The Culture of the Police

The police value orthodoxy, loyalty, obedience and silence. . . . The entering recruit's expectations of service and good deeds founders on the cold shoals of the secretive internal culture, the cynicism and the unspoken assignments pushed by the overclass.

—Chief Anthony V. Bouza, Ret.
The Police Mystique, 1990

Peter Marsala was a hero cop. During his ten-year career as a New York City Transit Police officer, Marsala was cited for bravery twelve times. On almost twenty occasions he had pulled fallen passengers from between subway cars. Once, when he had ventured above ground to patrol bus routes in a police car, a woman waved him to the side of the road. She pointed at a nearby building that was afire; Marsala ran into it and led twelve women and children out of it to safety.

Marsala's police career came to an end when he was convicted of assaulting a man he had originally arrested for violating the subway's anti-smoking regulations. According to Marsala, the smoker was handcuffed after he threatened to kill Marsala's partner. "Then," Marsala told the New York Times, "he said he was sorry, that he just lost his job, his father was dying of cancer, that his brother was a police officer. I told him that instead of arresting him I was going to give him a summons, and I removed the handcuffs. He turns around and throws a punch. I became so incensed that I pushed him against the wall and punched him three times. In the trial, it came out that as a result he had permanent brain damage." In the trial, Marsala was convicted and subsequently spent twenty-eight months behind bars.¹

How can police, who can be exemplary heroes, beat people and then
even be prepared to lie about it? We shall explain this paradox with the proposition that two principal features of the police role—danger and authority—combine to produce in them a distinctive world view that affects the values and understanding of cops on and off the job, sometimes leading to admirable valor, sometimes to brutality and excessive force, and sometimes to a banding together, a cover-up, a conspiracy of silence. And as Chief Bouza suggests, when police go astray they are often fulfilling the unwritten assignments of those of us who have real and personal property to protect.

THE WORK OF POLICE

Like a tribe or an ethnic group, every occupational group develops recognizable and distinctive rules, customs, perceptions, and interpretations of what they see, along with consequent moral judgments. Although some recognitions and prescriptions are shared with everyone else—we all live in the same society—others are mandates peculiar to and appreciated only by members of the craft or profession. In this sense, a specific world of work is rather like a game: One has to know the rules in order to play properly. Even those who play games develop such informal rules. “Baseball has evolved a set of unwritten and rarely even spoken norms, mores, habits, and customs,” George Will writes. “The code governs such matters as when it is appropriate to pitch at, or very close to, a batter; when and how to retaliate for that; which displays of emotion are acceptable and which constitute ‘showing up’ an umpire or opposing player; what sort of physical contact, in what sorts of game situations (breaking up a double play at second, trying to score when the catcher is blocking the plate), is acceptable.”

Police also live by a profusion of such unwritten rules. Some have been adopted by police all over the Western world, such as customary ways of dealing with people who challenge police authority. Others are the unwritten norms prevailing in a specific department. Every police department has such written and unwritten guidelines, including the proprieties of accepting gratuities, discounts, bribes, or favors.

Even in those American police departments enjoying a reputation for “legalistic” and therefore incorruptible policing, such as the Los Angeles Police Department, police may enjoy certain favors but not others. Basing his observations on years of service as a Los Angeles police officer and detective, Joseph Wambaugh, in his novel The Choirboys, observes that one of his characters, an ordinary LA policeman, “had accepted a thousand packs of cigarettes and as many free meals in his time. And though he had

right enough clothing at wholesale prices to dress a dozen movie stars, had never even considered taking a five dollar bill nor was one ever refused except once when he stopped a Chicago grocer in Los Angeles on vacation.”

Like most of us, and unlike economists, police do not make their choices in a rational calculation of comparative economic values. Choices are made instead on moral grounds, developed within the subculture of a police department. Thus, Wambaugh interprets his character’s conduct as being in conformity with a distinction the police department and its members made “between gratuities and cash offerings, which were considered money bribes no matter how slight and would result in a merciless dismissal as well as citizen prosecution.” Robert Daley describes a similar, but more sinister, dichotomy in Prince of the City, his account of a New York City narcotics detective’s decline into corruption. Among this work group, the elite Special Investigations Unit, it was permissible to steal drug dealers’ money and to reward snitches with some of the drugs seized in raids made possible by their information. Money earned from selling drugs, however, was dirty. By the same logic, according to the Knapp Commission’s report on police corruption, other officers considered bribes from bookmakers and illegal numbers operators to be clean money and would have nothing whatever to do with drug dealers.

We have read and heard boundless and unresolved arguments over whether, like doctoring, lawyering, or ministering, policing qualifies as a profession.” However that argument might be resolved, there is no question that policing is a defining identity. “The day the new recruit walks through the doors of the police academy,” the late New Haven Police Chief James Ahern wrote, “he leaves society behind to enter a profession that does more than give him a job, it defines who he is.” “For all the years he remains,” Ahern added, “he will always be a cop.”

