

# UNANTICIPATED CONSEQUENCES OF COMMUNITY POLICING

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Community policing has supplanted the traditional, crime-fighting orientation of the professional model with a broad and challenging mandate. Police are urged to act against the petty crime and disorder that makes life miserable in many neighborhoods. But some irritants may prove resistant to the application of conventional enforcement techniques. Legal tools might also be lacking, as not all troublesome behaviors are crimes and even conduct that is clearly illegal may have to occur in view of the police before an arrest can take place. Pressures on authorities to act within this legal and procedural vacuum can have serious liberty and public policy implications.

It is no surprise that this paper was assigned for presentation at a panel entitled "Critiques of Community Policing". Given the direction of the literature and the inclinations and assumptions that underlie current research, perhaps the title sounds an unwelcome alarm. That is not its intent. As enthusiastic as we may be about a promising new approach, it is crucial to go beyond "does it work?" to address a far more important question – "is it wise?" This work is an attempt in that direction.

## A resilient doctrine

It seems inconceivable to question a movement that has captured the imagination of scholars, politicians and the media. Although community policing may not be on everyone's lips, it has received so much favorable exposure that journalists no longer bother to bracket the term in quotes. Those whose undergraduate days have long passed cannot, save for a moment of infatuation with "team policing" in the seventies, recall another law enforcement paradigm that has received such enthusiastic play.<sup>1</sup>

Community policing's appeal begins with its name. Admittedly, the dreaded "p" word is still there, but only as a mere shadow of its old, brutish self. In a masterstroke worthy of a Cleo, everything that we have come to *not* like about the police is replaced with the vision of a kinder and gentler force that is preoccupied with public service and inclusiveness.

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Not long ago a scholar who is engaged in funded research on community policing remarked that New York's use of incident mapping and directed patrol represents its "problem-oriented" aspect. As this comment suggests, community policing has incorporated a host of strategies within its fold. Many have been around for a long time. Directed patrol probably began with the Peelers, while problem-oriented policing was discussed in the literature of the mid-seventies (Goldstein, 1977, pp. 65-66).<sup>2</sup> Even community policing's core precepts seem remarkably similar to what fans of team policing were suggesting *twenty-five years ago* (Sherman et al, 1973).

From its earliest manifestations, community policing has endorsed an expansive view of the police role that places special emphasis on improving the quality of neighborhood life:

Community policing is committed to a problem-solving partnership: dealing with crime, disorder and the quality of life" (Wasserman and Moore, 1988, p. 5).

The concept of community policing envisages a police department striving for an absence of crime and disorder and concerned with, and sensitive to, the quality of life in the community" (Sparrow, 1988, p. 9).

Given law enforcement's propensity for misadventure, broad mandates carry considerable political risk. Community policing advocates must have been particularly dismayed when they learned of the horrific events of August 9, 1997, when several of NYPD's finest allegedly sodomized and nearly killed a citizen as they implemented their own, misbegotten approach to "cleaning up the streets." Fortunately, if that word can be appropriately used, quick, decisive action by city government and the police helped defuse a situation that threatened to erupt into civil disorder.

Within a few days, an attempt was made to distance this episode from the principles of community policing. A published attack on the city's mayor and its police labeled NYPD's approach as "the exact opposite of community policing", while harsh criticism was leveled at the presumed seed, Wilson and Kelling's watershed thesis, "Broken Windows" (1982) (McNamara, 1997):

Mayors and police chiefs thinking of emulating NYPD's quality-of-life enforcement should realize that the approach tends to create an enemy class in the minds of many officers. People who are 'different' are treated roughly. The homeless, panhandlers, prostitutes, the 'eccentric' and, in some cases, the non-white can easily be regarded as a problem by cops who have been encouraged to seek out and eliminate signs of disorder.

New York authorities continue to absorb hard knocks over this affair. Community policing, though, has gotten by without a squeak.

Just how “mean” are those streets?

Policing is more an exercise in maintaining order and preventing mischief rather than making arrests. Since most citizens quickly yield to authority, officers find that going to the mat is seldom necessary (Bittner, 1978). Still, cops do become involved in situations where no one is willing to acquiesce. For patrol officers the defining moment is not when they respond to “real” crime but when they are asked to tackle problems that beg for corrective action but for which there is no legally prescribed solution.

