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The Evolving Strategy of Police: A Minority View

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... there is an underside to every age about which history does not often speak, because history is written from records left by the privileged. We learn about politics from the political leaders, about economics from the entrepreneurs, about slavery from the plantation owners, about the thinking of an age from its intellectual elite.
— Howard Zinn¹

Introduction

Kelling and Moore, in their recent interpretation of the strategic history of American policing, succinctly summarize that history as falling generally into three eras: (1) political, (2) reform, and (3) community.² This attempt to create paradigms, as with all such attempts, should be seen metaphorically, providing us with ways to crystallize the complexities of history in simplified terms. Seen in this way, their analysis provides useful insights and a clearer interpretation of the changing role of police in American society—at least with respect to the majority in that society. Despite its utility, we find their analysis disturbingly incomplete. It fails to take account of how slavery, segregation, discrimination, and racism have affected the development of American police departments—and how these factors have affected the quality of policing in the Nation's minority communities. Furthermore, we find Kelling and Moore to be silent on the important role that minorities have played in the past, and will play in the future, in affecting and improving the quality of policing in America. These omissions seriously diminish the accuracy and objectivity of their analysis and make it less useful than it otherwise could be in understanding the past and predicting the future of American policing.

ACQUISITIONS

This is one in a series of reports originally developed with some of the leading figures in American policing during their periodic meetings at Harvard University's John F. Kennedy School of Government. The reports are published so that Americans interested in the improvement and the future of policing can share in the information and perspectives that were part of extensive debates at the School's Executive Session on Policing.

The police chiefs, mayors, scholars, and others invited to the meetings have focused on the use and promise of such strategies as community-based and problem-oriented policing. The testing and adoption of these strategies by some police agencies signal important changes in the way American policing now does business. What these changes mean for the welfare of citizens and the fulfillment of the police mission in the next decades has been at the heart of the Kennedy School meetings and this series of papers.

We hope that through these publications police officials and other policymakers who affect the course of policing will debate and challenge their beliefs just as those of us in the Executive Session have done.

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This paper addresses these omissions by adding a “minority perspective.” Ours represents a “minority perspective” in two different senses. First, our understanding of what factors have shaped the evolution of policing was shared by only a minority of those participating in the discussions of the Harvard Executive Session on Community Policing. Whereas Kelling and Moore (and many others) attempted to explain the evolution of policing in terms of strategic choices made by police executives who were developing a professional ideology, we see policing as powerfully conditioned by broad social forces and attitudes—including a long history of racism. They see police departments as largely autonomous; we see them as barometers of the society in which they operate.

“ . . . the legal order not only countenanced but sustained slavery, segregation, and discrimination . . . and . . . the police were bound to uphold that order . . . ”

Second, our view is particularly attuned to how institutions, norms, and attitudes have dealt with racial minorities and how those dealings affected the role of police during each of the eras described by Kelling and Moore. More optimistically, we believe that improvements have occurred in the last several years and that further improvements are possible, although not assured, in the future. We are particularly aware of the implications for African-American minorities, but we believe that the patterns set in these relations have importantly affected relations with other racially distinctive minorities such as Hispanics, Asians, Native Americans, and other people of color.

In this paper, we contend that the strategies of police in dealing with minorities have been different from those in dealing with others, that the changes in police strategies in minority communities have been more problematic, and that, therefore, the beneficial consequences of those changes for minorities have been less noticeable. Specifically, we argue that:

- The fact that the legal order not only countenanced but sustained slavery, segregation, and discrimination for most of our Nation’s history—and the fact that the police were bound to uphold that order—set a pattern for police behavior and attitudes toward minority communities that has persisted until the present day. That pattern includes the idea that minorities have fewer civil rights, that the task of the police is to keep them under control, and that the police have little responsibility for protecting them from crime within their communities.
- The existence of this pattern of police behavior and attitudes toward minority communities meant that, while important changes were occurring in policing during our Nation’s history,

members of minority groups benefited less than others from these changes—certainly less than it might have seemed from the vantage point of the white community and the police executives who were bringing about those changes.

- The Kelling and Moore discussion of the “political era” of policing, a period generally defined by them as extending from after Reconstruction through the first decade of the twentieth century, neglects the early role of the first varieties and functions of police in this country—as well as the legal and political powerlessness of minority communities in both the North and the South. This omission means that their analysis fails to recognize that members of those minority communities received virtually none of the benefits of policing that were directed to those with more political clout.

- Many of the most notable advances in policing brought about by the advent of the “reform era” proved to be elusive, if not counterproductive, for minorities. Several of the hiring and promotional standards, although implemented as antidotes to the rampant nepotism and political favoritism that had characterized policing during the “political era” proved to be detrimental to blacks—just at the time when, to a limited extent, because of their increasing political power, they were beginning to acquire the credentials that would have allowed them to qualify by the old standards.

- The potential of “professional policing” during the reform era was not fully realized—either for minorities or for whites—until the civil rights revolution of the late 1960’s and the coming to power of progressive mayors, both black and white, and the police executives appointed by them who were capable of bringing about changes relevant to blacks and other minorities. It was that movement, led primarily by black Americans, and that political empowerment that finally began to produce the putative benefits of professional policing: a fairer distribution of police services, less use of deadly force, greater respect for individual rights, and equal opportunity for minorities within the Nation’s police departments. Without that movement, the promise of professional policing would have remained hollow.

“ . . . minority communities received virtually none of the benefits of policing . . . directed to those with more political clout . . . ”

- The minority community also played a key role in initiating the era of community policing. It was the riots of the late 1960’s—and the election of many black and white progressive mayors, who appointed likeminded police chiefs—that stimulated broad social investments in police agencies,

therefore putting the issue of police-community relations inescapably on the minds of police executives and the mayors who appointed them. The fact that police actions triggered many of the riots and then could not control them revealed to everyone the price of having a police department backed only by the power of the law, but not by the consent, much less active support, of those being policed.

