

PARKING TICKETS AND CLASS REPRESSION: THE CONCEPT OF POLICING IN CRITICAL THEORIES OF CRIMINAL JUSTICE*

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Critical theorists [1] argue (and often merely assume) that law enforcement agencies act in the interests of the dominant groups and classes of a society; that in any social formation the state and its agents can do no other than act repressively against actual and potential challenges to the established order; and that the police (as are the other structures in the criminal justice system – legal norms, courts, corrections) are one of the main defense mechanisms, alongside welfare programs and the manipulation of consciousness, on which the safety and continuance of the state and, therefore, of the social formation rests.

Policing is defined by O’Conner as a form of guard labor. “The purpose of guard labor is not to produce something but to avoid something. Guard labor reproduces the formal structures of capitalism and maintains and reproduces capitalist production relations. Guard labor does not produce commodities, yet without guard labor commodity production would be impossible” [2]. Specifically, the police patrol the conflict among classes. “The police serve as the frontline mechanism of repression. As such, the central function of the police is to control the working class”, [3] and to “enforce the class, racial, sexual and cultural oppression that has been integral to capitalist development in the United States” [4] as it serves “the interest of national and local government and the big corporations” [5]. The pre-eminent force “behind the creation of the police institution in the United States was the need of large-scale entrepreneurs to ensure the orderly control of workers during the era of capitalist industrialization”, and the argument that the police served “‘to accelerate the accumulation of capital by increasing the degree of exploitation of labour’ is a compelling synthesis of the actual function of the police” [6].

This formulation ignores a basic point, well established by research,

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*This article was presented originally as a paper at the March 1981 meeting of the Academy of Criminal Justice Sciences Convention in Philadelphia. I wish to thank the discussant at the panel, David O. Friedrichs, as well as Ben Menke, Terry Cook, and the anonymous reviewers for *Contemporary Crises* for their encouraging and helpful comments on this earlier draft. The article would have been better had I taken all their suggestions to heart. I am, of course, responsible for not doing so.

namely, that not all actions of the police are repressive (e.g., providing a service such as stopping family quarrels) though some clearly are (e.g., the proverbial midnight knock at the door or dispersing demonstrations against unpopular government policy); the formulation also ignores the theoretical strictures of critical thought, namely, that actions should be concretely specified, that is, be linked to a theoretically complex and complete understanding of the state and society. The question arises — which actions of the police indicate class repression? How does one recognize those specific acts of the police which concretely show domination and exploitation and those which do not? If not all actions of the police are repressive, then some actions would seem to be in the interest of the dominated — why do these actions occur? how must they be incorporated into a theory of the role and function of the police in specific societies and into theories of the state in general? These questions — easy enough to ask — need a systematic answer, so far lacking in critical theory.

This article will extend two ideas central to recent critical thought on the nature of society and on methodology to a discussion of the police. These ideas include the concept of “relative autonomy of the state” and the argument that existing relations in society need to be understood concretely and dialectically rather than merely empirically and schematically. Both points, the substantive description of the state and the methodological question of how one is to observe and understand existing realities, can serve as a springboard to a better formulation of the role of the police than is now found in either critical thought or positivist science. I will argue that the role of the police is more complex than that of being the protector or the instrument of the powerful; that the police perform a variety of functions and protect a variety of interests; that universal and specific functions of the police can and must be kept distinct; in short, that the police are “relatively autonomous” and that their autonomy can be observed empirically and must be interpreted theoretically. The variety of interests which the police serve, and the groups whose interests these are, must be clearly specified and incorporated into a theoretical discussion of the function of the police in society.

The first section of the paper will discuss critical theories of the state and law since one cannot explain the role of the police in critical theory without first establishing the general model of the society and the role of the concept “relative autonomy of the state” in that model. The latter sections will extend the discussion of relative autonomy to the police and will argue that one cannot understand the role of policing without combining elements derived from critical thought and empirical research, that is, without developing an approach which embraces “both ‘societal’ and ‘organizational—occupational—cultural’ reference points in ways that existing

approaches have failed adequately to do” [7]. The article is not meant to be a definitive statement on the state, class, crime, or law enforcement in the US or other societies but hopes to open a dialogue on a topic which has important practical and theoretical dimensions.

The Critical Model

Critical theories of society and the state are in flux. The paradigm revolution [8] against positivist social science and its supporting capitalist order and liberal ideology has shown itself to be less complete or convincing than initially expected. (One suspects that it has always been more a struggle between generations of academics over control of the conceptual terrain than a true paradigm change — that is, a different set of assumptions, methodologies, and findings in response to puzzles perceived by a community of scholars.) The main reason the hope and promise have gone unfulfilled has been the inability of critical theory to convincingly deal with the puzzles it in turn has created. Critical theory has failed to develop a concept of the state and of politics subtle enough to withstand the rigors of empirical tests or praxis, that is, a model of the state which incorporates what is known about the actions of the state when making and enforcing law, morality, and order and retains, at the same time, a dialectically reflexive stance towards its own theory. In Skocpol’s words, “no self-declared neo-Marxist theory of the capitalist state has arrived at the point of taking state structures and party organization *seriously enough*. Various ways of short-circuiting political analyses have been too tempting” [9]. Secondly, critical theory has not yet developed its own method, has failed to move beyond a merely antipositivist stance to devise a methodology which remains empirical without becoming positivist [10].

Critiques of the critical model, especially its more pronounced Marxist variants, have focused on three crucial and problematic linkages in it: first, the connection of base to superstructure, specifically the question of the economic base of group life and the materialistic base of consciousness [11]; second, the connection of class structure to the state, specifically the degree to which class determines and controls the actions of the state; and, third, the connection of the state to policy, that is, the variety of appearances under which state policies present themselves. Critical theory has dealt with the puzzles associated with these connections in various ways. The materialistic base to consciousness connection has been “explained” by developing a distinction in types of consciousness (that is, between false and true consciousness) for actors (what does class consciousness consist of?) and for the observer (when is reality correctly perceived and interpreted?). Consciousness, false and correct, connects base to super-

structure and mediates the material forces which propel history [12]. The second problematical connection, that of class to the state, has been much argued recently and has been “solved” by developing the concept “the relative autonomy of the state”, rejecting in the process merely instrumentalist and schematic versions of control and direction [13]. The third connection, that of the variety of appearances (how can the state do things which on their face are clearly against the interests of ruling groups?) has been “solved” by an appearance versus essence distinction which denies certain observations and “mere” facts the power to disprove established modes of interpretation [14].

Encompassing these arguments about how these linkages are to be understood is the notion of dialectical understanding as necessary for the determination of what is and is not false in consciousness; what determines the relative autonomy of the state; and what separates appearance from essence in the observable [15].

There is much disagreement among critical theorists on the “tightness” of these linkages, and arguments deal with the best holistic model of social formations which is to serve as the foundation for a new understanding, and with the question of determinism – what is meant by “ultimately” determining, by “relatively” autonomous, or by “concretely” specified.

The general effect of these solutions within the critical outlook has been a loosening of the hold of materialist base over consciousness, of class over the state, and of the state over policy. In Greenberg’s words, by “loosening the functional relationship between law and economy a bit, one creates the possibility of developing a materialist approach to the sociology of law that transcends mechanical economic determinism, and which, in particular, does not try to explain every element of legislation in terms of its functional necessity for the economy” [16].

