

June 17, 2015

**John Fund** writes on the expected summer of our discontent.

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*Indeed, another 50th anniversary we mark this year is that of a seminal work that helped explain why government would be no panacea: Assistant Secretary of Labor Daniel Patrick Moynihan's "The Negro Family: A Call for National Action." Published in 1965 and known as "the Moynihan Report," it burst many bubbles of liberal thinking.*

*After analyzing reams of relevant social-science research, Moynihan concluded that the decline of the two-parent family was fueling the growth of poverty and unemployment, and leading to rising crime rates in black neighborhoods and schools without discipline.*

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**Heather Mac Donald** has more on the people who try to explain away the new crime wave in our cities.

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*Faced with the prospect of ending up in a widely distributed video if an arrest goes awry, and possibly being indicted, officers tell me that they are increasingly reluctant to investigate suspicious behavior. St. Louis police chief Sam Dotson last fall called the relationship between decreased enforcement and increased crime the "Ferguson effect." I noted that if it continues the primary victims will be the millions of law-abiding residents of inner-city neighborhoods who rely on police to keep order.*

*A sharply critical response from some quarters greeted the article. It belonged to a "long line of conservative efforts to undermine racial equality," wrote Columbia University law professor Bernard Harcourt in the Guardian, decrying the article as "crime fiction" intended to undermine "the country's newest civil rights movement." Charles Blow of the New York Times called me a "fear-mongering iron fist-er" who was using "racial pathology arguments" and "smearing the blood running in the street onto the hands holding the placards." The article was part of a "growing backlash against police reform," an attempt to "shame people who dare to speak up about police abuse," wrote journalist Radley Balko in the Washington Post. ...*

**Thomas Sowell** shows how the left is promoting "micro-totalitarianism."

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*This same tactic was used, decades ago, by Southern segregationists who tried to force black civil rights organizations to reveal the names of their donors, in a situation where retaliation might have included violence as well as economic losses.*

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*The left is not necessarily aiming at totalitarianism. But their know-it-all mindset leads repeatedly and pervasively in that direction, even if by small steps, each of which might be called "micro-totalitarianism."*

During celebrations of the 800th anniversary of the Magna Carta, **George Will** points out the 1803 SCOTUS decision of Marbury v. Madison was part of the picket fence of defenses of the original document.

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## National Review

### [Most Americans Expect a Long, Hot Summer of Racial Unrest. Moynihan Would Not Be Surprised.](#)

by John Fund

It's hard to get 96 percent of people to agree on anything, but last month's Wall Street Journal/NBC poll found that 96 percent of those surveyed believe we are in for a summer of racial unrest. In the wake of Ferguson and Baltimore, it's time for some reflection on how we got here.

This year marks two significant anniversaries. In August 1965, the Watts riots broke out in Los Angeles, leading to 34 deaths and \$300 million in property damage. Coming after the passage of well-intentioned Great Society welfare programs, the riots made clear that government spending wasn't going to solve all the problems of urban America.

Indeed, another 50th anniversary we mark this year is that of a seminal work that helped explain why government would be no panacea: Assistant Secretary of Labor Daniel Patrick Moynihan's "The Negro Family: A Call for National Action." Published in 1965 and known as "[the Moynihan Report](#)," it burst many bubbles of liberal thinking.

After analyzing reams of relevant social-science research, Moynihan concluded that the decline of the two-parent family was fueling the growth of poverty and unemployment, and leading to rising crime rates in black neighborhoods and schools without discipline.

"At the heart of the deterioration of the fabric of Negro society is the deterioration of the Negro family. It is the fundamental source of the weakness of the Negro community at the present time," Moynihan argued. Families that consisted solely of single female parents weakened the role of black men as authority figures in the lives of children. Moynihan also warned: "The steady expansion of welfare programs, as of public assistance programs in general, can be taken as a measure of the steady disintegration of the Negro family structure over the past generation in the United States."

Sadly, as soon as Moynihan's report was leaked to the media, it came under withering assault from his fellow liberals. Civil-rights leader Floyd McKissick angrily attacked it: "My major criticism of the report is that it assumes that middle-class American values are the correct values for everyone in America. . . . Moynihan thinks that everyone should have a family structure like his own." Facing such criticism, President Lyndon Johnson, in his famous June 1965 speech on poverty, ignored Moynihan's call to support policies that promote family stability. What a lost opportunity.

