

The Moral World of Law Enforcement

Didier Fassin

The Occasional Papers of the School of Social Science are versions of talks given at the School's weekly Thursday Seminar. At these seminars, Members present work-in-progress and then take questions. There is often lively conversation and debate, some of which will be included with the papers. We have chosen papers we thought would be of interest to a broad audience. Our aim is to capture some part of the cross-disciplinary conversations that are the mark of the School's programs. While Members are drawn from specific disciplines of the social sciences—anthropology, economics, sociology and political science—as well as history, philosophy, literature and law, the School encourages new approaches that arise from exposure to different forms of interpretation. The papers in this series differ widely in their topics, methods, and disciplines. Yet they concur in a broadly humanistic attempt to understand how, and under what conditions, the concepts that order experience in different cultures and societies are produced, and how they change.

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On the 28th of November, 2012, the *New York Times* published an article titled “Photo of Officer Giving Boots to Barefoot Man Warms Hearts Online” with the accompanying picture of a uniformed agent kneeling next to an older homeless, shoeless man sitting in front of a footwear store. The story went thus. Two weeks before, in Times Square, Lawrence DePrimo was on a counterterrorism beat when he spotted the individual. “It was freezing out and you could see the blisters on the man’s feet,” he would later say in an interview. “I had on two pairs of socks and I was still cold.” After having spoken to the man and checked his shoe size, he disappeared for a few minutes and came back with a pair of boots priced \$100 but bought for \$75 after the manager gave him the employee discount. He presented the footwear to the man, whose face lighted up gratefully for a brief moment as he stood up and went on his way, refusing the cup of coffee the officer was offering.

The story could have ended here if a young woman, impressed by this unlikely encounter, had not taken a picture on her cell phone. Jennifer Foster, communications director for a county sheriff in Arizona, was visiting the city, and she later explained that the scene had reminded her of her father, a veteran of the Phoenix police force, whom she had once seen buying food for a homeless man when she was a child. When she returned home ten days later, she sent an email to the New York Police Department complimenting the officer. An official immediately replied requesting the photo, which he posted on the NYPD official Facebook page. Twenty-four hours later, it had been viewed 1.6 million times, had attracted 275,000 likes and generated 16,000 comments, a reaction far beyond what the department’s page usually provoked with pictures of award ceremonies. Commissioner Raymond Kelly gave the officer a pair of NYPD cuff links in appreciation of his generosity and Mayor Michael Bloomberg modestly stated that this was what the police were trained to do—help people.

Yet the eagerness of the department to exhibit the photo and the public enthusiasm it created suggested that the image of the officer as Good Samaritan was not the most common representation of law enforcement. Conversely, the recognition of this moral hero seemed to offer a redeeming moment for an institution which, in recent years, had been a matter of controversy because of racial discrimination in stop and frisk, human rights abuses of minorities, and shootings resulting in fatalities. That the police could also display compassion was a comforting message to convey to New Yorkers and beyond.

This is not, however, the moral sentiment that was most widespread among the officers I accompanied for fifteen months as they patrolled the *banlieues* of Paris.¹ The conurbation where I conducted my research was one of the largest in the country, with a

population of approximately 200,000 inhabitants. Although there was a certain diversity of social class, ethnic origin, and type of housing, the unemployment rate, the percentage of immigrants, the proportion of poor neighborhoods, and the level of criminality were substantially higher than in the rest of the region. The police considered it a “tough” precinct where they did not like to be posted. The units I studied were composed, on the one hand, of uniformed officers in marked vehicles, and on the other hand, of plain clothes police in unmarked cars. The latter were known as the anticrime squads, feared for their harshness. They were created in the mid-1990s to intervene in the *banlieues* whose working class population, principally of North African and Sub-Saharan origin, was increasingly regarded as the new “dangerous class.”

One afternoon, toward the end of my research, as we were driving slowly through the housing projects, two officers of this special unit explained to me that they were working the day shift, as opposed to the night hours generally preferred by their colleagues, because more numerous days off allowed them to return to their home outside of the region. Also the absence of their superiors resulted in less pressure: “We could no longer bear what was going on at night,” they said, “all you hear and see.” They mentioned racist and xenophobic comments as well as discriminatory and violent behaviors, all practices I had quite frequently witnessed.

I asked if they could give me a precise illustration. “Here’s just one example,” one of them said. “Do you remember that really cold winter, a few years ago? This happened on one of the coldest nights—it must have been below zero. Well, maybe not around here, but they’d forecast that kind of extreme temperature in the east of the country. At one point we were cruising around, we drove past the train station. There was an African man out there. I don’t know how he’d got there, wearing just pants and a T-shirt and little sandals. He was shivering with cold. All the doors to the station were locked, so he couldn’t get in there. He was wandering around looking for shelter. I said: ‘Come on, let’s take him to the precinct, at least he’ll be in the warm for the night.’ And you know what, the answer was no. The other guys refused to take him in. I’m sure in warmer weather they would immediately have checked his identity, he probably didn’t have any papers, so he would have ended up at the police station. But it was so cold, and they preferred to let him freeze. I wonder if he survived. I can tell you, I often think back to that night, even now.”

