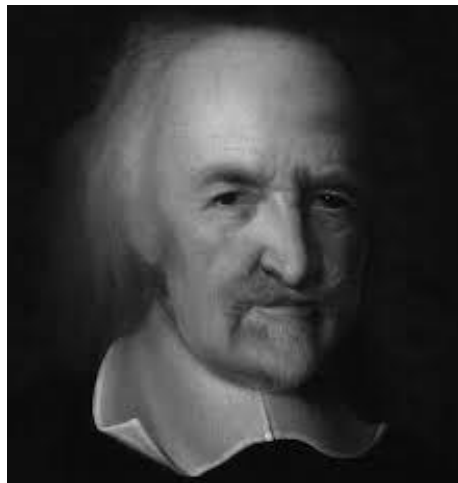# Introduction: Why Do We Need the Police?

This introductory chapter addresses the influence and importance of the rule of law in building and making modern society possible. What would the world be like without it?

"*Solitary, Poor, Nasty, Brutish and Short.*"—Thomas Hobbes

Thomas Hobbes, 1588–1679[*]

Widely recognized as the founder of political philosophy, Thomas Hobbes is best known for his book Leviathan that outlines what is meant by the *Social Contract*. He developed many fundamental principles of liberal thought including rights of the individual, the natural equity of man, and the artificial character of the political order. He developed the premise that men should be free to pursue their own cooperative self-interest and that society should leave people free to do whatever they wish unless it is forbidden by law.

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[*] John Michael Wright [Public domain], via Wikimedia Commons.

Learning Outcomes

Upon successful completion of this chapter the student will be able to:

- Discuss the need for the police in general.

- Describe what the world would be like without the police.

- Define perception and the difference between objective reason and subjective passion.

- Describe the primary function and orientation of the police.

- Describe the difference between Social Justice and Criminal Justice.

Important Concepts

- The State of Nature and the Social Contract

- Social Justice

- Rule of Law

- Perception

- Objective Rationality vs. Subjectivity

- Objective Bias

- Subjective Bias

Questions for Discussion

- Describe what is meant by "the social contract."

- What is the "rule-of-law" and why is it important?

- What do you want from the police?

- Discuss an event or situation where the different perceptions of individuals or groups caused conflict.

- Provide an example of a subjective interpretation of an event. Provide an example of an objective interpretation of an event. Describe the difference.

- What is meant by culture? What are a few characteristics of the police subculture?

INTRODUCTION—THE SOCIAL CONTRACT AND THE SOCIAL WARRIOR

What is the legitimate role of government in a Democratic society? This question has dogged scholars for centuries. Throughout history, governments have existed to restrict, regulate, and, in a general sense, put controls on people. In short, government is, by its very nature, a repressive entity.

Enlightened thinkers such as **Rousseau, Locke and Hobbes** provided lengthy works on what is now referred to as the *social contract;* the idea that all members of society agree and surrender certain natural rights, such as engaging in warfare, to the government in return for security. In order to provide that security, the government is invested with limited powers, such as the use of force and coercion to maintain social stability and protect the individual interests of societal members. Individuals, in turn, largely give up the right to use physical force in their own defense and in their efforts to secure the necessities for survival. The government, finally, is expected to provide an effective system for regulating conduct and to create forums for resolving conflict (Gaines, 2011, p. 2).

> Discuss the social contract in light of recent mass shooting events. Is the government holding up its end of the bargain?

The legal authority for the police to use force is the manifestation of the power of the state and the foundation of the police function. In the United States, the idea of limited government has been put to the test. The U.S. Constitution is not an enabling document; it is one intended and designed to limit government, the most notable example of this being the Bill of Rights without which the Constitution would not have been ratified in 1789. This document goes to great length to specify what the government, i.e., the police, cannot do. The Fourth Amendment restricts the police (search & seizure) and the Fifth and Sixth Amendments specify, through case law, what police officers must do in certain situations to preserve the rights of citizens who have been accused of crimes.
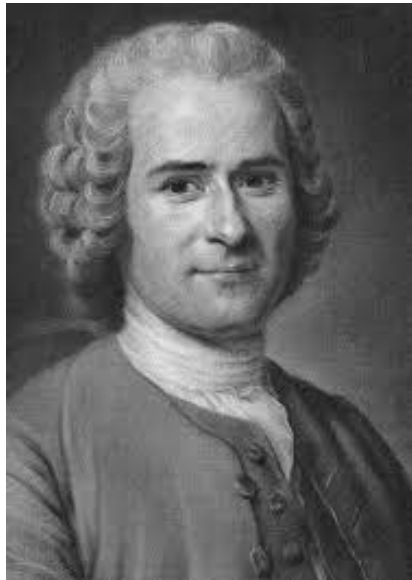
Jean-Jacques Rousseau[*]

French philosopher Jean-Jacques Rousseau (1712–1778). In 1762 he published 'The Social Contract' arguing that all men are born free and equal, the basis of both the French and American revolutions. Rousseau proposed that in the state of nature man holds "uncorrupted morals" in contradiction to Hobbes who maintained that man is wicked and wholly self-interested, lacking any virtue. If it were not for the corrupting influence of civilization, men would be free, wise and virtuous, and living the good life.

The conflict between how Hobbes and Rousseau view man's nature, savage and wholly self-interested (Hobbes), noble and virtuous (Rousseau), continues even today. Beyond Hobbes belief in the need for collective protection, a *Leviathan* to ward off the primitive savage nature of man against man; and Rousseau's belief in the "noble savage" uncorrupted by the influence of civilization, a new idea has recently crept into collective public consciousness, an idea not supported by either philosophy. That idea seeks to empower government to do things *for* people, e.g., the social safety net. Hobbes believed in the need for government to protect members of society from the state of nature. Rousseau believed that the nobility of the state of nature was corrupted by the unnatural limitations of civilization.

Caught in the middle of this role dichotomy are those who are charged with maintaining public order—even using force if necessary, to do so—the police. Some believe in the police as the righteous defenders of the rule-of-law, others see the police as agents of *social justice*. The problem for the police, however, is that

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[*]   Maurice Quentin de La Tour [Public domain], via Wikimedia Commons.

they are not in the social justice business; they are in the criminal justice business.[1] The idea that the police can and should do more to promote social welfare—do things for people—is at the heart of police-community relations problems today.

