

Hello colleagues, thank you for reading this draft. I would most appreciate your thoughts on the quality of the paper's organization and argument. What flows and does not flow, what seems missing, insufficiently addressed, or understated? Where should I elaborate? How should I better engage the history and historiography of social science? I am excited to be in conversation with you all.

Patrick.

## **Studying the cop 'like a slum youth:' The Police Problem in Postwar US Social Science**

As crime became a critical issue in American politics during the 1960s, social scientists increasingly followed police officers around with notebooks and slid them questionnaires, inverting their longstanding professional preoccupations with deviants and criminals. They posed questions about police department structures, practices, and culture—elements that had been made largely invisible in criminology. Political officials and lawyers criticized the corruption and ineffectiveness of cops, courts, and prosecutors to counter crime, and called on scholars to approach the institutions of criminal law directly, as a problem for study and policy. The problem of police was becoming an institutional one, rooted in the structure of police departments, the practices of police officers, and their relationship to other parts of the “criminal justice system.”

There was a certain excitement to joining officers on the beat. Recalling his entry into police ethnography, the political scientist James Q. Wilson enthused “[i]t was my first time riding in a patrol car, and I was hooked by the opportunity to observe the complex interactions between the government and the governed[.]”<sup>1</sup> Taking on the police as a subject of inquiry also entailed new problems of research method and ethics. Around the same time as Wilson, the sociologist Jerome Skolnick fell in with the Oakland Police Department's vice squad, whose members soon gave him “permission to listen in on telephone calls, to join in conversations with informants, and to observe interrogations.”<sup>2</sup> Despite his reservations, Skolnick even signed some confessions, sure that somebody else would have eventually come along to do it, and that such rapport-building “activities are necessarily involved in the method.”<sup>3</sup> Sociologist Albert J. Reiss, although he hired assistants to shadow police in Chicago, Boston, and Washington, D.C., nonetheless became acquainted enough with his subjects that he called Chicago's police chief a “faithful counselor[.]” in his book manuscript. These scholars' immersed themselves in police departments during a decade the police were increasingly seen as central to the effective governance of US cities, as well as the conferral and denial of the rights of American citizenship.

Wilson, Skolnick, and Reiss were early builders of a long tradition of qualitative and observational research on law enforcement. Their excitement about bringing science to bear on the contentious questions of policing gave way to deep concern about the contradictions and limits of police departments to fulfill their stated goal of enforcing the law. Further, social scientists observed the limited success of contemporary police reforms to address issues like

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<sup>1</sup>James Q. Wilson, “Entering Criminology Through the Back Door,” *The Criminologist: Official Newsletter of the American Society of Criminology*, Vol. 13, No. 6., November-December, 1988, p. 1, 5, 8, 14, 15, here 5.

<sup>2</sup> Jerome Skolnick, *Justice Without Trial: Law Enforcement in a Democratic Society* (Wiley, 1966) 32

<sup>3</sup> Skolnick, *Justice*, 35

police brutality, race discrimination, and corruption. Skolnick criticized police chiefs' prevailing concern for administrative efficiency as an "ideology undermining the capacity of police to be accountable to the rule of law."<sup>4</sup> Gesturing to the need for greatly improved police training, Reiss observed that "officers with the least training and experience are assigned to the highest crime-rate precincts."<sup>5</sup> Even Wilson, who has been remembered and analyzed mostly as a champion of punitive criminal laws, argued that the much of the public made completely unrealistic demands on police, rooted in an inaccurate view of police as law enforcers. To the contrary, Wilson stated that "[m]any a patrolman wishes his job could be in fact what it is in theory—enforcing the law."<sup>6</sup>

Midcentury criticisms about policing practices and doubts about the normative demands on police have little place in the historiography of policing and mass incarceration, which has argued that liberals, as well as conservatives, worked to build the American carceral state. Elizabeth Hinton, a foremost shaper of the field, has emphasized how the anti-crime policies of Presidents John F. Kennedy and Lyndon Johnson were insufficiently attuned to the structural causes of crime and were therefore vulnerable to capture by Republicans who embraced punitive criminal laws in response to rising crime. In this narrative, public policy was shaped by policymakers' and experts' limited conceptions of racism, poverty, and crime. Hinton describes how researchers working for Johnson's 1965 Commission on Law Enforcement and the Administration of Justice were "most interested in the advice of...[police] professionals regarding the best way to improve urban patrol and surveillance methods." Hinton argues that because the commission's researchers focused on the technical needs of law enforcement instead of the broader social context in which policing occurred, the Katzenbach Commission, as it was called, ignored the perspectives of the poor and people of color and "ended up perpetuating many of the existing flaws in American law enforcement programs."<sup>7</sup>

Hinton may be right that the commission's administrators aimed to preserve a racist *status quo*. But the research to which she refers was much more than applied administrative science.<sup>8</sup> Take Albert Reiss, a University of Michigan sociologist who authored multiple studies for the Katzenbach Commission. He interviewed dozens of residents of Boston's Roxbury and Chicago's Garfield Park on their perceptions of neighborhood social conditions, crime, and law enforcement. Had he been unconcerned with their views, he likely would not have reported that these people were "in a kind of 'double bind.' They are sceptical (sic), if not distrustful, of police power, yet they see police power as the most obvious solution" to crime in their areas.<sup>9</sup> In his writings, Reiss made it clear that he supported investment in police training and was deeply skeptical of measures like civilian review boards, but his research was not captured by police perspectives.<sup>10</sup>

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<sup>4</sup> Skolnick, *Justice*, 237

<sup>5</sup> Albert Reiss, *The Police and the Public* (Yale University Press, 1971), 168

<sup>6</sup> James Q. Wilson, *Varieties of Police Behavior: The Management of Law and Order in Eight Communities* (Athenaeum, 1970) [Originally published Harvard University Press, 1968], 68

<sup>7</sup> Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Harvard, 2016), 84-85

<sup>8</sup> Hinton, *War on Crime*, 83

<sup>9</sup> Albert J. Reiss, "Public Perceptions And Recollections About Crime, Law Enforcement, and Criminal Justice" report, p. 36

<sup>10</sup> Joseph Lohman and Gordon Misner, "The Police and the Community"

Social scientists of the period, whether or not they participated in the Katzenbach Commission, certainly pathologized poor and black Americans, plied their trade for the refinement of police power, and downplayed the role of police violence in fomenting civil disorder. Indeed, scholars reinforced the emergent idea that law enforcement interests needed to be balanced against citizens' rights. As Sara Mayeux has explained, the Katzenbach Commission's promulgation of the "criminal justice system" as a concept has had pernicious effects on how judges, policymakers, and lawyers think about policing and the law. Placing police in the criminal justice system worked to define the police as a crime control agency, at the same moment that the scholarship analyzed here demonstrated that police did relatively little crime fighting. Together, the idea of the criminal justice system and the Supreme Court's due process decisions sanctioned proactive policing much more than it regulated it, largely because they "implicated constitutional doctrine in the imperative of crime control," and encouraged appellate judges "to balance the 'social costs' of enforcing the Fourth Amendment against the 'benefits' and to weigh 'law enforcement interests' against the interests of individuals."<sup>11</sup>

But scholars who studied police also expressed real doubts about policing, its effectiveness and its function. Historians of the carceral state have generally overlooked these more critical social scientific perspectives on police. Accounting for scholars' past criticisms and analyses of police can further establish the contingency of, and possible alternatives to, the carceral state. One of the goals of the carceral state literature has been to shake liberals out of complacency. This is a necessary but insufficient condition for building a coalition that could work to decarcerate our society.

This paper analyzes three police sociologies from the 1960s to better understand the anxieties about policing in US academic culture. The problems identified by these scholars were echoed in press coverage of their research and of policing generally. The considerable concern that Americans evinced about prisons in the 1970s, as shown by Julilly Kohler-Hausmann, was matched by a similar ambivalence about police.<sup>12</sup> Recent analyses that highlight black citizens' ambivalence about policing in their struggle for safer, healthier neighborhoods have captured, with even more sophistication, the "double bind" that Reiss described.<sup>13</sup> The police sociology of the 1960s shows an unrecognized ambivalence and uncertainty about policing that recent carceral state historiography has also emphasized.

