

Problems with Authority
James Q. Wilson's Political Theory of the Police

I. The Police Crisis

Since Black Lives Matter first emerged in response to the killing of Mike Brown in 2014, the role of the police in the US has come under increasing scrutiny. The explosion of protests and riots over the last year has turned that attention into alarm.

In a presidential election year, Democrats and Republicans have responded to the massive unrest in two distinct ways. As much as Democrats would have liked to place the responsibility for these antiracist, antipolice protests at the President's feet, the largest and the most violent zones of conflict have been in liberal cities. Accordingly, the Democrats who control these local and state governments spent the year contorting themselves by publicly sympathizing with the protests while police they command suppressed them with scandalous brutality.

The optics were not good for Democrats: either they were unable to control their own police departments or they were complicit in the obvious attempt to put an end the uprisings by force. Neither scenario being politically advantageous; liberal leaders pretended that they had no power to govern and disguised themselves as belabored counselors mediating between two hostile parties. Having discarded their own political stakes, Democrats proceeded to drown out the politics coming from street with conflict resolution doubletalk. But because the protests were being interpreted as an electoral litmus test on racism, political inaction risked the same charge as openly opposing the protests—a danger which Democrats had hoped to avert by treating the causes of the protests as being identical to the promethean task of ending racism itself (the liberal version of which turns on the inward overcoming of implicit biases and is surrounded by the no

man's land of legislating morality). If police reform could be limited to identifying racist officers then the project of policing itself might be spared.

While Democrats sought to depoliticize, the GOP did the opposite. Never fully recovering from the fiasco surrounding the caging of immigrant children, Republicans seized the opportunity to recalibrate the party of law and order as defending society from the enemy within. Identifying protestors as socialists in disguise, anarchists clad in ANTIFA black, and criminal opportunists, they portrayed waffling Democratic government leadership as evidence that liberals had succumbed to the Left and had abandoned the police, the true champions of order in American society. Despite glaring evidence that local police had no trouble taking off the gloves, Trump used federal buildings as beachheads and DHS officers as national police to do what liberal governments would not. Popularly, conservative political support took form in Trump rallies, with a Blue Lives Matter undercard. The police became the embodiment of conservative values and Trump the leader of cops.

Trump's electoral defeat inaugurated a period of political détente; a time of suspense and not transition, Democrats waited to see if Trump would reveal himself to be the Caesar they claimed he was. The petit coup at the capitol ended Democrats' inaction, but not their acts of impotence. Tech companies, emboldened by the bipartisan condemnations of the president, did the work of disappearing him from the public side of office while Democrats quickly organized a demonstration to show that they remained an organ for moral proclamation, not political action. Having spent four years failing to impeach the man, Democrats made it a fact that they could even be bested by his shadow.

But such defeats are of no consequence for Democrats, because a more substantive victory was in reach. The last year had deprived them of their ability to claim command of even

the police they control, but the failure of the police to put down the insurrection at the capitol presented them with the opportunity to proclaim themselves the new party of order. Knowing that the police serve conservative interests was never a problem for liberals. After all, liberals have conservative interests of their own; what could not be tolerated is the police having Republican loyalties. The specter of seditious police gave Democrats the perfect justification to claim priority in reforming the police on their own terms, and they sprang into action establishing commissions and inquiries that might allow their problems with the police to overshadow those articulated in the street.

Democrats appear to have emerged from a year of unrest with a handle on controlling the narrative on problems with the police. If the fate of the police seemed to be in the balance of the 2020 election, the result proved that it was not. Neither party has any interest in seriously questioning the role of police in society. The question is why?

Two things should be apparent from the events of the last year: first, the police are vitally important to those who rule and to those who are ruled. Second, while conservatives openly embrace the significant role of the police, Democrats have shown by their actions if not in their words that they do too. This paper argues that the insecure status of police today is indicative of the weakening legitimacy of a conservative interpretation of democracy, which positioned the police as a central organ of democracy. This interpretation, although conservative at root, is bipartisan. In an era of extraordinary polarization, the police fulfill a political role that does not experience gridlock the way Washington does. One might point out that all bureaucracies continue to function despite legislative impasse. But, the police are not like other bureaucrats: not in the ways that they are responsive to the public and not in the ways that they use their own discretion to involve themselves in the lives of people in the community. While this view has in

some respects been operative in the US since the founding or before,¹ this paper shows how it was fully articulated as a theory of the police in the work of conservative political scientist James Q. Wilson.