“... the riots of the late 1960’s ... stimulated broad social investments in police agencies ... ”

- The era of community policing holds potential benefits and hazards for the quality of American policing. The potential benefits lie in the fundamental tenet of community policing: the empowerment of communities to participate in problem solving and decisions about delivery of services based on the needs of individual neighborhoods. The hazards lie in the possibility of excluding those communities that have been the least powerful and least well organized and thus repeating the historical patterns of race relations in the United States. If, however, the more recent trends towards inclusion of African-Americans and other minorities in policing and in the broader society are continued, then community policing might finally realize a vision of police departments as organizations that protect the lives, property, and rights of all citizens in a fair and effective way.

The political era: Policing the powerless

Kelling and Moore argue that during the political era, from the introduction of the “new police” in the 1840’s until the early 1900’s, American police derived both their authority and resources from local political leaders. We maintain that their account is based largely on an analysis of policing in the cities of the northeastern United States, mostly following the Civil War and Reconstruction, and omitting the importance of racial and social conflicts in the origination of American police departments. As such, their analysis omits several crucial parts of the story of policing in America: the role of “slave patrols” and other police instruments of racial oppression; the role of the police in imposing racially biased laws; and the importance of racial and social turmoil in the creation of the first versions of America’s “new police.”

Most analyses of early American history reflect an understandable, white, twentieth-century bias toward northern, urban, white conditions. While the literature is replete with studies of the growth of law enforcement in northern urban areas in general³ and northern cities such as Boston,⁴ Chicago,⁵ Detroit,⁶ and New York City,⁷ in particular, little attention has

been paid to police development outside the urban North. Kelling and Moore reflect a similar bias. Since the vast majority of blacks in the early years of America lived in the South, and about 80 percent of those lived outside of cities, this perspective creates a significant distortion.

Prominent police historian Samuel Walker has noted the difficulty of establishing dates marking the origins of American modern-style policing, that is, a system of law enforcement involving a permanent agency employing full-time officers who engage in continuous patrol of fixed beats to prevent crime. The traditional analyses, based on urban evidence, have suggested that such policing evolved from older systems of militias, sheriffs, constables, and night watches, and culminated in the “new police” of Boston in 1838, New York City in 1845, Chicago in 1851, New Orleans and Cincinnati in 1852, Philadelphia in 1854, St. Louis in 1855, Newark and Baltimore in 1857, and Detroit in 1865.⁸

As Richardson points out, however, these analyses neglect that:

[many other cities with] elaborate police arrangements were those with large slave populations where white masters lived in dread of possible black uprisings. Charleston, Savannah, and Richmond provided for combined foot and mounted patrols to prevent slaves from congregating and to repress any attacks upon the racial and social status quo. In Charleston, for example, police costs constituted the largest item in the municipal budget.⁹

Indeed, as both Walker¹⁰ and Reichel¹¹ contend, there is a strong argument to be made that the first American modern-style policing occurred in the “slave patrols,” developed by the white slave owners as a means of dealing with runaways. Believing that their militia was not capable of dealing with the perceived threat, the colonial State governments of the South enacted slave patrol legislation during the 1740’s, e.g., in South Carolina:

Foreasmuch [sic] as many late horrible and barbarous massacres have been actually committed and many more designed, on the white inhabitants of this Province, by negro slaves, who are generally prone to such cruel practices, which makes it highly necessary that constant patrols should be established.¹²

Neighboring Georgians were also concerned with maintaining order among their slaves. The preamble to their 1757 law establishing and regulating slave patrols contends:

... it is absolutely necessary for the Security of his Majesty’s Subjects in this Province, that Patrols should be established under proper Regulations in the settled parts thereof, for the better keeping of Negroes and other Slaves in Order and prevention of any Cabals, Insurrections or other Irregularities amongst them.¹³

Such statutes were eventually enacted in all southern States. Although specific provisions differed from State to State,¹⁴

most of these laws responded to complaints that militia duty was being shirked and demands that a more regular system of surveillance be established.

“ . . . their analysis omits . . . the importance of racial and social turmoil in the creation of the first versions of America’s ‘new police.’ ”

In Georgia, all urban white men aged sixteen to sixty, with the exception of ministers of religion, were to conduct such patrol “on every night throughout the year.” In the countryside, such patrols were to “visit every Plantation within their respective Districts once in every Month” and whenever they thought it necessary, “to search and examine all Negro-Houses for offensive weapons and Ammunition.” They were also authorized to enter any “disorderly tipling-House, or other Houses suspected of harbouring, trafficking or dealing with Negroes” and could inflict corporal punishment on any slave found to have left his owner’s property without permission.¹⁵

Foner points out that “slave patrols” had full power and authority to enter any plantation and break open Negro houses or other places when slaves were suspected of keeping arms; to punish runaways or slaves found outside their plantations without a pass; to whip any slave who should affront or abuse them in the execution of their duties; and to apprehend and take any slave suspected of stealing or other criminal offense, and bring him to the nearest magistrate.¹⁶ Understandably, the actions of such patrols established an indelible impression on both the whites who implemented this system and the blacks who were the brunt of it.

Reflecting the northern, urban perspective, Kelling and Moore begin their consideration of American policing only after the earliest “new police” were established in the 1840’s and 1850’s. Even so, their analysis neglects to point out the importance of the role played by social discord in general, and the minority community in particular, in the creation of these departments. Phenomenal increases in immigration, rapid population growth, and major changes in industrialization led to more and more people, many of whom were from an impoverished, rural background, settling in an alien urban environment. Conflicts between black freedmen and members of the white urban working class significantly contributed to social unrest.

