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# Police Violence and Protest

Barry C. Feld\*

## I. INTRODUCTION

The violence resulting from recent confrontations between demonstrators and the agents of social control raises the question of the relationship between police behavior and ensuing disorder. The role of the police in causing or increasing the violence associated with riots or civil disturbances has been repeatedly documented.<sup>1</sup> These findings show police action as tending to worsen a situation by providing the principal focus for the gathering of a crowd, a precipitating event that ignites the crowd, and under-reaction that allows the disorder to spread or over-reaction that further incites the crowd. This is the so-called "classic" police role in the case of a riot.<sup>2</sup> Violent clashes with police arising from demonstrations appear to involve another set of factors which manifest themselves differently.

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1. With a few exceptions—among them the Chicago riots of 1965, which erupted after a Negro woman was accidentally killed by a fire engine, and the Dayton riots of 1966, which broke out after a Negro man was deliberately gunned down from a passing car—the nineteen-sixties riots were all precipitated by police actions. Some of them were extremely grave. In New York (1964) an off-duty policeman killed a Negro youth; in Atlanta (1966) a patrolman seriously wounded a Negro suspected of auto theft; in Tampa (1967) a policeman fatally shot a Negro suspected of burglary.

Fogelson, *From Resentment to Confrontation: The Police, the Negroes and the Outbreak of the Nineteen-Sixties Riots*, 83 *POL. SCI. Q.* 217 (1968).

See generally REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS (1968); PROGRESS REPORT OF THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE (1969). See also Parnas, *The Police Response to the Domestic Disturbance*, 1967 *WIS. L. REV.* 914; Hundley, *The Dynamics of Recent Ghetto Riots*, 45 *J. URBAN L.* 627 (1968).

2. Most of the nineteen-sixties riots were triggered by commonplace, reasonable, and trivial police actions. . . . [A police incident caused a crowd to gather which began berating the police.] In the end a point was reached at which the police perceived the confrontation as a test of their authority and the Negroes perceived it as a challenge to their pride and loyalty; as a result, the triggering incidents were transformed into major disorders.

Fogelson, *supra* note 1, at 218-19.

This article will consider this latter area, focusing principally on violence in demonstrations, the context in which there is a more or less organized coming together for purposes of expressing or exhibiting a position on some issue. Police violence will normally be taken to mean the illegal use of force by the agents of social control—the application of force beyond that amount reasonably necessary to restore or maintain social order.<sup>3</sup> Although the majority of demonstrations conducted in this country probably proceed unmarred by violence, the gravity of the situations in which violence does occur, especially those cases where the police either initiate or exacerbate the levels of violence, is of particular concern, both to the lawyer and to the social scientist.

It appears from the literature and investigations of police and demonstrations that the outbreak of violence is a product of the interaction of several sets of variables. On the one hand are those variables which can be associated with the police themselves, such as personal characteristics or the nature of normal police work. On the other hand are characteristics of the community within which the police operate, such as the social and political climate. Between these two are factors resulting from the interaction between these sets of variables, such as the occupational environment of the police, community support for the police or the acceptance of violence. This article attempts to identify and integrate these various factors in order to illuminate the dynamics of the violent response to demonstrations.

## II. THE ROLE OF POLICE

The role of the police is principally distinguished from that of other agents of social control within the civil society by the fact that the police have the monopoly of the legitimate means of violence possessed by the state. Max Weber's definition of law hinged upon the existence of an enforcement staff with control of the means of coercion. Needless to say, the police provide

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3. As a practical matter the use of excessive force is difficult to define or measure. The kinds of physical force a police officer may employ are not clear. No force has been categorically denied him in practice, since he is always authorized to resort to deadly force in self-defense. The definition employed here emphasizes the reasonableness of the response to the circumstances. See, e.g., Reiss, *Police Brutality . . . Answers to Key Questions*, in *POLICE ENCOUNTERS* 59 (M. Lipsky ed. 1970): "Citizens and the police do not always agree on what constitutes proper police practice. What is 'proper,' or what is 'brutal,' it need hardly be pointed out is more a matter of judgment about what someone did than a description of what police do."

a much wider range of services than simply physical force. It is the ultimate relationship between the other functions and force, however, that is crucial.

#### A. ORDER MAINTENANCE; LAW ENFORCEMENT; PUBLIC SERVICE

The functions of the police involve them in three distinct, and at times contradictory, types of activities. These three operations are order maintenance, law enforcement and public service. These roles generate competing demands on the police and create conflicts and contradictions in the enterprise of police work.

The order maintenance function is that associated with keeping the peace. It is probably the most demanding function of police, requiring the greatest exposure to danger and the greatest exercise of discretion. The problem of maintaining "order" is particularly difficult since it cannot be precisely defined. "Order" is most easily defined negatively—the absence of disorder. Disorder is behavior that is disruptive of the public peace or which creates a danger of death or grave bodily injury as a result of conflict. "Disorder, in short, involves a dispute over what is 'right' or 'seemly' conduct or over who is to blame for conduct that is agreed to be wrong or unseemly."<sup>4</sup> It is in the course of maintaining order that the officer is exposed to danger from those engaging in disorderly conduct. James Q. Wilson notes that the problem of order maintenance, far more than law enforcement, is the primary activity of the patrolman. "[T]he patrolman encounters far more problems of order maintenance than opportunities for law enforcement . . ."<sup>5</sup>

The law enforcement function of police, which many policemen as well as the public regard as their principal responsibility, entails combating crime by enforcing the rule of law. This consists of law enforcement in the specific context of a criminal act and the processes of investigation, detection and gathering of

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4. J. WILSON, *VARIETIES OF POLICE BEHAVIOR* 16 (1968).

5. *Id.* at 18. "The problem of order, more than the problem of enforcing the law, is central to the patrolman's role for several reasons." *Id.* at 17. In most instances, the patrolman encounters far more problems of order maintenance than opportunities for law enforcement. Apart from traffic offenses, this latter activity is usually handled by detectives. Maintaining order also involves physical danger. "But most important, the order maintenance function necessarily involves the exercising of substantial discretion over matters of the greatest importance (public and private morality, honor and dishonor, life and death) in a situation that is by definition, one of conflict and in an environment that is apprehensive and perhaps hostile." *Id.* at 21.

evidence for prosecution. Law enforcement is the "crime-fighting" aspect of police work. In his study of the police role in handling skid-row alcoholics, a situation involving fine distinctions between law enforcement and order maintenance, Egon Bittner highlighted the distinction between these domains of police activity. In law enforcement

their methods are constrained by the prospect of the future disposition of a case in the courts; . . . [whereas in order maintenance] they operate under some other consideration and largely with no structured and continuous outside constraint. Following the terminology suggested by Michael Banton, they may be said to function in the first instance as "law officers" and in the second instance as "peace officers."<sup>6</sup>

The third principal area of police work is their community service function. This involves handling normal police problems in a "service style," for example by counseling quarreling couples instead of intervening with formal sanction. It is the farthest removed from the policemen's self-conception of their job as crime-fighters and peace-keepers and sometimes is resented as interfering with these more important duties.

[P]erhaps the most important source of police frustration, and the most severe limitation under which they operate, is the conflicting roles and demands involved in the order maintenance, community service and crime-fighting responsibilities of the police. Here both the individual police officer and the police community as a whole find not only inconsistent public expectations and public reactions, but also inner conflict growing out of the interaction of the policeman's values, customs, and traditions with his intimate experience with the criminal element of the population.<sup>7</sup>

These three types of police activity have important implications for determining the police response to a demonstration. Wilson found that police forces may come to be centered around one of these approaches and that this orientation colors their treatment of other police problems. The type of approach employed will markedly affect the way police perceive and respond to a protest. Significantly, Wilson also found that the particu-

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6. Bittner, *The Police on Skid-Row: A Study of Peace Keeping*, 32 AM. SOCIOLOGICAL REV. 699, 700 (1967). Wilson has also noted this distinction between law enforcement and order maintenance. "[T]he former involves a violation of a law in which only guilt need be assessed; the latter, though it often entails a legal infraction, involves in addition, a dispute in which the law must be interpreted, standards of right conduct determined, and blame assigned." J. WILSON, *supra* note 4, at 85.

7. J. CAMPBELL, J. SAHID & D. STANG, LAW AND ORDER RECONSIDERED, STAFF REPORT OF THE TASK FORCE ON LAW ENFORCEMENT TO THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE 290 (1969) [hereinafter cited as LAW & ORDER].

lar organizational style resulted from certain qualities of the larger community that was served. As will be seen later, the relationship between police organization and its response to problems and community variations and police organization will have a significant impact on the orderliness or violence associated with demonstrations.

## B. DISCRETION

A crucial aspect of police work, and especially of the order maintenance function, is the exercise of discretion in low visibility circumstances.<sup>8</sup> This discretion involves the decision of which laws to enforce, how they will be interpreted and the means that will be employed to enforce them. In theory, and by law, police officers are not supposed to exercise discretion—they are mandated to arrest whomever they see violating a statutorily defined crime.<sup>9</sup> In actual practice, however, the exercise of discretion is inevitable. The necessity of interpreting the law and applying it to a situation, as well as inadequate resources to enforce all laws, means that police judgments will control the allocation of law enforcement resources.<sup>10</sup>

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8. See, e.g., Goldstein, *Police Discretion Not to Invoke the Criminal Process: Low-Visibility Decisions in the Administration of Justice*, 69 YALE L.J. 543 (1960). The exercise of discretion and its abuse is difficult to control. Discretion is exercised in a situation that is difficult to define precisely in advance or to review subsequently. Moreover, police patrol work, where the most discretion is required, is a low visibility enterprise, one not subject to effective supervision. The exercise of discretion involved in the decision not to enforce a law, for example, is almost incapable of review, since there would be no one to bring the matter to the attention of potential reviewing authorities. Also, order maintenance is practiced on the streets and generally involves those persons least likely to be able to question or challenge the definition of the situation as perceived and imposed by the officer.

9. See W. LAFAYE, *ARREST: THE DECISION TO TAKE A SUSPECT INTO CUSTODY* (1964). In a chapter on police discretion, he provides an excellent summary of the statutory and case law:

Generally, appellate courts have not recognized the propriety of police discretion. . . . [S]trong language denying the propriety of such discretion has been used in [these] opinions. . . . Some other courts have nevertheless expressly recognized that some discretion, such as that involved in interpreting the meaning of a statute defining the crime, must be exercised by the police. However, this right has been carefully limited, and where the legislative mandate is clear and unambiguous, it has been held that the police are not justified in concluding that the legislature did not contemplate enforcement against conduct clearly within the scope of the statute.

*Id.* at 79-80.

10. Whether a criminal prosecution is initiated against an individual depends, in most instances, upon a police judgment. Theoretically, this judgment is based upon the statutory defini-

Unlike most other bureaucracies, the exercise of discretion by police increases the lower one goes on the steps of the hierarchy. The exercise of the greatest discretion is entrusted to the lowest ranking officer, the patrolman on the beat. "[T]he order-maintenance function of the patrolman defines his role and that role, which is unlike that of any other occupation, can be described as one in which *sub-professionals, working alone, exercise wide discretion in matters of utmost importance . . .*"<sup>11</sup>

### C. POLICE DEPARTMENTS AND PARAMILITARY ORGANIZATION

The formal structure of police departments effects a propensity for police violence. "Most police departments have structured themselves after the military under the assumption that in order to cope with the problems of controlling crime and maintaining order, a closely coordinated and disciplined body of personnel with clear-cut lines of authority is necessary."<sup>12</sup> This pattern of organization has important implications for the evaluation and definition of order and dissent as well as for the circumstances under which violent official response is required. Patterns of police organization also affect the capacity to deal with disorder in demonstrations.

Much of the literature on police emphasizes the quasi-military staff organization. "In principle and in rhetoric, a police organization is one characterized by strict subordination, by a rigid chain of command, by accountability of command . . ."<sup>13</sup> Sev-

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tion of the crime, but it is abundantly clear that there are many situations in which a violation has in fact occurred and is known to the police, but where there is no effort by the police to make an arrest.

PRESIDENT'S COMMISSION ON LAW ENFORCEMENT & ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: THE POLICE 21 (1967) [hereinafter cited as TASK FORCE: POLICE].

Wilson makes the same observation:

In fact, as all police officers and many citizens recognize, discretion is inevitable—partly because it is impossible to observe every public infraction, partly because many laws require interpretation before they can be applied at all, partly because the police can sometimes get information about serious crimes by overlooking minor crimes, and partly because the police believe that public opinion would not tolerate a policy of full enforcement of all laws all of the time.

J. WILSON, *supra* note 4, at 7.

11. J. WILSON, *supra* note 4, at 30.

12. McNamara, *Uncertainties in Police Work: The Relevance of Police Recruits' Backgrounds and Training*, in *THE POLICE: SIX SOCIOLOGICAL ESSAYS* 163, 178 (D. Bordua ed. 1967).