The sociology of policing emerged in the 1960s as part of a research agenda to empirically chart the everyday workings of legal institutions, so as to better teach law students and enact legal reforms. This chapter examines this and other social conditions of the new field, its intellectual content, and the public reception of three early police sociologies: Jerome Skolnick's *Justice Without Trial* (1966), James Q. Wilson's *Varieties of Police Behavior* (1968), and Albert J. Reiss's *The Police and the Public* (1971). I choose these works because they were widely reviewed in the scholarly and public press and because their authors brought their perspective on police to high-profile policymaking settings on crime and law enforcement during the 1960s. Johnson administration officials referred Reiss to the Kerner Commission based on

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<sup>11</sup> Sara Mayeux, "The Idea of 'The Criminal Justice System,'" *American Journal of Criminal Law* 45, no. 1 (2018): 55–93, here 90 and 90-91, respectively.

<sup>12</sup> Julilly Kohler-Hausmann, *Getting Tough: Welfare and Imprisonment in 1970s America* / (Princeton, New Jersey: Princeton University Press, 2017).

<sup>13</sup> James Forman, Jr. *Locking Up Our Own: Crime and Punishment in Black America* (Farrar, Straus, and Giroux, 2017)

his previous work as a federal government consultant on the 1965 Katzenbach Commission. Skolnick and Wilson were consulted on the Kerner Commission report as well, and Wilson served as a primary advisor on the Kerner Commission. In the late 1960s, Skolnick conducted research on protests for the 1969 President's Commission on the Causes and Prevention of Violence, also known as the Eisenhower Commission. Wilson later advised the Nixon administration on crime policy in the early 1970s.

Skolnick, Reiss, and Wilson advanced a description of the organization and culture of police work, its peculiar routines, and the political conflicts in which it was embroiled. While police as work had been the subject of offhand commentary in journalism and at least one study in the preceding decade, they rendered it in unprecedented detail and with new empirical heft. In their ride-alongs, surveys, and interviews, they observed a “working personality” concerned with potential danger, an imperative to establish authority, and a suspicion of both people they encountered on the beat and society at large. These factors shaped police decisions and the struggles to control policing through policy.

In the first section, I describe how political concerns about policing encouraged and positioned social scientists to study the police, and where Skolnick, Reiss, and Wilson fit into these trends. In the second section, I explore three common themes in the books: the distinction of law enforcement and policing, the difficulties of controlling police action, and the prevalence of danger and authority in police culture. In the third section, I explore the press and political reception of these ideas, suggesting the scholars' concerns about the problems of policing may have been more widely shared.

## **Foundations of a Sociology of Police**

### *The American Bar Foundation Survey and the Sociology of Law*

It was not until the late 1950s that scholars, philanthropic foundations, and the federal government began creating a coherent field of knowledge about policing and other institutions of criminal justice. Crime and deviance had long been subjects of social scientific inquiry. But when scholars interacted with police or police-produced data, they typically asked questions about the people the police processed. But a new discontent among high-ranking political officials about the state of law enforcement paved the way for cops, juries, lawyers, and prisons as a topic of analysis. The police went from a looking-glass on gangs of street toughs and wayward children to a subject of research in its own right.

In the 1950s, national politicians and leading legal officials criticized police corruption and the failure of the criminal legal system to eliminate organized crime, especially gambling and drug trafficking. In 1950, Tennessee Senator Estes Kefauver launched a high-profile congressional investigation of organized crime and its entanglement with law enforcement. Aired on television to mass audiences, the Kefauver hearings encouraged local governments across the country to evaluate the honesty of their police departments.<sup>14</sup> As part of his public battle against police corruption, Kefauver asked the American Bar Association (ABA) to form a criminal justice research group. Amplifying this pressure, in 1953, US Supreme Court Justice Robert H. Jackson complained to an audience of ABA members of the “breakdown, delay, and

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<sup>14</sup> Matthew Vaz, *Running the Numbers: Race, Police, and the History of Urban Gambling* (University of Chicago Press, 2020), chapter 2.

ineffectiveness of American law enforcement.”” He called on lawyers and legal scholars to study “‘the significance and reason for failures to report crimes’, the ‘discretion of the police not to arrest,’ and the ‘discretion of prosecutors not to prosecute’” If the political problem of police corruption and incompetence was to be addressed, these officials reasoned, the daily operations of police departments, courts, and prosecutors needed to be better understood.<sup>15</sup> Bring up two examples of police corruption from Vaz.

Shot through these concerns about just and effective law enforcement was the cold war imperative to ensure that US policing did not resemble Soviet totalitarianism. As Sarah Seo has shown, police lawlessness was seen as a slippery slope to totalitarianism in the US and a risk for geopolitical alliances. Many worried, like legal scholar Jerome Hall, “what difference there is between American police and the Gestapo and NKVD?”<sup>16</sup> Legal scholars were not the only ones aware of how policing looked to observers outside the US. Police officials themselves saw the importance of lawful policing for securing police legitimacy domestically and advancing US geopolitics. In 1959, Quinn Tamm, the assistant director of the Federal Bureau of Investigation (FBI), made the cold war stakes of policing clear: “It is our duty to give those enemies of freedom no ammunition for attack by any careless disregard of rights or injury to any person in the enjoyment of his lawful rights and privileges.”<sup>17</sup>

The ABA responded to Kefauver and Jackson’s concerns about lawlessness by forming a research arm called the American Bar Foundation (ABF). In 1956, the ABF launched a survey of criminal justice institutions-- police, prosecutors, courts, prisons, and parole—that would significantly shape subsequent social scientific investigation of policing. The ABF survey produced the data for many studies on police in the 1960s and identified discretion as a critical part of the work of these institutions, especially police. The patterns of discretion and the possibilities of regulating it would remain a concern of reformers and scholars for over a decade. The grant application for the project cited a dearth of knowledge about the quotidian operation of criminal law, “‘the very knowledge which it is hoped the survey will produce.’” The Ford Foundation awarded two grants totaling \$520,000 for an “exploratory ethnographic study,” the largest sum given for any study of criminal justice until that time. As Samuel Walker has argued, the ABF survey displaced a long-running paradigm in studies of criminal law, in which researchers relied on institutional documents as their primary data source and often explained official deviations from law in terms of moral failure or weakness. By contrast, the ABF surveyors relied on firsthand observation of officials at work and explained that the irregularities and inconsistencies of criminal legal administration were due to the structural opportunities for discretion, rather than moral lapse per se.<sup>18</sup>

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<sup>15</sup> Samuel Walker, “Origins of the Contemporary Criminal Justice Paradigm: The American Bar Foundation Survey, 1953-1969 Recent Cases,” *Justice Quarterly* 9, no. 1 (1992): 47–76. For Kefauver hearings, 51. For Jackson’s speech, 50

<sup>16</sup> Jerome Hall, “Police and Law in a Democratic Society,” *Indiana Law Journal* 28, (133), 1953, p. 140 quoted in Sarah A. Seo, “Democratic Policing Before the Due Process Revolution,” *The Yale Law Journal* 128, no. 5 (2019): 1246-1302, here 1262

<sup>17</sup> Quinn Tamm, “Constitutional Law Enforcement” Address to the Annual Conference of the International Association of Chiefs of Police, 1959, reprinted in A.C. Germann, Frank D. Day, Reobert R. J. Gallati, *Introduction to Law Enforcement and Criminal Justice, Seventh Edition* (Charles C. Thomas, 1968), p. 108-114, here 112 and 113, respectively

<sup>18</sup> On ABF survey as paradigm shift, see Walker, “Origins,” 50. On what the survey will “produce,” see Arthur Sherry, *The Administration of Justice of Criminal Justice in the United States* (American Bar Foundation, 1955), 24

The police posed special problems for reformers and scholars who were interested in discretion's impact on criminal law. Yale legal scholar Joseph Goldstein, in the first article to use ABF survey data, explored three common situations where police officers failed to arrest individuals who had violated the law: officers withheld arresting in a drug user in order to win their trust as an informer, they also declined to arrest assailant when their victims refused to sign a complaint, and patrol officers harassed drug sellers and gamblers offenders instead of arresting them. For Goldstein, fellow legal scholar Wayne LaFare, and others who published on the ABF survey data during the 1960s, the police were unique because their position at the beginning of the criminal legal process, allowed them to profoundly shaped the impact of the criminal law, far in excess of their legally prescribed role. Because police officers could choose when to invoke the criminal law or not, they "largely determine the outer limits of the *actual enforcement* throughout the criminal process. They may reinforce, or they may undermine, the legislature's objectives in designating certain conduct "criminal." Nonenforcement was a problem because "such decisions, unlike decisions to enforce, are generally not subject to the control which would follow from administrative, judicial, legislative, or community review and appraisal."<sup>19</sup> Nonenforcement was just one example of how police action could be invisible to judges, lawmakers, and citizens who would regulate it.

