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Patrick F. Gillham

Western Washington University, pat.gillham@wwu.edu

Gary T. Marx

Massachusetts Institute of Technology

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Changes in the Policing of Civil Disorders Since the Kerner Report: The Police Response to Ferguson, August 2014, and Some Implications for the Twenty-First Century



PATRICK F. GILLHAM AND GARY T. MARX

The Kerner Commission identified factors contributing to police ineffectiveness during the 1960s civil disorders. Since release of the Kerner report, the frequency and intensity of civil disorders has declined and the policing of disorders has changed. Using the report recommendations as a framework, we analyze changes in police disorder management during the 2014 events in Ferguson as these involve operational planning and equipment. Data for the Ferguson case are constructed from media reports, police and activist accounts, after action reports, and field observations. We link changes seen in Ferguson to larger institutional changes in law enforcement over the last fifty years. We conclude with discussions on what did and did not work in the policing of Ferguson and highlight implications for policing of protest and disorder in the twenty-first century.

Keywords: Kerner Commission, National Advisory Commission on Civil Disorders, democratic policing, protest, riots, Ferguson

Police departments have become more adept at handling potential riot situations. While riot potentials were greater in 1968 than in 1967, the triggering events were rapidly controlled and large-scale disorders thus were avoided.

—Urban America 1969

It is our hope that the lessons learned in Ferguson will provide guidance to . . . police departments around the country and will prepare these agencies to respond *effectively* and *constitutionally* to the challenges of mass demonstrations in the 21st century. [emphasis added]

—Institute for Intergovernmental Research 2015

Patrick F. Gillham is assistant professor of sociology at Western Washington University. **Gary T. Marx** is professor emeritus at MIT.

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Police were a central factor in the 1967 disorders studied by the National Advisory Commission on Civil Disorders (the Kerner Commission, thus the Kerner report [1968]). The commission's "Supplement on Control of Disorder" considered problems related to operational planning, logistical needs, training, control equipment, coordination, and legal needs. We use some of their 1968 recommendations as the framework to contrast police behavior then and now. For the contemporary period, we consider the policing of protests that emerged with a case study of Ferguson, Missouri, following the police killing of Michael Brown.

The Ferguson protests and disorder and the overwhelming police response to this social unrest provide a reminder that, more than any other institution, police symbolize the American racial order. Despite improvement in some areas, the combustible mix that led to the 1960s disorders is still here. Police remain the fulcrum for accumulated grievances.

In the 1960s, incidents (and sometimes rumors) of police violence were most often what drew protesters, rioting protesters, and opportunistic rioters to the streets. Once on the street, police responses were a central factor in whether violence escalated. In 1967 police action could often be described as too much too soon or too little too late. Sometimes there were two riots—the police and those they sought to control. Other factors include instances of firecrackers being heard as gunshots, of police mistakenly firing at each other, of police covering their badges; and of leadership, equipment, strategic, and logistical failures that limited effectiveness and increased anger on all sides (Marx 1971a). This article explores how the policing of civil disorders in a context of protest has changed since the 1960s.

We begin with a consideration of factors relevant to the relative absence of the large-scale

disorders since the 1960s. Paralleling changes in the forms of disorder, we note a shift by researchers to study the policing of disorders as a factor more broadly tied to efforts to control social movements and protest. Then, we review several problems with the policing of disorders identified by the Kerner Commission and the commission's recommendations to mitigate them. We use the case of Ferguson in 2014 to illustrate significant changes in the policing of protests since Kerner. We consider three central questions: What changes in the policing of protest and civil disorder are most noticeable since Kerner? What police practices "worked" in Ferguson and what practices did not? What are implications for the twenty-first century?

THE ABEYANCE OF LARGE-SCALE CIVIL DISORDERS

We have in general not seen a repeat of the massive state violence in response to crowd situations that was responsible for hundreds of deaths in the 1960s (Tilly 2003). Even the assassination of Martin Luther King Jr. did not lead to extended and continued rioting beyond the initial outbursts, nor was it as heavy handed a police response as in previous times.¹ The decline in the frequency of civil disorders has been documented (Olzak and Shanahan 1996; Olzak, Shanahan, and McEneaney 1996; Gooden and Myers 2018; Bentley-Edwards et al. 2018), but little research has been undertaken on reasons for the decline and on changes in policing of disorders. Since the 1970s, scholars have shifted their focus away from disorders as such and toward the policing of social movements and protest events (see, for example, Marx 1970a, 1988; della Porta and Reiter 1998; Earl, Soule, and McCarthy 2003; Vitale 2005; della Porta, Peterson, and Reiter 2006; Waddington 2007; Soule and Davenport 2009; Earl 2011; Starr, Fernandez, and Scholl 2011; Gillham, Edwards, and Noakes 2013; Wood 2014). This shift

1. The Kerner report with its call for improved police responses appeared shortly before King's death. Yet independent of the Kerner report awareness had increased within law enforcement of the need to avoid the kinds of failures seen in Detroit, Newark, and Watts. This statement is of course relative to American history, internationally and since the 1960s. Examples of post-1960s failures in policing of civil disorders include the 1979 Greensboro massacre, the 1980 Miami race-McDuffie riots, and the six-day Rodney King riots in Los Angeles in 1992 (Moore 2012; Webster and William 1992).

away from studying civil disorders is no doubt related to their relative absence. Relevant factors in the decline likely include improved ways for filing grievances against police, the spread of civilian review boards, greater court receptiveness to police liability cases, and establishment of protest permitting systems (McCarthy and McPhail 1998; McPhail, Schweingruber, and McCarthy 1998; Schneider 2014).² Yet, as many of the articles in this issue suggest, the racial injustices seen by the commission persist and in some ways have been worsened by the devastating impacts of the war on drugs (Alexander 2011; Oliver 2008).

VARYING POLICE RESPONSES TO PROTEST AND DISORDERS

Given the contemporary saliency of protests and the fact that disorders often ignite from protest events (such as Ferguson, Baltimore, Standing Rock, and Charlottesville), for this article we draw on scholarship from the policing of social movements and protest events to theorize the changes in policing of civil disorders. By civil disorders, we mean larger scale, disruptive, public events directed at a dominant social order that can include acts of civil disobedience and direct action, confrontations with law enforcement and counter protesters, and behavior such as looting, arson, and physical violence (Body-Gendrot 2017). Collective and individual acts that occur during civil disorders involve violence rituals, coordinated destruction, and opportunism whether directed at commodities, competing groups, or both (Tilly 2003; Waddington 2007). Our definition recognizes that such actions may represent political acts seen as being of last resort (Hobsbawm 1964; Piven and Cloward 1979). Whether police view crowd behavior as protest or crime has important implications for where responses fall on a con-

tinuum moving from communication to coercion (Earl and Soule 2006; Wood 2007).

