

THE TOWN WATCH

A Solution to the Problems of Local Police and the State

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Abstract

For all individuals in the United States, municipal police are the most proximate apparatus of the state. Unsurprisingly, municipal police forces are a local and prolific perpetrator of rights violations against individuals. They are ubiquitous and taken for granted by most citizens. In order to restore the rule of law, policing duties should be decentralized and turned over to individuals and their communities to regulate, enforce, and organize. This democratization of security forms the basis of the proposal laid out below. This paper aims to study the problems of local police and their dangerous, encroaching power throughout the United States. It aims as well to provide a broad solution to those issues. The following solution, the so-called "town watch," intends to promote and protect liberty, improve communities socially, and constrain the expanding power of the state.

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Introduction

Frédéric Bastiat wrote in his seminal tract, *The Law*, that “law is common force organized to prevent injustice” (Bastiat 1850). The rule of law is essential to a free society, in which justice and liberty are definitionally upheld. Unfortunately, the means of enforcing the rule of law have often furthered injustice and the authority of the state.

With the increasing visibility of police abuses and mounting societal tensions, law enforcement has become a highly divisive issue in our time. While this debate rages on, rights violations by violent crime are on the rise. Many state-sponsored solutions to address these social problems have failed, by treating symptoms instead of the underlying issue. Issues of governmental encroachment, societal violence, and a general reduction of freedom—the symptoms of state power—are inextricably linked to the presence of detached and militarized local police forces.

This proposal advances a paradigm shift about the relationship between local law enforcement and personal freedom. By analyzing the problems of local police concerning liberty and examining alternatives, the paper argues a novel framework for the complete abolition of the monopoly of force of local police departments within a community. This system, called the “town watch,” replaces municipal police forces completely with civilian self-policing. The town watch is a policy solution to state power, underpinned by the broad notion that those most responsible for a locality’s safety and security are its residents.

Conceived in Dr. Murray N. Rothbard’s tradition of new forms of inquiry, this investigative paper aims to present a new approach to the problems of the state at its most geographically-limited levels. This paper is not a rigorous economic analysis of municipal police, and should not be taken as such; however, it is a multifaceted critique of the fundamental nature of local police with respect to coercion and the political means to wealth. The solution it proposes is characterized by methodological individualism and a theoretical reliance on Austrian economic precepts.

The Problem of Local Police

The need to delegate policing duties to civilians stems from the failures of local police departments to fight crime while they increasingly encroach on civil liberties. The

operations of the police have expanded far beyond the boundaries of a just and equitable law enforcement capacity.

As Bastiat outlines in *The Law*, organized, just law enforcement is not fundamentally insidious, and is indeed desirable, even within a free society. He writes, “The law is the organization of the natural right of lawful defense; it is the substitution of collective for individual forces” (Bastiat 1850). It is apparent that not all law enforcement is bad, but at the present moment, organized law enforcement, especially at local levels, does not reserve itself to the protection of rights. Individuals in the United States face now an unjust and expansive law enforcement apparatus.

Local police departments seem unable to address the law enforcement demands of their communities. A recent study of police street deployment showed that increased patrolling and enhanced planning of patrols did not reduce levels of crime (Blanes i Vidal and Mastrobuoni 2018). While this is hardly conclusive evidence of the ineffectiveness of local police departments, it does show that increasing academic efforts are questioning the municipal law enforcement quality provided by these forces.

In the United States, the increasing militarization of local police poses a serious threat to not only the social integrity of communities but also their freedom and civil liberties. Local police forces are becoming state-sanctioned paramilitaries, armed with military-grade hardware and without adequate oversight or training, as expressed in a Cato Institute white paper (Balko 2006). The “heavy-handed police tactics” are often claimed to advance public safety at a reasonable cost to personal freedom, but do not even achieve that objective (Mummolo 2018). Local police militarization does not advance public safety and comes at an exorbitant cost to personal freedom as well as the trust and integrity of communities.

New technologies entering the hands of local police departments are expanding their risk to freedom in the nation’s municipalities. One technology employed by local police agencies is the “stingray,” an electronic tool which can mimic cell phone signals and intercept communications, in clear violation of privacy (Bates 2017). Recent legal disputes have shown the emergence of drone surveillance, not unlike that used to surveil suspected terrorists overseas, on the frontlines of municipal law enforcement (Feeney

2016). State legislators are already taking action to outlaw this technology, showing that it has become a recognized threat to civil liberties at a local level.

