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Open Letter of Warning to Governor Nixon From Missouri Oath Keepers

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by [Larry Diffey](#) , [August 22, 2014](#)

[Ferguson police pointing weapons at man with hands up](#)



This is an Assault on the Bill of Rights

There are only two things we should fight for. One is the defense of our homes and the other is the Bill of Rights. – Marine General Smedley Butler – Two-time recipient of the Medal of Honor.

Governor Nixon:

The events in Ferguson have shown us daily that the looting and violence by a few is not being stopped, while the right of the people to peaceably assemble and petition government for redress of grievances is not being respected. The current riot control tactics of the local police, rooted in outmoded techniques developed in the 1950's – and only made worse by the ongoing militarization of our police – are failing the people of Ferguson, giving them a false choice between rampant looting on the one hand, and hyper-militarized police and curfews on the other (which also fail to stop the looting, leaving the mistaken impression among many of the American people that *even more* militarization and curtailment of free speech and assembly is needed). Our local boots on the ground, made up of retired police officers, military veterans, and intelligence workers (with critical input from current serving Missouri police officers) have answers that could provide the people of Ferguson the relief they need and deserve while respecting their rights. It is time to change a losing game.

The militarized police response we saw in Ferguson did not work. All it did was violate the rights of peaceful protesters and media, alienate the community, and make our country look even more like a police state, with big, intimidating displays of heavily armed, militarized officers, in full “battle-rattle” and backed by BearCat type armored vehicles, firing CS gas and rubber bullets into peaceful protesters and

even at media personnel, while failing to stop those relative few who were actually looting, throwing Molotov cocktails, and shooting.

The police focus on peaceful protesters, with lines of policemen equipped in riot gear, in fundamentally static positions – at best, slow, plodding, on-line advances – are easily thwarted by modern looters and thugs with cell phones and team work. Such outdated tactics fail to apprehend those actually looting and shooting.

What they do succeed in doing is alienating the local population while risking additional shooting incidents due to unsafe gun-handling. There were multiple instances of police officers pointing M-4s and sniper rifles at unarmed, peaceful protesters, media, and local residents just going about their business, in displays of spectacularly unsafe weapons discipline and methodology. As one of our police sniper veterans pointed out, even police snipers deployed in response to prior incidents of shots fired should have used spotting scopes to observe the crowd and search for potential threats, not their rifle scopes.

Even worse were the well-publicized incidents of officers routinely pointing M-4s at unarmed protesters at close range for no apparent reason other than to intimidate. An officer facing an actual lethal threat should be moving to cover, not standing there in a static bunch with other officers, using the rifle as a threat display. And a properly trained and disciplined professional keeps his rifle pointed down, where it is pointed in a safe direction but still ready to bring up on target within a second at close range, and it stays pointed down unless and until he identifies an actual lethal threat, while he uses his presence and voice, first and foremost, to control the situation – all without covering anyone with his muzzle.

Such over-the-top threatening displays, with rifles pointed-in indiscriminately at protesters and residents, only anger and frighten the people and reinforce the perception that it is “the police vs. the people” rather than the police vs. a small number of criminals, while risking the lives of the very people our police are supposed to be serving.

And much like over-the top and indiscriminate threat displays and use of force in Iraq lost the hearts and minds of the locals, so too does it lose the battle for hearts and minds here at home – assisting in the agendas of those who wish to divide us along racial lines and create an “us vs. them” mentality among both the people and the police.

The overt displays of heavily armed officers lined up to intimidate the crowds were also tactically unsound for the officers themselves, leaving them exposed in the streets. The more skilled the opposition, the more such tactics fail. So far, it has only been random, inaccurate, handgun fire directed at the police in Ferguson, not rifle fire. Against rifle fire, a long line of exposed officers standing in the open would be a disaster for the police. One active duty police sergeant told us, “I don’t want my guys stationary – they just become targets for the thugs throwing bricks and taking pot shots at us with their pistols.” The analysts in our group take this kind of feedback from the rank-and-file very seriously, and you should too. And, again, it doesn’t get the job done. It doesn’t secure the arrest of those who are looting and shooting. It leaves the officers exposed while it only punishes and threatens those who are there to protest – those who are *not* looting and shooting.