13. Bordua & Reiss, *Command, Control and Charisma: Reflections on Police Bureaucracy*, 72 AM. J. SOC. 68, 69 (1966).

eral observers, however, have argued against this model, emphasizing the independence of officers in the field and the exercise of discretion without a great deal of supervision or guidance. "In many ways, policing is a highly decentralized operation involving the deployment of large numbers of men alone or in small units where control by actual command, that is by issuing orders, is difficult."<sup>14</sup> However, the nature of modern communications continues to link the field operatives with the central headquarters, and at least for present purposes the paramilitary model still is appropriate. As Wilson notes, "[a] civil commotion—a big parade, a disaster, a large fire, a riot, a mass demonstration—also converts the organization into a quasi-military force in which the activities of large numbers of men are centrally coordinated, usually by senior officers who go out onto the street with mobile communications units."<sup>15</sup>

Skolnick has argued that the paramilitary organization of the police influences their conception of order and increases the tendency to emphasize consistency, predictability and regularity.

To the degree that police are organized on a military model, there is also likely to be generated a martial conception of order. Internal regulations based on martial principles suggest external cognitions based on similar principles. The presence of an explicit hierarchy, with an associated chain of command and a strong sense of obedience, is therefore likely to induce an attachment to social uniformity and routine and a somewhat rigid conception of order.<sup>16</sup>

#### D. SOCIAL CONTROL AND SOCIAL CHANGE

One further aspect of police work should be noted before considering the specific factors associated with official violence. The police are not primarily agents of social reform or social change.

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14. *Id.* at 69. Later, however, Bordua and Reiss argue that the core of the modern police system is the communications system linking the central system with the "dispersed police in mobile units." *Id.* at 71. Wilson makes the same argument against considering police bureaucracy a paramilitary structure:

In discharging their routine order maintenance and law enforcement functions, the police do not operate at all as a military or quasi-military organization, and analogies drawn between the two kinds of organizations—including those drawn by some police administrators—are quite misleading. The patrolman normally works alone or with a partner, not in a unit as does, say, an army platoon or company, and thus the police administrator is not really a "commander" at all.

J. WILSON, *supra* note 4, at 80.

15. J. WILSON, *supra* note 4, at 78-79.

16. J. SKOLNICK, *JUSTICE WITHOUT TRIAL: LAW ENFORCEMENT IN DEMOCRATIC SOCIETY* 11 (1966) [hereinafter cited as SKOLNICK, *JUSTICE*].



Rather, they are agents of social control, maintenance of social stability and the status quo. "[T]he mission of the police is not to remove the causes of crime, but to deter crime, and to deal with specific criminals, whoever they are, and with specific crimes, whenever, wherever and however they occur."<sup>17</sup> This separation of social control and social change complicates the problems of the police in dealing with their normal clientele, the underprivileged, the minorities and those seeking social change. "The policeman in the ghetto is a symbol not only of law, but of the entire system of law enforcement and criminal justice. As such, he becomes the tangible target for grievances against shortcomings throughout that system . . . ."<sup>18</sup> The policeman in the ghetto or on the campus may ultimately come to be viewed as part of an "occupying army," the "most visible symbol of a society from which many . . . are increasingly alienated."<sup>19</sup> This dichotomy between social control and social reform is reflected in police attitudes toward their task of law enforcement and order maintenance. Enforcement actions are keyed to a strategy designed to minimize violence and disorder. "The viewpoint he expresses appears to be one of short-run criminal control, rather than one of long-term eradication of the causes of discontent."<sup>20</sup> Thus, by role definition and actual practice, the police are placed

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17. THE CHALLENGE OF CRIME IN A FREE SOCIETY, REPORT OF THE PREISDENT'S COMMISSION ON LAW ENFORCEMENT & ADMINISTRATION OF JUSTICE 93 (1967) [hereinafter cited as CRIME REPORT]. See also TASK FORCE: POLICE, *supra* note 10, at 1: "The police did not create and cannot resolve the social conditions that stimulate crime. They did not start and cannot stop the convulsive social changes that are taking place in America."

18. REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 157 (1968) [hereinafter cited as KERNER COMMISSION REPORT]. Algenon Black makes a similar observation:

Regardless of the good or ill of police performance, the police are a scapegoat for all other ills for the police represent the entire system of confinement in the ghetto, the denial of opportunity, the deprivation which means poverty, and the discrimination and segregation which make for inferior status and humiliation. To the people in the ghetto the police should represent justice. But the police are the instrument through which injustice is imposed and sustained. By their presence they are party to the imposition of the whole ghetto imprisonment.

A. BLACK, THE PEOPLE AND THE POLICE 24-25 (1968).

19. KERNER COMMISSION REPORT, *supra* note 18, at 157. This view is increasing within the Negro community. In a Scammon-Gallup Poll reported in *Newsweek*, black respondents were asked whether "local police are harmful to Negro rights." In 1966, 33 percent answered affirmatively; in 1969, 46 percent. *NEWSWEEK*, June 30, 1969, at 19.

20. SUPPLEMENTAL STUDIES FOR THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 110 (1968).

in a situation that engenders hostility from many of those whom they serve.

### III. FACTORS ASSOCIATED WITH THE POLICE CONTRIBUTION TO VIOLENCE

The preceding section considered the nature of police work and the features associated with normal police enterprise. This section provides the background for the principle concern of this article, the analysis of the factors and dynamic processes involved in the phenomenon of police violence.

As in the analysis of any complex social phenomenon, the data here does not arrange itself neatly for easy interpretation. For ease of interpretation, those factors that are basic to police and police work, such as the nature of personnel, their attitudes and values, the distinctive features of the police working environment, the relationship of the police to the courts and internal police professionalization will be considered first. The factors to be considered thereafter can be logically distinguished by their independence of the police themselves, being characteristic of either the community within which the police operate or of the social situation surrounding a confrontation itself.

#### A. POLICE PERSONNEL

The first factor predisposing police to violence derives from the individual police personnel—the sources of recruitment and the attitudes and values associated with the background from which they are drawn. The prevalence of these particular variables and the fact that they tend to distinguish the police from other population groups may partly explain the phenomenon of police violence.

Almost every study has found that the police are recruited almost exclusively from the working-class or the lower-middle-class.<sup>21</sup> In McNamara's investigation, the police, "[a]s a result of recruiting, the selection program, and the self-selection of candidates . . . tended to be primarily from the lower-middle-class segments of the population."<sup>22</sup> That police recruits are predominantly from the working class is not surprising. The educational requirements and character and background investigations

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21. See, e.g., A. NIEDERHOFFER, *BEHIND THE SHIELD: THE POLICE IN URBAN SOCIETY* (1967); SKOLNICK, *JUSTICE*, *supra* note 16; J. WILSON, *supra* note 4.

22. McNamara, *supra* note 12, at 193.

bar many members of the lower class. Requirements that all police officers start out as patrolmen—the absence of a lateral entry system—tend to eliminate those with a higher educational background.<sup>23</sup> “The end result of the process of elimination is to accentuate the medium and mediocre at the expense of the independent and exceptional. Working-class background, high-school education or less, average intelligence, cautious personality—these are the typical features of the modern police recruit.”<sup>24</sup>

Accompanying the socio-economic class background of police personnel is a corresponding educational level. Recruits are not drawn from the more educated segments of the population.<sup>25</sup> Despite increased recruitment efforts aimed at college graduates, the vast majority of police recruits still have only a high school education, the minimum educational requirement for most police forces. A 1964 study of the New York City police recruits indicated that while “a recruit was required to have a high school degree . . . 21 percent [of one combined group of 574 recruits] had not earned a diploma, but had ‘equivalency degrees,’ given upon passing an examination.”<sup>26</sup> In fact, notwithstanding the stepped up recruitment of college graduates, it would appear that the percentages of college graduates in police forces is actually decreasing. This is the result of a number of college educated persons who entered police work during the Depression now approaching an age of retirement without a corresponding increase in current college recruits to replace them.<sup>27</sup>

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23. “Few persons whose ability or academic achievement gives them other professional career opportunities are willing to spend as many years performing mechanical, undemanding duties which consume a large part of a recruit’s time in most police departments.” TASK FORCE: POLICE, *supra* note 10, at 121.

24. A. NIEDERHOFFER, *supra* note 21, at 38.

25. “More than 70 percent of the Nation’s police departments have set the high school diploma level as an educational requirement for employment.” TASK FORCE: POLICE, *supra* note 10, at 10. Despite this, however, in many departments, particularly in the New England and Southern states, a majority of the police are not high school graduates.

In 1961, a survey conducted of over 300 police departments showed that 24 percent of those departments had no minimum educational prerequisite, while less than 1 percent required any level of college preparation. In one region of the country, the New England States, over 72 percent of the departments surveyed did not even require their applicants to have high school diplomas.

*Id.* at 126.

26. McNamara, *supra* note 12, at 194.

27. Until the Depression, membership in the police force was a monopoly of the lower class. In the 1930’s, however, top grade patrolmen in New York City earned three thousand dollars a

A primary motivation of many men entering police work is the fact that it represents an opportunity for upward economic and social mobility. "The main attraction of the work for recruits . . . seemed more to be found in the civil service security coupled with the relatively high economic benefits associated with the job."<sup>28</sup> This is particularly true for the working-class high school graduate. Despite the fact that police pay has been raised substantially in recent years, the occupational alternatives for a college graduate, both in the short run and in the long run, are still greater elsewhere. Thus, the better educated and theoretically "better" personnel refrain from entering police work.<sup>29</sup>

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year. They owned houses and automobiles; they could afford the luxuries that were the envy of the middle class; and they were never laid off. In the panic of the Depression, the middle class began to regard a police career pragmatically. Young men chose police work in preference to occupations higher in the social scale because of the salary and security.

A. NIEDERHOFFER, *supra* note 21, at 16.

28. McNamara, *supra* note 12, at 194. The President's Commission on Law Enforcement and Administration of Justice found that nearly one-third of the police officers questioned listed security as their main reason for deciding to become police officers. PRESIDENT'S COMMISSION ON LAW ENFORCEMENT & ADMINISTRATION OF JUSTICE, 2 FIELD SURVEYS III, § 2, at 18 [hereinafter cited as FIELD SURVEYS III]. Niederhoffer makes a similar observation:

Despite the obvious appeal of adventure and the military milieu for many young men, there is ample evidence that security is the foremost lure for the typical candidate. Thousands of recruits . . . have been asked why they joined the force. The overwhelming majority indicated that they wanted the security it offered. It is further apparent that this lure is strongest among the working class who view a police career as a step upward in the social scale.

A. NIEDERHOFFER, *supra* note 21, at 36. This is further substantiated by the fact that many policemen applied for appointment to the fire department as well, for the same reasons—economic benefits and security associated with a "masculine" occupation.

29. That college educated recruits make better police officers is problematical. As Niederhoffer points out:

From a practical point of view, the working-class youth may develop into a more dependable policeman than the middle-class college student, simply because he has already been tested in a gang and street-corner society. If he has remained out of trouble until he is eligible for the appointment, he is a good risk, and his behavior under the stress of police emergencies will probably conform closely to traditional police expectations. Although the college trained applicant is more likely to possess an unblemished past, he has been insulated to a great extent from the trials of the social arena. As such, he is an unknown quantity; it is impossible to predict how he will react to the pressure and strain inherent in police life.

A. NIEDERHOFFER, *supra* note 21, at 37-38.

The primary argument for better educated police is based on the argument that the complexity of today's policing problems require greater flexibility and adaptiveness. A study by Smith, Locke and

Lohman suggests that "[n]egative public attitudes are reflected in inadequate manpower supply. Able young men are reluctant to enter an occupation which . . . enjoys low status among occupational alternatives."<sup>30</sup> The police themselves report feeling a loss of prestige over the past decade.<sup>31</sup>

Given the source of police manpower, their background and education, many have characterized the policeman's culture as that of the masculine working man.<sup>32</sup> It is not surprising that policemen tend to respond to problems of order maintenance in a manner consistent with such a cultural background. "To the patrolman, the law is one resource among many that he may use to deal with disorder, but it is not only one or even the most important . . . . [H]e approaches incidents that threaten order *not in terms of enforcing the law but in terms of 'handling the situation.'*"<sup>33</sup> Wilson reports that such "handling the situation" or "taking charge" is more important than simply enforcing the law. It also reflects the emphasis on personal qualities and response to authority that is typical of members of this class. This is summarized by Wilson:

In many communities police officers are of working-class backgrounds . . . they bring to the job some of the focal concerns of working-class men—a preoccupation with maintaining self-respect, proving one's masculinity, "not taking any

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Walker found:

[P]olice who are attracted to college are significantly less authoritarian than police who are not impelled to attend college. This implies that there are certain personality characteristics of police who attend college that make it likely that they will be able to function more effectively with respect to the problem stemming from civil rights demonstrations and more effectively in accordance with the guidelines set down by the Supreme Court . . . .

Smith, Locke & Walker, *Authoritarianism in College and Non-College Oriented Police*, 58 J. CRIM. L.C. & P.S. 128, 132 (1967).

30. Lohman, *Law Enforcement and the Police*, in *RIOTS AND REBELLION: CIVIL VIOLENCE IN THE URBAN COMMUNITY* 359, 361 (L. Masotti & D. Bowen eds. 1968).