Beyond infringements upon information and privacy, municipal police damage private property and end lives, often accidentally or unjustly. They do not advance liberty, as supporters would claim; they are opponents of liberty, a bureaucratic state's most visible agents. Incidents of mistaken police killings of innocents are so ubiquitous that they need not be cited—many should come to the mind of an American reader. Security guards have been shot by police, simply for discharging their duties. Citizens are killed for privately exercising their right to bear arms. Recall recently, an infant was horribly maimed in a SWAT raid in 2014 that was acting on false information (Stevens 2014).

Police forces have obviously become offensive when they must be, as Bastiat describes, defensive in a free society. Law and force “hold themselves on the defensive; they defend the equal right of all” (Bastiat 1850). Unfortunately, this is not the reality of law enforcement in the United States. After the shooting at Marjorie Stoneman Douglas High School in 2018, a federal district court judge ruled that police present during the rampage, “had no constitutional duty to protect students who were not in custody” (McMaken 2018). This statement effectively sums up the ethical bankruptcy and coercive nature of local police.

In their militarization, local police forces have become miniaturized versions of the armed forces, the state's most threatening coercive element. Society, at its lowest levels of organization, now exists in a perpetual state of war. As Dr. Rothbard writes, “In war, State power is pushed to its ultimate...it can impose a tyranny upon the public such as might be openly resisted in time of peace” (Rothbard 1974). The present militarization of police stems from the will of the state to wield power in an absolute way at every level of society.

When well-planned and supported by pragmatic public policy, local police departments remain inefficient at addressing and reducing crime. When militarized and equipped with advanced surveillance capabilities, local police departments can be the most proximate threat to the freedom and stability of American communities. These systemic failures suggest that local police forces, the most numerous of any kind in this

country, are morally and economically unviable. Yet, local police, like state authority in general, are accepted as a fact of life across the country. Their presence is doubtlessly familiar to any American reader.

Dr. Ludwig von Mises detailed the problem of police perfectly. He wrote in *Planned Chaos*, “It is the social function of the laws to curb the arbitrariness of the police. The rule of law restricts the arbitrariness of the officers as much as possible” (Mises 1951). Indeed, the arbitrariness of police is a leading source of rights violations. Due to their privileged status as agents of the state, professional police officers are chillingly arbitrary when it comes to life, liberty, and property.

A new model prioritizing the rights and freedom of individuals and their communities must be the future of policing at the local level. Recalling Bastiat’s description of the law as “the substitution of collective for individual forces,” we realize that the law, if properly constrained, serves a just and noble purpose (Bastiat 1850). By taking the guidance and responsibility of the collective force from the state and giving it back to the individual forces, the town watch model demonstrates a just method of policing and law enforcement.

The Case for Self-Policing

Those most familiar with the needs and challenges of a particular community are that community’s own members. Community-based enforcement of the law is the path forward from our current police apparatus.

These decentralized, independent forces were once ubiquitous, especially on the American frontier but since the 19th-century, state power has assimilated local police departments. In 1844, the New York state government passed the Municipal Police Act, which abolished New York City’s private police forces and centralized authority in a state-run police force. After that statute, the monopolization of force by local police units has spread down to even the nation’s smallest municipalities.

This creeping process by which citizens have been robbed of their legal rights and autonomy does not have to remain the case. Examples show that contrary models function quite well.

In successfully combatting drug use, Iceland has established curfew laws, yet relied on citizens, instead of its scant police forces, to enforce them. These community-backed and enforced curfew systems have proven successful, along with other cooperative programs, in limiting drug crimes and abuse by the youth population (Sigfúsdóttir, et al. 2008). The evidence shows that state-enforced curfews, patrolled by police, do not work in American municipalities, suggesting that they might actually worsen crime conditions (Carr and Doleac 2016). This information can suggest that private individuals are better at effecting social change in their respective communities than law enforcement agencies—no matter how well police forces are miniaturized or regulated.

Thusly, these examples demonstrate one of the most fundamental contentions of libertarianism and classical conservatism: civil society, not state coercion, solves social problems.