Wilson began making arguments for how the police could address fundamental problems of rule in socially divided democracies during the 1960's but they received widespread popularity at the high point of conservative political ascendancy—the Reagan era. The conservative turn is generally described as anti-democratic and for good reasons, but attention to the penchant for liberty over democracy may have obscured the ways a conservative theory of democracy was necessary to accommodate an inflated place for liberty. One such example is the way Wilson presents the polices as not just a means of enforcing order and securing liberty, but also as the political institution that is most responsive to community demands.

There is good reason to be skeptical as to whether the thinking behind any individual scholar can shed meaningful light on a diverse intellectual current or political regime, but Wilson's influence on conservative thought and politics can hardly be overstated. Although better known today for his work on modern policing, Wilson is likely more influential in promoting mass incarceration. His 1975 bestselling book, *Thinking About Crime*, is often credited with putting a nail in the coffin of rehabilitative incarceration and popularizing the notion that prisons should be primarily concerned with criminal incapacitation through practices like mandatory minimum sentences and three strike laws.² Wilson also held numerous presidential advisory positions including as chairman of the White House Task Force on Crime

¹ An excellent resource for framing this history and others like it is Nikhil Pal Singh, *Race and America's Long War*, (Oakland, California: University of California Press, 2017). See also Aziz Rana, *The Two Faces of American Freedom* (Harvard University Press, 2014).

² Malcolm M. Feeley, "Book Review: Crime, Social Order and the Rise of Neo-Conservative Politics," *Theoretical Criminology* 7, no. 1 (February 1, 2003): 111–30, <https://doi.org/10.1177/1362480603007001202>.

in 1966, Chairman of the National Advisory Commission on Drug Abuse Prevention from 1972 to 1973, on the Attorney General's Task Force on Violent Crime in 1981, and on the President's Foreign Intelligence Advisory Board from 1985-1991. George W. Bush even awarded him the Presidential Medal of Freedom. He was a longtime advisor to the American Enterprise Institute, was on the board of directors of the Police Foundation, State Farm Mutual Insurance Company, Protection One, and on the board of trustees at the RAND Corporation. In the field of political science, Wilson literally wrote the major introductory textbook on government, won nearly every major award the American Political Science Association had to offer, served as its President, and wrote wildly influential books on political organization and administration.

A prolific scholar, he somehow managed to write even more frequently for popular magazines and newspapers. As a regular contributor to Norman Podhoretz's *Commentary* and Irving Kristol's *The Public Interest*, he was a key figure among the leading intellectuals of the new conservative movement, later known as the founders of neoconservatism.³ One intention of this paper is to make the case for Wilson's writing on the police to be taken seriously, because it is essential to understanding the conservative political theory of liberal democracy that came to power in the latter half of the twentieth century. The foregoing catalogue of all the pots he had his fingers in is meant to persuade other theorists to take up this task if this account fails to convince. Even if the left has produced no great modern political theory of the police,⁴ this does not mean the right does not have its own. It did and it was only nine pages long.

³ Mark Gerson's *The Essential Neoconservative Reader* (1996) includes two essays by Wilson, including "Broken Windows," and Wilson authors the foreword. The only appearances that outnumber his are by Irving Kristol and Daniel Patrick Moynihan. Even the neoconservatives themselves considered broken windows theory exemplary of their political disposition.

⁴ I do not mean that there are no theories of the police on the left; there are many, but none have been elevated the way the right has elevated policing. Security, however, has been theorized by the left, and policing is treated as part of a larger array of security techniques.

II. The Limitations of Theories Order

The police crisis is a crisis of authority. Although not a controversial claim considering that police are the “authorities” one calls when one calls the authorities, political theorists have tended to focus on the police as enforcers of order and therefore emphasized the kinds of normative order they administer: capitalist, racial, patriarchal, etc., when explaining what the police are.⁵ Doing so stresses the effects of policing, by demonstrating that the police don’t simply enforce neutral laws and penalize the bad persons breaking them, but that those laws and those who are targeted by them are in fact political and belong to a vast network of systems of security or carcerality that construct a general kind of order. Doing so importantly links policing to prisons and to laws and to countless real and immaterial ways that various groups and interests profit from a culture of control. Positioned with one foot in law and one foot in order, the police show how intention exceeds the law and how law provides cover for the excess of intention.

