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Policing the Police

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Will Congress's new concern for civil liberties go beyond the NRA?

These are not happy days for law enforcement. The spotlight is on Waco and Ruby Ridge. "Good ol' boys" partied in the woods of Tennessee and may have earned some bigotry merit badges. New York's finest went on a drunk in Washington, and Washington's finest, making absolutely no exception for their colleagues from the Big Apple, did nothing about it. It seems—and I say this knowing how controversial a statement I am about to make—it is not the United Nations that poses a threat to ordinary Americans, but the cops already on the scene.

Ever so slowly this may be dawning on your average American and his representative in Congress. For the moment, attention is focused on Waco and Ruby Ridge, where, for sure, some awful things happened and some tough questions have yet to be answered. Among them, pertinently, is who authorized the use of deadly force at Ruby Ridge and whether the FBI led Attorney General Janet Reno astray when, apparently, it assured her that the tear gas about to be used on the Branch Davidians was perfectly safe. It was anything but.

It is probably too much to ask that the very same politicians who are now waxing indignant over Waco and Ruby Ridge would make a rule out of these exceptions. In other words, will they now turn a more suspicious eye on law enforcement in general and pause in what, really, has been their more sustained assault: not on police misconduct but on civil liberties?

After all (and with some generalizations permitted) the very same politicians who are now so vexed at the ATF are also the ones who would eliminate or weaken a host of legal protections now afforded criminal defendants or prisoners. It is all right with them if the Fourth Amendment is basically junked—goodbye to the nuisance of warrants and the prohibition against illegally seized evidence. Let the cops do what they want.

These same people would bid goodbye to the authority of federal courts to intervene in state matters, particularly those pesky capital punishment cases where the condemned insists that new evidence shows him to be innocent. Most of the time, that's not the case, but sometimes it is. Never mind, says the GOP majority, let's grease the wheels of justice.

Attempts to weaken or eliminate habeas corpus and other so-called anti-crime measures all are based on a touching faith in the honesty and rigorous thoroughness

of law enforcement authorities—everyone from the cops to prosecutors. But what we are seeing—and complaining about—is that such cops exist only in the rhetoric of vote-hungry politicians. In real life, cops are no different from other people—only they are armed and, because they wear badges, can be extremely dangerous. They are even more dangerous when, convinced of guilt and imbued with righteousness, they take the Constitution by the throat and the law into their own hands.

Most of the time, those claiming injustice at the hands of law enforcement authorities are minority group members and, as such, already marginalized. The genius of the National Rifle Association is that it has somehow de-marginalized the Branch Davidians. Because their purported crime had to do with guns—and not, say, drugs—the NRA has turned them first into victims and then into a cause.

It also helps that the Davidians were mostly white. Had they been black, like members of the MOVE cult bombed by the Philadelphia Luftwaffe in 1985, they would now be as forgotten as the 11 dead from that incident. In general, minorities and other marginalized groups have a firsthand knowledge of law enforcement that the rest of us lack. If, for instance, you want to know why blacks think O. J. is being framed and whites think he's a homicidal maniac, it's because blacks know that on occasion the cops actually do frame people. In the past, even the FBI has done that sort of thing—and it might do so again unless it is rigorously watched. (Nothing personal, Louie.)

It is refreshing to see certain Republican politicians join with the American Civil Liberties Union and other subversive organizations in insisting that the police be policed. I doubt, though, that without a parochial NRA interest, these congressmen would continue to show such vigilance. They should. The newspapers are full of horror stories, little Wacos here or there, and the rhetoric of vote-hungry politicians who suggest that all that stand between us and a crime-free society are silly legal technicalities: in other words, constitutional safeguards.

Waco was not just a tragedy. It is a mentality, and those professing horror about it ought to ask themselves if they didn't have just a little to do with it.