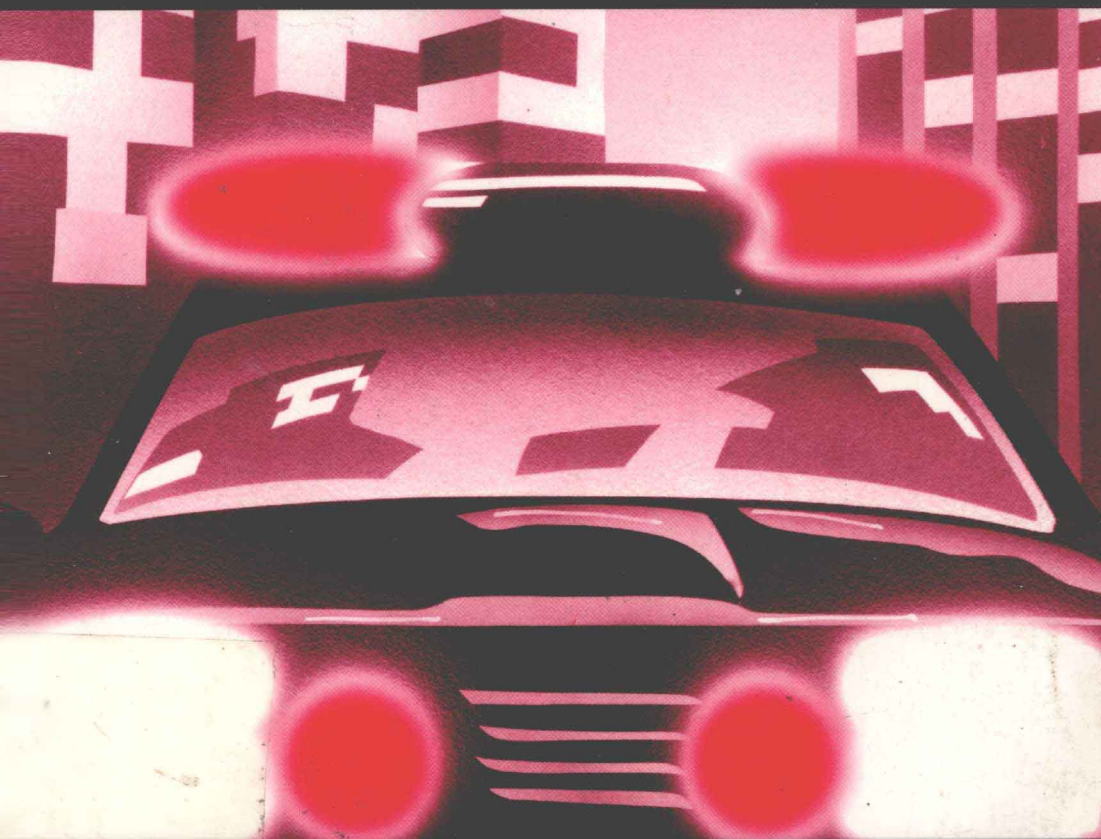


fourth edition

Critical Issues in Policing

CONTEMPORARY READINGS



ROGER G. DUNHAM GEOFFREY P. ALPERT

fourth edition

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Preface

The fourth edition of *Critical Issues* includes many updated and new articles reflecting changes that have evolved in policing during the past five years. We are pleased that the authors we asked to update their material were willing to do so with dedicated attention, and we are proud to include the new articles that introduce fresh ideas on current topics.

It is instructive to view policing as an elastic profession. That is, it changes shape, often appears different than it has in the past, may have a shift in focus but seems to return to an original shape and function. The selected articles reflect that elasticity. Police work must be in concert with the community if it is to be successful. The agents of formal social control must rely upon citizens, or agents of informal social control, to perform successfully their duties, gain respect, and earn a sense of satisfaction.

In choosing our topics for *Critical Issues*, we selected those which have the broadest application. Rather than limiting the scope of our material to large, urban, suburban, rural or small departments, we have selected issues that are applicable to all. As in *Policing Urban America*, a text designed to accompany *Critical Issues*, we are emphasizing the importance of involving community members in decisions concerning law enforcement—including tasks, objectives and goals.