Obviously, confronted with a case similar to that of their NYPD colleague, these officers reacted in the opposite way, at the risk—extremely unlikely, though—of being accused of failing to render assistance to a person in danger. They were definitely not Good Samaritans and compassion was certainly not what drove them. Having heard what I had heard and seen what I had seen during my patrolling in the precinct, this tragic anecdote did not surprise me. What was actually more striking was that my interlocutor could view the attitude of his colleagues as so intolerable that the memory seemed to haunt him years later.

Beyond the remarkable contrast of the two scenes—which should certainly not be interpreted as revealing idiosyncratic features of kindness in the New York Police Department and insensitiveness in the Paris *banlieues* anticrime squads—what I would like to discuss is the centrality of the question of morality in the police. To talk about law enforcement in moral terms may seem somewhat disconcerting. This is not the language that generally comes to mind about the police. Other associations are more common with law: force, order, security, repression, control, investigation, record. The language refers to the legal, political, administrative, technical or simply physical realms.

Yet, the interest in the moral dimension is not recent. One can cite the first study of the police, William Westley's PhD dissertation in 1950, published twenty years later with the subtitle: *A Sociological Study of Law, Custom, and Morality*, which is a description of the cultural norms of law enforcement in a Midwest town.² Going back even further in time, one could think of Bronislaw Malinowski's 1926 brief essay *Crime and Custom in Savage Society*, which shows the importance of values and emotions in the traditional legal system of the Trobriand Archipelago.³ The moral dimension is, therefore, not an entirely new topic in the study of law and its enforcement, but it has not fully received the attention it deserves and, when it has, it has not been explored in a sufficiently critical way. Understanding the moral framework of law enforcement is indispensable, however, to account not only for the normal activity of the police but, even more crucially, for what is seen as professional deviance—such as brutality or cruelty, racism or discrimination—about which officers provide, for themselves and others, moral justifications.

Using the case of the police to make more general claims about institutions, what I will make three points. First, I want to establish that the analysis of institutions needs to take into account not only its legal and organizational rationality, but also the values and affects it mobilizes, that is, to apprehend institutions as moral worlds. If institutions think, as the anthropologist Mary Douglas felicitously wrote, they likewise judge and feel.⁴ Second, I contend that this moral world cannot be separated from the political environment of the institution: while the anthropology of morality tends to isolate its object, which is a reasonable way to construct it.⁵ An alternative and, I suggest, better approach is to consider morality as intimately related to politics. This implies historicizing it. Third, I strive to seize both the common moral grounds that define the institution and the moral differences, conflicts, and dilemmas that also characterize it. Whereas the study of morality tends to homogenize the social groups observed, at the risk of a singular form of culturalism, it is also necessary to render the diversity, dynamics, tensions and contradictions within the moral world.⁶

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The starting point of my research was that, from Watts in Los Angeles in 1965 to Tottenham and London in 2011, almost all major urban disturbances during the past

half-century resulted from a violent interaction between law enforcement officers and inhabitants of disadvantaged neighborhoods, usually leading to the death of young people belonging to racial or ethnic minorities. Although broader structural issues, such as segregation, poverty, high unemployment, experiences of discrimination, and injustice were involved, the immediate cause was practically always related to abuses by the police. France is no exception in this sequence of facts culminating in civil unrest, and the dozens of incidents in the housing projects since the early 1980s involved such tragic encounters.

I began my fieldwork shortly before the 2005 riots, which were prompted by the electrocution of two adolescents attempting to escape an anticrime squad in Clichy-sous-Bois, and ended it just before the 2007 rebellion of Villiers-le-Bel, following the death of two youths whose motorcycle was hit by the car of a similar special unit. Yet, rather than these events, it is what happened in between that interested me—what happens when no youth is killed, no car burnt, no building destroyed, no store looted. I favored the study of the everyday over that of the sensational, the inquiry into the ordinary life of a police station over spectacular events disrupting its course, even if I occasionally witnessed quasi-riots presenting all the hallmarks of potential urban disturbances.

I discovered, however, that to call my work an ethnography posed certain problems. Indeed, since for many the word evokes remote societies and “traditional” cultures, I have learned to avoid it in the presentation of my work to non-specialist audiences because of these exotic connotations. When I gave a talk to magistrates and commissioners at the National School of Law in Paris, I chose a title, which I meant to be as neutral and harmless as possible: “Ethnography of an Anticrime Squad.” When he received it, the organizer of the lecture immediately called and requested that I change it: “They will think you consider them savages,” he explained. I modified it to what I imagined could be regarded as even more ambiguous: “Investigation Into an Anticrime Squad,” and the new version was accepted without difficulty.

