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THE POLICE MANDATE AND INSTITUTIONAL CONTRADICTIONS*

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One tradition in the study of occupations and the organizations in which they are rooted is to view the development of an occupation in terms of an emergent social psychological (role-based), political and cultural consensus on the mandate of the occupation. Although this thematic emphasis is not Hughes's, it has grown from his classic formulations of the concepts of mandate and license in Men and Their Work (1958). Yet, the achieved mandate, or the right to define the proper attitude toward and conduct of an occupation may contain unrecognized contradictions. Consider, for example, in the case of the police, the contradictions between what is claimed and what is honored by the public; what is expected from the police and what they "deliver"; what is symbolized publicly and what the everyday reality of the work requires of the practitioners; and what is politically expedient and what is required of the police in the ideology of policing in democratic societies. An examination of policing's mandate, even a superficial sketch, will reveal that structural and functional compromises have produced survival capabilities which in turn undercut both the mandate imagined by Peel and others, while at the same time reducing long-range flexibility and change potential. Insofar as these contradictions can be mediated by public ceremonies, dramaturgical management (Manning, 1974) strategies and ideologies, apparent political calm can persist. The growing dissent within police ranks, professionalization and unionization drives and strikes

indicate internal contradictions are being worked out in the public-political sphere. Public attempts to control the police through the passage of anti-strike laws, civilian review or participation in policy-formulation, reduced and carefully scrutinized budgets, all mirror unresolved public expectations of policing. The particular explosive mix created in the American context by emphasis on individualism, violence, and materialistic success, makes understanding the historical Anglo-American pattern critical since it is the template by which such strains have been shaped. The generality of the institutional dilemmas identified here is an empirical question, but in considering the pattern of police and public interactions, the limitations of the mandate are a useful background against which to study such transactions. An outline of the received mandate, as transformed into a set of structural, functional and organizational features, is the basis for arguing in the last section of this paper for the convergence of the present institutional dilemmas.

THE RECEIVED MANDATE

The representation of police power, what can be termed the police mandate, evolved over a period of 144 years from the principles enunciated by Sir Robert Peel into the present American police mandate. The police were initially designed to prevent crime without resort to repressive legal sanctioning and to avoid military intervention in domestic disturbances; to manage public order nonviolently, with the application of violence viewed as an ultimate means of coercing compliance; to minimize and indeed reduce if at all possible the schism between police and public

and to demonstrate efficiency by the absence of crime and disorder, not visible evidence of police action in dealing with them. (Peel, as quoted in Radelet, 1973:5). It might be said, subject to empirical validation, that the American police rarely seek to prevent crime, characteristically utilize excessive violence, mobilize systematic organizational effort to increase the schism between police and public, and seize hungrily upon evidence of police action or intervention as a verification of their effectiveness.

Functions and Legitimacy.

Of the police functions or activities most central to accumulated police obligations, none are more salient than supplying the range of public services without which complex pluralistic urban societies would eviscerate themselves and symbolically transmitting the concern of the people for each other through their fiduciary representatives. In order to implement these functions coercion is inevitable - for the sine qua non of governance is its capacity to project the formal capability to constrain citizens from each other (and from altering the pattern of governance itself). Because these services are themselves grounded in values with a high potential for conflict (personal rights to privacy, property, and political expression), and are transmitted by organizations which must establish priorities in allocation, targets, content, and levels and type of delivery of services, adversary relations result. Adversary relations in complex pluralistic societies, especially those involving large numbers of persons (whether routinely or on former occasions), lack the enduring structuring of normative constraints

provided in simpler societies by sanctity or tradition.

Why must the police act in a coercive fashion? It has been argued convincingly that the police have merely inherited this function as an historical residue (Bittner, 1975). It is perhaps more accurate to point out that the mandate of the police as preventive was to provide full-time availability to citizens, and to be open to their demands and requirements for service. Like the military, the police stand legally obligated to act in response to demand from whatever quarter. In a sense, the law, by requiring police action, has formalized the practice which is inimical to the police - the constantly ready response of one citizen to another in time of need. Further, the police possess a range of undifferentiated skills, tools and technology and the intelligence (information and communication systems) to respond to an enormous range of human difficulties.

The legitimating source for order-norms and reactive norms which define which response is appropriate to the violations of order-norms is the law. Agencies entrusted with provision of services with a high potential for violence, non-compliance and conflict, view the law as the fount of legitimacy. The linkage of law as a legitimator of official violence becomes conventional wisdom in mass societies, suffuses the ideology of everyday law and order conceptions. This acknowledged link represents a recognition of the empirical fact that in such a society only such bare- minimum rules as those in the law abstractly define the

range of events requiring intervention by the police. In order to cast the relationships with which they deal in the modes of legalism which provide their coercive force with legitimacy, the police engage in the symbolic transformation of facts into legal components: elements, rules of law, and hence create cases. Legal rules function in use by the police and their legal allies to guide the reconstruction of facts to facilitate entry of the cases into the legal system. In so transforming these facts, they state the official (i.e., legal) consequences of the occurrence of certain sequences of behavior. They create predictability in the anticipation of sanctioning. The exercise of official coercion is not only made possible by the legalistic legitimation of the police, but by the back-up or support function which they can obtain from other agencies within a community. As Cumming (1968) demonstrates, the police are the principal and initial referral source for the largest number of persons entering the social control network. The police provide a front-line definitional coding system thru which large numbers of persons are processed and referred to other cooperating or symbiotically dependent agencies of control. Two consequences result: the police act as "trend-setting" definers of deviance (or controllable offenses), and they enjoy the supportive coding supplied by other agencies within a social control network. Although standards and conceptions of causation of deviance and appropriate response to it are in conflict within the system, acceptance of the hierarchy of referral goes unchallenged. The police are dependent upon the more powerful discretionary agencies in the network -

the courts - for the affirmation of their decisions (Reiss, 1971: 125-134). This primary coding role vis-à-vis the community combined with a dependent status with regard to the courts, its ex post facto control on some police discretion, makes the utilization of the legal code imperative as a preparatory formulation for the submission (certification and validation of police action) of cases into the next "higher" level of the criminal justice system. It can be stated in a more forceful manner: the law serves as a mystification device or canopy to cover, legitimate and rationalize police conduct (Arnold, 1935). It does not prospectively guide police action, nor does it provide the principal constraint upon their practices. (cf. Bittner, 1970: Chapters IV and V: Alprin and Wilson, 1974).