The thrust of rethinking Marxist concepts is this: to attempt to retain the critical model, yet modify it, make it more complex, so that the concepts which constitute the model – domination, class, autonomy, consciousness, legitimation, hegemony – are clearly and empirically specified. Even critics of variants of critical thought, especially its more polemical and mechanical formulations, agree that the critical model has served a useful function, has presented a “revealing counter-image which serves as a point of departure for a critical understanding of capitalist society”. Yet critical theory now faces the “formidable task of systematically examining the empirical validity of its propositions” [17].

The Concept of Dialectical Understanding

The most useful methodological impact of critical thought on positivist

science has been the resurrection of historical analysis [18]; the worst drawback, the rejection of comparative research. Both effects stem from a primary epistemological assumption, namely, that appearances cannot be understood in an abstracted or universalistic way but must be specifically and concretely understood as bounded by time and place and anchored in a larger whole. History reveals concepts in concrete moments; comparison is difficult since each moment is unique. For example, law enforcement or order must be understood as specific to a historical stage of a social formation and cannot be understood as order or law enforcement in general, that is, in isolation from the larger whole which gives meaning to concepts and the realities they point to. Yet critical thinkers are less persuasive here than in other areas; clearly, to argue for dialectical analysis as necessary or that concepts cannot be understood unless embedded in correct theoretical consciousness implies degrees of universality and specificity. It would seem useful for critical thought to clarify how one can be both specific and universalizing at one and the same time without losing "concreteness". The statement that "it is not a contradiction in method to speak simultaneously about roles and structures common to various capitalist states and yet avoid the notion of a 'capitalist state in general' " needs a lot more argument to make it convincing [19]. It would be useful for critical theory to apply its methods and concepts not only to the study of pre-capitalist and capitalist social formations (as has been the tendency) but also to non-capitalist formations of the present (i.e., the state in China or the USSR) or envisioned future formations (i.e., the expected disappearance of crime in socialist societies). Until critical theory comes to grips with comparison, it has little hope of convincing either the community of scholars who determine a paradigm or potential actors who might prove it true in action. As Spitzer argues, the persuasiveness of critical thought rests "in the final analysis on the willingness and capacity of critical criminology to provide a grounded, sophisticated, and accessible body of research findings" and, one might add, the epistemological basis for grounding these findings comparatively [20].

The call for dialectical and empirically based analyses is, in large measure, a response to critiques of schematic applications of the critical model to specific events and of the functionalist logic which infuses such applications. Statements such as: "capital required . . .", "it became necessary for the bourgeoisie to . . .", or "police organization is a function of . . ." mean little [21]. As explanations they are useless, since any event, even diametrically opposed ones, would have been equally necessary had they occurred. In Chambliss' words, "such a view is theoretically untenable because it is tautological and teleological. It is tautological because any solution to a problem can be interpreted as protecting ruling class interests, because the

ruling class survives the change. It is teleological because it attributes some kind of rationality to the system that is independent of people making decisions" [22]. The counterargument possible, that another event did not occur, would be refutation only if one also assumed that specific events are inevitable, an assumption even critical theorists do not make.

In practical terms, being dialectical and concrete has meant being selectively empirical. To describe the reality of social formations or aspects of them requires data. Critical theory cannot depend on positivist science for its methods or the data these methods create. Yet the methodology for a dialectical analysis has not yet been worked out. Doing dialectical thinking must involve more than describing the dialectic as a useful sensitizing device which can lead one to detect tendencies in social change and "empirical plausibilities", as Spitzer justifies the method [23]. Recourse to the dialectic and dialectical thinking cannot be what it is now, an invocation to "magically fill an etiological chasm [which] exists between independent and dependent variables" [24], but must begin to spell out how it can be used by people with less insight, by everybody as a means to separate appearance from essence.

The Concept of Relative Autonomy

Critical concern about the roles of the state arose from specific puzzles. The seeming failure or delay of the class struggle in advanced capitalist societies raised the question of how the natural contradictions of capitalist development are prevented from working themselves out in the expected manner. In developing countries, the problem has been the role of the state and politics in the creation and maintenance of underdevelopment, and the possibility of an autonomous state acting to overcome the constraints of underdevelopment. The problem for socialist societies has been the nonwithering away of the state. These puzzles have led to a reformulation of the concept of the state, away from Marx's often quoted notion of the state as the executive committee of the ruling class and toward the re-discovery of his arguments on the Bonapartist state and its autonomy.

Revisions for Western societies have involved the development of structuralist and phenomenological versions of the Marxist model which de-emphasize the instrumentalist goals of state activity and argue, instead, for a role for the state as defender of the capitalist class in general or of the capitalist social formation as a whole and in the long run. To achieve such goals, the state employs subtler means of control than were envisioned in the struggle version of the model — the clash of armed force and violent repression is supplemented by bribery (the welfare state) and, more importantly, by control of consciousness as the state and its agencies strive

to maintain hegemonic control and ensure, thereby, the legitimacy of the existing order [25]. Cultural elements loom large in the reproduction of the capitalist state, and rationalization and liberal ideology are the fundamental mystifying devices which enshrine the power of the state in the minds of its subjects [26]. A second aspect of the revision is this: since class rule does not mean control of the state and its policies, other factors must be brought in to explain specific events. Gurr concludes, after surveying the history of state reaction to public disorder and crime, that it is “too simplistic to maintain that changing policies of public order are merely manifestations of an elite’s class interests and narrow desire to retain power. . . . Since the 1850s, public order in English society generally has rarely been any more than a secondary concern for most of the elite or the public at large” [27]. Under these conditions, moral entrepreneurs or organizational interests [28] or the “cognitive processes, moral development, and personal qualities” [29] of individuals may become the dominant influences in shaping policy and law.

It also follows that the realities of the capitalist system need to be described more accurately than has been done. Critical theorists have wrestled with the question of what the class structure of capitalist society really looks like, who belongs to which class, and what becomes of individuals who find themselves classless or in contradictory class positions [30]. In sum, things have become much less simple than they used to be — the state uses a variety of means to assure its power and dominance; numerous classes, fractions and strata must be taken into account in order to explain what happened; the articulation of base to superstructure (or whether this is even a useful distinction) is perceived as complex and difficult to pin down.

The non-withering away of the state in socialist societies and its obviously repressive actions in some (i.e., the gulag experience in the USSR) have led to a number of reformulations. One, the validity of the label is denied, and it is argued that existing social formations represent state socialism rather than the true, cooperative, and participant socialism described by Marx and Engels [31]. Two, it is argued that the current stages of socialistic formations which can be observed are temporary (albeit of a long run) and that the state is also a temporary phenomenon [32]. Third, there is the argument that Marx never really meant to say that the state would wither away, but that he meant exploitation and politics would and that the state, thought of as the administrative structure necessary for the provision of a minimum of law and order and a modicum of authority and obedience to law, would continue to exist, being essential for all societies [33].

Revisions in thinking about developing societies can be found in theoretical shifts from neo-colonialism (the state as the naked agent of the exploiting capitalist power) to dependency thinking (the state as the tool for

incorporation of the periphery of the world system into its core) to arguments that the state can be autonomous and promote genuine development based on the capacity of indigenous classes to resist external control [34], and arguments that dependency is a condition which applies to all relations of developing countries with external powers, be they capitalist or socialist [35].