Yet, I wondered, was the reservation of my interlocutor without ground? Why should we take ethnography for granted? And, regarding law enforcement more specifically, do we really need such ethnographies? After all, we have excellent accounts by journalists, vivid memoirs of former officers, and remarkable fictional crime novels, detective movies, and television series. Moreover, it is undeniable that, in their own way, social scientists also participate, through their books, articles, and talks, in the production of public representations of police work that adds to the abundant literature and filmography on the subject. So, in what sense is ethnography different? To say that ethnographers endeavor to depict reality as it really is may certainly be a correct self-characterization, but it is not distinctive and it is deceiving. First, it is not distinctive because the journalist and the officer have the same claim, and so, sometimes, do the novelist and the film director. Ironically, when during a television program a historian of the police attempted to disqualify my work, it was the author of detective novels (recently awarded the prize for the “best francophone roman noir” for a book about an anticrime

squad) who publicly defended me, affirming that my account was indeed faithful to reality. Second, it is deceiving because all descriptions of the social world entail the use of specific lenses that allow the viewing of certain dimensions rather than others. Indeed, it was one of the claims of my book that most criminologists deny the existence of racial discrimination among the police precisely because they use theoretical and methodological tools that produce color-blindness.

Therefore, instead of defining the merits of ethnography in terms of realism—although I believe it is a significant part of the ethnographic endeavor and a crucial element of its social authority—it is probably more accurate and more helpful to do so in terms of the combination of presence and distance. Presence—being there—supposes a temporality that is both instantaneous (the immediate now, when a car chase or a stop and frisk occurs) and expanded (the long duration, which renders regularities and exceptions visible, and therefore discriminations perceptible). In this sense, ethnography is the infinite repetition of the present. With presence comes a reciprocal acquaintance between the observer and the observed: a form of mutual trust progressively develops, which makes possible an access to the everyday and to the “common sense” of those who are the object of the research. Distance—stepping aside—results from the simultaneous reaction of astonishment (the permanent surprise in reaction to a given state of affairs) and of estrangement (the sentiment of not belonging to the group) as well as the search for a distinct perspective (bringing the larger picture into being): it is a distantiation from the self-evident. With distance, what is happening in the field is not considered in isolation but analyzed in relation to the trajectory of the agents, their professional and institutional environment, the ideological and political context in which they work, the larger historical and social configuration. This combination of presence and distance means that the social world under study is apprehended both within the framework of the insider and from the perspective of the outsider. If one accepts this view, the consequence is that ethnography is always critical.

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It is this epistemologically hybrid positioning that made me understand, not without difficulty, what was, in a sense, completely obvious, but so systematically denied by the police that it initially escaped me. Contrary to the image of relentless action generally associated with law enforcement, including by officers themselves—always keen to emphasize the exhilarating moments they have experienced when they talk with their colleagues—boredom is what dominates most of their time on a shift. Far from being a heroic activity in pursuit of thieves and thugs, as many affirm they imagined when they entered the profession, law enforcement is generally synonymous with inaction and ennui. The rhythm of urban expeditions resembles more the episodes of *The Wire*, which my interlocutors had never seen, than the adventures of the Strike Team in *The Shield*, whose photographs covered the walls of their common room.

The latter series, whose main character, detective Vic Mackey, they admired, is based on real events that occurred in the Rampart Division of the LAPD in the late 1990s. The squad is an anti-gang unit whose members have no compunction breaking the law, torturing suspects, killing criminals, helping themselves to the stolen property and drugs they seize, and deceiving or even physically eliminating their more principled colleagues—all practices whose ultimate aim is purportedly to restore order to working-class neighborhoods with a predominantly Latino and African American population. The French officers' identification with these characters reflected a remarkable moral imaginary. Like their heroes, they wore a "civilian uniform" of jeans, T-shirt and leather jacket, and their hierarchy tolerated a wide degree of autonomy in the conduct of their activities, of which they rarely had to provide an account. They were also permitted, up to a point, to disregard legal procedures in order to impose their rules, on the grounds that their legitimate end justified their irregular means (which is known in sociological studies as the "Dirty Harry problem" since Carl Klokars' eponymous paper).⁷ They were much readier than their colleagues to use force, although in general their presence was sufficiently menacing and their reputation well enough established to dampen any urge to react by their public. But while the members of the anticrime squad seemed to feel that they personified, at least in part, the dubious characters of the fictional television program, they could only envy the intensity of the lives of police officers in Los Angeles, as constructed by the script. The breathless pace of each episode, with riveting scenes depicting major crimes, leading to the violent questioning of suspects, and ending with cases being solved, often by unorthodox methods, bore slight resemblance to the quiet routine of the real squads. Unlike their heroes, the lot that fell to them—and I must admit to me also—was boredom.