Policing can be seen as a) a representation of coercive potential, b) backed by law and conventional institutional structure in the community, and c) reflecting the interests of those who control and define situations requiring the application of authority. In modern societies, these interests refer not only to the ostensive legal - political structure of a community, but to the patterns of influence upon decision-making which are endemic in segmentalized class societies. There is little question that the setting of public policy is everywhere determined by economic elites, and disproportionately reflects their political and social interests. The police, as an instrumentality of public policy, are no exception (Runchelman, 1974). Policing is the application of force to everyday affairs legitimated by the law. Police Agents are held responsible on an around-the-clock basis for the behavior of citizens who might

otherwise not comply with the law. Policing cannot be other than a reflection of those interests which define the nature of the legitimacy on which they draw. This is not to say that the police cannot exceed this authority in a variety of ways, but to say that the direction of the excess is patterned by the interests of the community reflected in the law and political elite . These arguments present in outline form some social structural aspects of policing and the meta-political environment in which they work. (For other influences on police organization, see Clark and Sykes, 1974: 466-472).

Police Organization:

Given these broad structural features embedding the mandate (further presented on pp. 10-15), policing as an organized activity inherits a mediating organizational position between elites, power groups and publics and their targets (principally the lower classes). Their principal concern is surviving. They attempt to do this by identification with the conventional symbols of order, invocation of the law and absolutistic morality, (Douglas, 1971: Ch. 3), and the myth of the neutrality of the state (Chambliss and Seidman, 1971: 2-4ff). More specifically, the police subscribe in public to the view that they enforce the law, attach its legitimacy to the state, and define the state as a neutral entity of which they are by extension suppliers of appropriate "police service". They define their action as politically neutral agents of the politically neutral state delivering a uniform product.

Organizationally, the police seek to mediate a problematic organizational environment by selectively presenting those functions which most clearly tie or associate them with a) the law, specifically the criminal law; b) crime-related activities, in specific arrests, warrant-serving and court appearances and c) symbols and activities which affirm the connection between the state and the police as a vehicle of secular power and authority.

For a number of historical reasons, the principal of which is the decline in the recognition of violence as a generic fact in complex societies (and the symbolic tagging of the police with the moral freight associated with violent intervention in society), the actual and unavoidable politicality of policing, and increasing reliance upon the law and other formal means of social control, the police present themselves rhetorically (symbolically) as bureaucratically organized. The term rhetorically is used advisedly, for although the police claim a bureaucratic organizational mode, critical aspects of police organization and practice might be called situationally justified action rather than bureaucratically mobilized and controlled paramilitary responses. It may be that the bureaucratic mode of organizing the police service was at the time of its formal legal creation in 1829 the only well developed mode of organization with promise.*

* Peel was impressed with the effectiveness of the Irish Constabulary, a quasi-military agency in Ireland, when he was secretary to Ireland from 1812/1815, and endeavored to insure control of police action by a variety of means which would insure its honesty, non-corruptibility and effectiveness in dealing with disturbances and crime in the streets of London. Chief among these were the installation of two commissioners (one with legal, the other with military experience), the insulation of the police from domestic politics (rather than parliamentary politics) and the creation of mechanisms

The early description of the police mission was indeed as crime preventative and public order control with minimal emphasis upon violent intervention. Foremost of the guarantees against violent excess was said to be strict accountability through a clear rank structure, military symbols and procedures rigid communicational hierarchy and close supervision. Over time, these innovative conceptions became less binding as the size and complexity of the organization and the diversity of the police function became apparent. Yet, it remained politically expedient for the police to symbolize the police function in bureaucratic terms. The rhetoric of policing became rigidified in a form which has been described as a "symbolic bureaucracy:"

...it is possible for an organization to conform little or not at all to the conditions of bureaucracy, while maintaining an image of complete adherence to bureaucratic ideals. The existence of such a situation will hereafter be referred to as 'symbolic bureaucracy'. Under such conditions, the relative success of the organization in realizing its ends in a more efficient fashion would not easily be subject to an accurate assessment either by the agency's administrative personnel or the outside observer. (Jacobs, 1969: 414).

This imagery, it is argued below, when combined with the actual diversity of police function, the quasi-entrepreneurial nature of the activities of the patrolman, and the vulnerability of the police to their political environments, creates an explosive combination. That is, the imagery of the symbolic bureaucracy is contradicted by the internally

to make the Commissioners accountable to the Home Secretary and hence to the Parliament and the Prime Minister. He proposed setting rigid standards of recruitment and discipline, and designed a system of actuarial control. These mechanisms were designed to create accountability, organizational control, and compliance within, and to enable control by politicians of the actions of the police.

decentralized style of operation. Clark and Sykes state this dilemma succinctly:

Those who have systematically observed police operations first hand, however, cannot help but be impressed with their nonmilitary and nonbureaucratic nature. In actual practice, in the critical aspects of responsiveness to top command, identity with a chain of command culminating in the ranking officer, and adherence to notions of centralized communications, control, and supervision, police departments are profoundly nonmilitary. Put in alternative rhetoric, much of the potential militarizing and bureaucratizing effects of selective recruiting from the military, in-house training, standardized dress, formal organizational structure and procedures, and so forth is neutralized by the de-bureaucratizing effects of relatively isolated and atomized police operations in detached individual or two-man patrol or investigation teams, under weak or nonexistent supervision, operating within an organizational ethos of the individualization of each case and each officer's solution to it. (1974: 473).

