

# Some Observations Concerning a Theory of Democratic Policing <sup>1</sup>

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1. **Introduction.** Ironically, it is not possible to use a review of standard criminological theories (Rock, 2003) as a basis for fashioning a theory of policing. While most criminological theories focus on the offender and the victim and explanations for crime and deviance, and others focus on explaining the actions of social control agencies more generally, the mandate of policing is always clouded by its unique capacity to routinely apply fatal force in the interests of political ordering. Through this presence, they stand in a constant dialectical relationship with national security and internal and external threats. I will argue here that a discussion of theories of policing must first define police and policing, then proceed to distinguish types of policing and then some theorizing concerning them. There are some five types of policing one of which is Anglo-American democratic policing, and this later has some salient features. While a theory of policing does not exist, there are some metaphoric sketches of policing that make salient certain of their features and therefore can be used preliminarily to describe police practice.

2. **Some antecedent requirements for a definition.** There are at least five international or global types of policing: Islamic-traditional; authoritarian; democratic; Asian and continental (Bayley, 19XX). As R.I. Mawby (2003) has argued, these distinctions are confounded by several trends. I would argue they include the homogenization of policing in the former communist and eastern European nations; the movement toward transnational policing in the European Union through joint agreements, task forces, transnational conventions and organizations; the overlay of colonial models upon semi-indigenous modes of policing throughout the developing world, and the confounding of peace-keeping (political ordering in line with the below definition) and war-making (controlling a territory and eradicating the enemy's will to resist). Furthermore, the growth of miscellaneous forms of formal (legitimate, authoritatively and bureaucratically structured) policing have proceeded apace—these include private policing; trans-national private policing (such as the ‘corporate warriors’ described by Peter Singer, 2003); and a variety of specialized police in all nations (e.g. British transport police; special constables and reserve officers). It is perhaps a residual form that requires attention at this time; an archetype, or form called democratic policing, rather than a specific sub-type of policing organized (variously) around nation states, political traditions; legal systems or religious belief systems).

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The democratic police are the focus of my brief paper, and it is an explanation of their actions and practices that I seek to explain. All nation states have security police that are linked to the protection of sacred persons, places and buildings, and carry out high policing which connotes questions of national security (Brodeur, 1983, 2003). However, while these police in theory possess rather wide and sometimes secret powers, democratic societies have sought, except in times of extreme crisis, to limit police powers via law, civil traditions, and supervisory mechanisms such as commissions, special judicial inquiries, and civilian complaint processing systems. This is one of the fundamental sources of a dialectic of policing- a concern with the expansion and contraction of the mandate over time.

**3. Requisites of a definition of democratic policing.** Such a definition should place the features of the police, their violence, their constraint, their ordering practices and self-serving functions as well as their “natural” dramatic potential and actuality, in the context of the politics of the modern democratic state. The drama of policing, it seems, requires both opposition and negation. A useful listing what is needed (*desiderata*) is Liang's (1992:2). He argues that democratic policing should be: legalistically guided; focus on individuals, not groups and their politics; eschew terrorism, counter-terrorism and torture, and strive to ensure minimal damage to civility. He argues in addition that marginal types of policing highlight and sustain what is wanted from democratic policing. These are at the fringe of his definition. These include, as I understand and elaborate Liang's notion, high or political police that focus on what is termed state security (Brodeur, 1986); self or voluntary policing, and counter and parallel policing (such as private security and regulatory agencies). Liang argues quite persuasively based on historical evidence that it is through the resistance of parallel and counter police forces that a democratic police is sustained. These shadow organizations, or essential fringes, are derived from his research on European policing since Metternich, but it would appear that the existence of these sustain the tension that permits the general strategies of democratic police to work over time. I would include, following Liang, the use of potential and actual direct violence, the tactics of divide and conquer, tactical use of lies and deceit, and sustaining myths to ground legitimacy, on the whole benignly, over considerable periods of time (Liang, 1992: 14-17). It should be said that the use of dramaturgical rhetoric as a presentational strategy (Manning, 2004) and the creation of symbolic assailants incorporates the powerless into their own control.

4. Consider this definition of police: **Democratic police, constituted of many diverse agencies, are authoritatively coordinated legitimate organizations that stand ready to apply force up to and including fatal force in a legitimate territory to sustain political ordering.**

4.1 This definition of democratic policing raises several significant issues.

- Many agencies at federal, state and local level act as police, but few are authoritatively coordinated; that is, bureaucratically structured to insure compliance with command.
- Police legitimacy, or the basis of a mandate, is a currently, past and future negotiated acceptance of the scope of the occupations' claim, not an absolute or unchanging matter. There are cycles of expanding and contracting powers.