Self-policing increases individual investment in communities and promotes safety by reframing the nature of domestic security for individuals. As citizens become responsible for their own safety and the safety of their neighbors, self-policing constitutes a fundamental shift for the community. At a basic level, self-policing serves to increase motivation through the instinctual drive for self-preservation. From this instinct, economists can derive some of the most basic, most moral actions of individuals: self-defense, the protection of property, and the creation of community. Through the lens of methodological individualism, we can realize self-policing could help to build trust—in a society where trust seems ever diminishing—as it hinges on fair dealing and reciprocity.

Economic freedom is restricted by the considerable taxation required by local police forces. Of course, this revenue is solely derived from the political means to wealth, and not from any “economic means,” namely labor and production (Rothbard 1974). Bastiat described this phenomenon succinctly: “If the law performs that action it ought to repress...that plunder is still perpetrated” (Bastiat 1850). The local police and the expenditure thereupon are essentially legal plunder.

The evidence bears that assertion out in real monetary terms. Recently, a report on municipal police in Pennsylvania showed that municipalities that eschewed free state police coverage for local police departments spent a cumulative sum of over \$2 billion

per year (Pennsylvania Economy League 2017). By eliminating most local police departments, state and local governments could pass the savings, in the order of hundreds of dollars per person, onto citizens. Local taxes could certainly be reduced, and economic freedom expanded by removing costly local police departments.

Further to this point, the costs of local policing result from the underlying inefficiencies and problems of government economic intervention. As Mises writes, “Government spending cannot create additional jobs. If the government provides the funds required by taxing the citizen or by borrowing from the public, it abolishes on the one hand as many jobs as it creates on the other” (Mises 1951). As it is funded by the state, local police forces have a definite economic impact and constitute economic interventionism. Police organizations are bloated with nothing less of state-funded “make-work” jobs.

The structural, administrative, and budgetary aspects of the town watch would be the responsibilities of the municipality, as an assembled group of individuals, to be agreed on by popular consensus. Any negligent or criminal wrongdoing or unfair practices could be settled in court. The town watch could better assign duties (i.e. patrols) based on the needs of the community. That flexible, localized nature of self-policing allows for the proper allocation of crime prevention services based on experienced demand, with no room for waste. The participation of local residents in crime control and prevention makes them even more accountable to the demands of the community since their own safety is on the line while patrolling.

The town watch could be armed legally. State laws for bearing firearms would necessarily apply. (The necessity of robust gun rights for self-policing would likely create additional, positive political pressure against gun controls.)

There is no evidence to suggest that firearm-carrying watchmen would be unethical or incompetent, or another source of rights violations like local police. An extensive Cato Institute study on defensive uses of firearms strongly supports the premise that the overwhelming majority of gun owners are ethical and competent (Cramer and Burnett 2012). The use of standard civilian firearms, ranging from Glock handguns to AR-15s, reduces the flow of more sophisticated, military-grade hardware into civilian hands. It is not conceivable that ordinary civilians would have economic

access to the SWAT-tier hardware, such as automatic weapons, provided to local police departments.

In practice, self-policing would be democratic and flexible, because it follows the direction of its corporate community, instead of that of politically-motivated state attorneys, union bosses, and bureaucrats.

It is important to remember that police officers, while perceived by many and often themselves to be above the law, are indeed civil authorities, and so only civilians, like their supposed wards. Just as one would not expect a firefighter to set fires, one should not expect a police officer to act unjustly. Unfortunately, such abuses by the police have become so commonplace that they are often expected and accepted. Consider the paranoia incurred, on any free citizen, by the constant presence or simply the lurking threat of militarized police in their own communities.

In a free society, militarized police must not exist, and individuals must be responsible for their own security.

Self-Policing in Practice

The difference between the town watch and neighborhood watch programs is that unlike a neighborhood watch, the town watch does not supplement local police departments, it replaces them entirely. The town watch has much greater responsibilities in terms of enforcement, presence, and necessity.

The underlying liberty of the self-policing model flows from the freedom of individuals and communities to organize and regulate their local safety and security. The self-policing model can be structured by each community to their requirements, demands, and specifications. Moreover, this system gives citizens the ability to withdraw consent from coercive local state security apparatuses. Citizens are not coerced into joining the town watch, and so may simply choose not to participate, or only to look after their own property. Individual citizens are free to behave rationally and deliberately to guard their personal interests.

The town watch can be implemented under the Constitution (as similar structures were many years ago), though some American states have restricted the ability of citizens to organize freely for their own defense, terming such groups vigilantes or paramilitaries.