The translation of the police mission from external forces and pressures into an organizational structure is not well understood. Studies which have seized upon a feature of the patterning of police action e.g., the legalistic focus of Skolnick (1966) and Reiss (1971), have not been able on these grounds to account for the structure of policing, or sound an empty criticism of policing based upon the assumption that they should be legal agents. Bittner (1970; 1975) has clearly understood the relative autonomy of the police from the law, and their central mission empirically as the application of force. Noting the "residual" nature of many police obligations, and viewing the internal structure as a reflection of the extreme diversity of police tasks (see Webster, 1973), we have revealed that the police must be seen as a rather special sort of social control organization reflecting contradictory public expectations. The

discrepancies between the public demands for police service and their own symbolic focus on crime control constantly exposes them to dramatic dilemmas - how do they cope with a diverse set of organizational tasks while maintaining a socially defined place within an environment?

STRUCTURAL, FUNCTIONAL AND ORGANIZATIONAL CHARACTERISTICS OF POLICING IN ANGLO-AMERICAN SOCIETIES

The following outline of the structural, functional and organizational characteristics of policing reproduces some of the themes of the introductory section of this paper and aspects of the received mandate. It will in turn introduce a set of eight structural contradictions inherent in modern American policing, and will allow us to examine some of the consequences of the police structure on the police role.

I - Structural

A - The police represent in symbolic terms the most visible representation of the presence of the state in everyday life and the potential of the state to enforce its will upon citizens.

- 1) The police are dependent upon the trust and compliance of the citizenry to the political and moral order which legitimates their operations and existence, and sanctifies their commands with authority.
- 2) The legal obligations of the police cannot be fulfilled in the absence of citizen compliance in a democracy. (see below, F, F1, F2, F3).

- 3) The police are dependent for their mandates upon local political culture; there is no unifying, abstract mandate which crosses national, state or even municipal boundaries.*

* Nearly half a million persons are employed in over 40,000 law enforcement agencies in this country. They work for agencies located at five separate levels of governmental responsibility. In 1966 there were 420,000 full- and part-time law-enforcement officers and civilians employed by police agencies in the United States. Most of them — 371,000 — were full-time employees; about 11 per cent — 46,000 — were civilians. Of the full-timers, 23,000 served at the federal level of government, 40,000 at the state level, and the remaining 308,000, or 83 per cent of the total, were divided between county and local political jurisdictions. In addition to 50 federal-level agencies, including the FBI, Bureau of Narcotics, Post Office, IRS, Customs, the Alcohol Firearms and Tobacco Unit of the Treasury, the Immigration-Border Patrol and U.S. Marshalls, there are agents in 100 agencies in the 50 states, including state police forces and criminal investigation agencies, county sheriffs and deputy sheriffs in over 3,000 counties; there are 33,000 agencies of police of a thousand cities and in over 20,000 townships and New England towns; and the police of 15,000 villages, boroughs, and incorporated towns, together with a small number of special purpose forces serving public quasi-corporations and ad hoc districts. Within certain county or metropolitan areas, there are ad hoc "squads" to deal with organized crime, drugs, or riots which are composed of members of a number of police forces and are commanded by officers from several departments. The number of private police agencies such as Pinkerton's (an agency now employing over 30,000 persons) and other protective and detective agencies is presently over 3,000 and growing. The amount spent on legally constituted private forces is over 3 billion dollars. An unknown number of more than ad hoc "vigilante" groups (which do continue to appear to conduct voluntary searches, patrol neighborhoods, and make inquiries in communities) exists, such as the Maccabees in Brooklyn (Marx and Archer, 1971). There are no accurate estimates of the numbers of people involved on an ad hoc basis or on a semi-official capacity such as these, but they form a type of quasi-legal social control even though they normally do not arrest persons. What all these figures indicate is the massive dispersal of police authority — and political authority — throughout the nation. What these figures also indicate is the existence of overlapping laws governing law enforcement. Further, they show that the responsibility for maintaining public order in America is decentralized, and that law-enforcement officers are largely under the immediate control of local political authorities.

- B - The police are organizationally legally bound to apply sanctions against persons and elements of the population of a politically defined region where the probability of retaliation (against the police by the citizens) by persons other than those to whom reaction is directed is low (Reinstein, 1954: 5; Gibbs, 1966).
- C - The police are not officially delegated the responsibility of evaluating and gathering data on the moral/political status of the character of the entire civilian population under their jurisdiction. They are expected to concern themselves with those matters considered to be violations of the criminal law (and juvenile statutes), not with issues of "national security" broadly defined.
- 1) This limitation distinguishes the Anglo-American tradition of "Crime" or "law" policing from the Continental tradition of a high policing where the mandate includes both criminal law enforcement and surveillance of the civilian population (Bordua, 1968; Chapman, 1970; Tobias, 1972).
 - 2) This centralized pattern of police authority broadens the political meanings of police activity and the meanings of crime to include "political" crime or disaffection from the legitimacy of the political order itself.
- D - The police are expected to act in asymmetrical relation to the army. The army is utilized only bilaterally with the police in quelling, containing or managing domestic upheavals.