Contemporary research on the U.S. policing of protest and disorderly events has focused primarily on national special security events (such as G20 meetings), disruptive protest events extensively covered by the media (such as Occupy Wall Street), and on policing in large metro areas like New York City and Washington, D.C., where protests are routine (Gillham and Marx 2000; Vitale 2005, 2007; Fernandez 2008; Starr, Fernandez, and Scholl 2011; Gillham, Edwards, and Noakes 2013; Wood 2014; King 2017). This research finds that the policing of protest and disorder has changed dramatically since the 1960s, although scholars debate whether the changes are driven more by innovations in police behavior or by changes in protest tactics (Earl 2011).

Police actions can facilitate, channel, or repress protests (Marx 1988; Earl 2003). During the 1950s and 1960s cycles of protest, police applied escalating levels of force to prevent or constrain protests and disorders (McCarthy and McPhail 1998). Such actions could result in on-the-job troubles such as injuries, deaths, and property damage, and in-the-job troubles such as public criticism, commissions, and pressure from political elites (Walker 1968; Waddington 1994).

In the aftermath of the Kerner Commission and others (such as the Violence Commission) researchers noted the development of a less confrontational approach by leading law enforcement agencies that emphasized negotiating with protesters the time, manner, and place of demonstrations. Adopted first in Washington, D.C., in the early 1980s, the *negotiated management* style of protest policing developed around an *event permitting process*, which in turn led to increased communication and co-

2. Just how independent, transparent, and effective current methods are is a different question, but the presence of these mechanisms, however imperfect, matters. In addition, when disorders occur they are likely to receive more balanced attention in the mass media and from the Justice Department than fifty years ago. Other possible factors for the abeyance of disorders include the appearance of stronger neighborhood, local community and professionalized national and other nongovernmental organizations (Noakes and Gillham 2006), and moves toward community policing, or at least greater receptiveness to community concerns. Finally, just as the war on drugs has devastated many minority communities by moving many black males younger than thirty into prison or placing them under some type of judicial supervision, this “war” has also removed potential participants from the pool of people who could participate in social movements and other forms of political activity (Oliver 2008).

operation between police and protesters and an extended period of calm (McPhail, Schweingruber, and McCarthy 1998; McCarthy, McPhail, and Crist 1999). Yet, since the disruptive World Trade Organization protests in Seattle in 1999 police-protester relations have been frequently more adversarial. Trust, cooperation, and communication have declined on both sides as police sought to incapacitate protest and activists resisted such efforts (Noakes, Klocke, and Gillham 2005; Vitale 2005, 2007; Gillham and Noakes 2007; Gillham 2011; King 2017).

These changes are noticeable relative to the 1960s. Drawing on media reports, police and activist accounts, official after-action reports, and our direct field observations from August 16 through August 18, we analyze policing of the 2014 Ferguson Missouri protests and disorder that developed. The Ferguson case is important because it provides an opportunity to study an infrequent occurrence of civil disorder and law enforcement's response, and illustrates some broader national changes seen in many law enforcement agencies since the release of the Kerner report.

KERNER FINDINGS

Among problems identified by the Kerner Commission were those involving operational planning and police control equipment (see table 1). The first set of *operational planning* problems involved weaknesses in the dispatch-oriented command and control structure for policing disorders (Kerner Report 1968, 268). In the 1960s, departments used a dispatch-driven command and control system according to which orders were delivered from a central location via car radio to line officers on patrol. Officers responding to the scene of a crowd incident radioed back to dispatch for help to disperse the crowd. Yet, when supporting officers arrived at the scene, their presence and actions could increase tensions among those already angry and distrustful of police. Because radios were anchored to the patrol vehicle, officers at the scene were unable to easily communicate

with commanders at headquarters. By the time commanders realized they and additional officers were needed on-site, it was often too late as disorder rapidly spread and escalated, as was the case in Detroit, Milwaukee, and Newark (Kerner Report 1968).

After a large-scale disorder was under way, police often had difficulty communicating with each other because they did not have radios on their person and no special radio frequencies had been established to handle the additional radio traffic associated with the disorder response. Many departments did not have adequate organizational and technical means to communicate either with police in neighboring jurisdictions or with state police and sheriff departments. When other law enforcement agencies were present, their radio frequencies were frequently incompatible, making it difficult to respond quickly in an organized way (Kerner Report 1968, 269).

To mitigate these command and control troubles, the commission recommended that, first, a model operational plan providing guidelines for responding to incidents and civil disorders developed by the commission be distributed to all police departments;³ second, the federal government fund the development of miniaturized and portable radios for law enforcement; and, third, the Federal Communications Commission make enough frequencies available to police and other first responders (Kerner Report 1968, 269–70).

The second set of operational planning problems involved the lack of information or intelligence available to police about the planning of protests and disorder events, and about disorder events once they started (Kerner Report 1968, 172–73, 269). The commission noted that many departments had little understanding about the causes of unrest within primarily black urban areas, had poor relations with people living in these segregated neighborhoods, and generally lacked reliable means for gathering information about looming civil unrest. The lack of broad understanding, poor relations, and relevant pre-disorder information pre-

3. The plan was integrated into a larger *Guidelines for Civil Disorder and Mobilization Planning* prepared by the Research, Development and Planning Division of the International Association of Chiefs of Police (Smith and Kobetz 1968). It was released six months after the Kerner report.

Table 1. Kerner Findings: Mismanagement Factors, Problems, and Recommendations Related to Operational Planning and Police Equipment

Mismanagement Factor	Problems	Recommendation
Operational planning	Dispatch driven command and control system provides insufficient structure for responding to incidents and civil disorders	Police need operational plans that provide guidelines for responding to incidents and civil disorders
	Line officer radios located in patrol vehicle. Thus, cannot communicate with dispatch unless in vehicle	Federal government should initiate and fund portable radio development programs
	No special radio frequency available to use for public order emergencies; limited means to communicate with neighboring law enforcement agencies; neighboring agencies used incompatible radio frequencies	FCC should make enough frequencies available to police and related public safety services to meet needs for public order emergencies
	Limited information gathered before and during civil disorder. Thus, unable to make reliable assessment and decisions in the field and unable to counter rumors	Develop intelligence units to gather, evaluate, analyze, and disseminate information about potential and actual civil disorders
Police equipment	Minimal self-protection equipment available for frontline officers resulting in officer injury	Provide proper equipment and clothing to protect against threat to bodily harm
	Batons and hand guns, the primary control tools available for local law enforcement, are insufficient for responding to civil disorders	Federal government should initiate program to test and evaluate nonlethal weapons for use by police, provide support to develop national standards to stimulate the private sector to produce these weapons, and direct funds to develop these weapons for local and state law enforcement agencies

Source: Authors' tabulations.

vented police from preparing adequately. Moreover, once civil disorders erupted, police had limited skills and methods for gathering information. This made responding to rumors difficult. Furthermore, few formal ways to disseminate accurate information about an incident or disorder were in place, leaving rumors and media to shape the public's view of events. The commission recommended that police develop intelligence units to gather, evaluate, analyze, and disseminate information about potential civil disorders and during civil disorders (269).