One of the major roles played by citizens is to help identify what is a proper measure of performance in law enforcement. In the past, the ultimate measure of police success has been an evaluation of the crime rates. It seems that the comments made by Durkheim, as well as contemporary researchers, that a change in the rate of crime is influenced by factors beyond the control of police, has fallen on deaf ears. Politicians and police officials still take credit when the reported crime rate decreases

and are blamed when the reported rate of crime increases. The use of reported crimes as a measure of success for police demonstrates an unsophisticated understanding of the role and scope of police services. While different styles of policing can affect many performance measures including response time and the nature and extent of community contacts, understanding changes in the rates of crime requires a far more sophisticated analysis.

Hopefully, we will soon see a switch from holding police responsible for crime rates to holding them accountable for specific tasks and objectives and the general goal of law enforcement: promoting secure communities. In that spirit, we have revised *Critical Issues* to include information on the tasks, objectives, and the law enforcement goal of promoting community safety.

Acknowledgments

We are indebted to many people for their contributions to this collection. The collaboration and friendship of our colleagues who wrote the excellent articles in this book are sincerely appreciated. Our wives, Vicki Dunham and Margaret Alpert, offered patience, support and understanding. Our collective nine children provided both incentive and distraction. Thanks to the many colleagues who have used the third edition in the classroom and offered suggestions for the revision. This work was a cooperative effort and we thank everyone who generously shared their time, knowledge, and expertise.

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The Foundation of the Police Role in Society

What is the basic role of the police in our society? What do we expect them to do, and not to do? And how does this correspond to their actual day-to-day behavior? If the police get out of line or begin using their authority in ways deemed inappropriate by a majority of citizens, do we have the right or ability to control their behavior? To answer these questions, we must understand that the police are an integral part of government. In fact, they are located at the point of interface between government and the private lives of individual citizens (Pollock, 1994). The police represent and implement the government's right to use coercion and force to guarantee certain behaviors from its citizens (such as the payment of taxes and obeying the law).

Carl Klockars (1984) has described police control as having four major elements: authority, power, persuasion, and force. Authority is the unquestionable entitlement to be obeyed. Power is held by the organization, is drawn upon by the individual officer and implies that if there is resistance, it will be defeated. Persuasion involves the use of symbols, words, and arguments to convince the individual that he or she ought to comply with the rules. Force involves something very different from the other elements of control: physical control. The other three elements rely mostly on mental or psychological control, with the underlying threat of force. All of these elements of control are used by the police, but the ultimate right to use force is what makes police unique.

The Police Right to Use Force

Where do the police get the right to use force to control citizens? Ideally, they get it from the citizenry through a governmental right invested in federal, state, and local governing bodies. Although we may wonder if we really need all the government we have, and may fear the tremendous power vested in it, most of us realize that governments are a necessary feature of modern societies.

Mancur Olsen (1965) made the argument that governments are unavoidable features of human societies. He argued that we need public goods (e.g., public safety), and that public goods can only be created by coercion. It is through the formation of a state or government that force

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is legitimized to coerce citizens into contributing to public goods. Fortunately, it is not necessary to apply force most of the time, as long as there always is a credible threat of force.

Richard Quinney (1970:9–10) has said that “a society is held together by force and constraint . . . [that] values are ruling rather than common, enforced rather than accepted, at any given point in time.” Although other institutional means exist to establish officially sets of values and rules (e.g., laws and fines), they mean little without some method of enforcement. To enforce the rules, we have created the social institution of police and authorized it to use physical force. In fact, the police are the only ones given the right to use physical force, and are the only ones that have a legitimate right to do so. In a sense, the government must use organized coercion to prevent private coercion (Quinney, 1970).

In sum, we need the police to have a civilized society, to insure safety from being harmed by insiders, and to make sure we contribute to other needed public goods. In his *Leviathan*, Thomas Hobbes tried to describe what life would be like in a condition of anarchy.

Hereby it is manifest, that during the time men live without a common power to keep them all in awe, they are in that condition which is called war . . . where every man is enemy to every man . . . In such condition, there is no place for industry: because the fruit thereof is uncertain: and consequently no agriculture . . . no society; and which is worst of all, continual fear, and danger or violent death; and the life of man, solitary, poor, nasty, brutish, and short.