Patrols have two ways of intervening: they respond to calls from the public—reactive intervention—and they randomly patrol in search of suspects—proactive intervention. It has been established in numerous studies worldwide that the time dedicated to reactive intervention is usually very limited, obliging officers to develop proactive intervention. It is all the more so because in France, as in many other countries, there has been a constant decline in crime, especially in its more serious and spectacular expressions, such as homicides or burglaries, the increase observed for certain offenses corresponding mostly to misdemeanors, including cell phone thefts, or to incivilities recently introduced in the law, such as loitering in the lobby of an apartment building. Knowing that the anticrime squads were in principle specialized in catching criminals red-handed, I asked an officer how many times he had seized a burglar in the act. "To catch one, you have to get damned lucky," he replied. "You need luck's own luck." In a subsequent discussion with one of his colleagues, who had confided to me that he had chosen this special unit because it was supposed to be "animated," I tried to get a quantified assessment of this scarcity: "It's simple," he said. "I've been in the squad seven years now, and it's only ever happened to me once. And even then the stupid asshole had got himself shut into the house he broke into and couldn't get out. All we

had to do was pick him up.” His humor did not entirely conceal his frustration. Indeed, officers were under pressure from the new so-called politics of number, which imposed quantified goals in terms of number of arrests that they could not reach on the basis of available criminality. As a consequence, they used what they called “adjustment variables” with easy prey: marijuana users and undocumented immigrants.

Any account of police work should therefore start with depicting the long eventless days or nights spent driving through the city and its housing projects, expecting calls that rarely come and often prove to be hoaxes or errors. The sole encounters are with youth of ethnic minorities hanging around in public spaces or immigrants returning home from work or Roma heading towards their camps, all of whom are indiscriminately subjected to frequently aggressive and humiliating stops and frisks, in the hope of finding a small ball of hashish, identifying an undocumented alien, discovering evidence of an improbable larceny—or simply as a way to kill time. These three categories—youth in the projects, immigrants, Roma—correspond to what the sociologist John Alan Lee calls “police property,” that is, populations whose control is left to the police by the dominant social groups.⁸ In this context of inactivity, minor offenses, such as the noise pollution caused by a motorcycle or a simple altercation between adolescents, often become major events, generating a flurry of excitement in the crews and inducing disproportionate and inappropriate operations, which prompt indignation among inhabitants and sometimes lead to disturbances. An official of the Ministry of the Interior told me that these squads often caused more trouble when intervening in the projects than they solved problems.

On one of my first trips out on patrol, in June 2005, we were called out to deal with a brawl in a housing project. Upon arrival, it turned out that once again it was a hoax. The crew returned grumblingly to their patrol. Half an hour later we heard that there had been another call, from the public telephone in the same project. Our car was already quite far away and there was not the slightest chance we could get there to catch the hoaxer, but nevertheless we sped off through the city streets at more than 90 miles per hour. We reached the destination at just about the same time as two other vehicles screeched to a halt in the middle of the street running through the project, blue lights flashing. Eight officers split into pairs and scoured the alleyways on foot. At one point, one of them saw a black youth walking in the distance, and it was decided that he might well be the suspect. A chase began, as the youngster had run off on seeing the officers scrambling towards him. As he entered one of the apartment blocks, the officers found themselves in front of a closed door, and rang all the buzzers, yelling at the residents to open up. It was midnight, and lights came on one after the other in the apartments. The few seconds it took to gain access to the building were evidently enough for the boy to get back to his home. When the police rushed into the stairwell, it was empty. They knocked on every door, asking the occupants if someone had just entered their home. But they did not dare to embark on a systematic search of the twenty or so units. The tenants got off with a serious scare. The crews departed, not without having conducted several aggressive and humiliating stops and frisks on a small group of Arab youth who

were sitting on a bench chatting, a little further away. As the wolf did with the lamb in La Fontaine's fable, they made them pay for the misdemeanor of one of their fellows.

How to account for these facts, which, in the context of the *banlieues*, seemed perfectly mundane and banal? However inappropriate it may seem, this mode of operating, viewed from the perspective of the police, is morally justified along two lines: one concerns their public, the other their profession.

First, as has been established in several studies in the United States, officers consider their public as hostile.⁹ In the French case, this animosity is contradicted by opinion polls, which indicate that 73% of the so-called "ethnic majority" and 59% of those belonging to the "ethnic minorities" declare they trust law enforcement, as well as by the very experience of the officers, who encounter during their patrols individuals who have solicited their assistance for delinquent acts or bring suspicious facts to their attention. In spite of this empirical evidence, the police constantly allude to the antagonism of the population toward them and complain about being the target of rampant criticism. This representation of the public as hostile has a triple function for law enforcement officers: it reinforces group solidarity; it protects professional secrecy; and it justifies reciprocity.

The hostility of the police is regarded as a normal response to the perceived hostility of the population. Predictably, the officers' aggressiveness is socially differentiated, directed more specifically toward the youth from the housing projects, who are mostly from the working class and mostly of immigrant origin. On the one hand, because they are radically otherized, they are generally regarded as deviant. Indeed, officers have a hard time differentiating "the thugs from the honest people," as the commissioner explained, and cannot imagine that "a black guy with a hoodie can be a PhD student and not a hoodlum," in the mayor's words. On the other hand, in a context of bellicose public discourse toward the "scum," as a former minister of the interior famously called them, they are all considered as enemies. "They don't like us, the bastards," commented the chief of the anticrime squad as we were slowly driving by a group of African and Arab youth, using the most common nomenclature of this unit to describe them, "but we don't like them either."