The ABF survey was part of a broader movement among scholars and their patrons to understand the social processes of law, leading to a proliferation of "reports about the many ways the administration of justice discriminated against the poor." In the first two years of 1960s, the Ford and Russell Sage Foundations funded the establishment of research centers dedicated to the sociology of law at the University of California, Berkeley, Wisconsin, Northwestern, and the University of Denver. These centers were organized by scholars who had been inspired by legal realists like Yale's Karl Llewellyn and Jerome Frank, who, in the 1930s and 1940s, sought to observe the everyday operations of law. Jerome Skolnick later said that realists had "socialize[d] a generation of law professors who would be disposed to sociological interests." Indeed, Skolnick's own teachers and colleagues at Yale Law, Richard Schwartz, Richard Donnelly, and Abraham Goldstein were, Skolnick later recalled, in search of "a large body of social findings directly relevant to their lawyerlike concerns."<sup>20</sup>

Both Skolnick and Wilson's careers both benefitted from the governmental and philanthropic support for the sociology of law. The start of Jerome Skolnick's career was a product of the patronage for the new field. Yale Law hired him right out of his PhD with a grant from the National Institute for Mental Health. While at Yale, he conducted surveys on a variety of issues related to law, including perceptions of "public order occupations" across class, the views of "public decision makers" on the severity of various crimes, and an analysis of the limited efficacy of lie detector machines. He moved to the Berkeley's Center for the Study of

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<sup>19</sup> Joseph Goldstein, "Police Discretion Not to Invoke the Criminal Process: Low-Visibility Decisions in the Administration of Justice," *The Yale Law Journal* 69, no. 4 (1960): 543–594, "criminal," 562, "review," 553–554

<sup>20</sup> Studies of discrimination, Risa Goluboff, *Vagrant Nation: Police Power, Constitutional Change, and the Making of the 1960s* (Oxford University Press, 2017), 181. Legal realists socializing a generation, Jerome H. Skolnick, "The Sociology of Law in America: Overview and Trends," *Social Problems* 13, no. 1 (1965): 4–39, here 8. Russell Sage patronage, Jerome H. Skolnick, "Legacies of Legal Realism: The Sociology of Criminal Law and Criminal Justice," *Annual Review of Law and Social Science* 8, no. 1 (2012): 1–10, here 4. Skolnick's teachers, Gene Carte and Jerome Skolnick, "Dialogue with Jerome Skolnick," *Issues in Criminology* 4, no. 2 (1969): 109–22, here 114. "Lawyerlike concerns," Skolnick, "The Sociology of Law in America," 8.

Law and Society in 1962 and by October 1964 had finished a first draft of his police research.<sup>21</sup> When James Q. Wilson moved to Harvard in 1961 to lead the newly organized Harvard-MIT Joint Center for Urban Studies, he too would see some of this federal patronage. He had done a little research on the Chicago police, and the sociologist of law Stanton Wheeler offered him part of a federal delinquency research grant to keep at it.<sup>22</sup> As I will explore in more depth below, when civil disorders across urban America made crime and policing national problems, reform legislation provided funds that Reiss would get in on too.

While the sociology of law comprised a variety of qualitative and quantitative methods, the scholars explored here mainly used observational and ethnographic methods. These ways of gathering information, and an emphasis on describing how work and institutions socialized individuals, was shared by these scholars and contemporary constructivist studies of deviance, such as Howard Becker's *Outsiders* (1963). Like Becker, the three police scholars were inspired by the interwar social anthropology that had explored the adaptive subcultures of working people in cities and hamlets across the country.<sup>23</sup> Skolnick's model for participant observation in *Justice Without Trial* was William Foote Whye's *Street Corner Society* (1936), and Skolnick's graduate school mentor, Harold Lasswell, had passed on to him an enthusiasm for "empirical studies of real life situations."<sup>24</sup> Reiss studied with Everett Hughes and Ernest Burgess at the University of Chicago in the 1920s and 1930s and used qualitative methods to study deviance and social control before he turned his attention to policing. Wilson, although a political scientist, built on Hughes and Hughes' students. Skolnick, Wilson, and Reiss, then, took a decades-old critique of "lower-class culture" and applied it to a most vexing fraction of the American working class, those who were responsible for maintaining law and order.

#### *Politics Paves the Way for Study*

The sociology of police had an inherent reformist dimension because it sought to make official behavior more visible and therefore subject to regulation and change. Police reform projects came from many different directions during the 1960s, including efforts among police themselves to professionalize their organizations, pressure from civil rights groups to address police brutality, and federal government officials who wished to reconcile both of these projects. Reformist police chiefs who wished to raise the stature of their profession were amenable to research of their institutions, and researchers of the police depended on smooth relationships with officials to do their work.

Police chiefs had their own project to impose transparency and discipline over their organizations. World War Two had turned police professionalism from "a local aspiration into a national mandate." Enterprising police officials had called for greater authority over personnel

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<sup>21</sup> Skolnick's NIMH grant, *Ibid.*, 3. Move to Berkeley, *Ibid.*, 4. Public order occupations, J.H Skolnick to H.D. Lasswell, "Research Memorandum," January 1957, Harold D. Lasswell papers (HDL), Series I, Box 87, Folder 1081, Yale University Archives. Crime severity, Form letter, "Yale Law School Studies in Public Order and Sanction Law," Box 86, Folder 1091, HDL. Completing police research, Jerome Skolnick to Harold Lasswell, October 1, 1964, Box 86, Folder 1091, HDL

<sup>22</sup> Wilson, "Entering Criminology Through the Back Door," 1 and 5

<sup>23</sup> On interwar social anthropology, see Alice O'Connor, *Poverty Knowledge: Social Science, Social Policy, and the Poor in Twentieth-Century U.S. History* (Princeton University Press, 2009), chapter 2.; Howard Brick, *Transcending Capitalism: Visions of a New Society in Modern American Thought*, 1st ed. (Ithaca: Cornell University Press, 2015), chapter 3.

<sup>24</sup> Carte, "Dialogue with Jerome Skolnick," 118

selection, training, and discipline. Such measures, they proposed, would raise police to the stature of professionals by generalizing high standards of conduct and training and therefore improving officers' social status. Ambitious police executives of this kind were appointed in several large US cities in the 1950s and 1960s. Mayors in San Francisco, New York, and Philadelphia were elected on a platform of redeveloping their downtowns and defeating long-governing political machines. Because machines were reproduced through police graft, these politicians targeted police corruption and invested greater authority in an impartial, expert chief who would improve administration and internal discipline. Even machine mayor Richard J. Daley of Chicago appointed a professional after a sensational scandal in 1960.

