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Politics and the Application of Law: Crime Construction and Police Power

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POLITICS AND THE APPLICATION OF LAW:
CRIME CONSTRUCTION AND POLICE POWER

by

KOMYSHA HASSAN

A thesis submitted in partial fulfillment of the requirements
for the Honors in the Major Program in Political Science
in the College of Sciences
and in The Burnett Honors College
at the University of Central Florida
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ABSTRACT

The shooting death of Michael Brown in June of 2014 by police in Ferguson, Missouri triggered massive public protests across the United States, calling attention to a wave of similar incidents thereafter, where unarmed black men have been killed at the hands of officers in a wide range of locales. The recent coverage has revealed the extent and dispersion of aggressive and, in many cases, fatal interactions between law enforcement and the public, particularly minorities. Actions by the Department of Justice and other state and local agencies have consistently focused on individual agencies and/or agents, as the cause of the problem. This research looks at the history of crime control policy and the law enforcement mandate, from the 1960s onward, examining disparities in crime policy and incidence. The findings show that the shift from locale-based to centralized crime control and the manipulation of crime as a political construct has led to a change in law enforcement identity, away from public service. Consequently, the governing politics and organizational culture of law enforcement has institutionalized some of the most reprehensible aspects, systematizing misconduct. The findings suggest that resolving the problem of misconduct in law enforcement requires an identity shift, focusing on structural rather than individual concerns and implementing more robust and comprehensive training parameters.

DEDICATION

For my professors, whose invaluable mentorship made this work possible

For my family, who have never wavered in their support, encouragement, and pride

For my friends, who could not be happier it is finally over

And especially, for those whose voices can no longer be heard, but echo sharply through this
paper;

This is for you

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This would be a very different project without you. Dr. Guenzel, you have been a source of inspiration and advocacy for me personally, throughout my work, and exemplify the character of a true educator and mentor. I could not have finished this project without you. Indeed, I could not have finished it without all of you. I must thank Professor Thomas Wright, from the Department of Writing and Rhetoric, for showing me the possibilities of this work from its humble beginnings in his classroom. And to Dr. R. Mark Hall, the Director of the University Writing Center and the entire Writing Center family who were, as always, nothing short of phenomenal in every way. Finally, to my family for toiling alongside me. Thank you to my parents, my rocks, who, no matter what, tirelessly advocate for my success. Thank you to my sisters and brothers for their insight, challenge, support, and selflessness. Knowing that all of you are there is immeasurable and no words can express my gratitude to each and every one of you. Thank you.

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CHAPTER 1: INTRODUCTION

In the summer of 2014, the shooting death of Michael Brown, a young African-American man in Ferguson, Missouri, by the police, touched off a national conversation about law enforcement behavior, particularly in relation to minorities. The uproar was significant and widespread, not unlike that which occurred in the aftermath of the Rodney King beating in Los Angeles, in 1991¹. That incident, similarly, inspired a national debate about police misconduct, discrimination, accountability, and the racial nature of crime control with. Dissimilarly, however, the shooting of Michael Brown was followed by numerous such incidents, of similar notoriety, across the nation in diverse localities by a multitude of law enforcement agencies, suggesting something more than a few problem officers, departments, or locales (Cato Institute 2015; Collins 1998). Such widespread coverage is the result of ordinary citizens, using now ubiquitous cell phone cameras, to record their encounters – and that of others – with police (Bock 2016). Greater public access to communication platforms, where such documentation of police misconduct can be widely disseminated, has led to unprecedented exposure. This fact suggests that law enforcement misconduct is not necessarily increasing; however, its existence is becoming more widely known through the growth of citizen journalism (Greer and McLaughlin 2010; Bock 2016; Brown 2015).

¹ Rodney King, a 25-year old African-American, was stopped by police following an alleged car chase. While attempting to apprehend him, Los Angeles Police Department (LAPD) officers were videotaped by a local resident brutally beating King, as their colleagues looked on. The case led to the scrutiny of the LAPD as a department for systemic abuse and misconduct. For additional details, see *Mydans* (1991).

While the national debate has, deservedly, focused attention on individual agencies, officers and even specific policies, extensive research on law enforcement structure and legislative initiatives for the past 50 years suggests that this episodic and individual focus deliberates a limited aspect of a more complex and far reaching problem (Beckett 1997; Beckett and Sasson 2004; Kraska 2001; Lee 2007; Rising 2010; Scheingold 1984; Simon 2009). Beckett and Sasson (2004) and Simon (2009), in particular, provide a wealth of data on the political construction of crime and the development of crime policy. They compare actual crime incidence and public opinion data to shifts in crime policy, demonstrating how crime, as a policy area, became a symbolic tool of the state. Their central thesis is that the crime issue has been politicized – used as a governing strategy; a political tactic to further the power and control of the state well beyond the actual threat of crime in society and public perception thereof. While their research is invaluable to this paper, they stop short of scrutinizing the impact of this policy on the evolution of law enforcement, structurally and tactically. This research seeks to determine the validity of the notion that the state benefits from the politicization of crime – the manipulation of the crime threat – and therefore to what extent has that affected the evolution of law enforcement’s central mandate. Through archival research, this paper evaluates changes in police conduct and tactics determining their responsiveness to demonstrable societal needs, such as crime rates and adversary categories, across the continental United States. It further argues, that problems within law enforcement agencies and officers are secondary to, and a result of, system level policies and practices developed through organizational identity and culture.

Over the past five decades, politicians and policymakers have sought to define criminality in very pointed terms, sounding the alarm on crime and criminal conduct; from

individual acts such as sex offenses, to more concerted efforts like terrorism² (Beckett and Sasson 2004). These public displays of political indignation have often translated into serious proposals, legislation, and ultimately implementation in the form of laws and public policy. This exact process has been replicated in each of the previous five decades, going back to the 1960s. At the top of the political leadership, undoubtedly, is the President, who in addition to being the nation's chief executive, is also his party's leader and the most resounding voice in the administration of national policy. While policy is disseminated through the political system at many levels, and those policies are not necessarily congruous across every locale, state and local politics tend to be responsive to overarching executive policy directives and narratives (Boushey 2015). Being extensively documented, tracked and published, the President's rhetoric is a helpful bellwether for the policies and politics of the nation and gauging it here provides a lot of insight. President Lyndon Johnson, in 1966 addressed the "war on crime" to Congress, stating that it would "be waged by our children and our children's children," pledging "a unified attack" (Woolley and Peters 2015). In 1972, President Richard Nixon proclaimed on the Republican convention floor: "We have launched an all-out offensive against crime, against narcotics, against permissiveness in our country" (Woolley and Peters 2015). President Ronald Reagan too used his September, 1982 radio address to declare that America was "liv[ing] in the midst of a crime epidemic," warning that "every moment wasted is a moment lost in the war against crime" (Woolley and Peters 2015).

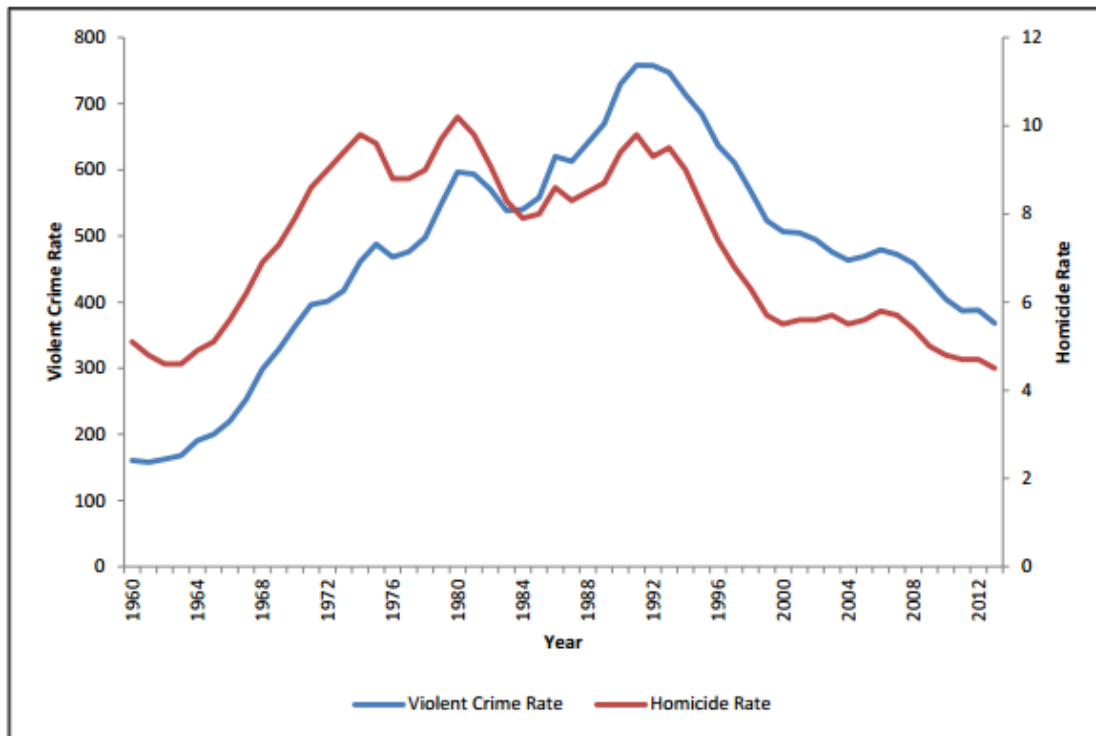
² Though domestic terrorism and, to an extent, international terrorism were issues of consistent concern to law enforcement; a sea change in law enforcement efforts, attention, and coordination with regards to terrorism took place as a result of the terrorist attack in New York of September 11th, 2001 (Waxman 2009). In the years following, terrorism became a central organizing principle for law enforcement activity and response.

President George H.W. Bush continued Reagan's line of rhetoric, predicating a \$1.2 billion increase in federal spending on crime control in 1992 with a pledge that "Winning the war on drugs means waging war on crime" (Woolley and Peters 2015). In an outline of policy priorities to Congress, President Bush also pushed to "...escalate the war against drugs. The war must be waged on all fronts. Our new drug czar, Bill Bennett, and I will be shoulder to shoulder in the executive branch leading the charge" (Woolley and Peters). President Bill Clinton used his second State of the Union Address, in 1994, to proclaim: "Every day the national peace is shattered by crime," adding, "Violent crime and the fear it provokes are crippling our society, limiting personal freedom, and fraying the ties that bind us" (Woolley and Peters 2015). In fact, except for his first in 1993, crime played a central role in each of President Clinton's State of the Union addresses. President George W. Bush confirmed much of his predecessor's criminal justice related policies, focusing his rhetoric on the victimization aspect and protecting victims of crime (Woolley and Peters 2015). While announcing the Project Safe Neighborhoods initiative, President Bush added: "In America today, a teenager is more likely to die from a gunshot than from all natural causes of death combined... And for all our children's sake, this Nation must reclaim our neighborhoods and our streets" (Woolley and Peters 2015). While President Barack Obama has made an effort to disemploy charged rhetoric on the topic, taking the opportunity of his first State of the Union address to call for "criminal justice reform," and creating a Task Force on policing, his administration has largely played catch up in the crime control area of policy (Teague 2009).

In each of these past instances, policymakers defined the problem of crime as an urgent calamity necessitating government's undivided attention and resources; this, in defiance of the

Figure 1. National Violent Crime and Homicide Rates, 1960-2014

Rate per 100,000 people



Source: FBI, Crime in the United States 2014 [report], printed in James (2015)

ebb and flow of the crime rate and its steady decline over nearly two decades (See *Figure 1*). A highly combative, adversarial narrative of ‘war,’ toughness, and strict punitive policies has been employed with vigor, throughout these examples. Conversely, research and commissioned studies that have challenged the success and blanket application of the punitive approach to resolving crime, advocating for rehabilitative and integrative policies instead, have been largely ignored from a policy standpoint, during the same period (Flamm 2005; Murakawa 2008).

Despite differences in the approach of each of these administrations, the underlying rhetoric has stayed relatively consistent. Boushey (2015) cites the centrality of problem definition in the “diffusion” of policy, noting that policy emerges as a result of political effort to define an issue in particular terms, amenable to the desired legislative result. Boushey (2015)

provides that policy can gain incredible political velocity when synchronized with spheres of public concern. Scheingold (1984) demonstrates a little later in this chapter that fear of crime looms in the public's psyche, readily available to be tapped into. Flamm (2005), Kamisar (2000), and Weaver (2007) observe that crime policy became strongly politicized in the early 1960's and beyond as a means of solidifying a transforming electorate, particularly for Republicans in the South, and as redirection to emerging public power during the Vietnam War and Civil Rights protests. The proverbial "crime problem" has thus been scapegoated for political purposes; furthering larger political agendas, smearing political opponents, or redirecting public attention, among others.

Inextricably linked to crime policy are the means with which it may be implemented: law enforcement. Mirroring the political transformation of crime, law enforcement entities on a number of levels (local, state, and federal) have undergone multiple and significant transformations to their tactics, field behaviors, and assigned powers (Eterno 2007; Kraska 2007; Maguire 2003a). These changes did not always supplement police with additional power; however, they most often were undergirded by a politically disfigured narrative of crime. Therefore, the resulting transformations have led to tactics and behaviors that ranged from faulty science (*See 'Broken Windows' Meares 2015*), to criminal conduct (*See J. Edgar Hoover's FBI: Churchill and Wall 1990; Underhill 2008*). Of course, law enforcement has borne the brunt of the blame, being the sharp end of the state's enforcement stick. Individual officers, and 'problem departments', have captured government attention following public incidents, such as in the Rodney King case referenced above where the Los Angeles Police Department (LAPD) entered into a 'consent decree' with the Department of Justice (DOJ), the first of its kind at the time

(Rushin 2014). A consent decree arrangement, where a police department subordinates oversight of its operations to the DOJ, is based on documented, continuous abuses that violate federally protected rights (such as an individual's civil rights).

While departments may elect to enter into such an oversight arrangement with the DOJ, most do so under threat of civil suit by the federal government (Rushin 2014). Multiple police departments have since come under such a decree, with the most recent being the Cleveland Police Department in Ohio following another high-profile police shooting, that of 12-year old Tamir Rice in November of 2014 (Izadi and Holley 2014). In such cases, corrective action is focused on negligence of policy on the part of the department, and negligence of practice on the part of the offending officer(s), maintaining a narrow scope on individual-level cases. This, of course, runs counter to one of the central assumptions of this research; that problem officers/departments, are a predictable by-product of a problem *system* which, left unchecked, will continue to regenerate itself in the same form.

A critical part of that system is the law enforcement institution itself, and its organizational, tactical, and strategic development in the context of evolving crime policy. What becomes of the institution and how its organizational identity is formed and then transformed via internal and external factors, will be integral to this research. When attempting to define critical areas of focus, some questions arise: What responsibilities do law enforcement carry? How do they execute those responsibilities? Who does law enforcement answer to? What is the police

mandate? How does the institution respond to changes in the state³ or in society? What metrics are being evaluated and how do those metrics support or influence the identity of the institution? To what extent is police responsive to political agendas and public policy? This is not meant to be an exhaustive list, but these questions begin to address the evolution of the law enforcement institution and provide junctures to evaluate where there might be divergences. The question of who does the institution answer to is of particular interest, as there exists a number of sources of authority depending on how the institution sees itself. As a service organization, law enforcement answers to the public; as an enforcement arm of the state, law enforcement answers to the executive in the relevant locale; and, as a professional organization, law enforcement answers to its institutional leadership. These are not mutually exclusive, of course, however, the ultimate source of authority holds the greatest influence on the identity of the organization and what trajectories it might pursue to further its institutional goals (Maguire 2003b). An evaluation of the law enforcement persona and a case study, in chapters three and four, might help elucidate some of these questions.

What the politicization of crime thesis seeks to do is extricate law enforcement as an implement from the policies and politics that lend it power, so that the former can be objectively evaluated and sources of influence on the organization can be identified. Defining law enforcement's central mandate will be critical to recognizing how and where changes occur within this space. Manning (1999), drawing upon a significant body of research, provides one such framework, breaking down the law enforcement mandate to a range of activities with

³ The state as polity, defined as an organized political entity with a single, coherent governing structure, refers to the central government of the United States. Unless named or stated, "state" in this paper does not refer to the geographical and political subordinate i.e. the state of Tennessee.

broadly defined areas of primary distinction. From this framework, I extrapolate the duties of police, broadly, in three parts: 1) maintaining order; 2) enforcing the law, and; 3) peacekeeping. Maintaining order, as opposed to anarchy and chaos, is primarily a function of the communicative dimension of law enforcement, more broadly defined as community relations. Enforcing the law is a means of establishing the power of the state, which is a function of the force dimension; demonstrating the capacity of the state to exercise its will and ensure compliance. Peacekeeping, or securing the health and safety of the public, is a function of the public service dimension of law enforcement, largely disencumbered from law related activity, as an assistive function. These dimensions are not mutually exclusive, intersecting and overlapping in a number of areas, reinforcing one another. Policies are then created within the purview of these duties and powers shaping the applied portion of the law enforcement mandate. This research will evaluate performance based on the successful execution of police duties, as defined above.