In consequence, practices that would not be acceptable in relation to the majority of citizens become normalized when they concern these minorities. This is what the images on their officers' badges strikingly reveal. For example, one depicts, against the background of the French national flag, the tall blocks of a stylized representation of a housing project seen through a gun sight (fig. 1). No less suggestively, others show, respectively a pack of wolves in front of an apartment block (fig. 2), a panther with its claws ripping through a neighborhood in darkness (fig. 3), a spider trapping a complex of high buildings in its web (fig. 4). Although it should not be interpreted simplistically as a faithful reproduction of police ideology, this iconography, proudly displayed on the clothing of the officers, provides some clues as to how they see their lives in relation to their public.



Figure 1. Anticrime squad badge (Courbevoie, Hauts de Seine)



Figure 2. Anticrime squad badge (Brunoy, Essonne)



Figure 3. Anticrime squad badge (Savigny-sur-Orge, Essonne)



Figure 4. Anticrime squad badge (Boissy-Saint-Léger, Val de Marne)

Second, as has been demonstrated in several North American studies, magistrates are often suspected of being too lenient toward the suspects.¹⁰ “We arrest criminals and the next day they are outside again. The judges have freed them. One wonders what we work for,” was a leitmotiv during our forays through the projects. Again, evidence contradicts this assertion. Surveys demonstrate that magistrates are particularly severe and that this severity regularly increases, due to the hardening of the law, which now includes automatic sentences, and to the pressure of the government, which repeatedly accuses the judges of being too lenient. Actually, the reason why the police believe that magistrates are sabotaging their work is that they often arrest suspects without minimal proofs. As a sergeant told them one evening: “There have been too many police abuses, we have taken too many liberties. It’s like us with the youngsters: we don’t trust them. Well, you know what? The judges feel the same way about us.” He called for more probity and more efficiency, but he was not heard. This representation had a social function: disqualifying the judges as too merciful legitimized their own harshness. But it also expressed their disillusion that they were seen as doing the dirty job of society.

Considering these two lines of justification—the hostility of the public to which the police responds in kind, and the leniency of the magistrates which calls for greater severity from the officers—operations such as the one I described earlier are justified in the name of what political scientist Jerome Skolnick calls “justice without trial.”¹¹ Punishment is morally justified. In the case evoked, it concerns the suspect (the black adolescent) and, by proxy, the residents of the apartment building (collectively) and the youth sitting on a bench (individually). Indeed, the boy was black, he lived in a project, and he had run off at the first sign of a chase—all factors that testified to his guilt. The members of the anticrime squad were convinced they had found their culprit, that the residents were harboring him, and that by default the other youngsters were potential accomplices: all deserved their punishment.

Interestingly, the three positions they occupy in this scene correspond to the three forms of what law enforcement considers as their contribution to retributive justice. First, the usual practice consists in punishing the suspect in the street, the car, or the police station. It can be physical with illegal, painful, and debasing handcuffing, or sometimes through slapping or punching. It is more frequently psychological with insults, insinuations, humiliations, mortifications, often in front of friends, parents, or partners. For the police, this abuse is merited, since in contrast to what happens in court, where the suspect is presumed innocent, they suppose him to be guilty, which is the reason why they arrested him. But when the individual suspect is not accessible, the retribution may assume two other manifestations.

The first mode is punitive expedition, which renders a group of people the hostage of police brutality. One late afternoon, a person called the police to complain about a motorcycle noise in the neighborhood, in response to which three uniformed officers came to investigate. They chased the driver who fell from his vehicle and, as they were on the verge of catching him, they suddenly faced a group of hostile youth. The

three men beat a hasty retreat and contacted their colleagues for backup. A few minutes later, all the police cars available in the precinct rushed to the site where families were enjoying the spring dusk in a small peaceful park. Two dozen officers dashed towards one of the adjacent apartment buildings, knocking about children, threatening inhabitants, and smashing doors. In the unit where they imagined their suspect lived, they upended the furniture, broke the arm of a sister who happened to be present, and finally arrested a young man, only to discover that he was blind and could not possibly have been involved in the initial altercation. This was typically the sort of incident that could easily degenerate into larger disturbances.

The second option is random punishment, consisting in chastising one for the group. During the riots, on a night that a Molotov cocktail had been thrown in the direction of a police car, the anticrime squad thought they discerned the figures of several youth at a distance in the dark. They pursued them but were unable to catch anyone. Two hours later, driving in the same area, a few hundred yards from the initial incident, they encountered three young men having a conversation near the entrance of a building. They stopped and checked their identity. One of them did not have his driver's license with him and asked to be accompanied to his parents' apartment on the second floor to retrieve it. He was denied permission and taken in for questioning. At the precinct, he was accused of being the perpetrator of the earlier aggression. Young, Arab and standing outside in a project, he was the usual suspect who could be thus harassed. After two hours of intimidation and abuse, he was eventually released. The public transportation system had stopped running for the evening and he had to walk home two miles in the dark. A report by the magistrates' union denounced this type of arrest as a frequent practice.