- “Standing ready” to use violence echoes sociologist Max Weber’s terms. This means that the threat of violence awaits, and is present to be imposed if proffered solutions of the police are not embraced by citizens.
- It is the threat that enables ordering, as violence, once used, is potentially a downwardly spiraling loss of trust in police and policing.
- The fundamental aim or mission of policing is ensuring and sustaining trust; it follows that a democratic police must be trustworthy.
- The specification of political territory is itself a problematic issue in practice. In theory, it is used to define the domain of police forces. The trends to transnational policing, in the form of agreements, task forces, and *ad hoc* “policing actions,” as seen in Kosovo, Bolivia, Columbia, and Haiti, are ever present (Scheptycki, 2000).
- The democratic police, as noted above, do not and have never held a monopoly of legitimate force. It is the absence of this monopoly, amongst other things noted by Liang, that makes a police “democratic.”
- “Ordering” is a fundamentally political matter. “Political ordering” has no fundamental, acontextual, ahistorical definition. As Bittner (1972) correctly points out, any action or group from which resistance might be imagined can be the target of policing. This shifting locus of concern, or symbolic assailants or threats, provides those distractions necessary to avoid the consolidation of power.
- By narrowing the scope of analysis to isolated measures of performance such as arrests, tickets, or complaints, social scientists obscure the broader questions of authoritative ordering, for whom it is done collectively, and by whom.
- Performance measures obviate the central question of the locus of organizational loyalty of police and its diverse sources—the state, the organization itself, one’s mates or fellow officers, or some alternative source of loyalty (family, church, ethnic group).
- The democratic police are not neutral, non-political forces absent their own motivations, interests, ideological readings of events. They employ narrow, self-serving tactics when under threat. When the occasional police scandal emerges, police become defensive, while the media tend to elaborate and embellish the “official line” or narrative voice of the police. As a result, the broader question of police interests is obscured or enveloped in allegations of individual corruption or malfeasance.
- Symbols, icons and slogans obscure complexity. Various notions such as “the law,” sloganeering like “to preserve and protect” (what?), local icons, seals and symbols on the car, uniforms and buildings, all suggest clarity of purpose while blurring the locus of obligation and accountability. This is of course increased by local funding and supervision of the some 50,000 (generally quite small—under 15 officers as a modal size) police agencies in the US.

4.2 the description of policing thus should include not only their mandate, strategies and tactics, but their practices.

5. **Metaphors of policing.** Social science theory, much influenced by positivism and late twentieth century American empiricism, tends to be defined as a set of interrelated axioms and propositions designed to explain an empirical phenomenon. Few examples of deductive theorizing exist, and most instances of theory or mini-theories are designed to explain a facet

of social life- organizational behavior, suicide, homicide, crime rates or gang behavior. Most empirical work in criminology leans heavily on a few borrowed concepts- deterrence, frustration-aggression, rational choice, rather than adopting the entire panoply of a given social theory. Grand schemes of theorizing, such as the brilliant and creative work of Jack Gibbs on social control, often come to no satisfactory conclusions because the conceptual and/ or measurement problems are so acute and perhaps irresolvable. Furthermore, there is a strong and continuing influence of phenomenological, descriptive, interpretive theorizing represented by the works of Garfinkel, Flyvberg, and Heidegger.

**6. Theorizing Democratic Policing.** Let call the work on theories of policing ‘a kind of theorizing’ as a working term. In some sense, one could call attempts to examples policing as analogical work, or metaphoric exercises- seeing something in terms of something else. There are four analogical-metaphoric exercises (using metaphor very widely in this case) that display policing as an object. Some of these attempts are strictly speaking metaphoric in the sense that they use a broad scheme to generalize about policing (here, I include socio-cultural theories- Egon Bittner, Loader and Mulcahy, Manning, Shearing and Ericson, Malcolm Young, and Holdaway); some are based on synecdoche in that they illustrate a part of a whole, but see policing as a whole (James Q. Wilson, Skolnick, Brown, Sheingold, the basically administrative theories such as Michael Brown and Lipsky) and elevate it to centrality in their theorizing; still others use grand theory to make police an example of it (cultural marxist theory as rendered by Stuart Hall et al, Jefferson and Grimshaw, and Chambliss and Janet Chan in her Bourdieu-like phase 2003); finally, some theories are metonymical in that they adopt a part of a list of features, not as a whole, but as the most important part of policing (Reiss, Mastrofski, et al, Clark and Sykes, Banton, Rubinstein, Cain and Chan, 1996).