CHAPTER 2: THE POLITICAL CONSTRUCTION OF CRIME

Crime itself could not come into being without the existence of laws designating some acts as criminal while others not; so, crime at some level has always had a legislative if not political appearance. However, not until the second half of the twentieth century did crime take on a particularly political undertone. While this shift has been well documented in much of the research, the underlying causes and its consequences for law enforcement have been less scrutinized. This chapter examines the evolution of crime policy as a political issue and its initial emergence as a response to social, political, and electoral upheaval beginning in the 1950s. Previously, crime policy was near-exclusively a state and local concern and responses to crime had been maintained at that governmental level. Some efforts to centralize crime control had existed earlier championed particularly by FBI director J. Edgar Hoover (Gage 2013), but were sporadic and not well managed. From the 1950s onward, however, the political construction of crime began to drive a much more centralized, federal role in the development, implementation, and oversight of crime policy to the extent that the federal government became the focal point for crime remediation. The specific conditions that shaped the corresponding relationship between criminal behavior and political motivation, during that time, were fraught with racial overtones and party politics. With that foundation, the narrative of crime evolved to accommodate an increasingly exclusive distinction of individuals, less-desired by the prevailing political order. These changes were not limited to narratives alone, but application in the case of law enforcement. While the state maintains the power to enforce its laws and policies, questions regarding the constitutionality of that power in light of the development and purpose of policy

have arisen. This chapter examines the place of law enforcement in response to crime and the power of crime as an organizing political principle.

2.1 The Politicization of Crime and Federalization

The American political, social, and economic landscape was in transformation following the end of World War II and the economic boom that energized an expanding middle class. Racial and cultural tensions rose significantly, with the demographic changes brought on by black veterans returning from the war and resettling in new cities as well as a rapidly growing suburban America (Murakawa 2008). Americans were turning their attention to areas of concern within their borders; issues of social justice and political transformation. The U.S. Supreme Court, reflecting changing public sentiment, was at the forefront with a series of daring decisions that tore down the decades long precedent of separate but equal⁴, sought to end de jure segregation, and recognized due process rights for criminal suspects. As Simon (2009) indicates, it was in the beginning of the sixties, as the civil rights movement increased in strength and scope, that lawmakers and politicians sought to change the narrative of crime to take on the protest movements and civil rights advocates who had also become increasingly active, politically. For Southern lawmakers in particular, this meant generalizing crime as categorically related to particular 'deviant' groups – African Americans – rather than a consequence of individual behavior (Lynch 2008; Simon 2009). This approach took on national proportions during the Johnson administration when the anti-Vietnam War movement, which drove major political demonstrations, opened the door for crime to leap from an individual or group

⁴ See *Brown v. Board* (1958).

behavioral problem to being a matter of patriotism and national security, both highly political distinctions (Beckett and Sasson 2004). By addressing public grievances with the government through crime, political dissent could be better managed, weakening the underlying premise by dismissing dissenters as criminals, deviants, and subversives (Churchill and Wall 1990). This shift in the narrative of crime and the profile of the ‘criminal’ was instrumental in influencing how criminal behavior would henceforth be managed.

Framing crime as a national security concern was highly consequential to the type of power that could be brought to bear on the problem. Up until this point, crime remained relatively confined to the authority of state and local jurisdictions. Federal interest in manipulating the crime narrative, well framed by J. Edgar Hoover’s FBI, lacked the means or the structure to effectively implement centralized enforcement in a systemic manner (Gest 2003). That would change with the passing of the Omnibus Criminal Control and Safe Streets Act (OCCA), signed by President Johnson in 1968 (Simon 2009). The legislation, expansive as it was, included a number of civil rights oriented provisions, chief among them the creation of the first criminal justice database for law enforcement (LEAA), which collated data for criminal justice research focused on social aspects of the crime phenomenon (Bucarius and Tonry 2014). However, the OCCA’s most marked contribution was shifting aspects of crime control to the federal government, providing organization and structure that was increasingly centralized (Simon 2009). This was accomplished mainly through millions of dollars in block grants to law enforcement, giving the federal government increased influence and power within states and even local jurisdictions on law enforcement activities (Simon 2009). Thereafter, the OCCA

would continue to expand and numerous other legislation, of equal or greater consequence, followed (Beckett 1997).

When considered within the historical context of the civil rights movement and the social justice revolution of the 1960's and 1970's, the significance of centralization becomes clearer still. American society was undergoing profound changes, confronting issues of segregation, diversity, and individual rights. The public was becoming increasingly exposed to episodes of police violence and the racial dichotomy of the tensions, mainly that of white perpetrators and black victims (Surette 2006). Demands were made on the political system to address clear injustices and take a more active role in redressing the grievances of the victims (mostly African Americans). The conclusions that the public and the courts arrived at, however, were often at odds with entrenched political interests within the federal and legislative branches (Kamisar 2000).

Where the public located the problem and what individual or institution they found responsible was important to take control of. Key to explicating this framework is distinguishing public perception related to crime during this early period, and thereafter. Compiling Gallup opinion polling data from 1965 to 1980, Scheingold (1984) demonstrates that when presented with open-ended surveys about the most important issue facing the country, Americans consistently ranked other issues – not crime – as most pressing. With the exception of 1968-9, and '73, the rate of Americans ranking crime as a critical issue, was below 10 percentage points (See Table 1).

Table 1

Percentage (and rank order) of those responding “crime” of crime combined with such related matters as “lawlessness,” “law enforcement,” “juvenile delinquency,” and “immorality.”						
1968	1969	1970	1971	1972	1973	1974
29 (2)	17 (2)	5 (5)	7 (4)	10 (3)	17 (2)	4 (3)
1975	1976	1977	1978	1979	1980	
5 (5)	8 (3)	15 (4)	3 (5)	8 (2)	2 (8)	

1 Source: Scheingold (1984)

This indicates that, despite an increasing crime rate, the public was still relatively unaffected by its consequences in any significant way. However, when asked using forced-choice questions, crime consistently ranked highest for the same survey years in comparison to other topics (See Table 2). Scheingold (1984) suggests that this statistical contrast is indicative that crime in public perception is “latent rather than active,” pointing to a “powerful current of suggestibility” (43-4). These findings are consistent with Beckett and Sasson’s (2007), who demonstrate that public perception and fear of crime is “top-down” (120); initiated by political agitation and media coverage, not the inverse. By comparison, respondents to open-ended surveys for the same time period listed issues relating to civil rights, the Vietnam War, and nuclear arms, as significant (Scheingold 1984).

Table 2 **Political Salience of crime: Forced-Choice Questions**

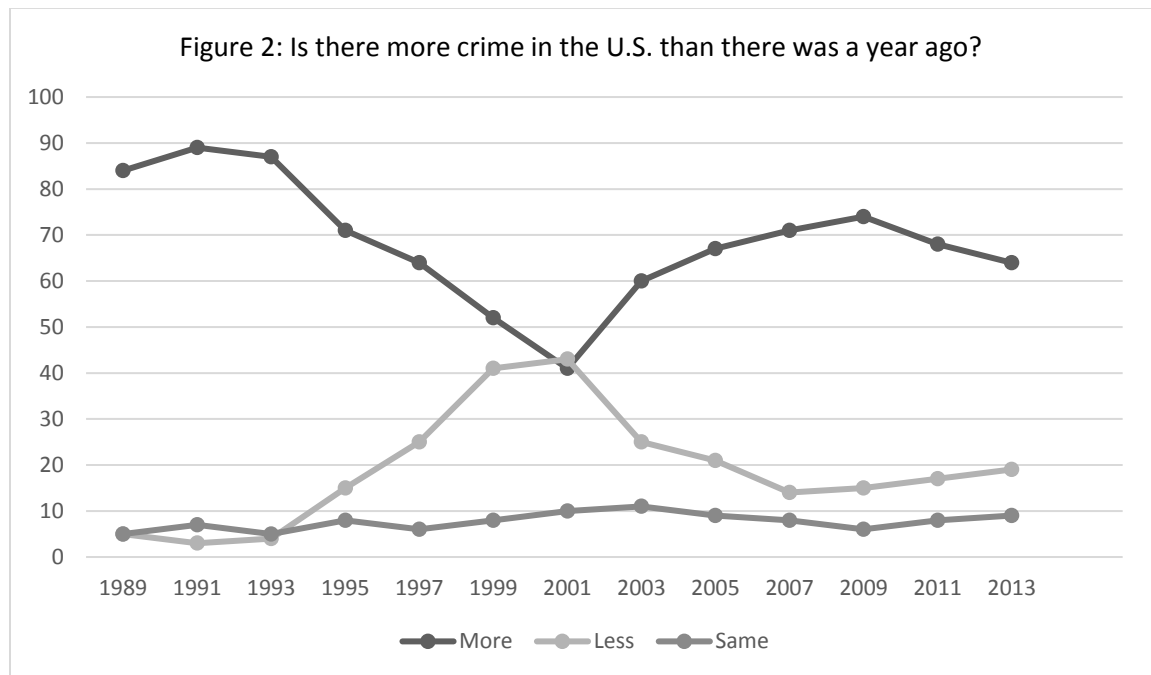
	1973	1974	1975	1976	1977	1978	1980
Halting the rising crime rate	64	67	65	65	65	64	69
Dealing with drug addiction	65	60	55	58	55	55	59
Improving / protecting nation's health	61	64	62	60	56	55	55
Improving / protecting the environment	61	62	53	55	47	52	48
Improving nation's education system	49	50	49	50	48	52	53
Solving the problems of big cities	48	50	47	42	40	39	40
Improving the conditions of blacks	32	31	27	27	25	24	24
Welfare	20	22	23	13	12	13	13
The military, armament and defense	11	17	17	24	24	27	56
Space exploration	7	8	7	9	10	8	18
Foreign aid	4	3	5	3	3	4	5

Source: *Scheingold (1984)*

Beckett and Sasson (2007) and Scheingold (1984) look more closely at another indicator of public crime perception: fear of walking alone at night. Response trends in both data analyses shows that, with the exception of a significant increase between 1972 and 1975, rates have remained notably stable over time, declining over the past decade. This trend is in sharp contrast with crime policy initiatives, which have steadily increased (Beckett and Sasson 2007).

Scheingold (1984) also shows that elevated negative responses to “fear of walking alone at night” surveys, are better understood by breaking down the data to show the categories of respondents most expressive of that sentiment, women and minorities in urban areas topping the

list. In each case, the existing “current of suggestibility” creates an opportunity to direct public opinion in defiance of actual crime numbers, a fact that remains true today. Recent polling demonstrates this divergence, where the public assumes that crime rates are rising, despite the contrary (see Figure 2). This particular data set will later prove instrumental in understanding the categories of crime that impact public perception strongest, and therefore are most effective in capturing public attention.



2Source: Gallup Crime Perception Survey (Jones and Saad 2014)

The disparities in public concern over crime and political focus on the crime issue, explicated above, were also reflected in civil rights era court decisions. The Warren Court, so named after Chief Justice Earl Warren, ushered in what is commonly referred to as the “due process revolution”, starting in 1961 with the Court’s landmark decision to disallow evidence obtained through illegal search and seizure in *Mapp v. Ohio* (Kamisar 2000). The Court’s other

landmark decisions in *Miranda v. Arizona*, *Gideon v. Wainwright*, *Terry v. Ohio*, and *Beck v. Ohio*, among others, reinforced defendants' constitutional rights and created better defined and enforced rules of criminal procedure (Pye 1968). These decisions also had the effect of limiting the near impunity law enforcement had grown accustomed to, violating defendants' rights (Pye 1968). The impact and significance of the due process decisions by the court cannot be overstated, inciting conservative condemnation on the undermining of law and justice to this day (Rising 2010). Of course, these decisions were responsive to the social and civil rights revolutions, noted above, that at once demanded and made such decisions possible. Quoting McCloskey, Pye (1968) notes, "The Warren Court's espousal of civil rights was less a matter of deliberate choice than of a predictable response to the wave of history," adding: "It may be forcefully argued that the increased concern of the Supreme Court in matters of criminal justice was almost inevitable" (256). The Warren Court's most notable decisions had not overturned precedent either, as some had suggested – many were, in fact, broader reiterations of decisions made years prior – however, they provided sharp rebukes of violations of individual rights by law enforcement within the broader context of the rights revolution (Pye 1968). To some political interests at the time, that was a particularly acrimonious confluence.

Concurrently, the national crime rate was rising significantly. Over the course of the decade, the national crime rate more than doubled, from nearly 3.4 million incidents in 1960 to 7.4 million in 1970 (Uniform Crime Reports, United States). A wealth of scholarship indicates that the incredible social, economic, and foreign policy upheaval of the time, including the Vietnam and Cold Wars, the civil unrest resulting from public dissent, and the recent assassination of a very popular President, were at the root of this surge in criminal activity (See

National Research Council 2014; Ciment 2015; Rising 2010). There is also some credence to the theory, put forth by Eterno (2007) that law enforcement lacked adequate coping strategies to efficiently implement and transfer to the new legal requirements. Those deficiencies also may have contributed to some degree of abandonment within the police force, impacting crime rate negatively. However, conservative lawmakers were quick to associate it with the “handcuffing of the police” by the liberal Warren Court, and the “coddling of criminals” (Rising 2010). Never before did the mechanisms of the justice system, or academics and public figures, be so pointedly and politically assailed and subjected to calls for reform and/or expulsion for their stances on crime (National Research Council 2014).

Conservative and white segregationist anger against the Court, stemming from its anti-segregation, anti-discrimination, and socially reformist decisions well before 1961, found a new focal point for admonition: crime and law enforcement (Rising 2010). This particular event signaled an important shift in public policy initiatives, from civil rights to criminal justice. Nowhere was the shift more evident than in the 1964 presidential election, where Republican senator Barry Goldwater challenged President Johnson’s “Great Society” initiatives with a “law and order” platform that promised to “not support or invite any American to seek redress... through lawlessness, violence, and hurt of his fellow man or damage of his property” (Beckett and Sasson 2007, 50). Goldwater, as the National Research Council report finds, used “explicit and implicit race-based denunciations of the civil rights movement” to gain white votes (2014, 108). Though crime was indeed rising at a significant rate, the statistical incongruities between the public’s concern as relates to crime, and its prompted perception, noted by Scheingold (1984), is indicative of the capacity to manipulate public response, versus natural emergence.

In a clear demonstration of the public's lack of "outrage" towards the crime issue, Goldwater lost his bid spectacularly to Johnson, but crime had now become front and center in the political arena, with conservative lawmakers eager to stoke it having lost both houses of congress (Beckett and Sasson, 2007). Ted Gest (2001), who conducted interviews with over 100 officials and congressmen for his book *Crime and Politics*, quotes then DOJ crime research chief, Gerald Caplan: "It was understood that the effect of Senator Goldwater's lopsided defeat was not to bury crime as an issue, but merely to transfer the official responsibility to the democratic administration" (6). President Johnson soon coalesced, declaring a "war on crime" less than a year later; creating the Office of Law Enforcement Assistance (OLEA), appointing a national crime commission, and pushing through Congress the Law Enforcement Assistance Act (LEAA), all of which radically federalized the administration of criminal justice and opened an ever-increasing war chest of federal funds to state and local law enforcement (Beckett and Sasson 2007; Simon 2009; Lee 2007). Despite the pressure, Johnson had attempted to take a social science and research-based approach to the examination and remediation of the crime problem, creating federal databases to track law enforcement action in addition to crime incidence, and apportioning funding to rehabilitation programs and other social development (Lee 2007).

The President's Crime Commission had conducted lengthy research, surveys, and interviews, involving thousands of participants and experts, in an attempt to produce a bipartisan and comprehensive report (Gest 2001). The commission's contribution to the development of research, professionalization, and public understanding of the criminal justice process cannot be understated; however, the incredible extent of the undertaking – over 200 recommendations in

the final report – proved too big for its own good. The commission’s work was plagued with political infighting and came into conflict with other parts of the federal system, most notably J. Edgar Hoover’s FBI (Gest 2001). As a result, the most important and contributive parts of the report, ultimately, went largely unnoticed. The migration of the crime issue across party lines would have a lasting effect on the politics of criminal justice policy across administrations, hindering or altogether muting voices that called for less emphasis on “get tough” policies (Lee 2007). The passage of the OCCA in 1968, meant to be the legislative product of the Commission report, was a radical reversal from the Great Society underpinnings of those previous crime related initiatives, directly undermining some of the Supreme Court’s most significant due process decisions (Kamisar 2000). Now, the ‘war on crime’ fronted all sorts of political finagling, from suppression of public dissent, to de jure discrimination and segregation, to score settling with the judiciary (Rising 2010).

The crime narrative’s success in redirecting the civil rights campaign and transferring greater control to the state over its subjects, in a particularly punitive sense, led to its eventual evolution (Lerman and Weaver 2010). Despite the unprecedented expansion of the federal role in law enforcement regulation, the scope of federal control was still limited, particularly as relates to street crime. The main thrust of federal control remained through funding, where the allocation of funds would be contingent on state and local cooperation and/or implementation of federally recommended or provided standards. This barrier to further federal expansion in the area of law enforcement led to the next great shift in the political construction of crime: the war on drugs. Unlike violent crimes such as murder, rape, and robbery, drug offenses fell under federal jurisdiction, providing much greater latitude to the federal government in the arena of

crime control (Simon 2009). Shortly after the election of President Richard Nixon, the shift in drug control policy as a focal point of the war on crime began to take shape.

By further increasing the political visibility of crime and linking it with drug abuse, President Nixon managed to increase the drug enforcement budget more than ten-fold, from \$65 million to \$719 million, and the LEAA budget by over 500%, from \$65 million to over \$500 million (Beckett and Sasson (2007). These staggering expansions of the government's law enforcement reach were only possible through the powerful political drive of the crime narrative, tapping into the public's underlying concern about issues of personal security (Scheingold 1984). President Nixon may have been more vocal and unabashed in brandishing crime and punishment, however, his successors would continue to use it to similar effect in the decades to follow.