Remarkably, punitive expedition and random punishment are also common practices in contexts of war, where arbitrary retribution is supposed to serve as dissuasion. Here it resembled more a form of retaliation. Commissioners knew about these practices, which they considered harmful, and told me it was difficult to prevent them, but in fact they rarely tried, since they believed if they did they might lose the trust of their rank and file officers.

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On several occasions, I have referred to studies conducted in other countries suggesting findings somewhat similar to mine. However, it is important to consider that historical and political contexts matter.¹² In this regard, the case of France presents two significant differences with many comparable countries: the police have a national organization and insecurity has become a national issue. The two elements are related, although their association was in no way a logical necessity.

On the one hand, law enforcement has been essentially conceived, since the Ancien Régime, as a prerogative of the state, reinforced by the Jacobin policies of the

Revolution and Joseph Fouché's authoritarian centralism under the Empire. The attempts to develop municipal police during the nineteenth and twentieth centuries largely failed, even if local initiatives have revived this project in recent decades. That policing is organized on a national basis and is a state prerogative has two important implications for law enforcement. First, the police are recruited in the whole national territory and therefore generally work in places they do not know. Even more crucial to the understanding of what happens on the ground is the social origin of the recruits. Four out of five come from rural areas or small towns, often from white working-class families living in de-industrialized zones. Because their career is based on seniority, the first posting they obtain corresponds to the least desirable precincts, that is, the *banlieues*, where they will be working amongst a disadvantaged population of immigrant background. The way this public is introduced to them during their training at the academy contributes to the sentiments of strangeness and hostility they will feel when discovering this new urban environment designated as a "jungle" and its inhabitants as "savages." Second, the police are only accountable to the state, that is, concretely, to the minister of the interior. In other words, their responsibility and commitment are not to the population or its elected representatives, as in the United States or Britain, where the authority over law enforcement is local. In France, mayors, who are responsible to their local constituencies not only in terms of security but also in terms of relationships between the institutions and their public, are often viewed by officers and commissioners as adversaries systematically taking the side of the residents against the police. This organization of law enforcement has long been presented as guaranteeing fairness at a national level as well as avoiding local pork barrel politics. Yet, in the past three decades, far from being a neutral entity, the state to which the police are accountable has become increasingly embodied through successive ministers of the interior who have used them for the promotion of their political careers. The ideal of impartiality progressively vanished, as law enforcement became an instrument to achieve personal ambition.

On the other hand, insecurity issues have become increasingly prominent in the national political agenda, a phenomenon one can trace back three decades. The historic victory of the left in the general elections of 1981, after twenty-three years of conservative domination, led to the restructuring of the French political landscape, with the rapid rise of the far right and the weakening of the traditional right. The National Front based its success principally on two issues, immigration and security, often mixing the two by presenting immigrants, or their children, as the major source of insecurity. The response of the Gaullist party was to radicalize its discourse, adopting xenophobic themes translated into immigration restrictions and producing alarmist statements about alleged insecurity. In hindsight, the electoral success of this strategy of rejection and fear is undeniable, since the raising of immigration and security issues played a decisive role in three consecutive general elections, allowing seventeen years of continuous conservative presidencies. It is noteworthy that the construction of immigration and insecurity as national priorities—the second taking precedence over the first in the past decade—

occurred in a period when France was far less than other countries subject to objective threats, terrorism most notably. But in the absence of an external enemy, it remained possible to identify an enemy within, to substantiate the call for security and relate it to the immigration issue. This discourse justified repressive policies at all levels. Increasing legal limitations were applied to migratory flows, technologies of border control and identity checking developed, confinement and deportation of undocumented immigrants boomed. But it is to security that the government has devoted most of its efforts. Crime statistics and public research fell under the sole authority of the minister of the interior, thus allowing the massaging of data and the avoidance of independent investigations. The police benefited from expanded human and technical resources, and special units, the anticrime squads in particular, were created. The judicial system followed the trend as the legislators enacted new laws enlarging the definition of offenses and ensuring more severe sanctions, while the executive exerted growing pressure by accusing magistrates of being too lenient. These policies were not meant to be implemented everywhere toward everyone, though; they concerned certain territories and certain populations. Geographically, the *banlieues* with their housing projects, and socially, the working-class youth belonging to ethnic minorities, were their main targets. Law enforcement served as the key institution to regulate these territories and tame these populations, who were at the same time increasingly abandoned by the welfare state.

