

Chapter 2

FLORENCE NIGHTINGALE IN PURSUIT OF WILLIE SUTTON: A THEORY OF THE POLICE

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Among the institutions of modern government the police occupies a position of special interest: it is at once the best known and the least understood. Best known, because even minimally competent members of society are aware of its existence, are able to invoke the services it provides with remarkable competence, and know how to conduct themselves in its presence. How and how well the police is known, and the ways it matters in the lives of people, vary considerably over the spectrum of social inequality. But to imagine people who are not at all touched by the police one must conjure images of virtually complete isolation or of enormous wealth and power. Least understood, because when people are called upon to explain on what terms and to what ends police service is furnished they are unable to go beyond the most superficial and misleading commonplace which, moreover, is totally unrelated to the interactional skill that manifestly informs their dealings with policemen. What is true of people generally is true of the police as well. Policemen have not succeeded in

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Florence Nightingale is the heroic protagonist of modern nursing; Willie Sutton, for those who are too young to remember, was in his days a notorious thief.

formulating a justification of their existence that would recognizably relate to what they actually do (not counting those activities the doing of which they disavow or condemn). The situation is not unlike that of a person who, asked to explain how he speaks, offers an account which, while itself linguistically in perfect order, does not even come close to doing justice to the skill involved in producing the utterance.

In this paper I propose to explain the function of the police by drawing attention to what their existence makes available in society that, all things being equal, would not be otherwise available, and by showing how all that policemen are called upon to do falls into place when considered in relationship to it. My thesis is that police are empowered and required to impose or, as the case may be, coerce a provisional solution upon emergent problems without having to brook or defer to opposition of any kind, and that further, their competence to intervene extends to every kind of emergency, without any exceptions whatever. This and this alone is what the existence of the police uniquely provides, and it is on this basis that they may be required to do the work of thief-catchers and of nurses, depending on the occasion. And while the *chances* that a policeman will recognize any problem as properly his business depend on some external regulation, on certain structured social interest, and on historically established patterns of responsiveness and responsibility, every stricture arising out of these factors is defeasible in every *specific case* of police work. This means that the appropriateness of police action is primarily determined with regard to the particular and actual nature of the case at hand, and only secondarily by general norms. The assessment whether the service the police are uniquely competent to provide is on balance desirable or not, in terms of, let us say, the aspirations of a democratic polity, is beyond the scope of the argument. But in reviewing practice and organization I will weigh what is against what ought to be, by certain criteria internal to the enterprise.

The paper is frankly argumentative and intended to furnish grist for the mills of debate. Hence, I shall not attempt to view all questions from all sides, and I will especially avoid giving consideration to mere administrative expediency or yielding to those demands of reasonableness that are connected with taking a live-and-let-live attitude. All this counts, to be sure, but I will try not to let it count in what I will have to say; and in arguing as strongly as I know how, I do not aim to dismiss polemic opponents but to pay tribute to them. My plan is to begin with a cursory review of some preliminaries—dealing mainly with the police idea—in ways I consider indispensable for what will follow. Next I shall sketch a rather ordinary and common event in police work, and use it to explain what a policeman is required to do in this situation, in such situations, and by extension, in any situation whatever. Finally, I will attempt to characterize the

problems that appear to summon police intervention and to define the role force plays in these interventions. In wrapping things up I will comment about the practical significance of police work in society and about the skills that come into play, or should come into play, in this regard.

THE OFFICIAL BASIS OF LAW ENFORCEMENT MANDATES

While we use the term Police to refer to specific corps of public officials, it bears mentioning that original usage embraced the entire field of internal government, as distinct from the conduct of foreign affairs. Sir Francis Bacon, for example, asserted that in being “civil or policied,” a nation acquired the right to subdue others that were “altogether unable or indign to govern” (Bacon, 1859: 29). In time this usage gave way to one restricted to the exercise of proscriptive control in matters affecting the public interest. Blackstone stated that “public police and economy . . . mean the due regulation and domestic order of the Kingdom, whereby the individuals of the state, like members of a well governed family, are bound to conform their general behavior to the rules of propriety, good neighborhood and good manners, and to be decent, industrious and inoffensive in their respective stations” (Blackstone, n.d.: 161). This definition is located in the volume dealing with Public Wrongs, in relation to a specific class of delicts, called Offences against the Public Police and Economy. By the end of the nineteenth century this class of delicts is treated by Sir James Fitzjames Stephen as lying outside of the scope of criminal law, but is, nevertheless, explicitly related to the existence of the then existing police forces in England (Stephen, 1883: 246). Though both Blackstone and Stephen treat the category of police offenses cursorily, they do furnish *legal authority* for each item discussed. The intent at scrupulous legalization of proscriptive control also inheres in the “idiom of apologetics which belongs to the vocabulary of constitutional law,” in the United States: Police Power (Hamilton and Rodee, 1937: 192), commonly invoked to justify abridgements of civil liberties in the interest of “public health, morals, and safety” (Mugler v. Kansas, 1887). Indeed, in keeping with American concepts of legality, Mr. Justice Harlan, speaking for the majority in Mugler, reserved the right of judicial review of statutes enacted in the exercise of police power.

Most of the offenses against the Public Police mentioned by Blackstone are no longer regarded as culpable. But the domain of legally sanctioned proscriptive control he discussed has expanded enormously since the Commentaries appeared, as have the provisions of criminal law. There are scarcely any human activities, any interpersonal relations, any social arrangements left that do not

stand under some form of governmental regulation, to the violation of which penalties are attached. To say that modern life is thus controlled does not mean saying that it is more controlled than earlier life. Tribesmen, peasants, or citizens of colonial townships most assuredly did not live in a paradise of freedom. In fact, the most widely accepted explanation of the proliferation of formal control, which associates it with the growth of a market-oriented, industrial, and urban order, implies primarily a shift from reliance on informal mechanisms of traditional authority to reliance on legal rational means (Weber, 1947: 324).

Urbanism brought with it the need for explicitly formal regulation because the lives of the people living in cities are replete with opportunities of infringing upon one another and virtually devoid of incentives to avoid it. The former is due to the sheer congestion of very large numbers of people, the latter to the social distance between them. More importantly, perhaps, urban strangers cannot entrust their fate to the hope of somehow muddling through because of the manner in which they attend to the business of making a living, and because of the paramount significance of this interest in their lives.

Two conditions must be met to satisfy the need for formal governmental control that would bind effectively the behavior of individuals to rules of propriety. The first, already recognized in the treatment Blackstone accorded to the matter, is that all controls rest on specific authorization set forth in highly specific legal norms. The second, explicitly acknowledged by Stephen, is that the implementation of the authorizing norm must be entrusted to impersonal enforcement bureaucracies. In sum, "the due regulation and domestic order" in our times is the task of a host of law enforcement bureaucracies, each using procedures legitimized by, and incidental to, the attainment of explicitly formulated legal objectives.