In all cases, critical theorists have found anchors in Marx's voluminous writings for theoretical positions which earlier would have been rejected as deviations. (In that sense, critical theory is coming of age.) In all cases, whether capitalist, socialist, or underdeveloped societies are analyzed, the state has emerged as a powerful and independent actor in the political economy of social formations. In the process of making the state relatively autonomous, critical theory has opened the concept of the state to empirical validation and scrutiny — when, how, to what degree, under what conditions is the state autonomous? How does it protect and express its autonomy? What is it autonomous for? The answers lie equally in what the state does as in theoretical understandings of social formations.

Once the state is relatively autonomous, can state policy be far behind? Critical thinking on one state policy, that of law, has paralleled theoretical changes in the analysis of the state itself. The instrumentalist position — that law reflects and sustains the distribution of power among ruling and exploited classes — has given way to a more complex conceptualization as effective critiques by liberal and critical scholars, that law can be genuinely equalizing, have made an impact. The main arguments against the instrumentalist position follow. One, the instrumentalist position reduces the complexity of social relations, their concrete conjunctures and dialectical dynamics, to simple cause-effect statements [36] which misrepresent the realities of crime and the creation, content, and application of laws; the specific content of laws passed by ruling classes has not always been exploitative or repressive and sometimes does infringe on the interests of the ruling class itself; the capacity of law to hurt the interests of the powerful needs to be explained [37]. Two, the instrumentalist version fails to take into account the importance of a mediating consciousness, nor does it incorporate consciousness as a theoretically valid element in the construction of a theory of the state and law. Three, instrumentalism assumes that the capitalist class possesses a clear-sightedness and omnipotence to protect its short and long run interests, which goes far beyond known powers of control or knowledge [38].

Law, for these reasons, has become disconnected from the immediate interests of the ruling classes or the state and, in the latest variant derived from the writings of Pashukanis and elaborated in a number of writings [39], has become truly autonomous of people and classes and functions in

the interests of the capitalist order as a whole. Law is the crucial element in the mystification process, the central legitimation device which, by converting unique individuals into juridical equals and labor into an exchange commodity, hides the differences in class, power, and life chances which exist. It is the very fact that law does treat people equally which mystifies.

Yet one can argue that, despite the frequent use of the phrase, the theoretical importance of “relative autonomy” for critical theories of law has been little appreciated or applied. In Tushnet’s words, critical theorists “must proceed to give content to the idea of the relative autonomy of law,” specifically by examining the actions of lawyers [40]. At the minimum, relative autonomy cannot mean less than that the state and law at times act independently of larger social forces. If the state did not, the concept would be unnecessary. Since it is not larger social forces and structures which determine what the law is and does, other factors must be brought in to explain differences in the law — obvious candidates are the values, concerns, and interests of those groups and individuals who “carry” the law. When the law steps in, as the saying goes, it does so on the feet of lawyers, policemen, judges, probation officers, and others. Autonomy means that both the underlying forms of social relations and the pervasiveness of dominant and conflicting forms of consciousness affect what the state does in policy formation and execution.

The puzzles which exist for critical theories as a whole are reflected in discussions of crime and criminal justice, and lead to these questions. How is one to understand the reaction of the state which is relatively autonomous (there is little disagreement by now among critical theorists that the state is) to crime (its definition and overall incidence) and criminality (the individual act) which are determined by the consciousness of non-determined actors? How can law, a “relatively autonomous” policy of the “relatively autonomous” state, be used effectively as a means of repression and social control and thereby ensure the reproduction of a social formation? How, in turn, is one to understand law enforcement and the role of the police within these shifting contexts?

The next sections will develop the notion of the “relative autonomy” of the police. Relative autonomy can be justified empirically — it exists — and argued theoretically — that is, accepting the idea that the police can be autonomous does not deny that they also serve the interests of the powerful or contribute toward the maintenance of the system. The aim will be further to loosen the state-to-policy linkage by arguing that critical conceptions of the role of the police are overly simplified and fail to incorporate what is known about the history and reality of law enforcement into a systematic and coherent model of policy formation in social formations.

The Concept of the Function of the Police

Since critical thinkers accept the notion of the relative autonomy of the state and law (and have most to lose, theoretically speaking, by doing so) one can accept that the state does act autonomously, that it routinely violates the interests of the ruling classes. Bourgeois and liberal scholars have always known this to be true. I wish to push the argument a step further. If the state and law can be autonomous, why should not law enforcement be so? To answer this question requires some conceptual distinctions, specifically, what is meant by the notions of interest, function, and policing. Equally important is the analysis of police work as performed in the past and present in all social formations.

Interests may be defined as those needs which people are authentically conscious of and which they try to meet, in the short and in the long run, through individual and group actions. The definition of interest may encompass only individual needs or include collective, trans-individual components. Collective needs arise from a common position in the social structure, similarities in religion or culture, agreement on social issues, or social affect. Classes are interested groups which arrive at a common consciousness by their experience in the process of production. All interested individuals, when organized as groups, attempt to control the state and impose their specific definitions of the "public good" as generic ones for a society.

The key word in this conception is "authentic". The important question here is not whether interests are subjective or objective [41] but who will decide both the criteria and their application to specific issues and circumstances. I accept that the people likely to be affected by an action are the best determiners of their individual and collective interests, though under certain conditions — fraud, ignorance, mystification — they may be wrongly aware. Interests are, then, defined by both subjective preference and the potential for objective judgment [42], a capacity that belongs to all [43]. The obligation to define and defend what is meant by "wrongly aware" and "falsely conscious" rests on the observer rather than the participant. It is an empirical as well as a theoretical assertion.

Function may be defined as a logical relation or as an activity. In the first sense, a function depends for its meaning on its connections to something else. A function in a social system is that activity necessary to perform a task, meet a goal, fulfill a need, or express a purpose. This conception of function presupposes an idea of a larger whole for which the function is performed, for which it is necessary, essential, vital. Most conceptions of the role of the police one finds in critical theories use this conception of function. Alternatively, function may be defined as whatever something or someone does, that is, the routine behavior of individuals and groups. This

conception does not presuppose a model of some larger whole and remains basically descriptive. The two conceptions are related – one can argue that something would not be performed routinely, be descriptively correct, unless it were useful or necessary for some larger purpose. As used here, function will attempt to incorporate both meanings, but I wish to start from the notion of function as routine behavior and then extrapolate to purpose or need as this lessens the danger of assuming what should be proved. A teleological conception of function makes it difficult to discriminate among observations, makes it hard to detail the variety of specific purposes an activity may achieve [44].

Who are the police in a society? Though the core meaning of the concept policing seems clear – the use or threatened use of force by agents of the state to enforce laws – there remain exceptions which quickly muddle the edges of the concept. Should privately employed personnel be considered a police force? Should the military when it quells a riot be considered as performing a policing function? Should persons who have limited rather than generalized law enforcement powers, e.g., customs agents, be considered to be police? [45].