Moynihan issued his warning as the out-of-wedlock birth rate among blacks hit 25 percent. Today, the problem Moynihan identified has grown much larger and sprawls across many more demographic groups, as scholar Charles Murray showed in *Coming Apart*, his 2013 book on poor white neighborhoods. In 1965, the out-of-wedlock birth rate among whites was just 3 percent. Now it is 29 percent, well beyond the tipping point Moynihan was alarmed by in the black community 50 years ago. The number of out-of-wedlock births has hit 72 percent among blacks and 53 percent among Hispanics.

Unfortunate choices often have puzzling and bad consequences. One of the legacies of the Moynihan Report is a graph called "Moynihan's scissors." One line sloping downward depicted the reduction in minority unemployment rates in the very prosperous 1960s. The other line — sloping upward — depicted the simultaneous increase of the number of new welfare recipients. As columnist George Will has written:

The broken correlation of improvements in employment and decreased welfare dependency was not just bewildering, it was frightening. Policymakers had long held a serene faith in social salvation through better economic incentives and fewer barriers to individual initiative. The possibility that the decisive factors are not economic but cultural — habits, mores, customs — was dismaying because it is easier for government to alter incentives and remove barriers than to alter culture.

We cannot ignore culture. "The poverty rate among black married couples has been in single digits every year since 1994," the economist Thomas Sowell has noted. "Behavior matters and facts matter, more than the prevailing social visions or political empires built on those visions."

Some liberals have dared to point out the consequences of the decline of the two-parent family. Even President Obama has tiptoed into the subject: "We've got single moms out here, they're heroic what they're doing, and we're so proud of them," he said in a speech in 2013. "But at the same time, I wish I had had a father who was around and involved."

But woe unto conservatives who bring up the subject. When House Ways and Means Chairman Paul Ryan brought up the relevance of Moynihan's findings today, leftists slapped him down hard and demanded he apologize. "The real goal for Paul Ryan and his ilk is political self-aggrandizement by ginning up white racism against 'those people' in order to advance policies that hurt the majority of Americans," blasted Chauncey DeVega at the liberal blog *Alternet*. Ryan and Will, he wrote, were nothing more than "poverty pimps."

Other Democrats seem woefully ignorant about what Moynihan's warnings mean for us today. At an April hearing of the U.S. Commission on Civil Rights, Manhattan Institute scholar Heather Mac Donald testified that while unjustified police shootings were an outrage, the problem of the black crime rate was an equal problem "at the very least." "There are young black men who are being killed at ten times the rate of white and Hispanic young men combined," she said. "Any discussion of policing crime and race cannot ignore the black crime rate, and if you want to look at causes, I think family breakdown is . . . the most salient."

Commissioner Karen Narasaki, an Obama appointee, promptly dismissed Mac Donald's analysis. "Communities need to feel like they've been treated fairly, and at some point it doesn't actually matter whether the reality is of what police are doing. The perception becomes reality, and that's what we have to address. So I don't want to engage on that. I have other questions that I want to ask, but I just wanted to lay that out. And I'm sorry that I'm not giving you a chance [to respond]." When another commissioner objected that Mac Donald wasn't being given a chance to respond, the commission ignored her and went on to other matters.

We engage in such ostrich-like behavior at our peril. Gregory Acs, a scholar at the progressive Urban Institute recently released a [new review of the findings of the Moynihan Report](#). In a podcast for NPR, he discussed some of the conclusions in his review, warning: "If we let kids grow up in poverty, in single families, going to bad schools, they're going to grow up to become dependent adults. The cycle will just repeat."

Let's hope that, contrary to the fears of people have expressed in recent public-opinion polls, the cycle of social unrest we saw in Watts, Detroit, and Newark in the 1960s isn't repeated this summer.