31. 2 FIELD SURVEYS III, *supra* note 28, § 2, at 74. Sixty percent of the officers questioned felt that police prestige was lower today than it was when they took office. The overwhelming majority of the public, however, has a high opinion of the work of the police. A Gallup Poll conducted in 1965 showed that 70 percent of the public had a "great deal" of respect for the police, 22 percent had "some" respect, and only 4 percent had "hardly any." In August 1967, the numbers were 77 percent, 17 percent and 4 percent, respectively. TASK FORCE: POLICE, *supra* note 10, at 145.

32. See, e.g., SKOLNICK, *JUSTICE*, *supra* note 16, at 82.

33. J. WILSON, *supra* note 4, at 31. See also Miller, *Lower Class Culture as a Generating Milieu of Gang Delinquency*, 14 J. SOCIAL ISSUES No. 3 at 5 (1958).

crap," and not being "taken in." Having to rely on personal qualities rather than on formal routines means . . . the officer's behavior will depend crucially on how much deference he is shown . . .<sup>34</sup>

Reiss reports that an officer will also "take charge" if only to freeze the situation before any escalation of the offense can occur or evidence of it can be altered. The basic instrument in this strategy is authority. Failing its effectiveness, the basic backstop is force."<sup>35</sup>

## B. POLICE ATTITUDES AND VALUES

It would be fair to characterize police in the United States as white, upwardly mobile men from lower-middle-class or working-class origins. Generally associated with these class origins are certain attitudes and values. One is a pervasive conservatism and reluctance to change that has been characterized as working-class authoritarianism. "Political conservatism has been highly correlated with authoritarianism, and the police usually occupy the conservative band of the political spectrum."<sup>36</sup> Through predisposition associated with their background, and also through occupationally associated factors—notably danger and authority—their conservative nature, suspicious approach to things out of the ordinary and stereotyping practice for dealing with other than the regular and predictable is strengthened. The attitudes they display—racism, anti-deviance, strong support for the familiar and status quo—cause them to be hostile to those not in conformity to their view of propriety and order and generate a counter-hostility as well which results in a strengthening of their own conceptions. All of these attitudes, views, approaches to situations and expectations will have a profound effect on their perceptions of dissent and demonstrations and on their responses to it.

Various explanations have been suggested for police conservatism. They are of two varieties. One suggests that there is a self-selection process whereby those who are inherently authoritarian gravitate toward police work. Since recruits are selected from a working-class population that is already characteristically conservative, they hold these qualities to an exceptional degree. The opposing view is that the police are

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34. J. WILSON, *supra* note 4, at 33.

35. Reiss & Bordua, *Environment and Organization: A Perspective on the Police*, in *THE POLICE: SIX SOCIOLOGICAL ESSAYS* 25, 47 (D. Bordua ed. 1967).

36. A. NIEDERHOFFER, *supra* note 21, at 110.

no more authoritarian initially, but that various factors in their socialization into the police force and their experience in their occupational environment may cause them to become more conservative. If the first view is correct, it would suggest that anti-radicalism would be endemic in police forces, but would be amenable to change through simple changes in recruitment policies—recruiting from non-authoritarian middle-class sources, for example. If the second view obtains, however, it would suggest that efforts to change the police force would be met by much more resistance, since the police personality is being recreated continually by the social environment. Based on the available evidence, it would appear that the second view is probably more accurate.

A leading proponent of the view that authoritarianism demonstrated by police is a quality of the social class from which they are drawn is Professor Seymour M. Lipset. Lipset found that when liberal-conservative attitudes are "defined in non-economic terms—as support of civil liberties—the more well-to-do are more liberal, and the poorer are more intolerant" and conservative.<sup>37</sup> He also concluded that the "lower strata are the least tolerant."<sup>38</sup> He suggested that the lower-class individual is subjected to social processes which

tend to produce deep-rooted hostilities expressed by ethnic prejudice, [and] political authoritarianism . . . . His educational attainment is less than that of men with higher socioeconomic status, and his association as a child with others of similar background not only fails to stimulate his intellectual interests but also creates an atmosphere which prevents his educational experience from increasing his general social sophistication and his understanding of different groups and ideas . . . . He is surrounded on the job by others with a simi-

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37. S. LIPSET, *POLITICAL MAN: THE SOCIAL BASES OF POLITICS* 92 (1963). Algernon Black found that

[s]ome studies indicate that those who are drawn to the work of police tend to be "authoritarian personalities." The authoritarian personality tends to be rigid and fixed and resistant to change. It tends to see people as good or bad and behavior as moral or immoral. There is little ability to tolerate disorder even though democracy in time of change has to live with a certain amount of disorder.

A. BLACK, *supra* note 18, at 38.

38. S. LIPSET, *supra* note 37, at 94. See also Lipset, *Why Cops Hate Liberals—and Vice Versa*, *ATLANTIC MONTHLY*, April, 1969, at 76, 78: "[T]he less education people have, the more likely they are to be intolerant of those who differ from themselves, whether in opinions, modes of culturally and morally relevant behavior, religion, ethnic background, or race. The police, who are recruited from the conservative, less-educated groups, reflect the background from which they come."

larly restricted cultural, [and] educational background . . . .

All of these characteristics produce a tendency to view politics and personal relationships in black-and-white terms, a desire for immediate action, an impatience with talk and discussion . . . .<sup>39</sup>

The result, according to Lipset, is that because they are recruited from the less well-educated, typically conservative working-class and because the nature of police work puts a stress on authority, suspicion, toughness and a skeptical view of human nature, policemen are exceptionally conservative and attracted to right-wing politics, particularly those with racial overtones.<sup>40</sup>

The other view, that police do not represent a self-selected authoritarian population but rather that authoritarianism develops as part of the occupational personality, is argued by Niederhoffer. According to Niederhoffer:

Police authoritarianism does not come into the force along with the recruits, but rather is inculcated in the men through strenuous socialization. The police occupational system is geared to manufacture the "take charge guy," and it succeeds in doing so with outstanding efficiency. It is the police system, not the personality of the candidate, that is the more powerful determinant of behavior and ideology.<sup>41</sup>

He argues that police recruits are no more authoritarian than other members of their class and that there is no self-selection going on prior to their appointment. Rather, the police system itself and the response to the occupational environment transform the individual into the authoritarian personality that is required by the police role. In the light of several recent studies, Niederhoffer's view of the process of socialization and the constraints of the police system is probably more accurate.<sup>42</sup> Although the basic substance of Lipset's arguments relating to class origins is important for explaining working-class authoritarianism generally, self-selection is inadequate to explain the pronounced authoritarianism of the police.

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39. S. LIPSET, *supra* note 37, at 114-15.

40. See generally Lipset, *Why Cops Hate Liberals—and Vice Versa*, ATLANTIC MONTHLY, April, 1969, at 76. In this article, Lipset reiterates his thesis of working-class authoritarianism and indicates some of the sources of past and present pressures toward right-wing politics.

41. A. NIEDERHOFFER, *supra* note 21, at 151.

42. See Smith, Locke & Walker, *Authoritarianism in Police College Students and Non-Police College Students*, 59 J. CRIM. L.C. & P.S., 440, 442-43 (1968). In this study, the investigators compared scores on an authoritarianism scale between police enrolled in a college with non-police college students in the same school. They found that the entering "freshmen police officer college students tend to be less authoritarian than the freshmen students who were not police officers." *Id.* See also quotation at note 29 *supra*.



The next problem then is to isolate the factors in the occupational environment that contribute to police authoritarianism and to identify the other attitudes and values that are associated with this authoritarianism and that have implications for police violence.

Skolnick, like Niederhoffer, argues that police develop a characteristic working personality apart from their social and class origins. This is because "the police, as a result of combined features of their social situation, tend to develop ways of looking at the world distinctive to themselves, cognitive lenses through which to see situations and events."<sup>43</sup> Behavior associated with this way of viewing the world is conservative, suspicious and stereotyping. Attitudes associated with these views are a "rotten apple view of human nature," racism, anti-deviance and anti-protest.

The working personality of the police emerges from the two dominating elements in their working environment: danger and authority. "If the element of danger in the policemen's role tends to make the policeman suspicious, and therefore emotionally attached to the status quo, a similar consequence may be attributed to the element of authority. The fact that a man is engaged in enforcing a set of rules implies that he also becomes implicated in *affirming* them."<sup>44</sup> Wilson notes a sensitivity among patrolmen to similar cues: those that signal danger and those that signal impropriety (disrespect for authority).<sup>45</sup> He suggests that these two factors explain police conservatism. "[T]he average police officer is a very conservative person . . . but he also believes that most people share his disapproval of public impropriety and 'wise guys' and agree with his judgment that a person who publicly flouts community mores is more likely than one who does not break community laws."<sup>46</sup>

This conservatism and sensitivity to danger and impropriety manifests itself in several ways. Police tend to be suspicious. In part, this suspiciousness derives from the conception of order

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43. SKOLNICK, *JUSTICE*, *supra* note 16, at 42.

44. *Id.* at 59.

45. J. WILSON, *supra* note 4, at 39.

46. *Id.* at 40. This conservatism and the feeling that it represents the dominant view of society is graphically illustrated by the following incident that arose out of the March for Victory demonstration sponsored by the Rev. Carl McIntyre:

The banners and flags and victory marchers had been on parade for almost two hours, but the policeman watching it all from the corner of 14th Street and Pennsylvania Avenue N.W. turned down his sergeant's offer of a coffee break.

"No, Sarge," he said, "I'm enjoying this. This is beautiful."

based on regularity and predictability noted previously. Moreover, "[p]olicemen are . . . specifically *trained* to be suspicious, to perceive events or changes in the physical surroundings that indicate the occurrence or probability of disorder."<sup>47</sup> Because of the element of danger in police work, features only slightly out of the ordinary are magnified by this occupational suspicion, causing the policeman to be on the alert for potential disorder and violence. In the process, he "develops a perceptual shorthand to identify certain kinds of people as symbolic assailants, that is, as persons who use gesture, language, and attire that the policeman has come to recognize as a prelude to violence"<sup>48</sup> or whose deviance he has associated with previous law enforcement and order maintenance difficulties. The result is a pattern by the police officer of stereotyping many of the persons with whom he comes in contact.

In addition to their effect on behavior, the danger and authority associated with police work and the class origins of officers also manifest themselves in a cluster of characteristic attitudes. Certain of these attitudes are particularly relevant for our consideration of police violence, since such attitudes, which are usually unfavorable to demonstrators and the substantive issues of a demonstration, may predispose the police to violence.

One such attitude Skolnick has called the "rotten apple view of human nature." This view is held by a wider portion of the populace than just the police. Briefly stated,

Under this doctrine, crime and disorder are attributable mainly to the intentions of evil individuals; human behavior transcends past experience, culture, society and other external forces and should be understood in terms of wrong choices, deliberately made. Significantly . . . social factors such as poverty, discrimination, inadequate housing, and the like are excluded from the analysis.<sup>49</sup>

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He was happy to say why.

"This is the people—not the scum that's been rioting on the campuses and burning things. These are the people who go to church every Sunday and work honestly and don't have to secede from everything with drugs.

"See, these are the people who vote," the policeman said, "These are the people who have the power."

Washington Post, Apr. 5, 1970, § A at 9, col. 1.

47. SKOLNICK, *JUSTICE*, *supra* note 16, at 48.

48. *Id.* at 45.

49. J. SKOLNICK, *THE POLITICS OF PROTEST*, STAFF REPORT TO THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE 195 (1969) [hereinafter cited as SKOLNICK, *POLITICS*].

[W]hile denying that social factors may contribute to the causes of criminal behavior, police and police publications, somewhat inconsistently, denounce welfare programs not as irrelevant *but as harmful* because they destroy human initia-

Holding this view, the policeman would be less in accord with the goals and aspirations of those whom he is charged with policing, particularly those dwelling in the ghettos. He would be less sympathetic or understanding of the "social" factors associated with "criminal" conduct. This problem is particularly acute in the racial context, where the hostility between black ghetto residents and the police is exacerbated by the social conditions associated with criminal activity.

A second attitude that has been attributed to the police is racism.<sup>50</sup> It will be recalled that the bulk of police are drawn from the working-class or lower-middle-class which have racist

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tive . . . .

Several less central theories often accompany the "rotten apple" view . . . . First, the police widely blame the current rise in crime on a turn away from traditional religiousness, and they fear an impending moral breakdown . . . . But perhaps the main target of current police thinking is permissive child-rearing . . . .

*Id.* at 195-96.

50. In an attempt to study racism in police, Bouma asked not whether they thought that most Negroes had lower morals than whites, but rather whether they thought this to be true even if *Negroes had the same living conditions as white people*. Clearly, by expressing agreement with the statement the respondent would not only be revealing his perception of a situation but also indicating that he felt the condition, lower Negro morals, was a racial trait.

In one of the most important findings of the study, over half (52 per cent) of the police officers believed that even if Negroes had the same living conditions as white people, most Negroes would have lower morals than whites. Only 28 per cent of them rejected this racist statement, while 20 per cent were undecided.