While Olsen demonstrated that we need the state, throughout human history the state has often been an institution of repression. It seems to be in the disposition of most individuals, that when they are put in positions of authority and given that right to use force to maintain society, they will begin to use that power and authority to exploit others. Most citizens will give in to the human temptation to use the power and force to benefit themselves individually. This has been called the great dilemma of the state: how to have the state and keep it tame, or from exploiting its citizens (Stark, 2000). This is also the great dilemma of policing. How can we authorize a police force to maintain our safety, insure that our laws are obeyed, and keep officers from using that force illegitimately? Most of the important issues concerning the police emanate from this basic dilemma. The greatest issues surrounding the police are misuse of force, police corruption, and fair methods to control these problems. Taming the police is a major aspect of the distinction between a police state and a democratic state. In a police state the citizens do not have adequate control over the police. The police are therefore able to use their monopoly on physical force to exploit citizens. In a democratic state, the people have maintained more control over the police, so that the police cannot exploit them.

The Social Contract

In discussing what has been termed the social contract, Jeffrey Reiman (1985) explains that democracy does not guarantee that the judgments of public officials, such as the police, will uniformly replicate those of the

public. The power is delegated and must be exercised according to the judgment of the individuals to whom it is delegated. However, Reiman makes clear that "the public has a right to spell out the criteria by which the judgments should be made, and to insist on both competence and good faith in the application of those criteria" (1985:237). He defines the social contract as "embodying a general test of the legitimacy of the acts and rules of public agencies of law enforcement, namely, that such acts or rules must be such that the limits on citizens' freedom that they bring must result in a net increase of that freedom all told" (p. 246). His test gives us a way to exercise public control over the police right to use force. To refuse to give the police the right to use force to enforce the law would undermine our laws and freedom and compel us to devote much of our time and effort to self-protection. Thus, according to Reiman, the public surrenders its right to use force and loans that right to the police to use it in the name of the group and to protect each member of the group against the use of force by other members. The sacrifice of this individual right results in a gain in real and secure freedom to live with minimal fear of victimization by others.

The real issue for citizens is, when they delegate the right to use force to the police and thereby create the potential of being harmed by the police misusing that force, do they really decrease their personal likelihood of harm given the reduction of victimization by other members? In a video series on the U.S. Constitution, entitled *Law and Order*, a victim of police misuse of authority, who later was able to obtain justice in the courts, said that he would still vote to give the police greater authority and risk the potential for misuse, rather than to have to fend off violent offenders in his community. He felt that with the police he at least had a chance for justice in the courts (*Law and Order*, 1987).

An argument against the social contract theory is that the police have always been instruments of the dominant class, and seldom look out for the interests of all citizens equally. In fact, historically the police have been extremely partisan toward those in power by looking out for their interests and by enforcing laws against opposing classes and groups. However, the idea of citizens actually delegating power and authority to the police has some historical support. Samuel Walker, a police scholar, attributes the rapid social change in the early to mid-1800s to the breakdown of the old system of law enforcement, and the need to establish modern police forces (Walker, 1992). When many thought the best solution to social disorder, rampant during this time, was to create modern police departments modeled after the newly formed London police, Americans showed great uncertainty and hesitated to create them.

Despite the breakdown in law and order, Americans moved very slowly in creating new police forces. New York City did not create a new police force until 1845, eleven years after the first outbreak of riots. Philadelphia followed a more erratic course. Between 1833 and 1854, in the face of recurring riots, the city wrestled with the problem of police reform before finally creating a consolidated, citywide police on the London model. These

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delays reflected deep public uncertainty about modern police methods. For many Americans, police officers dispersed throughout the community brought to mind the hated British colonial army. Others were afraid that rival politicians would fight for control of the police department to their own partisan advantage—a fear that proved to be correct. (Walker, 1992:7–8)

The dilemma created by the desire for police protection and the fear of losing control of the police was a factor in deciding whether or not to establish the modern police forces in American cities. The notion that the police received their authority and right to use force from the citizens of the young democracy was as much a part of policing in America as the subsequent partisan policing and corruption.

Beyond the historical validity of this democratic model of police in society, it is a valuable standard or ideal for modern policing. Just as much of our constitution remains an unfilled ideal, a democratic model of policing could provide a framework for improving the police. In fact, the history of the American police, especially since the 1960s, supports the idea that policing is progressively moving closer to this ideal.