Most critical theories see the police as “servants of the state” [46] pure and simple, as a group which unquestioningly and consistently carries out the directives it receives from the state and those who control it. This conception of policing presumes too much, as it derives the meaning of police work by deduction from prior models of capitalist development and the class struggle embedded in it. This starting point precludes any explanation of police work which does not see it as a necessary function for the reproduction of the social formation; and it is not amenable to empirical tests. Missing from this conception is any notion of the relative autonomy of the state and far less, of course, of the relative autonomy of the police. With few exceptions [47], there is little discussion of the concrete linkages of policing to social bases; of the varieties of policing organizations; of the implications of a service orientation in police departments; of differentiations among oppressed groups; or of the needs which the powerless have in being protected in person and property. For instance, Cain’s assertion that the “variations in the way policing is organized are themselves a function of a particular mode of production” [48] means little and ignores her own advice that the police should be studied concretely before arguing their function. There is, after all, a large gap between the mode of production or productions (since no social formation is pure) and the specifics of organizing an agency of the state.

Definitions of who the police are need to be based on what the police do; the police must be “defined in terms of their key practice” [49]. Bayley proposes this definition: the police “are a group authorized in the name of

territorial communities to utilize force within the community to handle whatever needs doing” [50]. Manning proposes a slightly different emphasis: “policing can be seen as being a presentation of coercive potential and its enactment, the application of force to everyday affairs; being backed by law and conventional institutional structures in the community; and reflecting the interests of those who control and define situations requiring the application of authority” [51]. Common to all definitions is the notion that the police are guards. The key police practice is guarding by the potential or actual application of force. There is disagreement on two key issues: what it is the police are guarding – whether order in general, the state, moral consensus, a specific class interest, the vanguard party, people, property, the capitalist system, the interests of all. Secondly, there is disagreement on whether the police are only those guardians employed by the state, that is, paid from public funds, or whether privately employed guards are policing when they work.

The first issue depends for its resolution on examinations of police work in the past and now. It requires that we develop a “theory of the state which is elaborated downwards” [52] and analyze the specifics of policing – its organization, tasks, personnel, and structural relations. Rather than asking whether the police protect order in general or a specific class, we need to ask: whose interests are protected by policing? This question does not pre-judge the functions of a police force; it does not presume that the police are either defenders of a moral consensus or capitalist rule. It allows for the inclusion of all interests, including those of the police, when considering whose are served; it makes comparative work possible.

The second issue is more difficult to deal with since any definition of key practice, including the one advocated here, leads to areas of ambiguity when applied. Which aspects of public, state-directed activity which guards by the use of force are not policing, or are all? Which aspects of privately employed guarding, if they lack the legitimated right to use force, are still policing; e.g., ticket takers at the cinema? It seems reasonable to accept that both private and public guarding of interests is policing. The definition of the police which will be used, then, is this: the police are the privately and publicly employed guardians of interest who are entitled to use force to do whatever needs doing. It is the function of the police forcefully to guard interests.

Police Work

Descriptions of the police and their work can be organized under the headings of history, organization, function, ideology, personality, and control. These factors, when adequately described and taken together, con-

stitute the concrete relative autonomy of the police; these factors define the police and policing not as an abstracted functional requirement for the reproduction of order or a social formation (whether capitalist or other) but as the working life of order, service, and repression demanded by interested groups in society and enacted by interested police forces.

Critical and other scholars agree frequently on the description of police work yet differ on the meaning to be assigned to what is observed. For instance, the drive toward professionalization of police forces in the US is seen by some as the purposive alienation of the police force from its working class roots in an effort to make class rule more effective [53], while others see this development as a “function of the changing structure of capital” from local toward monopoly capitalism [54], or as an effort by police forces for greater independence from external political influence [55]. It is obvious from these contrasting interpretations that one’s conception of the function and role of the police depends more on one’s theory than one’s observations and, also, that the reality of police work is complex enough to make contrasting interpretations theoretically plausible. The sections which follow will describe the accepted reality of police work in a general way.

The origins of police forces vary. In general, policing as a separate activity arose in response to social complexity [56] and the extension of state power, that is, the transformation of social control from community-based to state-directed activity [57]. In Western societies, the creation of public police forces (forces working for and paid by the state or state-granted rights to collect fees) resulted from the desire by groups which controlled the state for information on potential challengers, e.g., in France and Russia during Bonapartist and Czarist rule [58]; the need to deal with problems of disorder as defined through the interactions of the powerful and the dominated. “The paramilitary form of early police bureaucracy was a response not only, or even primarily, to crime per se, but to the possibility of riotous disorder. Not crime and danger but the ‘criminal’ and ‘dangerous classes’ as part of the urban social structure led to the formation of uniformed and militarily organized police” [59]. Lastly, police forces made it possible for the emerging state to sustain itself by the collection of resources (taxes) and labor (forced labor and military draft) [60].

In former colonies, which now comprise most developing countries, police forces were established to bring law and order, to pacify the population, and to ensure the orderly administration of colonial rule as defined by colonial rulers and their local allies [61]. In socialist countries, patterns of policing which developed after the success of revolutionary activities reflected the demands of vanguard parties as they controlled the emerging state apparatus, and included normally the carry-over of existing secret police forces, the creation of small regular forces, and massive doses of popular participation

in and responsibility for maintaining public order [62].

The specific development of policing reflects, then, the circumstances and values of interested groups in conflict. In the USA, police forces developed under the constraints of crime and order needs [63], democratic sensibilities [64], the interactions of the police with crime and criminals [65], and, most importantly, the imperatives of local level politics as affected by underlying social, economic, and cultural relations [66]. In some instances, local politics reflected the domination of class interests in particular cities [67]; in other cases the police supported working class interests. "Today and over time," argues Johnson, "local public police have been accessible to the viewpoints and preoccupations of the American working class; many of their activities have served and do serve to defend and extend the (modest) social privileges of this class". The police "have taken care of labor". When the powerful needed to exert their influence, during periods of industrial unrest, they had to resort to private police forces or shift control of the local police toward the state level, as local forces were never reliable allies against their own class [68]. Lane concludes that the "police were never fully controlled from the outside or above. In practice, the generally decentralized governments of the nineteenth century were incapable of enforcing real direction along a hierarchical chain of command. In most cases the [police] were largely responsible for shaping their own development and tradition" [69].

It is clear from these descriptions and arguments that the police developed for numerous reasons and served numerous interests and that the police themselves are capable of shaping both the development of police work and their relations to the social formation in which they are anchored. In the USA, the fragmentation of the political system made control efforts by local and national ruling groups difficult; the working class background of members of the police force made them unreliable means of social control; police organizations, as they developed, created and shaped organizational interests and patterns of work which allowed them to resist external control and direction.

Current patterns of policing vary widely [70]. The current organizational structure of policing shows strong pressures toward horizontal and vertical fractures. Police organizations as a whole reveal different styles of policing which differ from community to community [71] and from urban to rural setting [72] – styles which reflect external and internal pressures on the organization. Chief among internal pressures are conflicts, consistently there whether openly expressed or not, between rank and file and staff, between officers on the beat and managers in the station house or city hall. The ability of management in the police organization to control its workers has always been low since much of police work is dispersed and not directly

visible to management. Being on the beat is being on one's own. (There are some differences from country to country, e.g., the USA compared to Japan [73].) Open conflict can erupt over work-related issues – the right to form unions, to strike, to engage in political activity, or to form special interest groups within departments, e.g., black police alliances or gay rights cops. A second fissure stems from functional divisions in police departments – detective versus patrolman – or specific work assignment – traffic, juvenile, vice. Each division develops its own working styles and forms of management–worker interaction [74]. Special police units – intelligence, secret police, political dissent – may not even appear on organization charts yet diversify the organizational characteristics of police forces [75].