D. BOUMA, *KIDS & COPS: A STUDY IN MUTUAL HOSTILITY* 103 (1969).

Niederhoffer has described one of the processes underlying the development of racism in the police force. By his analysis, racism flourishes among police because they recruit from the segment of the population, lower-middle-class, the members of which are more likely than the general population to hold racist attitudes. The training that a police recruit receives is not likely to change the anti-black biases that he brings to the force. When the recruit is finally a patrolman, his biases are likely to be strengthened in several ways. One is the response to the hostility which he receives, the cultural shock of the alien way of life. A second is the product of the perceptual shorthand and stereotyping as a means of coping with danger and symbolic assailants. A third is that these views tend to be reinforced by other, older members of the police force. Niederhoffer also found that, as a result of the danger, lack of prestige and low morale, cynicism, authoritarianism and generalized hostility developed which encompassed the whole nonpolice world, but particularly the blacks. The final factor he noted was that patterns of mobility within the police hierarchy were such that the more able officers tended to work up to more specialized police work and that only the worst patrolmen would end up patrolling the ghetto, because it was the least desirable assignment. *See generally* A. NIEDERHOFFER, *supra* note 21, ch. 2.

tendencies generally.<sup>51</sup> When the novice police officer begins patrol duties and is

brought into day-to-day contact with what is to him an alien way of life, [he] experiences . . . "cultural shock." His latent negative attitudes are reinforced by the aggressive and militant hostility which greets him even when he is attempting to perform, to the best of his ability, a community service or order maintenance function, or is attempting to apprehend a criminal . . . .<sup>52</sup>

The Kerner Commission, among others, noted the basic hostility that exists between blacks and police. "Characteristically, [ghetto youths] are not only hostile to police but eager to demonstrate their own masculinity and courage. The police, therefore, are often subject to taunts and provocations, testing their self-control and, probably, for some, reinforcing their hostility to Negroes in general."<sup>53</sup> A staff report to the Commission on Violence made a similar finding:

Anger, hatred, fear of the police are a major common denominator among black Americans at the present time. The police return these sentiments in kind—they both fear the black community and openly express violent hostility and prejudice toward it . . . . The majority of rank and file policemen are hostile toward black people.<sup>54</sup>

These racist views of police would also tend to make them more prone to respond violently to demonstrations either organized or participated in by blacks or for reforms on their behalf.<sup>55</sup>

Police attitudes are not confined to hostility and antipathy based on race. As relatively conservative individuals concerned with community propriety, they also tend to react negatively to social deviants—those whose life styles diverge from the orderly and predictable norm.<sup>56</sup> In part, perhaps, they have come to

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51. The President's Commission on Violence found that even where segregation has been legally eliminated for long periods, they [police] are likely to have grown up without any significant contact with minority and lower socioeconomic class life styles—and certainly with little or no experience of the realities of ghetto life. They tend to share the attitudes, biases and prejudices of the larger community, among which is likely to be a fear and distrust of Negroes and other minority groups.

LAW & ORDER, *supra* note 7, at 291.

52. *Id.* at 291.

53. KERNER COMMISSION REPORT, *supra* note 18, at 159. See also Werthman & Piliavin, *Gang Members and the Police*, in *THE POLICE: SIX SOCIOLOGICAL ESSAYS* 56 (D.J. Bordua ed. 1967).

54. SKOLNICK, *POLITICS*, *supra* note 49, at 242.

55. LAW & ORDER, *supra* note 7, at 298.

56. Although hostility is particularly acute between blacks and police, it is not confined to them alone. The Commission on Violence noted that most "deviants" from white middle-class norms, "whether

stereotype these people as symbolic assailants because they know from experience that such people cause the police more trouble than the conventional individuals.

The police also tend to view perfectly legal social deviance, such as long hair worn by men, not only with extreme distaste, but as a ladder to potential criminality. . . . Nonconformity comes to be viewed with nearly as much suspicion as actual law violation; correspondingly, the police value the familiar, the ordinary, the *status quo* rather than social change. These views both put the police at odds with the dissident communities with whom they have frequent contact and detract from their capacity to appreciate the reasons for dissent, change, or any form of innovative social behavior.<sup>57</sup>

Several observers have noted the tendency of the police to enforce social customs, traditions and mores of the community, apart from any specific law, through the use of discretion and the general police powers.

One further attitude should also be noted. In general, the police "view protest as an intrusion rather than as a contribution to our political processes," and these "police attitudes toward protest and protesters often lead to conduct at odds with democratic ideals of freedom of speech and political expression."<sup>58</sup> Because of this hostility to demonstrations, the police may come to see dissent as illegitimate misbehavior rather than as legitimate protest against policies that may be wrong; since they are opposed to illegitimate misbehavior, they may come to see the reduction of protest as one of their goals.

In addition, police and police authorities tend to have a relatively unsophisticated view of demonstrations and dissent. Lohman notes that there is a

widespread disposition of the established authority and the police to blame troublemakers; to characterize situations of stress as brought on by "agent provocateurs." Correspondingly, that designation is extended to all who express their dissent in the

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they be black, Puerto Rican, Mexican, of any other minority group, or just plain hippies, see the police as bullies, unfair, stupid, rude, and brutal. . . . The police, in turn, see the minority groups as hostile, dirty, lazy, undisciplined, dishonest, immoral, and worst of all, disrespectful of the 'badge' they try to represent." LAW & ORDER, *supra* note 7, at 298. The result of these conflicts, hostility and lack of communication is that the police are predisposed to react in a mechanical, stereotypical manner to dissent or protest by these groups. With little sympathy for them, or their causes, they react in a more rigid and authoritarian manner to apparent violations of the law.

57. SKOLNICK, *POLITICS*, *supra* note 49, at 196-97.

58. *Id.* at 195. More than 60 percent of all officers see public opinion as having changed for the worse since they took office. Of these, 72 percent hold civil rights groups responsible for the public not understanding the police. 2 FIELD SURVEYS III, *supra* note 28, § 2, at 75.

form of "direct action." This structural deficiency is reflected in an extension of discretionary power to include the protection of the general community against such questionable elements . . .<sup>59</sup>

There are several ways in which police attitudes toward demonstrations are expressed. In general, police view organized protest as the activities of conspiratorial agitators.<sup>60</sup> A common pattern in police analyses of mass protest is the attempt to discover the leaders. With the stress on agitators and attempts to discover leaders, "particular significance is attached by police intelligence estimates to the detection of leftists or outsiders of various sorts, as well as to indications of organization and prior planning and preparation."<sup>61</sup>

### C. VIOLENCE AND THE POLICE

In addition to the attitudinal and behavioral characteristics associated with the social origins and working environment of the police, an understanding of the very special relationship between the police and the use of violence, legitimate and illegitimate, is crucial to our consideration. As was noted earlier, the police have a monopoly on the legitimate use of all violence and force possessed by the State. Because of this monopoly, and because of their occupational experience and socialization, the police tend to see the use of force as a personal possession.<sup>62</sup> Westley,

59. Lohman, *supra* note 30, at 363.

60. Bouma found that "[a]bout one out of every five policemen (19 per cent) felt the disturbances in their city were partially the result of a Communist movement. This idea was rejected by 57 per cent, and 24 per cent were undecided." D. BOUMA, *supra* note 50, at 91. Wilson quotes one police captain as saying that "cries of police brutality are part of a 'conspiracy against law and order' and that 'nearly all critics of police are from the radical left.'" J. WILSON, *VARIETIES OF POLICE BEHAVIOR* 195 n.13 (1968). Lipset found:

In general, the policeman's job requires him to be suspicious of people, to prefer conventional behavior, to value toughness . . . . The political counterpart of such an outlook is a monistic theory which simplifies political conflict into a black-and-white fight and which is ready to accept a conspiratorial view of the sources of evil, terms which basically describe the outlook of extremist groups . . . .

Lipset, *supra* note 40, at 78.

61. SKOLNICK, *POLITICS*, *supra* note 49, at 197.

62. See Westley, *Violence and the Police*, 59 AM. J. SOC. 34, 35 (1953), which found that from experience in the pursuit of their legally prescribed duties, the police develop a justification for the use of violence. They come to see it as good, as useful, and as their own. Furthermore, although legally their use of violence is limited to the requirements of the arrest and the protection of themselves and the community, the contingencies of their occupation lead them to enlarge the area in which violence may be used.

in his pioneering study of violence and the police, found that the realities of police work, the incidents of assaults and violence on the police "constitute a common-sense and legal justification for the use of violence by the police and for training policemen in the skills of violence."<sup>63</sup> He discovered that as a consequence of their occupational experiences, the police come to accept and morally justify their use of violence, even when illegal. He found that "violence will be used when necessary to the pursuit of duty or when basic occupational values are threatened."<sup>64</sup> Among those occupational values noted previously are the assertion of authority based on personal qualities, taking charge of the situation and being respected for his role.

The most significant finding is that at least 37 percent of the men believed that it was legitimate to use violence to coerce respect. This suggests that policemen use the resource of violence to persuade their audience (the public) to respect their occupational status. In terms of the policeman's definition of the situation, the individual who lacks respect for the police, the "wise guy" who talks back, or any individual who acts or talks in a disrespectful way, deserves brutality. This idea is epitomized in admonitions given to the rookies such as "You gotta make them respect you" and "You gotta act tough."<sup>65</sup>

Westley also found that most policemen would not sanction the use of violence by other officers and that most would support the use of milder forms of illegal coercion.<sup>66</sup> Thus, it would be expected that the police, trained to use violence and believing it to be an appropriate response to a lack of respect for authority, would be predisposed to use violence in the context of a demonstration challenging either their authority or their moral values. Similarly, the lack of sanctions by fellow officers would tend to reduce one of the restraints against the use of illegal force.

#### D. ISOLATION AND THE POLICE COMMUNITY

Many students of police have noted the self-contained and culturally isolated nature of the police community.<sup>67</sup> To some extent, the development of an occupational community is a normal

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63. *Id.* at 35.

64. *Id.* at 41.

65. *Id.* at 39.

66. [P]olicemen cannot and do not employ sanctions against their colleagues for using violence, and individual men who personally condemn the use of violence and avoid it whenever possible refuse openly to condemn acts of violence by other men on the force. Thus, the collective sanction for the use of violence permits those men who are inclined to its use to employ it without fear.

*Id.* at 40.

67. See, e.g., M. BANTON, *THE POLICEMAN IN THE COMMUNITY*

phenomenon associated with almost all vocations.<sup>68</sup> The police community, however, is unique both in the degree to which this segregation occurs and in the effect this may have in reinforcing certain beliefs and reducing contact with competing belief systems.

The process by which this segregation of police occurs is again a function of the two critical variables in the occupational environment—danger and authority. "The element of danger in the policeman's role alienates him not only from the populations with a potential for crime but also from the conventionally respectable (white) citizenry, in short, from that segment of the population from which friends would ordinarily be drawn."<sup>69</sup> Those people who would normally be police clients would obviously minimize their associations with them. The police, in order to maintain neutrality and preserve their freedom of action, cannot become too deeply implicated in many spheres of community life without leaving themselves open to charges of favoritism and partiality.

The element of danger and the nature of police work also foster extreme reliance on fellow officers which tends to carry over into non-work activities. In certain respects, police work can be analogized to military activity which also results in strong *esprit de corps* and solidarity. "Strong feelings of empathy and cooperation, indeed almost of 'clannishness,' . . . may be seen in the daily activities of police. Analytically, these feelings can be traced to the elements of danger and shared experiences of hostility in the policeman's role."<sup>70</sup>

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(1964); Clark, *Isolation of the Police: A Comparison of the British and American Situations*, 56 J. CRIM. L.C. & P.S. 307 (1965).

68. See, e.g., S. LIPSET, M. TROW & J. COLEMAN, *UNION DEMOCRACY* (1956).

69. J. SKOLNICK, *JUSTICE WITHOUT TRIAL: LAW ENFORCEMENT IN DEMOCRATIC SOCIETY* 54 (1966) [hereinafter cited as SKOLNICK, *JUSTICE*]. Compare Clark, *supra* note 67, at 308:

One of the most important contributions to police isolation stems from the general policy (official or unofficial) of policing organizations themselves. That is, in the interest of "good police work", officers are often advised to isolate themselves from certain segments of the public in order to avoid entangling or contaminating relationships. In fact, becoming closely identified with any segment of the public is frequently condemned because of the increased vulnerability to charges of favoritism and the fear of incurring obligations that subsequently could become detrimental to police operations.

70. SKOLNICK, *JUSTICE*, *supra* note 69, at 59. See, e.g., *The War of the Cops*, NEW YORK TIMES MAGAZINE, October 18, 1970, at 23. Black found that

[T]his need to develop a defense against the physical and psy-



This separation of the police community has important implications for violence and demonstrations. Given the attitudes held by police, it almost ensures a negative response to the demands for change.

[T]he police community is a closed society and it has its own customs, morals, and taboos—and those who are not conforming to the police society, to its attitudes, to its customs and traditions, taboos and mores, are ostracized and then excluded. . . . [W]hatever prejudices [the new recruit] brought in with him, have been tremendously reinforced because they are part of the community attitudes of this police group of which he becomes a member.<sup>71</sup>

Thus, Burton Levy explains how racism can become a cardinal tenet of the police community.