Doctors and lawyers are often at odds, because doctors understand why other doctors behave the way they do, while lawyers are largely unappreciative of the dilemmas of doctors—though they do empathize with other lawyers. So police are not alone in retaining a distinctive outlook on the world and a set of understandings peculiar to the craft of policing, when dealing with their occupational environment. As the sociologist Emile Durkheim observed, although a common political community is preeminent in forming our conceptions of morality, our conceptions of right and wrong are mostly shaped by the smaller social groups to which we belong. “Morality is complete,” Durkheim wrote, “only to the extent that we feel identified with those different groups in which we are involved—family, union, business, club, political party, country, humanity.”
Policing, particularly because it is a twenty-four-hour-a-day identity, generates powerfully distinctive ways of looking at the world, cognitive and behavioral responses which, when taken together, may be said to constitute "a working personality." How working cops learn to see the world around them and their place in it has come to be acknowledged by scholars of police as an indispensable key to understanding their motives, fears, and aspirations, and the moral codes by which they judge themselves and affect the lives of others. "It is a commonplace of the now voluminous sociological literature on police operations and discretion," Robert Reiner observes, "that the rank-and-file officer is the primary determinant of policing where it really counts—on the street."  

Social scientists have studied police in every part of the United States, in Europe and in Asia. The fundamental culture of policing is everywhere similar, which is understandable since everywhere the same features of the police role—danger, authority, and the mandate to use coercive force—are everywhere present. This combination generates and supports norms of internal solidarity, or brotherhood. Most police feel comfortable, and socialize mainly, with other cops, a feature of police culture noted by observers of police from the 1960s to the 1990s. Every cop has a story about a social occasion where an inebriated guest would make a joking or half-joking remark that deprecated police or set them apart. Most cops prefer to attend parties with other police, where drinking and carousing can occur without fear of civilian affront or knowledge. Cops don't trust other people—which is practically everybody who is not a cop. "They know the public generally resents their authority," Mark Baker says, "and is fickle in its support of police policy and individual police officers. Older officers teach younger ones that it is best to avoid civilians."

Different philosophies and styles can be introduced into policing, a point we shall elaborate in our chapter on police administration. Yet cops on patrol in New York, Philadelphia, Los Angeles, London, and Stockholm—with whom we and others have ridden and observed—are remarkably comparable, with kindred occupational perspectives and working personalities.  

However skeptically police may be viewed by outsiders, police often identify themselves as a moral force, protecting innocent and productive members of the public against those who would brutalize and victimize ordinary decent citizens. People who are attracted to policing do not see themselves as bullies, nor does the literature on policing suggest that those upright, virtuous, and civic-minded. The typical police recruit is white, physically fit and agile, of the lower-middle or working class, male, in his twenties, and with some college education. Following each of the nation's

... have gravitated toward the police world, where they are paid because of their ease with adapting to the uniform; their acceptance of deference owed to, and the authority of, rank; and their familiar firearms. Students of police who have interviewed recruits, or who themselves been recruited, report a combination of self-interest—good, well-paid, and stimulating job—plus idealism as the motives for the occupation.  

Those who choose policing as an occupation or profession are not necessarily idealistic. Few Americans (or Britons or Swedes, for that matter) appreciate how well paid are their contemporary police in many departments. Big U.S. cities are better paid than in Los Angeles. Nor do layoffs capture the compensation given to high-ranking officers. In a major city with sometimes desperate fiscal problems—not Los Angeles—captain of our acquaintance disclosed during a luncheon conversation that his 1990 salary, with overtime, was $97,000. Additional fringe benefits included the use of a new four-door sedan, plus generous health insurance and pension plans. (So generous was the dental insurance plan several officers, who were thirty-something, were wearing orthodontics.) Twenty Washington, D.C., police officers—most of whom were cops rather than administrators or supervisors—earned enough in time to put their 1990 salaries into six figures. Recruits, of course, do earn nearly so much, but they do share in the health and benefit packages and many can look forward to remunerative careers.  

Nevertheless, when asked, police recruits point to opportunities afforded by policing to serve the community as their primary motivation.  

The Police Role  

... now sizable number of observers of police have made strikingly sim- 

...  

... portrayed police as neither the courteous, charming English "bob- 

... often portrayed in the British cinema nor as the equally distorted 

... fantasy, the devil-may-care-adventurer. Instead, MacInnes de-
picted the cop as an utterly conventional character, averse to risk, who above all prefers a predictable and orderly world. "The true copper's domi-
nant characteristic, if the truth be known," he wrote, "is neither those dar-
ing nor vicious qualities that are sometimes attributed to him by friend or
enemy, but an ingrained conservatism, an almost desperate love of the con-
ventional. It is untidiness, disorder, the unusual, that a copper disapproves
of most of all; more, even, than of crime which is merely a professional
matter."16

These preferences are understandable, even inevitable. Consider that the
world inhabited by cops is unkempt, unpredictable, and sometimes violent.
Statistics suggest that the risk of physical injury is greater in many lines of
industrial work than in policing,17 but cops are the ones to whom society
accords the right to use, or to threaten to use, force. This assignment and
the capacity to carry it out are said to be the central feature of the role of
police in society. "Whatever the substance of the task at hand," the sociolo-
gist Egon Bittner writes, "whether it involves protection against an undes-
ired imposition, caring for those who cannot care for themselves, attempt-
ning to solve a crime, helping to save a life, abating a nuisance, or settling
an explosive dispute, police intervention means above all making use of the
capacity and authority to overpower resistance."18 Bittner is well aware that
police may not use force so very often. But he concludes: "There can be no
doubt that this feature of police work is uppermost in the minds of people
who solicit police aid or direct the attention of police to problems." It is
also in the minds of police, and its potential hazards, however statistically
remote, are never far away in the everyday life of the cop.