In sum, there is no typical police organization past the most generalized statement that departments tend to be organized in a paramilitary fashion – that they are uniformed, armed, disciplined, and on constant call. The reality of police organizations is a conflict of views and interests among all on how to organize and control police work.

Studies of the police at work agree on two issues: one, that police work is discretionary; and, two, that most of what the police do is not specifically concerned with crime. The decisions which police must make routinely – whether a law has been broken, whether a threat to order exists, whether an arrest should be made, how to treat citizens and accused in contact situations, how to conduct an investigation, in short, how they define their role – occur in circumstances in which discretion is part of the definition of the situation; discretion cannot be avoided. The police cannot meet all the demands placed on them nor enforce all laws, but must select what events they wish to focus their efforts on [76]. Secondly, studies of police work loads show clearly, despite some qualms about the validity of the measures which are used [77], that most of police work and attention is not related to crime but deals with the maintenance of peace and order and the provision of services [78]. The police are as much a social service agency as they are a crime fighting outfit.

The functions of the police are diverse and executed with discretion. The contributions which the police make toward the stability or change of social formations must be interpreted. For example, the services which the police provide may be seen as a legitimating device by the state to support its generally repressive rule – the state gives a little in order to take more back. Such a view makes it impossible to judge whether services may indeed be an objective short and long run benefit to all classes. The argument is like the Freudian argument for the existence of the Oedipus complex – if you are jealous of your father, you have it, and, if you are not, this only shows how well you have mystified yourself.

Policing is done by people who carry with them, as they work, a history

of learning and socialization, of values, beliefs, and personal ideologies which will affect their individual interpretation of the police role and their adjustment to the demands of police work. There are common elements to this adjustment – the development of police cultures which “solve” for individual police officers such questions as when and how to use force, how to relate to citizens and to criminals, how to deal with the potential for danger in their work, and how to prevent the job from disrupting their personal lives [79]. Other adjustments reflect the importance of factors unique to the individual, his education, personality [80], or race [81].

In sum, there is no typical policeman, no one ‘cop personality’ which the demands of police work create from a heterogeneous group of recruits. Adjustment to management demands, to the need for discretion, to having to define their role – these are shaped by individual variables.

Discussions of ideology and control in policing focus on the relations of the police to external forces. The ideology of policing contains the justifications the police make for their work and the demands they place on society for support and the right to be autonomous. The police are, and present themselves as, the effective and symbolic presence of government, law, and order in society [82]. They attempt to legitimate their mandate by appealing to the interests of groups (protection from crime and disorder) and by presenting themselves as agents of the law in general rather than specific governments or groups in power [83]. They believe that they are the front-line of social defense, the thin blue line standing between anarchy and disorder [84]. Much of the misconception of police work by outsiders stems from taking this rhetoric seriously rather than observing what the police do. Secondly, being in charge of social defense, the police argue that theirs is a profession which entitles them to autonomy and freedom from political control and class favoritism. They are willing to back these claims for autonomy by resisting attempts at external control by citizens individually [85] or as organized groups [86], and do so quite successfully. The police have become increasingly willing to carry their demands directly into the political arena to argue for a role not only in defining what law enforcement should be like but also in determining the laws and policies themselves [87].

Control of policing deals with the efforts and capacity by external groups to direct police work. A variety of means exist and have been tried – legal norms and procedural constraints, court decisions, legislative oversight, external agencies (ombudsmen, police review boards, police authorities), and internal recruitment, training, and discipline practices [88]. Studies make it pretty clear that external control efforts have not been very effective (despite the fact that the police depend on others for resources and budgets) for a number of reasons. One, the willingness of the police to resist and divert control efforts reflects a strong organizational interest in survival

[89]. Two, demands on the police – what they should do and whose interests they should protect – have simply not been uniform or unified. Social structures and their reflection or non-reflection in the state have been too diverse and fractured to impose consistent demands on the state and its agencies. The police are capable of choosing what interests to enforce. Three, both the powerful and the powerless have alternative forms of action which can do what the police cannot or refuse to do. The police can be by-passed or supplemented – control of the police is not necessary for the execution of the guarding function. Private security agencies are available to the powerful. Mechanisms available to the powerless are more limited yet do exist – defense committees, neighborhood watch groups – or could be created [90]. Four, policing has been done and is done largely by members of the working classes. In Wright's terminology, the police are in a "contradictory class" position, since they "share the relational characteristics of two classes. They share class interests with two different classes but have interests identical to neither." They "are objectively situated in more than one class" [91]. Their specific articulation to the class structure is problematic. They cannot, therefore, be used indiscriminately or simply as a tool for repression by one class against another or in violation of their own specific interests. A clear-thinking oppressor will think twice about when and how to use them. The easy notion that "if a large number of the controlled can be converted into a first line of defense, threats to the system of class can be transformed into resources for its support" [92] simply does not hold water, for it assumes a degree of unconsciousness on the part of working police about the nature of their work which is simplistic. The police are a problem to class rule as well as a support by the very nature of who they are and what they have the capacity to do [93].

What emerges from this description of the police at work is a powerful argument for the relative autonomy of the police. Their willingness and ability to resist control, their formal and informal powers of discretion in the enforcement of law and order, as determined by personal, organizational, and ideological factors, and their interests as an organization and as individuals all point to the need to reformulate critical conceptions of the functions of the police. The police guard interests, yet they do so on the basis of their own perceptions and interests as well as those of others. The key practice of policing is not easily described.

The practical implications of the "relative autonomy" of the police are twofold. Whether the police are oppressors or potential allies of the powerless is a question that can and needs to be asked in a serious way. The harshest oppressors of militant groups in the US have been the police, yet it is also the professionalism of the police and the procedural protections of the law which have been the strongest protection for militants. Legal

equality is not “mere ideology” but also an effective constraint on rule, nor do the “courts of a class state function exclusively as organs of repression against the ruled classes” [94]. The police and law do serve, perhaps unconsciously, objective interest for change; strengthening the professionalism of the police, their organizational autonomy, may be a means of promoting change. It’s a question worth looking at. A second implication is this: the police as individuals may be appealed to on the basis of their class position; they may become, as Nkrumah thought it possible for the rank and file, potential allies of the powerless [95]. An analysis and call for action which automatically precludes the possibility that the police can support change ignores a potentially powerful agent for change.

The Concept of Order

The state exists to protect interests, as people are conscious of them and attempt to engage the state in actions which will protect and promote specific interests, conceived in the short or long run. A common interest of all groups in society is the maintenance of regularity and the protection of lives and property. No group in a social formation has an interest in being victimized by crime or in being fearful in public or private places. The autonomous interest of the state lies in the reproduction of ordered social relations, and the maintenance of those institutions and resources which allow for reproduction. The state’s interest in ordered social relations competes with the interests of specific groups to shape ordered relations to their benefit. In Therborn’s words, the “state apparatus operates simultaneously as an expression of class domination and as the executor of the rule-adjudicating, rule-enforcing, rule-defending tasks of society” [96]. (I would substitute “interested domination” for “class domination”.)