Naturally, the actual interests and practices of enforcement officials are rarely as specific or explicit as the verbal formulations of their respective mandates. Hence, for example, while the formal authorization of the work of a health inspector may be clear and specific, things are apt to become a bit sticky when he undertakes to match factual realities with provisions of statutes. The amount of discretionary freedom it takes to fill the interstices of the legal formulation of law enforcement competence probably varies from one bureaucracy to the next. Agents concerned with weights and measures are probably less free than building inspectors. On the whole, however, it is safe to assume that none will busy himself, nor be permitted to busy himself, outside of the sphere of his mandate. More importantly, there is no mystery about the proper business of such law enforcement agents, and citizens are generally quite able to hold them to their limits. For example, though a truant officer's enforcement activities could be rich and varied, especially if he happens to be dedicated to his tasks, he can

claim legitimate interest in the child's health, the conditions of his home, or some such matter, only insofar as they can be linked with school attendance. In practice it can be debated whether the connection he sees is defensible or not, but there is no debate about the terms on which the question must be decided. Because it is known what a truant officer is supposed to do, therefore he can be held to account for doing more or doing less than his mandate authorizes or requires him to do, and by the same token, the officer can reject demands he deems *ultra vires*.

It would seem reasonable to expect that the proper business of the police—that is, of the corps of officials who inherited the name once used to refer to the entire domain of internal, proscriptive regulation—should be determined in the manner in which the business of all other law enforcement bureaucracies is determined. That is, one would expect that their service and powers be derivative from some substantive authorizing norm. And, indeed, it is commonly assumed that the penal code contains this authorization, in addition to which the police are required to enforce other laws, in particular laws regulating vehicular traffic, and beyond that may have some responsibilities concerning such matters as the licensing of the possession of firearms or the operation of certain business enterprises, which vary greatly from place to place. All in all, however, activities relating to crime control are generally considered basic to the mandate of the police by both citizens and police officials, at least in the sense that its needs are regarded as having priority over other needs (Gorman et al., 1973; Leonard and More, 1971).[1] Though I will argue that this presumption is misguided and misleading, and that one could not possibly understand or control what policemen actually do by assuming it, it must be said that it is not without some carefully laid foundations, the import of which is difficult to overcome.

The following considerations appear to justify the presumption that the police are a law enforcement agency whose mandate is basically derivative of the provisions of penal codes. First, the police, together with many others, cultivate and propagate the image of the policeman as the vanguard fighter in the war on crime. Americans from the members of Congress to readers of tabloids are convinced that what the police do about crime is the main part of the struggle against it and that, therefore, doing something about it is the policeman's main care. Second the formal bureaucratic organization of policework stringently reinforces the view that the police are primarily dedicated to criminal law enforcement. Police training, such as it is, heavily emphasizes criminalistics, criminal law, and related matters; the internal administrative differentiation of departments tends to reflect primarily formal criminal enforcement specializations and units are designated by names of species of offenses; and police

record keeping is almost wholly dedicated to the recording of law enforcement activity as a result of which crime control is the only *documentable* output of police work. Most importantly perhaps, career advancement in departments is heavily determined by an officer's show of initiative and ability in criminal law enforcement or, at least, an officer who has some so-called good pinches to his credit can always count that this will weigh more heavily in his favor when it comes to assessing his overall performance than any other factor. Third, the criminal process is virtually always set into motion by the police, and prosecutors, judges, and correctional personnel are heavily dependent on the police to remain occupied. Moreover, the part the police play in the administration of justice is very specific and indispensable. They are charged with the responsibility of conducting investigations leading to the identification of suspects and with securing the evidence required for successful prosecution. And they are obliged to apprehend and detain identified suspects, in the course of which they are empowered to use force if force is necessary. Fourth, the work of a certain number of policemen—the number is probably not very large but large enough to be significant—is in fact quite plainly determined by the provisions of the penal code in more or less the same manner in which the work of building inspectors is determined by building codes. These are officers assigned to various detective bureaus, whose daily routines consist of investigating crimes, arresting offenders, and of otherwise being engaged with matters related to efforts to obtain convictions.

In sum, the exercise of internal, proscriptive control by modern governments has been highly legalized, at least since the end of the eighteenth century. The exercise of this control is assigned to specifically authorized bureaucracies, each of which has a substantively limited field of enforcement competence. Even though it is allowed that officials retain a measure of discretionary freedom, the terms on which substantive decisions can be made are not in dispute. In accordance with this view the police often are viewed as one of several enforcement bureaucracies whose domain of competence is determined by penal codes and certain other statutory delegations.

THE POLICE AND CRIMINAL LAW ENFORCEMENT

With all this admitted as true, why can the police mandate not be conceived as embodying the law enforcement mandate inhering in criminal law enforcement? The answer is quite simple. Regardless of how strenuously criminal law enforcement is emphasized in the image of the policeman and in police administration, and regardless of how important police work might actually be for keeping the administration of criminal justice in business, the activity of

criminal law enforcement is not at all characteristic of day-to-day, ordinary occupational practices of the vastly preponderant majority of policemen. In other words, when one looks at what policemen actually do, one finds that criminal law enforcement is something that most of them do with the frequency located somewhere between virtually never and very rarely.

Later in this paper I will address this paradox directly and try to assign to criminal law enforcement its proper place within police work. Before moving on to this, however, I must touch on some matters connected with manpower allocation, opportunity for crime control, and routine work orientation. Unfortunately the data base on which the first two observations rely is poor, partly because the information available on these matters is not as good as it could be, but in larger measure because the actuarial ratios and frequencies I shall mention are drawn from data produced to meet requirements of accountability rather than strictly factual reporting. A word of caution is in order here; it is all too easy to fall into an attitude of supercilious critique concerning the poverty of data. The fact is that neither the police nor functionaries in other practical endeavors should be expected to keep records that would make it convenient for scholars to study them. Indeed, they usually have good reasons for keeping what in the scholar's view appear to be poor records (Garfinkel and Bittner, 1967: 186-207).