Contemporary city charter amendments gave these new police chiefs significant authority to transform their departments. Chicago's Orlando Wilson established a more strict recruitment and training program, eliminated extraneous precinct offices, and established an Internal Investigation Division. During his tenure in the late 1950s, Philadelphia police chief Thomas Gibbons fired dozens of officers for inadequate performance. Los Angeles police chief William Parker raised the minimum education requirement for recruits (high school completion) and encouraged vigorous enforcement of department policies through an Internal Affairs Division. Professionalism may have made its greatest gains in California, where, in 1959, the state legislature created the Commission on Peace Officers Standards and Training (POST) to evaluate training programs throughout the state.<sup>25</sup>

Reformist police chiefs were keenly aware of the increased scrutiny from the bench, the bar, and the academy. Perhaps because professionalism was premised on winning autonomy from political control on the grounds of a chief's expertise, professionals were open to outside research of their departments. Such investigations, they figured, could help them improve their department, their reputation, or at least would prove that the police were not to blame for ineffective law enforcement. Skolnick told his readers that the chief of the Oakland Police Department, the subject of his book, had an "attitude toward the research [which] was made up partly of cooperation and partly of the defiance of the sensitively placed public official."<sup>26</sup> James Q. Wilson's encounter with police also began with a reformist police chief. Upon assuming the leadership of the Chicago Police Department in 1960, former UC-Berkeley Criminology dean Orlando Wilson asked the University of Chicago to "mount a training program for his command officers." The junior professor James Q. Wilson saw the promise of "one thousand urban public administrators sitting in a room with nothing to do" and "asked permission to study them" during their classes.<sup>27</sup> The latter Wilson's survey research led to a couple articles about the adversarial relationship between police officers and the public.

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<sup>25</sup> "From aspiration to mandate," see Stuart Schrader, "Cops at War: How World War II Transformed U.S. Policing," *Modern American History* 4, Issue 2, 2021, 1-21, here 2. On municipal reform and police, see Christopher Lowen Agee, *The Streets of San Francisco: Policing and the Creation of a Cosmopolitan Liberal Politics, 1950-1972* (University of Chicago Press, 2014), ch. 1. On Gibbons, see Aaron Thomas Bekemeyer, "The Labor of Law and Order: How Police Unions Transformed Policing and Politics in the United States, 1939-1985" (PhD dissertation, Harvard University, 2021), 64-65. On Wilson's reforms, see Simon Balto, *Occupied Territory: Policing Black Chicago from Red Summer to Black Power* (University of North Carolina Press, 2019), 167-171. On Parker's reforms, see Alisa Sarah Kramer, "William H. Parker and the Thin Blue Line: Politics, Public Relations and Policing in Postwar Los Angeles" (Ph.D. diss, American University), "Internal Affairs Division" 58, education requirement, 51

<sup>26</sup> Skolnick, *Justice* 29

<sup>27</sup> Wilson, "Entering Criminology Through the Back Door," 1



As police professionals expressed a commitment to lawful policing and participated in the formation of the sociology of law, however, they sought to use this research to their advantage and jealously guarded their autonomy against external mechanisms like judicial review. Orlando Wilson consulted on the ABF survey, although he never updated his widely used police textbook with any consideration of discretion. William Parker invited the ABF to L.A. to see how “the District Attorney is disposing of one-half of the requests submitted to him for felony complaints without further action.”<sup>28</sup> At a Ford Foundation-funded conference on recent Supreme Court decisions establishing new standards of due process in 1962, police chief Wilson observed a contradiction between the increased regulation and the public’s demand for crime control. He urged the legal professionals in his midst to “Let the police have the authority to do what the public expects them to do in suppressing crime.”<sup>29</sup>

The sociology of police was also catalyzed by the civil rights struggle against racist policing. Branches of the National Association for the Advancement of Colored People (NAACP) received complaints from black citizens about “unreasonable and illegal arrests, indiscriminate and open searching of their person on public streets, disrespectful and profane language...and violent, intimidating police reactions to their protests against improper treatment.” Those who were subject to this treatment possessed their own vision of proper police reform, overlapping but distinct from that of police and white legal professionals. NAACP Detroit secretary Arthur Johnson articulated the organization’s five policy recommendations on policing, including a civilian review board with “power to adjudicate complaints and to make binding recommendations to the head of the department,” eliminating racial discrimination in “hiring, placement, and promotion,” “inservice human relations training...based on sound democratic practices,” higher pay and more rigorous training requirements for police officers, and more frequent public support for nondiscriminatory policing from mayors and public officials.<sup>30</sup> Cities with large, well organized civil rights organizations, such as New York City and Philadelphia, saw the creation of civilian review boards to evaluate citizen complaints of police abuse. The mainly white police unions in these cities led vociferous campaigns against these bodies, and successfully defeated them with a coalition of largely white allies who conflated civil rights activism and criminality.<sup>31</sup>

The urban civil disorders of the summers of 1964 and 1965 were touched off by police action in black neighborhoods. The administration of President Lyndon Baines Johnson and its congressional allies responded by passing legislation that would fund police training and the study of police. Reiss, Wilson, and Skolnick would all play parts in this new federally-supported research. Johnson signed the Law Enforcement Assistance Act on September 22, 1965 after the bill breezed through Congress.<sup>32</sup> Two months prior, Johnson had established the Katzenbach Commission on July 23, 1965. To compile research for its report, the Commission contracted institutions that were specialized in criminal justice, such as the University of California, Berkeley’s School of Criminology and the Michigan State University’s School of Police Administration, as well as those with more general orientations, like the National Opinion

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<sup>28</sup> “L.A. Crime Survey Urged By Parker,” *The Los Angeles Times*, 4.20.56, p. 7

<sup>29</sup> O. W. Wilson, “Police Authority in a Free Society,” *Journal of Criminal Law, Criminology & Police Science* 54, no. 2 (1963): 175–77, cited in Balto, 159.

<sup>30</sup> *Ibid*, p. 305-306

<sup>31</sup> US Civil Rights Commission hearings, Detroit, 304

<sup>32</sup> Hinton, *War on Crime*, 79-80

Research Center (NORC) at the University of Chicago and the University of Michigan's Center for the Study of Social Organization. Reiss, as director of the latter, was asked by commission co-director and his former graduate school colleague, Lloyd Ohlin, to complete a study on how residents of high crime areas viewed the police, and when and why they chose to call them.<sup>33</sup> Wilson led the research committee on crime, and Skolnick served as one of dozens of readers of the final report.<sup>34</sup>

The 1960s saw distinct but overlapping projects to render police departments visible. Reformist chiefs sought to insulate their organizations from external control by instituting internal accountability agencies and other measures. These initiatives to self-regulate became increasingly urgent as civil rights organizations compiled and publicized police abuses to call for more equitable law enforcement. Scholars in the legal academy and the social sciences capitalized on new philanthropic and governmental funding for studies of criminal law, formed relationships with police officials that were open to study, and posed old questions of occupational socialization about one of the most controversial jobs in the country.

### **The Critical Contributions of Police Sociology**

Although many arguments and themes could be drawn from each of the three books considered here, three entangled problems that are substantially addressed in all of the works, with implications for the crime politics of the period and the present day. First, these works established how law enforcement—the detection and apprehension of law breakers—was only a small part of what policemen spent their time doing. Second, they explored why it was difficult to control police behavior and evaluated different methods of regulation. Third, they described the prevalence of danger, authority, and suspicion in police culture.

#### *Untethering Law Enforcement and Policing*

All three books analyzed here--Skolnick's *Justice Without Trial*, Wilson's *Varieties of Police Behavior*, and Reiss's *The Police and the Public*—were researched and written while crime was becoming an unavoidable political issue. All three argued a counterintuitive point: that law enforcement—the detection and apprehension of law breakers—composed but a small part of policing. Most police were patrol officers, and most patrols were spent performing service and order maintenance tasks, rather than pursuing and arresting criminals. The popular image of policemen as crime fighters did not square with the routine of most cops.<sup>35</sup>

There were several reasons why this was the case. Citizens often did not call the police when they witnessed or were the victims of crime.<sup>36</sup> Reiss related the steep proportion of unreported crime to contentious police-citizen interactions in “high-crime-rate areas.” He pointed out that police harassment discouraged citizens from playing a critical but under-recognized role as

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<sup>33</sup> On Reiss's involvement with the Crime Commission, see Matthieu Castelbajac, “The Genesis of Victimization Surveys and of the Realist-constructionist Divide,” *Journal of the History of the Behavioral Sciences* 53, no. 4 (2017): 332–46. For the description of Reiss's study, see David Burnham, “The Police and The Public,” *The New York Times*, 11.28.71, p. 142, 192

<sup>34</sup> On Wilson's involvement in the crime commission see, Wilson, “Entering Criminology Through the Back Door,” 5, and Christopher P. Loss, “The Making of a Neocon,” *Modern American History* 5, no. 3 (November 2022): 263–287, here 274-276.