> What does the term "Social Justice" mean to you? Can you define it? How would your best friend define it, how about a co-worker or a parent? Would all these definitions and meanings be consistent?

Photo of Riot Police (2005)[*]

THE NECESSITY FOR THE RULE OF LAW

The ability for human beings to pursue their own self-interest is regulated and restricted by the rule of law: mans' freedom is constrained to do both good (Rousseau) and bad (Hobbes).

> In the state of nature, freedom is to be under no other restraint but the law of nature i.e., survival of the fittest. Freedom of people under government is to be under no restraint apart from standing rules to live by that are common to everyone in the society and made by the lawmaking power establishment, i.e., those holding political power. Persons have a right to liberty: first, to follow their own will in all things

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[1] Social Justice generally refers to the fair and equitable distribution of advantages and disadvantages within a society. The mission of Criminal Justice, in contrast, is adjudicate justice for the individual accused of a crime through the rule of law. Social justice addresses justice in society for groups, criminal justice is focused upon the sovereignty of the individual and due process.

[*] By Dave Herholz.

that the law has not prohibited; and second, to not be subject to the inconsistent, uncertain, unknown, and arbitrary wills of others (Locke, 1680).
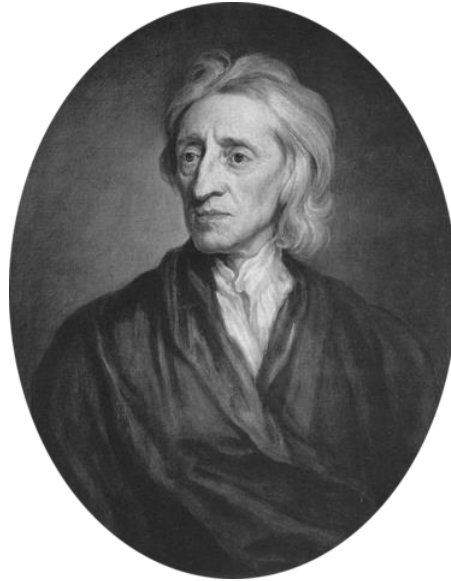
John Locke, 1632–1704*

Widely recognized as the father of Liberalism, John Locke, a British philosopher, had great influence over the American revolutionaries regarding his concept of natural rights of man. He was well known for his advancement of empiricism whereby nothing can stand as true without the capability of being tested and falsified. Nothing is exempt from being disproven.

The term "**state of nature**" refers to the hypothetical conditions experienced by people before societies came into existence. In such a hypothetical condition, all people would have been subject to what is observable in nature, to natural conditions such as the supremacy of the physically and mentally strong and the subjugation of the weak. In such an environment, and with neither commonly accepted behavioral expectations nor a system for controlling those who would take advantage of others, any expectations that existed regarding human behavior toward others would be arbitrary and subject to the irrational whims of the most powerful individuals and groups.

Social systems evolved over time to provide an alternative to such a state of nature, rules to control relationships among and between individuals. In different

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* By Godfrey Kneller—State Hermitage Museum, St. Petersburg, Russia, Public Domain, Courtesy wikimedia.org.

places, a common set of expected behavioral expectations for all people evolved along with a social structure (government) for codifying and publishing the rules; for establishing a means (police) to enforce the rules; and finally, for providing a process (courts) to prevent the arbitrary and unintended abuse of the rules. Such a social structure today is called "**the rule of law**."

As might be expected, different cultures have evolved structures and systems to perform these tasks that vary in the rules established and in the systems for rule making, enforcement, and adjudication, but all cultures have a common set of expected behavioral expectations to which no person can claim exemption. Their laws all establish that no person may be punished except for a breach of law and they all provide that the law is subject to uniform interpretation as the result of judicial decisions (Clark, 1998).

Without the rule of law there would be no common set of behavioral expectations. The rules would be arbitrary and subject to the irrational whims of the most powerful individuals and groups. When the rule of law breaks down, we see the subjugation of the weak by the strong as in the case of gangs of young thugs intimidating neighborhood residents, causing them to live in constant fear.

> Provide an example of the application of the rule of law to a current social problem. What are the implications and likely consequences of such action? What would happen if the rule of law did not exist in this situation?

THE POLICE FUNCTION

This book deals with the process of enforcing the laws that have been established. It deals with the *police* and the relationship the police have with the communities they serve. What, exactly, is it that society wants from its police? Law and order have been at the heart of the police function but the law itself is not universally perceived as legitimate and just. The ultimate exercise of lawful authority and police use of force is now being challenged as an expression of societal injustice further complicating an already ambiguous endeavor.

Police officers on high alert[*]

Violence and Use of Force

The police exist to provide a sense of security. The idea that people may go about their normal lives without fear of being attacked, and without fear of having their property taken from them is at the heart of the police mission. In the United States, the ability to enjoy constitutionally protected rights free from governmental intervention is equally fundamental to the police mission. Egon Bittner (1970) identifies two fundamental aspirations of Western society: first, to *abolish violence* as a means of settling disputes; and second, to *instill peace* as a stable and permanent condition of everyday life. The underlying morality of this expectation speaks to the duty of societal members to sacrifice self-gratification for the benefit of the greater and common good—a utilitarian perspective. The implication for public policy is that those within society who are unwilling to sacrifice their personal gratification for the common good are to be punished (retribution), incapacitated, and then rehabilitated. The criminal justice system, beginning with the police, exist to do just that (Bittner, 1970, p. 17).

> Does the presence of highly visible and heavily armed police officers give you comfort, intimidate you, or make you afraid? Why?

At the heart of the policing function is **the capacity to use force and coercion**, albeit as a last resort, to fulfill this basic mission. Civilized society in the United States, and in the western world generally, has rejected the idea of individuals using force except for self-defense and has legitimized the use of repressive force by the police out of necessity.