According to a survey of municipal police departments of cities in the 300,000 to 1,000,000 population range which is, alas, neither exhaustive nor complete, 86.5% of all police line personnel—that is, excluding officers occupying supervisory positions from sergeant up—are assigned to uniformed patrol (Kansas City Police Department, 1971; Wilson, 1963: 293). [2] Though this figure excludes persons holding the civil service rank of patrolman while assigned to detectives' bureaus, it probably overestimates the relative size of the force of patrolmen actually working on the streets. But it would certainly seem safe to assume that four out of five members of the line personnel do the work of patrolmen, especially since patrol-sergeants, whose work is essentially of the same nature as the work of those they supervise, are not included in the 86.5%. But the importance of the uniformed patrol in the police is not altogether derivative from the preponderance of their number. They represent, in even greater measure than their numbers indicate, the police presence in society. In fact, I will argue that all the other members of the police—in particular, the various special plainclothes details—represent special refinements of police-patrol work that are best understood as derivative of the mandate of the patrol, even though their activities sometimes take on forms that are quite unlike the activities of the patrol. But I should like to make clear now that in subordinating the work of the detectives to the work of the patrol *conceptually*, I do not

intend to cast doubts on the special importance the work of the former has for the prosecutors and judges. Indeed, I hope to make clear by dint of what circumstance prosecutors and judges come to be the beneficiaries of a service they ordinarily take for granted but for which—in rather rare moments of candor—they profess to lack understanding.

For the reasons I indicated, and because of reasons I hope to add as I go along, the following remarks will concern primarily the work of the uniformed patrol. But I do intend to make references to other parts of the police wherever such references are called for. In fact, the first observation about criminal law enforcement pertains equally to the work of detectives and patrolmen.

It is well known that the penal codes the police are presumed to enforce contain thousands of titles. While many of these titles are obscure, unknown, or irrelevant to existing conditions, and the administration of criminal justice is concentrated around a relatively small fraction of all proscribed acts, the police select only some, even from that sample, for enforcement. Relying mainly on my observations, I believe the police tend to avoid involvement with offenses in which it is assumed that the accused or suspected culprits will not try to evade the criminal process by flight. Characteristically, for example, they refer citizens who complain about being defrauded by businesses or landlords directly to the prosecutor. The response is also often given in cases involving other types of allegations of property crimes involving persons, real or fictional, who own substantial property. To be sure, in some of these instances it is possible that the wrong is of a civil rather than a criminal nature, and it also should be taken into account that a principle of economy is at work here, and that the police disavow responsibility for some delicts simply because of lack of resources to deal with them. It is at least reasonable to suggest, however, that police interest in criminal law enforcement is limited to those offenses in which the perpetrator needs to be *caught* and where catching him *may* involve the use of physical force. The point in all this is not that the police are simply ignorant of, and uninterested in, the majority of the provisions of the penal code, but that their selectivity follows a specific principle, namely, that they feel called upon to act only when *their* special competence is required, and that special competence is related to the possibility that force *may* have to be used to secure the appearance of a defendant in court. This restriction is certainly not impermeable, and it happens often enough that policemen are for a variety of circumstantial reasons required to proceed in cases in which the voluntary appearance of a defendant in court is not in doubt. Interestingly, however, in many of these cases the police are likely to put on a symbolic show of force by gratuitously handcuffing the arrested person.

It has become commonplace to say that patrolmen do not invoke the law

often. But this is not a very good way of putting things because it could also be said that neurosurgeons do not operate often, at least not when compared with the frequency with which taxi drivers transport their fares. So it might pay to try to be a bit more specific about it. According to estimates issued by the research division of the International Association of Chiefs of Police, “the percentage of the police effort devoted to the traditional criminal law matters probably does not exceed ten per cent” (Niederhoffer, 1969: 75). Reiss, who studied the practices of the patrol in a number of American metropolitan centers, in trying to characterize a typical day’s work, stated that it defies all efforts of typification “except in the sense that *the modal tour of duty does not involve an arrest of any person*” (Reiss, 1971: 19). Observations about arrest frequency are, of course, not a very good source of information about law enforcement concerns. Yet, while they must be viewed skeptically, they deserve mention. According to the Uniform Crime Reports, 97,000 detectives and patrolmen made 2,597,000 arrests, including 548,000 for Index Crimes.[3] This means that the average member of the line staff makes 26 arrests annually, of which slightly more than five involve serious crimes. Though it is admittedly no more than a rough guess, it would seem reasonable to say, allowing for the fact that detectives presumably do nothing else, that patrolmen make about one arrest per man per month, and certainly no more than three Index Crime arrests per man per year. In any case, these figures are of the same order of magnitude as reported in the draft of a report on police productivity, where it was said that patrolmen assigned to New York City’s Anti-Crime Squad average about 15 felony arrests per man per year, while “a typical uniformed patrolman makes only about three felony arrests per year.” In Detroit members of the Special Crime Attack Team make ten felony arrests per man per year, “considerably more than the average patrolman” (National Commission on Productivity, 1973: 39f). And the figures are also in good accord with estimates reported by the President’s Commission on Law Enforcement and Administration of Justice, where it was calculated on the basis of data drawn from the operations of the Los Angeles Police Department that “an individual patrol officer can expect an opportunity to detect a burglary no more than once every three months and a robbery no more than once every 14 years” (Institute for Defense Analysis, 1967: 12).

It could be said, and should be considered, that the mere frequency of arrest does not reflect police work in the area of criminal law enforcement adequately. Two points deserve attention in this regard: first, that clearing crimes and locating suspects takes time; and second, that policemen frequently do not invoke the law where the law could be invoked and thus *are* involved in law enforcement, albeit in an unauthorized way.

In regard to the first point, it is certainly true that there are some cases that are subject to dogged and protracted investigation. It is even not unheard of that uniformed patrolmen work on some crime for long periods while attending to other duties. This, however, is not characteristic of the work of either detectives or patrolmen generally. For instance, in the majority of reported burglaries, a patrolman or a team of patrolmen are dispatched to survey the scene; this is followed by investigations done by detectives, who, after writing up a report of their investigation, in the majority of cases simply move on to the next case (Conklin and Bittner, 1973: 206-23).[4] Along these lines, Conklin reports that criminal *investigations* of robberies produce clearances only in one out of fifty cases (Conklin, 1972: 148f). And even if it were to be assumed that detectives engage in five investigations for every one they conclude successfully—no doubt a gross exaggeration—it would still remain that in the run-of-the-mill crime the kind of investigation common lore associates with detective work is not characteristic of the police, and could not be, if only because the press of new business pushes old cases into the dead file. I must add that the whole matter of crime investigation is complicated, involving activities that I did not mention. But I only intended to show that the spacing of arrests is not due to the fact that the policemen need time to work out a solution. All this means is that cases are solved, when they are solved, either at the time the offense takes place or shortly thereafter or, by and large, not at all. The information required for such solution must be mobilizable in short order, or the quest will be abandoned. In other words, either a detective knows quite clearly in the case where to turn or he will not try to pursue the matter. That he often knows where to turn is part of his craft (Bittner, 1970: 65ff).[5]