- 1) The police will have been called in any disturbance where the army has been mobilized.
- 2) The police are viewed as the first line of formal social control while the army is seen as the ultimate application of force.
- 3) This means specifically that the police are sanctioned to act where:
 - a - the political authority of the government itself is not challenged in a significant fashion by the numbers, power and organization of the opposition.
 - b - the intention of the opposition is defined as "criminal" rather than "rebellious" or "revolutionary". (Turk, 1967; Horowitz and Liebowitz, 1967).
 - c - military and civil law coincide on the definition of joint action.

E - The enforcement or sanctioning authority of the police stands in relation to the criminal law as follows:

- 1) Private associations have rules binding in the same sense that the law is, however they can only at best expel associates; they lack the monopoly on violent sanctioning reserved to the state (Ross, 1958: 60).
- 2) The law consists of rules concerning the application of force and secondly, rules (or norms) concerning the competence of given organized or institutionalized bodies to stipulate these norms of conduct and the exercise of this force (Ross, 1958: 59).

3) The police thus enforce legal norms among others insofar as the police are the source of institutionalized violence in the society. (Ross, 1958: 57-58; Bittner, 1975).

4) The police, under the rubric of violence as a final solution to non-compliance to command, may apply variants up to and including the use of lethal weaponry.

5) Under the conditions stipulated above (D, D1, D2), the police may use in legal sequence violence necessary to enforce compliance until resistance is no longer encountered (operationally, these modes of coercion e.g., commands, persuasion, lying, threats, and physical force may be used in step-wise fashion).

F - The police act as transducers; they gather, screen, and respond to information which mediates between private bounded associations and the criminal justice system (Mayhew and Reiss: 1969).

1) This information provides citizens with awareness of legal contingencies and legal implications of private relations.

2) The police information system acts as a source of information surrounding a case in the legal system, and this shaping or transformation may pattern its subsequent passage through the legal system (Clark and Sykes, 1974: 460-461).

3) Police are not, therefor, merely respondents to behavioral events, but shape, process, screen, amplify and otherwise code events coming to their attention.

G - The police actively mediate between the political-economic elites and the citizens.

- 1) Threats to these interests are seen as located in the lower classes, and the responses of the police thus mark the limits of the respectable segments of society, the boundaries of informal social control and the shapes and location of evil.

H - The police are information-dependent.

- 1) The police are dependent on the citizenry for information and corporation:
 - a) Reiss (1971) found 87% of mobilizations of patrol cars were citizen initiated; only 13% were police initiated.
 - b) The police have little control over the settings in which they work: 70% of citizen-initiated encounters where a citizen was present took place in private places.
 - c) Four times as much "crime" can be discovered (if victim surveys are to be believed) than is actually reported (Hood and Sparks, 1970, Chapter 1).
- 2) Proactive policing (where the police mobilize themselves thru information gathered from informants, other officers, or criminals) reduces police dependency upon the public at large, and
 - a) increases the potential power and influence of informants and agents provocateurs (Cobb, 1970; Marx, 1974).
 - b) increases the amplification power of the police and the importance of the police occupational culture in defining crime.

- 3) The greater the proportion of police time and energy given over to proactive policing, the closer it resembles structurally "high policing" (C, C1, C2).

II - Functions

A - Crime-related functions (27%) *

1. Crime detection
2. Crime prevention
3. Investigation of alleged crimes
4. Arrest and warrant serving
5. The circulation, analysis and publication of crime-related information (information on wanted felons, criminal statistics, etc.).

B - Public order maintenance functions (9%)

1. Traffic control
2. Public order maintenance
3. Crowd control

C - Miscellaneous public services and administration services which are inaccessible, closed, or unacceptable to citizens e.g., handling mentally ill persons, dispatching ambulances (64%).

* Figures in parentheses refer to the amount of police time given over to each of these functions in Webster's (1973) study of a large West coast police department. The category of "service" contains internal or self-maintaining functions which amount in themselves to better than 50% of police time. The per cents do not total to 100% because the category "on view"—which can be assumed is crime-related intervention of patrol in on-going situations—amounted to 9%. If added to the category of crime-related functions, the total is 27%; in the crime category under 3% of police time was devoted to person-related crimes. It should also be noted that his analysis was for patrol only, thus the time spent in detective work (categories 3, 4 and possibly 5) is excluded. I estimate that it does not amount to more than perhaps 10% of total policeman hours, although no time study has analyzed both patrol and detective work.

III - Organizational Characteristics

A - The police are symbolized externally as a paramilitary bureaucracy, but features of internal lack of control, lack of supervision of lower participants and their freedom of action, make it more a symbol than a reality (Jacobs, 1969; Clark and Sykes, 1974).

1. Modes of control over lower participants are harsh, arbitrary and punitive, tend to be legitimated by administrator's values, and make police organizations "mock bureaucracies".
2. Rules proliferate, and complex systems of internal regulation are utilized to punish violators.
3. Uniforms and other symbols of hierarchy predominate.
4. There is a relatively undifferentiated task structure.
5. No lateral entry is permitted; administrative-supervisory command personnel almost exclusively have risen thru the ranks.

B - Quasi-legal internal structuring occurs i.e., the divisions within the department reflect legal categories of offenses - juvenile, traffic, detective (homicide, burglary, auto theft, etc.)

C - Police departments are characterized by high degrees of segmentalization, factionalism and informal groupings.

1. Unionism is one basis for segmentalization.
2. Cliques and cabals form around themes of mobility and success (the former, schemers to "get ahead"; the latter, schemers against change and mobility - Burns, 1955).

3. Racial, ethnic and religious organizations are very important informal rallying points within the organization.

4. Competition revolves around information (power) within the organization.

a) this can take the form of informal competition between persons or divisional (detective vs. patrol) competition.

D - Police departments have a high degree of asymmetrical knowledge - all higher participants have been patrolmen, but few (or none) of the patrolmen have been administrators or supervisors.