Not every officer is an effective "streetcorner politician" who knows precisely when and how to cajole, threaten and physically intervene, and when to simply walk away (Muir, 1977). Policing is replete with uncertainty, and even the most competent officers encounter situations for which they are personally unprepared. After a time, cops may become so frustrated with their work's meager payoff that they neutralize their "moral baggage" and adopt extralegal remedies. This dilemma may apply with the greatest force to officers that feel compelled to master each encounter (Muir, 1977).

A paradox of law enforcement in a democracy, where the rule of law supposedly prevails, is that core functions such as peacekeeping and order maintenance are imprecisely bounded by statute. Police fill this void by exercising what has charitably come to be known as “discretion”. Maladaptive responses and unintended consequences are inevitable. That is why staff members of the National Commission on the Causes and Prevention of Violence, which was formed in the wake of public disorders in Watts, in August, 1965, and Detroit, in July, 1967, urged that police intervene only when behavior is "clearly and significantly harmful to the persons or property of others" (Campbell et al, 1969). According to this view, which does seem the opposite of "Broken Windows", officers should refrain from acting against consensual vice, petty drug use, vagrancy and obnoxious public behavior, as doing so may intrude into the lives of citizens whose values differ from those of their peacekeepers' (Campbell et al, 1969, p. 566).

Beginning in the sixties, episodes of public disorder and the availability of Federal funds through the LEAA and its successor agencies spawned a variety of experiments with community-minded strategies, including the basic-car plan and team policing (Sherman et al, 1973). As memories of unrest faded, attention shifted to anti-crime tactics such as stings, surveillance squads and decoy teams. But results proved mixed, suggesting that even the best police work was insufficient to contain crime. By the early 1980's, episodes of renewed disquiet and frustration with street violence reawakened interest in police-community issues. About the same time, an incursion of private-sector business philosophy brought buzzwords such as engagement, empowerment, problem solving and participative decisionmaking into the police manager's lexicon (Spelman and Eck, 1987; Kelling and Moore, 1988; Williams and Murphy, 1990; Meese, 1993).

Regrets about this shift are not uncommon among police executives. It has not been *that* long since problems of inefficiency, corruption and unequal application of the law caused large municipal agencies to adopt the quasi-military, “professional” style of policing memorialized by Jack Webb’s well-known remark, “just give me the facts, ma’am.” After removing their agencies from excessive enmeshment in local politics and instituting systems of accountability and control, administrators may wonder why they should embrace a strategy that so closely binds them to local groups, thus again risking loss of control of their mission and workforce. One essay that is highly supportive of community policing positively gushed that it encouraged officers “to be innovative, to be risk-takers, to be creative” (Kelling and Bratton, 1993, pg. 9). That, naturally, is the point.

There are other difficulties. Police work can be unpredictable and dangerous. Television shows and news accounts regularly depict cops as athletic and technically adept “New Centurions”, who directly engage robbers and thieves through advanced technology, tactics and sheer guts. Although some of these portrayals are overblown, not every encounter can be amicably resolved, and there are plenty of nasty domestic disputes, fights, car chases, episodes of road rage and shoot-outs to go around. Social science has yet to deliver a grand unifying theory for the messy business of real life. So for the present, the instrumental functions of the police, the portrayals and self-images of its practitioners, and the confusing (if not contradictory) expectations of politicians and the public remain embroiled in a heady mix. Despite the iconization of community cops, the archetype of an intellectually-driven, peace-loving officer who diagnoses neighborhood problems and negotiates mutually satisfactory solutions may be more applicable to a desk job than to the streets (Klockars, 1988).<sup>3</sup>

### Expanding the role

When community policing allowed the genie of citizen empowerment to spring forth, we were all in for a surprise. Remarkably, most folks seemed far less concerned with shifts in criminal justice theory than with the hooliganism, drug dealing and general disorder prevailing in their midst (Boland, 1996). Residents annoyed with “professional” cops who blew off complaints with the excuse that appropriate laws or sufficient evidence were lacking were delighted by the new police-community partnership, as it was cast in terms that explicitly rejected such lame justifications. Under the new “community order”, police managers *must* respond to citizen concerns about quality of life. “Broken Windows” simply furnished an intellectual framework for a crusade whose moral imperative to clean up the streets had already been forged. Here again we recognize a recurring irony of reform, where well-intentioned remedies expand the role of agencies of social control.<sup>4</sup>

It seems noteworthy that the police *ever* tempered society’s calls-to-arms by pointing out the limits of their authority. While hooligans and those disrespectful of the

law have always been vulnerable to a “roust”, officers typically prefer to play by the rules of arrest, search and seizure. Self-interest is clearly at work here, as bad arrests can result in embarrassment and litigation. Police concern with the legal niceties have on occasion proven so uncompromising that they led to changes in the law. Statutes were enacted to authorize the immediate apprehension of a domestic partner for physical abuse because police had punctiliously followed the “in presence” requirement that most penal codes imposed for misdemeanor arrests.