Police intervention means above all making use of the capacity and authority to overpower resistance. This thought is always in the mind of

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[*]   Image labeled for unrestricted use.

those who "call the cops," with every police intervention projecting the message that force may be used to achieve a desired result (Bittner, 1970, p. 40).

An argument has been made that the police are no longer necessary because there are real-world alternatives that are now available to all people. These alternatives include:

- Community patrols and unarmed mediation and intervention teams that roam neighborhoods and reduce instances of disorder such as "cat-calling," partner violence and even gang murder.

- Crime decriminalization aimed at eliminating the injustice of mass incarceration.

- Restorative Justice where accountability is reinforced as a community issue through a process of transforming those impacted by crime and violence.

- Direct democracy at the community level where a healthier political culture is produced when people feel more involved.

- Mental health care as opposed to institutionalized social control (Martin, 2014).

This perspective completely abandons the need for force as a controlling element for human behavior, as if the coercive aspect of the power of the state is no longer necessary due to the perceived injustice that its use sometimes provokes. It also serves to provide a contrasting viewpoint regarding the importance of the use of force and coercion in the concept of the policing function.

Do you think society can function without the police and their ability to bring physical force and violence to bear in critical situations? Discuss.

The use of physical force is a rare event in police work, especially when the function is carried out wisely. Police officers today understand that violence is never pretty and are fully aware that their every move can be recorded, reviewed, taken out of context, and debated. The difficulty of the policing function relates to the ambiguity created by the viewpoints of diverse groups regarding what they perceive as correct. Policing has always been an ambiguous function; however, given the impact of modern technology every cop knows that his or her actions will be subjected to intense and often unfair criticism. This makes the use of force by police today a risky endeavor; individual officers do not fear confronting a violent offender, they now fear how it will look to an uninformed public on social

media. The implications of this fear become a disincentive to the legally correct application of force, resulting in the current trend of de-policing (FBI, 2017).

In a homogeneous[2] community, everyone seems to understand the rules. The job of a police officer is more straightforward because everyone agrees on the basic application of the law and, more importantly, the informal standards of correct behavior. The police officer provides a visible symbol of the coercive force that can be employed to correct behavior perceived as a violation of the formal rules, such as theft, or the informal standards, such as not hitting a woman. Police officers in such communities are also much more willing to weigh-in on situations that they perceive as a threat to the accepted social order and are generally trusted in their judgement.

> Does the general availability of video recording technology make the job of the police more difficult? Why?

The righteous focus on diversity as a tool to better understand each other and promote social justice has changed the world for police. The law is open to much broader interpretation and those informal standards of conduct have broken down making police intervention in what was once considered appropriate situations now risky endeavors. Police officers are generally comfortable intervening in very dangerous situations such as threatening and violent encounters. Their training and experience give them a tactical edge. However, they are not comfortable in having their actions in response to threats filmed and uploaded to YouTube to be critiqued and criticized by those with an agenda that does not include the maintenance of peace and order. As a result, the police are not engaging in the kind of proactive work they once did (Roy, 2016).

> The impact of diversity has also caused people generally to retract from social contact. "Diversity triggers a tendency to hunker down and have less confidence in local government, community leaders, and the news media" (Putnam, 2007).

A strong sense of community is a sought-after goal in policing and a benchmark of great police community relationships. However, the trust necessary to achieve better relationships has been undermined by a relentless focus on diversity. **James Q. Wilson**, in reviewing Putnam's book in his article "Bowling Alone" (2000), puts it this way:

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[2]   Homogeneous refers to sameness, people who are alike and share a common culture and set of behavioral expectations. Uniform, identical and consistent.

"America, and perhaps the Western world as a whole, has become increasingly disconnected from family, friends, and neighbors. We once bowled in leagues, now we bowl alone. We once flocked to local chapters of the PTA, the NAACP, or the Veterans of Foreign Wars: now we stay home and watch television. As a result, we have lost our '**Social Capital**'—by which Putnam meant both the associations themselves and the trustworthiness and reciprocity they encourage. For if tools (physical capital) and training (human capital) make the modern world possible, social capital is what helps people find jobs and enables neighborhoods and other small groupings of society to solve problems, control crime, and foster a sense of community" (Wilson, Bowling with Others, 2007).

We value diversity in the hope that bringing different people together will undermine ethnocentricity, racism, and discrimination, and increase acceptance and respect. We value this so much that we now use coercion to bring it about and the results of that coercion are not good. Those who are forced into diversity and inclusion training come away resenting the very groups that they are being encouraged to accept (Leibowitz, 2016).

Compare the level of social interaction between individuals of your generation to your parents and grandparents. Is the level of social interaction generally increasing or decreasing in your opinion?

When interacting in social situations do you tend to seek out those who are similar to yourself or those who are different from yourself? Why?

Do you think this was any different for your parents and grandparents?

The problem is that force-feeding inclusion and diversity can activate bias rather than stamp it out. People rebel against rules because they want to assert their personal autonomy. Better programs involve positive engagement such as mentoring that "chips away" at long-held or ingrained bias. When we believe one thing about a group of people but our experience with them shows us something else (cognitive dissonance), our views of that group will change (Dobbin, 2016). The implication is that our continued efforts at promoting diversity will, at some point in the future, reduce the bias felt by the police toward those who are different from themselves.

The "President's Task Force on 21st Century Policing" states "Trust between law enforcement agencies and the people they protect and serve is essential in a democracy" (President's Task Force on 21st Century Policing, 2015). While law enforcement is certainly not wholly responsible for the erosion of trust many

people feel toward local government, they must take responsibility for practices that further undermine it. Examples include the lack of transparency in operations. The policies and procedures that govern the actions of police officers in high-risk areas such as the use of force should be readily available and open for criticism and review. Doing so opens a municipality to higher levels of risk, but it also creates an incentive for standardization, effective training, enhanced supervision, and effective discipline. The use of force by police has done more to undermine trust and legitimacy than any other thing that the police do. This is so unfortunate because the use of force is so seldom a part of what the police actually do.