[T]he police system can be seen as one that is a closed society with its own values, mores, and standards. In urban communities, anti-black is likely to be one of a half-dozen primary and important values. The department recruits a sizeable number of people with racist attitudes . . . .<sup>72</sup>

Community isolation precludes favorable exposure to those holding divergent views.

Narrow police attitudes are not confined solely to race. The Commission on Violence documents similar negative attitudes toward other groups as well:

Negative responses to minorities and to non-conforming groups such as "hippies," campus militants, antiwar demonstrators, and the new breed of "revolutionaries," are also reinforced by the socialization process which transforms the new recruit into a member of the police community. Not only during the formal training process but in the everyday contacts with his fellow officers and his participation with them in both on-duty activity and off-duty socializing tend to mutually reinforce the police ideology, the closed-ranks defensiveness, which separates "we" who are on the side of law, order, morality and right from "they" who are immoral, criminal, delinquent, idle, lazy, dirty, shiftless or different.<sup>73</sup>

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chological hazards of police work helps drive the police into a close and united fraternity. Their unique danger and difficulty make them blood brothers. Daily they all face the same kinds of difficult and dangerous situations. They all carry a gun, and by so doing they are all called to danger and the possibility of injury and death. Their lives are on the line. Their blood may be on the pavement any day.

A. BLACK, *THE PEOPLE AND THE POLICE* 7 (1968).

71. Levy, *Cops in the Ghetto: A Problem of the Police System*, in *RIOTS AND REBELLION: CIVIL VIOLENCE IN THE URBAN COMMUNITY* 347, 354 (L. Masotti & D. Bowen eds. 1968).

72. *Id.* at 353-54.

73. J. CAMPBELL, J. SAHID & D. STANG, *LAW AND ORDER RECONSIDERED, STAFF REPORT OF THE TASK FORCE ON LAW ENFORCEMENT TO THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE* 291 (1969) [hereinafter cited as *LAW & ORDER*].

Thus, the police force remains self-contained and isolated, the prejudices and negative attitudes of its members reinforcing themselves. It is not surprising therefore, that these negative attitudes accompany the police to a demonstration and predispose them to correct the situation when the opportunity is afforded.

#### E. COPS VERSUS COURTS

Highly important for understanding police conduct is their role in the full criminal justice structure, especially their relationship with the courts. While the police in general are concerned with the rule of law and enforcement of the law, it is this same law which represents the most severe constraint on the means which they may use to maintain order. "[L]aw and order are frequently found to be in opposition, because law implies rational restraint upon the rules and procedures utilized to achieve order. Order under law, therefore, subordinates the ideal of conformity to the ideal of legality."<sup>74</sup> Law enforcement requires not only the maintenance of order but also the preservation of order in a manner consistent with the rule of law, whereby the law and its means are viewed as an ultimate end.<sup>75</sup> The pressures on the police, however, often require adaptations which tend to subordinate the rule of law to the exigencies of order maintenance.

The basic source of the power and authority of the police derives from their position in the legal system. This subordination to the legal system, however, imposes limitations on their practices. Although the police are the primary source of material for the judicial processes, their role thereafter tends to be minimal and beyond their control. "This functional separation of powers in which ordinarily the police are expected to enforce the law and the judiciary to determine the outcome of events creates problems for both organizations and appears to account for some aspects of police organization and work."<sup>76</sup> This separation of po-

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74. SKOLNICK, *JUSTICE*, *supra* note 69, at 9.

75. [W]hen law is used as the instrument of social order, it necessarily poses a dilemma. The phrase "law and order" is misleading because it draws attention away from the substantial incompatibilities existing between the two ideas. Order under law suggests procedures different from achievement of "social control" through threat of coercion and summary judgment. Order under law is concerned not merely with the achievement of regularized social activity but with the means used to come by peaceable behavior, certainly with procedure, but also with positive law.

*Id.*

76. Reiss & Bordua, *supra* note 35, at 32.

lice and punitive functions tends to have an effect on police attitudes toward the judiciary and toward the suspects that they submit to the process.

The refusal of the courts to convict or of prosecutors to prosecute may rest on what seem to the police the most artificial of formalities. Police are aware as well that this lack of support attributes failure to them. Their sense of justice may be outraged. Collective subcultural modes of adjustment are a common protective response to such dilemmas and contradictions. For the police this adjustment consists in part in the development of a collective identity wherein the police are viewed as the true custodians of morality and justice.<sup>77</sup>

The conflict between police work and the judicial review of their work has become manifest in the "cops versus courts" controversy. In general, police problems with the courts fall into three primary areas:

- 1) Procedural requirements which result in the loss of many hundreds of thousands of police man-hours annually because of inefficient or uncooperative court administration and resistance to changes in traditional practices . . .
- 2) allegedly improper dispositions of cases both at preliminary hearings and arraignments and after trial . . .
- 3) constitutional limitations on police tactics and procedures both in general law enforcement and specifically in the area of criminal investigation . . .<sup>78</sup>

Police view the court decisions limiting their powers as interference with their difficult job of order maintenance by persons who lack the expertise to deal adequately with the problems confronting the police.<sup>79</sup>

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77. *Id.* at 37. Compare J. WILSON, *supra* note 60 at 52:

The real source of the conflict is the effort by both the police and the judges to assert and defend their autonomy, their right to make independent judgments of what a situation requires. It is because the police are so often lenient that the trouble arises—they see the judge as a man failing to support the police officer when the latter has decided, with first-hand awareness of the situation, that leniency is not deserved. The judge, by contrast, feels that it is up to him to screen the guilty from the innocent and the deserving from the undeserving; in addition, he often sees a contrite and sober defendant . . .

78. LAW & ORDER, *supra* note 73, at 288-89. The President's Commission on Law Enforcement and Administration of Justice found that the police see Supreme Court rulings creating special problems in the areas of search and confession. Of those interviewed, 61 percent saw searches being made more difficult, and 45 percent saw confessions more difficult to obtain. 2 FIELD SURVEYS III, *supra* note 28, § 2, at 110-12.

79. Niederhoffer found that in the legal sector "the police are solidly aligned against the United States Supreme Court which, they suspect, is slowly but surely dismantling the hallowed foundation of law enforcement." A. NIEDERHOFFER, *BEHIND THE SHIELD: THE POLICE IN URBAN SOCIETY* 2 (1967). Bouma's study found regarding Supreme Court decisions that "the vast majority of the officers in our study agree with the critics. Seven out of 10 of the men said that they felt the recent

The conflict between police work and the courts arises in several different ways. The police tend to distinguish between criminal law and criminal procedure.

The substantive law of crimes is intended to control the behavior of people who willfully injure persons or property . . . .

Criminal procedure, by contrast, is intended to control authorities, not criminals. As such, it does not fall into the same *moral* class of constraints as substantive criminal law.<sup>80</sup>

These distinctions are also reflected in the attitude that courts and police bring to their dealings with the suspect. The courts rely on the presumption that a man is innocent until proven guilty. Police, on the other hand, could be said to employ a presumption of guilt. The policeman, a specialist in the control of crime, believes he is capable of distinguishing between guilt and innocence, so that when he makes an arrest he believes the person has committed the crime with which he is charged. "[T]he policeman tends to emphasize his own expertness and specialized abilities to make judgments about the measures to be applied to apprehend 'criminals,' as well as the ability to estimate accurately the guilt or innocence of suspects."<sup>81</sup>

Another area of conflict arises with the treatment that a suspect receives at the hands of the court. The feelings of the police

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Supreme Court decisions regarding police procedures made their job . . . more difficult." D. BOUMA, *supra* note 50, at 109.

Perhaps the most striking example of this was reported by the President's Commission on Law Enforcement and Administration of Justice. There police officers were asked "In general, do you think that the U.S. Supreme Court has gone too far, not far enough, or about right in making rules favoring and protecting criminal offenders?" The response is almost incredible:

	All Officers	White Officers	Negro Officers
Too Far	90	95	69
About Right	9	5	28
Not Far Enough	—	—	—
Can't Say	1	—	3

*Id.* at 112.

It should be noted that most of these decisions are not the "expression of new policy that is being promulgated, so much as they are an extension of the experience of law enforcement which is already the possession of those who are adequately informed and who have the economic resources with which to meet and treat the law enforcement experience." Lohman, *supra* note 30, at 365. In most instances, the court decisions do not seriously change the basic police *modus operandi*. A recent study conducted by the Yale Law School on the impact of the *Miranda* decision on confession rates indicated that the court decisions had no impact. See *Interrogations in New Haven: The Impact of Miranda*, 76 YALE L.J. 1519 (1967); *A Postscript to the Miranda Project: Interrogation of Draft Protestors*, 77 YALE L.J. 300 (1967).

80. SKOLNICK, *JUSTICE*, *supra* note 69, at 197.

81. *Id.* at 196.

are that the courts are too lenient and restrained in their handling of those instances when a case can be made.<sup>82</sup> And this feeling applies to the postconviction treatment as well. The police have little confidence in the ability of prisons to reform or rehabilitate convicted offenders. "There is a rather generalized feeling among large segments of the police that potentially dangerous offenders are released far too often on low bail, or their own recognizance or following conviction far too soon by parole boards . . . ."<sup>83</sup>

The way in which antipathy to the courts predisposes police to violence can now be fully examined. As was shown initially, the work of the courts and the work of the police generates inconsistent demands for dealing with the maintenance of order under law. As a consequence, police tend to resent the courts' interference with their doing their job. There is also the problem that the pressures of a demonstration and the control thereof make it difficult for police to comply with the requirements of the court.<sup>84</sup> The difficulties of arrest and proof, while not insuperable (as demonstrated by recent techniques of photograph-

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82. The efficiency and morale of the police are weakened and their likelihood to approve of the courts reduced, when valid arrests result in dismissals or token sentences. *Field Study III* found that 75 percent of the police perceived the judges and/or the sentences they imposed as too lenient. PRESIDENT'S COMMISSION ON LAW ENFORCEMENT & ADMINISTRATION OF JUSTICE, 2 FIELD SURVEYS III, § 2, at 64 [hereinafter cited as FIELD SURVEYS III]. In this same study, the officers were queried as to the main problem they had in doing their job. The third most common complaint, after the public and the police administration, was the courts, "either the U.S. Supreme Court for its decisions affecting police work or the local courts for their leniency . . . ." *Id.*

83. LAW & ORDER, *supra* note 73, at 290.

84. It is now appropriate to consider the implications that this tension between the law of the courts and the law of the police has for predisposing the police to resort to violence while controlling a demonstration. When a suspect has been arrested during the course of a demonstration, he can usually only be charged with disorderly conduct, or its equivalent, a misdemeanor to which no great sanctions are attached. Although no studies could be located, it is probably also true that in most cases of conviction, collateral is forfeited or perhaps a minimal sentence imposed. Gary Marx has suggested that "sentencing for riot offenses tends to be lighter than for similar offenses committed in non-riot situations." Marx, *Civil Disorder and the Agents of Social Control*, 26 J. SOCIAL ISSUES 19, 52 (1970).

The difficulties of control during a demonstration place demands on the police that make conformity to the demands of the courts impossible. Usually, in order for a case to be made in court, the officer has to be able to identify the suspect as the one he arrested for committing a particular criminal act. In the height of a demonstration, or where an officer has participated in several arrests in the course of an evening, compliance with such demands is difficult.

ing the suspect at the time of arrest and noting the criminal acts on the back of the picture), tend to place obstacles in the course of the police. Accordingly, they may not be readily disposed to attempt to comply. There is, moreover, the feeling held by police that, even in the event they comply with the various court requirements, a "smart lawyer" and a lenient judge will conspire to let the suspect off with a slap on the wrist. All of these factors, in combination, lead to "[p]olice dissatisfaction with the administration of justice by the courts [which] results in their doing justice, a tendency to settle things outside the courts to be sure that 'justice is done' . . . . The police may then take the law in their own hands and dispense justice, even if it means using violence."<sup>85</sup> The policeman's distrust of the court processes and of courts' response probably makes it likelier that he will engage in unrestrained violence and also easier for him to rationalize such conduct on the basis of his own code of justice—that he is the true custodian of justice and is seeing that justice is done.

#### F. POLICE IMMUNITY

The police are, to a considerable extent, immune from any effective sanctions in the event of misconduct during demonstrations. This immunity derives from two sources. One is the factual difficulty of proving a case against an officer, either before a review board (where they are still operative) or in open court. This is a reflection of the same difficulties in prosecuting participants in demonstrations, the anonymity of the crowd militates against effective identification. There is, however, an increasing trend toward police anonymity in crowd and riot control situations. Under a recently proposed bill in Massachusetts, "State and local police would not be required to wear any type of name tag. . . . The bill no longer would require State Police to wear their metal name tags and local police also would not need to have any name tags if this measure received local ap-

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85. Reiss & Bordua, *Environment and Organization: A Perspective on the Police*, in *THE POLICE: SIX SOCIOLOGICAL ESSAYS* 25, 33 (D. Bordua ed. 1967). This tendency is actually fostered by court behavior:

Under riot conditions, the courts seem to take a much more lenient attitude in regard to the permissible amount of force that may be employed by peace officers . . . . Even in dealing with the large street-crowds which may be looting or destroying during a riot, the police and military are justified, under the law, in using more force than would be allowed in dealing with like criminal offenses under ordinary, non-riot conditions.