**WSJ**

### **Explaining Away the New Crime Wave**

***Activists continue to deny the importance of proactive community policing, even as shootings increase.***

by Heather Mac Donald

I recently observed [in these pages](#) that violent crime is rising sharply in many cities. Having spoken with police officers and commanders, I hypothesized that the growing reluctance of cops to engage in proactive policing may help explain the spike in violent crime. The past nine months have seen unprecedented antipolice agitation dedicated to the proposition that bias infects policing in predominantly black communities, a message echoed at the highest reaches of government and the media. Officers in urban areas are encountering high levels of resistance and hostility when they try to make an arrest.

Faced with the prospect of ending up in a widely distributed video if an arrest goes awry, and possibly being indicted, officers tell me that they are increasingly reluctant to investigate suspicious behavior. St. Louis police chief Sam Dotson last fall called the relationship between decreased enforcement and increased crime the "Ferguson effect." I noted that if it continues the primary victims will be the millions of law-abiding residents of inner-city neighborhoods who rely on police to keep order.

A sharply critical response from some quarters greeted the article. It belonged to a "long line of conservative efforts to undermine racial equality," wrote Columbia University law professor Bernard Harcourt in the Guardian, decrying the article as "crime fiction" intended to undermine "the country's newest civil rights movement." Charles Blow of the New York Times called me a "fear-mongering iron fist-er" who was using "racial pathology arguments" and "smearing the blood running in the street onto the hands holding the placards." The article was part of a "growing backlash against police reform," an attempt to "shame people who dare to speak up about police abuse," wrote journalist Radley Balko in the Washington Post.

The police came in for criticism as well. Officers who are not doing what Mr. Blow calls “normal police work” simply because of protests against police brutality are acting unprofessionally, it was said—Mr. Balko called it being “too afraid or spiteful to do their jobs.”

Other writers challenged the focus on the multicity crime rise. Not every city was seeing a crime increase, some critics said—or at least not an increase in every category of crime. And whatever the increases, crime is still much lower than it was 20 years ago. In any case, critics argued, it was premature to draw conclusions about the significance or the possible causes of the crime rises; crime is predominantly a local phenomenon and naturally fluctuates over short periods.

These criticisms speak volumes about how activists, members of the media and many academics understand crime and policing.

It is true that violent crime has not skyrocketed in every American city—but my article didn't say it had. It has gone up in enough places, though, and at startling-enough rates, to warrant close attention. Law-enforcement officials share that opinion. Police chiefs in New York and Los Angeles—the two cities paradoxically singled out by criminologist Franklin Zimring to dismiss the significance of the crime increases—have implemented extraordinary, manpower-intensive initiatives to quell gun violence. It is also true that a half-dozen months or so of rising crime are not going to wipe out the 20-year crime drop overnight. But as I noted, *if* that downward trend is now reversing itself, the reversal will happen in such increments as we are now seeing.

To be sure, crime fluctuates over short periods, and usually in response to local conditions. Ordinarily, the longer the span of data one has for assessing trends, the better. But in the present environment of nonstop animosity toward police nationally, with officers' self-professed reluctance to engage reflected in a documented drop in stops and summonses, it is not too early to flag what might be going on. The claim that we are living through an epidemic of racist police killings rests on slimmer statistical evidence than the recent crime increases do.

Police are not backing off from what Mr. Blow and others presumably think of as “normal police work”: responding to 911 calls for emergency assistance. Officers continue to rush to crime scenes, sometimes getting shot at in the process. They are, however, refraining from precisely the kind of policing that many in the media, along with legions of activists, have denounced over the past year: pedestrian stops and enforcement of low-level, quality-of-life laws (known as “broken windows” policing).

“The reactive policing of the early 1990s was easy,” Lou Turco, president of the Lieutenants Benevolent Association in New York City, told me in an interview. “You waited for a complainant to tell you that they've been a robbery victim. The hard thing is to get someone off the corner before there's a victim.” It is this proactive policing, when there is no complainant, that can get you in trouble now, Mr. Turco says. “Every cop today is thinking: ‘If this stop turns bad, I'm in the mix.’ ”

An officer in South Central Los Angeles described the views of his fellow cops: “Guys and gals in coffee shops are saying to each other: ‘If you get out of your car, you're crazy, unless there's a radio call.’ ”

One would think that cop critics would celebrate this drop in self-initiated police activity, which Radley Balko calls “dehumanizing.” They can't have it both ways: Denouncing the police for proactively enforcing the law, then accusing them of a “dereliction of duty,” in Charles Blow's words, when they quite understandably decrease such enforcement.