2.2 The Coercive Power of the State

Laws are essentially the codified rules and norms of society which dictate the parameters of order and chaos, defining what is normal and thus what is also deviant; more broadly constituting who belongs and who is outcast. When individuals deviate from the publicly and socially accepted contention of order and normalcy they become criminals – having broken one or more of those codified rules and norms. Society's perception of rules and norms are not static and change over time and space (Richerson, Mulder, and Vila 2001). What is considered deviant at a certain point in history may change its distinction at a later time, and what may be labelled as normal in a particular region or state, may be considered deviant in another, and vice-versa. Therefore, laws also change in response because, as noted earlier, order and peace as the objectives of the state are only possible by rejecting those presumed to be deviants – whatever the current perception is. This dialectical construction of the relationship between law and

criminality is fundamental to understanding the changes that occur in societal acceptance or rejection of certain behavior and, later, the agents that promote and enforce it.

Though, in principle, the public define these differences, the instrumentality of creating deviance belongs to the state and is a powerful, exclusionary political device (Michalowski 2000). Therefore, norms do not only arise from society's construction of them, but are often times provided to society by specific interests (Reiner 2010). When it is expedient to the state to create new classifications of deviance, or even to abolish old ones, the public is enlisted to adopt such new distinctions, thereby empowering the state to codify the newly recognized norms and enforce them (Reiman 1984). Because of the enormous power contained in such a construction, the potential for abuse is equally considerable.

Couched within the above framework of law rests the police power of the state – its legitimate power to enforce the law and maintain order. It is also precisely through that language that the role of the agents, charged with the execution of this mandate, is defined. Maintaining order is primarily a peacekeeping mandate with enforcing law on the coercive end of the spectrum (Cummings 1965; Manning 1999). It is clear from our previous discussion on normalcy and deviance, as relates to the construction of crime, that deviance is the exception – the anomaly that evokes coercive power to bring it within line. The rule, being order, therefore only entails the police's peacekeeping role, arguably the central role for any domestic, law enforcement entity (Cummings 1965). Though police power extends to coercive force, such force is presumably limited to the extent that it serves a specific, restricted purpose: to protect the collective from the deviance of a few. The legitimacy of this force stops when the transgression has ceased and/or where the extent of its power to sanction has been exhausted (Simon 2009).

This is to say nothing of the *degree* of force used or, for that matter, the degree of transgression that would elicit it. This too is constructed, always dependent on the context and the individual towards which the force is directed. The specifics regarding reasonable use of force are beyond the scope of this paper; however, the narratives of crime and criminality and law enforcement's mandate and organizational identity all exert significant power over how, when, and on whom is force used and to what degree (See Beckett and Sasson 2003; Ghandnoosh 2014; Lynch 2008; Murakawa 2005)⁵.

The police in much the same way, historically, operate in a local context as crime and other issues of a social nature are contextually related to the communities within which they occur. Different environments, resources, and populations require different responses to highly individualized issues. Such dispersion of power, however, provides only limited access to the centralized federal government to direct and execute a uniform, overarching scheme of control. While changing the power position of the federal government would entail changing the entire system – an undertaking too radical and significant – there are other ways to extend centralized control over localized matters.

In 1851, Justice Lemuel Shaw of the Massachusetts State Supreme Court, writing for the majority in the landmark case *Commonwealth v. Alegro*, ushered a new term into the legal lexicon: “police power”. Defining it, Shaw writes that it is “the power vested in the legislature by the constitution, to make, ordain, and establish all manner of wholesome and reasonable laws, statutes and ordinance, either with penalties or without, not repugnant to the constitution, as they

⁵ For a more detailed breakdown of organizational identity, see Chapter 3.1 and 3.2

shall judge to be for the good and welfare of the commonwealth, and of the subjects of the same” (Horwitz 1995). Later, in *Jacobson v. Massachusetts* (1905), U.S. Supreme Court Justice John Harlan would solidify that definition, clarifying that such a power: “must always yield in case of conflict with the exercise by the General Government of any power it possesses under the Constitution, or with any right which that instrument gives or secures” (Horwitz 1995). Insofar as the objective of the state is to ensure the welfare of its citizens and expect their cooperation and contribution, law enforcement, generally, has been mandated to carry out that power (Bucerus and Tonry 2014). Thus, the police represent the coercive power of the state, and as part of the executive branch (within each level of government) are inextricably linked to the state as a political entity inasmuch as a social, geographic, and ethno-cultural one. The political will of the democratic state, in theory, serves public interest, and even when that theory is loosely adhered to, maintaining order and ensuring the welfare of the citizens are essential to the security and power of the state (Bucerus and Tonry 2014). Therefore, the state enacts laws for the aforementioned purpose, using its police power to uphold them.

Because, here too, the potential for abuse is considerable due to the potential of police power, the language extending it has at once sought to subordinate and narrowly define it. In both early definitions provided by the courts, above, police power was legitimated insofar as its use was “wholesome and reasonable” for “the good and welfare” of the public, and constrained where it contravened Constitutional principles or the legitimate interpretation of the same (Freund 1976). Ernst Freund’s seminal work “The Police Power,” maintains that it is the court’s obligation to “not accept as conclusive” the legislative perspective on the parameters of power, “but inquire in every case whether there is a legitimate exercise of police power” (p. 334). In so

stating, Freund clarifies the strong link present between the making of the law and the executing of it, suggesting that one is not to be entirely trusted to hold accountable the other. This framework holds true for all levels of policing, as the functionality of executive power is the same whether emanating from the executive branch of a municipality, a state, or the federal government itself. The United States being a federalist system grants great latitude to individual states in the governing of their own affairs, with a central government of limited powers.

It would be naïve to neglect mentioning the cronyism and local politics that characterized a lot of police agencies pre-1960 (Bayley and Nixon 2010). City and county government officials and local politicians would use police to redress political or personal grievances extrajudicially; and favoritism, corruption, and procedural negligence were often regular features of law enforcement. The abuse of police power within this context was not insignificant but contained, highlighting personal relationships, in comparison to a systematized version with publicly drawn narratives, on a national level. Independent of other motivations and consequences discussed earlier, efforts to professionalize police were responsive to this conflict of interest between serving a limited group of powerful individuals and serving public interest as exemplified by the larger society. The professionalization shift resulted in a more organized and systematic law enforcement apparatus, distanced (if only by a few degrees) from local political machinations, and characterized by greater procedural consistency (Bayley and Nixon 2010). However, the conditions, motivations, and political forces that propelled professionalization also impacted its efficacy as a means of creating an effective service organization (Gest 2001; Maguire 2003b). The federalized nature of the professional shift led to the emergence of a more efficient instrument of state power, with control and enforcement as defining factors.

Whereas professionalization should have pushed the police institution towards an increasingly integrated role with other dimensions of public service, it became further distanced from that peacekeeping nature and more entrenched as protector and advocate for state interests (Kraska and Cubellis 1997). Similar to professional accreditation bodies such as the American Medical Association (AMA) for doctors and the American Bar Association (ABA) for lawyers, centralization could have been accomplished through a professional accreditation body for law enforcement, like the International Association of Chiefs of Police (IACP), that provide disciplinary, professional oversight and standards rather than a political framework. The government would equally have systems for evaluation, control, and licensure not unlike those that exist for law and medicine; the department of Health and Human Services (HHS) and the state and federal bars. However, with the federal political system providing much of the support, funding, and strategic leadership for law enforcement at local levels, the source of authority has shifted agency away from police organizations, making them increasingly subordinate to federalized police operations: the ‘war on crime’ or the ‘war on drugs’. Chapter four engages a broader conversation on how deployments of such national initiatives in the case of law enforcement is erroneous, especially for a country as diverse and environmentally variant as the United States.

2.3 The Narrative of Crime

Eminent in the conversation on crime policy changes and implementation is the greater narrative of crime within society; its agents and actors. As with most publicly accepted narratives, the narrative of crime foregrounds all other events related to crime, shaping and influencing the way the public responds to it, the government deals with it, and society

acclimates to it. We already have discussed public receptivity and reactivity to matters that concern their personal security, emphasizing the high rate of suggestibility in such topics. Through the deployment of powerful, persuasive narratives such as patriotism, national identity, personal security, and chaos; political and media-based rhetoric succeeded to reshape the narrative of crime for political expedience. Just as the various American Presidents, in the examples above, use carefully chosen words to reinforce particular policy objectives, so do others in society, serving to construct the societal narrative surrounding crime. Lynch (2008) chronicles a fundamental shift in this narrative coinciding, naturally, with the shift in policy starting in the early 1960's and again in the 1980s, with the shift to the "war on drugs" narrative. This shift, in the definition and image of the "typical criminal," was also highly racialized, reflecting the political upheaval of the time.

Lynch (2008) describes three distinct typifications of "the typical penal subject:" an, 1) old penal subject; a 2) transitional penal subject; and, a 3) new penal subject (Lynch 2008, 90-4). Accompanying these individual characterizations is an equal characterization of the system needed to accomplish the goals of rehabilitation, containment, or eradication of the "penal subject" in question. Lynch (2008) describes the "old penal subject," pre-dating the 1960s, characterized as "a reformable being," someone "who needed to be known and understood," using Garland's term "penal-welfarism" to describe the systemic ideology approaching the criminal subject (90). These presumptions about the role of the criminal and the state served to develop the institutions of the latter not as a permanent destination where individuals are castaway, but an interventional stage that only in extremely rare cases would dispose of its subjects. Lynch (2008) describes this relationship:

Thus the criminal/penal subject merely deviated on one or more scales from an idealized norm, rather than belonging in a quantitatively different category of being. And since the penal subject's offending behavior or deviant acts fell within a continuum of human behavior, this conception of the penal subject held the potential for productive change and was generally viewed as worthy of state efforts to impel that change (90-1).

Key to this assumption, in a systemic sense, was that crime was fundamentally a treatment problem which required a level of expertise within the system, an expectation of reformation and conditional improvement, and a need to address conditions external to the "criminal" (Lynch 2008). What proceeded that understanding was a sea change in the conception and representation of the criminal, or "the penal subject". While Lynch (2008) notes the competing theories emerging regarding crime and the state's role in intervention, borne out of the rehabilitative policies and assumptions of the Johnson administration and his Crime Commission, she highlights the ultimate success of the largely political narrative that categorically distinguished the criminal from the average individual. Citing an earlier study by Beckett, Lynch (2008) references the use of the "law and order" narrative to shift the public conceptualization of crime and criminals: "This political tactic, then, helped shape a new construction of the penal subject as one who... was a much more significant threat to the nation's well-being than previously conceived" (92). Even more essential was the racial shift that occurred in the portrayal of the penal subject, which Lynch (2008) documents closely through research she conducted of correctional advertising and communication over a fifty-year period. This racial shift occurs over two phases, in the transitional period of the 1960s and 70s, first: "a more violent... more irrational, and less redeemable African American convict" that joined the former (inevitably

male) “weak but redeemable white inmate”, and later: “a wholly irredeemable ‘other,’ primarily identified as African American, who is best incarcerated to protect society” (93).

Comparatively, the first subject, the white inmate, fit the treatment model: smaller than his handlers, perhaps “sickly,” being led, and the second subject, the darker skinned inmate, fit the threat model: “a bulky, muscled figure” with a “surly or menacing facial expression,” attempting to break loose (Lynch 2008, 93). What is of particular import in this shift is that it is reflective of the emerging political narrative of crime, the one discussed previously, of an essential threat that needed to be “eradicated”, “crushed” or “suppressed” but never treated or studied. This racially framed “irredeemability” allows also for the delegitimization of the concerns and complaints of these individuals, and elevates their magnitude of threat. The transitional period did not last very long as the latter image of the criminal became standardized and shifted perhaps further, towards an even less relatable or redeemable ‘other’. Therefore, the new penal subject was an evolved version of his transitional counterpart: “The imagined prototypical offender in popular, political, and even justice policy circles tended to be the scariest (although statistically rarest) type of criminal, who need not be understood or corrected but who must at any cost be contained and disempowered” (Lynch 2008, 94).

This new conceptualization of ‘the criminal’ was thus more simplistic and less complex, placing greater (if not all) onus on the individual and therefore an inherent fallacy in their being. Though, correctional institutions still retained their distinction as being ‘correctional’ they acted more like clearing houses and containment centers than places where one might actually expect ‘corrective’ measures. Eventually, this characterization of the criminal evolved further, drifting far from its health and social beginnings to the “super predator” of the 1990s (National Research

Council 2014). In the interim, the penal system was expanding rapidly, cementing its role as a repository for “undesirables” that had no other means of redress, as the common narrative on crime allowed criminals to grow more and more distant from ‘normal’ members of society and therefore easily discounted and shunned as having “chosen” a path of self-destruction, rather than being potential victims of a system that fails to create opportunities for recovery. Other categories of individuals, who on occasion would find themselves the subject of political vilification, such as immigrants and religious or ethnic minorities, would increasingly be dealt with punitively in the same manner (Lynch 2008).

On an organizational level, the political conversation on crime that undergirded the above shift in the portrayal of the common criminal was fueled by Southern policymakers threatened by the prospect of integration, and the end of Jim Crow, during the civil rights era. Stoking White fears from integration, local governments in the South published erroneous “crime reports” and laid blame on social programs for harboring and even nurturing criminality (Lerman and Weaver 2013). The narrative of crime emerging from that political climate was one that consistently and pointedly spoke of crime and justice in racial terms. As Murakawa (2005) observes: “southern Democrats opposed civil rights legislation in criminological terms, arguing that forced race-mixing breeds crime, that civil rights legislation rewards black lawbreaking, and that blacks are responsible for street crime” (81).

Linking crime with race and shifting the conversation from social equality and development to criminal justice and ‘law and order,’ resulted in a dilution of the civil rights argument, making it possible for the criminal-as-enemy image take hold. “The language of lawbreaking relied on and promoted a social vision of individual failure rooted in moral

depravity” (Lerman and Weaver 2013, 55). This emerging narrative played on public fears over personal safety, becoming a force of its own that was politically unwise to confront. Thus, more liberal political forces who supported integration and social reforms, became subsumed by the greater criminal justice narrative. The political power of these socially constructed narratives of crime is clarified by Boushey (2016) who suggests that criminal justice policies are congruent with “target population” typification, pressuring state and local governments to “respond” to the crime issue with increasingly punitive “law and order” policies (210-12).

Another powerful piece of instrumentality in developing the common narrative of crime and shaping public consciousness on the issue, is the media. Both through journalism (such as news) and popular culture (such as film), the crime narrative has at once been created and dramatized for optimal affect. The media has helped propel forward this new image of the criminal, described above: menacing, rogue, irredeemable, and most importantly “other” – dark skinned and racially, ethnically, or religiously different. Violent crime, being the most kind to sensationalism, has firmly occupied the airwaves; the perpetrator, nearly always African-American (Beckett and Sasson 2004). In fact, in addition to getting a larger share of coverage, Beckett and Sasson (2004) found African-Americans were “depicted differently” than white defendants, often as perpetrators of violent crime, pictured “in the physical custody of police” and not named, using instead terms such as “suspect” or “perpetrator” (79). By contrast, the victims of violent crime often are represented as white and female, in direct contradiction to every statistical trend on violent crime in the United States, the overwhelming majority of who’s victims are black and male (Beckett and Sasson 2004). Since this research, the criminal

archetype may have broadened slightly to include other minorities, but has stayed true to its implication of “others.”

A more recent study conducted in 2014 for “The Sentencing Project”, indicates that this narrative persists despite increased awareness of its fallacy and consequences (Ghandnoosh 2014). The rhetorical power of these portrayals and terminology cannot, and should not be underestimated. White fear of black crime is an essential political construct, borne out of the throes of the segregationist American South and cultivated by the media. The “atypical” reporting and representation of the perpetrators and victims of crime is “not a product of how representative or novel a crime is” Ghandnoosh (2014) suggests, “but rather how well it can be ‘scripted using stereotypes grounded in White racism and White fear of Black crime’” (Lundman 2003 quoted in Ghandnoosh 2014, 23). This discursive stereotypical loop, self-substantiates by presenting and subsequently reinforcing a particular narrative of crime. Beckett and Sasson (2004) observe that the same narrative is extended into popular culture representations; in movies, TV dramas, and reality-based programming, further cementing the latter.

Similar to the statistical trends of public opinion regarding crime, Beckett and Sasson (2004) demonstrate an incongruence between coverage of crime and actual crime incidence rates. For example, over a period of five-years, starting at the beginning of 1990 when crime rates, particularly homicides and violent crime, had been falling by over ten percentage points, “television and newspaper coverage of crime increased by more than 400%... [and] network news coverage of murder... increased by 336%” (Beckett and Sasson 2004). Scholarship abound about the “manufacturing” (Surette 2007) of crime “waves” and crime “surges.” Instead of being rooted in reality, there exists a disjointing between crime incidence and reporting of it,

thereby creating the presumption of a crisis, in the absence of it (at least on the significant scale, assumed).

Beckett and Sasson (2004) go farther, beyond being a conduit for transmission of the crime narrative; “Under some circumstances, media personnel may also play a direct-role in the policy making process” (87). They cite early research by criminologist Mark Fishman who chronicled one such “crime wave” of purported violence against the elderly, even though no specific increases in crime against the elderly had actually occurred. Nevertheless, the media campaign at the time resulted in “the creation of new law enforcement squads and tactics, the reallocation of public and police resources, and the introduction of legislation aimed at protecting the elderly” (Beckett and Sasson 2004, 87). It is no surprise that the public is receptive to such sensational stories of crime – the anomalous and rare event – but it is the insidious power to impact how members of society relate to one another that is rarely addressed in this context and is deserving of attention.