"You never know what's going to happen," one cop told Connie
Fletcher, who interviewed more than a hundred. "The whole world can
come to an end in your last few minutes of duty, right before you leave
your watch. Or—right before you retire from the force. We've had cases
of police officers working their last tour before going on pension. And
they've run into a situation where they're killed."19

Every arrest, every handcuffing, involves an imposition of force on an
essentially unwilling person, no matter how compliant. The volatility of
even routine police field investigations—as well as the degree to which
they dehumanize their subjects—is made plain by Jonathan Rubinstein:

[The patrol officer] may not only circumscribe a person's liberty by stop-
ing him on the street, he may also completely violate the suspect's privacy
and autonomy by running his hands over the man's entire body. The police-
man knows that a frisk is a humiliation people usually accept from him be-
cause he can sustain his authority by almost any action he feels necessary.

While he does not frisk people often just to humble them, he can do so;
when he feels obliged to check someone for a concealed weapon, he is not
usually in a position to request their permission, even if this were desir-
able.20

Understandably, police prefer to encounter citizens who appear stable,
well-dressed, normal, and unthreatening enough not to warrant a field
stop. But precisely because they are society's designated force-ap-
pliers, police often encounter those who are unstable, ill-dressed, pugna-
cious, and threatening.

Students of police have frequently remarked upon the machismo qual-
ities of the police culture. The typical police recruit is chronologically and
emperamentually young, male, and athletic. Recruits often lift weights—
some like football players—so as to offer a more formidable appearance on the
street. They are trained in self-defense. They are trained to handle a variety
of offensive weapons, including deadly ones. They are taught how to dis-
able and kill people with their bare hands. No matter how many warnings
may be issued by superiors about limitations on the use of force, no matter
how much talk about policing as a profession, police training continually
reminds recruits that coercive power is a central feature of police life.

THE PARADOXES OF COERCIVE POWER

The informal norms that cops develop on the street are, at least in part, a
paradox noted by William Ker Muir: "The nastier one's reputation, the less
nasty one has to be"; in other words, the stronger one's reputation for
being mean, tough, and aggressive, the less iron-handed one actually has
to be.21 Cops and everyone else understand the reality of this paradox. And
whether or not they actually articulate it, cops develop styles of policing in
response to it. One style, as we have seen, was used by Southern police to
keep the African-American population in a subordinate position. The cops
made clear how nasty and brutal they could be. As a result, the Southern
black population was, by and large, compliant to the rules of caste subordi-
nation.

Nevertheless, when police rely on coercive power to control a popula-
tion, they may not be successful. The Southern police of the 1930s were
agents of the power elite, and those who might have opposed them were
virtually powerless. That is no longer true even in the South, and it is cer-
tainly not true in Northern cities. However much racist opinions may be
expressed in private, the caste society of the Southern United States of the
1930s, a society of legal segregation of the races, is no longer acceptable to
the wider society. Our laws will not tolerate explicit racism. Nor can police publicly resort to coercive power without eliciting criticism from portions of the citizenry and the public, and from higher police and public officials. They may also subject themselves to criminal and civil liability.

Furthermore, even when iron-handed law enforcement proves effective in general, it also invites retaliation by those who are not intimidated by it. Abusive police must then raise the force ante, employing ever more severe violence to continue to seem formidable. This, for Muir, generates a competing paradox: *Police who rely on coercive force to make the world a less threatening place make it more dangerous place for themselves and for other cops*. Those who are being policed do not distinguish among blue uniforms. All cops come to be defined as brutal, and thus appropriate targets for retaliation. Hated cops are not safer cops.

William Ker Muir was the first police scholar to call attention to the paradoxes of coercive power. He saw how police who are gifted with maturity, empathy, and interpersonal skills could escape from the trap of relying on the threat of force. As he had seen in his observations of police, some accomplished cops could intuit how to handle even the most difficult and potentially explosive situations. He believed that appropriate “training and enhanced language skills” could diminish police violence, a possibility he shall explore in our chapter on police administration.

In connection with the need to use force, police and their culture are a complex and often contradictory combination of cautious values and risky undertakings. Mark Baker, who unscientifically, but convincingly, interviewed more than a hundred cops for his book on police and their lives, concludes that police are not really to the right politically and morally. “They advocate the straight and narrow path to right living,” he writes, “They believe in the inviolability of the marriage vows, the importance of the family, the necessity of capital punishment.” In this, cops are in tune with the constituency that elected Ronald Reagan and George Bush to be President of the United States, that most politically conservative portion of the majority of Americans whom Anthony Bouza calls “the overclass.”

The occupational vision of police and its culture is grounded in these beliefs. But cops do not necessarily abide by the apple-pie-and-motherhood values that they assert. As with most human beings, spoken values are often an aspiration, not necessarily something to embody. At least half the married male police officers whom Baker interviewed told him about their girlfriends and mistresses. After a few years on the job the cops interviewed developed a distinctive, but scarcely exemplary, hierarchy of wrongfulness: “dead wrong, wrong but not bad, wrong but everybody does it.” Skepticism, cynicism, mistrust—all are words observers of police
vised patrolmen to get out of their cars, into the neighborhoods, and on the same beat or assignment long enough to know the people and the neighborhood’s prevailing conditions.

But even when police know the people with whom they are dealing, they still must distinguish the known from the unknown or unfamiliar. How much latitude police enjoy in making such distinctions and acting upon them has been a continuing issue in the constitutional law of search and seizure. When police do not have grounds for an arrest, do they have the right to stop and question suspects without their consent?