Recognizing how the police act as enforcers of a social order is likely indispensable for any meaningful analysis of regimes of power. However, when the object of study is to show the institutionalization of specific kinds of order, interest in the police is limited to understanding how that order is produced, not why it is that the police even have the authority to enforce it. The police above all else are the primary means by which the state can act with direct coercion upon

⁵ See Jordan T. Camp and Christina Heatherton, eds., *Policing the Planet: Why the Policing Crisis Led to Black Lives Matter* (New York: Verso, 2016); Markus Dirk Dubber, *The Police Power: Patriarchy and the Foundations of American Government* (New York: Columbia University Press, 2005); David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2002); Bernard E. Harcourt, *Illusion of Order: The False Promise of Broken Windows Policing* (Cambridge, MA: Harvard University Press, 2001); Mark Neocleous, *A Critical Theory of Police Power: The Fabrication of the Social Order* (New York: Verso, 2021); Nikhil Pal Singh, *Race and America’s Long War*, (Oakland, California: University of California Press, 2017).

the public. Policing, then, should not be seen as some secondary flange of rule, but taken *prima facie* as possibly its most dominant expression.

Political science has been slow⁶ in coming to understand the police as being more than merely one among many state and local bureaucracies, and has certainly not come as far as considering them as central to the act of governing as any of the national branches of government are. Similarly, political theory, when it has engaged with the police, has typically regarded policing as epiphenomenal to grander problems of rule: the assertion of sovereign power, rationalities and technologies of governmentality, and the representational portmanteaus of liberal democracy.⁷ Historical analysis has done much of the work to elevate the importance of the police in understanding the development of modern capitalism, racism, and imperialism and the ways they are reproduced today.⁸ Legal and political theorists have also called attention to the police by delving into medieval and modern roots of European and colonial state formation to extract explanations for the confounding aporia between the present legal order and the ongoing practice of extra-legal or discretionary policing in liberal democracies all over the world.⁹

⁶ See Joe Soss and Vesla Weaver, "Police Are Our Government: Politics, Political Science, and the Policing of Race–Class Subjugated Communities," *Annual Review of Political Science* 20, no. 1 (2017): 565–91.

⁷ See Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen, (Stanford, CA: Stanford University Press, 1998); Wendy Brown, *Walled States, Waning Sovereignty*, (New York: Cambridge, Mass: Zone Books, 2010); Michel Foucault, *Discipline & Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1995); Michel Foucault, "*Society Must Be Defended*": *Lectures at the Collège de France, 1975-1976*, trans. David Macey, (New York: Picador, 2003); Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France 1977-1978*, ed. Michel Senellart, (New York: Picador, 2009); Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978--1979*, (New York: Picador, 2010); David Alan Sklansky, *Democracy and the Police* (Stanford, CA: Stanford University Press, 2007).

⁸ See William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America*, (Chapel Hill: University of North Carolina Press, 1996); Aziz Rana, *The Two Faces of American Freedom* (Cambridge, MA: Harvard University Press, 2014); Nikhil Pal Singh, *Race and America's Long War* (Oakland, CA: University of California Press, 2017).

⁹ See Markus D. Dubber and Mariana Valverde, eds., *Police and the Liberal State*, (Stanford, CA: Stanford Law Books, 2008); Markus Dirk Dubber, *The Police Power: Patriarchy and the Foundations of American Government* (New York: Columbia University Press, 2005); Mark Neocleous, *A Critical Theory of Police Power: The Fabrication of the Social Order* (New York: Verso, 2021).

It is likely that one reason the police appear to theorists primarily as a mechanism for order and not as a political mode of rule, is the continuing influence of Foucault on the discipline, and the Foucauldian propensity to view various techniques of carcerality (the police being only one) as symptomatic of a more diffuse logic of security. Even Jacques Rancière, who does treat the police as a foremost mode of rule, even its most common form, believes it to be antipolitical and merely the rule of the logic of order.

A second, possibly more compelling reason for the emphasis on order production, in the US at least, is that critics of American policing have for nearly two decades scrutinized what is widely regarded as the theoretical foundation of contemporary policing—the theory of broken windows—and concluded that at its core it is a case for making the police responsible for order. They are not wrong. “Broken Windows” was an article published in *The Atlantic* in 1982 by criminologist George L. Kelling and political scientist James Q. Wilson. In simplest terms, Kelling and Wilson hypothesized that neighborhood disorder either directly contributes to an increase in crime or at least heightens fear of crime, and therefore cracking down on minor infractions might not only prevent more serious crimes, but should also be regarded as an important service police can provide to free communities from fear.