Law enforcement itself is hardly immune to the popular narrative of crime. Officers and agents are, after all, members of society exposed to the same narratives and the same information as anyone else in the public. Though their specialization may afford them access to sources of information not readily (if at all) available to the public, this information is not part of the average officer’s repertoire, and even then requires analysis and interpretation to produce meaningful conclusions (Maguire and Uchida 2000). As we will observe later in the following chapter, some effort is put into re-aligning faulty assumptions in the training process – this is particularly true of larger law enforcement agencies with police academies and substantial

funding, a category to which a vast majority of law enforcement agencies do not belong – however, the fundamental assumptions about crime and criminality remain the same.

Importing this crime narrative into law enforcement has significant consequences, not simply on individual perceptions toward their communities of operation, but in making these latent assumptions reality enacted in society. Increased scrutiny by law enforcement of specific target populations, inevitably leads to reduced scrutiny of other areas and populations (Michalowski 2000). In those areas of high scrutiny and contact with law enforcement, there is a much higher likelihood of uncovering incidence, and the converse is true. Those who experience low contact with law enforcement, are not represented in criminal populations by virtue of that decreased scrutiny, therefore perpetuating the common narrative of certain populations being more readily disposed to violence than others (Reiman 1984). In essence, the crime narrative has become a self-fulfilling prophecy of national proportions.

CHAPTER 3: THE LAW ENFORCEMENT IDENTITY

The shooting of Michael Brown in Ferguson, MO touched off the national conversation on police misconduct that this research is partially responsive to. While the issue has moved well beyond that, the story of Michael Brown's death itself has gotten more ambiguous. The account of the officer who shot Brown has gained some credence, suggesting that Brown may have fought Wilson for his weapon (Cassel 2014). When Wilson shot Brown and whether Wilson pursued Brown, gunning him down, or Brown charged Wilson may never be known. What is undisputable is two people encountered one another, one armed and one not, and only one person emerged from that encounter: the armed one. While not every story (thankfully) ends in the tragedy that Michael Brown's story ends with, for police it is a story that often begins this way. The popular image of police paints them into a black and white dichotomy, where the police officer straddles a fine line between hero and villain. Officers often find themselves in unsavory predicaments, facing desperate individuals, called upon to stride forward when most others would scurry away.

Unlike the quick and simple dichotomies, often created by the media, these confrontations are rarely devoid of gray areas where the distinctions of good and bad are blurred; to some a vaunted hero, to others a depraved villain. Police work, of course, is much more complex and complicated than such a definition suggests, where officers carry a much more complex set of responsibilities that go beyond the most basic interpretations of "enforcing" the law. While highly polarizing dangerous situations are a central part of the law enforcement

profession, they hardly make up the majority of officers' work. John Eterno (2007), a 21-year veteran of the New York Police Department, notes the disparities between perceptions and reality in police work, detailing the time he must spend with new recruits helping them unlearn what they have learned about what a police officer does: mundane traffic citations, patient surveillance, and health and traffic emergencies, rather than chasing criminals, breaking down doors, and capturing suspects (2-3).

Beckett and Sasson (2004) extract the public's notion of the police officer in the roles of "crime fighter" with emphasis on "fight", and "hunter" where the police officer's routine is a consistent barrage of adrenaline-pumping, crime-crushing fury. These notions are only reinforced by popular culture that stylize the narratives of police work into cartoonish characters of the most extreme ends of the spectrum - the work of fighting crime is not as glamorous or high-octane. While each encounter undoubtedly brings the possibility of danger, most do not end up that way. As Hoffman (1971) notes "police non-criminally related public services... [comprise] seventy-percent of recorded police activities" (171). Since that study, a greater range of indexing has been developed to categorize police work more optimally, still showing similar numbers (Maguire 2003a). Through the 1990's and 2000's, popular culture has embraced more complex characters for law enforcement; however, the underlying theme of a punitive crime-fighter remains pervasive. Coincidental to the three eras of crime policy, three distinct eras are most notable in the evolution of the law enforcement persona.

Though changes in the organization of law enforcement began happening much earlier (Manning 2003a) the civil rights movement era of the early 1960s and 1970s was a particularly formative time for the law enforcement apparatus, as the country experienced a reckoning about

citizens/society and the relationship between government and the public (Murakawa 2008). The second critical period was the drug war that reached a level of organizational maturity in the mid to late 1980s, peaking in the 1990s (Simon 2009). That evolution very pointedly shaped the law enforcement organization into a more “combat” oriented apparatus, with an increasingly martial persona (Kraska 2007). The third and final era is the post September 11th, 2001 law enforcement organization; an increasingly integrated, federalized entity with embellishments on the existing martial identity and its tenuous relationship with the public (Waxman 2009).

Just as the persona of the ‘typical’ criminal is developed through the stereotypical typification of a repetitive, familiar character; law enforcement equally develops their own persona through similar stereotypical framings. Building on the previous chapter’s discussion of the evolution of the crime narrative and the political underpinnings of crime control, in this chapter we will explore the narrative of police work, its characterization and the evolution of the profession’s organizational identity and public mandate. Using that framework, we will explore the tactical evolution of how changes in law enforcement’s identity have reflected on their mandate and the applied portions of training and tactics. As was discussed earlier, I am using the evaluative framework of a three-pronged categorical inventory of police responsibilities, loosely based on Manning (1999): maintaining order, enforcing the law, and peacekeeping (See Appendix A). As Kelling (1992) and Maguire (2003a; 2003b) observe, significant differences in quantifying performance exist across agencies and locales, making tracking similarities difficult; however, in this research, a broader inventory of actions, consistent across difference in performance interpretation, were coded to evaluate shifts in performance using a consistent measure.

3.1 Developing Individual and Organizational persona

Efforts to “professionalize” the police have been ongoing for decades, starting long before the civil rights movement of the early 1960s and President Lyndon Johnson’s Crime Commission. Early efforts to catalog police responsibilities and create a system of measurement, resulted in a precursor to the FBI’s Uniform Crime Reporting (UCR) database of today, in the 1930s (Maguire and Uchida 2000). The impact of greater statistical attention in police work resulted in police agencies that put greater emphasis on crime control activities, as those were the easiest to categorize and provided the most potential for organizational identity (Maguire and Uchida 2000; Paoline 2001). In contrast to the federalization shift of the late 1950s and early 1960s, these early organizational and professionalization efforts were orchestrated by semi-autonomous police organizations, such as the newly formed International Association of Chiefs of Police (IACP), who maintained the integrity of individual agency identity even as they developed a framework for centralized standards (Maguire and Uchida 2000; Maguire and Archbold 2001).

While the notion of professionalization has been advanced by most scholarly research into policing and law enforcement application (Bayley and Nixon 2010), defining what it looks like and how it applies to individual agencies has been less congruous. As Maguire (2003b) observes, professionalization became synonymous with crime control and crime fighting, emphasizing the law enforcement dimension of police work above others. Absent more comprehensive research, crime control inventory items became the performance bar for most police agencies (See Figure 3). This was an important step in defining police culture moving forward and they remain the most salient performance markers for police activity, to this day. As

the performance metrics focused agencies on the law enforcement aspect, naturally attention shifted away from maintaining order (as a relational metric) and peacekeeping, neglecting the adaptation and evolution of those aspects.

Figure 3

<i>Organizational Performance Measures</i>	Crime Rates	Arrests	Citations	Clearances	Response Times
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³ Source: Adapted from Maguire (2003b)

Just as the law enforcement apparatus was maturing into this definitional space as autonomous agencies, the nation was undergoing a reorganization of the political order. The civil rights movement had begun to mature and take shape more publicly, and along with it the official narrative of crime control, animated by the sociopolitical upheaval that marked the 1960s and 1970s. Law enforcement were front and center in the race riots that erupted across the United States, and in deep South states in particular, like Alabama, Mississippi, Tennessee, and Arkansas (Murakawa 2005). These rapid changes highlighted law enforcement's role and placed them in an unsavory position as enforcers of a racist, corrupt, and sometimes violent political order. In many of the ugliest scenarios that played out, police were, in fact, executing their duty to enforce the law; applying the prevailing rhetoric of the political order – laws that the nation had begun to shed in earnest. During this period, law enforcement was more closely affiliated with the local political organization and, with limited to no oversight and a lack of structural integrity, was highly vulnerable to corruption and cronyism (Scheingold 1984).

Law enforcement were put in a highly adversarial role against the public, regularly quashing protests, sit-ins and other peaceful manifestations of the constitutional rights to

freedom of assembly and speech, and at times aiding and abetting the commission of crimes by one group against the other (Bucerius and Tonry 2014; Rising 2010). This particular characterization is critical, as the police mandate became confused with the seemingly conflicting interests of an aspect of the State and the constitution which undergirds all law. Not all law enforcement, of course, can be framed by the brutal police responses to protesters in Birmingham, Alabama⁶ or Jackson, Mississippi⁷ for example; however, those highly visible incidents were powerful in characterizing “the police” as a monolith, consequently subsuming the institution; a fact that centralization would later exacerbate (Maguire 2003; Moore 2002). Two other elements served to make this era a definitional one for police as an agency and as individual agents: The President’s Crime Commission findings, and the so-called due process revolution set in motion by the Supreme Court.

President Johnson’s Crime Commission, with the backdrop of the Great Society initiatives, approached their work with a social sciences perspective, distributing crime control responsibility across a number of social junctions, law enforcement being merely one of them (Lee 2007). The commission recommended “sweeping” reforms to the performance indices of police (Maguire 2003), recognizing the absence of the relationship-building and community-based dimensions of maintaining order and peacekeeping. Those aspects were highlighted in the Commission’s report as foundational to police work and necessary to the success of law enforcement, even as a punitive tool, in the long run (“President’s Commission” 1967). Ironically, the Commission itself, and its accompanying policy directives, were instrumental in

⁶ For more in-depth detail about the race riots in Birmingham, Alabama and the Freedom Riders, See Wilson (2015) *Freedom Riders*.

⁷ Supra, note 6.

empowering the exact opposite of a holistic assessment metric, birthing a highly standardized, centralized data collection and performance-based apparatus (Beckett and Sasson 2004; Gest 2001). While that was critical to creating professional standards, it also skewed community-policing towards an inventory of penal assessment measures rather than an ongoing relational dynamic.

The second key point, the due process revolution, impacted the institutional autonomy of police even further. In landmark decision after landmark decision, the Supreme Court repudiated harsh, strong-arm interrogation tactics and violent citizen confrontations by the police, defining a right for the accused within the law (Kamisar 2000; Pye 1968). The law enforcement community met these decisions with loathing and resentment, seen as infringements upon the police and their powers (Lee 2007; Paoline 2001). As Maguire (2003) indicates “All of these factors combined to produce an epidemic crisis of legitimacy for the American police” (5).

How these last two factors impacted the identity of the police manifested more clearly in the individual than the organization. Scheingold (1984) reviews ethnographic research conducted by Manning, Kirkham, and Kroes of officer attitudes and values, illuminating a police force that recognizes itself as very much distant from the public. The shared assumptions Manning reveals about police indicate a deep cynicism about the public; distrust in the legal system and rule-making mechanisms; and self-reliance (100-3). Manning’s study finds that police believe the public is ignorant of the challenges they face and cannot fathom the contexts within which police operate, therefore making them unqualified critics (Scheingold 1984). These assumptions make it easier for police to ignore critical voices and dismiss legitimate public complaints. Kroes (1976) and Scheingold (1984) attribute these sentiments, in part, to the closed professional

culture of law enforcement with its unique set of shared experiences; a fact that is true of most specialized, professional organizations. In the case of law enforcement, the deliberation on performance and reform occurring externally, such as in the case of the Supreme Court mandates or Commission recommendations, has bolstered this culture in the organization, and helped engrain the “us vs. them” doctrine in the individual. As was noted earlier, a lack of nurture for the relational and communicational dimensions of policing, adapted the persona of the individual officer in the adversarial role in an overarching sense.

Officers may be aware of the complexities of their occupation, but the adversarial role becomes a fallback professional disposition. These early influences and definitions of law enforcement have had a lasting impact on the police organization and contributed to developing the popular image of police that persists, in some form, to this day. Across a number of foundational aspects, such as measurement indices and law enforcement’s societal role / prestige, these notions have been resistant to evolving interpretations of law enforcement work. This fact is made clearer when considering evaluations of police performance from the early 1960s to today, which have overwhelmingly concluded that the police is a more professional and community-oriented organization (Bayley and Nixon 2010); yet, many of the conflicts, concerns and motivations of the past, persist. Different interpretations of what professionalism and community-based approaches look like in the real world, created a parallel growth of relationally oriented and punitive policing. Innovations, such as community-oriented policing which focused on police as a service provider, may have gained the most attention in the 1990s, when President Bill Clinton instituted the Community Oriented Policing services (COPS) office, but it had its origins in the Crime Commission’s findings (DeMichele and Kraska 2007; Maguire 2003a).

Before leading to the constructivist approach of relationship building; the Commission's focus on broader societal and policy underpinnings to crime control led right into tough, zero-tolerance policies.

The zero-tolerance narrative dictated that crime can be reduced through aggressive, “proactive” policing (Lyons and Scheingold 2000). The body of research that emerged from the early 1980s to early 1990s, articulated and even preached zero-tolerance as a preventative measure. The seminal research of the zero-tolerance “era” is Wilson and Kelling's (1982) “broken windows” theory, which purports that crime can be reduced by cracking down on minor offenses, thereby signaling that crime is not tolerated and creating safe, welcoming community spaces. While some aspects of the theory have survived scrutiny, it has largely been discredited by broader and more significant research to follow (See Lyons and Schiengold 2000; Meares 2015; Murakawa 2005). This theory became manifest in the midst of the “drug war”, and particularly through its direct application in New York City in 1994 with significantly positive results (Howell 2016)⁸. Of course, in many cities, New York perhaps the most conspicuous, the zero-tolerance “era” is very much active today.

The impact of these policies on the police's persona as both an organization and individual officers, has again been punitive and confrontational, reinforcing an adversarial relationship with the community. Instead of the service-oriented approach, especially towards vulnerable demographics⁹, the broken windows policy made everyone a potential target for

⁸ See Chapter 4 for a more comprehensive breakdown of the effect of the “broken windows” theory and the success of crime control strategies in New York City.

⁹ Vulnerable demographics refers to low-income and medically vulnerable community members, particularly minorities, who have historically been a target of police misconduct and do not have access to the resources necessary to redress their grievances.

police as they practiced preventative and “predictive” policing (Howell 2016). This policy was particularly toxic to the order maintenance and peacekeeping aspects of police work, which rely on communication and partnerships within the community to succeed in enforcing the law. It invariably affected those vulnerable demographics the most, leading to a circular pattern of police attention, crack-downs, and community mistrust, leading to more police attention, crack-downs, and more public mistrust.

On the individual officer level, more robust research has emerged examining that aspect closely. Undoubtedly, the organization exerts a great deal of power in shaping officers and instituting practice and habits of mind within its structure; however, organizations are surrounded by their own, unique, gravitational space that attracts specific interests to it. Early attitudinal surveys of police recruits, such as those mentioned above, discuss attitudes of officers *after* entering the force. In contrast, Sanders (2003), Courtright and Mackey (2006), Gray (2011), and Harris (2016), investigate what attracts certain individuals to law enforcement careers (police specifically), in the first place. Many of these studies focus on students pursuing criminal justice careers, a route neither always necessary nor necessarily typical of police recruits as post-secondary education is only required in a limited percentage of police agencies (Bureau of Justice Statistics – LEMAS 2013). Most police agencies who require post-secondary education of at least two-years for their recruits are larger, urban police departments who, despite their sizable forces, only makeup 2.6% of departments in the United States, with medium to small departments and sheriff’s offices comprising the vast majority (Bureau of Justice Statistics – LEMAS 2013). Nonetheless, these surveys provide some insight on the profiles of individuals who choose to join the force. Courtright and Mackey (2006) and Gray (2011) both identify a

higher propensity for punitiveness, lower levels of empathy, and greater rates of problematic behaviors such as alcoholism and/or drug use, among students interested in policing careers. Further to those findings, Courtright and Mackey (2006) indicate that criminal justice majors were more ideologically conservative than those in other fields, and identified less with rehabilitative responses to problem behaviors. This is consistent with the punitive, crime-fighter image of the organization.

The impact of post-secondary education was found to be significant across these studies, as research by Telep (2010) and Paoline et al. (2014) demonstrates statistically significant attitudinal differences between policing career students at earlier and later stages in their academic experience. Those at later stages present decreasing levels of punitiveness and increasing levels of empathy, comparatively. Paoline et al. (2014) further differentiates between academic experience through college education, and technical training through police academies, with no such attitudinal changes being tracked in the latter. These last findings elucidate the differences between common organizational perceptions of police work and actual occupational and process knowledge. The implication here is that the law enforcement organization radiates a culture that identifies less as a service organization and more as a crime-fighting force, with all the implications of that distinction, previously defined. These findings are also significant as they indicate the impact of education and academic development on officer behavior, a developmental opportunity missed by fully 85%¹⁰ of formal police organizations across the United States (Bureau of Justice Statistics – LEMAS 2013). It also buttresses this paper's argument, furthered

¹⁰ Refers to academic training beyond high school, including non-degree and vocational training.

by Harris (2016), that “problem officer” behaviors are not static, irreversible, or necessarily inherent, but are “episodic” responses to perception bias generated by common narratives and organizational culture, both inside and outside the police organization.