The other point, that policemen make law enforcement decisions of “low visibility,” is the topic of a fairly substantial body of literature.[6] According to the prevailing view expressed in this literature, patrolmen usurp the rights of judges in a host of minor offenses and, by not invoking the law, exculpate the offender. While most authors find such practices reasonable and for the most part desirable, they also recommend that the exercise of such discretion should be placed under administrative, if not statutory, regulation (Davis, 1971). They urge that, though it appears to make good sense that policemen do not enforce statutes pertaining to gambling literally and in every applicable case, it is not right that the decision when to proceed and when to desist should be left entirely to the lights of the individual officers. Provided with more detailed instructions officers would be, presumably, on firmer grounds and, hopefully, less arbitrary. Unfortunately, underlying the approach is a presumption that begs the principal question; namely, whether in making the arrests they make, and not making the arrests they do not make, policemen are acting as the

functionaries of the law they invoke or fail to invoke, as the case may be. All available information about the practices of patrolmen place this presumption in grave doubt, especially in regard to laws pertaining to minor offenses. I am not aware of any descriptions of police work on the streets that support the view that patrolmen walk around, respond to service demands, or intervene in situations, with the provisions of the penal code in mind, matching what they see with some title or another, and deciding whether any particular apparent infraction is serious enough to warrant being referred for further process. While it does happen occasionally that patrolmen arrest some person merely because they have probable cause to believe that he has committed crimes, this is not the way all but a small fraction of arrests come about. In the typical case the formal charge *justifies* the arrest a patrolman makes but is *not* the *reason* for it. The actual reason is located in a domain of considerations to which Professor Wilson referred as the need “to handle the situation,”[7] and invoking the law is merely a device whereby this is sometimes accomplished. Since the persons who are arrested at a backyard game of craps are not arrested because they are gambling but because of a complex of situational factors of which no mention is made in the formally filed charge, it would seem specious to try to refine the law pertaining to the charge, since any policeman worth his salt is virtually always in a position to find a *bona fide* charge of some kind when he believes the situation calls for an arrest. In sum, if criminal law enforcement means acting on the basis of, and in accordance with, the law’s provisions, then this is something policemen do occasionally, but in their routine work they merely avail themselves of the provisions as a means for attaining other objectives.

In sum, the vastly preponderant number of policemen are assigned to activities in which they have virtually no opportunities for criminal law enforcement, and the available data indicate that they are engaged in it with a frequency that surely casts doubts upon the belief that this is the substance, or even the core, of their mandate. Moreover, criminal law enforcement by the police is limited to those offenses in which it is assumed that force may have to be used to bring the offender to justice. Finally, in the majority of cases in which the law is invoked, the decision to invoke it is not based on considerations of legality. Instead, policemen use the provisions of the law as a resource for handling problems of all sorts, of which *no mention* is made in the formal charge.

THE ELEMENTS OF ROUTINE POLICE PRACTICE

To explain by what conception of duty policemen feel summoned into action, and what objectives they seek to attain, I should like to use an example

of ordinary practice. One of the most common experiences of urban life is the sight of a patrolman directing traffic at a busy street intersection. This service is quite expensive and the assignment is generally disliked among policemen. Nevertheless it is provided on a regular basis. The reason for this is not too difficult to divine. Aside from the private interests of citizens in maintaining safe and otherwise suitable conditions for the use of their automobiles, there is the consideration that the viability of urban life as we know it depends heavily on the mobility of vehicular traffic. No one knows, of course, how helpful police traffic control is in general, much less in the special case of a single patrolman directing traffic at a particular place and time. However uncertain the value of traffic control, the uncertainty is resolved in favor of having it simply because of the anticipated gravity of the consequences its absence might engender. In sum, traffic control is a matter of utmost seriousness. Despite its seriousness and presumed necessity, despite the fact that assignments are planned ahead and specifically funded, no assignment to a traffic control post is ever presumed to be absolutely fixed. The assigned officer is expected to be there, all things being equal, but he is also expected to have an independent grasp of the necessity of his presence. The point is not that this opens the possibility of a somewhat more casual attitude towards traffic control than the police care to admit, but rather that there exists a tacit understanding that no matter how important the post might be, it is always possible for something else to come up that can distract the patrolman's attention from it and cause him to suspend attending to the assigned task.

This understanding is not confined to traffic control assignments, but functions in all prior assigned tasks without any exceptions whatever, regardless whether the assignment involves investigating a heinous crime or feeding ice cream to a lost child, and regardless whether the prior assignment derives from the most solemn dictates of the law or whether it is based on mundane commands of immediate superiors. I am saying more than merely that patrolmen, like everybody else, will suspend the performance of an assigned task to turn to some extraordinary exigency. While everybody might respond to the call of an emergency, the policeman's vocational ear is *permanently and specifically attuned* to such calls, and his work attitude throughout is permeated by preparedness to respond to it, whatever he might happen to be doing. In the case at hand, it is virtually certain that any normally competent patrolman would abandon the traffic post to which he was assigned without a moment's hesitation and without regard for the state of the traffic he was supposed to monitor, if it came to his attention that a crime was being committed somewhere at a distance not too far for him to reach in time either to arrest the crime in its course, or to arrest its perpetrator. And it is virtually certain that all

patrolmen would abandon their posts even when the probability of arresting the crime or its perpetrator was not very high, and even when the crime was of the sort which when reported to the police in the ordinary manner—that is, some time after it happened—would receive only the most cursory attention and would tend to remain unsolved in nine out of every ten reported cases. Finally, there is no doubt that the patrolman who would not respond in this manner, would thereby expose himself to the risk of an official reprimand, and to expressions of scorn from his co-workers, and from the public.

Yet there exists no law, no regulation, no formal requirement of any kind that determines that practice. Quite the contrary, it is commonly accepted that crime control cannot be total, must be selective, and that policemen cannot be expected to rush to the scene of every crime and arrest every offender. Why then should all concerned, inside and outside the police, consider it entirely proper and desirable that a patrolman abandon his post, exposing many people to serious inconvenience and the whole city to grave hazards, to pursue the dubious quest of catching a two-bit thief?

At the level of reason the patrolman himself might advance, the action merely follows the impulse to drop everything and catch a crook. And it seems perfectly reasonable that policemen should follow this impulse more readily than others, since they presumably are being paid for it. Thus considered, the action draws its justification from the public sentiment that a crime must not be allowed to pass without at least an attempt to oppose it, and from the policeman's special obligation in this regard. This sentiment is certainly a very important aspect of the policeman's frame of mind; it directs his interests, establishes priorities, furnishes justification for action, governs the expectations of reward and honor, and ultimately supplies the rhetoric with which his ready aggressiveness is explained.