Another set of problems identified involved

police protective and control equipment. Most police departments did not provide officers adequate self-protection equipment against rocks, bottles, and other projectiles. Wooden batons and service revolvers were the primary methods of control (Kerner Report 1968, 176). The commission questioned the justification for using deadly force during civil disorders, noting the risk of killing or wounding innocent people, that the property crimes committed during disorder events did not warrant the use of lethal force, and that excessive force (including the inappropriate display of weapons) could pro-

voke further disorder. The commission saw a need for control tools in the “middle range of physical force” that could be used “more humanely” and effectively for regular policing and during times of unrest (176).

The commission recommended that the federal government undertake a program to test and evaluate “nonlethal” weapons for use by police, provide support “to establish criteria and standards specifications to stimulate [private industry to produce] such items,” and direct funds “to be used to develop appropriate tools . . . for local and state law enforcement agencies (Kerner Report 1968, 272). The commission further warned against militarizing local police because doing so risked “destroy[ing] the concept of civilian police as a public service agency dependent for effective operations on community cooperation and support” (272).

We next compare the commission’s recommendations with what we saw in Ferguson to illustrate changes in the policing of disorder. The contrast between policing of the 1960s and today is clear, just as are commonalities. Although many factors are involved, the changes in law enforcement seen in the illustrative case study that follows are consistent with the basic thrust of the Kerner recommendations and certainly had an important impact.

TRANSFORMATION IN THE POLICING OF DISORDER

We next consider key events in Ferguson over the sixteen days between the killing of Michael Brown and his funeral. We then use the Ferguson case to highlight changes in police operational planning and equipment since Kerner and note some institutional forces contributing to these changes.

The Ferguson Case (August 9–August 25, 2014)

On August 9, shortly after noon, a Ferguson police officer shot and killed eighteen-year-old Michael Brown, an unarmed African American man. Backup officers from the Ferguson Police Department (PD) and the St. Louis County Police Department (SLCPD) rushed to the scene and pushed back an agitated crowd that had gathered. Officers reported an increasingly chaotic scene, with some crowd members making

death threats to police and shots being fired nearby. In response, the SLCPD deployed their Tactical Operations Unit, then initiated the county’s Code 1000 Plan, which mobilized aid from neighboring police departments and activated the Riot A Channel for exclusive communication between responding law enforcement agencies (IIR 2015, 5–9). More than fifty officers from multiple agencies quickly arrived and staged at two nearby locations. Crowds continued to grow at the homicide scene and formed at the police staging areas and outside the Ferguson PD headquarters. Protests continued at these locations until early morning August 10 (10–11).

Mid-morning of August 10, crowds reassembled around the city. In response, SLCPD and Ferguson police chiefs established an “informal joint command” within the Ferguson PD headquarters and used the Code 1000 plan to request more officers from surrounding jurisdictions. After an evening candle-light vigil at the site of the shooting, angry protesters surged into streets chanting “no justice, no peace.” They were met by police in riot gear holding rifles and shields (*New York Times* 2014). After this confrontation, the first civil disorder began when several protesters vandalized police vehicles, damaged property, and looted businesses along West Florissant Avenue (Barker 2014). Police deployed armored vehicles and canine units to protect officers from thrown projectiles and more reported gun fire.

The SLCPD chief took charge as incident commander and extended the Code 1000 Plan by initiating a formal Incident Command System (ICS) framework. The ICS, an organizational framework first developed by FEMA and adopted nationally by first responders, is “a standardized personnel management tool” that establishes an integrated organizational command and control framework which designates an incident commander to manage all personnel and make critical decisions (Bigley and Roberts 2001; St. Louis County 2013, 6). As part of the ICS police established an official command post in a mall on West Florissant Avenue. After allegedly giving dispersal orders, tactical teams fired smoke canisters and tear gas, pushing protesters and looters north into the town of Dellwood. That night, police made thirty-two

arrests (Barker 2014; Giegerich, Bogan, and Bell 2014; Institute for Intergovernmental Research 2015, 11–15).

Over the next several days, a similar cycle persisted of peaceful protests during the daytime and a mix of peaceful, unruly, and illegal actions during the night. According to police reports, at night some citizens looted and burned businesses, threw Molotov cocktails and other projectiles at police lines, fired guns, and destroyed civilian and police vehicles. Police forcefully responded by driving armored vehicles into the streets, deploying tear gas and other less-lethal weapons, and making arrests (IIR 2015, 15–17, 58).

As news of the unrest spread through conventional media and social media outlets, police intelligence reports indicated that people from across the region and country had begun arriving in Ferguson, some to protest and others with intent to exploit opportunities for personal gain (IIR 2015, 18, 58). Local, county, and state political leaders, frustrated by the increased disorder and negative media attention wanted the incident commander replaced. On August 14, Governor Nixon responded by declaring a state of emergency and making Missouri State Highway Patrol Captain Johnson, an African American, incident commander. Protester and police interactions were calmer that night, perhaps because of the governor's action (20).

The calm, though, was short lived. On August 15, the Ferguson Police Department identified Darren Wilson as the officer who had killed Michael Brown and released a surveillance video showing that Brown had allegedly stolen a package of cigars from a convenience store shortly before he was stopped by Wilson. A later unedited version of the video indicated that Brown may not have stolen the cigars (Smith 2017). Hundreds of people assembled outside the Ferguson Police Department headquarters to condemn release of the video, seen by many in the community as a ploy to demonize Brown and justify the shooting. Like previous nights, people again engaged in rioting and looting while peaceful protesters looked on. This time, police stood by choosing not to act out of concern they would only make things worse (IIR 2015, 21–23).

August 16, Governor Nixon declared a state of emergency and imposed a midnight to 5:00 a.m. curfew. In the streets, officers with helmets, face protectors, gas masks, riot batons, shields, and Kevlar vests formed lines separating people on the streets and sidewalks from local businesses. Tactical teams in full battle gear moved small groups of people around the streets and sidewalks and stood guard at roadblocks. That night police again used armored vehicles, lines of officers, less-lethal weapons, and arrests to disperse crowds (IIR 2015, 24–25).