**SUSPICIOUS PERSONS**

The Supreme Court addressed that issue for the first time in the landmark case of *Terry v. Ohio.* There, a police officer saw three men who were apparently “casing” a store for a stickup. The officer approached the men, asked them who they were, and when they mumbled an answer, patted them down and found weapons on two of them. Justice Earl Warren, often tagged a “liberal” but actually an experienced former prosecutor sensitive to the needs of the police, wrote an opinion that artfully evaded the “probable cause” requirements of the Fourth Amendment. The holding of the case is especially deferential to the need of the police to be suspicious in the interests of crime prevention, particularly where the crime may endanger the cop or members of the public. The opinion, rich with possibilities for interpretation, affirms the central features of the police role. It suggests that police are supposed to be suspicious of “unusual conduct” denoting “criminal activity” by possibly “armed and dangerous” criminals who threaten “safety.”

But suppose a cop observes unusual conduct that seems to her or him to denote criminal activity merely because it violates a social preconception or prejudice? Such was the case of Edward Lawson, who perfectly fulfilled the stereotype of a burglar. Tall, angular, energetic, black, and athletic-looking, Edward Lawson could have been taken for a guard or small forward for a college basketball team, except for one thing. He had let his hair grow out naturally into long, coiled “dreadlocks.”

Given his singular appearance, when Lawson took nocturnal walks in lily-white San Diego neighborhoods, he would often be stopped by cops, who would ask for his ID. Lawson invariably refused to identify himself on grounds that there was no reason to stop him since he was engaged in no criminal activity and was not planning to commit a crime. Nevertheless, he was arrested fifteen times by the San Diego police between March 1975

and January 1977. He was prosecuted only twice, was once convicted; the second charge was dismissed.

From what we know of police culture we can only speculate on how the cops involved might have viewed Lawson. John Van Maanen, who studied police in a place he called “Union City,” a large metropolitan force employing more than 1,500 uniformed officers, developed a tripartite typology to categorize how police viewed the citizens with whom they came into contact. Like other social scientists who had studied the police, Van Maanen came to understand that such “typifications,” and the reasons behind them, are an important guide to understanding police behavior.

Suspicious persons, the first category of Van Maanen’s typology, are those who, like Lawson, seem incongruous in their surroundings. Van Maanen says that when the police stopped such persons they were usually treated in a brisk, professional manner, as Lawson, in fact, was. (Once Lawson began to speak, it must have been plain to the San Diego police who arrested him that Lawson was well-spoken and articulate, however eccentric his appearance might have seemed.)

Lawson, who was in fact not a burglar but a disk jockey and promoter of rock music concerts, understood perfectly well what the police reaction would be to someone of his appearance. Lawson sued to have the California statute requiring that persons provide “credible and reliable” identification to police declared unconstitutional. To the surprise of many legal experts, Lawson, who himself undertook and completed much of the legal research, won his case and later collected substantial civil damages from the City of San Diego. Justice O’Connor found that the statute Lawson had challenged was overbroad and vested police with “virtually complete discretion . . . to determine whether the suspect has satisfied the statute.” In effect, Lawson had capitalized on his understanding of the police assignment to protect property, plus his realistic assumptions about how San Diego police would respond to a black man with dreadlocks walking about in a white neighborhood in the middle of the night.

In reality, of course, the environment police inhabit is extraordinarily complex, and legal rules stemming from cases like *Lawson* have an effect on only a small part of the normative climate of policing. Even after the *Lawson* case, police were not forbidden to ask a strolling citizen for identification, but if he refused, they could not arrest him for refusing.

Police have developed all sorts of strategies for legally extracting information from citizens. Cops can usually find some pretext to stop an automobile, particularly in inner-city neighborhoods where automobiles often have visibly defective equipment. Once a stop is made, the officer can ask
to search the car. At that point the driver, usually confused as to “rights,” perhaps frightened, often intimidated, rarely refuses.

In carrying out the war on drugs, police have taken to stopping individuals in airports, train stations, and bus depots when their demeanor suggests in some vague way, that they are carrying illegal drugs. Police will ask entirely innocent persons for their identification and will even ask to search their belongings without any probable cause to believe they have committed a crime, or even without a reasonable suspicion that they are engaged in criminal activity. So long as the stopped person feels that he or she is free to leave, the provisions of the Fourth Amendment forbidding “unreasonable searches and seizures” have not been violated. Fourth Amendment jurisprudence has it that a person who feels free to leave has not been “seized,” and cannot therefore have been unlawfully seized.

In Broward County (Fort Lauderdale), Florida, Sheriff’s Department officers developed a program of boarding buses at scheduled stops and asking passengers for permission to search their luggage. Whatever pressure passengers feel in a terminal or depot must be heightened on a bus. Here is how the Florida Supreme Court described what happened in the case of Terrence Bostick:

Two officers, complete with badges, insignia and one of them holding a recognizable zipper pouch, containing a pistol, boarded a bus bound from Miami to Atlanta during a stopover in Fort Lauderdale. Eyeing the passengers, the officers admitted without articulable suspicion, picked out the defendant passenger and asked to inspect his ticket and identification and both were returned to him as unremarkable. However, the two police officers persisted and explained their presence as narcotics agents on the lookout for illegal drugs. In pursuit of that aim, they then requested the defendant’s consent to search his luggage.