Following this model, Reiman (1985) outlines the implications of the social contract perspective for modern policing. He argues that “any coercive practice by legal agents that constricts and endangers the freedom of the citizenry, rather than expanding and securing it, reproduces the very condition of the state of nature that coercive legal agencies are meant to remedy” (p. 240). In other words, if the police use their authority and force in an exploitive fashion, it would literally undermine their own justification, because it would subject citizens to precisely the sort of risks they were given special powers to prevent. Reiman continues, “if law enforcement threatens rather than enhances our freedom, the distinction between crime and criminal justice is obliterated” (p. 241).

This view of the police is consistent with the idea of legitimate public power in which the power flows from the citizens to the police. To make this a reality, Reiman argues that the police must be accountable for their use of public power, and accountable to the wider public, not just to other law enforcement agents. For force to be legitimate, he maintains, it must be viewed as owned by the public and loaned to police officers for specific reasons, and it must be exercised under specific conditions (Reiman, 1985). In fact, under the democratic model of policing, one major function of the police is to guarantee citizens their rights.

Throughout this book, many of the issues examined (especially the hotly debated ones) will tie into the dilemma of policing as we have discussed it. Hopefully this general analysis will help to set a valuable framework and foundation for thinking about the many topics covered in the book.

How Americans View the Police

The social contract perspective discussed above demonstrates the tie between the police and the public based on a moral or philosophical argument. Beyond this basis for authority, the police have learned that

they need a cooperative public to be effective in controlling crime and maintaining order. This has been termed the "co-production of police services" (Reiss, 1971). It has been found that between 75 and 85 percent of police-citizen encounters are generated by citizens calling for police services. Recent trends in policing strategy focus more and more on citizen involvement and cooperation with the police (e.g. community-based policing and problem-solving policing). This trend has sensitized the police to the importance of citizens' attitudes toward the police and how the police go about doing their job. Favorable attitudes toward the police are crucial to the success of this new wave of policing strategies.

A brief review of some recent studies on how Americans view the police can set the stage for understanding the critical link between the police and citizens. First, it is interesting to note that the general public is surprisingly satisfied with the quality of police work. On the average, between 70 and 75 percent of the public think that the police are doing a very good or fairly good job, and rate police service as excellent or good. A slightly higher percentage of the public (around 80 percent) hold favorable impressions of the police, and have confidence in them (Huang and Vaughn, 1996).

In a 1999 Gallup poll, citizens were asked how much confidence they have in various U.S. institutions. Fifty seven percent said "a great deal" or "quite a lot" when asked about the police. Only two institutions had higher percentages: organized religion (58 percent), and the military (68 percent). Citizens had more confidence in the police than in the U.S. Supreme Court (49 percent), banks and banking (43 percent), public schools (36 percent), congress (26 percent), newspapers (33 percent), big business (30 percent), and the television news (34 percent) among others (Maguire and Pastore, 1999). Further, confidence in the police has remained high (between 54 and 60 percent) since 1994. In another Gallup poll, respondents were asked to rate the honesty and ethical standards of people in different fields. Nearly half rated the police as "very high" or "high." Only five professions were rated higher than the police: pharmacists (69 percent), clergy (59 percent), medical doctors (56 percent), college teachers (55 percent), and dentists (54 percent). Citizens rated the police higher on honesty and ethical standards than bankers (34 percent), journalists (23 percent), television commentators (22 percent), business executives (20 percent), lawyers (15 percent), and senators (15 percent), among others (Maguire and Pastore, 1999).

While general support for the police has been consistently high, attitudes differ among diverse demographic groups, and according to the type of experiences people have had with the police. Race or ethnic group membership has been a strong predictor of attitudes toward the police. African Americans are usually less positive about the police and hold more antagonistic attitudes toward the police than do whites. African Americans generally score about 25 percentage points lower on favorable attitudes toward the police and on their ratings of police services (Huang and Vaughn, 1996). In fact, lower-income African Americans living in the inner city have the least favorable attitudes toward the police.

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Hispanics, with the exception of Cubans in Miami, usually are more favorable toward the police than African Americans, but less favorable than whites. The Cubans in Miami hold more favorable attitudes toward the police than all others, with the exception of recent immigrants (Alpert and Dunham, 1988).