The town watch is not intended to provide investigative law enforcement, legal proceedings, and incarcerations are handled by the courts and state police. The town watch would be able to apprehend suspected criminals only by means of the common law citizen's arrest and would need to wait for state police to come and address the situation.

To illustrate the range of flexibility of the town watch system, I will explore two extremely disparate implementations of self-policing, the so-called *centralized* and *decentralized* models:

The centralized model sees the citizens of a small municipality convene to elect a constable from a pool of volunteering candidates. The constable once elected occupies an informal leadership role in the town watch and takes the responsibility of managing the town watch. He directs patrols and acts a clearinghouse for calls for help. He plans regular training and acts as a liaison to state police. This role might be *pro bono*, but the constable may accept a contribution from the citizens. Ideally, the constable is not a full-time position, but of course, the municipality's citizens have the choice to pay him a livable wage.

The decentralized model is formless and unregulated. Citizens patrol the streets at their own discretion and leisure and on their own time. They patrol in informal, ad hoc groups or by themselves. There are no leadership roles, no citizens in charge of planning, training, and procurement. Citizens can be legally armed with firearms, or just a watchful eye and a cell phone to call the state police.

These dissimilar models share one key attribute: they involve the active participation—the investment of time and energy—of citizens into the security of their communities. In this way, common security becomes voluntary and shaped by respect and mutual understanding. Once the community relies on itself for its security, the bonds within the community will certainly improve.

The general flexibility of this participatory system is crucial across models. In this system, the flow of information regarding best practices would travel quickly through economic and social impacts, based on the interconnectedness of municipalities at a local level. Modern consumer technologies, like social media, and the related decentralization of news media would be critical in facilitating this communication. By completely de-

regulating police functions, crime prevention can function like the market's price system, the fastest way of accurately gauging demand, supply, and best practices.

Addendum: There is also the potential for private sector security services to supplant the system at the expense of individuals or the municipality. These services, while ostensibly resembling police, would be funded privately and thus would be beholden to providing a high degree of quality to maintain the loyalty of their customers.

Discussion

At an economic level, critics are likely to confront the town watch solution with contentions concerning specialization and comparative advantage. It may be true that the responsibilities of self-policing may take time away from those whose hours would be potentially better spent on other, productive pursuits. By consuming the time and energy of those individuals who are better at anything other than policework, self-policing would seem to diminish the efficiency and total output of the community. However, this view is short-sighted, underestimating the economic value gained from self-policing. The societal benefits of the town watch, resulting from the labor of individuals invested freely in their communities, are manifold.

Individual efficiency gains must result from community-members formerly employed in local law enforcement now able to use their labor for other tasks. Local police necessarily operate at a net cost to society, as they only function by the political means to extract wealth by force and do not create any wealth at all (Rothbard 1974). Thusly, nearly any other economic use of an ex-cop's labor would be more beneficial to society. In the event that a rare person specifically and extraordinarily skilled in law enforcement exists within a community, he should likely seek employment with the state police or as a private security contractor, for his monetary gain, within the community.

The town watch model faces some practical difficulties, depending on the community. It is realistically impossible for even a small city to be governed entirely by a single town watch organization, so the self-policing responsibilities would have to be divided and delegated along lines of neighborhoods or specific communities. These decisions are, of course, up to the communities.

The abolition of local police departments might create a municipal power vacuum, only to be filled by only a more centralized state-level police force. The measure to

counter that possibility would be a state statute accompanying the town watch legislation that limits state police to a constant level of funding. Those citizens in the town watch need also be vigilant of abuse by the state police. If any given town watch functions properly—in undirected, decentralized, and deliberate coordination with other town watches—the state police will need to do nothing but patrol public highways.

The town watch would be extremely difficult to implement in urban communities, especially those with high levels of organized crime or gang violence, without effectively creating a rival, state-sanctioned gang. In places with entrenched criminal syndicates, it is likely that criminals would assume the duties of law enforcement, accompanied by rampant corruption and abuses. The mafia in southern Italy and the territorial cartels in Mexico are examples of what happens when criminals replace the police. Such cases are unlikely in the U.S., which has a long tradition of liberty, economic prosperity, and stability not shared with either of those beleaguered states.