THE PERCEPTION PROBLEM

Perception is not the actual sensory input we receive from our eyes, ears, hands, etc. It is the process of creating meaning from those sensory inputs. Have you ever met someone who can make you angry just by showing up? Certainly, police officers can generate anxiety through their mere presence and the wise police officer understands how to mitigate or enhance this affect. The best cops know how to manipulate emotion to their own advantage and emotion is often based on perception. The problem is that what is in the advantage of a typical police officer may not be conducive to great police community relationships; they may, in fact, cause conflict. The wise police officer is self-aware and knows how to manipulate perceptions.

No two people will experience the same event in the same way. Our minds are not video recorders, and the inaccuracy of eyewitness accounts of events is the stuff of legendary injustices (Loftus, 1996) (Zalman, 1999). The problem rests in the need to make judgements and this depends upon experience, knowledge, present motives and yes, bias and stereotyping (Hunter, 2011, p. 32).

Perceptive Filters

The process of perceiving events, situations or individuals is governed by just a few psychological processes.

Generalization allows us to draw quick conclusions about what we perceive based on our past experience. Take, for example, a child who sticks their finger into an electrical outlet. If they survive the experience, they are quite likely to be resistant to placing their finger into anything that even remotely resembles an electrical receptacle.

Deletion happens when we pay selective attention to certain sensory stimuli. We filter out everything that interferes with what we wish to focus on. This often manifests itself as "selective hearing." It commonly occurs when a wife asks her husband to take out the trash during the ball game.

Distortion occurs when we filter sensory experience through our personal filters and then alter them due to intentional or unintentional cognitive processes. One of the best examples of this today is the issue of *micro-aggression*.[3] As an example, imagine a police officer who was called to the scene of a disturbance and encounters a group of young African Americans engaged in a dispute. The police officer states to the group "Y'all need to settle-down." In this true example, at least one individual, from Chicago, took this as disrespectful due to the phrase's common usage in the racist South. What the individual did not know is that this officer was from the South, did not intend any disrespect, and commonly used the phrase.

> Can you provide an example of when you or someone else was misunderstood due to how verbal and non-verbal messages were perceived by others? What could have been done differently to prevent the misunderstanding?

Distortion is a common problem in policing as the police officer is likely to have very different experiences than anyone else they are apt to encounter on the street. Citizens are equally likely to perceive the behavior of an officer quite differently than the officer intends due to a lack of any other frame of reference. This does not stop people, particularly those who feel they are not well served by the police, to perceive an officer as rude, antagonistic, and condescending when; in fact, the officer is performing exactly as they were trained.

A recent example out of Madison, Wisconsin, provides an excellent illustration of this problem.

> **Horrifying. Gut-wrenching. Crazy.** *That's how elected leaders describe the arrest of 18-year-old Genele Laird by Madison police officers outside of East Towne Mall early Tuesday evening. A cellphone video of the violent encounter between police and the African American teenager was posted on Facebook shortly after the incident. By nightfall, community leaders, state and local elected officials, protesters and Laird's family were gathering outside the Public Safety Building demanding answers.*

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[3]   Webster defines a micro-aggression as a comment or action that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a member of a marginalized group.

According to police, officers responded to a call at 5:15 p.m. from mall security about a woman described as "out of control and making threats" in the food court. Laird allegedly confronted an employee at Taco Bell claiming that her phone had been stolen. Security claims she then displayed a knife and made threats to the Taco Bell employee. When asked to leave, Laird allegedly threatened to kill the security staff.

The video recorded by "RichBoy Robinson" begins with an officer confronting and then restraining Laird after she exits the mall. Laird appears to try to break free from the officers but is unsuccessful. "Get your hands behind your back," says the officer. "Arrest me then, bitch," replies Laird. A second officer pulls up in a squad car with its sirens on. He exits the vehicle and joins the struggle, which quickly escalates. The second officer strikes Laird in the leg several times with his knee, as the officers bring her to the sidewalk.

As the struggle continues, one of the officers punches and then Tasers Laird as she begins to shriek. After the officers subdue her, Laird complains about being unable to breathe. She threatens to bite an officer who in turn threatens to Taser her again. The police then place a "spit sock hood" over her head.

Laird can be heard weeping, saying "I don't want you to see me like this." The teenager is then deadlifted by four officers and placed in a squad car.

Laird was taken to jail, tentatively charged with "disorderly conduct while armed (a knife has been recovered), resisting police (causing injury), battery to police officer, and discharge of bodily fluids," according to the police report. Two officers were treated and released at the hospital for injuries (Brogan, 2016).

The two Madison police officers were found to have acted correctly, consistent with their training given the situation they faced. That did not stop the community outrage as the results of the viral video of a 17 year old black woman being struck, kicked and tasered by two white police officers.[4]

> What could the officers have done differently in this situation to avoid the bad publicity? What would be the implications of the different officer actions you identify?

Clearly this case provides a good example of an individual's subjective need to demonstrate the injustice of police action. First, the actions of the police were generalized to reflect the commonly held perception that police officers treat blacks more aggressively. Second, the totality of the situation was diminished in that the message did not include information that this 17 year old woman had a

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[4]   As reported in the Wisconsin State Journal, September 2nd, 2016.

weapon or that she was violently resisting the police. Third, the fact is, no citizen has a legal right to resist the efforts of any police officer during an arrest.

Perceptions are powerful, especially today with technology that enables individuals and groups to present events in a light most favorable to their self-interests. Police officers do not have this capability and are therefore at a huge disadvantage regarding public perceptions of their actions and behavior.

So why can reasonable people perceive situations so differently? Some reasons include:

- Differences in past experience.

- Knowledge, or lack of knowledge.

- Individual needs relative to the situation in question that result from the modeling process of generalization, distortion and deletion.

African Americans, especially poor blacks, have very *different experiences* with the police than do middle class whites. The importance of these differences will be covered in a subsequent chapter. Their collective experiences are likely to pre-dispose them to certain attitudes regarding the police generally. The wise police officer will be aware of these attitudes and will take steps to mitigate their impact, whenever possible.