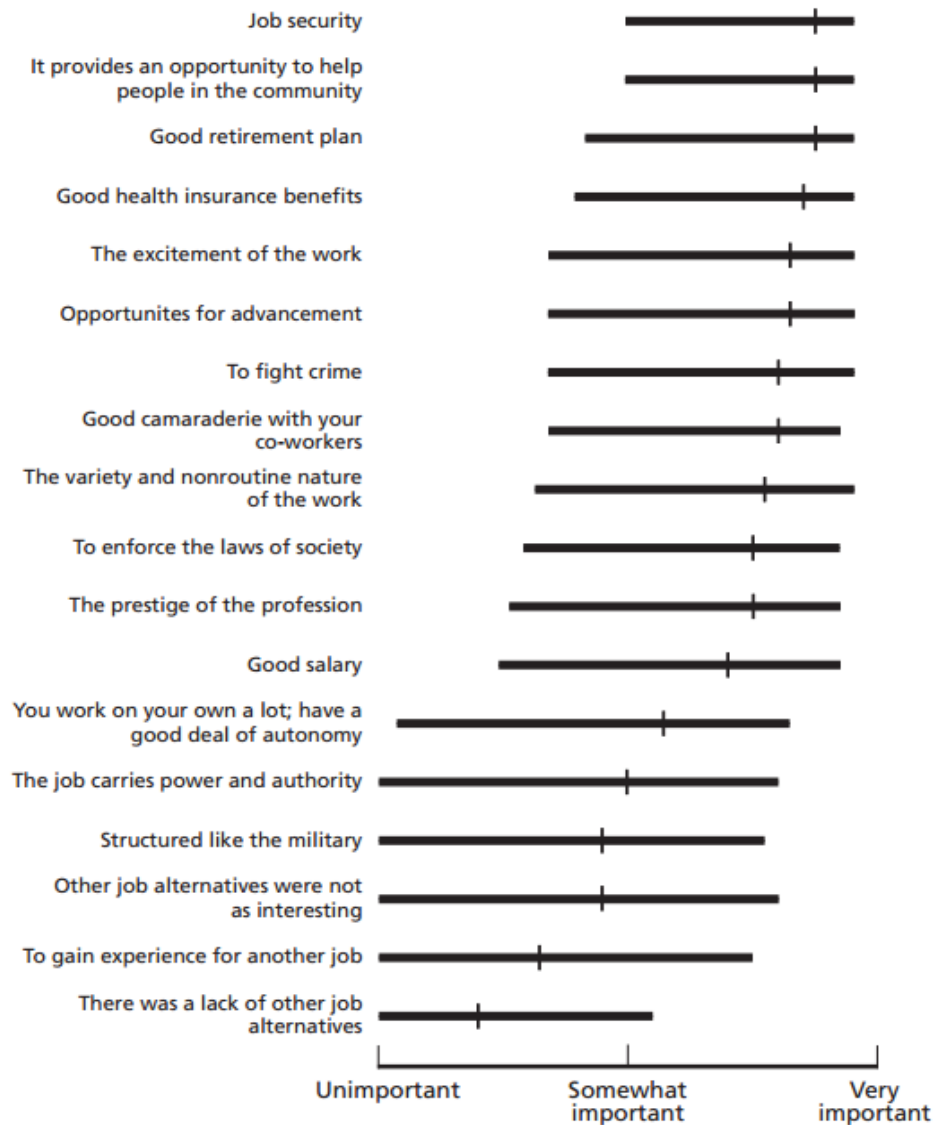
Though law enforcement work is undoubtedly defined by deeper notions of helping others, fighting crime, and heroism, police list a range of reasons to join the force, including job security and excitement. The RAND Corporation, commissioned by the Department of Justice (DOJ), conducted a first of its kind survey in 2009 of new law enforcement recruits in 44 of the largest¹¹ police and sheriff’s agencies across the United States, representing all geographical regions. The highest ranked motive was job security, with over 80% of respondents listing it as a primary reason they applied to the academy; followed closely by helping others and employment benefits such as retirement and health insurance (Figure 4) (Castaneda and Ridgeway 2010)¹². Fully 87% of respondents indicated salary as being a major factor in their selection of a policing career. These statistics may come as no surprise; however, it is important to highlight the fact that finding a stable, good-salaried job is a central motivation for many police recruits, just as it is with other, more conventional occupations. Though targeting slightly different police populations, earlier police surveys conducted briefly after the start of their careers show similar interest trajectories for respondents, indicating that these markers have not differed significantly over time.

¹¹ RAND defines “largest” as having more than 800 staff. Of the more than 15,000 formal police organizations in the United States, only 108 agencies fall under that category, or barely 1%.

¹² It should be noted that respondents were provided an inventory list with a least-to-most rating scale. As discussed in Chapter 2, inventory response surveys in such settings are bias-prone as they channel responses into pre-selected categories. It is reasonable to assume, however, that the distribution of interest is reflective of genuine perceptions.

Figure 4

Reasons That Recruits Gave for Pursuing a Career in Law Enforcement



⁴ Source: *RAND Law Enforcement Recruit Survey* (Castaneda and Ridgeway 2010)

As police organizations moved out of the tumult of the 1960s and 1970s to a more stabilized, theory-based punitive approach in the 1980s and 1990s, the persona of the officer and organization began drifting towards militarization. This shift was due largely to the “war” narrative permeating through the police organization, as the generalized “war on crime” of the

1960s, became the more specific and specialized “war on drugs” in the 1980s and 90s. The war narrative and use of militaristic rhetoric in reference to police operations, guided the organizational and strategic culture of law enforcement even further away from a service-oriented organization, operating in conjunction with the community. The police’s “job” – the product of the centralized, professional evolution of police, carrying out a narrow punitive mandate – allowed community-policing efforts to lead to, ironically, militarization as well (DeMichele and Kraska 2007). Community policing, with its many definitional appearances, did not necessarily denounce the “broken-windows” style of policing, but purported to work responsively to those proactive enforcement efforts, ostensibly easing now “clean” communities back into the fold of society (DeMichele and Kraska 2007). The militarization of law enforcement culture made it easier for these seemingly contradictory ideologies to take hold, as the fundamental differences between military and police mandates were blurred by the escalatory nature of criminal justice policy and rhetoric.

3.2 Tactical Evolution and Militarization

As demonstrated above, the militarization of law enforcement has been ongoing for a number of decades, with the rhetoric of war and battle starting from the 1960’s and consistently becoming an applied reality in the early 1990’s. Despite the drop in the crime rate from an all-time high in the 1990’s, militarization has continued relatively unabated, increasing even. As Kraska (2007) crucially points out, law enforcement essentially contains a military identity, both being armed enforcement entities of the state¹³, and they cannot be entirely separated. Kraska

¹³ In the case of the United States. Not all police entities around the world are armed. In the UK, for example, only tactical units are armed whereas street patrol officers do not carry weapons (Kelly 2012).

(2007) therefore, clarifies that one must think of the police and military as being on a “continuum,” each at opposite ends of the scale (37). There are, however, fundamental differences in their respective ideologies; one being concerned with offensive engagement – violent conflict and enemy deterrence through combat – and the other being concerned with defensive engagement – order maintenance, peacekeeping and public service. The theatre of military operations is a theatre of war, where peace is the anomaly; whereas the theatre of police operations is a theatre of peace, where conflict is the anomaly. While order maintenance may overlap with deterrence, it is the operative word “enemy” that makes the difference between both mandates, and where the line of domestic crime control has blurred (Kraska 2001). There are several junctures where police have shifted to and increased militarization, two in particular have had the most significant impact on practical law enforcement militarization: the authorization of the 1208 and 1033 programs in 1990 and 1997, respectively, and the terrorist attacks of September 11th, 2001 and the resulting counterterrorism structure. Those two areas are what this section will focus on.

The 1208 and 1033 programs are parts of the National Defense Authorization Act (NDAA), an annual appropriations bill that authorizes a broad array of budgetary and operational defense requests. The NDAA of 1990, signed by President George H.W. Bush, instituted the 1208 program which authorized the transfer of surplus military equipment to state law enforcement agencies, specifically for “counter-drug activities” (Grasso 2014). Although the authorization was temporary, requiring annual renewal, and limited to counter-drug activities, its impact was significant. Under the 1208 program, law enforcement agencies nationwide began developing and expanding what Kraska and Cubellis (1997) describes as “police paramilitary

units” or PPU. PPU include what are commonly referred to as SWAT (specialized weapons and tactics) teams, but also go beyond that, as smaller “tactical” units and even more heavily geared “specialized” units (Kraska and Cubellis 1997). SWAT teams existed, of course, prior to 1990 and the authorization of the 1208 program; however, they did not have access to military equipment and especially not with such ease and cost-efficiency. The 1033 program, similarly authorized under the NDAA of 1997, and signed by President Bill Clinton, took the 1208 program significantly further, allowing transfer of military surplus equipment to local law enforcement agencies more broadly, without any requirement of purpose except a “preference” for counter-drug and counter-terrorism activities (Grasso 2014; NDAA 1997). The 1033 program also was made permanent, no longer requiring annual renewal and, by extension, review.

If the 1208 program significantly impacted the development and existence of PPUs, the 1033 program transformed it, with a broad range of law enforcement agencies coming online and obtaining combat gear and battlefield equipment for their small, large, urban, and non-urban, domestic police agencies. Across the effective life of these two programs, Kraska (2007) records a “1400% increase in the total number of police paramilitary deployments” (6). Kraska (2007) notes the significant rise in number of such PPUs, with “89% of police departments... serving 50,000 people or more [having] a PPU, almost double of what existed in the mid-1980s” (6), with an even more significant increase in smaller locales, from 20% in the same time period, to 80% by the late 1990s. Participation in the 1033 program *mandates* use of the equipment within one year of obtaining it, requiring the deployment of such equipment regardless of its necessity (NDAA 104th Congress).

The negative impact of the 1033 program multiplied after the events of September 11th 2001 as the provision metastasized into other grant programs, gained new leadership and grew along with anti-terrorism units that emphasized tactical supremacy (Lutterbeck 2004). In a little over 10 years, the amount of tactical gear transferred to local law enforcement from the federal government increased 450 times, from \$1 million of property in 1990 to \$450 million in 2013 (“The War Comes Home” 2014, 24). Though the 1208 and 1033 programs existed in relative obscurity as far as the public is concerned, the latter became more acknowledged as the equipment equally became ever-more ubiquitous and powerful for domestic policing activities: attack helicopters, armored personnel carriers (APCs) and mine-sweepers. This tactical shift was, perhaps, most visible in the aftermath of the August 2014 shooting death of Michael Brown, by a police officer in Ferguson, Missouri. The ensuing riots and demonstrations were responded to by local police, donning battle gear and riding on the backs of armored military vehicles, a development that had existed for some time, but rarely garnering such visibility.

Despite the steady progression towards militarization through these particular policies, no single event has had as much impact as the terrorist attacks of September 11th, 2001 (9/11), which holds the distinction of creating one of the most integrated police/paramilitary law enforcement structures in recent history (Waxman 2009). The significance of 9/11 to the change in police identity is rooted in, what is by now, a recurring theme: centralization and federalization. After the events of 9/11 a new umbrella agency was created: The Department of Homeland Security (DHS). The establishment of this new department was peculiar in that its operations were not constrained to particular fields of operation such as drugs, or even to the less developed, but nonetheless particular, area of terrorism. The DHS therefore was a clearing house

of law enforcement operations, whose purpose was to facilitate better information exchange, gathering, and sharing between agencies across local, state, and federal jurisdiction lines.

The distinctive line between the service-oriented activities of a local police agency and the enforcement focused role of a federal agency further blurred, making local police engage in non-traditional federal roles such as “national security”, and creating a shared space for training and tactical evolution towards a highly structured, central-authority based military model (Waxman 2009). Kraska (2007) asserts that the shift in tactics and mandate between police and the military occurs across the continuum, where the military has experienced a shift to more police oriented activities, as well. This seepage of police activities into military operations, and vice-versa, that Kraska (2007) notes is important as it captures the emerging identity of domestic law enforcement as a paramilitary force, distancing it yet further from its peacekeeping and service roles.

Following 9/11, another war was added to the lexicon of domestic policing: the war on terror. Originally appearing as more international than domestic and more an issue for large ports of entry such as New York City, the war on terror transformed into a domestic policing issue with the DHS coordinating with local authorities and acting as a conduit for federal funding (Waxman 2009). These developments only further increased the federal role in domestic policing activities and encouraged small and medium sized departments to build specialized units, expand existing PPU's, and seek further specialized training in counterterrorism and related programs. Even if political focus shifted away from domestic criminality, law enforcement's firm grounding in the confrontational “war” mentality never wavered, gaining, in fact, further credence with the prospect of an “international” threat. Once again, waging the war on terrorism,

just as it has been with the war on crime and drugs before it, meant swift tactical transformation for the police without the appropriate structural development necessary for rational implementation. In addition to the strategic crisis of such a rapid shift, it creates an opportunity for the federal government to step in more forcefully (Lutterbeck 2004).

The structural challenges and institutional tensions faced by law enforcement in trying to reconcile a militaristic identity with a domestic policing agenda, are numerous and significant. A comprehensive report, conducted by the American Civil Liberties Union (ACLU) and released in 2014, revealed just how extensive the chasm is between agency materiel and structural protocols. The report found no real parameters for the deployment of SWAT teams, stating that the threshold “depends largely on the subjective beliefs of the officers involved” rather than a well-defined matrix (“The War Comes Home” 32). The report further revealed that the vast majority of SWAT raids, 79% of them, were deployed to execute *search warrants* and mostly for drug related offenses with no clear justification given for why the search warrant was executed using a tactical team as opposed to standard police units (“The War Comes Home” 2014). Of the over 800 SWAT deployments analyzed, a weapon was located on premise in just a third of the incidents, and the amount of drugs netted through such violent raids was negligible – mostly not exceeding quantities that qualify in the law as “personal use” (“The War Comes Home” 2014, 14;34). Adding to the argument of structural deficiency for such a role, the ACLU report found “almost no oversight of SWAT at the state or local level,” hence the lack of guidelines for deployment, and “no federal agency mandated to collect information related to... use of SWAT” (28). While the ACLU report looked at 20 agencies across 11 states, the lack of data collection or accumulation on SWAT deployments makes it difficult to fully capture the extent of its impact.

The toll on the relationship between law enforcement and the communities in which they operate, however, is undoubtedly significant.

3.3 Law Enforcement in Context

In the previous section we discussed aspects of professionalism; police growth towards becoming professional, where police might fall short of professionalism, and how professionalization has impacted policing in one way or another. With all this discussion of the organizational distinctions that constitute a profession for police, it is worthy to pause and consider *what exactly* constitutes a profession? In what ways can police be defined as such, or not? How does policing measure up in context with other established professions? This section seeks to identify the very basics of professionalism and the role of police within that definition, in order to provide some solutions to problematic behaviors within the organization, later on. In reviewing what constitutes a profession, I bring J.A. Jackson (1972) and Burke Christensen (1994) to bear on the question. From the sociological perspective, Jackson provides a social constructivist view of the construction and “attributes” of a profession. In contrast, Christensen, a law and finance professor, approaches the topic more briskly, through an economic model. Both, however, agree on the basic tenants of what constitutes a profession, which Christensen arranges in five definitional criteria.

Before listing the “barriers to entry,” it is imperative to clarify the fundamental differences between an occupation and a profession: unlike an occupation where the organization and the individual act in their own self-interest, a profession and professionals “have a duty to act in the interests of those they serve” (Christensen 1994, 28). Furthermore, a profession requires a degree of specialized competence and expertise, which cannot be readily obtained in

the normal course of occupational training, i.e. an individual may walk into a store and become a sales clerk, but one does not simply walk into a classroom and become a teacher. Christensen (1994) describes this specialized knowledge as a complexity “that the common person does not generally understand... and must rely on the expertise of another for proper completion of the task” (28). Broadly, a profession can be described as: a) requiring academic study and certification; b) specialized disciplinary training; c) a code of ethical conduct “which exceeds the mere requirements of the law;” and, d) having a broader “association” of oversight and organizational development (Christensen 1994, 28).

The police, by the above criteria, do meet the requirements of a profession, but are muddled on some areas. Fundamentally, the police is a service organization, where agencies and their agents (officers) serve the public interest, not their own. They are also an organization of sufficient complexity as to require specialization and training, both academic and disciplinary, as well as certification. Police also have a code of ethics and conduct; however, not a single governing body that can provide oversight on adherence to that code. The code of ethics and conduct developed and adopted by The International Association of Chiefs of Police (IACP) has more or less been the standard since its writing and revision in 1957 and 1991, respectively (Grant 2002). Though the IACP has limited membership of United States law enforcement agencies, it nevertheless has been an important organization in the structure of law enforcement, due to its qualities of being a professional association (Grant 2002). This is also where the nature of police as a profession has some ambiguities, due to the fact that its professional associations either have low/incomplete membership, or are hard-pressed to identify as professional associations, with the accompanying academic depth and related certification/accreditation

processes (Grant 2002). Of course, unlike other professions, the police are a part of the state – the political order. They are government employees and, as such, are perceived (if not actually) to follow the general direction of the broader umbrella of government: legislative guidance, executive accountability, and political oversight.