These two political elements—the national organization and accountability of the police to the state, and the instrumental use of insecurity and immigration issues—reinforced the logics I have described earlier and contributed greatly to the production of police deviance. An illustration of this interaction between policies and practices is the shift from fighting serious criminality toward arresting marijuana users and undocumented immigrants. This shift had a non-negligible social cost: the banalization of racial discrimination and racial profiling. It was fascinating to watch officers stopping teenagers of ethnic minorities in disadvantaged neighborhoods to search them for marijuana, while ignoring upper class white students obviously under the influence of drugs in the surroundings of their colleges. When students attending a prestigious business school organized parties in local bars in the city, the police monitored the area. Of the dozens drinking and smoking on the sidewalks, none was ever checked or searched. In fact, as I eventually understood, the reason for the presence of the police was not to keep watch over them, but to protect them from attacks or thefts possibly perpetrated by the other youth, those of the projects, where we would venture afterwards to make stops and frisks, which sometimes led to arrests when a small quantity of marijuana was found. And it was also perplexing to see the police single out individuals in a crowd according to their skin color and physical appearance to subject them to similar identity checks and body searches. A study by observation conducted in train and metro stations established that blacks and Arabs had respectively six and eight times more chance of being stopped and frisked than whites.¹³

Certain officers expressed discontent about what they considered to be a dirty job serving political interests rather than the public good. Others found obvious satisfaction in a policy of which they approved. An officer explained to me that the ideological position of his colleagues could determine whether they focused more on one or the other of these offenses—a tendency I myself observed. The more xenophobic ones were inclined to reach their goals by identifying violations of immigration law: “I’ve always said there are too many illegal immigrants,” affirmed one of them, well known for his far right ideas. “So whenever I can arrest one, I do.” Some of his fellow officers, less obsessed with this issue, preferred to look for drug law violations: “I’m not here to arrest poor people who haven’t done anything and aren’t bothering anybody,” one stated. “I prefer to take in drug users—at least they’re screwing up.” A certain moral division of labor was thus instituted based on ideological stances.

To sum up, what can be described as the action of the state was neither the mere product of police discretion, nor the sole result of the implementation of national policies, but the articulation of both, which largely converged because they found their justifications in similar moral arguments.

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But as these examples reveal, and as one can guess, not all officers share the same values, experience the same emotions, or behave in the same way in the street or the precinct. The question is: how can one characterize these differences? Most studies of law enforcement focus on the common moral world rather than on moral differences. A significant exception is the work of the political scientist William Ker Muir, who speaks of the two “virtues” of the “good policeman”: a “tragic sense,” because “he has to grasp the nature of human suffering” and a “moral equanimity,” because “he has to resolve the contradiction of achieving just ends with coercive means.”¹⁴ I suggest a less normative and more comprehensive approach. Having interpreted their moral justifications in terms of relations to their public and to their profession, I will retain the same analytical structure to apprehend their moral differences. I therefore distinguish two dimensions, which one can qualify as ethical and deontological. They can be regarded as two axes allowing a spatial representation of the distribution of police officers according to their discourses and practices.

The ethical dimension concerns the moral community that they constitute through their discourses and practices. By moral community I mean the sum of the concrete and virtual individuals with whom one imagines one shares a common human condition. Either it is inclusive and comprises a priori—that is, before any prior evaluation of their qualities—any individual, even if this evaluation has to be revised a posteriori for a given individual who has committed an odious crime. Or it is exclusive and rejects a priori—that is, without any form of empirical test—certain categories, generally on the basis of ethnic or racial classifications, which can find their a posteriori

rationalization based on the fact that the individual in question deserves the indignity one had *prima facie*. Thus, the chief of the anticrime squad said: “The Poles, the Portuguese, I have no problem with them. No, it is with the blacks and the Arabs that I do.” And his derogatory remarks and his brutal conduct when he was stopping or questioning an individual corresponding to this description left no doubt about his sincerity. By contrast, a middle-aged sergeant who acted in a respectful way towards minorities explained: “These issues about blacks, whites, or greys as they say [an insulting term to designate Arabs], for me, it does not make any difference. I grew up in a project near Paris, my friends were blacks and Arabs, we played soccer together. So this racist stuff, I don’t get it.” Interestingly the few officers who showed correctness in their behavior had been socialized in housing projects instead of rural areas or small towns. The deontological dimension involves the moral obligation officers consider they have toward their profession as well as a series of norms associated with it, in particular the use of coercion and discretion. Here again, there is an alternative. Either this obligation serves as a reference to evaluate the legality of their practices and the respect of the rights of the individuals they encounter. Or it becomes minimal, leading to the unjustified or disproportionate use of force and to abuses of their discretionary power. The display of retributive justice toward suspects, the punitive expedition, and random punishment correspond to this minimalism. In a nutshell, ethics concerns the relation to the public, and deontology to the profession. Obviously, an exclusive moral community is often associated with weak moral obligation, and an inclusive moral community with strong moral obligation, but discordant pairs existed, either when brutality was directed toward everyone or when racism was dissociated from actual discrimination.