Bostick denied that he “consented” to the search, while the police maintained that he did. The Florida Supreme Court said that any encounter on a bus is a “seizure” per se, because people who ride buses scarcely are free to leave. If they do, they are stranded. Consequently, the Florida court ruled that cops cannot search luggage on a bus unless they can articulate why they thought the person they searched was holding drugs or some other contraband.

But the United States Supreme Court overruled the Florida Court. Justice O’Connor held that “in such a situation, the appropriate inquiry is whether a reasonable person would feel free to decline the officers’ requests or otherwise terminate the encounter,” and sent the case back to the trial court to make that determination.

Did Bostick consent? Would a trial court be able to tell? That depends on what we mean by consent. Fourth Amendment jurisprudence and social reality are scarcely commensurate. Those who have studied police have observed that rarely will people who are stopped by police officers refuse to show their ID, and rarely even understand when they are not required by law to show it, such is the authority that police ordinarily command. Cops know this, and also learn how to manipulate such encounters so as to appear forceful in the encounter, using a command voice, while later testifying that the person “volunteered” to be searched when it was clearly in their self interest not to be.

Paradoxically, people in the “overclass” may be especially likely to respond politely to a police officer’s request for information about themselves or others. They fit the description of what Van Maanen calls “known-nothings,” ordinary citizens who are not police and who know nothing of the world police inhabit, that peculiar spot on the bridge between the first America and the second America. These are the good citizens for whose benefit police will present a courteous and efficient performance.

Besides, those who comply with police requests for identification are probably discerning to do so, regardless of Constitutional prerogatives. For those who are carrying drugs, it would, of course, be more prudent to decline a police officer’s request to search their bags. But being questioned by police is often intimidating. This is especially so in bus sweeps since, as the dissenters argued in Bostick, such sweeps are inherently “inconvenient, intrusive, and intimidating.”

Imagine standing up to armed police in that situation. Most of us learn early to respect the authority of a police officer, and that it is impolitic for a citizen to challenge that authority. When he or she does, especially when he does, he may find himself occupying Van Maanen’s third and most evocative category, that of “the asshole,” that is, a person who denies, resists, or questions the authority of the police. The following story, offered by Van Maanen, exemplifies the category: A cop stops a motorist for speeding and politely asks for license and registration. “Why the hell are you picking on me,” says the motorist, “and not somewhere else looking for real criminals?”

“Cause you’re an asshole,” replies the policeman. “But I didn’t know that until you opened your mouth.”

Paul Chevigny similarly explains the origins of much police brutality in
Police Power, his classic study of police abuses in New York City in the 1960s. Following an extensive two-year study of complaints against police, Chevigny identified as "the one truly iron and inflexible rule" he could deduce from the cases he reviewed was this: "any person who defies the police risks the imposition of legal sanctions, commencing with a summons, on up to the use of firearms."

Chevigny goes on to describe a three-step process leading to excessive force. Step One involves a perception by police of a challenge to authority. Those who take the police on high-speed chases are, of course, among the most extremely confrontational. But Chevigny reports instances of much lesser defiance, such as merely questioning an officer. Such a person, in the New York of the 1960s, was called a "wise guy," a term that seems in retrospect antiquated and mild but conveys the appropriate connotation. The speaker is thought by the police officer to be presenting himself as superior to the cop. In the parlance of the police studied by Van Maanen, he is said to be an "asshole, creep or bigmouth," or any number of other dismissive names used by cops to describe a person who resists police authority.

In Step Two, when police have so defined the malefactor, as in, "So you’re a wise guy," an arrest, according to Chevigny’s respondents, would almost invariably follow.

Whether it did or not depended on the offender’s response (Step Three). If the citizen admitted that he was, in fact, a wise guy, or turned polite and complied with the officer’s request, he was usually released. If he persisted in defying police authority, an arrest would typically follow. If he further persisted, he would be taught a lesson of compliance by being beaten, and then charged with resisting arrest, in addition to the original charge.

Albert Reiss, Jr., who with Donald Black conducted a systematic observational study of police coercion for the President’s Commission on Law Enforcement and Administration of Justice, reported that, of the incidents of excessive force recorded by observers, nearly half occurred when the victims verbally defied police authority. The authority that was defied was not "official" but the personal authority of the individual officer. Reiss was surprised to find that in 40 percent of the cases of what the police considered open defiance, the police never executed an arrest, nor did they file charges of resisting arrest to "cover" their improper use of force. Reiss inquired further into what police interpreted as defiance. "Often he seems threatened," Reiss observed, "by a simple refusal to acquiesce to his own authority. A policeman beat a handcuffed offender because, when told to sit, the offender did not sit down. One Negro woman was soundly slapped for her refusal to approach the police car and identify herself."

Recently, one of us was riding alongside a patrol officer in a Midwestern city. The officer saw a young white woman seated behind the driver’s seat of a car parked in the area of a predominantly black housing project noted for drug dealing. Since the cop suspected that the woman was picking up drugs, the officer waited until she left, determined to stop her for something, anything, such as running a red light, so he could search her car. He noted that one of the taillights on her car was slightly damaged and stopped her for that. He checked out the car on his computer and discovered that the owner, her boyfriend, had failed to pay three parking tickets.

The officer asked to search the car, and she reluctantly consented, clearly unaware of what rights she had, if any. He found no drugs, and she denied ever using or selling them. She did act annoyed, talked back to the officer, and complained that she was being harassed. In return for her seeming insolence, the officer committed no act of brutality but had the car towed, arrested her for a traffic violation, and booked her at the police precinct. In reality, she had committed two police cultural crimes: She was a white driver in a black neighborhood where drugs were sold, and she had challenged the authority of the officer, a serious transgression in the police cultural statute book, where it is an offense to talk back to a cop.