<sup>35</sup> Cop Knowledge? Or citation from one of the books.

<sup>36</sup> On the contemporary development of victimization surveys, see Castelbajac, “The Genesis of Victimization Surveys”

“enforcers of the law.” For Reiss, voluntary citizen enforcement of laws was even more fundamental to the operation of criminal justice system than that of police. Those “many victimized citizens who...fail to exercise their civic responsibility to report crimes...greatly limit the power of the police in everyday life.” Reiss was troubled by police brutality and mistreatment of citizens, because, among other reasons, it discouraged citizens from reporting crimes and fulfilling their proper role in the criminal justice system.<sup>37</sup>

When crimes were reported, suspects rarely stuck around to be discovered, leaving the police to ask questions, file a report, and move on. In addition to the logistical difficulty of apprehending criminals, a large proportion of citizen calls to the police about noncriminal matters. The frequency of these calls was the product of divergent views of the proper task of police and the relative ease with which citizens could mobilize them on command. Because citizens called police for many matters that may or may not have involved crime, police officers entered many situations where their aim was less about enforcing a particular law than “handling the situation” and “establishing authority.” The difficulty of regulating police action and the prevalence of danger in police culture, explored below, were partly caused by the ambiguity of many of these situations and discretion it allowed--and even required. Wilson explained that the cop “approaches incidents that threaten order not in terms of enforcing the law but in terms of ‘handling the situation.’...This means keeping things under control so that there are no complaints that he is doing nothing or that he is doing too much.”<sup>38</sup>

Skolnick suggested that law enforcement was only a piece of policing when he decided that his questions about the impact of police decisions on criminal law could not be effectively answered by examining patrol. After eight nights riding along with patrolmen, he “learned...that patrol work is minimally connected with legal processing.” The patrolman was a “peace officer” rather than a “law officer.” In search of officers’ interactions with the law, Skolnick asked a lieutenant where he might better position himself as a participant observer. He was referred to the traffic and vice squads, whose tasks were to identify and apprehend clearly-defined law breakers.<sup>39</sup> In his book, Reiss suggested why these specialized units might have been more engaged in law enforcement. “In the absence of massive police manpower, proactive policing is a feasible method for discovery only when crime is routine and organized, and therefore predictable...the patterned activity of vice, traffic, and organized groups such as gangs, lend themselves to proactive forms of policing, and therefore to specialized units of police organization and tactics.” As Reiss and Wilson both explained in greater depth, patrol officers spent most of their time doing other things than enforcing the law.<sup>40</sup>

Even when police were responding to legal violations, they often addressed them informally. Police decisions to not invoke the law had concerned scholars and reformers since the ABF survey in 1956. Such an approach was encouraged by the “defensiveness” of police culture, in which “survival and security await the man who on procedural matters is ‘clean’ and who on substantive issues keeps it cool.” Patrol officers’ desire to maintain a low-profile and avoid what they saw as trivialities meant that “*the normal tendency of the police is to*

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<sup>37</sup> Reiss, *The Police, Citizens as enforcers*, 114. Citizens defining police function, 78. Civic responsibility, 67. For a historical explanation of citizen mobilization of police, see Gillooly and Hacher, “When the Public Became the Caller”

<sup>38</sup> Wilson, *Varieties*, 31

<sup>39</sup> Skolnick, *Justice*, 33. Skolnick cited Michael Banton and Arthur Stinchcombe on this distinction.

<sup>40</sup> Skolnick, *Justice*, 101-102

*underenforce the law.*” All three scholars observed officers’ distinction between the “good pinch” of a “real criminal” and the “dirty work” of dealing with minor offenses. As Wilson put it, “[m]ajor crimes will produce arrests whenever the legal opportunity affords; departmental policy as well as the officer’s conception of his own role reward such acts.” But “with respect to minor thefts, drunkenness, disturbances, assaults, and malicious mischief, only very strong departmental measures can counteract the tendency to handle these matters by means short of an arrest.”<sup>41</sup>

Even detectives, who *were* tasked with investigating and apprehending lawbreakers, had an uneasy relationship to the rest of the criminal justice system. For Skolnick, this incongruity was manifested in the clearance rate, “a police organizational term bearing no *direct* relation to the administration of criminal law.” Clearance “merely means that the police believe they know whom committed the offense, if they believe an offense has been committed.” In other words, clearing meant pegging an offense to a particular person—which could be done without ensuring that they were sanctioned for it. Because they were evaluated by their personal clearance rates, detectives could pursue a high number of clearances instead of constructing compelling cases for prosecutors. This was how “criminality becomes a commodity for exchange...in some cases defendants who confess to large numbers of crimes will tend to be shown more leniency in prosecution than those who are in fact less culpable.” Effective detective work, then, did not mean a solid prosecution that led to criminal sanctions.<sup>42</sup>

In contrast to Skolnick, Wilson and Reiss focused their studies on patrol and empirically established the marginality of law enforcement. Police spent much of their time not enforcing the law because citizens failed to report crimes and when they did call the police, it was often for noncriminal matters. Reiss, analyzing a month of documented patrol-hours, found that officers dealt with crimes in “about two-tenths of 1 percent of the time spent on preventive patrol.” There were far “more calls requesting assistance in noncriminal matters or reporting a crime that has already occurred.” Similarly, in a sample of radio calls made to the Syracuse police department, Wilson reported that “[o]nly about one tenth of the calls afforded, even potentially, an opportunity to perform a narrow law enforcement function.” Further, “[a]lmost a third of all calls...concern allegations of disorder arising out of disputes, public and private, serious and trivial.” Such figures were evidence that “[t]he patrolman’s role is defined more by his responsibility for *maintaining order* than by his responsibility for enforcing the law.”<sup>43</sup>

The large proportion of calls about noncriminal matters was the product of “disagreement as to what is actually the duty of the police. Police regard it as their duty to find criminals and prevent or solve crimes. The public considers it the duty of the police to respond to its calls and crises.” Citizens, even more than police themselves, defined the police function through their decisions to mobilize it or not. Policing was distinguished from other kinds of social control by the ambiguity of its work situations and the discretion this allowed for--and even required. The challenges of policing were “so numerous and varied precisely because the police are largely an organization reacting to the demands of citizens.” For Reiss, the litany of citizen demands on police, and the police imperative to assert control in the unpredictable situations that citizens

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<sup>41</sup> All quotes from Wilson, *Varieties*, 49

<sup>42</sup> “no direct relationship,” Skolnick, *Justice*, 168. Definition of clearance, 168-169. Crime as commodity, 176.

<sup>43</sup> Patrol hour proportions, Reiss, *The Police*, 95-96. Calls for noncriminal matters, Reiss, 63-64. Syracuse PD calls, Wilson, *Varieties*, 19. Order maintenance as police role, Wilson, 16.

called them into, made policing a continuous project of constituting legitimate political authority.<sup>44</sup>

For Wilson, the police necessity to be available to citizens for nearly any reason was one of the reasons why police had a public relations problem:

“Because the patrolman, unlike the schoolteacher or the doctor, cannot himself give a complete and visible response to the needs of his ‘client’ ... a citizen’s evaluation of an officer—even when the latter is ‘getting information,’ or ‘enforcing the law’ rather than maintaining order—is likely to be at best incomplete and at worst inaccurate. Furthermore, the citizen will observe that when the patrolman is not handling the citizen’s momentary emergency, he is standing on a street corner, walking along the sidewalk, or driving a patrol car—apparently ‘doing nothing.’” What he *is doing*, of course, is waiting to be called to cope with someone else’s emergency, and if he were not ‘doing nothing,’ he would not be immediately available. The citizen, forgetting this, is likely to wonder why he isn’t out ‘looking for the man who stole my car,’ or whatever.”<sup>45</sup>

At a time when the proliferating notion of the criminal justice system was conceptually linking police to courts, prosecutors, and other agencies, these findings showed how much of policing occurred at a remove from crime control and the law. Citizens shaped what police departments did by their decisions to call on them or not. Recordings of thousands of emergency phone calls demonstrated that citizens and police often disagreed on the proper domain of police action, and observations of patrol showed that order maintenance, more than law enforcement, was the primary goal of police officers. Faced with unpredictable and messy conflicts for which they had no prescribed course of action, police needed to improvise. Determining how police officers made decisions, and the extent to which their discretion could be restrained or channeled, would be another prominent concern for the three scholars.

