle of Government Power

The Paradox of Government

- ◆ Who will guard the guardians?
- ◆ Government monopoly on force
 - ◆ Can be used to protect citizenry (protective)
 - ◆ Can undermine citizens' rights (predatory)
- ◆ How do we empower AND constrain?
- ◆ How does a state go from “protective” to “predatory?”

Historical Distinction Between Police vs. Military Functions

- ◆ Police:

- ◆ Peacekeepers

- ◆ Uphold domestic laws and protect rights of guilty and innocent alike

- ◆ Military:

- ◆ Combat *external* enemies

Cont.

- ◆ LAPD Motto:

- ◆ “To Protect and Serve”

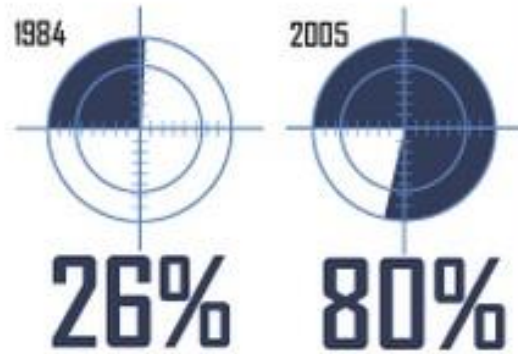
- ◆ U.S. Soldier’s Creed

- ◆ “I stand ready to deploy, engage, and destroy the enemies of the United States of America in close combat.”

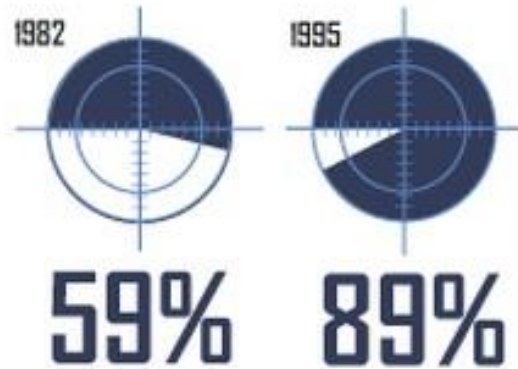
Militarization Trends

The Rise of Militarized Police

Estimated percentage of towns with a population between 25,000 & 50,000 that have SWAT teams:¹



Estimated percentage of towns with a population over 50,000 that have SWAT teams:²



Approximate number of SWAT raids in the United States¹



Cont.

◆ Federal Agencies with SWAT Teams:

◆ US Fish and Wildlife Service

◆ N.A.S.A

◆ Department of Education

◆ US National Park Service

◆ US FDA

The Political Economy of Militarization

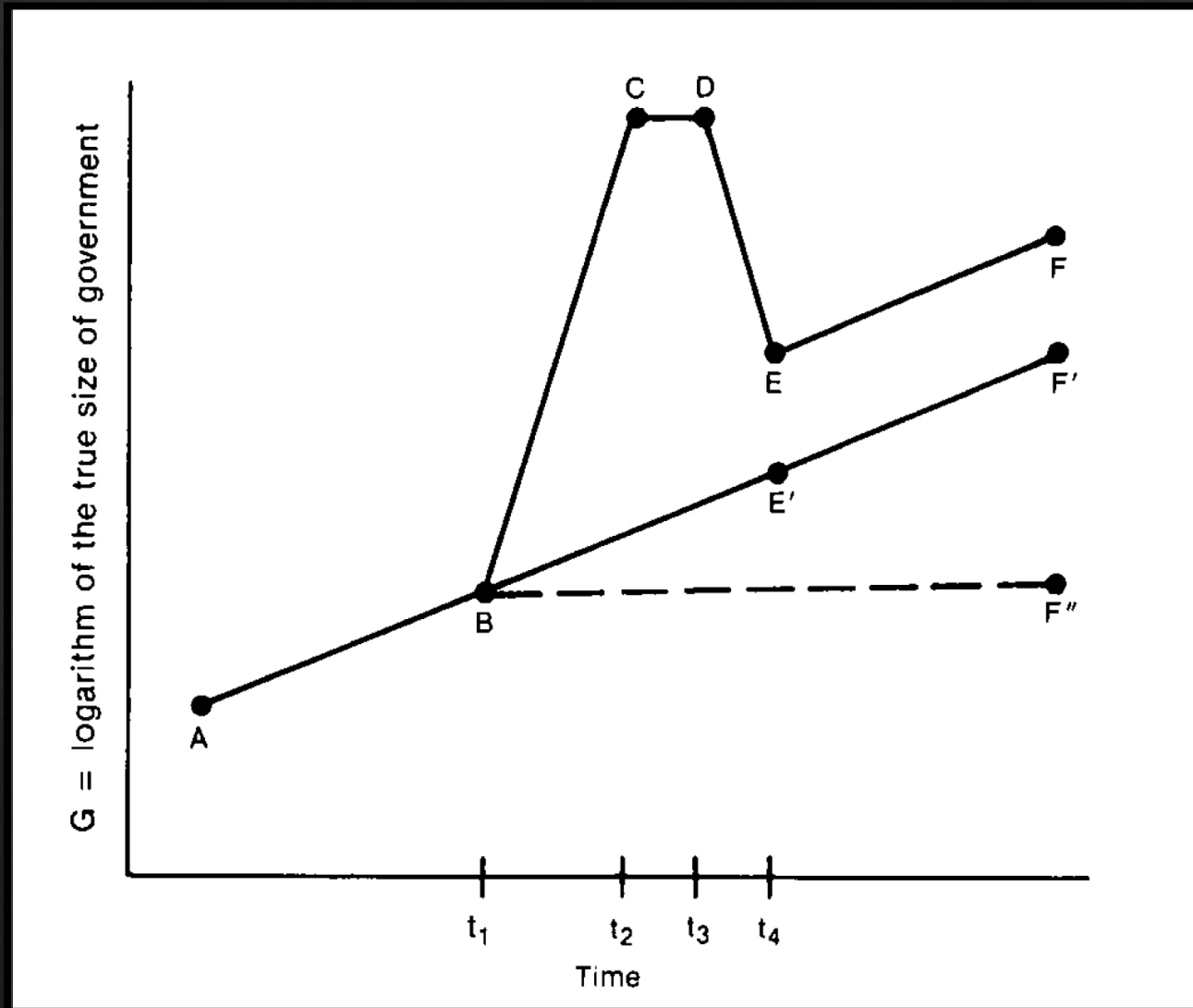
- ◆ Two types of militarization:
- ◆ Direct—deploy military to control citizens
- ◆ Indirect—police forces acquire military characteristics over time
- ◆ Ideally, effective constraints prevent both of these from occurring