Digging through the rhetorical excesses of the community policing literature is not a job for the fainthearted. Still, some notions emerge. Police are urged to become more accessible through the use of foot patrols and storefront precincts. They are encouraged to work closely with other public services, including health and zoning, to stem physical decay. Strategies for problem solving and decisionmaking within police agencies, and between law enforcement and the community, get extended play. But relatively little is said about measures that the police can *immediately* take in response to complaints from the newly empowered Mr. and Mrs. Jones.

One exception is neighborhood drug dealing. Here are the steps officers took to counter a crack-house problem:

The solution took the form of a citizen-neighbor informant recruited by a police officer. Using a drug-observation log sheet...the informant observed the house for several weeks and recorded suspicious activity. At the same time the [police] conducted random surveillance to verify the accuracy of the observations and obtained corroborative data from police reports. The information was used to obtain a telephonic search warrant. (Boland, 1996).

### Policing by exclusion

Street-level drug enforcement, which clearly predates the community-policing movement, responds to a concern that has long bedeviled residents of the inner city. Dealers and customers will continue to get busted, with or without the blessing of community-policing advocates, as the police know that if they ignore this problem, it is they (rather than their academic partners) who will be held accountable.

Drug markets aside, strategies that depend on traditional evidence-gathering techniques seem too legalistic, burdensome and uncertain to satisfy the expectations of peace and quiet that are generated by the promises of citizen involvement. It is for this reason that approaches that emphasize the coercive aspects of policing have received so much favorable attention (Weisel and Harrell, 1996; Conly and McGillis, 1996).

*Crackdowns, sweeps and barricades.* During “sweeps” and “crackdowns”, platoons of uniformed officers scour a locale with the avowed intention of excluding

undesirables and reclaiming neighborhoods for the law-abiding. Various reasons and pretenses are used to justify stops and detentions. Subjects are frisked and identified, record checks are run, and citations are written even for the most trivial offenses. Persons with outstanding warrants are taken to jail even when the underlying bail is so low that a physical arrest would not normally take place. Unsavory association is discouraged by the sheer police presence and by making as many personal contacts as possible. Aside from its intimidating effect, a sweep increases the risk of being observed during an illicit transaction and of being caught with contraband. Still, the objective is not to make significant (i.e., quality) arrests, for doing so would quickly tie up all available resources, but rather through a coercive, harassing presence make conditions so unpredictable as to drive out the unwanted.

In the barricade strategy, sawhorses and other physical barriers are used to block off streets and create passage chokepoints. Movement slows to a crawl as officers interact with drivers and pedestrians. Known residents are waved by while unknowns – particularly those who fit certain subjective profiles – are interviewed at length. Persuasion and intimidation are used to expel the unwanted. There is seepage, but given sufficient manpower a neighborhood can be symbolically closed. This practice temporarily creates the effect of a gated community, though using “real” police instead of watchmen.

Exclusionary tactics supposedly discourage drug dealing and hooliganism. Residual effects are unclear, though there is likely a temporary chilling effect, and not just on criminals alone.<sup>5</sup> However, proponents claim that psychological and convenience costs are more than offset by the enhanced levels of safety and security that law-abiding citizens will enjoy.

*Who's in Charge Here?* Using the police as gatekeepers is not uncommon. Uniformed officers are frequently stationed at public events to prevent disorder. There, police are supposed to stay on the sidelines and not intercede unless there is an actual or incipient violation. Following rules, though, seems hardly the focus when police take on a more ambiguous, exclusionary role, which some claim is akin to an army of occupation.

Law enforcement is governed by the criminal law and a host of rules and procedures. Political considerations may color the process, but no person ought legally be penalized without the concurrence of each component of the justice system, including prosecutors, the courts, and even private citizens should an indictment or trial by jury take place.

Consider a situation where citizens ask police to secure their neighborhood. Community meetings take place and a Lieutenant, who knows that the Chief is sensitive to the political climate, orders members of the patrol force to sweep the streets and man the barricades. To whom shall a Sergeant, who has been left in charge, feel accountable?