On the evening of August 17, police reported that a large crowd attempted to overtake the command post. It is unclear whether this was the intent of those in the crowd or they had assembled simply to protest police actions or the curfew order. Police dispatched a helicopter to provide overhead surveillance and a line of officers led by SWAT units used smoke bombs, tear gas, and other less-lethal weapons to move the crowd back north on West Florissant Avenue. Several businesses were looted and a brawl between 150 people broke out. As the chaos increased, all police teams were pulled back in hope to diffuse the anger of people in the streets. But the disorder raged on as the most violent night of unrest yet. The next day, Governor Nixon lifted the curfew and ordered the National Guard to protect the command post, freeing up police officers to help with disorder control (IIR 2015, 26–28).

August 19 was a turning point. Hostile interactions continued between protesters and police, but less rioting, property damage, and shots fired were reported. Over the next several days “a calm began to emerge”—as fewer people protested and less anger was exhibited (IIR 2015, 28). On August 21, the governor ordered the Missouri National Guard to withdraw from Ferguson. By August 24, police report that protest had continued to decrease in size and “a sense of normalcy was returning.” On August 25, Michael Brown was laid to rest. At his father's request, no protests occurred during the funeral (IIR 2015, 28–29).

Fifty Years After Kerner

We use the Ferguson case to consider our first major question: What has changed in the policing of protest and civil disorder since the

Table 2. Police Command and Control System, Intelligence Practices, and Protective and Control Equipment During Disorders in the 1960s and in Ferguson in 2014

	1960s	Ferguson
Command and control system	Dispatch driven No special radio frequency for emergencies Radios located in patrol vehicles incompatible with radios used by neighboring jurisdictions	Code 1000 Plan and ICS RIOT A radio frequencies Vehicle and portable radios, cell phones, and text messaging across command chain
Intelligence practices	No formal intelligence units in most PDs Limited information gathered before civil disorder Limited information gathered during civil disorder	Joint intelligence unit formed from SLCPD, SLMPD, SL Fusion Center; assistance from MO Info Analysis Center No information gathered before civil disorder Event data collected by intel unit in static and real time via undercover officers, officers in streets, permits, aircraft, police video-streaming, social media monitoring Information about outside protest groups collected by intel unit; relied on cross-national diverse intelligence information systems including fusion centers
Self-protection equipment	Minimal self-protection available	Helmets, gas masks, Kevlar vests, and shields (line officers and tactical units) Military grade body armor, battle dress, and armored vehicles (tactical units)
Control equipment	Baton and guns	Less-lethal weapons to disperse and incapacitate, such as impact, acoustic, and chemical irritants (line officers and tactical units) Armored vehicles and displayed military firepower to deter and intimidate (tactical units)

Source: Authors' tabulations.

Kerner report? We limit our analysis to changes in police operational planning related to command and control and the gathering and analysis of intelligence, and police equipment used (see table 2). After highlighting some of these changes, we identify institutional forces that have contributed to the changes.

Command and Control in Ferguson

Commanders' abilities to quickly receive assistance from other agencies and to communicate

effectively across the chain of command has improved significantly since Kerner. For many years, St. Louis County has had a Code 1000 Plan that aides nearby agencies in planning and control for civil disorders and disasters (St. Louis County 2013). When activated on August 9, the nearest twenty-five police cars from various jurisdictions were immediately dispatched to the homicide scene along with a crowd-control mobile response team. Other officers self-deployed when they heard the Code 1000

request (Belmar and Kleinknecht 2016; IIR 2015). Besides providing a mechanism to promptly mobilize mutual aid, the Code 1000 Plan also provided a framework for managing personnel during the early hours of the crises. For example, for each five officers that responded to the Code 1000 request, a commanding officer was deployed. The commanding officer then made decisions in the field and communicated with the SLCPD chief who had initiated the Code 1000 (IIR 2015).

Once it became clear that the civil disorder would not quickly dissipate, law enforcement officials initiated an ICS framework, which formally designated the incident commander and required establishment of an operations command post and lines of communication across the ICS chain of command, designated an operations officer to coordinate tactical operations and a public information officer to communicate to the media and community, established law enforcement staging areas, and assigned support staff (St. Louis County 2013, 6; Bigley and Roberts 2001; FEMA 2013). Reliance on such extensive and versatile operational guidelines as provided by the Code 1000 Plan and ICS framework indicates an organizational shift in law enforcement's command and control structure far beyond what the Kerner Commission envisioned.

Relatedly, communication technologies have of course changed dramatically since Kerner. Police agencies now have access to portable radios on the same frequencies as vehicle radios and as radios in other jurisdictions. In Ferguson, the county dispatcher could contact agencies needed to respond to the initial call for assistance and special RIOT channels were available. Most radios synced well, despite interoperability issues still common elsewhere (IIR 2015; Weiser 2007). When there were failures, a communications officer activated the IP Interoperability and Collaboration System and bridged communication networks across all agencies (Kanowitz 2016). Interoperability was also provided through officers' smart phones which received bulk message texts via a private messaging service (IIR 2015, 106) and likely allowed the sharing of maps, photos, and videos among officers in the streets and command center.

Intelligence in Ferguson

Intelligence practices have also radically changed. Today, police departments rely on in-house intelligence units, new surveillance technologies, and cooperation among law enforcement across a national network of fusion centers (IIR 2015; Gillham 2011; Narr et al. 2006). Ferguson police did not have an active intelligence unit when the uprising began. However, once the ICS protocol was initiated, a joint intelligence unit was established to monitor the civil disorder and related issues. The unit drew officers and other resources from the separate intelligence units of the SLCPD and St. Louis Metropolitan Police Department, the St. Louis Fusion Center, and the Missouri State Fusion Center (IIR 2015, 82).

The quickly assembled intelligence unit was able to gather event data as the protests mobilized and the disorders spread (IIR 2015, 129). The intelligence unit relied on various local resources including local agency helicopters equipped with the latest forward-looking infrared (FLIR) night vision and moving map technologies, undercover intelligence officers circulating among the crowds, and officers tracking social media (St. Louis County Police Department 2014, 19; IIR 2015, 82, 101). Much of this locally based intelligence gathering was conducted using "new surveillance technologies" (Marx 2002, 2016), such as Geofeedia, a surveillance platform that links social media posts with the location of the posting. Geofeedia showed the intelligence unit the exact locations of the worst disorder from pictures and video posted by protesters (Ozer 2016).

The joint intelligence unit also relied on outside assistance. FBI aerial surveillance pinpointed the location of fires and where people were gathered (Tucker 2015). National law enforcement and private sector analysts provided the intelligence unit "information through diverse intelligence information systems" (IIR 2015, 83), including the hub-and-spoke network of seventy-eight fusion centers distributed nationwide (82).