Citizens generally have incomplete, partial or no *knowledge* concerning correct police practices and lawful procedure when faced with a violent confrontation. The significance of case law regarding police use of force, *Graham v. Connor*, and the legal reasoning behind it is not commonly known or understood.[5] Reason itself is now being attacked as a manifestation of "white supremacy" by critical race theorists, further exasperating the problem of cognitive bias.[6]

RATIONAL OBJECTIVITY AS PART OF OUR LEGAL TRADITION

The police function in a world governed by the law; the law in-turn is governed by the world of *fact and objective reason*. The law governing use of force is a prime example. In the case of *Graham v. Connor*, 490 U.S.386

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[5]   U.S. Supreme Court Graham v. Connor, 490 U.S. 386 (1989) Graham v. Connor No. 87–6571 Argued February 21, 1989 490 U.S. 386. Established the objectively reasonable standard for police use of force.

[6]   Cognitive bias is a systematic pattern of deviation from rationality (objective reason) in judgment. Individuals create their own "subjective reality" based upon their personal perception of the event or situation. An individual's perception of reality, not the objective input or facts, dictate their attitude and behavior leading to perceptual distortion, inaccurate judgment, illogical interpretation, or irrationality.

(1989), the Supreme Court ruled that a police officer's use of force in a given situation (context) is to be judged by the "**objectively reasonable**" standard. In the language of the court this means: "In light of the facts and circumstances confronting the officer at that time, without regard to any potential underlying intent or motivation." <u>Our subjective feelings, attitudes, experiences and point of view are not to be considered.</u> When police officers reasonably feel they, or someone else, is threatened with death or great bodily harm, the law allows that officer to use deadly force. The fact that the weapon was actually a non-lethal BB gun is irrelevant under the law. The police subculture or administrative policy may even punish an officer (regretfully) for not using deadly force in a situation where it was legally justifiable (Solar, 2016).

Subjective information is based on personal opinions, experiences, interpretations, points of view, emotions and personal judgment; whereas objective information or analysis is fact-based, measurable and observable, unbiased, and clear to all. As an example, the Police Executive Research Forum's proportionality principle ignores fundamental aspects of the law and the police subculture. This new standard ignores the objective perspectives of the officer. The implication is that a cop faced with an imminent threat must now consider the subjective viewpoint of an unspecified general public asking themselves the question "How would my use of force actions in this case be viewed by the public?" In at least one instance, this push towards the "proportionality" standard resulted in a cop hesitating and second-guessing how to act in a life-threatening situation resulting in severe injury to the officer (ABC News, 2016). The current pressure for officers to "de-escalate" potentially violent encounters has undoubtedly led to similar tragedies for both officers and suspects.

> Should the police constrain their actions to what is acceptable to the general population? Why or why not?

Some argue that the police should "conform their uses of force, especially deadly force, to our wishes" (Couper, 2016). The incident about which Couper writes involved the arrest of a violently resisting black teenager. It was a shocking example of police using force in a way that complies with policy but that constitutes what has become known as a "lawful but awful" use of force; but here's the rub: individuals' wishes are **subjective**, based upon personal opinions,

interpretations, points of view, emotions, and attitudes. The police officer with a duty to arrest a belligerent and dangerous citizen is likely to have a different point of view. Others' points of view are worth considering, too—the officer's wife, friends, co-workers, and parents, to name a few. How about the crime victim? It is unlikely that a consensus would arise among the many stakeholders as to the proportionality of the use of force in any given case. This raises a new question; whose subjective point of view takes precedence? The only fair, just, and reasonable standard rests with the legal and objective reasoning of *Graham v. Connor.*

> *"You need laws to survive and you need law enforcement to have an intelligent, peaceful society; but we have to live in these places and suffer the type of conditions that exist from (police) officers who lack understanding and who lack any human feeling, or lack any feeling for their fellow human being . . ."*

>   —Malcom X (Breitman, 1965)

The above quote from Malcom X provides insight for the modern police officer committed to improving police community relations. Even the most radical and antagonistic proponents of social and racial justice recognize the need for law enforcement. At the same time, there is a pressing need for the police to be sensitive, sympathetic, and even possess the ability to empathize with the subjective viewpoints of those who are most impacted by police action, or lack thereof.

THE POLICE SUBCULTURE

Culture is the way of life shared by members of a society. It includes language, values, symbolic meanings, technology, and material objects (Crank, 2015). Policing has a unique subculture characterized with symbols that include the uniform, badge, gun, and squad car as well as the unique language (such as, coded communications, acronyms, and euphemisms) that is rarely understood by those outside of the police subculture. Organizational arrangements such as rank, specialized positions, and status indicators, are also powerful symbols of the "cop" culture as well as the stories characterizing what it really means to be a "cop's cop." These stories are passed from officer to officer and teach young recruits how they are expected to respond, creating a sense of lore and engraining core police values.

Do you identify with a unique cultural identity with its own symbols, language and values? Examples may include student, employee of a specific enterprise, boy scout or girl scout. How does this unique identity impact your perceptions of other individuals and cultures?

Any effort to change the police should recognize the profound influences of the **police subculture**, which is much more powerful to an officer than the law, ethical guidelines, training, discipline and even leadership. An important element of the police subculture is the need to maintain a façade of strength, independence, and invincibility. These characteristics are reinforced through socialization that begins when a police recruit receives their badge (Crank, 2015). The recruits' new roles as authority figures transform them and they immediately begin looking for affirmation, acceptance, and role models. Popular culture supports a view of the police that is consistent with these general attributes of strength, independence, and invincibility. Recruits and veteran officers alike can find themselves at the center of a highly charged political environment that views behaviors associated with these attributes as racist, unfair and unjust.

Is this unique culture of the police a good thing or a bad thing? Discuss.

Deeply embedded in the police subculture is the idea that effective cops control their assigned territories. This idea takes the form of a moral imperative in the socialization of a police officer: cops do what they must to control their turf in face-to-face encounters with the public. This typically results in using more force than necessary in any given situation (i.e., if the suspect uses his fists, the cop uses his or her baton; if the suspect uses a knife, the cop uses a gun). The idea is to minimize potential resistance using overwhelming force (Crank, 2015).