Many residents of high-crime areas don't look at proactive and public-order enforcement the way their alleged advocates do. In a recent Quinnipiac poll of New York City voters, 61% of black respondents said they wanted the police to actively enforce quality-of-life laws in their neighborhood, compared with 59% of white voters.

At a police community meeting in the South Bronx on June 4, residents begged the officers to arrest the crowds of teens who hang out on local street corners and fight with each other. Shootings in that precinct are up 167% through May 31—but that isn't serious enough to qualify for the NYPD's high-priority list because the trouble is even worse elsewhere in the city. "Oh, how lovely when we see the police!" an elderly woman exclaimed at the meeting. "They are my friends." That is not a voice you are likely to encounter in the mainstream media.

Activists and many criminologists may continue to deny the importance of proactive policing, even as shootings increase, but its effectiveness was central to America's remarkable crime reduction of the past two decades. Police departments must constantly reinforce the message of courtesy and respect, and train officers to minimize the use of force. But when the police back off, crime eventually goes up. If anti-cop vituperation tapers off in the coming months and police start to feel supported in their work, the recent crime increases may also taper off. If the media-saturated agitation continues, however, the new normal may be less policing and more crime.

## **Jewish World Review**

### **Micro-totalitarianism**

by Thomas Sowell

The political left has come up with a new buzzword: "micro-aggression."

Professors at the University of California at Berkeley have been officially warned against saying such things as "America is the land of opportunity." Why? Because this is considered to be an act of "micro-aggression" against minorities and women. Supposedly it shows that you don't take their grievances seriously and are therefore guilty of being aggressive toward them, even if only on a micro scale.

You might think that this is just another crazy idea from Berkeley. But the same concept appears in a report from the flagship campus of the University of Illinois at Urbana. If you just sit in a room where all the people are white, you are considered to be guilty of "micro-aggression" against people who are not white, who will supposedly feel uncomfortable when they enter such a room.

At UCLA, a professor who changed the capitalization of the word "indigenous" to lower case in a student's dissertation was accused of "micro-aggression," apparently because he preferred to follow the University of Chicago Manual of Style, rather than the student's attempt to enhance the importance of being indigenous.

When a group of UCLA law students came to class wearing T-shirts with a picture of one of their professors who had organized an intramural softball game, those T-shirts were protested as a manifestation of "white privilege."

Why? Because that professor had written a book critical of affirmative action.

"Micro-aggression" protests have spread to campuses from coast to coast — that is, from California's Berkeley and UCLA to Harvard and Fordham on the east coast, and including Oberlin and Illinois in the midwest.

Academic administrators have all too often taken the well-worn path of least resistance, by regarding the most trivial, or even silly, claims of victimhood with great seriousness, even when that involved undermining faculty members held in high esteem by most of their students and by their professional colleagues on campus and beyond.

The concept of "micro-aggression" is just one of many tactics used to stifle differences of opinion by declaring some opinions to be "hate speech," instead of debating those differences in a marketplace of ideas. To accuse people of aggression for not marching in lockstep with political correctness is to set the stage for justifying real aggression against them.

This tactic reaches far beyond academia and far beyond the United States. France's Jean-Paul Sartre has been credited — if that is the word — with calling social conditions he didn't like "violence," as a prelude to justifying real violence as a response to those conditions. Sartre's American imitators have used the same verbal tactic to justify ghetto riots.

Word games are just one of the ways of silencing politically incorrect ideas, instead of debating them. Demands that various conservative organizations be forced to reveal the names of their donors are another way of silencing ideas by intimidating people who facilitate the spread of those ideas. Whatever the rationale for wanting those names, the implicit threat is retaliation.

This same tactic was used, decades ago, by Southern segregationists who tried to force black civil rights organizations to reveal the names of their donors, in a situation where retaliation might have included violence as well as economic losses.