Though they serve the public, police are not accountable directly to the public; serving the public interest is synonymous with serving the government's interest which, in theory, exists to serve the public. Legislation by public representatives (Congress) create law which police, in turn, enforce. The executive power to enforce the law is that which is vested in it by the Constitution and carried out by law enforcement, an entity whose power is limited by its definitional extent, and the proscribed rules and procedures, legally drawn. That definitional extent, as defined by Justice Lemuel Shaw, is: "the power vested in the legislature by the constitution, to make, ordain, and establish all manner of wholesome and reasonable laws, statutes and ordinance, either with penalties or without, not repugnant to the constitution, as they shall judge to be for the good and welfare of the commonwealth, and of the subjects of the same" (Horwitz 1995). It could be concluded from the above, that law enforcement may bear less of the burden of public service than in other professions, since they may view themselves as enacting agreed upon rules, set forth by others, hence the axiom that police don't make the law, they only enforce it. This one-dimensional approach, however, overlooks the fact that *law enforcement* is not the police's *only* task, but a part of the complex of work that encompasses public safety (Moore 2002). The subjectivity that is undeniably a part of police decision-making makes such 'impartial' application of the law wishful thinking, at best.

Because police, the state, and the public interest, are so interdependent as subjects, it can be difficult to follow a conversation with such abstraction. A good example of such a construction is the system of public advocacy – lawyers. Lawyers do not work for the government exclusively, yet prosecutors do; they are lawyers serving the government and are thereby advocates on behalf of the public interest; hence the statement: “The People vs. John Doe.” Lawyers have a centralized system of organization with various levels of professional recognition. No one can enter law school to earn the degree that would allow him/her to practice law without first obtaining an undergraduate degree in some discipline and achieving a sufficient score on the Law School Admission Test (LSAT). And no lawyer, even after graduating from law school, can practice law without passing the relevant bar exam. The American Bar Association (ABA), who administers the bar exam, is essentially an accreditation body and is responsible for oversight of the community of lawyers and holds them to accepted ethical standards. These ethical obligations imposed by the ABA on licensees go beyond the requirements of the law. Lawyers can be disciplined within the organization, even if their conduct has not risen to the level of illegality, and the discipline can be suspension from the practice of law (American Bar Association, Rule 18).

The ABA as a body is informed by academic research and supplemented by the contributions from various professionals within the legal community, enriching and evolving the field. These levels of and opportunities for oversight, accreditation, research, and professional development, *from within the field*, help advance the profession of law on a broad spectrum. The operative word ‘within’ is important, as law enforcement has often been informed by specialists

outside of the direct specialty of police work, causing some organizational tension (See 3.1, above).

Other professions also have a similar structural schema, regardless of their level of governmental involvement. Medicine has a number of bodies of accreditation for generalists and specialists, with a robust research community, opportunities for oversight, and portals for professional development throughout one's career. Law enforcement, however, lacks such a robust structure, relies on internal mechanisms for oversight that lack uniformity, are not beholden to a universal standard of ethics enforceable from within the field, and do not have a single threshold for entry. Training and education varies widely from one agency to another, dictated by the size of the agency, the budget, and the locale. Sheriff's offices have, in general, lower thresholds of admittance and do not require any secondary education, in many cases, even though they make up a sizable portion of law enforcement agencies in the United States (Bureau of Justice Statistics 2008). This despite the fact that the work of law enforcement – public safety – is the same regardless of locale, agency size, budget, or demographics and the consequences are just as significant – the power to take life and/or liberty.

Of course, this is not to presume that every law enforcement agency faces the same challenges – it is an essential part of the argument of this paper that they do not – but that the underlying mandate of the profession is similar enough as to require a standardized *minimum* for the field. Centralization in law enforcement, I argue, is therefore beneficial only when it emanates from within, and when it serves to elevate the prestige of the organization's members to where they contribute to the development of their profession and not simply partake in its activities. In context, law enforcement, while meeting the minimum standards of a profession,

fall short where that distinction of professionalization can move its bearer from the toil of labor to the pride of service.

CHAPTER 4: A CASE APPROACH

Throughout the contemporary history of American law enforcement, no single case has had greater influence on policing nor has been as oft analyzed or cited than the storied transformation of New York City through the mid-1990s. There is good reason for the attention. In a period of five years, New York City, which had hit a peak of 2,245 murders in 1990, brought the murder rate down by 52 percent (Greene 1999). The rates of other crimes were down too; felony complaints had gone down 44.3 percent and the reduction in robberies and burglaries was close to 50 percent (Greene 1999). New York City's secret weapon was purportedly its zero-tolerance crime control and policing strategy, which applied the "broken windows" theory discussed earlier, cracking down on petty crime and delinquency that otherwise could presumably "lead... to more serious crime problems." (Greene 1999, 172). In 1990 New York City elected a new mayor, David Dinkins, who took swift action to expand what was at the time, a shrinking police force. The closing years of the 1980s were unkind to New York City economically, mirroring the national economic recession, just as the crime rate remained unusually high, nationwide (Ehrenhalt 1993).

Dinkins started the shift in the City's rapidly rising crime numbers, working with an architect of community policing policies, Lee Brown, to institute a broad range of social programs aimed at crime reduction for at-risk youth, and adding thousands of patrol officers (Greene 1999). But it was a new mayor, Rudolph Giuliani, elected in 1993, who would be credited with the biggest changes. Giuliani appointed William Bratton as commissioner of the

New York Police Department (NYPD) and it was he who implemented the strict, zero-tolerance, broken windows policing along with COMPSTAT – a software program that helps compile crime data and track enforcement benchmarks. The rapid decrease of New York City’s crime rate in the period from 1993 to 1997 was remarkable. In fact, New York City has taken credit for the reduction in crime on the national level, with Giuliani pointing out that the City’s crime numbers accounted for nearly a third of national figures¹⁴ (Greene 1999). Fagan, Zimring, and Kim (1998) posit “If this drop can be plausibly tied to enforcement activities, it would be the most conspicuous success of city police deployment policies in the twentieth century” (1278).

While Bratton’s zero-tolerance crackdown has been credited almost entirely for the dramatic turnaround, broken windows policing was not the only transformation Bratton brought onto the department. In addition to the COMPSTAT program, Bratton transformed the organization of the NYPD; decentralizing authority to precinct level away from headquarters, redistributing and integrating specialized units across the department, and integrating benchmarks and data supplementation to patrol units (Greene 1999). While Bratton championed the “tough-on-crime” approach as *the* answer to the City’s problems, and indeed those of any other similarly situated city, an entire organizational shift, including community-level actions enacted by his predecessor, had also been instrumental in bringing about the change (Eterno and Silverman 2012). Judith Greene’s insightful evaluation of the effectiveness of zero-tolerance policies versus more community-based approaches echoes other scholarly analyses of this question. The case comparison Greene makes in her analysis is between New York City and San

¹⁴ See *Questions on statistical integrity* below for an explication of how crime numbers are evaluated and reported.

Diego; two, large, metropolitan, American cities, with large multiethnic, urban populations.

Using Greene's comprehensive analysis of the case, I will summarize the findings, taking note of specific actions and outcomes. It is not my intention, however, to use this as a case study in effective policing strategies, but instead as a means to understand the law enforcement role and its organizational and political dimensions. Later in the chapter, I will explore a case study within New York City itself.

Plenty of scholarship has looked at these two cases as the rise and fall of crime in both cities for the same period, has been relatively parallel, hence its comparative robustness, with one major difference: San Diego's approach was the diametrical opposite of New York City's. Just as Giuliani and Bratton were instituting their zero-tolerance policies, San Diego took the initiative to apply "neighborhood policing" strategies – a service oriented policing model that focused on community partnerships and cooperative enforcement (Greene 1999). Greene (1999) notes that many of the outcomes set by the San Diego Police Department (SDPD) paralleled those set by the NYPD: eliminating "safe havens" for crimes and criminals; decreasing visibility of neglect within the city; reorganizing patrol sectors; and bringing technology to automate data collection and utilization (178). The SDPD, however, undertook these actions and achieved these goals by partnering with the community, using citizen information to reorganize the patrol sectors, enlisting civilian volunteers to identify areas of concern and vulnerability within the community and report criminal activity, using new data collection tools for field reporting, and focusing on providing "victims assistance services" (Greene 1999, 183).

In the five-year period from 1990 to 1995, the SDPD achieved nearly the same reduction in crime levels: 36.8 percent to New York City's 37.4 percent, using almost *seven times* less

patrol officers (Greene 1999). Using the effective dates when both programs were fully instated in New York City and San Diego, respectively, starting in 1993, as crime numbers continued their significant decline across both locales, gaping disparities in the community impact began emerging. Greene (1999) shows that, while the NYPD recorded record increases in arrests, “23 percent across the board,” including a 40 percent increase in misdemeanor arrests, the SDPD was recording reductions in arrest rates, “15 percent across the board” (183-4). Even more significant was the vast difference in number of citizen complaints. With the instituting of zero-tolerance policies, citizen complaints of police misconduct in New York City skyrocketed, increasing 58 percent under Mayor Giuliani (Greene 1999). In addition, “legal filings of new civil rights claims against the police for abusive conduct have increased 75 percent” in the same time period (Greene 1999, 176). By contrast, in San Diego, citizen complaints had actually begun *decreasing* following the implementation of the neighborhood policing strategy (Greene 1999). The meteoric rise of citizen complaints in New York City and apparent police abuse has been one of the cornerstone complaints against ‘broken-windows’ policing (*See* Collins 1998; Howell 2017; Meares 2015).

Researchers have made the point that “aggressive” policing did not necessarily equate to successful policing if the police themselves become a source of fear rather than sanctuary, for the public. Given the relative similarity in crime reduction rates, it is impossible to point to aggressive policing strategies, such as those implemented in New York City, and posit that they are the *only* means to achieving community control. While New York City has undergone a number of changes in its City leadership, including police commissioners, precipitous reductions in citizen complaints, and reform in policing conduct, the mean number of citizen complaints in

the City remains high, as well as the legacy of aggressive policing tactics that have been integrated – to an extent – into the NYPD’s organizational identity (Eterno 2007; Howell 2017). In San Diego, citizen complaints have decreased overall, while the police force has not grown very substantially in the subsequent ten years, despite population growth. The indication here being that a service-oriented policing strategy may have, as Greene (1999) notes, a positive effect over the long term, through community integration rather than alienation.

4.1 New York City, circa 1990s

New York City is comprised of five major boroughs (similar to the organization of a county or parish) spread over an area of only 305 square miles (U.S. Census 2010). With a population hovering at around 7.4 million throughout the 1990s, more than the populations of Los Angeles and Chicago combined, New York City was, and still is, the largest city in the United States (U.S. Census 1994; 2010). The NYPD is an equally large organization, one of the largest police agencies in the United States. According to their website, the NYPD employs more than 34,000 uniformed personnel, across eight regional commands and 39 police precincts (NYPD “About”). The national index crime rate, which takes into account *all* categories of crime, had been climbing steadily for a decade, throughout the 1980s, reaching its peak in 1992, and falling steadily thereafter (Uniform Crime Reports, United States). The story is only slightly different for New York City, where the trend line has not been as smooth; the index crime rate rose sharply at the beginning of the decade before dropping, marginally, from 1983 to 1987, then rising again until 1992 when it began steadily declining (Uniform Crime Reports, New York).

The index crime rate, however, measures all categories of crime and because property crime comprises the vast majority of all crime committed it also weighs heavier in a total index

crime measure. Looking at violent crime (which includes rape, armed robbery and assault) and homicide measures gives a different impression of the problem. In New York City, the homicide rate reached a historic peak of 14.5 murders per 100,000 people in 1990¹⁵, higher than the previous peak of 12.7 in 1980 (Uniform Crime Reports, New York). Nationally, the homicide rate was at 9.4 for the same year, still an elevated number but below the peak of 10.2, also in 1980. Violent crime had reached a peak in New York City in 1990 and '91 as well, however, violent crime had fallen nationally from its highest level in 1981 (Bureau of Justice Statistics 1994). Large cities, especially ports of entry, with large urban areas, transient populations and inevitably significant financial disparities across the population, pose unique and significant challenges to law enforcement. New York City, the financial capital of one of the largest economies in the world, perhaps more so. So, as crime levels rose and sustained at high levels, it seemed a daunting task to bring it into check.

It is important to foreground the “revolution” of policing, in police commissioner William Bratton’s words (Bratton 1998, 31), with some historical context. Across the 1980’s violent crime levels in New York City were fluctuating, but comparably high, nearly reaching the peak level of 1990 in 1985 (Fagan, Zimring and Kim 1998). Crime had reached its statistical “crisis” level in the early 1980s nationally, and though it had not dropped with any consistency it had begun to fluctuate to lower levels going into the 1990s (Uniform Crime Reports, United States). The same is true for violent crime and especially homicides. When Mayor David Dinkins took office in 1990, New York City’s first and only African American mayor, he had a

¹⁵ A single arson incident, the Happy Land Social Club fire in 1990, where 87 people were killed, impacted the homicide rate which skewed the total. If the crime was counted as a single incident, the homicide rate would not be historically high, though, it would be comparable to the peak of 1980 (Joanes 2000).

significant responsibility before him. Dinkins appointed former Houston mayor and criminal justice professor Dr. Lee Brown as commissioner, where the latter immediately instituted a study and review of the department's structure and requirements (McElroy, Cosgrove and Sadd 1993).

Brown brought his own community policing legacy, serving at the helm of three other large police departments in major cities, where he instituted "Neighborhood-Oriented Policing" in Houston and Atlanta, transforming the structure of those departments, increasing the diversity of the police force, and creating strong connections between police and the neighborhoods they worked in (Brown 1989). Brown brought that same outlook to New York City, instituting community policing policies across the City, and reshuffling the existing force to create more patrol units. The new decentralized structure that Brown instituted created the foundation for what Bratton would later expand on, shifting control to area chiefs and away from headquarters (McElroy, Cosgrove and Sadd 1993). The result of Brown's study and recommendations led to Dinkins' Safe Streets Program which put an additional 6,000 police officers on the street and created funding for crime prevention programs, including inner-city school and youth diversion programs (Greene 1999). Though Brown was strongly against it, Dinkins also appointed a civilian review board and an external panel to address issues of police misconduct and to review citizen complaints, expanding oversight of the NYPD. In addition, Brown, with support and funding from the Bureau of Alcohol, Tobacco, and Firearms (ATF), began "an ambitious gun interdiction program" that led to the capture of large weapons caches (Greene 1999, 174).

These significant foundational changes in the operative culture of the NYPD began to impact crime numbers, rapidly. By the end of 1992, the crime rate had already begun to drop, and both homicide and violent crime levels had decreased by eight and nine percent, respectively

(Uniform Crime Reports, New York). Mayor Dinkins lost his re-election bid to Rudy Giuliani and Giuliani took over as Mayor of New York City in 1993, appointing William Bratton as police commissioner. A former police chief in Boston, Massachusetts, Bratton headed New York's Transit Police for 2-years under Dinkins, where he operated within the organizational structure of the former mayor; there, he pursued similar zero-tolerance strategies, arresting large numbers of people on subways for fare evasion (Greene 1999). Now at the helm of the NYPD itself, Bratton expanded his zero-tolerance policies across the City, redirecting police to focus on low-level crime in an effort to stem greater types of violence (Bratton 1998). He instituted an aggressive truancy program that saw police get more and more involved in youth delinquency from schools and punished consistently trespassing, loitering, and panhandling, among other petty offenses (Bratton 1998). Alongside Mayor Giuliani, Bratton added thousands more officers to the police force and setup the COMPSTAT program, a computer program that provides data compilation and tracking in real-time to patrol units and precincts in order to buttress enforcement efforts and keep track of crime hotspots (Bratton 1998).

In addition to COMPSTAT, Bratton continued the organizational shift of his predecessor by re-organizing the police hierarchy so as to give area chiefs more control and freedom of movement. The crime rate continued to drop. Violent crime and homicides were starting to see record reductions as time accumulated. By 1995, crime numbers had dropped significantly and homicide rates were nearly cut in half (Greene 1999). But, another trend was taking place parallel to the dropping crime numbers: skyrocketing public complaints and civil suits against the police. The aggressive policing tactics, large-scale arrests, and zero-tolerance policies, were causing communities to shudder from the police; many complained that their rights had been

violated. As Collins (1998) indicates, the public was “victimized” by police “in the name of [law] enforcement” (13). The oversight and review boards put in place by Dinkins his last year in office was in response to growing concern that the internal affairs division of the NYPD was ineffectual in dealing with internal corruption; now, these boards were receiving hundreds of misconduct complaints from the public.

The inverse relationship between citizen complaints and zero-tolerance policing strategies in New York City, has led observers and researchers to conclude that public rights and civil liberties could not be protected fully while police also carried out a robust enforcement program (Collins 1998). An academic conversation began to develop around the true impact of effective policing strategies in high-crime areas, and whether one must compromise on individual rights in the name of public safety (Skolnick and Fyfe 1993). This argument has not entirely abated, as the Giuliani-Bratton era of policing has been held up as one of the greatest achievements in contemporary law enforcement. For many in the law enforcement community, the New York City example is a testament to the success of zero-tolerance and broken-windows, and how policing “ought” to be (Joanes 2000). Though scholarship has since developed that demonstrates that New York City’s “transformation” was not as statistically anomalous, significant, or singular as first assumed (Fagan, Zimring and Kim 1998); and that distributes the credit for the significant drop in crime numbers across a number of factors and individuals (Joanes 2000), Bratton’s portrayal in his book “Turnaround” (1998) has endured. Adding to the argument of the clash between civil liberties and effective enforcement was the incongruity in the pattern of complaints.