E - All administrative decisions are made situationally and contextually, involve discretion, and cannot be based upon an abstract theory of policing, the law as an authoritative locus, nor upon the internal rules and regulations of the organization itself. Any given decision, at any given level, cannot be solely based on a set of precedents, systematic theoretical propositions or assembled scientific tenets (Bittner, 1970; Wilson, 1968; Davis, 1969).

F - Policework at levels including and below Sergeant is discretionary - it is concealed from close supervision, and untrammelled by formal rules which clearly define when, where, how and why one should intervene. It is understood that not all laws can or should be enforced. Policework is primarily seen as an individualistic, entrepreneurial, practical, face-to-face activity involving particular people and their problems (Manning, in Blankenship, forthcoming).

G - The police as an organization are isolated from other organizations, minimally interact with organizations outside the criminal justice system, and isolate themselves by choice (Haurek and Clark, 1967; Clark, 1965).

INSTITUTIONAL CONTRADICTIONS OF THE STRUCTURAL POSITION OF POLICING IN
ANGLO-AMERICAN SOCIETIES

There are at least eight structural contradictions of Anglo-American policing which are seemingly inherent in their present mandate.

First, the police symbolize the state (I A-A3) in the sense of displaying the unity of the political organization of the state and of the consequences of public failure to comply with the state's dictates . In a general sense, they symbolize the appearance of a consensual, unitary moral order under which all citizens stand equal and deserve equal protection. Yet the police must enforce the law against some segments of society and in so doing they place themselves "behind" or "above" that law. The act of enforcement thus sets the police apart even as they legitimate themselves as representing the whole of the state and the people.

The police represent the means by which political authorities maintain the status quo. They act in the interests of the powerful and the authoritative against those without power and without access to the means to power. But not only do they serve this function, they serve to maintain the relative placement of social groups upon the politico-moral ladder. By enforcing the law, they are always enforcing someone's interests against someone else's. This is given in the nature of the occupation. By enforcing (or failing to enforce) a law they underscore the norms of the society, and

inferentially, the distribution of status within the group. However, although they claim the higher status, they must in fact mediate between large segments of a society and play an anomalous role. They are both of the society as its representatives, and outside of it as enforcers, or reactors against the delicts of others. They are of the society as citizens, but outside as adversaries of those who commit wrong. They stand not only in an anomalous position within the society, but are anomalous with regard to the line drawn between conceptions of society and non-society, chaos, threat or anarchy. The police view their position as marking the boundaries of the social order, standing between the higher and lower, the sacred and the profane, the clean and the dirty.

Secondly, (I B, E) although they symbolize their activities as being consensual and serving the state as a whole, especially the respectable middle class segment of the society, they are obligated to enforce the law against these respectable citizens. This is the case in the enforcement of some vice laws such as gambling and drugs and in traffic. In arrogating to themselves the "higher" moral ground, the police have also shrunken the basis on which they claim a right to legitimacy as the dominant agency of social control. For although they associate their actions with honorable defense of the social order, they are also the inheritors of the violence obligation. In this society, the application of violence is associated with honorable, but not especially prestigious occupations. It could be said that the greater the actual application of violence of a control agency, as opposed to the mere threat of violence, the lower ranking of the agency within the hierarchy of control agencies. Since the application of violence in this society is almost entirely limited to control of the lower classes,

the greater this exercise, the lower the prestige of the group, and obviously, the greater the contact with the lower orders.

Thirdly, although they are required legally to enforce the law and to maintain public order, there are many conditions with which they are confronted where the law is a weak resource (I E; F, F3; G1) (Banton, 1964; Bittner, 1967). The law does not always provide a means for controlling behavior which may be "irritating" to a person, yet, this is often the type of situation where, having received a complaint, the police feel constrained to act. (They may take action to alleviate the phenomenon or to mitigate the pressures on themselves [Manning, 1974a]).

No matter what the basis for actions of private citizens, the patrolman's job is one of practical decision-making within a legalistic pattern.* Police decisions are expected to include an understanding of the law as a system of formal rules, the enforcement practices emphasized by his department, and a knowledge of the specific facts of an allegedly illegal situation. The law includes little formal recognition of the variation in the private arrangement of lives; the police take these into account.

* The perspective of the patrolman as he goes about his daily rounds is a quasi-legalistic one. The law and the administrative actions of his department provide him with a frame of reference for exercising the mandate of the police. The citizen, on the other hand, does not live his life in accordance with a legalistic framework; he defines his acts in accordance with a moral or ethical code provided him by his family, his religion, his social class. For the most part, he sees law enforcement as an intervention in his private affairs.

Structurally the police must exercise a discretion vaguely defined at law.

(I F, F1 - F3). Wilson summarizes an inherent difficulty in law enforcement:

Most criminal laws define acts (murder, rape, speeding, possessing narcotics), which are held to be illegal; people may disagree as to whether the act should be illegal, as they do with respect to narcotics, for example, but there is little disagreement as to what the behavior in question consists of. Laws regarding disorderly conduct and the like assert, usually by implication, that there is a condition ("public order") that can be diminished by various actions. The difficulty, of course, is that public order is nowhere defined and can never be defined unambiguously because what constitutes order is a matter of opinion and convention, not a state of nature. An additional difficulty, a corollary of the first, is the impossibility of specifying, except in the extreme case, what degree of disorder is intolerable and who is to be held culpable for that degree. A suburban street is quiet and pleasant; a big city street is noisy and (to some) offensive; what degree of noise and offense, and produced by whom, constitutes "disorderly conduct"? (1968: 21-22).