Generally, people younger than 30 years of age have more negative attitudes toward the police than do other age groups (Maguire and Pastore, 1999; Sullivan et al., 1987). This is especially true of adolescents, and has been attributed to this group having more negative encounters with the police than others, and having a low level of identification with law enforcement officers.

One's political ideology even has an impact on how favorably people view the police. Conservatives and Republicans generally hold more favorable attitudes toward the police than Democrats and liberals (Maguire and Pastore, 1999). Socioeconomic status is another variable that helps explain variations in attitudes toward the police. It is the lower-income people who hold least favorable attitudes of the police. This relationship holds up even within ethnic groups. For example, whites generally hold more favorable attitudes toward the police than African Americans. However, middle-class whites are more favorable toward police than are lower-class whites, and the same is true for African Americans. Higher social class is associated with more positive attitudes (Maguire and Pastore, 1999; Huang and Vaughn, 1996).

In addition to demographic factors having an influence on attitudes toward the police, the types of contacts and experiences people have with the police seem to play a major role in how positively or negatively they view the police. Generally, positive contacts and experiences with the police result in positive attitudes, and negative contacts lead to negative attitudes. Also, contacts initiated by the citizen, such as calls for police services, tend to be more positive than contacts where the police initiate the contact, such as giving a traffic ticket. The impact of contacts with the police are so strong in determining attitudes toward the police and police services that many believe that negative contacts explain why some groups have such negative attitudes about the police (such as African Americans and teenagers). These groups have many more negative contacts with the police than the general population. For example, African Americans and teenagers perceive the police as less friendly, less fair, and even less prompt when compared with the evaluations of the police by other groups. The same is true for perceptions of the police use of force. African Americans are much more likely than others to think that the police are allowed to use too much force and to view police abuse of force as a problem. Huang and Vaughn (1996:41) report from their research that, "older, middle-income, rural, and conservative respondents tended to have more favorable perceptions about police use of force than did younger, urban, and liberal ones."

Huang and Vaughn (1996) conclude from their extensive research that direct police contacts were more important than demographic vari-

ables in explaining most attitudes toward the police. For example, African Americans and youth who experienced positive contacts with the police were as likely as others to report the police to be friendly, prompt, and effective at crime control. There were some exceptions: when experiences with the police were taken into account, African Americans still believed that they were treated unfairly and that the police used too much force.

Current trends in policing have emphasized the relationship between the police and citizens, so that police administrators are becoming more and more sensitized to the value of a positive and supportive citizenry. Many police administrators have found that positive contacts and good policing can overcome negative attitudes of citizens and are making strong efforts to foster a conciliatory atmosphere and to develop programs and strategies to cultivate positive police-citizen encounters as much as possible. While there is still much room for improvement, all of this leads to more police accountability to citizens. It is noteworthy, in spite of the fact that the role of the police officer has become increasingly complex and that citizens' expectations of the police continue to broaden, the attitudes citizens hold toward the police and toward how well they do their job are generally positive.

The Increasing Complexity of the Police Role

If we were asked to identify the most apparent changes in modern policing during the twentieth century, the raised level of expectations by citizens of the police would most certainly rank among the top. August Vollmer, police chief of Berkeley, California, from 1905 to 1932, and one of the first great reformers, once observed:

The citizen expects police officers to have the wisdom of Solomon, the courage of David, the strength of Samson, the patience of Job, the leadership of Moses, the kindness of the Good Samaritan, the strategical training of Alexander, the faith of Daniel, the diplomacy of Lincoln, the tolerance of the Carpenter of Nazareth, and finally, an intimate knowledge of every branch of the natural, biological, and social sciences. If he had all these, he might be a good policeman! (cited in Bain, 1939)

As problems of social control have grown and become more complex, so have the actions and reactions required of the police. Unfortunately, the tendency has been to proliferate new agencies to meet specific needs rather than to consolidate or to improve the effectiveness of existing organizations. The result has been an increasingly complex and uncoordinated development of law enforcement, mired in the multiplicity of agencies and the overlapping of jurisdiction and responsibility. Simultaneous with these developments has been the growing complexity of police functions, and the growing public expectation of a more professional and competent police force. All of this has made the study of modern policing an exciting, yet difficult topic.

There is a great deal of confusion over the terms, "policing" and "law enforcement." These terms are often seen as interchangeable. In the com-