These distinctions are not necessarily static and some evolution may be observable from one position to the other. The case of the two officers who had changed their shift from night to day is interesting in that matter. Speaking of the racism and xenophobia of his colleagues, one of them explained: “At the beginning we thought that was the right stuff, like everyone else. We really went for it. We tried to become part of the group. But then after a couple of years, it started to annoy me. I couldn’t stand it anymore. I’d had enough of hearing and seeing certain things and having to keep quiet about it.” His colleague added: “Even when you don’t agree with what’s being said and done, you can’t show anything. So you keep quiet and close in on yourself. You don’t want to be in trouble. Until there was a chance to change to the day shift. So that’s what we did.” What they described is what seems to be a move from a position of agreement with the exclusive moral community (what they heard) and weak moral obligation (what they saw) to a new position they view as symmetrical—that is, of inclusive moral community and strong moral obligation, albeit, having seen them at work, I would hardly characterize them as humane and professional. Their evolution remained unarticulated, though. Initially they adhered to their peers’ practices. Then they rejected them but without expressing their disagreement. Finally they simply left.

In one of his most influential books, Albert Hirschman proposed a triadic interpretation of the reaction to a situation with which one is not satisfied: exit, voice, and loyalty.¹⁵ In the police, voice, that is the expression of discontentment, is the exception: the price to pay is too high, as I observed through letters of testimony I received from officers recounting the harassment they endured after they attempted to protest against their colleagues' misconduct. Loyalty, that is, renouncing action, is the rule: secrecy is the norm and silence the habit. Exit, that is, change of schedule, unit or precinct, is frequent: it is all the easier because it can be presented to one's colleagues and superiors as part of the routine of a professional trajectory. The consequence of this situation is that the institution is extremely difficult to transform. Moral dissidence is rare, but when it exists, its expression is censured and the only option is to leave. Possibilities of change are not completely unattainable, but they suppose the conjunction of reform policies, rigorous supervision, and adequate recruitment and training. Examples are rare, and the historical trend, over the past decades, has been everywhere to harden the frontiers between moral communities and to exhibit leniency toward professional misconduct.

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"We have nothing to hide. We don't have corrupt cops among us," the commissioner told me when I asked why he had authorized my research at a time when the Ministry of the Interior was censoring all social sciences programs, including observation of law enforcement. His comment was telling. For him, as for almost everyone in his institution, moral deviance consists in corruption, that is, bribery and extortion. By contrast, facts such as those I have depicted, whether relating to brutality or humiliation, racism or discrimination, are seen as ordinary practice benefiting from tolerance by colleagues, superiors, disciplinary boards, government officials, and in the end, society as a whole. Indeed, contemporary societies delegate to the police the enforcement of unwritten special laws in certain urban territories and toward certain social categories considered dangerous or simply undesirable. To do so, the police have to accept or even promote moral justifications for practices that cannot any more be considered as deviant since they are the norm. In this context, the ethical sense of individual officers and the deontology of their professional body are fragile resources for those who believe in a democratic form of law enforcement.

ENDNOTES

1. Fassin, Didier. *Enforcing Order: An Ethnography of Urban Policing*. Cambridge: Polity Press, 2013.
2. Westley, William. *Violence and the Police: A Sociological Study of Law, Custom, and Morality*. Cambridge: MIT Press, 1970 [1950].
3. Malinowski, Bronislaw. *Crime and Custom in Savage Society*. London: Kegan Paul, Trench, Trubner & Co., 1940 [1926].
4. Douglas, Mary. *How Institutions Think*. New York: Syracuse University Press, 1986.
5. Zigon, Jarrett. *Morality: An Anthropological Perspective*. Oxford: Berg, 2008.
6. Howell, Signe, ed. *The Ethnography of Moralities*. London: Routledge, 1997.
7. Klockars, Carl. "The Dirty Harry Problem," *Annals of the American Academy of Political Science* 452 (1980): 33-47.
8. Lee, John Alan. "Some Structural Aspects of Police Deviance in Relations with Minority Groups," in *Organizational Police Deviance: Its Structure and Control*, Clifford Shearing, ed., p. 49-81. Toronto: Butterworths, 1981.
9. Van Maanen, John. *Tales of the Field: On Writing Ethnography*. Chicago: The University of Chicago Press, 1988.
10. Reiss, Albert. *The Police and the Public*. New Haven: Yale University Press, 1971.
11. Skolnick, Jerome. *Justice Without Trial: Law Enforcement in Democratic Society*. New York: Macmillan, 1966.
12. Berlière, Jean-Marc, and René Lévy. *Histoire des polices en France de l'Ancien Régime à nos jours*. Paris: Nouveau Monde Éditions, 2011.
13. Justice Initiative. *Police et minorités visibles: Les contrôles d'identité à Paris*. New York: Open Society, 2009.
14. Muir, William Ker. *Police: Streetcorner Politicians*. Chicago: The University of Chicago Press, 1977.
15. Hirschman, Albert. *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States*. Cambridge, MA: Harvard University Press, 1970.