The complexity of law enforcement stems from both the problem of police "discretion" and inherent tensions between the maintenance of order and individual rights. The law contains rules on how to maintain order; substantive definitions of crime; penalties for violations; conditions under which the commission of a crime is said to have been intended; the procedures for the administration of justice and for the protection of individual rights. This, then, is a fourth structural dilemma, for the police must enforce the peace while having few guidelines, and enforce the law while procedural constraints dealing with the protection of individual rights must be observed. (I A - A3; B; C, C1 - C2; D, D1 - D3). When dealing with order-maintenance, the police are thrown back on their own sensitivities and "readings" of the dynamics of the situations they encounter:

(I E1 - E2)

Order maintenance arises out of a dispute among citizens who accuse each other of being at fault; law enforcement arises out of the victimization of an innocent party by a person whose guilt must be proved. Handling a disorderly situation requires the officer to make a judgment about what constitutes an appropriate standard of behavior; law enforcement requires him only to compare a person's behavior with a clear legal standard. Murder or theft is defined, unambiguously, by statutes; public peace is not. Order maintenance rarely leads to an arrest; law enforcement (if the suspect can be found) typically does. Citizens quarreling usually want the officer to "do something," but they rarely want him to make an arrest (after all, the disputants are usually known or related to each other). Furthermore, whatever law is broken in a quarrel is usually a misdemeanor, and in most states, an officer cannot make a misdemeanor arrest unless one party or the other will swear out a formal complaint (which is even rarer). (Wilson, 1969: 131).

When dealing with situations covered by the criminal law, (I B; E, E1 - E2) as the patrolman perceives and understands it — one must recognize that the working knowledge of the policeman of the law is in fact limited to those types of situations he is routinely expected to enforce. (Buckner, 1967; Harris, 1973). The police operate because of their unique experiences in dealing with criminals and the public and the legal obligation to ascertain "probable cause" as if they "know" the guilt or innocence of persons arrested. The police provide evidence, and are required to construct the strongest case to the prosecuting attorney. This creates a fifth structural paradox, for decisions on guilt or innocence are complex matters negotiated between the police, lawyers, judges, juries, and charged persons. (Blumberg, 1967; Newman, 1956). Thus, police possess little certainty or control over final outcomes, once their discretionary task i.e., in founding a crime, investigating an allegation, arresting and charging a person, have been performed (Reiss, 1971: 125-134; Reiss, 1974; Skolnick, 1966).

Sixthly, the police must both gather, organize and use information as well as conceal it. Policing assumes the centrality of controlling and concealing information on the activities of criminals (e.g., their movements, addresses, past criminal records, associates, present occupations, automobiles driven/owned), and the activities of other categories of people who might cause police trouble: political activists; families frequently involved in marital/family disputes; "dishonest" businessmen; potential drug users. Enforcing the law requires preserving a degree of ignorance on the part of the public (and especially what is seen as the criminal element in society), because it makes possible undercover vice work (posing as a prostitute, or a "john" or an eager buyer of narcotics is only feasible where appearances are taken to be just that). The protection of informants, essential to vice work, often conflicts with variable public expectations of arrest and conviction of known offenders. In order to win the respect and deference of the upper and middle classes, and to maintain control over the moral high ground, the police must act against (and with in the case of using informants) "criminals" and the powerful classes. An alternative theme, which is more present in traffic enforcement and to some degree in drug law enforcement, is the deterrent strategy which emphasizes to the relevant target populations the risk inherent in certain matters of police concern. Social groups aware of such required and intrinsic matters of police operations such as discretion, differential attention to certain activities, and variable administrative policy directed to given problems in a community, might conceivably,

in police eyes, withdraw support from police operations. (The practical police concern here is primarily with that segment of the public which they define as the respectable middle class. (Cain, 1973: 69).

Seventhly, in theory, the American police are apolitical. The police must enforce the law, a political instrumentality, while eschewing all politicality, personally and organizationally. (I A - A3; C - C2; E-E ; G-G1). Their own political values and political aims are supposed to be secondary to the institutional objective of law enforcement. In practice, however, police organizations function in a political context; they operate in a public political arena and their mandate is defined politically. They may develop strategies to create and maintain the appearance of being apolitical in order to protect their organizational autonomy, but they are nonetheless a component of American political machinery. There are three reasons why the police are inextricably involved in the political system:

- 1) The vast majority of the police in this nation are locally controlled. They are embedded in the context of local political culture: the expectations, especially of the elites, of what issues are important, how they will be defined, what are the acceptable options for their solution, and what are the available resources for allocation.
- 2) Law is a political entity, and the administration of criminal law unavoidably encompasses political values and political ends. The police are tied to a political system that develops and defines the law, itself a product of interpretations of what is right and proper from the perspective of different

politically powerful segments within the community. 3) The police must administer the law. Many factors pattern this enforcement, but they all reflect the political organization of society. The distribution of power and authority, for example, rather than the striving for justice, or equal treatment under the law, has a direct bearing on enforcement (Quinney, 1970).

Patterns of police and politics within the community are tightly interlocked. The sensitivity of the police to their political audience, their operation within the political system of criminal justice, and their own personal political attitudes undermine their efforts to fulfill their contradictory mandate and to appear apolitical.

Eighthly and finally, although the police claim an active control over crime and public order, they are, in fact, highly information-dependent. (I C; F-F3; H-H3). They receive a large proportion of calls for assistance, but among them are the crime-related calls which eventuate in the vast majority of their law enforcement (arrest-related) functions. Little police activity resulting in arrest is initiated by police patrol. The police must deal with problems in settings where their own information and control is often minimal, and where they require citizen assistance. And most importantly, the police deal with only about one-quarter of the crime which has been uncovered in victim surveys. That is, they claim responsibility for phenomena which in one case they cannot define (order-relevant events) and in the other case about which they have only minimal information (crime-related events).

This is the "informational bind" problem of the police.