Chevigny was sensitive in his three-step paradigm to other important considerations. First, an ordinary citizen begins to assume the status of a pariah only when actively defying the police, while an outcast group member may be presumed to be a potential offender. Consequently, when such a person is arrested, the arrest can be considered the ethical, if not the legal, equivalent of arresting a criminal. The arrest can be justified on grounds that even if the outcast has not committed a crime this time, he has been guilty many times in the past.

Second, Chevigny notes that it also may be more difficult for members of minority groups to show the submissive qualities middle-class people learn to use when dealing with authorities. He further observes that the words "Sorry, Officer" often feel like galling words of submission to the downtrodden and are especially hard for African-Americans to say. "The combination of being an outcast (step one)," he writes, "and refusing to comply in step three is explosive; thereby hangs the tale of many police brutality cases."

THE UNDERCLASS

Chevigny’s is a book of the 1960s and reflects the deep social divisions of those troubled and turbulent years. The economic and social conditions of America’s inner-city ghettos have cruelly worsened in the intervening
years. "The urban black poor of today," Wacquant and Wilson wrote in 1989, "differ both from their counterparts of earlier years and from the white poor in that they are becoming increasingly concentrated in dilapidated territorial enclaves that epitomize acute social and economic marginalization." This "hyperghettoization" has brought in its wake a tangle of unfathomed social miseries, including crime, drug use and sale, high rates of unemployment, high teenage pregnancy rates, the highest homicide rates in American history, and unprecedented homicides and interpersonal violence among young black males. For several years, black-on-black homicides have been the leading cause of death for young black males.33

No scholar on any part of the political spectrum denies this reality, although scholars differ considerably as to how to interpret its significance for social policy and whether the term "underclass" inappropriately mislabels and devalues all residents of inner-city areas. Astute scholars of poverty, such as Michael Katz, are supremely sensitive to the politics of its discussion. Most American political discourse, he observes, has transformed poverty into an issue of "family, race and culture rather than inequality, power and exploitation."34

Structural theorists and liberals (for whom William Julius Wilson has become the most prominent spokesman) detail how economy, society, and history have imposed severe limits on the life chances of inner-city African-Americans.35 They highlight such causal factors as the loss of jobs in a postindustrial economy; the internationalization of manufacturing and the associated flight of capital and jobs to low-wage havens; the loss of housing and concomitant family stability; the lack of connection to employment or business opportunity; the impoverishment of educational facilities; and the legacy of racism.36

If liberals tend to stress the environmental and historical roots of poverty, conservatives (among whom Charles Murray is one of the most prominent spokesmen) stress the ethical and cultural inadequacies of the "underclass." Murray defines the "underclass" as the parasitical poor, a subclass of the impoverished "who chronically live off mainstream society (directly through welfare or indirectly through crime)." To Murray, the underclass are people who choose to be bad. Their malfunctioning is attributable primarily to moral failure: "They characterizeistically take jobs sporadically if at all, do not share the social burdens of the neighborhoods in which they live, shirk the responsibilities of fatherhood and are indifferent (or simply incompetent) mothers."

Although liberals locate the underlying causes of antisocial and criminal behavior in the inner city in structural unemployment, inadequate educa-
their policing job cops do not interpret why someone is mugging, raping, or selling drugs on the street, just that they are doing it or are threatening to do it. If cultural beliefs shape the working personalities of police, as we have argued they do, the cop, like the majority of Americans, is unlikely to define the street drug dealer as a victim of inequality, structural unemployment, and exploitation. What the cop perceives is a bad and dangerous person who preys on the deserving poor and exacerbates the social conditions found in the inner cities. Such preconceptions profoundly influence police behavior, especially their use of force.

Still, problems of excessive force rarely arise when police address actual crime and criminals. A clean, straightforward apprehension of a robber or of a drug dealer who has been busted following an undercover police officer’s “buy” is rarely an occasion for exercising excessive force. Abuses occur when police develop two visions of their work that are often a prelude to excessive force. One is described by the Christopher Commission as a “siege mentality.” The other is the “Dirty Harry” vision, which rationalizes vigilante justice.

THE SIEGE MENTALITY

In the course of its investigation, the Christopher Commission, the 1991 blue-ribbon commission headed by Warren Christopher to investigate the LAPD following the Rodney King beating, found general agreement among all sources, from senior and rank-and-file police to the general public, that the LAPD reflected an organizational culture, based on its time-honored notion of “professionalism,” that “emphasized crime control over crime prevention and isolated the police from the communities and the people they serve.” This organizational culture insisted on both the aggressive detection of such major crimes as murder, burglary, and auto theft and a rapid response to calls for service. Officers were rewarded for the number of calls they handled and arrests they made, as well as for being “hardnosed.” As a result, the LAPD consistently outperformed other big-city police departments in the number of violent crime arrests per officer, but at the risk of creating what the Commission calls a “siege” (us–them) mentality that alienates the officer from the community. Obviously, not every police department encourages a siege mentality. But the Los Angeles Police Department’s policing style for many years served nationally as an important model of police professionalism. Consequently, its vision of hardnosed and impersonal policing influenced the training of thousands of American cops—so much so that its vision and values became entrenched as an element of traditional police culture.