Although secrecy surrounding a sensitive topic inhibits a full understanding of where information came from and how it was used internally, the public information officer used some information to counter rumors and pro-

tester narratives of events, and to portray police in a positive light (IIR 2015). The use of public information officers in these ways is a common national practice (Gillham, Edwards, and Noakes 2013; Narr et al. 2006). The surveillance and information acquisition and sharing capacity has expanded significantly since the 1960s.

Self-protection Equipment in Ferguson

Police involved in management of the Ferguson disorder were well equipped in protective gear relative to the 1960s (see table 2). Line officers in Ferguson wore their regular duty uniforms and Kevlar vests and were issued protective equipment depending on the officer assignment. Agents policing the most disorderly locations (such as the SLCPD and Missouri State Highway Patrol) had helmets, handheld shields, face shields, and gas masks (IIR 2015, 57). More visually and technically striking was the protective gear worn by tactical officers: “battle dress uniforms,” some in camouflage, military boots, utility belts and web guns, Kevlar helmets with night vision equipment, goggles, gasmasks, “level-three heavy vests,” and some body armor. They also had available armored vehicles for safe transit and to extract officers and injured citizens from volatile settings (IIR 2015; Pickler 2015; Belmar and Kleinknecht 2016).

Control Equipment in Ferguson

The range of mid-level weapons that augmented officers’ batons and service revolvers contrasted markedly with the 1960s. Line officers and tactical units had electronic control weapons such as Tasers and an arsenal of various projectiles, which had varying levels of impact on their human targets. Less painful and less likely to cause serious injury were hand-thrown Stingerball devices that released rubber balls and pyrotechnic fire and sounds. More painful and likely to injure people were bean bag rounds fired from shotguns, and Pepper-Ball rounds and wooden batons both fired from handheld launchers. Smoke canisters were fired to disorient people in the streets, break

up groups, and assess wind direction before deploying tear gas (IIR 2015, 46–49).

Police had more than mid-level weapons available, however. Tactical units relied heavily on military-grade equipment and techniques. They carried automatic rifles, had strapped to their vests high-capacity magazines containing one to two hundred rounds of ammunition for their weapons, and used armored vehicles to disperse crowds (IIR 2015). The Lenco Bearcat, a close cousin to the U.S. military mine-resistant, ambush-protected vehicle, was the most prominent type of armored vehicle deployed. The SLCPD’s Bearcat was twenty feet long and ten feet wide, weighed eighteen thousand pounds, and had an elevated platform that would allow access to the third floor of a building (Lenco 2014; Belmar and Kleinknecht 2016, 36). Tactical officers used the platform to post lookouts and snipers who pointed their rifles at people in the crowd while using their high-powered sights to search for people with weapons (IIR 2015). Attached to the Bearcat was a military long-range acoustical device or “sound cannon,” which would transmit verbal announcements or warnings across long distances or high-pitched, ear-damaging tones to disperse crowds.

Institutional Forces of Change

Several institutional forces contributed to these organizational and technological response changes. Closely connected to the Kerner Commission recommendations was creation of the National Institute of Justice (NIJ) to research and standardize police equipment and technologies. Another important set of institutional forces link to the U.S. Department of Homeland Security (DHS). These include requirements that law enforcement agencies receiving federal grants must adopt the ICS framework, creation of the fusion center network, and the establishment of antiterrorism grant programs.⁴

National Institute of Justice and Development of Police Technologies

The various mid-level weapons and communication and surveillance technologies available

4. Space limitations prevent us from elaborating on other similar institutional forces including the rise of paramilitary police units and the Department of Defense 1033 Program that leases military equipment to local law enforcement agencies (see Kraska and Cubellis 1997; Kraska and Kappeler 1997; Balko 2013; Wood 2014).

to law enforcement in Ferguson and nationally were developed with assistance from the NIJ, the research branch of the U.S. Department of Justice. The NIJ was formed in 1969 following recommendations made by President Johnson's 1966 Commission on Law Enforcement and Administration of Justice and the Kerner Commission report. A central purpose of the NIJ was to promote the innovation and adoption of police technologies used to manage protest and disorder (National Institute of Justice 1994, 10, 44.).

The NIJ promoted this innovation and adoption through four mechanisms. First, in the early 1970s, the Institute developed the Police Weapons System Program to assess "policies and practices in the acquisition and use of offensive and defensive weapons by law enforcement" and evaluated existing police weapons systems not yet widely adopted (1994, 45). Second, simultaneously it launched the Law Enforcement Standards Laboratory with the dual purpose of establishing "scientifically based, voluntary commercial manufacturing standards" and certifying a nationwide network of "laboratories where equipment items could be evaluated according to those standards" (45). By 1975, the laboratory had developed performance standards for technologies recommended by the Kerner report including portable radios and defensive gear such as riot helmets, light weight body armor, and ballistic shields. Over the years, the NIJ has continued to update these standards, including for new surveillance technologies (National Institute of Justice 1994; Nunn 2001).

Third, the NIJ provided research grants to improve existing weapons and develop new ones. These grants were distributed through projects such as the Less-Lethal Technologies Program started in 1986, and Joint Non-Lethal Weapons Program started in 1996 (Wood 2014). Through these grants, less-lethal products such as pepper spray and adjustable-velocity projectile launchers were developed (National Insti-

tute of Justice 1994, 52). Fourth, the NIJ joined with universities and the private sector to disseminate knowledge about these technologies through commercial trade journals, trade shows that coincided with police conventions, and guides for less-lethal weapons (Weapons and Protective Systems Technologies Center 2010; Wood 2014).

By the time of the Ferguson protests, a market had been created whereby law enforcement agencies across the country could find powerful and affordable middle-range weapons and other technologies (Wood 2014; Balko 2013).

Department of Homeland Security and Change

The DHS, created in the aftermath of the terrorist attacks of September 11, 2001, has been responsible for three other institutional forces that have shaped law enforcement's adoption of the ICS framework and new technologies used in response to protest and civil disorder. The first is the requirement that state and local agencies who receive federal grants must adopt FEMA ICS protocols.

The ICS structure was initially developed by the U.S. Forest Service and supporting state and local agencies in reaction to several organizational problems encountered by first responders during catastrophic wildfires in California in 1970 (Chase 1980).⁵ After the Forest Service and other fire agencies adopted the ICS framework, FEMA adopted ICS as a best practice and recommended that other first responder agencies, including law enforcement, do the same (Cardwell and Cooney 2000). However, most law enforcement agencies were slow to adopt ICS (Cardwell and Cooney 2000; Buck, Trainor, and Aguirre 2006).