It should be clear that these characteristics of the police and the organizational adjustments that they create are at least partially a function of the attempt of the police to carve out these functions and characteristics, and at least in part a function of the inertia of organizational patterns. Much of what any organization does is done simply because it has always been done that way. It cannot be argued, then, that these characteristics are solely the product of patterns of past policy-making on the part of police organizations, but rather that they are incremental products of the conjunction of what we above termed the violence inheritance, the obligation to enforce the criminal law, and historical increments in the residual service and intelligence-information functions.

COMMENT

In the writings of the Americans, Wilson, Bittner and Clark and Sykes, an initial formulation of the police mandate has been sketched; there is some suggestion in their writings that this mandate may be more general in nature, and may conceptualize the police mandate in Anglo-American societies, or in industrialized democracies. It is unlikely that the needed ethnographic and historical work has been done to support the claim for the generality of the pattern. On the other hand, an attempt to develop historically rooted conceptualizations, and to locate them within the political economies of nation-states may be of considerable analytic promise. For example, the conceptual scheme tentatively

advanced in this paper may allow further cross-cultural research to be developed. For we have no truly comparative cross-cultural research on the police mandate itself, what the police claim to be doing, what respective political elites demand and expect of them, and expansions and contractions in the mandate over time. Research which focuses on "public attitudes" reifies the notion of public, and obscures the fact that "publics" do not set police policy, nor are the attitudes of an aggregated sample the relevant political audience to which the police respond. Likewise, sensitive research on the role of the police officer restricts attention to interactional dynamics, and may distract attention from the historically selective attention police pay to types of crimes, powerful groups and especially their role in politics.

To mobilize cross-cultural research on the police mandate will require close examination of the evolving structure of "law" or crime policing, and how it has been defined as such. The mystifying effects supplied by the hegemony of the idea of the law must be critically set aside. Key turning points and crises, such as the passage of the 1829 Police Act in London, and the founding of the police in New York and Philadelphia in the mid-nineteenth century, should be studied. Links to the economy and the fluctuations in scope and type of policing expected could be explored. But in each of these massive domains, the institutional contradictions will have to be probed, for they seem to be deeply rooted in American policing, and perhaps in Anglo-American policing.

BIBLIOGRAPHY

- ALPRIN, G. and J.V. WILSON (1974)
"Controlling Police Conduct: Alternatives to the Exclusionary Rule,"
in John C. Weistart (ed.), Police Practices. Dobbs Ferry, N.Y.:
Oceana Publications, pp. 44-55.
- ARNOLD, T. (1964)
Symbols of Government. New Haven: Yale University Press.
- BANTON, M. (1964)
The Policeman in the Community. New York: Basic Books.
- BITTNER, E. (1967)
"The Police on Skid Row," American Sociological Review 32 (October):
699-715.
- 1970 - The Functions of the Police in Modern Society. Washington, D.C.
United States Government Printing Office.
- 1975 - "A Theory of the Police," in H. Jacob (ed.), Potential for
Reform of Criminal Justice. Beverley Hills: Sage Publications, pp. 17-44.
- BLUMBERG, A. (1967)
Criminal Justice. Chicago: Quadrangle Books.
- BORDUA, D. (1968)
"The Police," International Encyclopedia of Social Science. New York:
Free Press, pp. 174-181.
- BUCKNER, H.T. (1967)
"The Police: Culture of a Social Control Agency," unpublished Ph.D.
dissertation, University of California, BERKELEY.
- BURNS, T. (1955)
"The Reference of Conduct in Small Groups," Human Relations VIII (November):
467-486.
- CAIN, M. (1973)
Society and the Policeman's Role. London: Routledge, Kegan Paul.
- CHAMBLISS, W.J. and R. SEIDMAN (1971)
Law, Order and Power. Reading, Mass.: Addison-Wesley.
- CHAPMAN, B. (1970)
Police State. London: Pall Mall.

CLARK, J.P. (1965)
"The Isolation of the Police: A Comparison of the British and American Situations," Journal of Criminal Law, Criminology and Police Science 56 (September): 307-319.

CLARK, J.P. and R. SYKES (1974)
"Some Determinants of Police Organization and Practice in a Modern Industrial Democracy", in D. Glaser, (ed.), Handbook of Criminology, Chicago: Rand-McNally, pp. 455-494.

COBB, R. (1970)
The Police and the People. Oxford: Oxford University Press.

CUMMING, E. (1968)
Systems of Social Regulation. New York: Altherton.

DAVIS, K.C. (1969)
Discretionary Justice. Baton Rouge: Louisiana State University Press.

DOUGLAS, J. (1971)
American Social Order. New York: Free Press.

GIBBS, J. (1966)
"The Sociology of Law and Normative Phenomena", American Sociological Review 31 (June): 315-325

HARRIS, R. (1973)
The Police Academy: An Inside View. New York: John Wiley.

HAUREK, E. and J.P. CLARK (1967)
"Variants of Integration of Social Control Agencies," Social Problems 15 (Summer): 47-61.

HOOD, R. and R. SPARKS (1970)
Key Issues in Criminology. New York: McGraw-Hill.

HOROWITZ, I. and M. LIEBOWITZ (1967)
"Social Deviance and Political Marginality: Toward a Redefinition of the Relation Between Sociology and Politics," Social Problems 15 (Winter): 280-296.

HUGHES, E.C. (1958)
Men and Their Work. Glencoe: The Free Press.

JACOBS, J. (1969)
"Symbolic Bureaucracy: A Case Study of a Social Welfare Agency", Social Forces 47 (June): 413-422

MANNING, P.K. (1974)
"Dramatic Aspects of Policing", Sociology and Social Research 59 (October): 21-29.

1974a - "Police Lying", Urban Life and Culture 3 (October): 283-306.

Forthcoming

"Rules, Colleagues and Situationally Justified Action," in Ralph Blankenship (ed.), Colleagues in Organizations. New York: John Wiley.