THE DIRTY HARRY PROBLEM

The Dirty Harry dilemma was so named by the sociologist Carl B. Klockars, who drew its name from a 1971 Warner Brothers film, “Dirty Harry” Callahan, played by Clint Eastwood, is on the trail of a psychopathic killer who has kidnapped a fourteen-year-old girl and buried her with just enough oxygen to keep her alive for several hours. Harry meets the kidnapper with the ransom. The kidnapper reneges on his bargain, wounds Harry’s partner, and escapes. Harry manages to track him down, illegally searches his apartment, finds guns and other evidence of his guilt, and captures the kidnapper on a football field. He shoots the kidnapper in the leg and tortures him, twisting the injured leg, into revealing where the girl has been hidden. Unfortunately, she is already dead, and the killer must be set free because none of the evidence—the gun, the confession—was legally obtained.

Released in 1971, Dirty Harry could properly be interpreted as a right-wing attack on “legal technicalities.” But, as Klockars astutely saw, it also raises a fundamental problem constantly confronting police, namely, “When and to what extent does the morally good end warrant or justify an ethically, politically, or legally dangerous means for its achievement?”

The Dirty Harry dilemma faces every cop in the course of his or her career, and its ultimate resolution is always problematic and subject to hindsight criticism. Extragal resolution of the Dirty Harry dilemma is difficult enough when the “bad guy” is an identifiable and factually guilty individual. It is most problematic when the criminal is not an individual but a loosely defined gang or criminal organization, where the consequences of a mistake can be tragic for innocent individuals or bystanders, and where a gut-level racism can be imputed to the officers involved.

This was the case in the LAPD’s Gang Task Force raid in South Los Angeles on August 1, 1988, which by mid-June 1991 had cost Los Angeles taxpayers $3.4 million. Police believed that four apartments at 39th Street and Dalton Avenue were gang-controlled “crack” cocaine houses. Police Captain Thomas Elmont, who was in charge of the raid, was accused of having urged his officers to render the apartments “uninhabitable” and was later charged in a criminal court of “aiding and abetting vandalism,” a misdemeanor.

According to testimony, police believed that the Rolling 30s, a gang associated with the Crips, were selling drugs and terrorizing a family that lived between two apartment buildings where the drugs were being sold. They also believed that the drug dealers were heavily armed and had threatened a family that had put up security lights. The police decided to
raid the apartments and destroy the young drug-dealing gangsters. Three
days before the raid, the captain in charge held a roll call and told the
assembled officers to “hit hard.” He used such words as “ leveled” and “unin-
habitable” to describe how the apartments should appear after the raid.

Thus advised, police raided the apartments with guns and axes. Nobody
was killed, but the police methodically destroyed beyond recognition the
four apartments where the “search” occurred. They broke all the toilets,
tore them from the floor, and left water running everywhere. They smashed
in plaster walls with sledge hammers, breaking everything in sight, including
TV sets, VCRs, and typewriters. Bedroom and living room sets were
smashed, couches and chairs were cut, bottles of wine and jars of baby
food were emptied on clothes and bedding. Phone wires were cut, light
fixtures were destroyed, and “LAPD Rules” graffiti were spray-painted on
the walls. According to eyewitnesses, the thirty-three people who were
brought to the Southwest Division police station “were forced to whistle
the theme from the old Andy Griffith television show, and to run a gauntlet
of police officers who allegedly struck them with fists and flashlight.”

But no gang members lived in the Dalton Avenue apartments, where
scarcely any drugs were found—just a small amount of cocaine and mari-
juana—and no guns. Captain Elfmont and two other police officials were
charged with crimes but were ultimately acquitted of “aiding and abetting”
vandalism, because, the prosecutor said, the LAPD’s “code of silence” pre-
vailed police who were eyewitnesses from testifying in court about what
had actually happened.

THE CODE OF SILENCE

We have both heard comments that, in near mystical terms, describe or
speculate about a highly conspiratorial police code of silence. Those who
propound this theory assert that, like gangsters who understand that death
is the penalty for violations of omerta—the Mafia rule of absolute se-
crecy—police officers risk their lives when they violate their brother-
hood’s unwritten regulations.

Frequently used in support of this theory is the movie version of Frank
Serpico’s efforts to get action on his allegations of police corruption. The
film begins with an incident where Serpico is shot in circumstances that
make it appear that he was set up by his colleagues to be killed. The evi-
dence does not support this interpretation.44

Frank Serpico was shot while on a drug raid in what New York cops
knew as “Brooklyn North,” one of two umbrella commands into which the
NYPD had divided the city’s most populous borough. He got there when

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but the dealer shot him in the face and fled out a window. Several hours later the dealer was found at another location, pulled his gun on the cops who had come to get him, and was shot, wounded, and arrested.

These facts do not support the conclusion that the cops who were with Serpico put him into harm's way and intentionally left him there to be shot. Those officers didn't even know Serpico. While they may have wished that headquarters had sent them someone other than this troublemaker whose name was then vaguely floating around their department, their professional involvement with him would have ended with this single case. We agree with Patrick V. Murphy, New York's Police Commissioner at the time Serpico was shot. Murphy writes: "I do not believe Serpico was set up, and, even more, I do not believe that Detective Serpico believes it either."