But I have argued earlier that, the strength of this sentiment notwithstanding, criminal law enforcement could not possibly be the fulcrum on which the police mandate rests. How then do I explain the alacrity of the patrolman's response? Let me begin with an aside which is in its own way important but not central to the argument. For the patrolman, rushing to the scene of a crime is an opportunity to do something remarkable that will bring him to the attention of his superiors in a way that might advance his career. This aspect of his vocational interest is not rooted in the work he does but in the administrative setting within which it is done. Skolnick (1966: 231) has furnished extensive documentation for the importance of this factor in police work. Still, however important the explanation is, it fails in explaining police routines generally.

When I stated in the vignette that the patrolman will abandon his assignment to rush to the scene of a crime, I assumed without saying that the crime would

be something like an act of vandalism, an assault, or a burglary. But if the crime that came to the attention of the officer had been something like a conspiracy by a board of directors of a commercial concern to issue stock with the intention of defrauding investors, or a landlord criminally extorting payments from a tenant, or a used-car dealer culpably turning back an odometer on an automobile he was preparing for sale, the patrolman would scarcely lift his gaze, let alone move into action. The real reason why the patrolman moved was not the fact that what was taking place was a crime in general terms, but because the particular crime was a member of a class of problems *the treatment of which will not abide*. In fact, the patrolman who unhesitatingly left his post to pursue an assailant would have left his post with just a little hesitation to pull a drowning person out of the water, to prevent someone from jumping off the roof of a building, to protect a severely disoriented person from harm, to save people in a burning structure, to disperse a crowd hampering the rescue mission of an ambulance, to take steps to prevent a possible disaster that might result from broken gas lines or water mains, and so on almost endlessly, and entirely without regard to the substantive nature of the problem, as long as it could be said that it involved *something-that-ought-not-to-be-happening-and-about-which-someone-had-better-do-something-now!* These extraordinary events, and the directly intuited needs for control that issue from them, are what the vocational interests of patrolmen are attuned to. And in the circumstances of such events citizens feel entitled and obliged to summon the help of the police. Naturally, in retrospect it is always possible to question whether this or that problem should or should not have become the target of police attention, but most people will agree that urban life is replete with situations in which the need for such service is not in doubt, and in which, accordingly, the service of the police is indispensable.

It is scarcely possible not to notice that the definition of the police mandate escaped Ockham's Razor. It cannot be helped; I have seen policemen helping a tenant in arrears gain access to medication which a landlord held together with other possessions in apparently legal bailment, I have seen policemen settling disputes between parents as to whether an ill child should receive medical treatment, I have seen a patrolman adjudicating a quarrel between a priest and an organist concerning the latter's access to the church. All this suggests more than the obvious point that the duties of patrolmen are of a mind-boggling variety, it compels the stronger inference that no human problem exists, or is imaginable, about which it could be said with finality that this certainly could not become the proper business of the police.

It is fair to say that this is well-known even though police work is not thought of in these terms. It must be assumed to be well-known because in almost all

instances the police service is a response to citizen demands, which must be taken as reflecting public knowledge of what is expected of the police. But evidently it is not thought of in these terms when it comes to writing books about the police, to making up budgets for the police, and to training policemen, administering departments, and rewarding performance. And even though the fact that policemen are "good" at helping people in trouble and dealing with troublesome people has received some measure of public recognition recently,[8] the plaudits are stated in ways reminiscent of "human interest stories" one finds in the back pages of the daily papers. More importantly, when it is asked on what terms this police service is made available in every conceivable kind of emergency, the usual answer is that it happens by default because policemen are the only functionaries, professionals, officials—call them what you will—who are available around the clock and who can be counted on to make house-calls. Further, it is often said that it would be altogether better if policemen were not so often called upon to do chores lying within the spheres of vocational competence of physicians, nurses, and social workers, and did not have to be all things to all men. I believe that these views are based on a profound misconception of what policemen do, and I propose to show that no matter how much police activity seems like what physicians and social workers might do, and even though what they actually have to do often could be done by physicians and social workers, the service they perform involves the exercise of a unique competence they do not share with anyone else in society. Even if physicians and social workers were to work around the clock and make house-calls, the need for the police service in their areas would remain substantial, though it certainly would decline in volume. Though policemen often do what psychologists, physicians, or social workers might be expected to do, their involvement in cases is never that of surrogate psychologists, physicians, or social workers. They are in all these cases, from the beginning, throughout, and in the last analysis, policemen, and their interest and objectives are of a radically distinct nature. Hence, saying that policemen are "good at" dealing with people in trouble and troublesome people does not mean that they are good at playing the role of other specialists. Indeed, only by assuming a distinct kind of police competence can one understand why psychologists, physicians, and social workers run into problems in *their* work for which they seek police assistance. In other words, when a social worker "calls the cops" to help him with his work, he mobilizes the kind of intervention that is characteristic of police work even when it looks like social work.

To make clear what the special and unique competence of the police consists of I should like to characterize the events containing "something-that-ought-not-to-be-happening-and-about-which-somebody-had-better-do-something-now,"

and the ways the police respond to them. A word of caution: I do not intend to imply that everything policemen attend to can be thus characterized. That is, the special and unique police competence comes into play about as often as practicing medicine, doing engineering, or teaching—in the narrow meanings of these terms—come into play in what physicians, engineers, and teachers do.

First, and foremost, *the need to do something* is assessed with regard for actually existing combinations of circumstances. Even though circumstances of need do become stereotyped, so that some problems appear to importune greater urgency than others, the rule *it depends* takes precedence over typification, and attention is directed to what is singular and particular to the here-and-now. Policemen often say that their work is almost entirely unpredictable; it might be more correct to say that anything unpredictable that cannot be dismissed or assimilated to the usual is *pro tanto* a proper target of police attention. That experience plays an important part in the decision-making goes without saying, but it is not the kind of experience that lends itself easily to the systematization one associates with a body of technical knowledge. Most often the knowledge upon which patrolmen draw is the acquaintance with particular persons, places, and past events. Patrolmen appear to have amazingly prodigious memories and are able to specify names, addresses, and other factual details of past experiences with remarkable precision. Indeed, it is sometimes difficult to believe that all this information could be correct. However this may be, the fact that they report their activities in this manner, and that they appear to think in such terms, may be taken as indicative of the type of knowledge they depend on in their work. It could be said that while anything at all could become properly the business of the police, the patrolman can only decide whether anything in particular is properly his business after he “gets there” and examines it.