In 1830 Alexis de Tocqueville toured the United States to study prison reform. Unfamiliar with American norms, he was surprised to discover that there was more overt hostility and hatred toward blacks in the North, where slavery did not exist, than in the South, where it did. Those who challenged the status

quo by demanding the abolition of slavery suffered verbal and physical abuse in northern cities.¹⁷ This tension was reflected in a number of race riots in the mid-1830’s in America’s major cities. New York City had so many racial disorders in 1834 that it was long remembered as the “year of the riots.” Boston suffered three major riots in the years 1834 to 1837, all of which focused on the issues of anti-abolitionism or anti-Catholicism. Philadelphia, the “City of Brotherly Love,” experienced severe anti-Negro riots in 1838 and 1842; overall, the city had eleven major riots between 1834 and 1849. Baltimore experienced a total of nine riots, largely race-related, between 1834 and the creation of its new police in 1857. In a desperate attempt to cope with the social disorder brought about by this conflict, America’s major cities resorted to the creation of police departments. Clearly, this was a case of the political system responding to incendiary conflict within the society at large by demanding that the police be reorganized to deal with those conflicts.

In their discussion of the political era, Kelling and Moore observe that the police found their legitimacy either in politics or in law. For blacks, both before and several generations after the Civil War, neither of these bases of legitimacy provided much, if any, opportunity to shape policing to their benefit. As the authors point out, local political machines often recruited and maintained police in their positions, from foot officer to police chief. In return, the police encouraged voters to support certain candidates and provided services designed to enhance that support. Departments were organized in a decentralized manner, giving officers a great deal of discretion in carrying out their responsibilities. Police officers were closely linked to the neighborhoods in which they patrolled, often living there and usually of the same ethnic stock as the residents.

For those with political influence, this era provided close proximity to power. Good jobs could be had. Special favors could be obtained. The police could be expected to be extremely sensitive to community concerns—or lose their jobs if they were not.

“ . . . the first American modern-style policing occurred in the ‘slave patrols’ . . . ”

For those with no access to political power, however, the situation was very different. Before slavery was abolished, the issue of black political power in the South was moot. The Constitution itself provides a sardonic reflection on the state of political power assigned to slaves. The group of white delegates assembled in Philadelphia never even considered slave representation, slave votes, or slave power. The only issue was

whether a *slave owner* would enjoy a three-fifths increment of representation for every slave he owned.

During the debate, William Paterson stated bluntly that slaves were “no free agents, have no personal liberty, no faculty of acquiring property, but on the contrary, are themselves property” and hence like other property “entirely at the will of the master.” To make certain there was no mistake, the Constitution explicitly prohibited Congress from abolishing the international slave trade to the United States before 1808.

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Early American law enforcement officials in slave States were empowered—and expected—to enforce statutes carrying out the most extreme forms of racism, not restricted solely to enforcing slavery. In 1822, for example, Charleston, South Carolina, experienced a slave insurrection panic, caused by a supposed plot of slaves and free blacks to seize the city. In response, the State legislature passed the Negro Seamen’s Act, requiring free black seamen to remain on board their vessels while in Carolina harbors. If they dared to leave their ships, the police were instructed to arrest them and sell them into slavery unless they were redeemed by the ship’s master. The other coastal slave States soon enacted similar legislation.

Berlin presents this brief synopsis of Southern justice:

Southern law presumed all Negroes to be slaves, and whites systematically barred free Negroes from any of the rights and symbols they equated with freedom. Whites legally prohibited Negro freemen from moving freely, participating in politics, testifying against whites, keeping guns, or lifting a hand to strike a white person . . . In addition they burdened free Negroes with special imposts, barred them from certain trades, and often tried and punished them like slaves. To enforce their proscriptive codes and constantly remind free Negroes of their lowly status, almost every State forced free Negroes to register and carry freedom papers, which had to be renewed periodically and might be inspected by any suspicious white.¹⁸

Police supervision further strengthened the registration system. City officials periodically ordered police to check the papers of all newly arrived free Negroes or investigate freedmen who failed to register or lacked visible means of support.¹⁹

Outside the slave States, the rights of blacks were only somewhat less restricted. Although Henry David Thoreau and William Lloyd Garrison exaggerated when they called

Massachusetts a slave State, their harsh denunciation is a reminder that a black person could be a slave there or in any of the other “free” States because of the protection afforded by the Federal and State constitutions for masters’ rights in fugitive and sojourning slaves. It fell to agents of law enforcement, constables and members of the day and night watches, to carry out these laws. By 1800, some 36,505 northern Negroes still remained in bondage, most of them in New York and New Jersey.²⁰

Several northern States enacted gradual emancipation statutes after the Revolution. Because such statutes freed only children born after a specified date, however, many slaves remained unaffected, and the freed children were held in apprenticeship until some time in their adult years. The State of New Jersey was typical. In 1804, the legislature freed the children born to slave mothers after July 4 of that year; the child so freed would be “apprenticed” to its mother’s owner, men until age 25, women until 21. Only in 1844 did it remove all barriers to the freeing of slaves. Again, these laws were also enforced by the local constable.

Even after the northern States took action to free slaves—ranging from constitutional provisions in Vermont in 1777 to gradual-abolition acts in New Jersey in 1804 and New York in 1817, the legal and political rights of blacks were quite circumscribed. Every new State admitted to the Union after 1819 restricted voting to whites. Only five States—Massachusetts, Rhode Island, Maine, New Hampshire, and Vermont—provided equal voting rights for black and white males. Illinois, Ohio, Indiana, Iowa, and California prohibited black testimony in court if whites were a party to the proceeding, and Oregon forbade Negroes to hold real estate, make contracts, or maintain lawsuits. Massachusetts banned intermarriage of whites with blacks and enforced segregation in hotels, restaurants, theaters, and transportation. Berlin describes a raid in 1853 in which St. Louis police raided well-known hangouts of freedmen, whipped those who were unregistered, and shipped them out of town. Such raids continued for almost a year.²¹

Litwack describes the situation of northern blacks this way:

In virtually every phase of existence, Negroes found themselves systematically separated from whites. They were either excluded from railway cars, omnibuses, stagecoaches, and steamboats or assigned to special “Jim Crow” sections; they sat, when permitted, in secluded and remote corners of theaters and lecture halls; they could not enter most hotels, restaurants, and resorts, except as servants; they prayed in “Negro pews” in the white churches, and if partaking of the sacrament of the Lord’s Supper, they waited until the whites had been served the bread and wine. Moreover, they were often educated in segregated schools, punished in segregated prisons, nursed in segregated hospitals, and buried in segregated cemeteries.²²

Indeed, as pointed out by C. Vann Woodward, an eminent historian of the South, “One of the strangest things about Jim Crow [the laws and practices separating the races] was that the system was born in the North and reached an advanced age before moving South in force.”²³

“ [If] free black seamen . . . dared to leave their ships, the police were instructed to arrest them and sell them into slavery . . . ”

With neither political power nor legal standing, blacks could hardly be expected to share in the spoils of the political era of policing. There were virtually no black police officers until well into the twentieth century. Thus, police attention to, and protection for, areas populated primarily by racial minorities was rare during this era.

The reform era: Policing by the law for those unprotected by it

According to Kelling and Moore’s interpretation, the basic police strategy began to change during the early 1900’s. By the 1930’s, they argue, the reform era of policing was in full sway. Strikingly, their discussion completely overlooks the momentous events of the Civil War and Reconstruction, a time of great change in the legal and political status of minorities.

In the earliest days of the Civil War, President Lincoln and other northern politicians insisted that the issue of slavery had little to do with the conflict. In fact, in July 1861, when Congress assembled in special session, one of its first acts was to pass, almost unanimously, the Crittenden Resolution, affirming that the “established institutions” of the seceding States were not to be a military target. To a large extent, this position was dictated by political forces—to keep the border States in the Union, generate support among the broadest constituency in the North, and weaken the Confederacy by holding out the possibility that they could return to the Union with their property, including their slaves, intact.²⁴

Eventually, however, as the Confederacy put slaves to work as military laborers and the presence of Union troops precipitated large-scale desertion of plantation slaves, this policy was overcome by events. On January 1, 1863, Lincoln signed the Emancipation Proclamation. Bowing to political reality, however, he excluded from its purview the 450,000 slaves in Delaware, Kentucky, Maryland, and Missouri; 275,000 in Union-occupied Tennessee; and tens of thousands in occupied portions of Virginia and Louisiana.

By 1864, the Senate approved the 13th amendment, abolishing slavery throughout the Union, but it failed to receive the necessary two-thirds majority in the House. Eventually, in January 1865, this amendment narrowly won House approval and was sent to the States for ratification. Although several Southern legislatures were reluctant to lend their support, this amendment was ratified by the end of the year. To some, this not only ended one of America’s most shameful institutions but offered the hope of the beginning of a Nation where North and South, black and white, were ruled by one law impartial over all. As we know with historical hindsight, such an interpretation was far too optimistic.

Even at the time, questions were raised about the practical implications of the amendment. James A. Garfield asked, “What is freedom? Is it the bare privilege of not being chained? . . . If this is all, then freedom is a bitter mockery, a cruel delusion.” More to the point, Frederick Douglass maintained, “Slavery is not abolished until the black man has the ballot.”²⁵

In fact, a political vacuum developed between 1865 and 1867 in which the opponents of the extension of full citizenship to blacks were able to exercise great influence. President Andrew Johnson, with hopes of receiving the support of his fellow Southerners in the election in 1868, left the definition of black rights to the individual States. They accepted the opportunity with a vengeance. In addition to prohibiting black suffrage, the provisional legislatures passed the Black Codes, a series of State laws intended to define the freedmen’s new rights and responsibilities.

“ In the earliest days of the Civil War, President Lincoln . . . insisted that the issue of slavery had little to do with the conflict. ”

Mississippi and South Carolina enacted the first and most severe Black Codes toward the end of 1865. Mississippi required all blacks to possess, each January, written evidence of employment for the coming year. Laborers leaving their jobs before the contract expired would forfeit wages already earned and, as under slavery, be subject to arrest by any white citizen. A person offering work to a laborer already under contract risked imprisonment or a fine. Blacks were forbidden to rent land in urban areas. Vagrants—under whose definition fell the idle, disorderly, and those who “mispend what they earn”—could be punished by fines or involuntary plantation labor; other criminal offenses included “insulting” gestures or language, “malicious mischief,” and preaching the Gospel without a license. In case anything had been overlooked, the

legislature declared all existing penal codes defining crimes by slaves and free blacks “in full force” unless specifically altered by law. South Carolina’s Code barred blacks from any occupation other than farmer or servant except by paying an annual tax ranging from \$10 to \$100.²⁶

“ [The 13th amendment] offered the hope of the beginning of a Nation where North and South, black and white, were ruled by one law impartial over all. ”

Virtually all of the former Confederate States enacted such laws. Blacks protested most bitterly, however, against apprenticeship laws, which seized upon the consequences of slavery—the separation of families and the freedmen’s poverty—to provide planters with the unpaid labor of black minors. Generally, these laws allowed judges to bind to white employers black orphans and those whose parents were deemed unable to support them. The former slave owner usually had first preference, the consent of the parents was not required, and the law permitted “moderate corporal chastisement.”²⁷

This entire complex of Black Codes was enforced:

... by a police apparatus and judicial system in which blacks enjoyed virtually no voice whatever. Whites staffed urban police forces as well as State militias, intended, as a Mississippi white put it in 1865, to “keep good order and discipline amongst the negro population.”²⁸

Sheriffs, justices of the peace, and other local officials proved extremely reluctant to prosecute whites accused of crimes against blacks. In those rare cases in which they did prosecute, convictions were infrequent and sentences were far more lenient than blacks received for the same crimes. For example, Texas courts indicted some 500 white men for the murder of blacks in 1865 and 1866, but not one was convicted.²⁹

Largely in response to the Black Codes, Congress passed, over President Johnson’s veto, the Civil Rights Act of 1866. This act defined all persons born in the United States (except Indians) as national citizens and spelled out rights they were to enjoy equally without regard to race—making contracts, bringing lawsuits, and enjoying “full and equal benefit of all laws and proceedings for the security of person and property.” No State law or custom could deprive any citizen of these rights. Furthermore, Federal officials were authorized to bring suit against violations and made all persons, including local officials, who deprived a citizen of a civil right liable to fine or imprisonment.