### *The Difficulties of Controlling Police Discretion*

Skolnick, Wilson, and Reiss each homed in on the difficulties of controlling the vast discretion wielded by rank-and-file police officers. Discretion—the latitude to make a choice in decision-making—was not unique to police officers, but they were more visible and accessible to more citizens than many other public officials that had discretion. Too, their discretion was often exercised, as mentioned above, in conflicts where passions ran high. Above all, police officers’ legal authorization to use force against other citizens extended their discretion the boundary of civil society. Each current of police reform responded to these high stakes with a different way of evaluating and controlling officer discretion, specifically abuses of discretion. These reforms included the increased training and internal disciplinary measures advised by police professionals, the civilian review boards called for by certain local civil rights coalitions, and the efforts of rank-and-file officers to insulate themselves from discipline. Their broader question was: given the discretion required in much of police work, how should the police be policed?

All three scholars recognized that improved training and more rigorous department standards were limited solutions to some fundamental problems caused by current police organization and dispatch. Police officers operated in small groups or alone, geographically

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<sup>44</sup> Disagreement about police duty, Reiss, *The Police*, 70. Policing everyday life, 65.

<sup>45</sup> Wilson, *Varieties*, 27

dispersed, without immediate supervision. Citizens called them into often unpredictable situations, to which department policy did not, and perhaps could not, prescribe the appropriate course of action. Discretion, with all of its possibilities for abuse and misuse, was in fact, a necessary feature of policing.

Since the 1956 American Bar Foundation survey had asserted the problem of discretion, legal scholars had debated how it could and should be regulated. Skolnick argued for a more particular conception of the problem: determining whether discretion was “delegated” or “unauthorized” depending on the police task and situation. Delegated discretion was not unique to police; other workers, like college admissions officers, were charged with making particular decisions based on general organizational criteria. “Those who have had experience with such criteria know how slippery they are.” For Skolnick, there was no police discretion in general. Officers’ conceptions of order and their decision-making depended on their particular job. The division of police labor “determines operational law enforcement.” Traffic enforcement was as close as police got to “automated justice,” while other tasks were more open-ended. Traffic duty was less ambiguous for patrolmen and more susceptible to policy. But, Wilson asserted, in the case of order maintenance situations, “guidance on *how* to intervene is especially lacking.” In citizen-invoked order maintenance matters, in which officers were dispatched “to avoid the charge of ‘doing nothing,’” discretion was at a maximum. Given the high frequency of citizen calls for these more ambiguous matters, the problem of officer judgement was not likely to diminish.<sup>46</sup>

The organization of police work made it difficult for police chiefs to regulate their subordinates. In Reiss’s terms, they faced “a dispersed command that does not lend itself to close supervision.” The dispersion of command occurred on multiple levels, between central headquarters and district offices, and between district offices and patrols. This lack of oversight allowed officers discretion that could be abused, to the extent that “during any year a substantial minority of all police officers violate the criminal law, a majority misbehave toward citizens in an encounter, and most engage in serious violations of the rules and regulations of the department.”

In addition to the opportunities for outright illegality, the open-endedness of order maintenance situations meant that department policies were, according to Wilson, more “a list of things *not* to do rather than a statement of what the officer *should* do.” The police administrator could attempt to shape behavior through policy, but its impact would be “gross, imprecise, and hard to predict.” Chiefs could exercise control over “questions of law enforcement where the absence of compliance by officers is easily verified.” These included ordering the closure of a brothel, setting an expectation for the number of traffic tickets, and evaluating the number of arrests for offenses like drunkenness. Invocations of the law created a paper trail that informal order maintenance did not. Skolnick was doubtful that chiefs’ internal accountability mechanisms were sufficient to counter their focus on the “technological production of order.” Reformist police officials who established internal accountability units and thickened department

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<sup>46</sup> Delegated and unauthorized discretion and example, Skolnick, *Justice*, 72. “Operational law enforcement,” 18. Lack of guidance, Wilson, *Varieties*, 65. “Doing nothing,” Wilson, 88

rule books could not prevent the fact that “[i]n practice, standardized rules and procedures are frequently molded to facilitate the tasks of acting officials.”<sup>47</sup>

In addition to structural obstacles to the oversight of police discretion, many policemen distrusted externally imposed regulations. Skolnick wrote that “[t]he policeman views criminal procedure with *the administrative bias of the craftsman*.” He “tends to emphasize his own expertness and...ability to estimate accurately the guilt or innocence of suspects.” In short, police believed they should be able to profile. Wilson sympathetically described the view of the average patrolman, who “believes with considerable justification that teenagers, Negroes, and lower-income persons commit a disproportionate share of all reported crimes.” For Wilson, the onus was on these citizens to demonstrate their innocence, because “to be in those categories *and* to behave unconventionally is to make oneself a prime suspect.”

Of course, Wilson recognized that suspects and other community members might well see such probabilistic policing as harassment and discrimination. For Wilson, who cited the disproportionate black criminality presented by crime statistics, police officials had to thread a needle between demands for crime control and demands for equity. They were stuck because probabilistic (and therefore racialized, and therefore effective) policing would inspire civil rights protest against discrimination. Increasing the number of police-citizen contacts in areas known to have more crime was the only way to prevent crime in the short-term and also would certainly raise concerns of over-zealous policing. This was why Wilson argued that “*there may be a trade-off between leniency and equity*.” A more legalistic and rule-bound department that “treats persons more evenly...also tends to reward officers for following rules,” which would likely induce officers to make more arrests. Fuller enforcement of the law would, in this view, inevitably lead to more arrests of young, black, poor people and stoke the fire of civil rights protest.<sup>48</sup>

From these analyses, there seemed to be a limited number of possible constraints on police officers’ discretion. Chiefs could encourage their officers to arrest people for a greater range and number of offenses and therefore have a greater written record of officer activity, but they could only maintain strict quotas on certain offenses. They could give officers more training and emphasize the importance of maintaining composure and professionalism during high-pressure conflict situations, but they could not tell them what to do in every instance. The relationship between officer discretion and crime control was the most politically contentious. For Wilson, the average cop’s judgement as to who to stop-and-frisk for crime control was as good as it was likely to get. For black Americans and others who lived in high-crime neighborhoods, Wilson’s assumption was up for debate.

### *Danger, Authority, and the Use of Force in Police Culture*

Precisely because the individual police officer possessed such great discretion, the rank-and-file’s “standards of doing justice” had an enormous impact on the character of policing. Social scientists were interested in identifying the frames through which police officers understood and approached their interactions with citizens, and the three scholars analyzed here

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<sup>47</sup> Dispersed command, Reiss, *The Police*, 171. Officer violations: Reiss, 169. Guidelines on what to do, Wilson, *Varieties*, 279. Tasks easy to verify, Wilson, 76. Molding rules, Skolnick, *Justice*, 237.