The concept of ordered social relations does not mean the maintenance of existing social formations but of regularity, an irreducible minimum of confidence in the future which allows groups and individuals to engage in routine activities, including the promotion of change. What is impossible under this conception is a state which is revolutionary, or a social formation which exists without a state. There can be no state during revolutions, when interactions are based on force; there is no need for a state in anarchy, as interactions are based on cooperation. The state is a practical necessity in other periods. The state may be overthrown, but it will re-emerge as the interests of all demand regularity and order.

A concrete social formation embodies two orders: a general order and a specific order. General order, the interests of all in regularity, is denoted by the phrase the “relative autonomy of the state”. General order specifies the capacity of the state to guarantee public tranquility and safety. Specific

order, that is the use of state power to promote particular interests, is denoted by the phrase “domination by the state”. An existing social formation incorporates both goals and exhibits a variety of reproductive mechanisms to ensure the autonomy of the state, and its interest in general order, against challenges from both ruling and ruled groups.

An existing conception of general order, what forms of regularity need protecting in the short and the long run, is itself a reflection of existing social relations and consciousness. States may define general order, the irreducible minimum, in a number of ways. The conception of general order during the cultural revolution in China is far different from that held in the Soviet Union under Stalin or from the liberal conception of the “rule of law”. Despite these variations, the distinction between general and specific order, between a universal interest and interested domination, remains. In Engels’ words: “on the one hand, a certain authority, no matter how delegated, and, on the other hand, a certain subordination are things which, independent of all social organization, are imposed upon us together with the material conditions under which we produce and make products circulate” [97]. The view that there is only one order in a social formation which is protected by the state is overly simplified. As Sparks puts it, critical theorists must address the distinction “between prohibitions aimed at protecting the essential conditions of organized existence, without which group life would be impossible, and prohibitions necessary for particular forms of social existence, e.g., those dependent on a particular economic system” [98].

It is the role of the police to provide one of the mechanisms for the protection of general and specific order. The police, a priori, are neither repressive nor deserving of support as defenders of a universal consensus on the public good. What the police defend depends on the concrete situation in which they work and the degree of control, through ideology or power, by the state over them. The fundamental question to ask is this: what is being enforced in specific situations and for whom are the police acting as agents – general order, specific domination or their own interests? The range of activities which the police perform is not and cannot be indicative of the same function. At what point along the spectrum of police actions – changing a tire for the stranded motorist, giving a parking ticket, stopping a family quarrel, squad car patrolling, arresting a DWI, a stop-and-frisk encounter, acting as a mugging decoy, investigating a burglary, organized crowd control, SWAT teams, undercover vice work, intelligence operations, police killings – do police actions indicate domination, and when not? To be persuasive, a theory of the state must possess the theoretical criteria to be able to discriminate between those actions of the state which indicate domination and those which do not. The persuasiveness of the theory will

rest both on its generalizing capacity and on its fit with empirically validated propositions. I have tried to suggest how an analysis of one state agency leads to a reformulation of the concepts of “function of the police”, “relative autonomy”, and “order” which is faithful to both the theoretical and the empirical standards and, therefore, provides a firmer guide to action.

Notes

- 1 By critical theories I mean Marxist inspired, derived, or flavored analyses which argue that material conditions are the ultimately determining factors of social life, that the interactions between determining material conditions and immaterial reflections need to be understood dialectically, and that currently existing systems of the production and reproduction of material and ideal life fail to meet, though to varying degrees, the needs of people organized as groups in conflict and, therefore, must be changed. Attempts to separate clearly variants of the critical approach – radical, conflict, Marxist, class analyses – are beyond the scope of the article. A general discussion of the critical approach can be found in J. Garofalo (1978), “Radical criminology and criminal justice: points of divergence and contact”, *Crime and Social Justice* 10: 51–72.
- 2 J. O’Conner (1975), “Productive and unproductive labor”, *Politics and Society* 5: 304.
- 3 Center for Research on Criminal Justice (1977), *The Iron Fist and The Velvet Glove*, Rev. Ed., Berkeley: Center for Research on Criminal Justice, p. 16.
- 4 S. Balkan, R.J. Berger, and J. Schmidt (1980), *Crime and Deviance in America: A Critical Approach*, Belmont, CA: Wadsworth, p. 101; the phrase is cited, without acknowledgment, from Center, op. cit., p. 11.
- 5 Balkan, Berger, and Schmidt, op. cit., p. 113.
- 6 K. Marx, cited in S.L. Harring (1976), “The development of the police institution in the United States”, *Crime and Social Justice* 5: 54, 58. A similar interpretation of police work is found in J.F. Galliher (1971), “Explanations of police behavior: a critical review and analysis”, *The Sociological Quarterly* 12: 308–18; A. Platt and L. Cooper (eds.) (1974), *Policing America*, Englewood Cliffs: Prentice-Hall; or R.E. Quinney (1980) *Class, State and Crime*, Sec. Ed., New York: Longman.
- 7 T. Jefferson (1980), “Review of Simon Holdaway, ed., *The British Police*”, *International Journal of the Sociology of Law* 8: 459.
- 8 For a description of various paradigms see R.M. Rich (1979), *The Sociology of Criminal Law*, Toronto: Butterworths; and the articles in C.E. Reasons and R.M. Rich (eds.) (1978), *The Sociology of Law: A Conflict Perspective*, Toronto: Butterworths.
- 9 T. Skocpol (1980), “Political response to capitalist crisis: neo-Marxist theories of the State and the case of the New Deal”, *Politics and Society* 10: 199–200. The analysis which follows deals with the police, yet it is, I think, an appropriate approach to all state actions and agencies.
- 10 Critical theorists could argue that the epistemological basis for knowledge lies not in its empirical character but in its utility for praxis. For a further critique and discussion of this point, see O. Marenin (1981), “Essence and empiricism in African politics”, *The Journal of Modern African Studies* 19: 1–30.
- 11 In R. Sklar’s words, “the presumed economic basis of class determination is a major obstacle to the comprehension of class structures that may appear to have been reared, largely, upon non-economic foundations” and are determined by power rather than production relations (1980). “The nature of class domination in Africa”, *The Journal of Modern African Studies* 17: 532.
- 12 B. Ollman (1972), “Toward consciousness next time: Marx and the working class”, *Politics and Society* 3: 2.
- 13 The variety of critical “solutions” and schools of thought on this question is described by P. Beirne (1979), “Empiricism and the critique of Marxism on law and crime”, *Social Problems* 26: 373–385, who distinguishes the instrumentalist, structuralist, and phenomenological approaches;