After establishing the DHS, President George W. Bush directed state and local agencies that receive federal grant funds, including law enforcement agencies, to adopt FEMA's ICS approach for managing emergencies.⁶ Today, as a consequence of this directive, most law enforcement departments have adopted a

5. These problems (similar to the organizational planning problems identified in the Kerner report) included "overloaded spans of control . . . , lack of reliable information, inadequate and incompatible communication, . . . and unclear lines of authority" (Lutz and Lindell 2008, 123).

6. HSPD-5, Directive on Management of Domestic Incidents, February 28, 2003 (accessed May 4, 2018, <https://www.dhs.gov/sites/default/files/publications/Homeland%20Security%20Presidential%20Directive%205.pdf>).

FEMA modeled ICS for responding in emergency situations, including situations like the civil disorder that broke out in Ferguson (IIR 2015).

Another DHS-related institutional force was the establishment of a national fusion center network. Fusion centers, paid for with post-9/11 federal grants, are charged with receiving, analyzing, gathering, and sharing threat-related information across federal, state, local, tribal, territorial, and private-sector partners (DHS 2017). Analysts in local or state fusion centers send information to other centers and to the central DHS watch center (DHS 2017). As noted in our case, this network provided vital information to the Ferguson intelligence unit as they have to local police agencies responding to other recent protests and disorders (Gillham, Edwards, and Noakes 2013; Police Executive Research Forum 2015; Meyer 2017).

A final institutional force is DHS grants provided to law enforcement agencies for national security. Since 2003, Urban Areas Security Initiative (UASI) grants have provided more than \$500 million annually to the largest metropolitan areas in the United States, enabling police to acquire military equipment and less-lethal weapons (Balko 2013; DHS 2014; IIR 2015, 58). These funds are intended to “address the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas, and assists them in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism” (FEMA 2010, 2). But these funds pay for equipment used for more than anti-terrorism measures. The SLCPD used UASI grants to purchase their Bearcat, protective gear, and less-lethal weapons used during the Ferguson unrest (Belmar and Kleinknecht 2016; IIR 2015).

In sum, the provision of federal resources and funding requirements helped standardize practices, improved communication across agencies, and provided support for new practices and technologies unlikely to be locally funded. Clearly, in important ways the policing of protest has dramatically changed since Kerner. Next, we consider what worked and what did not work as a consequence of the described changes.

HOW MANY CHEERS? SOME IMPACTS IN FERGUSON AND BEYOND

Besides organizational and technical changes, we note changes in police culture, specifically, better empirical understanding of crowd behavior and the rights of citizens. In many cases this has resulted in a softening of, and greater differentiation in, police responses, even as this brings risks of under-reaction. Yet simultaneously some law and order responses to crowds have hardened, bringing risks of over-reaction (for example, blurring the lines between local police and the military with respect to available tools, tactics, and cooperation).

Given the vast time period and significant variation across places and types of events any conclusions about consequences of “what worked and what has not worked since Kerner?” must be tentative. Furthermore, any consideration of what works in the context of a semi-secret institution with unique powers of coercion charged with maintaining an unequal status quo must be qualified more than for other less adversarial institutions. Yet, some broader conclusions can be drawn from the Ferguson case with respect to current police command and control systems, intelligence practices, and equipment (see table 3).

The organizational and equipment changes seen in Ferguson were not accompanied by civilian or police fatalities. As noted in table 3, policing practices employed during Ferguson worked in some ways to deal with issues raised by the Kerner Commission (such as rapid mobilization, clearer chain of command, improved communication within and between agencies and officers, dispelling of rumors through public information officers, better intelligence during events, safety equipment, use of less-lethal weapons).

Yet, paradoxically, these practices can be accompanied by ironic or unforeseen consequences. Consider the ways local police have become more militarized—a factor the Kerner report clearly warned against. Although increasing militarization provides protective equipment for police and superior force to potentially deter violent assaults against police or others, it can also reinforce feelings of fear and anger and the view that police are an occupying army rather a public force that protects and

Table 3. Police Command and Control System, Intelligence Practices, and Protective and Control Equipment Used in Ferguson in 2014

	Worked	Did Not Work
Command and control system		
1000 Plan/ICS Plan	<p>Provided efficient mechanism to rapidly mobilize officers from multiple agencies</p> <p>Established clear chain of command for decision-making, communicating orders, and communicating with public to dispel rumors</p>	<p>Drew self-deploying officers undertrained in disorder control and without direct supervision</p> <p>Incident commander communicated orders inconsistently resulting in contradictory and under-enforcement that escalated disorder</p> <p>Misinformation provided in cigar video inflamed community members and escalated disorder</p> <p>Closed communications minimized public transparency about police actions</p>
RIOT radio frequency, portable radios, cell phones, and text messaging	<p>Facilitated efficient and closed communication between officers</p> <p>Prevented communication system overload</p>	
Intelligence practices		
Local intelligence unit with extensive in-house surveillance and analytic tools available	Used extensive in-house surveillance and analytic tools to gather and analyze multiple sources and large amounts of static and real-time information; able to quickly assess risk and respond, and to collect evidence for prosecution	Revealed extent of national surveillance system with capacity to violate privacy rights; created distrust and chilled protest
National fusion center network	Used extensive national surveillance and analytic tools to gather and analyze multiple sources and large amounts of static and real-time information; able to inform Ferguson intelligence unit about events there and potential outsider threats	Revealed extent of national surveillance system with capacity to violate privacy rights; created distrust and chilled protest
Control equipment and techniques		
Self-protection equipment	Minimized individual injury to officers in the field	Distanced officers from community members, chilled protest
Deployment of military grade equipment	Display of firepower may have deterred some disorder; armored vehicles provided way to extract officers and injured protesters from volatile settings	Frightened and angered community members, delegitimized police in local communities and nationally, may have escalated disorder, risk of mass fatalities
Use of less-lethal weapons	Prevented deaths and reduced incident of serious injuries	Frightened and angered community members, delegitimized police in local communities and nationally, more people affected by police use of force, may have escalated disorder

Source: Authors' tabulations.

serves its community. First Amendment activities may be chilled, already damaged relations may be worsened, and police further delegitimized. If disorder persists, a militarized force can attract more people into the streets out of curiosity, excitement, or anger (Gillham and Marx 2000). Another risk is that officers armed with automatic weapons might inadvertently kill many citizens or other officers.

Less-lethal weapons also raise questions. In Ferguson, the police use of less-lethal weapons might have prevented fatalities. Yet the methods were controversial. Police claimed they used tear gas to disperse crowds. But complaints were lodged that police used it to punish protesters, gave either no or inadequate warnings to disperse before using, and gas seeped into adjacent homes (IIR 2015, 49–51). As is true of military-grade equipment, the use of less-lethal weapons worked in some ways, even as it created problems. The question of what worked and what did not is in many ways a question of the trade-offs, paradoxes, and ironies inherent in any intervention in complex social environments.