"Bumper" Morgan, The Blue Knight[*]

Socialization into this cultural aspect of policing takes the form of locker-room stories shared and repeated by veteran cops. These stories become part of the police ethos and establishment. The militarization of the police speaks to this cultural aspect; again, the cultural belief is that the overt display of overwhelming force is useful in minimizing resistance. To the cop, it is "their" territory and "it exists to be controlled. To do less is to fail utterly" (Crank, 2015).

> "The overt display of overwhelming force is useful in minimizing resistance." Do you agree or disagree?

In the heart of every cop is a unique sense of morality, existing in varying degrees in individual officers, but always present. One of the most common reasons police applicants give for wanting to join the profession is to help others, but this altruistic tendency evolves with time on the job. To the experienced police officer, "helping" others comes to mean holding them accountable for their unacceptable behavior. Cop culture endures in large part because cops start out with a common residue of moral values that are strengthened by the police subculture. They take the form of shared occupational experiences that help define the craft and unify its members. This "*us vs them*" ethos is not suitable for everyone, but these unique and shared experiences unify cops with a common perception of doing right by their fellow cops. Assigned to a territory for which

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[*] By CBS Television Public Domain, https://commons.wikimedia.org/w/index.php?curid=18227554.

they are responsible, they take on a shared and powerful vision of justice (Crank, 2015).

A shared sense of morality is built upon **territorial control**. To not exert complete and total control of the physical wellbeing of their territory is to fail as a police officer. Maintaining territorial control justifies the use of what can easily be perceived as excessive force—defined as a level of force in excess of that which would be considered reasonable under the *Graham v. Connor* standard and also referred to as "street justice." The use of excessive force is morally justified by the police subculture due to its deterrent effect in maintaining territorial control. From the viewpoint of the police subculture, to raise the standard for police use of force to a level greater than the objective reasonableness standard of *Graham v. Connor,* a standard that has been vaguely defined as "proportional," is to completely ignore the deterrent effect of "street justice" (Crank, 2015).

The police exist to protect communities from the menacing aspects of an increasingly violent society. A quest for peace through peaceful means is at the very heart of the United States democratic tradition. Nonetheless, the police are given the authority to use force when the need arises. This presents a profound dilemma: how can the public ever judge the use of force by police as acceptable when the activity itself is morally unacceptable? The legal system has established strict guidelines, based on reason, where instances of police use of force are to be consistently reactive. It is the actions of citizens reasonably categorized as a danger to others, a danger to the police officer, or any action that is resistive to an arrest that legally authorizes the police to use force. The U.S. legal system then charges the police themselves with enforcing these rules. The courts have no direct concerns unless and until offended citizens seek redress (Bittner, 1970).

Prior to the development of technology that allows easy recording of police-citizen interactions, the use of force was a behind-the-scenes phenomenon only visible to individuals who are impacted by it directly, in stories told by others, in newspaper accounts, and in entertainment media. Our collective ignorance and general acceptance of violent police behavior ended in 1992 with the video recording of the Rodney King beating. This incident initiated a change in thinking about the police and how they should interact with the public, especially in use of force situations.

Police are the one-stop-shop for settling many disputes between citizens, particularly when one feels that an authoritarian or coercive presence is needed. Consider the teacher who does not know how to deal with an out-of-control child, a citizen who is offended by the neighbor's inoperable, junk vehicle, or a

community that is bothered by the young people who hang-out on the corner drinking, smoking, making inappropriate comments, and being generally intimidating. "Calling the cops" means making use of the capacity and authority to overpower resistance to achieve a desired objective (Bittner, 1970).

Perhaps nowhere is this more profound than in the case of how to deal with the mentally ill. Mentally ill persons live quiet and unobtrusive lives but are perceived as to occasionally constitute a serious hazard to themselves and others. Why do those with superior knowledge and skill when compared to the police, in areas such as psychiatry, social work and education, call the cops when interactions do not go as planned? Because, as Bittner puts it, "on the periphery of the rationally ordered procedures of medical and social work practice lurk exigencies that call for the exercise of coercion" (Bittner, 1970, p. 43). There is a need for intervention that cannot be resisted because there lies a possibility, however remote, that to not intervene forcefully would result in great harm.

Society asks that cops deal with its most profound social problems by using whatever force is necessary to shelter citizens from the criminal and the uncivilized (Bittner, 1970), yet the public complains when the police do exactly what they are asked to do. Even cases of perfectly justified use of force are now questioned because "they just look bad" (Couper, 2016). Up to this point, society reconciled the offensive nature of routine violence on the part of the police by concealing what the police do (Bittner, 1970). This is no longer possible due to the existence of video recording and social media technology.

> Social Justice is a type of justice that relates to the distribution of wealth, opportunity, and privilege within a society.

To a police officer who feels compelled to employ force while engaging with an individual, *the question is not one of social justice but rather criminal justice.* Those who resist the authority of the police are challenging the established rule of law and need to be corrected. It is the behavior, not the race, age, gender, sexual orientation, religious affiliation, or national origin that matters in the police subculture. The societal problem (i.e., a social justice issue) stems from the fact that there are cultural differences related to race, age, gender, religion, national origin that conflict with those of the police:

> The use of force is <u>not</u> a philosophical issue for the policeman. It is not a question of would or whether, but of when and how much. Therefore, the amount of force a policeman uses does not depend solely on himself

but also on the character of the people he polices and the politics of his department (Bittner as cited in Crank, 2004, p. 97).

This is not to say, however, that the decision to use force (and how much force to use) has nothing to do with the individual characteristics of the resisting subject. It certainly does, but not in a manner the public may assume. The decision is often based on the officers own **"objective" bias**, which is a product of traditional police subculture.

For example, consider two separate groups of "suspicious" looking young men gathered on an inner-city street corner in a high crime neighborhood. The responding police officer has very limited information based on a dispatch information or his or her own observations. The officer must rely on stereotypes and even personal prejudice, based on their experience, as tools of survival.

Imagine two different scenes. One image is a group of males dressed in neat slacks and polo shirts standing next to a late model BMW looking like they are lost and apprehensive. The other image is of a group, on the same street corner, dressed in dirty blue jeans and hoodies, wearing ball caps on backwards and making aggressive/obscene gestures directed at the responding officer. When encountering these two situations, the police officer's attitude and behavior, which may impact their decision to use force, are likely very different.