To institutionalize the legal implications of the Civil War beyond the reach of shifting political majorities and presidential vetoes, Congress, after a long struggle, passed the 14th amendment, providing, among other things, that equal protection under the law be afforded to every citizen. Although it implicitly acknowledged the right of States to limit voting because of race, they could do so only at the expense of losing a significant portion of their congressional representation.

The 1866 congressional election essentially became a referendum on the 14th amendment—Republicans in favor, President Johnson and the Democrats opposed. The Republicans won an overwhelming victory, large enough to give them well over the two-thirds majority required to override a veto. In contrast, all Southern legislatures except Tennessee repudiated the amendment by enormous majorities.

Frustrated, and sensing its political strength, the Congress passed, again over Johnson’s veto, the Reconstruction Act of 1867. This act divided the eleven Confederate States, except Tennessee, into five military districts and stipulated the process by which new State governments could be created and recognized. This process required the ratification of the 14th amendment, writing of new constitutions providing for manhood suffrage, and approval of these constitutions by a majority of registered voters.

After two years of “Presidential Reconstruction,” characterized by a lack of commitment to the extension of full rights to blacks, the era of “Radical Reconstruction” began. Given the right to vote, many blacks participated in—and won—election to the new State legislatures. To allay any concerns that the issue had not been addressed completely, Congress passed the 15th amendment, providing the right to vote to all persons, regardless of “race, color, or previous state of servitude,” and prohibited the abridgement of that right by Federal and State governments. The Civil Rights Act of 1875 outlawed the exclusion of blacks from hotels, theaters, railroads, and other public accommodations.

The results of black suffrage on policing were not long in coming. Blacks appeared in several southern police departments soon after Radical Reconstruction began, especially where Republicans were in office and where blacks constituted a large percentage of the population. Black police appeared in Selma, Alabama, in 1867; Houston, Texas, in 1870; and Jackson, Mississippi, in 1871.³⁰ In New Orleans, a majority of whose population was black, a police board composed of three black members out of five appointed a police force that included 177 blacks by 1870.³¹

Such change was not always easy, however. In July 1868, in Raleigh, North Carolina, under the headline “The Mongrel Regime!! Negro Police!!” the Conservative *Daily Sentinel* announced the appointment of four black police officers and

concluded that “this is the beginning of the end.”³² Race riots occurred in Jackson and Meridian, Mississippi, because black police attempted to use their police authority over whites.³³

“ . . . apprenticeship laws . . . seized upon the consequences of slavery . . . to provide planters with the unpaid labor of black minors. ”

In 1872, a Republican mayor in Chicago appointed the first black policeman in the North, where black suffrage was not required by Congress. Three years later, a mayor belonging to the People’s Party replaced that officer with another black. In 1880, the Republicans won the mayor’s office again, resulting in the appointment of four more black policemen. These officers all worked in plain clothes—in part not to offend the sensibilities of racist whites—and were assigned to black neighborhoods, practices adopted in most departments that hired blacks at that time. By 1894 there were 23 black policemen in Chicago.³⁴ Blacks were appointed in other cities in the North soon after those in Chicago: in Washington, D.C., in 1874; in Indianapolis in 1876; in Cleveland in 1881; in Boston in 1885.³⁵

Lane provides one of the most thorough and fascinating analyses of the political complexities involved in appointing the first black police officers.³⁶ The approximately 7,000 blacks in Philadelphia’s Seventh Ward had become a consistent Republican constituency, accounting for more than 10 percent of the party’s vote. During the 1880 mayoral campaign, however, the black vote became a target of both parties’ attention. Although the Seventh Ward voted overwhelmingly for the Republican candidate, the winner was Samuel King, a reform Democrat. Mayor King then appointed Alexander Davis and three other black men to the police department.

The selection criteria applied in appointing these Philadelphia officers reflect a common pattern in the choice of the earliest black officers. As Lane points out:

In an era before any sort of civil service, when many officers were semiliterate at best, the four blacks chosen, although currently trapped in unskilled jobs, were characteristically overqualified.³⁷

Davis, although born a slave, had graduated from Lincoln University, worked as a schoolteacher, and founded a newspaper. Only one of the other blacks appointed at that time had no experience beyond “laboring work.”

Despite their qualifications, the appointment of the first black police officers in Philadelphia produced the same responses as

were seen in many other cities. Several officers quit the force in protest. The new men were assigned to beats in or near black neighborhoods and immediately attracted crowds of spectators, saying such things as “Ain’t he sweet?” or “Is the thing alive?”

As in Philadelphia, most departments, to appease the racial attitudes of whites, did not allow black officers to arrest whites or to work with white officers. Even as late as 1961, a study reported by the President’s Commission on Law Enforcement and Administration of Justice found that 31 percent of the departments surveyed restricted the right of blacks to make felony arrests; the power of black officers to make misdemeanor arrests was even more limited.³⁸

Miami established a different designation for the two races: blacks were “patrolmen” and whites were “policemen.” In Chicago, blacks were largely confined to the Southside districts; in St. Louis, the “black beats” ranged from the central downtown area to the Northside. Los Angeles established a special “black watch” for the predominantly black Newton Station district.