Corruption in the U.S. necessitates the complicity of many bureaucrats and public officials, those who would be replaced by the town watch. According to the FBI, public corruption is its “top criminal investigative priority” and “poses a fundamental threat to our national security and way of life.” The FBI’s recognition of the dangers of public corruption is (surprisingly) agreeable.

Any critic of the town watch model would question it on the potential for abuse. If we operate under the assumption of inherent human morality, town watchmen are as accountable and ethical as anyone holding a police position. In fact, town watchmen would probably be more ethical than police officers. Town watchmen are more involved with their communities and invested in them. They would experience firsthand the social and economic impacts of insufficient crime prevention. Just as there is no evidence to suggest that gun owners are by nature violent or irresponsible, there is no prior evidence to suggest the supposed authority of their roles would necessarily corrupt civilians in charge of policing. In actuality, there would be no monopoly of force wielded by the town watch, which leaves the execution of criminal justice to the state-level police and the courts. On the contrary, the town watch system allows the near-complete democratization of self-defense of life and property.

Previous libertarian scholarship has attempted to solve the problems of the police state but fails to address the fundamental issue of individual liberty. One such proposal reads, "In a free society, police protection, like every other service, would be available on a contractual basis, only to those who were willing and able to pay for it" (Wollstein 2010). This statement is fallacious because it suggests that "in a free society" there is still a dependence on any distinct, corporate body for police protection. Individuals are capable of regulating and providing their own police protection and do not need security companies to establish order in their communities and uphold the rule of law. The option to pay for security can and should be available, but by no means is it the *only* way individuals can avail themselves of protective services. To suggest as much would be to support coercion, private coercion, yes, but still coercion. Moreover, decisions pertaining to security and the rule of law in a free society must fall to the individuals themselves, not any other unitary entity.

Conclusion

As a policy solution, the town watch is radical, but further development of the concept could benefit our understanding of local police. This expansion could be accomplished further statistical, economic, and sociological research, and eventually through practical examination in the form of an experimental case study. A case study is implementable with very little commitment of resources and only requires good faith, trust, and responsibility on the part of the participating community. An experimental case study could be feasibly introduced for a specific period in nearly any small town in the nation, without serious sociological defects.

Most directly, the town watch model would mitigate the encroachment of law enforcement on freedom and civil liberties at a local level. Individual citizens would have the freedom to regulate and guarantee their own safety, without reliance on large, dangerous government apparatuses. Economic freedom would expand as well without the costs of local police in taxation and rights violations. Mises highlights the economic role of the police's coercive force, writing, "What the interventionist aims at is the substitution of police pressure for the choice of consumers" (Mises 1951). By eliminating the most proximate source of police pressure, the town watch system would empower the choice of consumers in matters of personal and public economy.

As the saying goes, “all politics is local,” and that principle certainly applies to civil society as well. The restructuring and reinvention of municipal law enforcement would almost certainly have a diffuse impact on the integrity of communities and the related attitudes of individuals. These limits on law enforcement at home would promote a wider embrace of values of individualism, self-determination, and responsibility. The potential ubiquity of firearms in the town watch system might have a positive effect on their perception in American public life. The prevalence of firearms could disseminate information, like the Centers for Disease Control’s finding that, “Self-defense can be an important crime deterrent” (Tabirian 2013). Of course, the enumerated indirect, social outcomes are all speculative, but they allude to the transformative potential of the self-policing.

The advent of the town watch requires concerted individual action to promote and institute security autonomy. The legislative way to bring about the town watch would be to defund municipal police departments at a local, state, and federal level, and then to remove (likely unconstitutional) restrictions on citizens exercising their right to assembly for the purpose of their own defense. Ultimately, the most effective pathway to self-policing, considering how the state will seek to retain the power and economic interests vested in municipal police departments, is individual and community-based nullification of local police’s exogenous, bureaucratic authority. Of course, such nullification would be met with government reprisals against individuals and their liberty that might inflict further rights violation than it would prevent; so, nullification as a pathway to self-policing is expressly discouraged.

Once citizens are left to their own devices, the town watch model, detailed in this paper, would characterize the systems of self-policing that evolve naturally from methodological action by individuals within their communities. This system of participatory self-policing encourages individuals to invest more of their time, resources, and faith in their communities. The town watch model proposes a way to combat crime and reap those public benefits of individual freedom. By returning to American citizens their right and obligation to self-defense and self-sufficiency, we can finally begin to counteract the relentless expansion of the state and restore the forsaken rule of law.

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