A precinct-by-precinct breakdown of the complaint patterns conducted by the New York City Public Advocate, cited by Greene (1999), shows precincts with the highest minority populations accounting for the largest increases in complaints, with “Nine out of 76 precincts account[ing] for more than 50 percent of the excess in complaint incident rates” (176). Such increased confrontation, coupled with police reticence towards the institution of a robust oversight and review process, especially one that is independent and civilian led, has sparked concern about the motivations and outcomes of how police engage with their communities. Minorities, especially African-Americans, are overwhelmingly the victims of crime in these areas, as well as the perpetrators, and the patterns of abuse arising from these complaints indicate that they are also, overwhelmingly, the victims of police misconduct; cementing a sense of mistrust and discrimination from the police despite crime affecting all.

4.2 A Tale of Two Precincts

As before, drawing out the organizational structure and behavior allows the recording of differences that shed light on possible causes. Davis, Mateu-Gelabert and Miller (2005) address the question of coexistence between public rights and robust enforcement in their groundbreaking statistical analysis of complaints across precincts, with specific attention to two of them. As mentioned above, the new policies took effect across the City and citizen complaints also rose across the City, though complaints in certain areas were much higher than in others. In particular, Davis, Mateu-Gelabert, and Miller (2005) examine the practices of the 42nd and 44th precincts who, in the midst of the crackdown, managed to keep their complaint numbers in check, even reducing them. The 42nd and 44th precincts are in one of the most populous and criminally affected of the boroughs: The Bronx. As we noted earlier, the highest citizen

complaint rates were out of the Bronx as well. So, what are these two precincts doing differently in order to seemingly illicit such a different response? This was the same question that Davis, Mateu-Gelabert, and Miller (2005) posed and what they found out was, on an administrative level, officer interactions with the public were more highly scrutinized; citizen complaints were given much more import and would be directly dealt with at a high level; there was considerably more oversight on officer's actions as related to the public than in other precincts (227-230). They point out that no "special programs" were instituted to affect this change, instead it was directly due to "COs [commanding officers] who held the officers in their command to high standards and who had a commitment to reducing civilian complaints" (Davis, Mateu-Gelabert, and Miller 2005, 239).

In 1997, the NYPD did institute a special program, the "courtesy, professionalism, and respect policy" which aimed to develop better relations with the community as a reaction to the surge in public complaints (Davis, Mateu-Gelabert, and Miller 2005). The new program enjoyed tepid success elsewhere in New York City, however, in the 42nd and 44th precincts, it appeared dramatically effective. Compared to civilian complaint levels in 1993, both precincts saw reductions of "54% and 64%, respectively" in complaints; in contrast to a "citywide" *increase* of 39% (Davis, Mateu-Gelabert, and Miller 2005, 233). What is important to note is that when interviewed about the reduced number of complaints, officers themselves had little awareness of the reason why, attributing it to a reduction in enforcement activities and a reduction in crime within the precinct, both conclusions discredited by the data (Davis, Mateu-Gelabert, and Miller 2005, 239). However, these particular findings are critical to highlight. The officers' responses indicate that the closer scrutiny of their behavior; higher professional standards; increased

attention to their conduct in contact with the public; and, direct disciplinary measures did not reduce their perceived effectiveness nor did it conflict with their role. To the contrary, they appeared to reflect a more favorable view of the community, including the assumption that there was less crime. Davis, Mateu-Gelabert, and Miller (2005) cite the precincts' commanding officers' "particularly strong commitment to respectful policing," as the source of the change, highlighting their "empha[sis] that police officers and supervisors were now held accountable for citizen complaints and instilling pride when civilian complaints were down in their precincts" (239). Special attention was given to repeat offenders, including being taken off their duties and transferred elsewhere – real consequences that challenged the law enforcement culture that lacks serious oversight of officer behavior and does not extend much import or consequence to civilian complaints.

What is demonstrated through the case study of New York City's 42nd and 44th precincts, is that the organizational culture within law enforcement – as is the case with other professional associations – and the governing policy of the institution, exerts incredible power over behavior, role perception, and ultimately the real outcomes on the ground. How the relationship between the police officer and the public was illuminated –in this case, one of mutual respect where the civilian's opinion was given import – impacted the outcome of the interaction and therefore the material consequences of the enforcement activity. Even with such a robust enforcement program as that instated in New York City, a relatively minor recalibration in the contextual space between officer and civilian, yielded far-reaching results demonstrated in the reactions of both the officers and the public. Often, shifts towards a more community/service-oriented policing structure is accompanied with internal grumbles from officers who complain of

becoming “social workers” or worse, being “emasculated” (Gould 2000, 25-6). However, in this case, the officer’s responses reflected no such demoralization. What it did reflect was a need for true professionalization – standards of practice that were expressive of law enforcement’s role as a service organization.

Citing Walker, Davis, Mateu-Gelabert, and Miller (2005) posit that “police misconduct is best understood not as a few bad apples but as the product of failed organizations. Attempts to reduce misconduct must focus on how to change the organizational culture of police departments” (244-5). I would take that a step further and suggest that to change misconduct at the scale it has reached, is to change the organizational culture of law enforcement as a whole. The politics of the institution that has shaped the public into an enemy and made oversight an annoyance rather than an integral part of a working system, are the politics that disadvantage police and prevent a cooperative partnership between the public and law enforcement.

4.3 Questions on statistical integrity

Statistical analysis is often an integral part of crime measurement and therefore deserves further attention. After the development of the index crime system and the FBI’s Uniform Crime Reporting (UCR) database in the wake of President Johnson’s Crime Commission, crime statistics became critical to quantifying crime as well as policy and organizational effectiveness. As described in Chapter 3, this had a serious impact on law enforcement’s persona and its organizing principles. Because abstract notions of public service and community policing are harder to quantify, organizational development and policy shifted ever more towards an enforcement-centered strategy instead based on crime indices, instead of a comprehensive one that took into account other aspects of police activity (Fielding and Innes 2006). The tools and

means of measurement, however, are not a perfect science. In addition to the UCR system being opt-in for law enforcement, meaning agencies voluntarily provide information and are not required to participate, it is very much governed by the varying interpretations and categorizations of crime in different locales. For example, sexual assault is defined differently in Texas (which has a narrow interpretation of assault) than in Washington state (which has a broader interpretation). Therefore, as they both report crime incidence to the UCR, the number of assaults reported in Washington may appear greater than those reported in Texas, not because of objective differences in assault rates, but because of definitional inconsistency between the two locales (Johnson 2015; Savage 2012).

Definitional inconsistencies also go beyond legislative interpretations of a certain type of crime, such as in the above comparison between Texas and Washington, but pertain to agency definitions of crime, particularly those perpetrated by officers (Gruber and Schmidt 2015). Because the UCR only collects data on “justifiable” homicides perpetrated by police, no true dataset exists to quantify the number of deaths at the hands of officers that occur annually. And even justifiable homicide data is miniscule, with 4.4% of agencies reporting officer-involved shootings. This problem was highlighted by FBI director James Comey, who commented on the incomplete data in the aftermath of the shooting death of Michael Brown in Ferguson, Missouri (Comey 2015).

Beyond that, the integrity of the statistics reported to the UCR themselves have come under scrutiny. Veteran New York Police Department (NYPD) officer and criminologist, John Eterno, along with criminal justice professor Eli Silverman track the problem of statistical integrity in New York City with extensive detail in their book “The Crime Numbers Game.”

Eterno and Silverman (2012) submit that significant pressures are exerted internally, within the police agency, to demonstrate reduced crime numbers in certain areas or times, and that such practice has led to “unethical conduct” in pursuing, recording, and submitting data on crime incidence (53). Though Eterno and Silverman’s study is limited to the NYPD, and particularly during the Bratton era (as police commissioner), it signifies a concern that undoubtedly exists across the country in any number of police agencies.

If statistics can and *are* being manipulated to produce a desired result, inconsistent with crime incidence, then this creates fundamental concerns about the integrity of the data as a whole. Such a problem is not entirely surprising given the significant pressure upon law enforcement agencies to respond directly to index crime rates, irrespective of the conditions that give rise to such statistical fluctuations. This adds additional credence to this research’s argument for a comprehensive view of police work that takes into account *all dimensions*, not merely that of enforcement. Eterno and Silverman (2012) touch on the organizational aspect as well, positing that a blind focus on statistics results in “diminished quality and distorted delivery” of police services (including enforcement), adding that “distorted police activity” has long term consequences on the communities which are impacted by such erratic policing behavior (64-68). These and other, similar, concerns draw attention to the reliability of the standards used by a variety of sources to quantify crime and develop policy. The greater concern, however, remains the levels of variance in crime incidence within the United States from one locale to the other, and the fallacy of generalization based on such numbers.

In the previous section we looked at New York City’s crime rate transformation, referencing a comment by then Mayor Rudy Giuliani’s office regarding the impact of New York

City on national crime numbers, which he stated accounted for nearly a third of that rate. Mayor Giuliani was not wrong, in fact, if anything, he had underestimated the City's impact on national crime figures. According to Silverman (1997), the reductions in New York City's crime rate for a two-year period from 1995 "accounted for *over 60% of the national decline in crime*" (3, emphasis added). While a remarkable change on its face, the fact that a single city could impact the national crime rate so profoundly is a very worrisome finding – one that belies a deeper flaw in the way crime is quantified altogether. It can only be inferred that a spike or drop in the crime rates of a number of individual large cities, put together, can distort the aggregate national crime rate significantly. This is especially true for homicide, which amounts to an exceptionally small number of total crime committed (Surette 2007) and therefore is much more responsive to miniscule changes.

According to Fagan, Zimring and Kim (1997), New York City's meteoric decline, particularly in homicides, was not *that* unprecedented after all, when compared to an aggregate of 14 other major U.S. cities and their respective five-year decline rates, ranking third after Pittsburgh and Houston, respectively. Houston, whose five-year period mimics that of New York City (1991-1996), experienced a 59% decline in homicide rates compared to New York City's 51% (Fagan, Zimring and Kim 1997, 1280-3). These numbers are significant to the metrics of crime rates because they demonstrate the small number of cities needed to impact the national rate by a large margin. Fagan, Zimring and Kim (1997) note that, across the time period they surveyed from 1950-1996, the fourteen major U.S. cities compared had a mean reduction in

homicide rates of 40%, further supporting the assumption that, put together, these cities may account for more than two-thirds of the national crime rate¹⁶

For statistical purposes, the fallacy of applying aggregate level statistics to individual level anomalies needs no qualification. In the case of crime rates, the national crime rate values are generally considered an overall statistic, as DOJ commissioned, National Institute of Justice reports regularly reinforce the axiom that “all crime is local” (Lattimore et al., 1997, 3).

Numerous studies have also reinforced the fact that crime is a contextual phenomenon that can be impacted by any number of environmental factors, including; economic, social and political issues (e.g. Blumstein and Rosenfeld 1998; Richerson, Mulder and Vila 2001). Such factors might lead one to presume that centralized, aggregate national-level data would not be a critical resource to define policy for a highly *decentralized* problem, such as crime. However, it is. Descriptive, social statistics are mitigated and mediated by many variables that affect their accuracy and create causation and correlation problems. The data sets’ availability and accuracy says nothing about its interpretation and comparative muster as Mosher, Methe and Hart (2011) write in “The Mismeasure of Crime:”

Before taking corrective action based on such statistical information, however, it is important to consider several questions about its accuracy and how the data are collected... Unfortunately, however, many people who use these statistics are grossly uninformed about how they are collected, what they mean, and their strengths and limitations (5-6).

¹⁶ Rate when comparing cities in the same time period, e.g. New York City and Houston. Because elevation and decline trends over five-year periods, as surveyed in Fagan, Zimring and Kim, do not directly overlap, these rates are only indicated as a demonstration of the cyclical nature of sharp rises and declines in homicide rates over a number of large U.S. cities, with populations of 250,000 or more.

Despite that, Mosher, Methe and Hart (2011) submit “It is...not uncommon for this type of numerical data to form the basis of public policy. In fact, public health programs, law enforcement, and other agencies rely on such descriptive statistics to implement various types of reform” (6). The data sets themselves may be accurately measured and/or collected; how they are deployed and exactly to what and where they are applied can make a tremendous difference in the integrity of the statistical results.

Not all research has rejected the national crime trend hypothesis. McDowell and Loftin (2009) do a commendable job of trying to identify and define such a national trend, while acknowledging the local nature of criminality and crime control. Their results indicate, if only preliminarily, the emergence of a “national pattern” of crime, and “strong, nationwide trends,” (319). McDowell and Loftin argue that a nationwide trend underlies local conditions, rather than being secondary to them, however, their research results show the local and national trends are most strongly correlated for the largest cities, with populations of over 500,000. Rather than demonstrating a national trend per se, these results seem to indicate that large urban centers have a skewing effect on aggregate crime rates creating a “false positive” for the existence of an independent national trend. Additionally, other factors presented in McDowell and Loftin’s research seem to substantiate the impact of national policy on crime trends on the city-level, where “The results nevertheless continue to credit national-level *factors* with a major role in producing local rate changes” (2009, 317 emphasis added). Though McDowell and Loftin make no attempt to define those factors, other research has illuminated national public policy as a source for the centralization of criminality and its response (Beckett and Sasson 2004; Simon 2009; Murakawa 2005), which may provide some explanation for the trend.

What is of particular interest is the circular relationship between the misuse and/or misrepresentation of crime statistics (Mosher, Methe and Hart 2011) and a number of responsive measures, such as public interest and concern (Boushey 2015), media portrayals (Surette 2007) and, by extension, public policy (Boushey 2015). Far from arguing motivation for a central response to crime, what McDowell and Loftin may have uncovered is the influence of the political narrative and centralized policy on the mapping of deviance (both problem and response) through the mechanisms of crime control, chiefly law enforcement. It should be clearly stated that this discussion is in no way a rebuke of social statistics with regards to crime; quantitative analysis is an incredibly critical component to the evaluation of all types of activity, crime undoubtedly being one. Instead, it is the way such statistics are deployed, how informed the users of that information are, and how complete or applicable the data is, that warrants pause. With the significance that much of crime statistics carry in terms of state power and policy, the integrity of the data is subject to compromise through manipulation and misrepresentation when convenient.

CHAPTER 5: CONCLUSION

Law enforcement has long been the subject of research, debate, and criticism as one of the fundamental apparatuses of a functioning society. Its unique position as the armed enforcement mechanism of the state has earned it much scrutiny from observers of diverse interest and affiliation. Less scrutiny, however, has been placed on crime itself and its emergence in the 21st century as an organizing, political principle. Independently, extensive scholarship documents manipulation of the crime narrative to achieve policy objectives; the relationship between crime as policy and the direction of changes in the law enforcement organization, however, has largely been overlooked. This research suggests a link between the two, where policy has negatively impacted the evolution of law enforcement, and it further presents misconduct as an organizational level problem.

In contemporary history, occasional flashpoint events such as the attacks on civil rights protestors in Selma, Alabama in 1965, the Rodney King beating in 1991, or the killing of Michael Brown in 2014, temporarily raised the profile of police misconduct and drew attention to specific incidents, departments, and agents. Changes in access to communication means, tools, and online platforms more recently, however, have allowed documentation and recognition of existing police misconduct on a much wider scale. Far from being anomalous, the frequency and dispersion of misconduct indicates that a greater, organizational force is responsible. This problem seemed perplexing as law enforcement has undergone numerous evolutions, professionalizing the force and moving towards a community-oriented approach. To answer the

question of how the law enforcement organization has come into the 21st century plagued by very similar problems as those it faced nearly half a century prior, the research had to look away from the law enforcement apparatus itself and more closely at the policies and politics that had the greatest influence on it.

The research identified three distinct periods of profound change in the policy and politics of crime that directly impacted law enforcement: the “war on crime” initiated at the height of the civil rights era in the early 1960s; the “war on drugs” of the late 1980s and early 1990s, initiated by President Nixon and codified with lasting effect by President Clinton; and, the “war on terror” resulting from the September 11th, 2001 terrorist attacks. Each of these eras have been marked by the implementation and/or expansion of a centralized, federal role in crime control, including street crime and provocative rhetoric indicating an adversarial encounter between opposing forces of good and evil. Lynch (2008), also identifies three distinct portrayals of the criminal (or “penal”) subject on a comparable timeline, starting from prior to the “war on crime” through the “war on drugs” era.

Researched findings by Boushey (2015), Surette (2007), and Scheingold (1984), all support, to various degrees, the hypothesis that the political nature of the crime narrative has led to disjunction between crime incidence and policy, motivating spurious policies and unfounded public outcry while moving away from potential solutions and actual areas of concern. In the initial, “war on crime” period, the civil rights riots had taken the public by storm, and the Supreme Court handed down a series of rulings that found segregation unconstitutional, enshrined due process rights for criminal defendants, and increased scrutiny of police conduct. Resistance to these changes in the political arena, most notably in the segregationist South, was

significant. Coupled with resistance to President Johnson's Great Society initiatives, politicians rebranded segregationist policies in the form of "crime control" and referred to marchers and protestors as a threat to public safety, public property, and peace. By shifting the narrative away from inflammatory or unpopular positions and tapping into a source of constant public concern – crime and personal safety – lawmakers were able to extend the life (and effective range) of discriminatory policy. This period also marked the shift of the penal subject (Lynch 2008) from a treatment subject in need of rehabilitation, usually white and weak in stature, to a more menacing "violent," dark-skinned, non-white counterpart, in need of containment.