*Survey—The Long, Hot Summer: A Legal View*, 43 *NOTRE DAME LAWYER* 913, 966 (1968).

proval."<sup>86</sup>

The second aspect of the lack of sanctions results from the lack of effective channels for expressing grievances. The civilian review boards of ten years ago have fallen by the wayside. In part, this was the result of basic structural inadequacies. It also resulted from the opposition of the police themselves. One goal of the police is professionalization—to be internally self-regulating.<sup>87</sup>

The old cop clearly doesn't want interference or review because "only an officer knows how to handle the situation." The good professional doesn't want interference or outside review because the hallmark of a profession, they believe, is the ability to self-regulate the activities of those within the profession, as do doctors, lawyers, etc. Thus, while the professional and old-line cop will split on most other issues, they do stand together on outside review or criticism.<sup>88</sup>

In the face of this combined opposition, it is not surprising that adequate *independent* review is lacking. The lack of independent review, however, can be viewed as another predisposing and necessary condition for police violence,<sup>89</sup> for, as Westley noted, police are loathe to sanction their colleagues even for the use of illegal force.

#### IV. EXTERNAL FACTORS ASSOCIATED WITH POLICE VIOLENCE

In the previous section, those factors which are primarily associated with the police themselves—properties of the personnel,

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86. Boston Evening Globe, May 19, 1970, at 1, col. 3; Boston Sunday Globe, June 21, 1970, at 30, col. 4.

87. These middle-class college educated men "formed the nucleus of the future elite group; before long they began to try to raise the prestige of the police occupation to match their own middle class ideologies and attainments, to transform it into a profession." A. NIEDERHOFFER, *supra* note 79, at 17. Niederhoffer found that "professionalism also appeals to the 'thinking' policeman . . . . To the ancient query '*quis custodiet ipsos custodes?*' the best answer is professionalism because it can eventually win for the police the privilege of 'self-policing.'" *Id.*

88. Levy, *supra* note 71, at 355. Compare A. NIEDERHOFFER, *supra* note 79, at 4:

The professionals were more liberal and tolerant, but they were policemen first, so they could not show themselves "soft" on minority-group action that verged on violation of law. They also felt obliged to defend the police occupation against further constraints at the hands of the United States Supreme Court. Nor could they permit any diminution of their professional autonomy, and for this reason, they were against the concept of a civilian-dominated review board.

89. The President's Commission on Campus Unrest (Scranton Commission), investigating the police fusillade at Jackson State College, con-

occupational environment, attitudes, values and relationships to the structure of criminal justice administration—were considered. This section will focus on another set of factors, those which could be considered external to the police, such as community structure and social polarization. There is a considerable interaction between these two sets of factors. Some are analytically difficult to distinguish and may occupy an intermediate position between the two. Such intermediate factors include the substantive issues of the demonstration, the confrontation and provocation, and the breakdown of command control. Although perhaps more closely allied with the police variables than the external variables, their consideration here is prompted by the fact that temporally they are located closer to the actual onset of violence and tend to exacerbate the levels of violence rather than simply to predispose the authorities to a violent response.

Before considering the factors associated with violence and dissent, mention should be made of the political labeling process, whereby action comes to be labeled and defined as violent or illegitimate. Skolnick has argued that, when violence occurs, it "is usually not planned, but arises out of an *interaction* between protestors and the reaction of authorities . . . ."<sup>90</sup> He contends that what is ultimately labeled "violent" is partly a product of the political processes. Just as the police officer is concerned with the maintenance of order, it is his definition of the social order that serves as the standard for determining when disorder has occurred. In a similar manner, the concept of violence refers to a comparable disruption of some condition of order, and it is likewise determined by reference to a political standard.

*"Violence" is an ambiguous term whose meaning is established through political processes. The kinds of acts which become classified as "violent," and, equally important, those which do not become so classified, vary according to who provides the definition and who has superior resources for disseminating and enforcing his definitions.*<sup>91</sup>

Moreover, even where there is agreement as to the existence of a violent exchange, the political process determines with which side the responsibility lies. In the violent exchange between the

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cluded that among other contributing factors were the white policemen's "racial animosity" toward the black students and their "confidence that if they fire weapons during a black campus disturbance they will face neither stern departmental discipline nor criminal prosecution or conviction." Washington Post, October 2, 1970, § A, at 1, col. 2.

90. SKOLNICK, *POLITICS*, *supra* note 49, at 3.

91. *Id.* at 3-4.



power structure and the dissidents, it is normally the existing political institutions that define the situation.

Official violence is frequently overlooked. Through abstraction, the technical and instrumental elements of official violence are emphasized and its moral and political aspects obscured. Thus, "crowd control" may mean splitting open the heads of bystanders; a "looter" may in fact be an ordinary ghetto resident . . . trying to get off the street. By invoking the concept of "looter," however, public officials can conjure the picture of heinous crime, can sidestep the normal penalty structure of the criminal law, call for the use of deadly force, and be applauded for a firm stand on "law and order."<sup>92</sup>

Thus, official violence may not be recognized as often as it occurs because of the manner in which the phenomenon is reported and by whom.

#### A. POLARIZATION

Perhaps one of the most important factors encouraging police violence has been the increasing polarization in American society.<sup>93</sup> The young, the poor and minority groups tend to view the laws and the police with increasing hostility.<sup>94</sup> This has struck a reactive chord in other groups which tend to reject the

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92. *Id.* at 5.

93. [T]he police have been subjected to tremendous pressures that reflect the polarization that has taken place in the community as a whole. On the one hand, they are urged to become sensitive to the needs of the different communities they serve, and to gain a better understanding of the new problems they are being called upon to handle. They are implored to exercise restraint in responding to riots and demonstrations, both in the use of manpower and in the use of force. On the other hand, they are under very heavy pressure to view ghetto violence, civil disobedience, and routine criminal activity as but different forms of "lawlessness"—all of which ought to be dealt with by the same "get tough" policy that has traditionally been urged upon the police whenever a crime wave has occurred or a particularly heinous crime has been committed.

Goldstein, *Police Response to Urban Crisis*, 28 PUB. AD. REV. 417 (1968).

94. A task force of the President's Commission on Law Enforcement and Administration of Justice reported that nonwhites, particularly Negroes, are significantly more negative than whites in evaluating police effectiveness in law enforcement. "In describing whether police give protection to citizens, nonwhites give a rating of 'very good' only half as often as whites and give a 'not so good' rating twice as often." PRESIDENT'S COMMISSION ON LAW ENFORCEMENT & ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: THE POLICE 146 (1967) [hereinafter cited as TASK FORCE: POLICE].

One of the most startling differences discovered concerned attitudes toward demonstrations. The Field Survey II to the President's Commission on crime asked about demonstrations: "There have been quite a number of political and civil rights demonstrations over the past few years. Do you think such demonstrations should be allowed no matter what, should be allowed only if the demonstration remains peaceful, or

validity of their demands. The police are particularly implicated in this polarization. They are ideologically and politically allied to those groups least responsive to the demands of demonstrators. "The police have faced overt hostility and even contempt from spokesmen for liberal and leftist groups, racial minorities, and intellectuals generally. The only ones who appreciate their contribution to society and the risks they take are the conservatives. . . . The radical left has almost invariably been hostile . . ."<sup>95</sup> This, in part, explains why instances of violent clashes with demonstrators almost invariably involve left-wing adversaries. Another reason is simple statistical probability—the left produces many more demonstrations.

Because of the polarization, however, it is difficult for the police to function with the neutrality and impartiality that is required.

The police often believe that ideological and political conflicts . . . involve clashes between good, upright and honest groups of citizens on the one hand and bad, lawless and deceitful troublemakers on the other. In fact, however, these great struggles between large groups of the public more clearly involve political difference than they do questions of criminal behavior. Often the "good, upright and honest" citizens are better characterized simply as conservative elements of the population who are resisting the demands of other factions seeking social, political, or economic benefits at the direct expense of the conservative groups.<sup>96</sup>

When these conflicts become manifest in demonstrations and protest, the presence of the police is required in their capacity as

should not be allowed at all?" Breaking down the responses by Race and Income reveals that:

	White				Negro			
	0-2,999	3-5,999	6-9,999	10G+	0-3	3-6	6-10	10G+
Allow all demonstrations	1	2	2	1	8	21	13	8
Allow if peaceful	46	50	57	67	78	75	84	92
Should not be allowed at all	51	45	40	31	4	2	3	—
Don't know	2	3	1	1	10	2	—	—

FIELD SURVEY II at 61, 63.

The difference between attitudes by race is extremely pronounced.

95. Lipset, *Why Cops Hate Liberals and Vice Versa*, ATLANTIC MONTHLY, April, 1969, at 80.

96. LAW & ORDER, *supra* note 73, at 295. Task Force: Police reported that "[t]he officer who protects the right of free expression of ideas may find himself protecting an attack upon the segment of the community with which he identifies." TASK FORCE: POLICE, *supra* note 94, at 25.

agents of social control. "The police, instead of taking a neutral position in attempting to restore order during these primarily political clashes, often tend to become participants in the clash on the side of the conservative elements and against the dissident elements."<sup>97</sup> This partisanship on the part of the police is recognized by the demonstrators as such, and it is not surprising that the police in turn come to be viewed as allied with the forces against which the protest was initially launched.

This process of polarization is a steadily escalating one which has many implications for violent protest in the future. The origins of polarization can originally be traced simply to differences in view held by the "combatants." After a series of encounters in which police violence occurs and in which no remedial sanctions are imposed, the police come to be included in the targets of protest. In part, instances of unsanctioned police violence would be anticipated because

it is often impossible to pinpoint and take remedial action against those individual policemen who have engaged in indiscriminate or illegal behavior . . . . This inability promptly to identify and hold responsible those who have engaged in illegal activities generates widespread feelings of bitterness and animosity in one group towards the other.<sup>98</sup>

This failure of redress then becomes part of an increasing cycle of violence, each factor of which reinforces the views of the other. "[T]he police handling of [anti-war] protestors was often unrestrained and only increased the potential for violence—in the immediate situation and for the future. . . . [A]s anger against the police became a major element in protest meetings and marches, the police grew to hate and fear the protesters even more."<sup>99</sup> It has not been one-sided, however, with all the responsibility resting with the police. As Lipset notes, the radical left is "prepared to alienate the police, as well as conventional working-class opinion, in order to provoke police brutality, which in turn will validate their total rejection of all social institutions."<sup>100</sup> The result has been the "Politics of Protest"—the steady escalation of confrontation which is conducive to more intensive polarization

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97. LAW & ORDER, *supra* note 73, at 295. *Task Force: Police* notes that "[t]he police, particularly in the South, have sometimes themselves attacked peaceful and clearly legal demonstrators with excessive force and have failed even to try to protect demonstrators from violent attack." TASK FORCE: POLICE, *supra* note 94, at 192.

98. LAW & ORDER, *supra* note 73, at 338.

99. SKOLNICK, *POLITICS*, *supra* note 49, at 186.

100. Lipset, *supra* note 95, at 83. An example of this type of activity would be the "Days of Rage" sponsored by the Weathermen in Chicago. See N.Y. Times, Oct. 9, 1969, at 1, col. 8.

which serves as justification for further escalation of the conflict on the part of both parties.

This polarization and escalation of the conflict has at least two by-products which may also contribute to police violence. One is that the adoption of polar positions makes it extremely difficult for the police and demonstrators to cooperate either initially in planning a demonstration or, in the event that disorder breaks out, in reducing it.

Once the attitudes of the police and the protest group begin to diverge toward opposing extremes, the ability of both sides to join in either preventing a potential disorder or curbing an existing disorder is greatly impaired. Because of the growing rigidity and polarity in the attitudes held by each group toward the other, communication between the police and the protesters, if it occurs at all, will be carried on in an atmosphere of mutual distrust and suspicion . . . . And in the midst of a disorder, discussions aimed at mutual efforts to bring the disorder to an end become virtually impossible.<sup>101</sup>

Polarity and opposition causes a general breakdown in communication that denies the police the cooperation and information that would make their task easier and less prone to violent incidents.

There is another aspect of polarization that also tends to promote violence. In the polarized context, the police expect and anticipate the possibility of violence. The expectation of violence leads the police to take those precautionary steps necessary to enable them to deal with such a disorder. "While adequate planning and preparation are vital to effective control, they may help create a state-of-siege mentality, increase susceptibility to rumors, and exert a self-fulfilling pressure."<sup>102</sup> These precautions usually amount to the mobilization and deployment of additional police and other military forces with the accompanying announcements of their availability to quell any disturbances. Such police precautions and preparations create an atmosphere of tension that may cause the more moderate and restrained elements to refrain from participating in the demonstration for fear of becoming involved in violence. As a result, a vacuum is created, in which the more extreme and previously polarized elements can assume greater control over the actions of the demonstrators. Thus, police precautions in an atmosphere of polarization can have the effect of a "self-fulfilling prophecy"—forcing out the more moderate elements and setting the stage for a confrontation between the elements on the extreme.<sup>103</sup>

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101. LAW & ORDER, *supra* note 73, at 338-39. See also, Sagalyn, *Danger of Police Overreaction*, 60 J. CRIM. L.C. & P.S. 517 (1969).