After the initial dramatic changes brought about by the effects of Radical Reconstruction, the situation for blacks—and policing—began to revert to the *status quo ante*. As early as 1867, black suffrage went down to defeat in referendums in Minnesota, Ohio, and Kansas. Moderates within the Republican party began to back away from “extreme radical measures” such as egalitarianism. The Ku Klux Klan, founded in 1866 in Tennessee as a social club, launched a reign of terror against Republican leaders, black and white. In some parts of the South, armed whites blocked blacks from voting. Violence spread, especially in Georgia and Louisiana where, unable to hold meetings, Republicans abandoned their presidential campaign. By 1868, Republicans, the stalwart supporters of black rights, began to lose some of their strength in the South.³⁹

“ Texas courts indicted some 500 white men for the murder of blacks in 1865 and 1866, but not one was convicted. ”

By 1872, the presidential election focused on southern policy, the Democrats emphasizing the evils of Reconstruction and the need to restore local self-government. Although the Republicans won, a significant number of former Radicals supported the Democratic ticket, indicating that their campaign themes were more powerful than the returns would indicate.

While political support for Radical Reconstruction waned, debate about whether the 14th amendment applied only to States raged throughout the Nation—and has continued to do so even in the last decade. Presidents Grant and Hayes retreated

from strict enforcement of the so-called “Reconstruction amendments.” The Supreme Court began to shift away from the broad interpretation of the 13th amendment to the narrower 14th and 15th. This shift, in turn, encouraged legislators to narrow their concerns as well.

“ Given the right to vote, many blacks participated in—and won—election to the new State legislatures. ”

In 1874, a long-awaited compilation of the United States laws, known as the *Revised Statutes*, was produced. This document rearranged the Nation’s laws into supposedly relevant, logical categories. Inexplicably, however, this rearrangement failed to list the Civil Rights Act of 1866 either in the published text or in the “historical” documentation. Instead, various parts of the 1866 law were scattered throughout the document, under various chapter headings. Civil rights as an independent subject worthy of the attention of lawyers, judges, law professors, and an entire generation of law students was neither easily researched nor, by implication, important. One by one, case by case, the legal rights of blacks were ruled away.

Against this already ominous backdrop came the Compromise of 1877, by which the Federal Government agreed to end Reconstruction, withdraw military forces from the South, and cease enforcing civil rights laws. In exchange, the election of the Republican candidate for president, Rutherford B. Hayes, was assured. The dike that had laboriously been constructed against racist retaliation was suddenly broken. The stage was set for a massive reversal of the gains made in the previous 20 years.

In 1883, the Supreme Court, in deciding five litigations joined as the *Civil Rights Cases*, declared the Civil Rights Act of 1875 unconstitutional. Reflecting the earlier debates over the Reconstruction amendments, the ruling was based on the premise that those amendments prohibited only States, not individuals, from infringing on the equal protection and due process guaranteed to individuals by the Constitution.

Moreover, in 1896, the Supreme Court, in the landmark decision of *Plessy v. Ferguson*, found State laws that required segregation of the races in public accommodations to be constitutional, thereby endorsing the proposition that public facilities could be “separate but equal.” This decision virtually completed the quarter-century-long process of standing the law established by the Reconstruction amendments on its head. The effects were quickly seen in police departments. In department after department, blacks lost their jobs, either by dismissal or by being forced to resign. The disappearance of blacks from the New Orleans police department serves as the most dramatic

example of this trend. From a high of 177 black officers in 1870, the number dropped to 27 in 1880. By 1900, only five black officers remained; by 1910 there were none. The city did not appoint another black to the police force until 1950.

It is in this context that the Kelling and Moore discussion of the reform era must be interpreted. They argue that police reformers, led by August Vollmer and O.W. Wilson, changed the basic orientation of American policing in response to the excesses of the political era. The paradigm thus adopted, they contend, rejected politics as the source of authority for the police, replacing it with law and professionalism.

In an effort to curtail the close relationship between local political leaders and police, civil service replaced patronage and influence in the selection, assignment, and retention of police officers. Individual police officers were expected to avoid becoming closely associated with, and therefore contaminated by, the areas in which they patrolled. In some cases, they were prohibited from living in their beats. To further eliminate local political influence, functional control was centralized. By the time this era had reached its peak, during the 1950’s and 1960’s, police departments had become largely autonomous agencies, led by professionals guided by law, immune from political influence.

As dramatic as this change must have appeared to the white middle-class inhabitants of America’s major cities, the transition to the reform era was barely noticeable to blacks and other minorities. Relying on law, rather than politics, as the source of police authority had many desirable aspects for those provided full protection by the law. Once again, however, for those who lacked both political power and equal protection under the law, such a transformation could have little significance.

“ . . . black policemen . . . all worked in plain clothes . . . and were assigned to black neighborhoods . . . ”

Even the particular mechanisms implemented to bring about reform proved to be of little avail to blacks and other minorities. Civil service examinations, for example, designed to avoid the influence of patronage and nepotism, provided slight consolation for those who had been denied access to quality education. These examinations, which according to some experts, reveal less about the qualifications of the applicants than about the cultural biases of the examiners, winnowed out a far higher proportion of blacks than whites. In Boston, for example, the examiners failed 75 percent of the blacks as opposed to 35 percent of the whites in 1970. In Atlanta, in the

same year, 72 percent of the blacks and only 24 percent of the whites failed. In New York, in 1968, 65 percent of the blacks as opposed to 31 percent of the whites failed. Mexicans and Puerto Ricans fared even worse, perhaps because the tests were given in English.⁴⁰

“Miami established a different designation for the two races: blacks were ‘patrolmen’ and whites were ‘policemen.’”