If unsavory characters test their resolve, to what extent should officers stretch the limits of their authority? If no provable crime has been committed, where should they turn?

Once extralegal imperatives are at work, controlling our peacekeepers becomes problematic. Although issues of liability and resource allocation impose some constraints, decisions within the new, indeterminate community milieu are driven by a variety of players and concerns. Officers who abuse their authority on routine duty know they are “on their own” should someone raise a stink. Politically charged community-policing strategies, on the other hand, may impel actions outside the law, as a “stink” may be more likely if nothing is done.

### Means, ends and public policy

Reformers love to rhapsodize about the failings of traditional law enforcement. Perhaps they are right. But tilting the balance towards coercion might expand the cop's role far beyond the limits of the professional model (Klockars, 1988; Manning, 1988). Some who recognize this pitfall suggest that police seek community consent (Wasserman and Moore, 1988, pg. 6). But a locale so well organized that it *is* a “community” might find community policing superfluous.

In any event, what citizens would have the cops do could *be* the problem. Even if requests are clearly misguided, community policing has developed so much political authority that police executives may find it impossible to invoke discredited precepts from an earlier era, when officers were more at liberty to defer taking action in legally ambiguous situations.

How can we help policymakers as they travel along that road of good intentions? We can begin by analyzing how actions taken by the police fall along two key dimensions: protecting the public and gathering evidence. The first variable – protection – is obviously a key purpose of the police. As the term is somewhat vague, it is operationalized to represent the degree of personal risk or threat to life and limb that a tactic seeks to abate. We assume that intrusion is better justified as personal safety becomes more – and more directly – at stake.

Gathering evidence, the second variable, is used to distinguish between evidence-gathering and exclusionary strategies. It is scaled by estimating the degree to which a tactic invokes (or skirts) the investigative process. Assumedly, there should be less opportunity for mischief when police are bound by the strictures of law and procedure.<sup>6</sup>

When these dimensions are orthogonalized they yield a simple table with four cells:

Concern with gathering evidence

Threat to public safety	High	Low
High	1	2
Low	3	4

It can simply be said that the chart places the least problematic tactics into cell no. 1 and the most questionable into cell no. 4.

*Cell no. 1 – High threat to public safety, high concern with gathering evidence.* Enforcement efforts in areas beset by violence that are intended to yield legally supportable arrests for offenses such as street robbery and illegal gun possession.<sup>7</sup>

*Cell no. 2 – High threat to public safety, low concern with gathering evidence.* Sweeps and crackdowns that are conducted in response to localized episodes of violence or disorder, where the purpose is more to suppress hooliganism rather than collect evidence and make legally supportable arrests.

*Cell no. 3 – Low threat to public safety, high concern with gathering evidence.* Observation-based, evidence gathering strategies that target crimes such as vandalism and petty drug dealing.

*Cell no. 4 – Low threat to public safety, low concern for gathering evidence.* Strategies such as sweeps and roadblocks that are conducted in response to localized quality-of-life problems, where the goal is to exclude unsavory characters rather than collect evidence and make arrests.

No simple matrix can fully capture the richness of real-world transactions. Even so, this scheme (and others like it) might prove to be a useful way of stimulating discussion about the tradeoffs associated with various strategies. Being explicit about goals and means can help anticipate side effects. There may be good reason to employ a particular tactic no matter where it falls on someone’s chart, but an intelligent adjustment might make poor outcomes less likely.



Apparently, some fine-tuning has already begun. In a few areas, civil injunctions are being used against gang members whose drug dealing and intimidating behavior discourages citizens from using public areas (NIJ, 1997). Injunctions prohibit activities such as congregating in groups, acting as a lookout and using a pager or cell phone. The tactic, which has been strongly backed by residents and vociferously opposed by civil libertarians, has reportedly helped citizens regain the free use of parks and neighborhoods. In effect, an injunction is a regularized sweep, with police activities checked by law and procedure.

Injunctions are a tentative step towards the evidence-gathering model. A creative adaptation that completely bridges the gap was recently reported in California (Schrader, 1998). Patrol officers dressed up in civilian clothes and walked around a neighborhood whose residents had been so frightened by gang members that they seldom ventured outside.

“We (police officers) started at the south end...Less than a minute later, one of the kids came up to me, got right in my face and said, ‘Get out of here. This is my street’...”...By the end of the evening, the youth who confronted the undercover officers had been arrested, along with three companions charged with malicious misconduct and possession of narcotics.