102. Marx, *supra* note 84, at 41.

103. Another way in which police actions may result in creating

## B. COMMUNITY SUPPORT

The polarization between the police and demonstrators reflects a corresponding polarization that has taken place at the community and national level. The results of this division have created a climate in which it can be anticipated that police will be more likely to resort to violence. This factor may be characterized as community support for the police—for “get tough” and “law and order” tactics for dealing with the dissidents.

Among the police, there is felt to be a widespread public support for violent attacks on demonstrators.

Policemen, themselves representative of the larger community from which the cries for “law and order” emerge, have found it increasingly difficult to close their ears to the public clamor. Sensing correctly that an ever increasing percentage of the population is willing to tolerate the use of any amount of suppressive force to quell the clamor about them, some policemen have fulfilled the wishes of these people by engaging in terroristic attacks upon rioters and demonstrators in an unruly and undisciplined use of brute force.<sup>104</sup>

In surveys conducted in the aftermath of the Chicago Convention, 56 percent of the people questioned approved of the way that the police had handled the situation.<sup>105</sup> This type of support arises in part from the polarization in attitudes that has occurred, and it enables the police and the community to rationalize such conduct.

Community support tends to foster police violence in several ways. One is simply creating a favorable climate in which it can be indulged. A second is in its protection of the police from any consequences of their violence. A staff report to the Commission

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the very behavior they are supposed to suppress is the police practice of identifying what Jerome Skolnick calls “potential assailants.” Police commonly develop a “short hand” by which they can more easily identify individuals with whom they anticipate difficulty. The shorthand may consist of generalizations about people with certain skin color, hair length or clothing style . . . . The simplifications employed by police, and the circumstances in which these simplifications are invoked may result in increasing the number of the very antagonists which police manifestly attempt to minimize.

M. LIPSKY, *POLICE ENCOUNTERS* 3 (1970).

104. *LAW & ORDER*, *supra* note 73, at 335. For example, Bouma found that while only 21 percent of the police advocated the use of greater violence, they reported that 57 percent of their non-police friends advocated this approach. D. BOUMA, *KIDS & COPS: A STUDY IN MUTUAL HOSTILITY* 93 (1969).

105. The violence surrounding the Democratic National Convention in Chicago in August 1968 was seen by millions of citizens on television. The Walker Committee investigated the episode for the National Commission on Violence and labeled it a “Police Riot.” How-

on Violence noted that the jury hearing the case of policemen accused of beating newsmen in Chicago simply refused to return a guilty verdict in the face of overwhelming evidence. There are similar instances in the South. This, in turn, relates to the police feeling of immunity from retribution, which was also suggested to have a relationship to police violence.

Community support for police violence, regardless of how deeply felt, does not always translate into police violence. It requires an additional mediating factor—local political support. Thus, as in the case of Chicago, “when police are encouraged by public officials to regard free assembly as subversive, they do not need much provocation in order to attack even innocent bystanders.”<sup>106</sup> In communities in which “law and order” is in the ascendant and the highest elected officials have issued “shoot to kill” orders, there is clearly a climate that encourages and justifies police violence. When police attitudes, which are already hostile to demonstrators “are coupled with a local government that is also hostile to the protesting group, and with provocations by that group, unrestrained police violence is not surprising. Indeed, the police may develop the expectation that such conduct, if not expected, will at least go unpunished.”<sup>107</sup> This relates to the concept earlier proposed that violence is partly defined in a political context. It is these local governments that determine what constitutes violence and when police can respond in kind. Not infrequently, it is their own challenged institutions which are being subjected to “violence” by the demonstrators. “The term ‘violence’ is frequently employed to discredit forms of behavior considered improper, reprehensible, or threatening by specific groups which, in turn, may mask their own violent response . . . .”<sup>108</sup> Thus, a community that approves of violence by police—partly as a result of their own polarization and partly because of values and attitudes shared in common with the police

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ever, 56 percent of the American public expressed approval of the Chicago police handling of the unruly demonstrators. N.Y. Times, Sept. 18, 1968, at 25, col. 1 (late city ed.).

In response to a Scammon-Gallup Poll reported in *Newsweek*, 85 percent of the public agreed that black militants have been treated too leniently (8 percent disagreed) and 84 percent agreed that college demonstrators have been treated too leniently (11 percent disagreed). *NEWSWEEK*, Oct. 6, 1969, at 35.

106. J. SKOLNICK, *THE POLITICS OF PROTEST, STAFF REPORT TO THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE* 47 (1969) [hereinafter cited as SKOLNICK, *POLITICS*].

107. *Id.* at 275.

108. *Id.* at 4.

—can elect a local government which also approves of police violence. This combination can provide authorization for such activity and protection from its consequences.

The relationship between the police and the larger community has been well described by James Q. Wilson. Although he disputed the notion that local political figures would intervene in day-to-day police operations, he found that the police administrators and police forces were responsive to generally prevailing public attitudes, particularly "when the public can observe some general condition for which the police can be held responsible . . . ."<sup>109</sup> He found that police were sensitive to their political environment because of its implications for their own autonomy and material and career interests. Thus, while the community may not intervene in routine cases, the police are still responsive to community expectations and interests. "[T]he community is a source of cues and signals—some tacit, some explicit—about how various police situations should be handled, what level of public order is deemed appropriate, and what distinctions among persons ought to be made."<sup>110</sup>

Wilson described three basic styles of police organization; watchman style, legalistic and community service, and found that they tended to correspond to the communities in which they were situated. He found the watchman style of police organization to be associated with an "order maintenance" priority.<sup>111</sup> He also found that "[t]he three cities that display the watchman police style have political systems with certain important similarities. Each is led by politicians who appeal to a predominantly working-class and lower-middle-class constituency on the basis of party loyalty . . . [and] ethnic identification . . . ."<sup>112</sup> His conclusion, therefore, was that the political system and the police style are congruent. Recalling the previous discussion of work-

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109. J. WILSON, *supra* note 60, at 228. "Thus, police work is carried out under the influence of a *political culture* though not necessarily under day-to-day political direction. By political culture is meant those widely shared expectations as to how issues will be raised, governmental objectives determined, and power for their attainment assembled; it is an understanding of what makes a government legitimate." *Id.* at 233.

110. *Id.* at 233.

111. See *id.* at 157: "Because the watchman style emphasizes order maintenance, it makes distributive justice the standard for handling disorderly situations. Just as all patrolmen find themselves preoccupied with order maintenance to some degree, they also inevitably judge persons by what they 'deserve.'"

112. *Id.* at 236.

ing-class authoritarianism, it should be noted that it was in precisely this type of background that one would expect conservative, conventional public expectations and political leadership. Given the congruence between government and police, and the reinforcement that each gives the other's conservatism, it would be expected that it would be precisely in these cities that the potential for police violence would be the greatest.

### C. ACCEPTANCE OF VIOLENCE

Another factor which has causal implications for police violence is the increasing acceptance of violence as a legitimate police control technique, with the corresponding weakening in resistance to resort to violence as a technique. The F.B.I. Riot-Control Manual states that "the basic rule, when applying force, is to use only the minimum force necessary to effectively control the situation. Unwarranted application of force will incite the mob to further violence, as well as kindle seeds of resentment for police that, in turn could cause a riot to recur."<sup>113</sup> Despite this injunction to restraint, any study of recent police encounters with demonstrating groups reveals one central fact—there has been a steady escalation of hostility, conflict and violence.<sup>114</sup>

The increasing acceptance of violence, and the weakened resistance to resort to violence becomes a progressive pattern which is increasingly likely to recur. "[T]he control of police and civilian authorities over mass police action at demonstrations . . . is beginning to weaken, as individual officers become accustomed to it."<sup>115</sup> And, as they become accustomed to violence, with no subsequent sanctions and the gratification of meting out "justice," it should be expected that the tendency to resort to violence would be reinforced.

This tendency to resort to police violence is also seen in the response of community support that is given to such actions. "With each succeeding group disorder, growing numbers of the public will appear to be more vigorously in favor of resorting to force as a solution to such outbreaks. As a consequence, with

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113. REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 176 (1968) [hereinafter cited as KERNER COMMISSION REPORT].

114. In the historical context, one might observe an overall diminution in the uses of official violence, and particularly deadly force. See generally H. GRAHAM & T. GURR, *VIOLENCE IN AMERICA, A REPORT TO THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE* (1969); Marx, *supra* note 84.

115. P. CHEVIGNY, *POLICE POWER: POLICE ABUSES IN NEW YORK CITY* 179 (1969).



each succeeding disorder, public officials will meet with less resistance in adopting that solution . . . ."<sup>116</sup> In this light, it should be noted that the decision to use violent tactics in the control of protest and demonstration disorder is as much a political decision as it is strictly a technical police problem. "The interplay of protest and official violence cannot be understood solely through an analysis of demonstrators and police. It must be seen in the light of the surrounding structures of authority and power and the conceptions which authorities hold of the nature of protest and the proper uses of official violence."<sup>117</sup> The interplay of polarization, community support and the acceptance of violence can be viewed as interrelated variables influencing the variable of police violence.

#### D. SUBSTANTIVE ISSUES OF DEMONSTRATION

An additional factor which may be instrumental in precipitating police violence is the substantive issues of the demonstration. "One of the primary responsibilities of the police is to protect the constitutional rights of citizens. Part of this responsibility involves cooperating with all legal demonstrations no matter how repugnant the participants or cause may be to policemen personally."<sup>118</sup> This is an extremely difficult burden for the police since, as shown previously, in many instances the participants and the causes for which they demonstrate are antithetical to the values and belief systems of the policeman as an individual. Because of their class origins and conservatism, the police may find themselves substantively opposed to many causes of protest. Any catalogue of recent topics of protest—the war in Viet Nam, civil rights, minority group rights, welfare rights, student activism on a host of issues—would probably find the police in substantial disagreement with most of the demands, regardless of the tactics employed.

The uniformed police, by the nature of their mission to main-

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116. *LAW & ORDER*, *supra* note 73, at 339. In one survey, 84 percent of the public thought that college demonstrators have been treated too leniently. Scammon-Gallup Poll, *NEWSWEEK*, Oct. 6, 1969, at 35. Bouma found that "there was a startling difference between the way the police said they felt about the use of force to control future riots and the way the police said their non-police friends felt. While only 21 per cent of the police themselves subscribed to the greater force idea, 47 per cent of them said that their friends were in favor of this approach." D. BOUMA, *supra* note 104, at 93.

117. SKOLNICK, *POLITICS*, *supra* note 106, at 5.

118. *TASK FORCE: POLICE*, *supra* note 94, at 192. "Police frequently find themselves in situations where they are called upon to provide ade-

tain order and secure the established institutional arrangements are, of course, conservative and supportive of the status quo. Correspondingly, they appear as the most visible and tangible representatives of an intransigent social order which insurgent groups seek to transform through their demand for equal opportunity and equal treatment.<sup>119</sup>

This disagreement with the substantive issues may manifest itself in a partisanship or lack of neutrality which will cause the crowd to respond to the police as part of the targets of their dissent. Similarly, substantive disagreement may make the police discriminate in their treatment of different groups; they are likely to exercise discretion in favor of those with whom they agree and against those with whom they disagree. This lack of even-handedness may also contribute to the escalation of hostility, conflict and polarization.

#### E. CONFRONTATION AND PROVOCATION—THE RAGE FACTOR

While it should be apparent from the foregoing discussion that a confrontation which results in violence is not an isolated event but the culmination of a lengthy process that has gone before, the actual face-to-face encounter may be the incident which touches off the police violence. Inherent in that confrontation are several elements which themselves tend to promote violent police reaction.

Of these elements, the most obvious is the provocation to which the police are subjected. In some cases, the abuse and vilification are extremely intense. Graphic examples are presented in *Rights in Conflict*, a review of the Chicago Convention disorders, where a minority of demonstrators goaded the police into violence with their own violent or provocative acts.

There is no question that the police in the recent Chicago disorders—and this has also been true in many other cities—were subjected to intense provocation by some individuals ranging from vilification to a wide range of degrading and injurious missiles. The average person confronted by that kind of abuse would not be expected to continue to exercise good judgment and restraint.<sup>120</sup>

In the face of such provocation, it is understandable that the police give vent to their feelings and lash out at their tormentors.

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quate protection for a speaker or demonstrating group that wishes to exercise the right to express opinions, however unpopular their opinions may be and however hostile their audience." *Id.* at 24.

119. Lohman, *Law Enforcement and the Police*, in *RIOTS AND REBELLION, CIVIL VIOLENCE IN THE URBAN COMMUNITY* 359, 361 (L. Mosatti & D. Bowen eds. 1968).