The question is why? Notice that race is not a factor here, but the reader's own implicit bias might have kicked-in when picturing each of these scenes in the mind. When one adds in the cultural socialization that occurs with a police officer, one is better equipped to relate to the police subculture and the idea of *objective bias*; that being a bias that is not merely the product of one's personal experiences, attitudes and point of view.

Objective bias refers to stereotypical attitudes or even prejudice that is based upon actual experience or empirical data.

Danger is a constant companion in policing, but according to Kappeler (1993) law enforcement is not a particularly dangerous occupation. Some dismiss danger as something that is overblown by the police themselves. To truly understand the element of danger within the police subculture one must experience it for oneself. One can begin to understand the police subculture by simply requesting a ride-along with a local police department. During a ride-along, a citizen can note how the behavior of people changes as they notice a police officer driving slowly down a residential street or watch the reaction of bystanders as the squad car approaches a disturbance.

One might experience the apprehension, uncertainty, and fear that cops live with every day. The same people cops are sent to protect might also have negative views of police officers, further adding to these feelings. Simply being affiliated or associated with a cop in these brief moments may make one aware of the animosity that is directed at the police regularly.

The uncertain nature of police work heightens the feelings of danger and fear in the police subculture. There have been rare but widely publicized cases of people actively seeking to injure, fight, or kill police officers for no other reason than the authority the police represent. Current knowledge and training capacities make it difficult for police to determine who is actually a danger, so police often rely on objective bias to gain some measure of personal security when dealing with the multitude of ambiguous situations and unknowable individual motivations. It is a way for the cop to control his or her own fear of the unknown:

> Police officers, because their work requires them to be occupied continually with potential violence, develop a perceptual shorthand to identify certain kinds of people as **symbolic assailants**, that is, as persons who use gesture, language and attire that the police have come to recognize as a prelude to violence (Skolnik, 2011).

The original examples of the characteristics of *"symbolic assailants"* from Skolnick's first edition, published in 1965, include "a youth dressed in a black leather jacket and motorcycle boots." Today the clothing has changed but not the behavior, as described by Skolnick: "A young man may suggest the threat of violence to the police by his manner of walking or 'strutting,' the insolence in the demeanor being registered by the police as a possible preamble to later attack" (Skolnick, 2011, p. 43).

> What kinds of clothing and behaviors displayed by others make you apprehensive or even fearful? Why?

Because police officers have been cast in such a negative light, police now experience profoundly disrespectful treatment in some areas. As a result, police perceive many citizens as symbolic assailants. There is little comfort in the knowledge that the truly dangerous—those who will actually kill an officer if they get the chance—rarely communicate the threat openly, like the symbolic assailant. The truly dangerous will be the quiet ones; the symbolic assailant, on the other hand, may attack or resist but will merely be showing-off for his or her friends. If the symbolic assailant happens to badly injure or kill an officer, the outcome is usually the result of luck or accident.

The common theme of danger is a tremendously powerful cultural element, a stimulus for cultural identity (VanMaanen, 1973). Through training and socialization, danger—and the fear strongly linked to it—is controlled for by the use of force. **Force is not an analytical construct for cops—it is a way to deal with fear.** The police socialization process weeds out those who are unable or unwilling to use force. Rookie cops, who are hesitant in the use of force, are viewed as a danger to themselves and others who work with them. If they make it through probation, they will soon find themselves isolated from their fellow cops. This makes the use of force a powerful stimulus for socialization and acceptance into the police subculture. Crank (2004) notes that officers who use as much force as they can get away with, as opposed to what is reasonably necessary, are described as a "cop's cop" in traditional police subculture (p. 106).

In the context of racial disparities in police contacts, the concept of the symbolic assailant gains strength:

> The patrolman believes with considerable justification that teenagers, Negros, and lower income persons commit a disproportionate share of all reported crimes; being in those population categories at all makes one, statistically, more suspect than other persons but to be in those categories and to behave unconventionally is to make oneself a prime suspect (Wilson, 1968).

When suspect descriptions are broadcasted over a police scanner to units in an urban area, the suspects are often described as being in the ages of 14 to 20. More often than not, a racial description of Black or Hispanic is also provided by the caller or victim. These descriptions are merely relayed by the dispatch center to officers based on caller, victim, and witness descriptions. They are not a product of police bias.

Consider a black teenager who engages in what Wilson refers to as "unconventional" behavior. This reflects Skolnick's "insolence in behavior" and translates into hostile, disrespectful, antagonistic, and even threatening behavior directed at the police. Such behavior makes them prime targets for police attention. The targeting is not based on race, as there are actually many young white males who behave in a hostile, disrespectful, antagonistic, and threatening manner toward the police. The targeting is based upon the behavior of the individual. Given the context of the police subculture it is not reasonable to fault the police officer for bias that is a product of their socialization, training, experiences, and available information; police are merely responding to the conditions and situations that they face, just as any rational human being would.

However, there are also many who do not display the "insolence in behavior" that is characteristic of the symbolic assailant. Treating them as such reflects *subjective bias* on the part of a police officer. Intentional acts that are a product of subjective bias, i.e., behavior that rises to the level of brutality should be condemned for it is this kind of behavior that undermines public trust and police legitimacy.

> Subjective bias is prejudice based on one's personal point of view, opinion, and attitude. It comes with a tendency to group people into categories based upon their characteristics such as race, religion, national origin, age, or gender. This is the foundation of racism.

> Racism is a belief that race is the primary determinant of human traits and capacities and those racial differences produce an inherent superiority of a particular race. www.merriam-webster.com/
>
> The belief that all members of each race possess characteristics or abilities specific to that race, especially so as to distinguish it as superior or inferior to another race or races. en.oxforddictionaries.com

The victims of **historic marginalization**, predominantly African Americans, also have a right to their own sense of objective bias regarding the police. Cops routinely display what can easily be interpreted as "insolence of behavior" with regard to some citizens. This manifestation of what Skolnick calls the symbolic assailant can also be applied to the police themselves, when viewed through the perspective of a black, male teenager in communities traditionally experiencing poor police-community relations. Given these experiences and the unique cultural attributes of ghetto life, it is also not reasonable to fault them for this bias as it too is a product of their socialization. A compassionate, cooperative, and service-oriented police department has the capacity to recognize their own biases as well as the lens through which their constituents view them.