Implications for the Twenty-First Century

We conclude with two sets of issues—one empirical and one evaluative to address a final question: What are the implications of changes in policing of disorder for a democratic American society in the twenty-first century?

Empirical Issues

Social scientists generally have a terrible reputation for predicting the future. Thus, a note of caution is needed regarding sweeping conclusions and predictions about the trends we identified. It is too easy to assume that the patterns from the past will be present in the future, or, if they are, that they will be found in the same ratios and be accounted for by the same causal factors as previously. In the research presented here, any conclusions must be tempered by the fact that there is an always evolving, dynamic, and fluid conflictual dance between police and those involved in protest and disorder (Gillham and Marx 2000). But, holding apart questions about trying to predict the future, we build off Marx's (1998) earlier reflections on the developing ethos of U.S.

policing since the late 1960s to draw some empirical conclusions relevant for today (see table 4).

In the decades since Kerner, rather than taking an explicitly adversarial and intentionally violent approach specifically against protests, police have often sought a more velvet-gloved, neutral, measured stance, even as the nearby, out of sight, iron fist of the National Guard, military, and hardware with varying degrees of lethality could be quickly mobilized. The policing of protest has thus become more accepted and better understood as a routine part of local policing. Although the police hardly welcome them, mass demonstrations today in general no longer arouse the hostility or fear they previously did. Yet large-scale disorders that spill out of protests like that in Ferguson still create conditions where police may react in ways that violate civil liberties, have a chilling effect on nonviolent protest, and escalate disorders, just as they did in the 1960s and historically, whether the issue was race or unions.

But today law enforcement is less quick to automatically categorize all those in the streets as ruffraff, criminals, rebellious adolescents, manipulated students, or agents of a foreign power. Rather, they are often seen as citizens with rights, though they are expected to keep their disorder within bounds. More than in the 1960s, police view their job to be managing rather than repressing protest, protecting the right to demonstrate and guaranteeing due process of law and to use a minimum amount of force to restore order (even to those whose views they may find intolerable). The presence of video, cell phone cameras, and body cameras, with their potential for accountability can support this.

Exceptions to this trend are numerous (see note 1). The pattern of police pacification itself involves a series of interrelated developments and may not continue in the face of wrenching social changes or widespread social unrest. Nor is it unilateral across dimensions, groups, or contexts—as any venture into marginalized, ethnically diverse, lower-income areas or discussions with those who have had their rights violated and their bodies assaulted can attest (Wood 2007). But viewed in comparative and historical terms in which the

Table 4. The Evolving Ethos of the Policing of Protests and Civil Disorders in the United States Since 1967

1. Police are servants of the law rather than the private army of whoever happens to be in power.
2. Law and policy are extended to tactics that had once been ignored and unregulated.
3. The law must be viewed flexibly, and a broad pragmatic view of the likely consequences of police action needs to be taken.
4. The primary goal of police in conventional crowd situations is to manage them to see that they do not get out of hand.
5. Emphasis is on prevention rather than responding after the fact.
6. *A coproduction of order* should involve a decentralized and delegated reliance on citizens to enforce the law and to control themselves.
7. Emphasis is placed on science and technology involving, first, efforts to engineer physical and social environments while minimizing to the extent possible the militarization of local police or using a technical method simply because it is available, and, second, relatively dispassionate intelligence gathering and analysis. Information technology is central to police managing information about police themselves, events, and protesters.
8. *Efforts are made to learn from past events to be better prepared the next time, yet with flexibility, avoiding being rigidly captured by current en vogue doctrines.*
9. *The federal leadership role is stronger from the start. This involves an effort to develop uniform approaches across soft as well as hard police methods; to increase communication, integration, and cooperation to create more uniform, standardized operations and procedures across local, state, and federal authorities; and to create national standards and best practices.*
10. *Police are more militarized, particularly with regards to equipment. Logistical, organizational, and communication borders between local, regional, and state control agencies, and between them and the military, are weaker.*

Source: Authors' tabulations (adapted from Marx 1998).

Note: Italicized text are additions.

standard police response was, and in many countries still is, to prohibit demonstrations or to fire or charge into crowds, the trends matter. The ethos of demonstration policing Marx saw thirty years after Kerner, holds, if with some changes in 2018 (Marx 1998; see table 4 and appendix).

Moral and Political Issues

Apart from what can be seen or empirically demonstrated are questions of interpretation involving moral and political judgments. With respect to the latter, what can be said about the impact of more controlled (and what are seen conventionally to be effective) police responses? We need to ask effective for whom and by what standards?

How should we judge developments in the

management of disorders? Is law enforcement's ability to avoid killing protesters in the streets or to intervene preventively a sign of progress? Is this a cause for some modest celebration, or at least appreciation? Certainly, the avoidance of provocation, injury or loss of life, cities on fire, and escalation, as well as decreasing hatred and alienation are positive. Full-scale riots leave deep reservoirs of bitterness on all sides and are conducive to backlash and draconian policies. We saw that clearly with the backlash and weakening of the civil rights movement related to Nixon's presidency. It is hard to see who really profited from the prolonged 1960s disorders. It is much easier to see short-run costs (Shellow et al. 2018).⁷

The development of a more pacific, demo-

7. Rob Shellow and his colleagues note how outcomes varied in the short run aftermath by city characteristics and type of event.

cratic policing ethos is not without contradictions, challenges, risks and trade-offs relative to other models (Marx 1988; Gillham and Marx 2000). As noted earlier, we need to ask what does it mean to say that a police response works? With health care or schools, we seek maximum effectiveness. But for police in a democratic society we need optimal (rather than maximal) effectiveness. Practices must be continually reexamined given changing conditions, tactics, and actors. In the case of efforts to create more professional police and to regulate discretion in crowd situations, the challenge is in finding the right mix such that honoring discretion does not put police beyond the law and responsible political control, and that regulating discretion does not introduce undue rigidity. Order needs to be maintained and the law (with its vagaries and conflicts) followed, but not at great cost to citizens' rights, the elimination of protest as a tool for social change, or the permanent institutionalization of strong control responses temporarily created and justified by a major crisis (such as 9/11). In such cases, strong oversight and renewal procedures are necessary to keep responses measured and proportionate.

There is no guarantee that the enhancements of police powers relative to crowds will be used to protect, rather than to undermine democracy. A democratic society must continually ask the question, "how efficient do we want police to be?" Democratic societies have traditionally been willing to sacrifice a degree of order for increased liberty, but not in times of crisis. At such times the danger of a creeping (or galloping) downhill spiral is ever present. When liberty is reduced on behalf of order, transparency is particularly important, as is avoiding the risk of artificially created or exaggerated crises to justify that sacrifice.