<sup>48</sup> Bias of the craftsman and police expertness, Skolnick, *Justice*, 196. Police perceptions of criminality, Wilson, *Varieties*, 40. Tradeoff between leniency and equity, Wilson, 283-284.

were no exception. They highlighted how officers' sense of authority, danger, and suspicion shaped their conduct, including the contentious decisions to arrest, detain, or use force. This last kind of decision bore special scrutiny because the police power seemed to separate it from all other institutions of social control and social reproduction. The stakes of controlling discretion, improving training, and instituting discipline became clearest when force was involved, and a great deal of police politics boiled down to when and why police used force and when and why it was legitimate or not.<sup>49</sup>

Officers told these scholars that the most defining feature of their work was "the necessity to assert authority." For Wilson, this generally meant "the right to ask questions, get information, and have...orders obeyed." Most of the time, police could do all they needed to do without force, but, problems began when someone involved "reject[ed] the officer's right to intervene."<sup>50</sup>

Reiss observed that officers were most likely to use force against a suspect who challenged their authority. This situational factor was more important than the suspect's race. Officers in each precinct expected a certain minimum of respect and deference from neighborhood denizens and accepting anything less degraded not only an officer's sense of pride but an implicit baseline working condition. For these reasons, officers felt that "[n]o challenge to authority...can go unmet." The victims of police brutality were young, male offenders "from any racial or ethnic group" and officers were more likely to use force when there were no witnesses (besides the researcher) "who would support the offender." Other factors included the deviant social status of their offense, such as drunkenness, drug addiction, or homosexuality. A strong minority of the brutality cases occurred after offenders challenged the authority of the police officer. He also argued that race was not so significant in determining the excessive use of force. Black and white cops "were most likely to exercise force unduly against members of their *own* race." As one scholar has observed, Reiss placed great responsibility upon citizens for police officers' behavior.<sup>51</sup>

Reiss argued that police brutality against black people seemed more common because of civil rights organizing made it more visible. He drew on data from the New York City and Philadelphia civilian review boards and the New York Civil Liberties Union's Education and Defense Fund, noting that "[m]inority groups issue by far the largest numbers of complaints about police misconduct." He puzzled over why this was the case "while the observation data show that class rather than race determines police misconduct." Reiss reasoned that the discrepancy between his data and those of the civilian review boards was the result of the fact that "nonwhites account for a disproportionate number of suspects or offenders, and this is the population group most vulnerable to police misconduct" Even more important was "the emergence of organizations or groups that generate citizen complaints for minorities." The depth

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<sup>49</sup> Standards of doing justice, Reiss, *The Police*, 140.

<sup>50</sup> "Necessity to assert authority," Reiss, *The Police*, 46. "The right to ask questions" and "getting involved" Wilson, *Varieties*, 32-33. Threat of force "ever-present," "Officers' complaint," "means of control," Reiss, 47.

<sup>51</sup> "No challenge to authority," Reiss, *The Police*, 150. Victim demographics and lack of witnesses, Reiss, 148-149. Race and the use of force, 147. Critic on Reiss, Christopher P. Wilson, *Cop Knowledge: Police Power and Cultural Narrative in Twentieth Century America*, (University of Chicago Press, 2000), 106s



of civil rights organization in black neighborhoods meant that a disproportionate amount of the police brutality that occurred would be reported by black Americans.<sup>52</sup>

Wilson argued that police officers, like other working-class men, saw violence as a legitimate method of dealing with dangerous and unsavory people. They had “a preoccupation with maintaining self-respect, proving one’s masculinity, ‘not taking any crap.’” An officer’s treatment of a citizen “depend[ed] crucially on how much deference he is shown, on how manageable the situation seems to be, and on what the participants in it seem to ‘deserve.’” In this light, officers saw “professionally approved police doctrine—to use only the minimum necessary force to effect an arrest—as an invitation to victimization.” Most officers were likely “puzzled by the assumption among middle-class observers of police action, or action of any sort, that violence is never appropriate except as a last resort and in self-defense. The officer will feel he is being expected...to show undue and self-defeating restraint.”<sup>53</sup>

However boring and service-oriented policing was most of the time, police officers did, these scholars asserted, need to deal with behavior that was challenging and dangerous. For Reiss, any evaluation of police decisions needed to consider that cops were sent into situations that nobody else tolerated. Many other jobs entailed asserting authority over individuals or groups. Unlike teachers, nurses, and judges, however, “[t]he police must cope with any and all clients regardless of their willingness to be processed.” He continued, perhaps rosily, that these other institutions “deal with clients who are preprocessed to accept the authority of the professional when he enters the situation,” The police had no such luxury, and could not discount the use of any one of their tools—“uniform, badge, truncheon, and arms”—to establish authority. Reiss, as in his analysis of police mobilization, suggested that police responsibility was dependent on and mediated through those that called them. When citizens could not deal with behavior they found intolerable, they called the cops. Professionals, when faced with unruly clients, commonly did the same. Police acted, for better and worse, in situations that others could not or would not address themselves. This was why Reiss felt that professionalization through training, for all its challenges, was the most important and desirable police reform.<sup>54</sup> If police weren’t highly trained to respond with the appropriate force to any given situation, there would be no one else on the way. The alternatives were the abrogation of law or vigilantism.

Wilson similarly emphasized the unique difficulty of the situations the police were asked to address. They, “*working alone, exercise wide discretion in matters of utmost importance (life and death, honor and dishonor) in an environment that is apprehensive and perhaps hostile.*” Order maintenance was dangerous because police, not knowing what to expect, were on edge, which could create “an ascending spiral of antagonisms” between the police and the citizen. Officers felt the highest danger even during their most mundane order-keeping.<sup>55</sup> This dovetailed with Skolnick’s assertion that police were always on the lookout for what he called “the symbolic assailant.” Because police officers were “occupied continuously with potential violence,” they developed 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. This does not mean that violence by the symbolic assailant

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<sup>52</sup> Reiss, *The Police*, 154-155.

<sup>53</sup> Working class sensibilities, Wilson, *Varieties*, 33. Officer treatment, 34. Self-defeating restraint, 47.

<sup>54</sup> “The Police must cope” and “truncheon,” Reiss, *The Police*, 46. Citizens and professionals, Reiss, 179.

<sup>55</sup> Working alone, Wilson, *Varieties*, 30. Spiral of antagonisms, 20.

is necessarily predictable.” Policemen sought “regularity and predictability.” They were shaped by persistent *suspicion*.<sup>56</sup>

It is difficult to read these descriptions without concluding that each of the authors, in different ways, downplayed how racism was fused into a predominantly white police occupation’s conceptions of danger, authority and suspicion. Wilson plainly justified police officers’ greater suspicion of black people on the grounds that they were statistically more likely to be arrested for crime. The police fear of danger and the public demand for crime control raised the question of where responsibility for police brutality lay. What was the relationship between a cagey and adversarial police culture and that of the citizens calling for a police crackdown on crime? Among citizens who called for “law and order,” Skolnick sensed a tacit approval of police abuse. “When prominent members of the community become far more aroused over an apparent rise in criminality than over the fact that Negroes are frequently subjected to unwarranted police interrogation, detention, and invasions of privacy, the police will continue to engage in such practices.”<sup>57</sup>

While some parts of the public who desired crime control by any means may have approved of police abuses, many citizens living in high-crime urban neighborhoods felt a dual insecurity from crime and police harassment. Discontent with this insecurity was a critical factor in expert explanations of the riots in over one hundred US cities in 1967. In his testimony to the National Advisory Commission on Civil Disorders in 1967, Reiss insisted that even a relatively low number of police abuses, when occurring regularly, “begins to build up in a population.” The riots in cities large and small were “precisely a result of this accumulation” of police abuses. For Reiss, the answer was training police to maintain composure and refrain from violence, no matter “how the client behaves.” Developing such high standards of officer conduct in the face of unpleasant, if not always dangerous situations, was going to be difficult. After all, “when the rest of us fail in our professional behavior, we call the police.”<sup>58</sup>

### **Crime and the Boundaries of Police**

The scholarship I’ve outlined acknowledged that the police’s ability to counter crime may be limited. Yet, this finding contended with public expectations about the necessity of police for countering crime and violence. There seemed to be few alternatives to policing for immediately addressing increasing violence and crime. But the degree to which crime was increasing remained a matter of dispute. Reiss argued that “much of the reported higher crime rate among Negroes in larger cities is largely a consequence of the fact that we have...convinced Negroes to call the police.” More crimes were being reported, not committed. He emphasized the ambivalence felt by black residents of high-crime neighborhoods, who felt the threat of crime and police harassment but “don’t see much way out of it except police protection.”<sup>59</sup>

However prevalent the crime increase was, the question was how police departments were going to be shaped in response to these concerns. Both rank-and-file cops and their leaders

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<sup>56</sup> “Potential violence,” Skolnick, *Justice*, 45. “Persistent suspicion,” 48, author’s italics.