6.1 Metaphor-based studies of policing. Metaphoric-socio-cultural theories of policing are totalistic, influenced by Durkheim and symbolic interactionism, and focus on the ways in which the culture of policing influences the practice of policing both internally and externally. It suggests that practices shape its goals as a political organization. It is a form of neo-institutionalism (DiMaggio and Powell, 1977) in which loose coupling connects segments of the institution, and disconnects it from other institutions. These are not strictly speaking subcultural theories, even though as such they are falsely characterized as such by Reiner and Crank, although the culture of the lower participants is a font for rationales within the organization. The focus of this writing is the role of the organization in the political-customary moral and symbolic world and the way the mandate and structure shape meanings.

6.2. Synecdocheal based studies of policing. These take a part of the policing apparatus as determinant of the whole, e.g., its administrative-quasi-legal structure including latitude at the bottom, situational application of resources problems, ecological dispersal of personnel and loose supervision, and in some cases, an emphasis of efficiency or at least production (traffic, arrests, stops, whatever counts). Chan’s earlier work (1996) combines this administrative-organizational theme with a strong version of socialization as a source of the fundamental character of policing.

6.3 Grand Theory based studies. These have never had a profound influence on police research. Two salient examples in policing are the works of Taylor Walton and Young

(1972), of Stuart Hall and associates on ‘mugging,’ and the Jefferson and Grimshaw analysis of the constraint of the law on Chief Constables and the link of the law to state control. Lesser Marxist versions of policing are found in the Sidney Harring historical studies of Buffalo, the Chambliss studies of corruption. The Marxist tradition has had more influence in socio-legal studies e.g., Paul Hirst, and Ian Taylor than in studies of the police *per se*.

6.4. Studies based on metonymy. The metonymical studies are the most difficult to characterize because the work by a certain reductionism. That is, they convert a focus in citizen-policing interaction into a full picture of policing. While they sketch the police organization and its culture, they elevate to centrality the interactive face of policing- its maintenance of boundaries with citizens. The source of this essentially interactionist approach is Albert J. Reiss, Jr. and his former student, Donald Black. Their influence is revealed clearly in the major works of Stephen Mastrofski and associates (Parks, Worden, Terrill, Snipes, et al). Much more behaviorist is the Clark and Sykes (1986) study, while Banton and Cain focus on the role (expectations of self and others) of the police. Rubinstein, trained as an historian, has written a detailed ethnography of the urban world as seen from the driver’s seat of a police car in a big city- it is both partial and rich in nuance.

7. **Some inferences about theorizing democratic policing.** While this set of four is a somewhat truncated picture, and many important articles contribute importantly to our understandings of policing (the works of many writers such as Westley, Waddington, Klockars, Van Maanen, Fyfe, and Kelling), the most important points to be taken from this analytic scheme are several. First, theorizing policing cannot be reduced to describing police occupational culture (Reiner, Reuss-Ianni, John Crank). This is a caricature and confounds and confuses verbalizations with actions (Waddington, 1999), organizational constraints, power and supervision with beliefs and talk. It also confounds the organization, composed of civilians (as some 25% of the work force), with the beliefs of serving lower participants. Second, clearly, democratic policing is embedded in cultural and institutional structures of power that cannot be ignored. This point is put in sharp relief when considering the now debated limits of democratic policing and its practices post 9.11 in the United States. Third, while the law is not the sole source of police legitimacy, the connections made between police crime control and legal changes have not been explored by common-sense “theories” of policing such as ‘fixing broken windows.’ The book rests on a false and thinly argued view of legal change that sees the police as handcuffed by excessive protection of individual rights such as freedom of speech, and equal protection of the law to argue for increased police interventions in “minor matters” such as panhandling, loitering, and other disorderly behaviour. The ideas presented in *Fixing Broken Windows* (Kelling and Coles, 1996) and in the Wilson Kelling mass readership *Atlantic Magazine* article, are caricatures of what police believe rather than theories in the sense defined above. (Bernard Harcourt, Ralph Taylor, D. Thacher). Fourth, as a result of Home Office, NIJ and COPS Office funding, we in the U.S. and U.K. are in the midst of a rich and significant third wave of policing studies. I include here the fieldwork based work of Mastrofski et. al., Chan’s fine works, and that of Newburn, Jones, Crawford and Martin Innes in the U.K. Fifth, a systematic theory of policing does not exist, but theorizing policing as a specific exercise seems to be emerging in writings of Loader and Mulchay, Shearing and Johnston, and Manning. Sixth, the emergent issues in theorizing are a result of broadening the ambit of concern and refining new paradigms such as “security governance” (Shearing and Johnston, 2003); “police studies” (including public and private and examining the blurred boundaries);