Second, the question whether some situational need justifiably requires police attention is very often answered by persons who solicit the service. Citizen demand is a factor of extraordinary importance for the distribution of police service, and the fact that someone did “call the cops” is, in and of itself, cause for concern. To be sure, there are some false alarms in almost every tour of duty, and one reason why police departments insist on employing seasoned policemen as dispatchers is because they presumably are skilled in detecting calls which lack merit. Generally, however, the determination that some development has reached a critical stage, ripe for police interest, is related to the attitudes of persons involved, and depends on common sense reasoning. For example, in a case involving a complaint about excessive noise, it is not the volume of the noise that creates hazards for life, limb, property, and the public order, but that the people involved say and otherwise show that the problem has reached a critical stage in which something-had-better-be-done-about-it. Closely connected

with the feature of critical emergency is the expectation that policemen will handle the problem “then-and-there.” Though it may seem obvious, it deserves stressing that police work involves no continuances and no appointments, but that its temporal structure is throughout of the “as soon as I can get to it” norm, and that its scheduling derives from the natural fall of events, and not from any externally imposed order, as is the case for almost all other kinds of occupations. Firemen too are permanently on call, but the things they are called upon to do are limited to a few technical services. A policeman is always poised to move on any contingency whatever, not knowing what it might be, but knowing that far more often than not he will be expected to *do something*. The expectation to do something is projected upon the scene, the patrolman’s diagnostic instinct is heavily colored by it, and he literally sees things in the light of the expectation that he somehow *has* to handle the situation. The quick-witted and decisive activism of the police is connected with the fact that they are attuned to dealing with emergencies; and in many instances the response-readiness of the policeman rounds out the emergency character of the need to which the response was directed.

Third, though police departments are highly bureaucratized and patrolmen are enmeshed in a scheme of strict internal regulation, they are, paradoxically, quite alone and independent in their dealings with citizens. Accordingly, the obligation to do something when a patrolman confronts problems—that is, when he does police work—is something he does not share with anyone. He may call for help when there is a risk that he might be overwhelmed, and will receive it; short of such risks, however, he is on his own. He receives very little guidance and almost no supervision; he gets advice when he asks for it, but since policemen do not share information, asking for and giving advice is not built into their relations; his decisions are reviewed only when there are special reasons for review, and records are kept of what he does only when he makes arrests. Thus, in most cases, problems and needs are seen in relationship to the response capacity of an individual patrolman or teams of two patrolmen, and not of the police as an organized enterprise. Connected with the expectation that he will do what needs to be done by himself is the expectation that he will limit himself to imposing provisional solutions upon problems. Though they often express frustration at never solving anything—especially when they arrest persons and find them quickly back on the street—they do what they do with an abandon characteristic of all specialists who disregard the side-effects of their activities. As they see it, it is none of their concern that many provisional solutions have lasting consequences. In fact, it would be quite well put to say that they are totally absorbed with making arrests, in the literal sense of the term. That is, they are always trying to snatch things from the brink of disaster, to nip

untoward development in the bud, and generally to arrest whatever must not be permitted to continue; and to accomplish this they sometimes arrest persons, if circumstances appear to demand it.

Fourth and finally, like everybody else, patrolmen want to succeed in what they undertake. But unlike everybody else, they never retreat. Once a policeman has defined a situation as properly his business and undertakes to do something about it, he will not desist till he prevails. That the policemen are uniquely empowered and required to carry out their decisions in the "then-and-there" of emergent problems is the structurally central feature of police work. There can be no doubt that the decisive and unremitting character of police intervention is uppermost in the minds of people who solicit it, and that persons against whom the police proceed are mindful of this feature and conduct themselves accordingly. The police duty not to retreat in the face of resistance is matched by the duty of citizens not to oppose them. While under Common Law citizens had the right to resist illegal police action, at least in principle, the recommendations contained in the Uniform Arrest Act, the adoption of which is either complete or pending before most state legislatures, provides that they must submit. To be sure, the act pertains only to arrest powers, but it takes little imagination to see that this is sufficient to back up any coercive option a policeman might elect. [9]

The observation that policemen prevail in what they undertake must be understood as a *capacity* but not a necessarily invariant practice. When, for example, a citizen is ordered to move or to refrain from what he is doing, he may actually succeed in persuading the policeman to reverse himself. But contrary to judges, policemen are not required to entertain motions, nor are they required to stay their orders while the motion receives reasoned consideration. Indeed, *even* if the citizen's objection should receive favorable consideration in *subsequent* review, it would still be said that "under the circumstances" he should have obeyed. And even if it could be proved that the policeman's action was injudicious or in violation of civil liberties, he would be held to account only if it could also be proved that he acted with malice or with wanton frivolity. [10]

In sum, what policemen do appears to consist of rushing to the scene of any crisis whatever, judging its needs in accordance with canons of common sense reasoning, and imposing solutions upon it without regard to resistance or opposition. In all this they act largely as individual practitioners of a craft.

THE SPECIFIC NATURE OF POLICE COMPETENCE

The foregoing considerations suggest the conclusion that what the existence of the police makes available in society is a unique and powerful capacity to

cope with all kinds of emergencies: unique, because they are far more than anyone else permanently poised to deal with matters brooking no delay; powerful, because their capacity for dealing with them appears to be wholly unimpeded. But the notion of emergency brings a certain circularity into the definition of the mandate. This is so because, as I have indicated, the discernment of the facts of emergency relies on common sense criteria of judgment, and this makes it altogether too easy to move from saying that the police deal with emergencies, to saying that anything the police deal with is, *ipso facto*, an emergency. And so, while invoking the notion of emergency was useful to bring up certain observations, it now can be dispensed with entirely.

Situations like those involving a criminal on the lam, a person trapped in a burning building, a child in desperate need of medical care, a broken gas line, and so on, made it convenient to show why policemen move decisively in imposing constraints upon them. Having exploited this approach as far as it can take us, I now wish to suggest that the specific competence of the police is wholly contained in their capacity for decisive action. More specifically, that the feature of decisiveness derives from the authority to overpower opposition in the "then-and-there" of the situation of action. *The policeman, and the policeman alone, is equipped, entitled, and required to deal with every exigency in which force may have to be used, to meet it.* Moreover, the authorization to use force is conferred upon the policeman with the mere proviso that force will be used in amounts measured not to exceed the necessary minimum, as determined by an intuitive grasp of the situation. And only the use of deadly force is regulated somewhat more stringently. [11]

Three points must be added in explanation of the foregoing. First, I am *not* saying the police work consists of using force to solve problems, but only that police work consists of coping with problems in which force *may have to be used*. This is a distinction of extraordinary importance. Second, it could not possibly be maintained that everything policemen are actually required to do reflects this feature. For a variety of reasons—especially because of the ways in which police departments are administered—officers are often ordered to do chores that have nothing to do with police work. Interestingly, however, the fact that a policeman is quite at the beck and call of his superior and can be called upon to do menial work does not attenuate his powers vis-a-vis citizens in the least. Third, the proposed definition of police competence *fully embraces* those forms of criminal law enforcement policemen engage in. I have mentioned earlier that the special role the police play in the administration of criminal justice has to do with the circumstance that "criminals"—as distinct from respectable and propertied persons who violate the provisions of penal codes in the course of doing business—can be counted on to try to evade or oppose arrest. Because this is so, and to enable the police to deal effectively with criminals, they are said to

be empowered to use force. They also engage in criminal investigations whenever such investigations might be reasonably expected to be instrumental in making arrests. But the conception of the police role in all this is upside down. It is *not* that policemen are entitled to use force because they must deal with nasty criminals. Instead, the duty of handling nasty criminals devolves on them *because* they have the more general authority to use force *as needed* to bring about desired objectives. It is, after all, no more than a matter of simple expediency that it should be so; and that is so becomes readily apparent upon consideration that policemen show little or no interest in all those kinds of offenders about whom it is not assumed that they need to be caught, and that force may have to be used to bring them to the bar of justice.