Background investigations, which blacks and other minorities are more likely to fail than whites, also served as a barrier to inclusion. Fogelson reports evidence indicating that investigators rejected 41 percent of black applicants as opposed to 29 percent of whites in St. Louis in 1966; 68 percent of the blacks, as opposed to 56 percent of the whites, were rejected in Cleveland in 1966; and 58 percent of the blacks, as opposed to 32 percent of the whites, in Philadelphia in 1968.⁴¹ He concludes that these disparities were a function of two things, notwithstanding racial prejudice. First, many departments were unwilling to accept any applicant who had been arrested or convicted for any criminal offense, no matter how trivial—the President’s Crime Commission showed that blacks were more likely to have a criminal record than whites.⁴² Second, most departments were reluctant to hire anyone who was truant from school, changed jobs too often, associated with known criminals, or had broken military regulations, all of which are more prevalent among blacks and other minorities than among whites.⁴³ Regardless of the merits of these criteria, their effect was the same—the exclusion of minorities.

Centralization of control also provided little help for minorities, inasmuch as it meant that already strained relations with the police officer on the beat translated into even more strained relations with a distant government downtown. Reduced contacts with local officers meant that limited opportunities to bridge the racial barrier became even more limited.

“Individual police officers were expected to avoid becoming closely associated with, and therefore contaminated by, the areas in which they patrolled.”

In their efforts to attract qualified recruits, the reformers not only raised salaries, increased benefits, and improved working conditions, they also extended their recruitment efforts. One method of expanding the pool of applicants was to abolish residency requirements. This reform, although defended by

reformers on professional grounds, handicapped the blacks, Hispanics, and other minorities by slowing down the ethnic turnover in police departments. Without such a change, as whites fled from the inner cities, the increasing percentage of minorities remaining could have been expected to have been more readily reflected in the ranks of the police. Furthermore, despite heavy immigration of minorities to the Nation’s urban centers, the competitive edge that had been experienced earlier by the Irish and other white ethnic minorities no longer held sway.

Despite its limitations, the reform era provided, for members of the majority, a marked improvement in the delivery of professional police services. For members of minority groups, however, the change from the political era, in which they lacked political power, to the reform era, in which they lacked the support of the law, meant, for the most part, more of the same. In only 7 of the 26 cities for which the Kerner Commission collected data was the percentage of nonwhite police officers equal to as much as one-third of the percentage of nonwhites in the city.⁴⁴

The community era: Policing disintegrating communities

By the late 1970’s and early 1980’s, according to Kelling and Moore, we had entered the era of community policing. Although law remained a source of authority, the police began once again to recognize that, ultimately, they are dependent on neighborhood, or community, support to achieve their goals. Turning to the citizens they serve for consultation, the police realized that more was expected of them than simply enforcing the law. Looking at people as clients of their services, the police found that they were also being judged on their ability to maintain order, resolve conflict, protect rights, and provide other services. In order to be able to remain responsive to community concerns, organizational decentralization was necessary. To remain even more flexible, officers were given authority and discretion to develop responses appropriate to local needs.

To organized, empowered communities, this strategy of policing offered extraordinary opportunities to participate in structuring the nature of police services delivered. As a result of community demands, for example, programs such as foot patrol were revived, long before they were found to be effective in reducing fear and, in some cases, crime. Despite the popularity of such initiatives, a closer examination of the areas in which such foot beats were created reveals one of the serious problems with this approach. In the State of New Jersey, for example, where foot patrol was funded by the Safe and Clean Neighborhoods Program, most foot beats were instituted in areas with strong community or business organizations—or both—with strong support from and access to political leaders.

Those without such resources—and those most in need of police services—often found themselves in a long queue.

Although the 1954 Supreme Court decision in *Brown v. Board of Education of Topeka* began to provide blacks and other minorities with their just share of legal rights and remedies, that provision came only with “all deliberate speed.” As this glacially slow process continued, something more virulent occurred in minority communities, especially in the inner cities. Those who could afford to do so moved into less crowded, more comfortable, neighborhoods, leaving behind vacant houses—and those who could not afford an alternative. Businesses closed. Tax bases eroded. Among those who remained, unemployment, especially among minority youths, grew markedly higher than among whites. The incomes of employed minorities was significantly lower than that of whites. The quality of education deteriorated. School dropout rates rose precipitously. Infant mortality rates reached alarming levels. Decent, affordable housing became scarce. More and more children were born to unwed mothers. Drug and alcohol use became endemic. Crime and the fear of crime soared out of control.

The convergence of these factors produced a vicious circle. The police, regardless of the era or the strategic paradigm, must, along with families and other community institutions, concern themselves with crime and the fear of crime. The inner cities, where families, schools, jobs, and other community institutions were disintegrating at a rapid pace, presented the police with the most serious crime problems of all. But the police, because of a gross underrepresentation of minorities among their ranks, a lack of sensitivity and understanding of minority concerns and culture, and, therefore, a lack of community support, were least able to deal effectively in the inner cities—precisely where they were needed most.

“Centralization of control . . . meant that already-strained relations with the police officer on the beat translated into even more strained relations with a distant government downtown.”

Frustrated and angry, many blacks came to see the police as symbolizing the entire “system”—those institutions and resources that had been so unresponsive to their needs. Tensions rose, culminating in the series of riots in America’s inner cities during the middle and late 1960’s. Many Americans had their first glimpse of ghettos as they burned through the night. Reflecting the nature and extent of the underlying problems, Senator Robert Kennedy observed, after visiting the scene of the Watts riot, “There is no point in telling Negroes to observe the

law . . . It has almost always been used against them.” Despite the tragic destructiveness of those riots, they did concentrate the minds of the Nation’s leaders wonderfully. In 1967, President Johnson appointed the National Advisory Commission on Civil Disorders (the Kerner Commission) to investigate the causes of the disorder and to recommend solutions. In a trenchant analysis, the commission report concluded that “Our Nation is moving toward two societies, one black, one white—separate and unequal.”⁴⁵ Essentially, they said, what lay behind the riots was a long historical pattern of racism on the part of whites in America. In one of the most forceful passages of their report, the commissioners observed:

What white Americans have never fully understood—but what a Negro can never forget—is that white society is deeply implicated in the ghetto. White institutions created it, white institutions maintain it, and white society condones it.⁴⁶