In a sense, the political left's attempts to silence ideas they cannot, or will not, debate are a confession of intellectual bankruptcy. But this is just one of the left's ever-increasing restrictions on other people's freedom to live their lives as they see fit, rather than as their betters tell them.

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## **Jewish World Review**

### **[The 588-year path to limited government](#)**

by George Will

Americans should light 800 candles for the birthday of the document that began paving the meandering path to limited government. Magna Carta laid down the law about "fish weirs" on English rivers, "assizes of darrein presentment," people being "distrainted to make bridges," and

other "liberties. . . to hold in our realm of England in perpetuity." But what King John accepted at Runnymede meadow on June 15, 1215, matters to Americans because of something that happened 588 years later in the living room of Stelle's Hotel in Washington, where the Library of Congress now sits.

Although the "great charter" purported to establish certain rights in "perpetuity," almost everything in it has been repealed or otherwise superseded. Magna Carta led to parliamentary supremacy (over the sovereign — the king or queen) but not to effective limits on government. The importance of the document was its assertion that the sovereign's will could be constrained.

In America, where "we the people" are sovereign and majority rule is celebrated, constraining the sovereign is frequently, but incorrectly, considered morally ambiguous, even disreputable. Hence the heated debate among conservatives about the role of courts in a democracy. The argument is about the supposed "countermajoritarian dilemma" when courts invalidate laws passed by elected representatives: Does the democratic ethic require vast judicial deference to legislative acts?

The first memorial at Runnymede was built in 1957 by, appropriately, the American Bar Association. It is what America did with what Magna Carta started that substantially advanced the cause of limited government.

The rule of law — as opposed to rule by the untrammelled will of the strong — requires effective checks on the strong. In a democracy, the strongest force is the majority, whose power will be unlimited unless an independent judiciary enforces written restraints, such as those stipulated in the Constitution. It is "the supreme law" because it is superior to what majorities produce in statutes.

Magna Carta acknowledged no new individual rights. Instead, it insisted, mistakenly, that it could guarantee that certain existing rights would survive "in perpetuity." British rights exist, however, at the sufferance of Parliament. In America, rights are protected by the government's constitutional architecture — the separation of powers *and by the judicial power to stymie legislative and executive power* .

Early in 1801, as John Adams's presidency was ending, a lame-duck Congress controlled by his Federalists created many judicial positions to be filled by him before Thomas Jefferson took office. In the rush, the "midnight commission" for William Marbury did not get delivered before Jefferson's inauguration. The new president refused to have it delivered, so Marbury sued, asking the Supreme Court to compel Jefferson's secretary of state, James Madison, to deliver it.

Chief Justice John Marshall, writing for the court, held that the law authorizing the court to compel government officials to make such deliveries exceeded Congress's enumerated powers and hence was unconstitutional. Jefferson, who detested his distant cousin Marshall, was surely less pleased by the result than he was dismayed by the much more important means by which Marshall produced it. Marshall had accomplished the new government's first exercise of judicial review — the power to declare a congressional act null and void.

Although the Constitution does not mention judicial review, the Framers explicitly anticipated the exercise of this power. Some progressives and populist conservatives dispute the legitimacy of judicial review. They say fidelity to the Framers requires vast deference to elected legislators because Marshall invented judicial review *ex nihilo*. Randy Barnett of Georgetown University's law school supplies refuting evidence:

At the 1787 Constitutional Convention, Madison acknowledged that states would "accomplish their injurious objects" but they could be "set aside by the National Tribunals." A law violating any constitution "would be considered by the Judges as null & void." In Virginia's ratification convention, Marshall said that if the government "were to make a law not warranted by any of the [congressional] powers enumerated, it would be considered by the judges as an infringement of the Constitution which they are to guard. . . . They would declare it void."

With the composition of the Supreme Court likely to change substantially during the next president's tenure, conservatives must decide: Is majority rule or liberty — these are not synonyms, and the former can menace the latter — America's fundamental purpose?

Because one ailing justice was confined to Stelle's Hotel, it was there that Marshall read aloud *Marbury v. Madison*. This made Feb. 24, 1803, an even more important date in the history of limited government, and hence of liberty, than June 15, 1215.





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