CONCLUSIONS

There is a threefold paradox in the awesome power of the policeman to make citizens obey his command, both legitimately and effectively. First, how come such a power exists at all? Second, why has the existence of this power not received the consideration it deserves? Third, why is the exercise of this power entrusted to persons recruited from a cohort from which all those with talent and ambitions must be assumed to have gone on to college and then to other occupations? I shall attempt to answer these questions in the stated order.

The hallmark of the period of history comprising the past century and a half is a succession of vast outbreaks of internal and international violence, *incongruously combined* with an unprecedentedly sustained aspiration to install peace as a stable condition of social life.[12] There can be no doubt that during this period the awareness of the moral and practical necessity of peace took hold of the minds of almost all the people of our world, and while the advocacy of warfare and of violent revolution has not disappeared, it has grown progressively less frank and arguments in their favor seem to be losing ground to arguments condemning violence. The sentiments in favor of peace draw in part on humane motives, but they derive more basically from a profound shift of values, away from virtues associated with masculine prowess and combativeness, and towards virtues associated with assiduous enterprise and material progress. There is still some glamor left in being an adventurer or warrior, but true success belongs to the businessman and to the professional.[13] Resorting to violence—outside of its restricted occasions, notably warfare and recreation—is seen as a sign of immaturity or lower-class culture (Miller, 1958: 5-19; Adorno et al., 1950). The banishment of violence from the domain of private life—as compared, for instance, with its deliberate cultivation in Medieval Chivalry—is the lesser part of the story. More important is the shift in the methods of government to an

almost complete civil and pacific form of administration. Physical force has either vanished or is carefully concealed in the administration of criminal justice, and the use of armed retainers to collect taxes and to recruit into the military are forgotten. Paper, not the sword, is the instrument of coercion of our day. But no matter how faithfully and how methodically the dictates of this civil culture and of the rule of law are followed, and no matter how penetrating and far-reaching the system of peaceful control and regulation might be, there must remain some mechanism for dealing with problems on a catch-as-catch-can basis. In fact, it would seem that the only practical way for banishing the use of force from life generally is to assign its residual exercise—where according to circumstances it appears unavoidable—to a specially deputized corps of officials, that is, to the police as we know it. Very simply, as long as there will be fools who can insist that their comfort and pleasure take precedence over the needs of firemen for space in fighting a fire, and who will not move to make room, so long will there be a need for policemen.

I must leave out one possible explanation for the neglect of the capacity to use force as the basis of the police mandate; namely, that I am wrong in my assessment of its fundamental importance. I have no idea why the authors of many superb studies of various aspects of police work have not reached this conclusion. Perhaps they were either too close to, or too far from, what they were researching. But I believe I know why this feature of police work has escaped general notice. Until recently the people against whom the police had cause to proceed, especially to proceed forcefully, came almost exclusively from among the blacks, the poor, the young, the Spanish speaking, and the rest of the urban proletariat, and they still come preponderantly from these segments of society. This is well-known, much talked about, and I have nothing to add to what has already been said about expressions of class- and race-bias. Instead, I should like to draw attention to a peculiar consequence of this concentration. The lives of the people I mentioned are often considered the locus of problems in which force may have to be used. Not only do most of the criminals with whom the police deal hail from among them, but they, more often than other members of society, get into all sorts of troubles, and they are less resourceful in handling their problems. And so it could be said that the police merely follow troubles into trouble's native habitat and that no further inferences can be drawn from it, except, perhaps, that policemen are somewhat too quick in resorting to force and too often resort to it for what seem to be inadequate reasons, at least in retrospect. Of course, the rise of the counter-culture, the penetration of drug use into the middle classes, the civil rights movements of the 1960s, and the student movement have proven that the police do not hesitate to act coercively against members of the rest of society. But that too has been mainly the target

of critique, rather than efforts to interpret it. And the expressions of indignation we hear have approximately the effect "gesundheit" has on whatever causes a person to sneeze. The police are naturally baffled by the response; as far as they can see they did what they always did whenever they were called upon to intervene. In point of fact policemen did, *mutatis mutandis*, what physicians do under similar circumstances. Physicians are supposed to cure the sick through the practice of medicine, as everyone knows. But when they are consulted about some problem of an ambiguous nature, they define it as an illness and try to cure it. And teachers do not hesitate in treating everything as an educational problem. It is certainly possible to say that physicians and teachers are just as likely to go overboard as policemen. This does not mean, however, that one cannot find in these instances the true nature of their respective bags of tricks more clearly revealed than in the instances of more standard practice. In the case of the police, it merely obscures matters to say that they resort to force only against powerless people, either because it is more often necessary or because it is easier—even though these *are* important factors in determining frequency—for in fact, they define every summons to action as containing the possibility of the use of force.

The reasons why immense powers over the lives of citizens are assigned to men recruited with a view that they will be engaged in a low-grade occupation are extraordinarily complicated, and I can only touch on some of them briefly. Perhaps the most important factor is that the police were created as a mechanism for coping with the so-called dangerous classes (Silver, 1967: 1-24). In the struggle to contain the internal enemy and in the efforts to control violence, depredation, and evil, police work took on some of the features of its targets and became a tainted occupation. Though it may seem perverse, it is not beyond comprehension that in a society which seeks to banish the use of force, those who take it upon themselves to exercise its remaining indispensable residue should be deprecated. Moreover, in the United States the police were used blatantly as in instrument of urban machine-politics, which magnified opportunities for corrupt practices enormously. Thus, the American urban policeman came to be generally perceived as the dumb, brutal, and crooked cop. This image was laced by occasional human interest stories in which effective and humane police work was portrayed as the exception to the rule. The efforts of some reformers to purge the police of brutality and corruption have inadvertently strengthened the view that police work consists of doing what one is told and keeping one's nose clean. To gain the upper hand over sloth, indolence, brutality, and corruption, officials like the late Chief William Parker of Los Angeles militarized the departments under their command. But the development of stringent internal regulation only obscured the true nature of police work.