Meanwhile, the law enforcement organization was also undergoing major change, in response to the due process revolution and findings by President Johnson's Crime Commission report, among other things. As the political narrative of crime was being reinvented, so did the law enforcement organization, with an adversarial and discriminatory undertone. The new, containment model of violent penal subject bolstered this approach driving the police and the public further apart. The subsequent wars on drugs and terror expanded on that fundamental notion, further systematizing and professionalizing the same flawed underpinnings, rather than reinventing the organization with the new tools available. The war on drugs expanded federal purview on what should have been local issues, while continuing to target particular racial and ethnic groups, disregarding others.

The newest incarnation of the penal subject, the "Superpredator" was an even less redeemable caricature of the previous stereotype. Evocative, war-centered political rhetoric only validated the confrontational stance of law enforcement to the perceived threat of criminality, an assumption supported by an infusion of military hardware and strategic assistance. Similarly, the

war on terror expanded federal purview even further and initiated unprecedented inter-agency cooperation between federal and local authorities, while equally targeting particular ethnic/religious groups. This period also experienced an even more expansive deployment of military hardware for domestic policing applications and evocation of war-centered rhetoric, cementing law enforcement's adversarial relationship with the public.

Identifying a number of the factors impacting law enforcement from a politics and policy perspective has helped illuminate causes of external influence on the culture and organization of law enforcement. However, to fully understand those factors of influence and to begin looking at possibilities for reform it was necessary for this research to look internally, as well. Some questions, regarding the identity, role, responsibility, and power of law enforcement were asked. The findings indicated that law enforcement is fundamentally a public service organization and the power extended to the state in creating it (police power) is limited to the goals and objectives of public safety and welfare. As such, law enforcement is as much a public service fulfilling basic logistical and infrastructural community needs as it is an armed agency of the state to enforce laws and obstruct deviance. However, Maguire (2002) found that, as the organization increasingly integrated quantitative crime measures in an effort to professionalize and standardize services, it became more focused on easily quantifiable actions, almost all of which belonged to the enforcement dimension. Supplementing the power of this drift was a political narrative of crime friendly to it (Kraska 2007). The result was a police force that had matured into and evolved within its enforcement role but left other aspects of its constituent, public service identity significantly behind.

The fault with not fully evolving a complex organ, such as law enforcement, is that it generates many insecurities about its internal identity leading to a less receptive organization, a more closed and internalized culture, and greater suspicion of reform, restructuring and other means of change. Paoline et al. (2014) show that law enforcement, as with any other organization, is receptive to improvement when internal and external conditions are available, such as educational standards and leadership that invokes a service-oriented organizational identity. Davis, Mateu-Gelabert and Miller's (2005) case study of New York City precincts also demonstrate an existing disposition to change when it is generated internally and taken seriously within the organization. These researched methodological practices are very promising for future policy implications, especially with regards to feasibility of reform.

The evolution of law enforcement in a manner inconsistent with its public service mandate is a fact not lost on many observers, and some aspects of that argument have been raised before. The increased militarization of police, confrontational relationship between law enforcement and the public and concerns over the integrity of policy built on broad stroke data and generalizations of threat, have all drawn criticism from experts and the public alike. However, proponents of the current policing structure argue that how law enforcement has developed is responsive to actual changes within society, including: 1) highly trained and armed adversaries; 2) new categories of threat; 3) violence/resistance against law enforcement; and 4) increasing crime. These statements are highly inaccurate characterizations of the changing social landscape police operate within, based, at best, on erroneous statistical application. Some of these statements hold partial truths that can and, this research argues, *should* elicit a vastly different response. Indeed, there are new categories of threat, for whom police are scarcely

prepared, and data-driven programs, for example, can be highly effective when applied contextually – the manner with which police has evolved does not accommodate these options. Because of the pervasive nature of some of these arguments and the potential that each provides for positive development, it is important to look at them more specifically. Given that every significant measurement shows crime, overall, has declined, that assumption will be excluded from the discussion.

1) *Highly trained and armed adversaries*. Public access to high-powered weapons has remained relatively steady; however, in a few cases attempts have been made to limit access to them. Notably, President Clinton authorized the Federal Assault Weapons Ban in 1994, as a subsection of the Violent Crime Control and Law Enforcement Act (VCCLEA) to limit access to assault weapons with large capacity magazines. A report by Koper (2004) indicates that the ban was successful over time, with “the use of assault weapons in crime declining by more than two-thirds” between the time the ban went into effect and the study (18). Koper, however, is careful to link this development to reductions in gun violence overall, as the use of a firearm occurs in only a small percentage of crimes overall, and the use of assault weapons is even rarer (2004, 32). Therefore, even with the relatively large reduction of two-thirds, the overall impact on gun violence was “almost none” (Koper 2004, 32). The BJS special report on firearm violence, reviewing use of guns during the commission of a crime over a twelve-year period (from 1993-2011) provides a better understanding of gun-related violence which, in total, accounts for less than 10% of all crime (Planty and Truman 2013). Of those incidents, the report shows that homicides accounted for merely 2% of firearm-involved incidents, with the trend in gun-related homicides showing relative decline over a twelve-year period. An ACLU report on SWAT raids,

whose deployment is assumed to be for high-danger incidents, shows that a weapon was found on the scene only a third of the time, with no accurate tracking of firearm use (“The War Comes Home” 2013). These results demonstrate that police are not confronting more dangerous or capable adversaries by any measurable frequency, and the only trend that has emerged from the data is one of declining, not increasing, threat.

2) *New categories of threat.* During the past half-century, new categories of federal crime have emerged and been codified through legislative action. Because of the convoluted nature of the federal criminal code and its lack of consistency in definition or categorization, a detailed analysis of trends in criminal law creation is difficult to ascertain (O’Sullivan 2006). The sheer number of state statutes makes surveying crime categories through state law a task beyond the scope of this research. However, because of the political nature of crime creation, federal legislation is a good bellwether for emergent crime categories. Inferences can be made about such categories from a number of specific reports. At the outset, the vast majority of new crime categories and offenses are that of new populations rather than offenses, i.e. homicide of the elderly, assault by a habitual offender, or health care fraud (Klein and Grobey). While creating new crimes, they are essentially the same type of offense – homicide, assault, and fraud – committed against or by, different populations. With guidance from Albanese and Pursley (1993) and supplemental analysis of the American Bar Association’s 1998 “Task Force on the Federalization of Criminal Law” as well as the more updated Klein and Grobey (2012) report, four discernible categories emerge: 1) cyber-crimes (encompassing multiple categories of offenses that originate or are based on computer-mediated communication); 2) terrorism; 3) environmental crimes; 4) identity theft. Environmental crimes are perpetrated by corporations

and organizations more often than individuals, and most of which are considered regulatory offenses, rarely involving police. Only one of these categories, terrorism, contains aspects that constitute violent crime. Terrorism, like cyber-crime, is a broad category under which many types of offenses fall. Therefore, it is necessary to elaborate further.

Terrorism as a crime in society and by definition in the law, has existed long before September 11th, 2001. The term “terrorism” defined as “murder and conspiracy to commit murder, or assault or conspiracy to commit assault”¹⁷ in the federal criminal code, has existed since 1986. Most of the subcategories to terrorism, codified after 2001, are related to material support of terrorist activities. In order to provide some context, the National Consortium for the Study of Terrorism (START) published a report reviewing terrorist attacks in the United States from 1970 (the year data was first available) to 2011, concluding that, overall, terrorist incidents in the United States have declined, with the lowest recorded number of terrorist attacks, six, occurring in 2006 (LaFree, Dugan and Miller 2012, 5-7). The report also highlights two important factors that have remained consistent: incident frequency, and perpetrators (both foreign and domestic), demonstrating that no true anomalous changes have taken place as far as new categories of threat.

The other important aspect to assess is the process of thwarting potential threats, which Strom, Hollywood and Pope (2015) find rests mostly on basic surveillance and investigative work. Their research offers that “the community policing model...fits well for terrorism prevention” citing the reliance of law enforcement on the public, friends, family, and colleagues

¹⁷ 18 § 2332

of potential suspects to thwart potential attacks in a full 80% of the cases (2-3). Circumstantial information on terror suspect arrests is not formally provided; however, a number of news articles indicate that the apprehensions were uneventful. It should be noted that terrorism is a federal crime and, therefore, despite local assistance, is largely coordinated and executed by federal officials, bringing their own resources, tactics, and strategy to bear on the case. These findings establish that terrorism, despite its recent notoriety, is neither new nor increasing, and does not present itself as significantly divergent in terms of tackling it.

On the opposite side is cybercrime, which is equally broad in its definition and therefore warrants some brief elaboration. Cybercrime is essentially crime committed over the internet by aid of a computer or other web-enabled device. Jewkes and Yar (2008) differentiate between “computer assisted” and “computer oriented” crimes, the first type having counterparts in the real world; fraud, theft, threats, etc., while the second is consequential to the cyber network itself; malware, viruses and hacking (4). As computers become more integrated into our lives, more and more is accomplished over the internet creating a new access point for exploitation, including of previously unattainable targets such as the electrical grid, or communication satellites. The totality of the impact of cybercrime is not well measured by independent agencies in the United States, however, Wall and Williams (2013) show that it has surpassed some traditional crime categories in the United Kingdom (UK) for example; “Cybercrime is now the typical high-volume property crime in the UK” (28). A report by the Global Commission on Internet Governance also substantiates the impact of cybercrime, attributing to it millions of dollars of losses (Jardine 2015). These crimes can be significant and have far-reaching consequences they are also not confronted in physical space. Because the internet plays an

important role in the construction of criminal networks and providing a marketplace for illegal trades such as human trafficking, drugs, and money laundering, it is easy to not distinguish between differences in “computer assisted” crimes, and those that are entirely ground-based.

The internet provides both a marketplace for deviant behavior and an unparalleled opportunity for surveillance and capture, not afforded by ground-only crime (Jewkes and Yar 2008). Such access points to criminal enterprise provide law enforcement access to detect, surveil, and terminate criminals and criminal enterprise, if given the resources to do so. Wall (2008) discusses cybercrime as occurring in phases, the most recent of which having advanced to a computer focused occurrence, targeted more towards networks/groups, rather than individuals (117). Wall and Williams (2013) suggest that law enforcement would do well to develop “focused” and “expertly staffed” cybercrime units as the cyber domain becomes a more fertile space for both crime and its termination (47).

3) *Violence/Resistance against law enforcement.* As with new categories of threat, violence against law enforcement has been enlisted as a major factor contributing to the need of a more highly equipped police force and one that is adversarial in nature, given the hostile nature of the job. This too is an erroneous conclusion. According to numbers reported by the National Law Enforcement Officers Memorial Fund (NLEOMF), officer deaths have been steadily in decline since 1992, reaching their lowest levels in nearly a century in 2013 (NLEOMF 2013). UCR data collected by the FBI also shows that violence against police, whether fatal or not, has decreased exponentially since the most recent spike in 1970. Comparing occupational safety and risk, the Bureau of Labor Statistics (BLS) report for 2014 indicates that police work does not make the top ten dangerous occupations. BLS statistics are taken as a percentage of the total

workforce, meaning occupations with small work pools and high risk (loggers for example, which ranked at the top) would occupy a higher position. To adjust for that, I examined the rate of 11.3 per 100,000, which is only slightly more than the national average rate of occupational risk. It is also important to clarify that a majority of occupational deaths for police officers were “accidental” from vehicle crashes; and injury rates from stress and overexertion were about the same as those from assault (LaTourrette, Loughran and Seabury 2008, 34-5).

None of the data supports an argument that police are facing an increasingly hostile environment. While some specific incidents have occurred in the last year (2016) that may impact the total numbers marginally, these changes do not reflect any long-term trends that require, therefore, organizational change. In fact, due to popular narratives surrounding police and the organizational persona of law enforcement, police contribute to the creation of a hostile environment to work within by approaching the public with discontent (Scheingold 1984; Paoline 2001; Castaneda and Ridgeway 2010).

Law enforcement is neither in greater danger nor facing more powerful threats today, than at other points in the past. Historically, police enjoy greater occupational safety, better protection, increased access to technology, and other means to execute their jobs effectively today, than at almost any other time before. The analyses of innovations in crime, above, suggest that an increasingly militarized, enforcement-focused organization for law enforcement is profoundly mistaken. The few categories constituting new and emergent threats require computer skills, tedious and meticulous tracing, surveillance and detective work and strong community partnerships, not mine resistant vehicles, assault weapons, or armored personnel carriers. An adversarial disposition actually erodes law enforcement’s strength by making it unable to

develop meaningful partnerships with the community, whom it relies on to effectively dispose of threats, among other duties.

Law enforcement is not missing power, personnel, or equipment. What they lack is the proper means to apply the power they do have; the adequate training, preparation and skills to effectively execute the full range of their responsibilities, and the appropriate tools to assist them in completing those tasks. To do so requires a robust system capable of self-correction and serious about unsavory topics such as oversight, responsibility, community partnership, and the rights of the accused. These are not bywords for weakness or impotence, but essential parts of a functioning, professional, and effective system. These topics would not even be subject to debate if the organizational culture of law enforcement evolved to accommodate a proper definition of their public service mandate. The politics of crime, however, have come in the way of any such innovation. Creating a more powerful enforcement arm with military-style powers serves the political interests of an increasingly powerful state, rather than public interest. Lack of oversight or accountability allows the state to act with impunity and a military-style enforcement arm can ensure compliance and deter dissent. These manifestations are expressly not the purpose of police power, however, which is theoretically invalidated once its exercise is no longer in the public interest. Centralization of crime and crime control has made the former more of a reality.

The argument against centralization is not one that is against consistency or standardization when it comes to applying the rule of law or the availability of resources to law enforcement. It is, however, a repudiation of the idea that a highly contextual event such as crime can be generalized to match a one-size-fits-all solution. This statement has been validated throughout this research. Even if we were to accept the crime wave typology, the vast diversity

of communities in the United States and particularly the numerousness of small locales in comparison to large ones, means that aggregate data is skewed to disproportionately represent changes in a handful of urban centers that, despite their size, do not tell the story of American crime. A wave of property crime in St. Louis could be a wave of gang violence in Los Angeles, or of homicides in New York City – the causes and, therefore, responses are not congruent. That is to say nothing of the fact that none of these are necessarily reflective of the story of Tupelo, MS, Missoula, MT, or Walla Walla, WA.

Centralization often means, however, that when Los Angeles' gang problem calls for tactical gear, Tupelo, MS will find themselves preparing for a riot that will never happen. More importantly, individual agencies are pigeon-holed into certain expansions based on the budgetary opportunities offered to incentivize programs developed on these same aggregate measurements. That is the story of the 1033 program and its predecessor. Rather than trying to centralize and federalize the response, what can and *should* be centralized is the toolkit available to law enforcement: the resources, ethics, standards, requirements, skills, and training programs that properly prepare police for their occupational requirements. What tool each officer draws for the given situation is a decision that officer must make given the circumstance, and it is one that he/she should be availed to make with informed judgement.

Impacting the political nature of crime policy and/or altering the narrative of crime is an immense task that is beyond the scope of this paper; however, this research points to some possible points of reform that are more feasible in the short run. Four specific recommendations emerge from this research, based on the informative and detailed work of Maguire (2003);

Fielding and Innes (2007); Paoline et al. (2014); Kraska (2009); DeMichelle and Kraska (2007); and Castaneda and Ridgeway (2010):

1. Reworking how law enforcement quantifies institutional effectiveness;
2. Building up current professional institutions to form a robust professional licensure and accreditation body;
3. Creating minimum education and training standards that apply to all law enforcement agencies and include disciplinary immersion beyond tactical preparedness;
4. Diverting current budget allocations to increase officer pay and provide for infrastructural development, particularly in smaller police and sheriffs offices.

A law enforcement organization empowered to reform from within, and unafraid to hold itself accountable, will be better capable of evolving and improving its own field while encouraging its members to take a proactive role in doing so themselves. Such changes would undoubtedly impact the organizational culture of law enforcement, challenging or, perhaps ambitiously, balancing out the influence of politically charged crime control.

Crime is an issue deserving attention and addressing it properly is undoubtedly of importance. Doing so effectively, however, must be with due accord given to all supporting factors and distinct from political ideologies. While crime cannot be eliminated, recognizing failed practices and the reasons why they failed is at least a step in the right direction. A robust and well integrated police force is in the interest of all members of a properly functioning society, and it should be a public priority to ensure that such an organization exists. A properly functioning police force not only protects the public, but encourages their active participation in

the success of law enforcement. That requires a level of accountability commensurate with its power. The extraordinary power to take life and liberty must be kept in check by no less than an extraordinary sense of responsibility in the judgement process. Developing these ethics in individual agencies and agents cannot be successful without it first being demonstrated by the broader organization through concrete measures.

Therefore, improving the relationship between law enforcement and the public is well within reach, and minimizing impropriety within the organization is possible as soon as these issues are recognized. While this research helps clarify the influence of crime policy on the law enforcement organization and suggests some possibilities for reform, others remain to be explored. A close analysis of outcomes between police agencies in different contexts (such as on college campuses) can shed some light on how differences in narratives of criminality can impact enforcement activities. More comprehensive research on IACP membership and the role of higher-order police participation in disciplinary activities, could also help inform future organizational innovations.

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