<sup>57</sup> “Prominent members,” Skolnick, *Justice*, 245

<sup>58</sup> Build up and accumulation, Albert Reiss, Kerner testimony transcript, 1669. Failing in professionalism, 1667.

<sup>59</sup> Convinced Negroes to call police, Reiss, Kerner testimony, 1665. Police protection, 1666.

argued that they had the expertise necessary to combat violence and crime and should be given greater latitude and resources to do so. Police seeking greater resources made their case in front of municipal, state, and national lawmakers, many of whom were anxious to answer their constituents demands for crime control measures.<sup>60</sup> But some police departments were also becoming internally divided, as rank-and-file militants fought internal accountability measures proposed by professionalizers. These projects for crime control were subject to debate in the press, sometimes with reference to the three scholars' research or ideas that they had emphasized.

As Skolnick, Wilson, and Reiss suggested, the presence or potential presence of danger on the beat was key to debates about policing. Although high-ranking police officials and rank-and-file unionists differed in tone, with the latter using more catastrophic language, both emphasized the danger of the job and called for greater civic support and material remuneration on that ground. A small number of police unions were recognized and organized before 1960, but in the later part of the decade, police officers saw more success with collectively bargained contracts in Northern cities like New York City, Philadelphia, and Boston.<sup>61</sup> By 1969, the victories of New York City police officers included a salary increase, the repeal of the civilian review board, and the adoption of an informal police "bill of rights."

Unions like the Patrolmen's Benevolent Association campaigned by broadcasting their work as the protection of society from a vicious criminal element. In an October 1969 news story on workplace gains by New York City PBA, one official with the International Association of Chiefs of Police told reporters that, despite the increasing salaries in cities like New York, policing was still "anything but a dream job. It's dangerous. It has more responsibilities every day and the nature of the work is disagreeable." He told of two Chicago cops who been the victims of a "fire bomb" in a public housing complex. In an even stronger statement of cop-persecution, a member of the Boston PBA opined that "[m]illions of people in this country feel policemen are not humans...I think society should take a look at the civilian brutality that causes police brutality."<sup>62</sup> Such statements beared out Skolnick's description of a kind of minority-consciousness among police, who feared "brutalities [they have] never experienced personally."<sup>63</sup>

In a July, 1968 cover story on police violence, *New York Times* reporter David Burnham noticed an incongruity between the policeman's preoccupation with danger and his usually mundane work. He highlighted Reiss's claim that 1 of 10 policemen was rude or authoritarian

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<sup>60</sup> Stuart Schrader, *Badges without Borders: How Counterinsurgency Transformed American Policing*, (University of California Press, 2019), chapter 2.

<sup>61</sup> Megan Marie Adams, "The Patrolmen's Revolt: Chicago Police and the Labor and Urban Crises of the Late Twentieth Century" (Ph.D diss, University of California, Berkeley), Andrew T. Darien, *Becoming New York's Finest: Race, Gender, and the Integration of the NYPD, 1935-1980* (Palgrave Macmillan, 2013), chapters 3 & 6.; Aaron Bekemeyer, "The Labor of Law and Order: How Police Unions Transformed Policing and Politics in the United States, 1939-1985" (PhD diss, Harvard University, 2021),

<sup>62</sup> "Collective bargaining model, Reiss, *The Police*, 129. All other quotes from Ken Hartnett, "Police Oppose N.Y.'s Mayor Lindsay" *Oakland Tribune*, October 29, 1969, p. 9

<sup>63</sup> Dream job, fire bomb, civilian brutality, David Burnham, "Police Violence: A Changing Pattern" *New York Times*, Jul 7, 1968, p. 1, 34. Fearing brutalities, Skolnick, *Justice*, 48

with citizens, and a smaller minority was observed used “improper” or “unnecessary” force.<sup>64</sup> Acknowledging the many situational factors behind a brusque word or the use of force, Burnham nonetheless zeroed in on an police culture of fear as the most persistent cause of undue violence. He quoted active and retired cops describing how the anticipation of “[a]n attack on a cop” loomed large in the culture.<sup>65</sup> Burnham suggested that violence might be prevented if police “recognize and accept the fact that they spend much more time helping law-abiding people than they do chasing criminals.” He continued, echoing Reiss again, that “the average patrolman spends most of his time on such noncrime activities[.]” Despite this fact, “it is the violent aspect of police work that is most emphasized in the traditions of the department.”<sup>66</sup>

Even Wilson, who evinced the greatest sympathy for the police of all of the three scholars here, criticized the call for a more martial police orientation. It was dangerous to think “that if we only ‘unleashed’ the police we could stop crime.” Wilson insisted that because most crimes were committed by repeat offenders, money invested in the “right correctional program” would go much farther than the same investment into policing.<sup>67</sup>

Even as concern for crime reached a new high in 1968, after Congress’s passage of the Omnibus Safe Streets and Crime Control Act that year, journalists expressed doubts that more vigorous policing, while necessary, was all that it was going to take. A syndicated *Washington Post* column argued that “[t]he public makes extravagant demands on its policemen” to both fulfill its service whims and “face thugs or madmen with aplomb.” For all this, they were underpaid and “afforded status only slightly above that of sanitation worker.” Repeating Wilson’s argument that police were far more capable of maintaining order than eliminating crime, the columnist wrote that long term remedies for crime would require many different investments, including the improvement of police training and salaries, investments in municipal infrastructure, and gun control laws. Too often, this varied and holistic approach to countering crime and violence was “forgotten in favor of a ‘toughness’ which serves only to create more criminals.”<sup>68</sup>

The prevalence of crime and the appropriate role that police should play in responding to it remained fiercely debated. But the scholarship analyzed here advanced new insights about how police departments worked on a daily basis. Skolnick, Reiss, and Wilson’s observations about the structure, practices and culture of police work raised profound questions about the mediated relationship between police and the law, both when officers were the enactors of the law or subjects of regulation. The relative lack of law enforcement in police work overall, the difficulty of controlling discretion, and the role of police occupational culture in obstructing or facilitating reforms would continue to figure in scholarly analysis and public debate about policing and crime.

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<sup>64</sup> Hartnett, “Police Oppose N.Y.’s Mayor Lindsay” 9

<sup>65</sup> Ibid, 34

<sup>66</sup> Ibid, 34

<sup>67</sup> Tom Rettew, “Fear, Falsehood Pervade Attitude Toward Police” *The News Journal* [Wilmington, DE], 1.15.69, p. 1, 3, here 3

<sup>68</sup> Alan Barth, “Nation Expects Policemen to Be Modest Supermen” *News-Journal*, 12.28.68, p. 16 (Washington Post)

## **Conclusion**

An intellectual history of how social scientists constructed the police problem accounts for the conflicted role of professionals and especially academics as part of the social base of the carceral state. Academic experts criticized police and raised profound questions about the effectiveness of police departments' prescribed role in crime fighting, even as they saw police reform as the only solution to addressing crime and violence. Scholars' qualified endorsements of police reform sheds light on the weighty constraints faced by Americans who hoped and worked for more equitable criminal justice. The promise of deep engagement with the social science of policing does not end there. Social and political historians could also construct more accurate and interesting pictures of police departments and other criminal justice institutions by engaging more substantially with social scientific sources from the past. These scholars' access to police departments allowed them to capture the daily operations of policing in a way that much of the existing scholarship does not. These sources can also illuminate for social scientists, journalists, and concerned citizens what is old and new in debates about police.