MARX, G. (1974)

"Thoughts on a Neglected Category of Social Movement Participant: The Agent Provocateur and the Informant," American Journal of Sociology 80 (September): 402-442.

MAYHEW, L. and A.J. REISS, Jr. (1969)

"The Social Organization of Legal Contacts," American Sociological Review 34 (June): 309-318.

NEWMAN, D.J. (1956)

"Pleading Guilty for Consideration: A Study of Bargain Justice", Journal of Criminal Law, Criminology and Police Science 46 (March-April): 780-790.

QUINNEY, R. (1970)

The Problem of Crime. New York: Dodd, Mead.

RADELET, L. (1973)

The Police and the Community. Beverly Hills: Glencoe Press.

REINSTEIN, R. (1954)

Max Weber on Law and Society. Cambridge: Harvard University Press.

REISS, A.J., Jr. (1971)

The Police and the Public. New Haven: Yale University Press.

1974 - "Discretionary Justice", in D. Glaser (ed.), Handbook of Criminology. Chicago: Rand McNally, pp. 679-699.

ROSS, A. (1958)

On Law and Justice. London: Stevens and Son.

RUNCHELMAN, L. (1974)

Police Politics. Cambridge: Ballinger

SKOLNICK, J. (1966)

Justice Without Trial. New York: John Wiley.

TOBIAS, J.J. (1972)

"Police and Public in the United Kingdom," Journal of Contemporary History 7 (January/April): 201-219.

TURK, A.T. (1969)

Criminality and the Legal Order. Chicago: Rand McNally

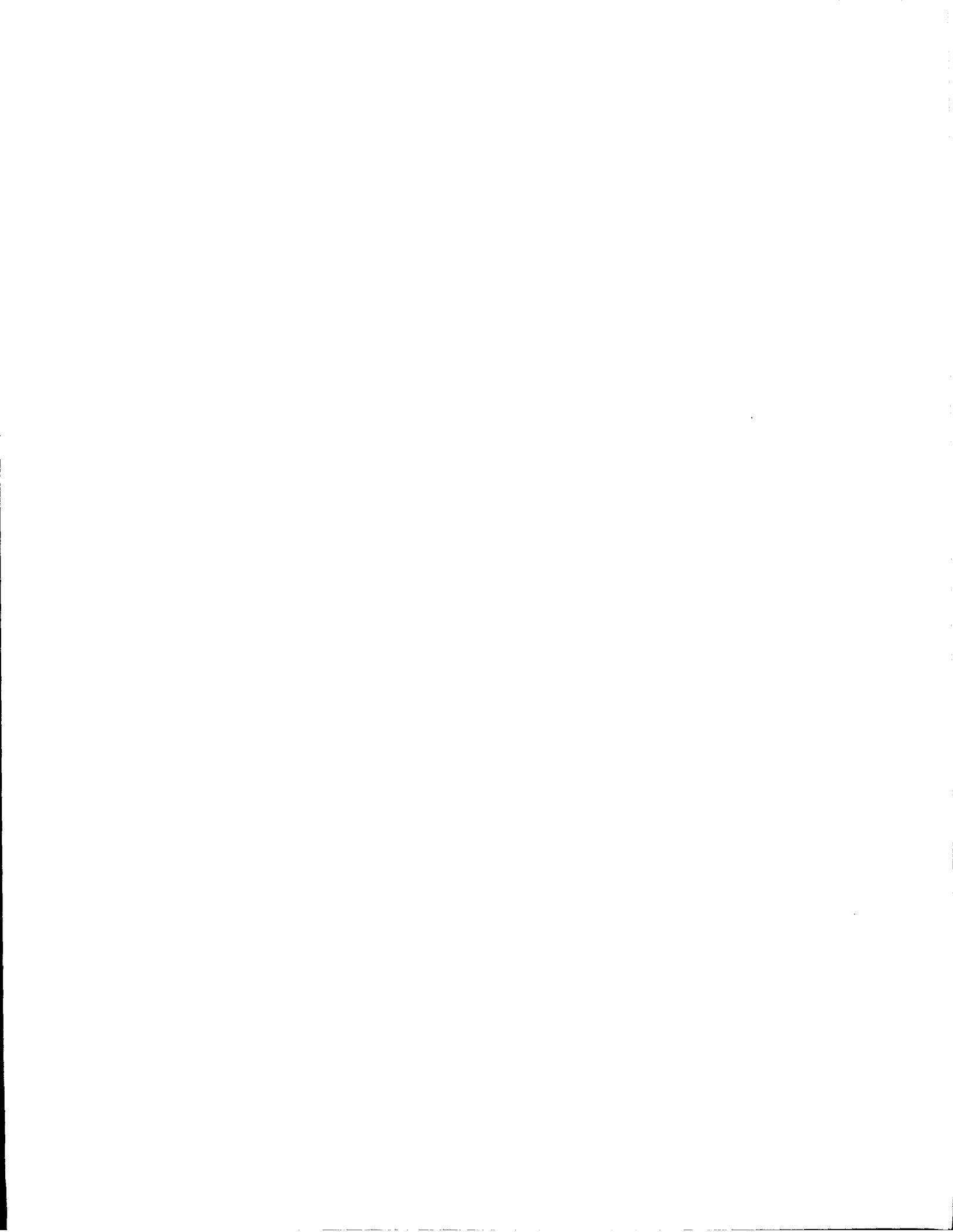
WEBSTER, J. (1973)

The Realities of Police Work. Dubuque, Iowa: W.C. Brown.

WILSON, J.Q. (1968)

Varieties of Police Behavior. Cambridge: Harvard University Press.

1969 - "What Makes a Better Policeman?" Atlantic 223 (March): 129-135.



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