- by B.J. Berman (1981), "Class Struggle and the Origins of the Relative Autonomy of the Capitalist State", paper presented at the 1981 Convention of the American Political Science Association, who perceives four critical schools – the instrumentalist, structuralist, capital-logic, and historical derivationist ones; and by Skocpol, op. cit., who perceives instrumentalist, political-functional, and class struggle versions of Marxist theory.
- 14 E.g., see the arguments in G. Lukacs (1971), "What is Orthodox Marxism" in G. Lukacs, *History and Class Consciousness: Studies in Marxist Dialectics*, London: Merlin Press, pp. 1–26.
 - 15 On the dialectical method, see M. Shaw (1975), *Marxism and Social Science*, London: Pluto Press.
 - 16 D. Greenberg (1976), "On one-dimensional Marxist criminology", *Theory and Society* 3: 617. Of course, loosening the linkages also opens the model to examination and creates the opportunity and need for empirical assessments. C. Sumner (1981) describes this process more brusquely as the "epistemological dilution of structuralist Marxism through its confrontation with the nasty business of empirical reality." "Race, crime and hegemony: a review essay", *Contemporary Crises* 5: 277–78. See also similar arguments in E. Greer (1978), "A reply to the critique", *Crime and Social Justice* 9: 70; and M. Los (1980) "Economic Crimes in Comparative Perspective", in G. Newman (ed.), *Crime and Deviance: A Comparative Perspective*, Beverly Hills; Sage, p. 254.
 - 17 D.O. Friedrichs (1980), "Carl Klockars versus the 'Heavy Hitters': A Preliminary Critique", in J.E. Inciardi (ed.), *Radical Criminology: The Coming Crisis*, Beverly Hills: Sage, p. 153, p. 155. Yet the possibility exists and must be faced that critical theory, in the absence of an established empirical methodology of its own, will be forced to move toward an accommodation with positivist social science and some of its central assumptions. The most obvious similarity is the role of function in holistic models of society, held by both critical and positivist thinkers. The argument that holistic needs and purposes must be taken as explaining the activities one sees performed is common to Parsons and Marx. There is always the tension between a fundamentally holistic mode of thinking (where acts of the state are seen as in some sense required by the system – no matter how tenuous the connection between system and act) and the specific appearances of state forms (which lead to explanations in terms of will and choice). Critical theory will find it difficult to bridge the gap between volition and appearance and function and holistic thought, yet, unless it does so and develops a method to justify its arguments, it will lose its concepts. Unless a clear statement of how essential concepts are to be applied can be made, such concepts will be taken over by competing modes of thought and drained of their critical insight and content. E.g., see the conversion of "autonomy" into a common characteristic of the liberal democratic state in E.A. Nordlinger (1981), *On the Autonomy of the Democratic State*, Cambridge: Harvard University Press; or the reduction of the "fiscal crisis of the state" argument to a policy dilemma in M.M. Feeley and A.D. Sarat (1980), *The Policy Dilemma*, Minneapolis: University of Minnesota Press.
 - 18 See the arguments in R.F. Sparks (1980), "A Critique of Marxist Criminology", in N. Morris and M. Tonry (eds.), *Crime and Justice: An Annual Review of Research*, vol. 2, Chicago: Chicago University Press, pp. 159–210.
 - 19 B. Frankel (1979), "On the state of the State: Marxist theories of the State after Leninism", *Theory and Society* 7: 200. It is true, nevertheless, that some critical theorists do describe the state in general, for example, members of the "capital-logic" school; see C. Offe's (1975) description of the capitalist state in his "The Theory of the Capitalist State and the Problem of Policy Formation", in L.N. Lundberg (ed.), *Stress and Contradiction in Modern Capitalism*, Lexington: D.C. Heath, pp. 125–144.
 - 20 S. Spitzer (1980), "'Left-Wing' Criminology – An Infantile Disorder?" in J.E. Inciardi, op. cit., p. 186; see also D.F. Greenberg, op. cit.
 - 21 There is a charming naiveté in the writings and tone of Marxist thinkers, as they assume that their understanding of social life, correct as it must be, need merely be evoked for each new situation as it comes along; that the Marxist model provides an unwavering guide to understanding and explaining whatever it is one observes. In D. Greenberg's words, the "result is little more than science fiction, usually of a fairly unimaginative variety," (op. cit., p. 615). When W.W. Mayer

1978–1979) argues that recent shifts in critical thought, specifically structural and phenomenological Marxism, are, after all, only the necessary ideological expression of the monopolistic capitalist state in crisis, such faith reaches touching heights. “Science and praxis: a sociological inquiry into the epistemological foundations of structural and phenomenological Marxism”, *The British Journal of Sociology* 23: 183–199.

This belief in the Marxist model ignores a central point of dispute – whether Marxism is best understood as a method or as a substantive answer. I would argue, as many critical thinkers have all along, that Marxism is best understood as a method. See the arguments in Lukacs, *op. cit.*; U. Melotti (1977), *Marx and the Third World*, London: MacMillan; or B. Ollman (1976), *Alienation*, Sec. Ed., Cambridge: Cambridge University Press. In A. Hunt’s (1980) words, “Marxism does not constitute a ‘ready-made theory’ that can be simply taken up and ‘applied’ to law, crime or deviance”, “The radical critique of law: an assessment”, *International Journal of the Sociology of Law* 8: 43. The method, thinking dialectical and being concrete, means, at the very least, that one’s arguments should be susceptible to straightforward empirical tests. By straightforward, I mean some statement must be made on what empirical evidence counts, what would support an argument directly – that is without recourse to intervening or mediating levels of consciousness or mystification which will allow all evidence to mean all things.

Discussions of what is critical in method, apart from the utility of knowledge for or in praxis, have moved closer and closer to abolishing explanation, thought of as a cause–effect relationship, as a useful concept. Instead, the argument runs, describing events in certain terms is in and of itself, since those terms are part of a holistic, dynamic, and dialectical understanding, equivalent to knowing why things happen and why they do not. The authentic perception of shifting patterns of tendencies and a “relational” logic, rather than the search for cause–effect linkages, constitutes correct consciousness and conveys explanation. It is difficult to think of what such a method means in practice.

- 22 W.J. Chambliss (1979), “Problems and Conflicts in Law Creation”, in S. Spitzer (ed.), *Research in Law and Sociology*, vol. 2, Greenwich: JAI Press, p. 11.
- 23 S. Spitzer (1980), *op. cit.*, pp. 180–186.
- 24 C. Groves (1980), “Theory and Method in Criminology: A View from the Frankfurt School”, paper given at the American Society for Criminology Convention, San Francisco, p. 2.
- 25 See the arguments in R. Miliband (1977), *Marxism and Politics*, Oxford: Oxford University Press; J. O’Conner (1973), *The Fiscal Crises of the State*, New York: Basic Books; N. Poulantzas (1973), *Political Power and Social Class*, London: Sheed and Ward.
- 26 I.e., J. Habermas (1970), “Technology and Science as Ideology”, in J. Habermas, *Toward a Rational Society*, Boston: Beacon Press, pp. 81–122; I. Illich (1977), “Disabling professions”: notes for a lecture”, *Contemporary Crises* 1: 359–70; W. Heydebrand (1979), “The Technocratic Administration of Justice”, in S. Spitzer (ed.), *op. cit.*, pp. 29–64; S. Spitzer (1979), “The rationalization of crime control in capitalist society”, *Contemporary Crises* 3: 187–206; or S. Spitzer and A.T. Scull (1977), “Social Control in Historical Perspective: From Private to Public Responses to Crime”, in D.F. Greenberg (ed.), *Corrections and Punishment*, Beverly Hills: Sage, pp. 265–286.
- 27 T.R. Gurr (1976), *Rogues, Rebels and Reformers*, Beverly Hills: Sage, p. 94, 96.
- 28 W.J. Chambliss (1976), “The Law of Vagrancy,” in W.J. Chambliss and M. Mankoff (eds.), *Whose Law? What Order?*, New York: Wiley, pp. 9–26.
- 29 B. Frankel, *op. cit.*, p. 230.
- 30 E.g., see the discussion in E.O. Wright (1980), “Varieties of Marxist conceptions of class structure”, *Politics and Society* 9: 323–70. Shifts in the class structure matter; in B. Frankel’s words, “any theory of the state which does not take into account the employment [by the capitalist state] of about one quarter to more than one third of the labor force is useless.” (*op. cit.*, p. 213).
- 31 Observers may select other countries, i.e., China or Cuba or Mozambique, as better examples of socialism in action. Still, the analysis of the state in socialist societies is the largest lacuna in critical writing. The same point applies to the analysis of the criminal justice system and the police. There is, in the few descriptions that exist, much emphasis on the participatory and voluntary cooperation of the citizenry with each other and the state, while formal state agencies,