The legacy of the professional reforms of the mid-twentieth century places a high value on efficiency. To the police officer, working and living within the police sub-culture, coercion and force are the most efficient means of gaining compliance and maintaining order. To take this further, the concept of efficiency is likely to encourage a professionally minded police officer to use as much force as they can get away with, as opposed to what is objectively reasonable. Why? Because doing so will have a **deterrent effect** on those who seek to challenge the authority of the police. This is what the author refers to as the *dark side* of the police sub-culture.

NO JUSTICE NO PEACE

Protestors demonstrating against the use of force by police[*]

In the wake of the very rare but dramatically publicized killings of unarmed men by police we hear protestors chant "No justice, no peace." What, exactly, do they mean?

It could be meant as a threat, as it most often is; the threat being that if there is a lack of justice, in the eyes of protestors, then they will attack. In the wake of the Michael Brown killing in Ferguson, Missouri, protestors were unwilling to allow the investigation to run its course. Instead, they took to the streets chanting in a highly charged emotional environment.

A former Congressman writing in the Washington Times interpreted this chant as a threat, stating:

> *Instead of waiting out the investigation, they're chanting, "No justice; No peace!" as a politically correct slogan that actually means, "We want revenge!" That attitude makes bad things become worse.*

> *"No justice; No peace!" isn't simply a slogan; it's actually a threat . . . that will be extracted against anyone who doesn't bow to the protestors' demands.*[7]

A threat to engage in violence strikes at the essence of what the police exist to prevent. Yet, in this case it is actually the behavior of the police, the killing of Michael Brown that is perceived as the injustice that provoked the threat, placing the police throughout the nation in an untenable crisis with regard to police community relations. The mission of the police is to maintain law and order; the peace that is being breached as the result of perceived injustice. The fact is that justice, in any objective sense, can never exist without peace. The police exist to

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[*]   Image labeled for unrestricted use.

[7]   http://bigthink.com/praxis/what-does-no-justice-no-peace-really-mean.

provide the very condition that enables justice to emerge. Any initiative aimed at furthering social justice, however that is defined, needs a peaceful, thoughtful, and rational setting to grow and develop. That is why the police are needed, to provide the peace so that rational minds can prevail and build a better sense of justice.

There can be no justice without peace and there can be no peace without justice.

—Martin Luther King Jr.

The chant "No Justice No Peace!" presents a fundamental conflict for our society. Without the rule of law enforced by the police, justice erodes. Yet the very actions of the police to maintain law and order are viewed as unjust and illegitimate by emerging actors on a mission to bring about radical change. How can the police manage this conflict?

Chapter Summary

Enlightened thinkers such as Rousseau, Locke and Hobbes provided lengthy works on what is now referred to as the *social contract,* the idea that all members of society agree and surrender certain natural rights to the government in return for security. In order to provide that security, the government is invested with limited powers, such as the use of force and coercion to maintain social stability and protect the individual interests of societal members. Individuals, in turn, give up the right to use physical force in their own defense and in their efforts to secure the necessities for survival. The government is expected to provide an effective system for regulating conduct and to create forums for resolving conflict.

The term "state of nature" refers to the hypothetical conditions experienced by people before societies came into existence. In such a hypothetical condition, all people would have been subject to what is observable in nature, to natural conditions such as the supremacy of the physically and mentally strong and the subjugation of the weak. Conversely, Rousseau believed that the nobility of the state of nature was corrupted by the unnatural limitations of civilization. He believed in the nobility of the state of nature and that man, free from the unjust societal institutions, would pursue the social good as the highest virtue.

The police exist to provide a sense of security. The idea that people may go about their normal lives without fear of being attacked, without fear of having their property taken from them, and in the Unites States, the ability to enjoy constitutionally protected rights from governmental intervention has been a fundamental characteristic of American life since the colonial period.

At the heart of the policing function is the capacity to use force and coercion, albeit as a last resort, to fulfill this basic mission. Civilized society in the United States, and in the western world generally, has rejected the idea of individuals using force with the exception of self-defense and has legitimized the use of repressive force by the police out of necessity.

Problems arise in the police community relationship when the actions of the police are not generally viewed as fair, just or reasonable. Perception is not the actual sensory input we receive from our eyes, ears, hands, etc. It is the process of creating meaning from those sensory inputs. Police officers can generate anxiety through their mere presence and the wise police officer understands how to mitigate or enhance this affect. The best cops know how to manipulate emotion to their own advantage and emotion is often based on perception. The problem is that what is in the advantage of a typical police officer may not be conducive to great police community relationships; they may, in fact, cause conflict.

The police function in a world governed by the law; the law in-turn is governed by the world of fact and objective reason. Subjective information is based on personal opinions, attitudes, experiences, interpretations, points of view, emotions and judgment, whereas objective information or analysis is fact-based, measurable and observable.

Culture is the way of life shared by members of a society. It includes language, values, symbolic meanings, technology, and material objects. Policing has a unique sub-culture characterized with symbols that include the uniform, badge, gun, and squad car as well as the unique language (such as, coded communications, acronyms, euphemisms) that is rarely understood by those outside of the police subculture. Deeply embedded in the police subculture is the idea that effective cops control their assigned territories. This idea takes the form of a moral imperative in the socialization of a police officer: cops do what they must to control their turf in face-to-face encounters with the public. A shared sense of morality is built upon territorial control. To not exert complete and total control of the physical wellbeing of their territory is to fail as a police officer. Maintaining territorial control justifies the use of what can easily be perceived as excessive force.

The chant "No Justice No Peace!" presents a fundamental conflict for our society. The mission of the police is to maintain law and order and the rule of law, without which justice erodes. Yet the very actions of the police to maintain law and order are viewed as unjust and illegitimate by emerging actors on a mission to bring about radical change. How can the police manage this conflict?

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