The new image of the policeman as a snappy, low-level, soldier-bureaucrat created no inducement for people who thought they could do better to elect police work as their vocation. Furthermore, the definition of police work remained associated with the least task that could be assigned to an officer. Finally, the most recent attempts to upgrade the selection of policemen have been resisted and produced disappointing results. The resistance is in large measure due to the employee interests of present personnel. It seems quite understandable that the chiefs, captains, and even veteran patrolmen would not be happy with the prospect of having to work with recruits who outrank them educationally. Furthermore, few people who have worked for college degrees would want to elect an occupation that calls only for a high school diploma. And those few will most likely be the least competent among the graduates, thereby showing that higher education is more likely to be harmful than helpful. And it is true, of course, that nothing one learns in college is particularly helpful for police work. In fact, because most college graduates come from middle-class backgrounds, while most of police work is directed towards members of the lower classes, there is a risk of a cultural gap between those who do the policing and the policed.

But if it is correct to say that the police are here to stay, at least for the foreseeable future, and that the mandate of policemen consists of dealing with all those problems in which force may have to be used, and if we further recognize that meeting this task in a socially useful way calls for the most consummate skill, then it would seem reasonable that only the most gifted, the most aspiring, and the most equipoised among us are eligible for it. It takes only three short steps to arrive at this realization. First, when policemen do those things only policemen can do, they invariably deal with matters of absolutely critical importance, at least to the people with whom they deal. True, these are generally not the people whose welfare is carefully considered. But even if democratic ideals cannot be trusted to insure that they will be treated with the same consideration accorded to the powerful, practicality should advise that those who never had a voice in the past now have spoken and succeeded in being heard. In sum, police work, at its core, involves matters of extraordinary seriousness, importance, and necessity. Second, while lawyers, physicians, teachers, social workers, and clergymen also deal with critical problems, they have bodies of technical knowledge or elaborate schemes of norms to guide them in their respective tasks. But in police work there exists little more than an inchoate lore, and most of what a policeman needs to know to do his work he has to learn on his own. Thus, what ultimately gets done depends primarily on the individual officer's perspicacity, judiciousness, and initiative. Third, the mandate to deal with problems in which force may have to be used implies the

special trust that force will be used only *in extremis*. The skill involved in police work, therefore, consists of retaining recourse to force while seeking to avoid its use, and using it only in minimal amounts.

It is almost unnecessary to mention that the three points are not realized in police work. Far too many policemen are contemptuous towards the people with whom they deal and oblivious to the seriousness of their tasks. Few policemen possess the perspicacity and judiciousness their work calls for. And force is not only used often where it need not be used, but gratuitous rudeness and bullying is a widely prevalent vice in policing. While all this is true, I did not arrive at those points by speculating about what police work could be. Instead I have heard about it from policemen, and I saw it in police work. I say this not to make the obvious point that there exist, in many departments, officers whose work already embodies the ideals I mentioned. More important is that there are officers who know what police work calls for far better than I can say, and from whom I have learned what I said. As far as I could see they are practical men who have learned to do police work because they had to. No doubt they were motivated by respect for human dignity, but their foremost concern was effectiveness and craftsmanship. Perhaps I can best describe them by saying that they have in their own practices placed police work on a fully reasoned basis, moving from case to case as individual practitioners of a highly complex vocation.

Though I cannot be sure of it, I believe I have written as a spokesman of these officers because I believe one must look to them to make police work what it should be. But the chances that they will prevail are not very good. The principal obstacle to their success is the presently existing organization of police departments. I cannot go into details to show how the way police work is administratively regulated constitutes a positive impediment in the path of a responsible policeman, quite aside from the fact that most of his work is unrecognized and unrewarded.^[14] But I would like to conclude by saying that, far from providing adequate disciplinary control over patent misconduct, the existing organizational structures encourage bad police work. Behind this is the ordinary dose of venality and vanity, and the inertia of the way-things-are. But the principal cause is an illusion. Believing that the real ground for his existence is the perennial pursuit of the likes of Willie Sutton—for which he lacks both opportunity and resources—the policeman feels compelled to minimize the significance of those instances of his performance in which he seems to follow the footsteps of Florence Nightingale. Fearing the role of the nurse or, worse yet, the role of the social worker, the policeman combines resentment against what he has to do day-in-day-out with the necessity of doing it. And in the course of it he misses his true vocation.

One more point remains to be touched upon. I began with a statement concerning the exercise of proscriptive control by government, commonly referred to as Law Enforcement. In all instances, except for the police, law enforcement is entrusted to special bureaucracies whose competence is limited by specific substantive authorization. There exists an understandable tendency to interpret the mandate of the police in accordance with this model. The search for a proper authorizing norm for the police led to the assumption that the criminal code provided it. I have argued that this was a mistake. Criminal law enforcement is merely an incidental and derivative part of police work. They do it simply because it falls within the scope of their larger duties—that is, it becomes part of police work exactly to the same extent as anything else in which force may have to be used, and only to that extent. Whether the police should still be considered a law enforcement agency is a purely taxonomic question of slight interest. All I intended to argue is that their mandate cannot be interpreted as resting on the substantive authorizations contained in the penal codes or any other codes. I realize that putting things this way must raise all sorts of questions in the minds of people beholden to the ideal of the Rule of Law. And I also realize that the Rule of Law has always drawn part of its strength from pretense; but I don't think pretense is entitled to immunity.

NOTES

1. Most textbooks on the police emphasize this point and enumerate the additional law enforcement obligations; see for example, A. C. Gorman, F. D. Jay and R.R.J. Gallati (1973); V. A. Léonard and H. W. More (1971).

2. Kansas City Police Department (1971). The survey contains information on 41 cities of 300,000 to 1,000,000 population. But the percentage cited in the text was computed only for Atlanta, Boston, Buffalo, Dallas, Denver, El Paso, Fort Worth, Honolulu, Kansas City, Memphis, Minneapolis, Oklahoma City, Pittsburgh, Portland, Ore., St. Paul, and San Antonio, because the data for the other cities were not detailed enough. The estimate that detectives make up 13.5 percent of line personnel comports with the estimate of O. W. Wilson (1963: 293), who stated that they make up approximately 10 percent of "sworn personnel."

3. Federal Bureau of Investigations, Uniform Crime Reports (1971). The data are for 57 cities of over 250,000 population, to make the figures correspond, at least roughly, to the data about manpower drawn from sources cited in note 2, *supra*. I might add that the average arrest rate in all the remaining cities is approximately of the same order as the figures I use in the argument. The so-called Index Crimes comprise homicide, forcible rape, robbery, aggravated assault, burglary, larceny, and auto theft. It should also be mentioned that arrests on Index Crime charges are not tantamount to conviction and it is far from unusual for a person to be charged, e.g., with aggravated assault, to induce him to plead guilty to simple assault, quite aside from failure to prosecute, dismissal, or exculpation by trial.