120. Sagalyn, *supra* note 101, at 517.

Confrontation also fosters police violence by providing a structurally conducive situation in which the unidentified policeman can partake of the same anonymity that is shared by the participants of the demonstration<sup>121</sup>—he can vent his rage with impunity. Moreover, the behavior of crowds is contagious and likely to infect the policeman as well, further encouraging his reaction.

The policeman no doubt sees a drastic threat to authority from a civil disturbance and it is perhaps this which originally provokes him to angry reaction. The anonymous and continuing nature of the threat brings out hostility against Negroes, Puerto Ricans, hippies, leftists, or whoever else is or appears to be involved in the mass action. The mob psychology reinforces the impulse to take violent action against the threat, until the impulse is distorted out of all proportion to the original cause.<sup>122</sup>

A final violence-producing element of confrontation is the pressure of contradictory societal demands to which the police are subject. The larger community is watching the actions of the police and will approve their "firm" action and condemn any vacillation or equivocation. On the other hand, the police are confronted with a group agitating for political and social reform, often by the same group that is so closely watching the police response. The competing pressures put on them by the protesters and the larger community create an impossible situation. "If they cope with their situation by venting their rage on the most apparent and available source of their predicament—blacks, students and demonstrators—it should occasion no surprise."<sup>123</sup> In fact, however, given the attitudes and predilections of the police, the protesters and demonstrators are the only conceivable target to which the police would respond. Thus, "[c]onditions are ripe when the police are faced in the streets with an outcast group toward which they feel alien and consequently fearful. The action is then triggered by an act of defiance or assumed threat to authority of the same sort that will set off a violent response by an individual policeman."<sup>124</sup>

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121. The investigation of an alleged incident of police violence associated with a "block party" in Boston was delayed nearly three months because "the critical problem has been a lack of identification, a lack which seems to create some sort of immunity on the part of the officer." *Boston Sunday Globe*, July 26, 1970, at 76.

122. P. CHEVIGNY, *supra* note 115, at 162-63.

123. SKOLNICK, *POLITICS*, *supra* note 106, at 190.

124. P. CHEVIGNY, *supra* note 115, at 176-77. Lipsky noted that almost half of the cases precipitating the use of excessive force by the police

involved open defiance of police authority or resisting arrest. Open defiance of police authority, however, is what the police-

## F. FAILURES OF CROWD CONTROL

The last factor to be considered in analyzing police violence is the crowd control response of the public authorities to the confrontation situation. The way in which the police respond to a demonstration will, to a considerable extent, determine whether violence breaks out and, if it does, the degree to which the resulting conflict will escalate and spread. The inadequacy of crowd control techniques, like the other topics we have considered, may result from several different factors: inappropriate control techniques characterized by patterns of under- and then over-reaction, lack of effective co-ordination, including inadequate information and intelligence and a breakdown of command control.<sup>125</sup>

In coping with demonstrations, police are often put in a reactive position—they cannot respond to crowd violence until it has reached a certain level. The traditional dilemma concerning the use of force is that under-reaction may allow the disorder to spread, while over-reaction may create incidents that encourage previously passive observers to participate. The Kerner Commission concluded that the police response to the initial incident was usually the primary factor determining whether it remained a minor police problem or ballooned into a major disorder.

The reasons for initial under-reaction stem in part, from simple manpower limitations and the allocations of this scarce resource. This is why, in the initial stages of a disorder, either a

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man defines as his authority, not necessarily "official" authority. . . . What a policeman sees as defiance [may often be] a simple refusal to acquiesce to his own authority . . . . Police-men are more likely to respond with excessive force when they define the situation as one in which there remains a question as to who is "in charge."

M. LIPSKY, *supra* note 103, at 79.

125. See, e.g., Marx, *supra* note 84. See also J. CAMPBELL, J. SAHID & D. STANG, LAW AND ORDER RECONSIDERED, STAFF REPORT OF THE TASK FORCE ON LAW ENFORCEMENT TO THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE 292 (1969) [hereinafter cited as LAW & ORDER]:

Various analyses of police confrontations with minority and protest groups have identified "over-response," inadequate crowd control training, poor planning, failures in supervision and leadership, as well as the residual hostility of the police to the minorities and non-conformists involved, their suspicion of dissent, and their disagreement with the demonstrators on the substantive issues as causative factors. Nor have these analyses neglected to underline the difficult conditions to which the police have been subjected. . . . That at least some participants in many of these conflict episodes wanted to provoke a police over-response may be true—but that individual police officers, and sometimes apparently whole police units, cooperated enthusiastically with their plans is equally obvious.

riot or a spontaneous demonstration, the police forces can be so easily overwhelmed.<sup>126</sup> On the other hand, is the case of over-reaction where the police are massed to quell any disorder. "Many observers of police-citizen interaction have noted the heightened tension and crisis atmosphere generated in an area where large and powerful groups of law enforcement officers are deployed."<sup>127</sup> The presence of police in massive numbers, while sometimes serving to prevent potential violence, may also be considered provocative by minorities, students and other demonstrators.<sup>128</sup> This type of situation is the one normally associated with the confrontation, in which provocation and abuse ultimately result in a police response.

Perhaps the single most important factor in police violence is what could be characterized as the breakdown of command control—the weakening of control that the supervisors have over their men. Crowd control requires a police response completely different from ordinary police work. Traditional police training is designed to develop police officers who can function independently, with little direct supervision. This is consistent with the exercise of discretion in the order maintenance function of police work. The control of civil disturbances, however, requires "large numbers of disciplined personnel, comparable to soldiers in a military unit, organized and trained to work as members of a team under a highly unified command and control system."<sup>129</sup> No matter how well-trained and skilled a police officer may be, he will be relatively ineffectual to deal with civil disturbances as long as he functions as an individual. Wilson has highlighted this distinction:

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126. See, e.g., KERNER COMMISSION REPORT, *supra* note 113, at 173 n.4; J. WILSON, VARIETIES OF POLICE BEHAVIOR 81 (1968). The availability of police is complicated by the fact that they also have to be used for patrol, traffic, detective, administrative and support functions as well as crowd control. When coupled with days-off, sick-leave, vacations, etc., the normal police force can only expect to have perhaps one man in five on duty and only about ten to fifteen percent of its total forces on the street.

127. LAW & ORDER, *supra* note 125, at 336.

128. See M. LIPSKY, *supra* note 103, at 3:

To what extent does police behavior (as in other bureaucratic contexts) result from a structuring of events by the police organization itself? . . . The police may generate and create conditions for the realization of self-fulfilling prophecies. . . . "Overreaction" is the euphemism by which such responses are generally known in descriptions of police behavior during civil disorders.

129. REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 174 (1968) [KERNER COMMISSION REPORT].

Those police departments that have, by their actions, exacerbated tensions or failed to maintain order might be said to be those that have failed to recognize the radical difference between their normal duties and those they are called upon to perform in critical events. The desire of an individual to assert his personal authority may be inevitable and perhaps desirable in patrol situations; it can be disastrous in a mass deployment of police when discipline and concerted action are necessary.<sup>130</sup>

The inherent tension between crowd control and normal police work can be seen to act on a gradient, moving from effective riot control marked by a highly disciplined team to the individual actor exercising his own discretion with a minimum of supervision. Seen in this light, police violence or a police riot can be viewed as a breakdown in command control marked by a regression from unit crowd control to an operation by a group of individual actors. This breakdown occurs under conditions and in situations which encourage their giving vent to a basic hostility and antipathy to the protesting group.<sup>131</sup>

## V. CONCLUSION

From the foregoing discussion, it is now possible to construct a model that integrates these separate factors, summarizing in fine what has been stated at length above. Police violence can be seen as a product of the interaction of two sets of variables: those associated primarily with the police and those associated primarily with the community. An intermediate group of factors arises from the interaction of these two sets.

The police normally engage in two primary types of activities, law enforcement and order maintenance. These duties entail the exercise of a great deal of discretion by the police officer. Because the scope of these duties is not clearly defined, he also tends to rely on personalized attributes of authority as well as formal authority.

Police departments in turn come to be organized around an orienting principal, law enforcement or order maintenance, which affects the way in which they will respond to disorder. Police

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130. J. WILSON, *supra* note 126, at 80.

131. [S]uperior officers may lose the power to control their men. The chain of command and communication between and within enforcement agencies, often unclear to begin with, may completely break down. The most dangerous part of the disturbance is now at hand as the environment changes from a riot to a war. Some police behavior seems as much, or more inspired by the desire for vengeance, retaliation, and to "teach the bastards a lesson" as by the desire to restore law and order. Marx, *supra* note 84, at 49.

departments are also organized on a military model which also tends to effect the way in which they will perceive and react to demonstrations. As agents of social control, police officers become implicated in maintaining social stability and the status quo at the expense of social change. This, in turn, puts them at odds with those advocating change.

Augmenting the organizational attributes that will tend to make the police react negatively to dissent are the personal characteristics of the officers. Police personnel are drawn from the working-class and lower-middle-class; they tend to be less well educated and more inflexible than the population at large. They also tend to be highly conservative, both politically and socially. They tend to be highly authoritarian, with a generally negative view of human nature, and place a high premium on physical response, toughness and asserting masculinity. All of these views, grounded in their social origins, are reinforced by the nature of police work and the occupational environment, strongly characterized as it is by danger and authority. Their experiences in this occupational environment tend to make the police even more suspicious, racist, anti-deviant and negative toward demonstrations. The occupational environment and the focal concerns of their personality cause the police to rationalize and justify the use of violence, including illegal force, for the purpose of asserting their own authority. This action would not be condemned by police colleagues. Also arising out of the dangers and authority of the occupational environment, as well as the unique demands of their work, is a tendency to withdraw into an isolated community in which police are exposed only to like-thinking individuals. This community isolation and uniformity of views, particularly of a conservative nature, tend to bring potential police deviants into conformity.

In association with their work, the police frequently find themselves in conflict with the courts because of the differences in their roles in the system of criminal justice administration. The police are in substantial disagreement with many of the restrictions and requirements of the courts, viewing them as unnecessary impediments to the performance of their function. Difficulties of proof for arrests occurring during a demonstration and objections to leniency may encourage the police to do justice on their own—a view that is encouraged by the policeman's view of violence and the community mores, as well as his antipathy to the individual demonstrating. Reinforcing this tendency to violence is the factor of immunity deriving from the anonymity

of the crowd and the support and protection the larger community will afford for the use of violence.

The tendency to violence is fostered by a polarization that exists both in the larger community and between the police and the demonstrators. As conservatives, the police are opposed to most issues of demonstrations, and lack of impartiality in the past has caused the police to become one of the targets of demonstrators. Polarization also precludes necessary cooperation to minimize violence and creates expectations in police to anticipate violence. Preparation for such contingencies in turn fosters the probability of greater violence. In this polarized situation, community opinion will likely support the police, both through tacit approval and encouragement and protection from consequences. This community support will come to be reflected in the nature of the political environment of the community, and a congruence emerges between the political climate of the community and the support it will provide the police. In those communities most likely to share the police's view and conservatism, the community structure and political leadership is most likely to encourage their violent response, given their own opposition to protesters and demonstrations. Another byproduct of polarization is that it encourages the acceptance of violence as a legitimate technique of crowd control. This tendency to violence deriving from the community social structure is likely to be further encouraged by disagreement over the substantive issues of the demonstration. The primary source of dissent is from those groups who will be most opposed by conservatives and the police. The situation of confrontation is a source of provocation that may goad the police into action. The confrontation provides a crowd situation in which the anonymity of the crowd provides an opportunity to exercise violence with impunity. The mob psychology encourages the expression of rage. The crowd also tends to foster a deterioration of the police crowd control techniques, regressing from unit control to the atomized individualistic response. This weakening of command control is a readily anticipatable consequence of the nature of normal police work and the organization of police departments and training programs.

Assembling all of these factors, we can now examine the dynamics of the confrontation. The police bring a negative attitude to the demonstration as a consequence of their own background, work experience and cultural isolation. This negative attitude toward the demonstrators is coupled with a negative view of the cases being professed. The general disapproval of



demonstrations as a technique is exacerbated by the confrontation and magnified by the provocation. The crowd psychology encompasses the police-spectators and the anonymity of the crowd provides the opportunity for the officers to engage in unpunishable expression of their violent disapproval and distaste for the demonstrators. This tendency is further supported by their difficulties in complying with the legal norms under the conflict situation and a generalized belief that such compliance would not effectively do justice anyhow. The tendency to do violence is further supported by the general immunity from sanction, in addition to anonymity, provided by the brotherhood of policemen (supported again by the strong police community) and the support of the community and political leaders. The fact that the community approves of their action, including violence, and the anticipated sanctions for failure to take action under such circumstances creates a situation that allows free expression of the violent response.

The preceeding discussion has attempted to identify and relate the factors that may be associated with police violence. An effort has been made to show the processes involved and to indicate the interactions that may occur between these numerous variables. Although the number and interrelation of these variables precludes any simple generalizations, it would be hoped that the model suggested here could be used to generate some empirically confirmable hypotheses. It would appear that many of the factors enumerated here, such as community polarization and police attitudes, could be subjected to research that would result in quantitative measures. With such further research, this preliminary study could provide a useful analytic tool.