“ . . . the police began once again to recognize that, ultimately, they are dependent on neighborhood, or community, support to achieve their goals. ”

Specifically, the Kerner Commission found that many of the riots had been precipitated by police actions, often cases of insensitivity, sometimes incidents of outright brutality. They saw an atmosphere of hostility and cynicism reinforced by a widespread belief among many blacks in a “double standard” of justice and protection. More generally, they concluded that:

In many ways the policeman only symbolizes much deeper problems. The policeman in the ghetto is a symbol not only of law, but of the entire system of law enforcement and criminal justice.⁴⁷

The report offered five basic suggestions to address this situation:

- Change operations in the inner city to ensure proper officer conduct and to eliminate abrasive practices.
- Provide adequate police protection to inner city residents to eliminate the high level of fear and crime.
- Create mechanisms through which citizens can obtain effective responses to their grievances.
- Produce policy guidelines to assist police in avoiding behaviors that would create tension with inner city residents.
- Develop community support for law enforcement.

Fearful that new conflagrations would occur otherwise, and responding in many cases to newly elected black and progressive white mayors, many departments followed the commission's recommendations. As a result, a number of improvements have occurred that have reduced the barriers between the police and the inner city. Many more blacks and other minorities are now patrolling our streets. Strict rules against the unnecessary use of weapons, brutality, harassment, verbal abuse, and discourtesy have been promulgated and enforced. The use of aggressive patrol techniques has been curtailed, restricted to those situations in which it is justified. Steps have been taken to ensure adequate patrol coverage and rapid response to calls for service from inner city areas. Open, impartial, and prompt grievance mechanisms have been established. Policy guidelines have been implemented to direct officers' discretion in potentially tense situations. New approaches—storefront offices, adopting (or even organizing) neighborhood groups, addressing the causes of fear—have been put into effect to improve relations with the community.

“ . . . the police . . . were least able to deal effectively in the inner cities—precisely where they were needed most. ”

Because of these changes, the relationship between the police and citizens has improved considerably in the last several years—to a large extent in white middle-class neighborhoods, to a lesser extent in the inner city. Any transition to an era of community policing will be both a cause and an effect of these improvements. But such a transition is far from complete in the inner city. A recent assessment by the Commission on the Cities found that, despite a brief period of improvement, the conditions that produced the dissolution of ghetto communities are actually getting worse. “Quiet riots,” the report concludes, are occurring in America's central cities: unemployment, poverty, social disorganization, segregation, housing and school deterioration, and crime are worse now than ever before.⁴⁸ These “quiet riots,” although not as alarming or as noticeable to outsiders as those of the 1960's, are even more destructive of human life. Under such conditions, it is unreasonable to expect that the residents of the inner city will have the characteristics—whether social, economic, or political—that are required to sustain the partnership required of the community policing approach.

Furthermore, although the police are better prepared to deal with residents of the inner city than they were 20 years ago, they are far from having totally bridged the chasm that has separated them from minorities—especially blacks—for over 200 years. There are still too few black officers, at all levels. Racism still persists within contemporary police departments. Regardless of rules and guidelines, inappropriate behavior on the streets still occurs. Complaints about differential treatment, patrol coverage, and

response time persist. And empirical studies have shown that community-oriented approaches that are effective in most neighborhoods work less well, or not at all, in areas inhabited by low-income blacks and other minority groups.

“ . . . many of the riots had been precipitated by police actions, often . . . insensitivity, sometimes . . . outright brutality. ”

We welcome the prospect of entering the community era of policing. In a dramatic way, this represents a return to the first principles of policing as established in London in 1829. As Critchley so aptly put it, “From the start, the police was to be . . . in tune with the people, understanding the people, belonging to the people, and drawing its strength from the people.”⁴⁹ Once community policing becomes a pervasive reality, we will have finally approximated the attainment of that goal. We have begun to bring such fundamental changes about in many of our Nation's police departments. But because of the devastation afflicting our inner cities and the inability of our police to relate to those neighborhoods, the areas that most require a transition to the community era will unfortunately be the last to experience such a change.

Summary

Kelling and Moore have contributed a valuable addition to our repertoire of concepts for understanding the strategic history of American policing. Their interpretation of the shifts in policing from a political to a reform to a community era provides useful insights. It is our contention, however, that the applicability of this interpretation is confined largely to the white majority communities of our Nation. For blacks, and to a lesser extent other minority groups, the utility of this analysis is quite limited.

“ . . . the community era requires an empowered, cohesive community to be able to deal with a sensitive, responsive police agency . . . ”

During the political era, for example, blacks were completely powerless, leaving them unable to exert the influence necessary to affect police strategy. According to the paradigm Kelling and Moore posit to have prevailed in the reform era, police strategy was determined largely on the basis of law, which left blacks almost completely unprotected. Finally, the community era

requires an empowered, cohesive community to be able to deal with a sensitive, responsive police agency; neither precondition prevails in many contemporary minority neighborhoods.

Significant progress has been made, however. Large numbers of blacks and other minorities have joined—and in many cases have become leaders of—our major departments. The use of violence by police against minorities has declined dramatically in the last decade. Special efforts have been made to provide training to make our police officers sensitive to the needs and concerns of minority communities. Enlightened, better educated police leadership has opened the profession to new approaches and ideas. The rising popularity of community-oriented policing will undoubtedly further improve the relationship between the police and minorities.

“ . . . many of the most articulate proponents of community policing are themselves African-American police executives. ”

We think it is a particularly hopeful sign in this regard that many of the most articulate proponents of community policing are themselves African-American police executives. Their unswerving emphasis, in their statements of values, on the protection of constitutional rights and the protection of all citizens, gives us reason to be optimistic about the future of policing.

Nevertheless, the history of American police strategies cannot be separated from the history of the Nation as a whole. Unfortunately, our police, and all of our other institutions, must contend with many bitter legacies from that larger history. No paradigm—and no society—can be judged satisfactory until those legacies have been confronted directly.

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