Further, although it probably has occurred at some point in American police history, we know of no other cases in which police have punished those who betrayed the code of silence with anything as extreme as a shooting. Instead, the code—and there is a code—typically is enforced by the threat of shunning, by fear that informing will lead to exposure of one's own derelictions, and by fear that colleagues' assistance may be withheld in emergencies.

In our experience, this last incentive to silence—denial of help in street emergencies—is more often imagined than real. Officers who by their own admission "do not see eye-to-eye" with their work groups frequently complain that colleagues intentionally fail to respond promptly to their calls for urgent assistance. On close examination, however, these complaints usually reflect a variety of paranoia that itself accounts for these officers' unpopularity among their peers. In other words, some officers perceive situations as more threatening than they are (or, through bungling, make them worse than they began), call urgently for help, and draw the rapid response of colleagues who arrive and can't figure out what all the fuss was. After a few such incidents, such officers' credibility is damaged, and their colleagues come to regard their calls for help like that of the boy who cried wolf too often.

The first two disincentives to violating the code of silence—shunning and exposure of one's own derelictions—are real and are discussed further in Chapter 6. For now, having claimed that the police code of silence is not a mafia-style life-or-death pact with the devil, we shall confine ourselves to some observations about what the police code of silence is.

Most important, a code of silence is not unique to the police. In every identifiable group, there exists an unspoken understanding that one reports on members' misconduct only at some risk. The sociologist and police scholar Albert J. Reiss, Jr., has suggested that even his Yale University students share such a set of understandings. In the pressure cooker of elite academic institutions, Reiss points out, students sometimes are tempted to cheat to maintain the grades necessary for a big job or a slot at a prestigious professional or graduate school. On occasion, other students become aware of such cheating but, despite academic codes of honor, rarely will call their peers' misconduct to official attention.

In our own university discussions of the code of silence, we regularly ask for students who have become aware of classmates' cheating at some point in their educational careers to raise their hands. Invariably, almost every hand in the class is raised. When we ask for only those who have called such cheating to teachers' attention and have been willing to be publicly identified as accusers, virtually every raised hand is lowered.

The point, of course, is that it is not easy in any group to be identified as the rat, the squealer, the busybody, the one person who cannot be trusted absolutely. Doctors rarely expose the incompetence of their colleagues, even though, as the great frequency and size of medical malpractice verdicts suggests, it certainly must come to their attention. College athletes don't usually talk about alumni boosters' under-the-table payments to superstars, and office workers do not inform on co-workers who take supplies home. Similarly, real estate agents and banks remain mum about de facto discrimination and redlining in apartment rentals and mortgage lending. Regardless of where, any member of any group who considers becoming a whistle-blower must know that, however laudable one's motives, doing so will forever change one's own life and status in the group.

In the closed society of police departments, especially in departments or units that see themselves and the public in terms of "us and them" and adopt the siege view of the world, the pressure to remain loyal is enormous. In such societies, there is no need for violent means of enforcing the code, because, having subsumed their individual identities into the whole, cops know that betraying the group betrays themselves and destroys their identities.

Consider Robert Leuci, the Prince of the City whose testimony eventually put his whole squad and about seventy other New York city narcotics detectives behind bars. According to Robert Daley, before blowing his whistle, Leuci had a conversation with his wife, telling her of his intentions:

"I'm not going to implicate any one close to us."
"Do you think they will allow you to do whatever you choose to do? Do you think they will say: Okay, Bob, whoever you want to tell us about. You decide. I don't think they will allow you to do that."
After a moment she added, "I know you feel guilty. Other people are responsible, not you. They are guiltier than you are."

In a low voice, he replied, "I want to end this life I have been living."

"Then quit the Police Department."

But he loved the Police Department. "And what? Sell insurance? Work in a bank?"

Gina said, "I know you. It's going to kill you. They will force you to hurt friends, people who have done no harm to you, only good. When you were sick, they all came. They called me every day. I know what kind of man you are. I know what you can live with and what you can't live with. This will kill you. You tell me the feelings you have for informants, and now you are going to be an informant. How are you going to live with that? How am I going to live with you, as you live with that?"

There is no mention in this conversation of Leuci's safety, because Leuci anticipated—correctly—that none of the people he "hurt" would try forcibly to silence him or to avenge his turnaround. In the end, he suffered great stigmatization and the reality that, having broken the code, he could never be what he once was: the "Prince of the City," the hotshot member of the most envied and prestigious detective unit in the biggest police department in the country.

A conversation one of us had with a former Special Investigations Unit detective who had been imprisoned on Leuci's testimony shows how strong was that group's cohesiveness. "Whatever happened to Leuci?" this detective was asked, "Has anybody heard from him?" "Nah. And that's too bad," the detective replied. "We run an SIU reunion every year, and we always send him an invitation. We never hear from him, though. He probably thinks the guys are pissed at him, but it's water under the bridge. He did what he had to do, and we know that."

The code of silence, then, is not one that is enforced by assassins lurking in dark alleys or arranging for drug dealers to terminate cops who inform. The police code of silence is an extreme version of a phenomenon that exists in all human groups. It is exaggerated in some police departments and some police units because cops so closely identify with their departments, their units, and their colleagues that they cannot even conceive of doing anything else. Like Bob Leuci, they live in a world of desperately conflicting imperatives, where norms of loyalty wash up against standards of law and order. So mostly, like the cops who witnessed the beating of Rodney King, they see, hear, and speak no evil. As we shall discuss later, special efforts can and must be made to overcome these powerful prescriptions of silence and loyalty in the culture of policing.