Covert observation and directed patrol have been used to gather evidence and make arrests for a variety of minor offenses (Sadd and Grinc, 1996). Where appropriate State laws are unavailable, communities have passed ordinances that forbid cruising, the public consumption of alcohol, playing loud music and possessing materials used for vandalism (NIJ, 1997). These measures clearly expand the police role. Still, we should expect that they would be welcomed by most officers, who when given a choice prefer to act within a legalistic framework (Mastrofski et al, 1995).

### Asking the Right Questions

Community policing’s cafeteria approach to means and goals makes evaluation problematic. A profusion of attempts to explain and elaborate its precepts has yielded a scholarly but somewhat over-reaching and ingrown literature that steadfastly avoids self-criticism. One unfortunate element is a tendency to isolate critics (Ross, 1995).

Many officers remain skeptical of community policing (Mastrofski et al, 1996; Sadd and Grinc, 1996). Researchers typically attribute the discord to inbred cynicism, labor-management tension or a simple lack of understanding. As might be expected, the remedy most often proposed is to better educate those who “don’t get it”. That cops may already be well informed, or that policing is a craft that takes years to master, are factors the literature seldom considers.

In giving a voice to these misguided and recalcitrant practitioners, here are some points to ponder:

1. Community policing augurs an expansion of the police role. What are the implications for privacy and personal liberty? When balancing intrusion against freedom of movement and association, where should the fulcrum be placed?

2. Community policing is a politically charged movement. Is it likely that its implementation may cause officers to override their own best judgment or act extralegally?

3. Is it realistic to expect that community policing will produce a "kinder and gentler" police force? What if officers really take the "clean up the streets" mandate to heart and replace the much-maligned professional model with a style that, while supposedly responsive to the fear of crime, is unmediated by legal or procedural safeguards? If cops pretend to be bullies, is that what they become?

4. Will the realignment of police priorities lead to a deterioration of evidence-gathering practices or crime-fighting skills? What are community policing's implications for the craft of policing and the self-image of its practitioners?

5. Can labor-intensive community-policing strategies coexist with other needs, such as investigating crimes or responding to calls for service? Are citizens willing to exchange traditional values for a fuzzier, more contemporary vision of the police role?

6. Community-policing efforts are labor intensive. When officers are drawn away, some citizens may lose coverage as others gain. Will those who sacrifice be asked for their consent?

7. Who's in charge here – an officer's supervisor, the local alderman, or the most vocal or influential resident in the neighborhood? When the police face a panoply of conflicting expectations to whose interests should they defer? What standards should serve as their guide?

8. Is community policing just another way to avoid responsibility for vanquishing "real" crime?

There are plenty of ways to fight crime and disorder other than by simply invoking the criminal law. Measures that organize citizens, remove blight and provide alternatives to vagrancy seem quite promising. Perhaps we have become so sophisticated, in thought if not in deed, that we reflexively turn up our nose at the legalistic model as a needless anachronism. But policing is ultimately a coercive enterprise, and even the most sensitive and articulate cops will occasionally be expected to "walk the talk". We must insure that

the methods they employ – even if endorsed by the public and sanctioned by researchers – leave the community no worse off. By methodically gathering evidence and carefully attending to his craft, Joe Friday, that old sourpuss, had something important to say. It may be unwise to dismiss him too quickly.

Notes

<sup>1</sup> An informal survey of Police Chief vacancies posted on the Internet revealed that eight out of eleven announcements on one bulletin board, and five out of eight on another, specifically called for skills in community policing.

<sup>2</sup> Goldstein also observed that NYPD's street crime unit employed "up-to-the-minute analyses of crime patterns". It seems that for the Big Apple it's "back to the future."

<sup>3</sup> Muir's observation of patrol officers convinced him that "men with nonviolent inclinations...tended to disappear from the mainstream of police work [and] turned the streets over to their more coercive brethren" (Muir, 1977, p. 118).

<sup>4</sup> For another example, consider the effects of *parens patriae* on juvenile justice.

<sup>5</sup> Technology has unwittingly helped "clean up" neighborhoods. Many open-air drug markets have literally disappeared as the widespread use of pagers and cellular telephones allow drug buyers and users to conduct business in a much safer and more convenient way.

<sup>6</sup> This dimension limits our analysis to tactics that have a coercive basis.

<sup>7</sup> If conducted with little care for legal guidelines, these tactics fall into cell no. 2.

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