“governmentality” (Garland and Cohen), and policing the risk society (Ericson and Haggerty, 1998) and widening concern for analysis of networks of social control in which police play a partial role, and policing in general rather than the public police are foci (Canadian Law Reform Commission Report, 2003).

**8. Police and Policing: magic, sacrifice and practice.** Police organizations and police officers, amongst others, do policing. A theory of **police** connotes an organizational and socio-legal analysis, while an analysis of **policing** suggests a concern for the patterns of recognition, sanctioning and processing that exist and are associated with police organizations. I would call these practices. As Loader and Mulchay (2003) argue very persuasively, a comprehensive study of policing would examine the degree of fit between policing as a practice and organization with the socio-cultural milieu in which it is embedded. In a useful turn of phrase, they call this the study of policing cultures (p. 39ff). As this suggests, it is virtually impossible to isolate an explanation of what police do from what they are meant to do- the moral and political context in which they operate and display through their actions.

It should be said further that because the moral consensus of modern society is problematic due to the division of labour, rapid communication and global commerce, it is through the practices that we observe e.g., their situational use of violence and coercion, that police become known to citizens. Whilst it could be argued that police are dramaturgical figures, engaged in a massive theatrical attempt to sustain the illusion and allusion of order and ordering (Manning, 2004: ), it is perhaps more accurate to argue that the police engage in a form of magic (See Mauss, 19XX, Durkheim, 1961: 58-60).<sup>2</sup> It can be distinguished from religion by the fact that is not an inclusive church that is totally bound to the collective and the society; it stands apart due to the division of labour, specialized costumes, roles, equipments, routines and beliefs. Yet, it draws on the collective, the emotive basis of display, marking and deference. It evokes feelings and yet it also uses them for ends, purposes, other than and apart from the emotional state of the collective. In that sense, then it is a form of magic, or a practice that mimics or simulates religion but stands apart from it: Durkheim, overstating this, claims that there are no lasting bonds between the magician and the collective (Durkheim, 1961: 58). In another facet of policing, they are healers, those resorting order after calamity-illness, death, loss, and engaged in ceremonial efforts to restore that which is lost as well as marking it. But in each of these they stand apart, so that this is not a fundamental characteristic, but a variable. I should like to suggest finally, that the police in their collective role are both victim and sacrificer, and that these interchangeable roles have to do with the mediation of the profane and scared aspects of modern society (Hubert and Mauss, 1964:102-103). The argument, should I have space to develop it, would be that the police stand in one sense as god-like, or have been endowed with sacred properties, hence they must be sacrificed from time to time to maintain connection to the otherwise highly secular society. This means that a death of an officer is represents many things, but in part the officer’s death is both as victim and as sacrificer for the whole. They sacrifice themselves as an aspect of the holy, even if they die in the line of duty, shot or killed in a crash or chase. On the other hand, when they kill, coerce, shoot or main, they sacrifice a victim on behalf of

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<sup>2</sup> I am indebted to Anne Rawls for lengthy and significant discussions on this matter. See Rawls, forthcoming on Durkhiem.

the society. They are intermediaries themselves. In this way, they mark, dramatize, sustain, and renew those features of society and confer on themselves and other “....the things they hold dear....the whole strength of society” (Hubert and Mauss, 1964: 102). This means that the drama of policing is an intermediary force that links the secular, the profane, with the sacred, but the connection is always reversible. While the police are the most visible extensions of the state and its authority, they appear only as token or symbols of some underlying forces, or emotions. In this sense they are ambivalent, dangerous, multi-vocal, multi level symbols but they are not the thing represented, they are cues to deeper connections. The face of policing also varies, as when they appear to be magicians, merely manipulating the feelings of others, rather than renewing and invigorating them, rather than as flawed sources of sacrifice, victim, sacrificed or the sacrificer.

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