We can ask that a bandage or pain reliever do its job and certainly not make an injury worse, even as it is not a cure. President Johnson's charge to the commission was muddled regarding the link between his three oft-cited questions ("what happened, why did it happen and what can be done to prevent it happening again"). The *it* was taken to mean riot stoppage. But what was really needed was a fourth question separating it as riot control

from it as racial injustice (Marx 1970b, 2018). What it takes to prevent or stop a civil disorder is distinct (other than the issue of police abuse that can precipitate and contribute to disorder) from changes in economic and political opportunity, education, housing, health, and the many other factors related to inequality that propel disorders.

Improved and more effective police responses can often stop disorders from escalating. But to the extent that they are unfairly repressive and deter legitimate protest, they may deepen racial injustice and the anger and despair that help fuel disorders.

Democratic societies experience a continual tension between the desire for order and the desire for liberty. Although, as the case of the police state suggests, one can have the former without the latter, it is not possible to have a society with liberty that does not also have a minimum degree of order. The balance between these will vary depending on the context and time period. Policing in a democracy seeks to avoid the extremes of either anarchy or repression.

In an open democratic society that respects the dignity of the individual and values voluntary and consensual behavior and the nonviolent resolution of conflicts, police—with their power, secrecy, and use of violence and deception—are an anomaly. They are charged with using undemocratic means to help create democratic ends. Police offer an ethical and moral paradox that should forever make democratic citizens vigilant.

This paradox is evident in the fact that a democratic society needs protection both by police and from police. Restrictions on police power are not an adequate guarantee of freedom. Taken too far, they may even guarantee its opposite, as private interests reign unchecked or citizens take the law into their own hands in the face of increased disorder, or both. Yet a police force with too much power is also a danger. President Abraham Lincoln posed the dilemma well when he asked, "must a government, of necessity, be too strong for the liberties of its' own people, or too weak to maintain its' existence?" This paradox remains one of the major challenges of democratic governance.

APPENDIX: WORKING FOR THE KERNER COMMISSION AND RELATED REFLECTIONS

Gary T. Marx had the good fortune to work for the commission as part of a research group led by Rob Shellow and studied police behavior and types of disorder. When the Kerner Commission studied questions of the police and civil disorders, very little social science research had been undertaken to inform the analysis; the dominant control ethos was a hard-line, law and order approach in a context of a decentralized federal law enforcement system.

Marx describes the experience of working for the commission and on a suppressed report *The Harvest of Racism* (2018; Shellow et al. 2018), published on the fiftieth anniversary of its writing. For Marx, the focus on these issues helped define over five decades of scholarly work. The chance to work on these questions at the beginning of a career with the abundant resources, legitimation, and access of a national commission was most fortuitous and sustaining. That experience provided data, research questions, and scholarly connections that lasted a lifetime on topics such as police behavior in riots and intelligence gathering, types of riot, counter-rioters and community police patrols, the implications of the minority or majority group identity of activists and researchers, and, more broadly the study of social movements and mass behavior and of the requisites for social order (Marx 1970a, 1970b, 1971a, 1971b, 1974, 1988, 1998, 2002, 2016; Marx and Archer 1971; Marx and Useem 1971; Marx and McAdam 1994; Gillham and Marx 2000, 2003).

Working for the Kerner Commission sensitized Marx to the importance and neglect of the softer ethos as applied to crowds. The importance of this was heightened in a candid conversation with a high-ranking member of the Chicago Police Department shortly after the police violence during the 1968 Democratic Convention. The commander indicated how unprofessional his department had behaved. He said that as a commander in a protest situation he is willing to listen, to negotiate, to tolerate minor infractions, and to keep a low profile. He felt strongly that saving lives should be more important than protecting property or symbols. He believed that demonstrations

could actively help create, rather than undermine, political stability (at least relative to not permitting or responding violently to them). The extensive media coverage of Chicago police attacking protesters was a public relations disaster and such behavior made the police job much more difficult. At the time, his views were heretical and he left the police soon after, but in the decades since they have become more widely shared among major police leaders in the United States. The management of disorders continues to evolve.

How control agents frame events bears directly on control responses. If they are defined as (or only as) violations of law and order and the criminal code, then hard repression is the more likely response. If, in contrast, they are also seen as connected to understandable protests because grievances are present (apart from whether police are in sympathy with these) or because citizen's have the right to express their concerns, then a soft communications approach, particularly at the outset, is more likely (Tilly 2000; Gillham and Noakes 2007). Adopting either approach to the exclusion of the other brings risks of unwanted under- or overreaction.

Apart from the institutional and cultural factors discussed in the article, the greater prominence of softer approaches is likely tied to a shift from the late 1960s to the present in the ratio of non- or less focused crowd-protest events to ones where a protest theme is more directly in evidence. A conflict is also possible in the communications offered the public by police and political leaders, versus that coming from protest groups. For the former, the tilt is toward a definition of disorder and criminal behavior; for the latter, it is toward a protest definition. Within these groups are conflicts as well, control groups divided over soft and hard approaches and protest groups divided between orderly disorder (to coin a phrase) and random destruction and assaults (favored by fringe groups).

The social and psychological characteristics and location of control agents are related to such definitions, but more objective characteristics also are likely to be. Thus the presence of a widely shared belief among those in the streets that direct action is needed to call at-

tention to a problem, within a context of an ongoing political dispute and a planned event whose organizers go through a permitting process are likely to be differentiated from spontaneous, less organized, or unorganized gatherings that have no clear leader or group to communicate with, nor a specific precipitating event (Gillham and Noakes 2007). Marx considers these and other factors in seeking objective measures for how events are likely to be labeled as either protest or disorder (1970a). However, because events often show much internal variation (by types of participant, activities, places, and times within the event) rarely will an event approach the ideal type at either end of the continuum.

The views expressed by the officer mentioned contrast markedly with those found in totalitarian regimes, which blur or erase the line between politics and crime. Any oppositional politics is defined as crime. But they also contrast with the creation of the first modern police department in Paris at the end of the seventeenth century in which the protection of public order was also equated with the protection of the political order. Indeed, for many observers the connection has been reversed. That is, protecting the right to protest against the political order is defined as the best way of protecting it—at least if the political order is broadly defined to involve a set of democratic principles, rather than the particular persons or groups in power. The conditions under which democracies can accept nonelectoral political challenges and yet remain democracies is an issue of enduring importance. As James Madison observed, “you must first enable the government to control the governed; and in the next place, oblige it to control itself.”

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