Likewise for the imposition of curfews, which violate the right of the people to peaceably assemble, while also failing to stop the looters and shooters who ignore such decrees. The First Amendment prohibits “abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances” period. It doesn’t add on “unless a politician declares a state of emergency and imposes a curfew.” Nor does it say “unless other people are looting and being violent, in which case all of you lose your right to peaceably assemble.” Curfews punish the peaceable majority for the actions of a violent few, and again, alienate the community and send the message that the police see them *all* as the enemy and seek to trample on the rights of all of them.

The local police are capable of handling the current situation in a way that both respects the rights of the people and gets the actual criminals off the streets, but only if a paradigm shift in strategy and tactics can be made. The leadership, starting with you, Gov. Nixon, and on down the chain of command, must make the changes that are needed to bring sane, effective, and constitutional policing to this situation.

A Constitutional and Effective Strategy

One retired Special Forces veteran in our group suggested that instead of grouping the police officers in large blocks (50 to 100 men), that you should break up these groups into rapid reaction teams of 20 to 25 officers and disperse them, staging them in places spread around Ferguson, with a focus on the looters, not the protesters. Our intelligence and police veterans concurred, and added that you should also task some officers to go out in street clothes to blend in to the crowds and work as Scouts, identifying threats and looters. The plainclothes Scouts should be directing the rapid reaction teams to protect the businesses from the ongoing crime, and refocus the police assets away from unconstitutional activities like shooting CS gas at peaceful protesters and enforcing curfews, and get to the business of putting the real criminals behind bars. If you think you need more minority officers for this role, you could easily find them in the St. Louis County Police Department, St. Charles County Sheriff Department, and other local municipal police departments. The plainclothes officers can identify and locate the trouble-makers and their caches and resources, such as gas cans and bottles for Molotov cocktails, bricks, etc., and they can also film the trouble-makers in support of later arrests and prosecutions.

Those plainclothes Scouts can also be directly backed up by small teams of five to seven additional plainclothes officers to take down identified looters in a manner that uses minimum force along with effective surprise applied only to the actual suspected looter. And those plainclothes small reaction teams can be further backed up by the uniformed rapid response teams, if needed, as they apprehend the looters and shooters. If possible, each officer should have a small, discrete camera – such as a badge camera – pinned to their clothing and running at all times, so that there is a recording of all that occurs.

An additional recommendation from one of our members was that, rather than closing portions of West Florissant Avenue and ordering protesters to disperse, officers could place cones on the street to reserve the center lane for police use only (warning that any others entering that lane will be arrested), staging officers at various points along that center lane and using it for police vehicles, while leaving traffic free to move North and South (with appropriate turn lanes interspersed), leaving the sidewalks open for protesters and media, and not trying to confine either to any particular area. That preserves the middle lane for police to move freely back and forth along that critical two mile stretch while not restricting free speech and assembly rights.

The initial response of the Highway Patrol, to deescalate and demilitarize the situation, was on the right track. However, it also failed to secure the arrest of the looters. In fact, officers were explicitly told to *not* go after the looters. De-escalating of militarized policing against peaceful protesters was a good idea. But the “de-escalation” toward the looters and shooters – intentionally NOT going after them – was insane and failed to protect the people and businesses of Ferguson. Backing off and letting the looters run free failed to solve the problem and actually made it worse, with the success of the looters drawing trouble-makers from all over the country, who came to Ferguson to loot and shoot and incite more violence. As evidence of the failure, we now have local business owners having to hire private security to protect them from looting because the police in their community are failing to do so.

De-escalation and demilitarization must go hand-in-hand with effective policing that stops the looters and shooters. The officers must be told that if they see an act of looting or violence, they must arrest that man. That needs to be the policy from the beginning to the end. Again, we recommend the use of plainclothes officers and small reaction teams to effectively arrest looters and shooters while respecting the rights of the peaceable protesters.

With hundreds of criminals stealing the businesses of Ferguson blind and damaging private property, how many arrests of actual looters took place? The percentage is embarrassing (and arrests of otherwise peaceful protesters for “failure to disperse” or “failure to keep moving” don’t count). The Highway Patrol’s tactics did not work, and it is time to admit it. It was a mistake to remove St. Louis County from a command role. Instead, Governor, you should have directed them to use their considerable assets to go after the looters while respecting the right of the people to peaceably assemble.