- including the police, are little examined. I.e., see J. Brady (1981), "The Revolution Comes of Age: Justice and Social Change in Contemporary Cuba", in C. Summer (ed.), *Crime, Justice and Underdevelopment*, London: Heineman, pp. 248–310; - - -, (1977), "Political contradictions and justice policy in People's China", *Contemporary Crises* 1: 127–62; H.E. Pepinsky (1973), "The people versus the principle of legality in the People's Republic of China", *Journal of Criminal Justice* 1: 51–60; - - - (1975), "Reliance on formal written law and freedom and social control in the United States and the People's Republic of China", *The British Journal of Sociology* 26: 330–42; N. Tiruchelvam (1978), "The Ideology of Popular Justice", in Reasons and Rich (eds.), op. cit., pp. 263–280. Yet, as others point out, formal agencies, their public and secret arms, function as the "second line" of social defense when participatory control breaks down. I.e., J.A. Cohen (1968), *The Criminal Process in the People's Republic of China, 1949–1963*, Cambridge: Harvard University Press; or L. Salas (1979), "The Police as a Social Control Mechanism in Post Revolutionary Cuba", in his *Social Control and Deviance in Cuba*, New York: Praeger. The interactions of informal participation and formal control with the state in socialist societies need to be incorporated into critical theories of the state.
- 32 I. Wallerstein (1980), "The withering away of the states", *International Journal of the Sociology of Law* 8: 369–78.
- 33 L. Panitch (1980), "The state and the future of Socialism", *Capital and Class* 11: 121–37.
- 34 I.e., K.A.A. Rana (1977), "Class formation and social conflict: a case study of Kenya", *Ufahamu* 7: 17–72; Sklar, op. cit.
- 35 P. Clawson (1981), "The character of Soviet economic relations with Third World countries", *Review of Radical Political Economics* 13: 76–84.
- 36 Beirne (1979), op. cit.
- 37 Beirne (1979), op. cit., pp. 378–79.
- 38 A. Wolfe (1977), *The Limits of Legitimacy: Political Contradictions of Contemporary Capitalism*, New York: Free Press, p. xiv.
- 39 I.e., I. Balbus (1978), "Commodity Form and the Legal Form", in Reasons and Rich, op. cit., pp. 73–90; P. Beirne (1975), "Marxism and the sociology of law: theory and practice", *British Journal of Law and Society* 2: 78–81; H. Steinert (1978), "The functions of criminal law", *Contemporary Crises*, 2: 166–93; D.F. Greenberg and N. Anderson (1981), "Recent Marxist books on law: a review essay", *Contemporary Crises* 5: 293–322.
- 40 M. Tushnet (1978), "A Marxist analysis of American law," *Marxist Perspectives* 1: 96.
- 41 I. Balbus (1971), "The concept of interest in pluralist and Marxian analyses", *Politics and Society* 1: 151–177.
- 42 C. Bay (1968), "Needs, wants and political legitimacy", *Canadian Journal of Political Science*, 1: 246–60; W.E. Connolly (1972), "On 'interests' in politics," *Politics and Society* 2: 459–77.
- 43 J. Habermas (1970), *Knowledge and Human Interest*, Boston: Beacon Press.
- 44 Most of this discussion is taken from E. Nagel (1961), *The Structure of Science*, New York: Harcourt Brace and World, pp. 520–535.
- 45 D. Bayley (1979), "Police Function, Structure and Control in Western Europe and North America: Comparative and Historical Studies", in N. Morris and M. Tonry (eds.), *Crime and Justice: An Annual Review of Research*, Vol. 1, Chicago: Chicago University Press, pp. 111–13.
- 46 A. Platt and L. Cooper (eds.), op. cit., p. 7.
- 47 I.e., Center for Research on Criminal Justice, op. cit.; Harring, op. cit.; S.L. Harring (1977), "Class conflict and the suppression of tramps in Buffalo, 1892–1894," *Law and Society Review* 11: 873–911; S.L. Harring and L.M. McMullin (1975), "The Buffalo police 1872–1900: labor unrest, political power and the creation of the police institution", *Crime and Social Justice* 4: 5–14.
- 48 M. Cain (1979), "Trends in the sociology of police work", *International Journal of the Sociology of Law* 7: 161.
- 49 Cain, op. cit., p. 158.
- 50 Bayley, op. cit., p. 113.
- 51 P.K. Manning (1977), *Police Work: The Social Organization of Policing*, Cambridge: MIT Press, pp. 101–102.

- 52 M. Cain (1977), "An Ironic Departure: The Dilemma of Contemporary Policing", in K. Jones et al. (eds.), *Yearbook of Social Policy in Britain, 1977*, London: Routledge and Kegan Paul, p. 164.
- 53 C.D. Robinson (1978). "The deradicalization of the policeman: a historical analysis", *Crime and Delinquency* 24: 129--51.
- 54 Cain (1979), op. cit., p. 158.
- 55 R.M. Fogelson (1977), *Big City Police*, Cambridge: Cambridge University Press.
- 56 R.D. Schwartz and J.S. Miller (1964), "Legal evolution and societal complexity", *The American Journal of Sociology* 70: 159--69.
- 57 S. Diamond (1971), "The Rule of Law Versus the Order of Custom", in R.P. Wolff (ed.), *The Rule of Law*, New York: Simon and Schuster, pp. 115--44; E.L. Parks (1975), "From Constabulary to Police Society: Implications for Social Control", in W.J. Chambliss (ed.), *Criminal Law in Action*, Santa Barbara: Hamilton, pp. 81--93; Spitzer and Scull, op. cit.
- 58 I.e., D. Bayley (1975), "The Police and Political Development in Europe", in C. Tilly (ed.), *The Foundation of National States in Europe*, Princeton: Princeton University Press, pp. 328--379; V. Chalidze (1977), *Criminal Russia*, New York: Random House; R.J. Stead (1957), *The Police of Paris*, London: Staples Press.
- 59 A. Bordua and A. Reiss, Jr. (1967), "Law Enforcement", in P.F. Lazarsfeld et al. (eds.), *The Uses of Sociology*, New York: Basic Books, p. 282; Gurr, op. cit., p. 123; A. Silver (1967), "The Demand for Order in Civil Society: A Review of Some Themes in the History of Urban Crime, Police and Riot", in D.J. Bordua (ed.), *The Police: Six Sociological Essays*, New York: Wiley and Sons, pp. 1--24.
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