The Importance of Crises and the Structure of Government

The Role of Crisis



The Ratchet Effect



Higgs 1987

The Economics of Bureaucracy

- ◇ Bureaus don't compete for "profit" as we typically think.
- ◇ Expand discretionary budget
- ◇ Increase number of subordinates
- ◇ "Mission Creep"

Explaining Militarization: The War on Drugs and War on Terror

Early Attempts to Constrain Militarization: 1787-1860

- ◇ US Constitution confers some powers to states and some to federal government
 - ◇ 1788—Must obtain Congressional permission to use military to enforce civil laws
 - ◇ Strict limits on use and length of time federal forces may be deployed

1876—Posse Comitatus Act (PCA)

- ◇ Under Civil War Reconstruction, military was used as civil force.
- ◇ Prohibits use of military as a “force of the people”
 - ◇ Allowed governors to request some federal assistance
- ◇ Later extended to include the Air Force, Navy, and Marine Corps.
 - ◇ National/Coast Guard exempted as long as under state command

The Erosion of the Act

- ◇ 1878—troops deployed to western territories
- ◇ WWI—PCA suspended so military could act domestically
- ◇ 1970s—PCA invoked in legal cases
 - ◇ Redefined scope and application of law
 - ◇ Act only applies when military forces play an “active role.”
 - ◇ Military forces may act as long as activities are not “pervasive.”
 - ◇ Military can act as long as not acting in a “regulatory, proscriptive, or compulsory manner.”

The Acceleration of Militarization

- ◆ Difference between these “wars” and conflicts like Vietnam, Korea, etc.
 - ◆ Domestic component
 - ◆ Perpetual crises
- ◆ Emphasis on “homegrown terrorists” and domestic drug manufacturers/users.

“[Homegrown terrorists are what] keeps me up at night. . . . You didn’t worry about this even two years ago—about individuals, about Americans, to the extent that we now do . . . and that of great concern. . . . The threat has changed from simply worrying about foreigners coming here, to worrying about people in the United States, American citizens”

–US Atty. Gen. Eric Holder (2009)

War on Drugs and War on Terror

- ◆ The crises of the War on Drug and War on Terror provided an opportunity for both domestic forces and the military to expand
- ◆ 1960s—few Americans thought drug use was an issue in their community
- ◆ 1989—40% thought of drugs as the “primary problem” of the US
- ◆ 1990s—71% of adults think the government is spending “too little” to counteract drugs.
 - ◆ Drugs are seen as primary driver of crime and school violence
 - ◆ Plurality of Americans support use of military engage in drug interdiction policies

Military Cooperation with Law Enforcement Act (1981)

- ◇ Created several additional exemptions to Posse Comitatus Act
- ◇ Would “enhance” the ability of federal and domestic law enforcement to enact drug policies
 - ◇ Information sharing
 - ◇ DOD could transfer and maintain equipment for domestic agencies

The Result

- ◆ The DOD granted some 10,000 requests from state and local law enforcement to assist in civil rights activities.
- ◆ 1983—Fewer than 1,000 military aircraft provided local agencies with 3,000 hours of aerial surveillance
- ◆ 1984—3,000 military aircraft provided local forces with nearly 10,000 hours of aerial surveillance

Program 1033

- ◆ 1997, Congress allows the DOD to transfer military equipment to state and local law enforcement.
- ◆ Items include:
 - ◆ Aircraft
 - ◆ Armored vehicles
 - ◆ Weapons
 - ◆ Riot gear
 - ◆ Watercraft
 - ◆ Surveillance equipment



Perpetuation of Militarization

- ◆ Return to economics of bureaucracy
- ◆ Role of special interest groups
- ◆ 1033 Program—“use it or lose it”

Use it or Lose It

- ◆ Keene, New Hampshire: \$285,000 grant from DOD (Program 1033) to buy an armored vehicle. Been used 21 times as of 2013.
 - ◆ 19 training exercises, 1 barricaded person, 1 person threatening suicide
- ◆ Columbia, South Carolina: acquired a variety of vehicles—including one with can be armed with a 50 caliber machine gun.

Recap and Conclusion

Can Police Be Demilitarized?

- ◇ No obvious permanent solution
 - ◇ Structure of government
- ◇ Convergence will likely continue
 - ◇ Perpetual crises with no clear endpoints
- ◇ Unclear how to reestablish demarcation between police and military
 - ◇ Requires massive shift in public opinion
 - ◇ Confront massive drug-terror complex

Questions