Likewise, bringing the National Guard in for “force protection” secured the Command Location, but what about all the other locations where people’s lives were being destroyed? The National Guard was not the

answer. Effective, smart, focused policing was. You did the right thing by finally pulling the National Guard back out. Now you just need to direct the application of effective, focused policing.

We need officers focused on looters, not on bullying the media and protesters. We need officers to put violent criminals in jail, not shoot tear gas and rubber bullets at reporters too ignorant to not shine lights in the officers' eyes while they are trying to work. We need a Governor smart enough to reject the riot control tactics developed before cell phones – tactics that are now failing catastrophically – and smart enough to not try to stifle free speech and violate our Bill of Rights. We need a Governor to show enough wisdom to lead our state *by* the Constitution rather than against it with ineffective abuses like curfews. Governor Nixon, tell us you are wise enough to defeat the criminals without violating our rights. No, **SHOW** us you are wise enough to change your failing tactics and demand from your men that they discern between peaceful protesters and looting thugs. **SHOW US**, you will protect the rights of the **FREE PRESS** and have the courage to demand your officers arrest the real bad guys. Stop gassing the innocent and start arresting the looters!

Wisdom and discernment will go a long way on the streets of Ferguson, and it is time you focus the police on putting real criminals behind bars, not reporters and peaceful protesters. It is time the people of Ferguson look up and see a beautiful moon, instead of a cloud of smoke and tear gas. Truth demands change.

A Critical Warning

In closing, we must warn you that you are making a grave mistake by continuing the pattern of militarization and abuse of rights that we saw during Occupy Wall Street (with curfews imposed on peaceful protesters, who were wrongly ordered to disperse and then pepper-sprayed at point-blank range); with the egregious death of Marine combat veteran Jose Guerena at the hands of a Tucson SWAT team while serving a mere search warrant; during the response to the Boston Bombing (with families being ordered out of their homes at gun-point, with many veterans telling us that the people of Iraq were treated with more respect and consideration than they saw in Watertown, Massachusetts); and with the recent horrendous use of “First Amendment Areas,” military trained snipers, and militarized, heavy-handed Federal law enforcement at Bundy Ranch in Bunkerville, Nevada that galvanized veterans from all across America to travel there to prevent that ranching family from being “Waco’d” (with the Washington Times later disclosing that the Obama Administration did, in fact, consider using military force against the Bundy family and their supporters, but thankfully decided not to). Those examples only scratch the surface of a systemic problem that has been ratcheting up over the years in nearly every community in America, as Washington Post journalist Radley Balko has exhaustively documented.

The rapidly escalating militarization of America's police is fundamentally incompatible with our Constitution and incompatible with a free nation, and inevitably leads to violence against We the People and gross violations of our rights, for which so many of our brothers have fought, bled, and died throughout this nation's history.

For us, this is not about race. This is about defending the Bill of Rights, which is a shield against government abuse that is meant to protect ALL Americans, of whatever color. Those of us who served as Marine or Army infantry learned to see only one color: green. Some of our brothers in our fire-teams and squads were dark green, while others were medium or light green, but they were *all* our brothers, and in combat, they all bled the same color – red – in defense of this nation and in defense of the Constitution, which each of us swore an oath to defend against *all* enemies, foreign and domestic. And the same can be said for those constitutional Sheriffs and police officers among us who still know what it means to be a *peace officer*, not a “law enforcer.”

The militarization of our police is not a “black problem.” It's an American problem, and it affects all of us. Senator Rand Paul is right. We *must* demilitarize our police. Governor Nixon, you stand at a critical moment in history. You must reverse course and set the example for other states to follow, to demilitarize our police and bring police methods back within the bounds of the Constitution. A failure to do so will further place millions of us American veterans who still take our oaths seriously on a fateful collision course with a burgeoning police state that is going down the same road that other nations have traveled,

with tragic ends.

Our grandfathers and fathers fought against totalitarian police states overseas. Please don't force us to fight against one here at home. Demilitarize the police now, and let us all live in peace under the Constitution, with liberty, and justice, for all.

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