Deceptively intuitive, the theory takes a commonsense approach toward understanding the breakdown of communities through proliferation of small disturbances (graffiti, broken windows, increasing dereliction) that eventually escalate into more serious problems. Over the next four decades, their theory has become associated with a variety of popular policing strategies for fighting crime and maintaining order. Despite important distinctions between dominant styles, such as problem-oriented policing, community policing, zero-tolerance policing, order-maintenance policing, quality-of-life policing, intelligence-led policing, and

predictive policing, the practitioners responsible for innovating these tactics have again and again referred to Kelling and Wilson's theory to make the case for their own.¹⁰ Some practitioners cite broken windows for its insights into crime fighting and others laud it for the benefits it argues there are to maintaining order for reasons beyond crime. Because Wilson and Kelling described the broken windows theory as a form of community policing, nearly every police force claims that they are also practicing it.

Contributing to the inscrutability of the implementation of broken windows policing, politicians from opposing camps have championed broken windows as either an answer to crime or as a means for ensuring police accountability. For instance, in New York City, broken windows policing was pioneered by police chief William J. Bratton and tough-on-crime mayor Rudolph Giuliani in the 1990s, maintained by mayor Mike Bloomberg, and then reintroduced by Bratton again, only this time as part of a police reform platform by liberal mayor Bill de Blasio. For twenty years, broken windows was the shorthand for both police reform and crime stopping policing, allowing it to be deployed by politicians from any party, in any place in the country.

Throughout the 1990s and early 2000s, the press also continuously hyped the theory, cheering on as politicians and police officials claimed it responsible for falling crime rates. The press even nicknamed it "the bible of policing."¹¹ The earliest sustained theoretical critique of broken windows theory was made by Bernard Harcourt in his 2001 book *The Illusion of Order*, which focused on the empirical faults of the theory of crime reduction and the theoretical

¹⁰ One unifying factor might be where the police are deployed, whereas distinctions are what they do; See Jack Green "Zero Tolerance Policing," in *The Oxford Handbook of Police and Policing*, ed. Michael D. Reisig and Robert J. Kane (Oxford: Oxford University Press, 2014), 172. However, as Issa Kohler-Hausman notes, even though it is "unlikely that massive and complicated enforcement effort will match the policy prescriptions of a short magazine article [policing experts] signal their inspiration from the theoretical claims in Wilson and Kelling's original writing," which is why quite different tactics have been "classified under the unifying rubric of 'Broken Windows'" Issa Kohler-Hausmann, *Misdemeanorland: Criminal Courts and Social Control in an Age of Broken Windows Policing* (Princeton: Princeton University Press, 2018), 2.

¹¹ Harcourt, 3.

problems with Wilson's work on policing. Harcourt, like others after him, attempts to show that Wilson is aware that the order that the police enforce will criminalize the poor and target minorities, and that therefore, his classist, racist intents are the foundations of a violent and discriminatory policing system. It is of immeasurable value to expose how broken windows policing has hurt communities, but proving that Wilson is a proponent of class or racial hierarchy and that the order he would see enforced skews that direction does not really explain why he out of all the people in political power and in positions of management in police bureaucracies who held similar views, who were often open bigots, had such a profound influence on the shaping of how the police enforce such hierarchies.

If there is a general consensus that policing enforces social order, then surely given the historically capitalist and racist social conditions in the US, broken windows theory did not precipitate a sudden turn to promoting the interests of property owners or penalizing poor minorities; police have long contributed to those ends. Even if what popularized the theory was the promise that order maintenance might reduce crime, it was by no means a novel presupposition in 1980's that more and tougher policing was a reasonable solution to higher crime rates. What was exciting about the broken windows theory, and Wilson's other writing on the police more generally, was not what the police could do in terms of crime, but what they could do for communities overcome by social conflict. For Wilson, disorder is not simply a condition that must be replaced by order, but an outcome of a breakdown in authority in a community. Disorder is a symptom of a political crisis, an incapacity for a community to engage in self-rule.

Wilson never made ostentatious claims about what governments can do to solve social ills, in fact, most of his work emphasized the limitations facing all attempts to solve problems

such as crime. For him, most social conflict stems from differences between people, in what they believe, in their culture, in their sensibilities, which presents a serious dilemma for governments, because the alteration of personal character is nearly impossible to legislate. People are shaped by the intimacies of private life. This does not mean that Wilson believed politics should stop trying to involve itself in private affairs. Quite the opposite. For him, the classical object of politics was the struggle over the power to influence private rule. Politics is about capturing the hearts and minds of private authority.¹²

Wilson's main contention with liberal visions of government was that they thought they could bypass contending with private authority, with heterogeneous communities mired in deep seated conflicts, by eliminating the underlying problems—poverty, education, housing, etc.—through professional bureaucracies and universalistic policies. When neighborhoods are so fractured, and in such decline, that they cannot produce leaders that can rise up to represent their community in the political marketplace, then the community has lost its capacity for self-rule. If a community is bereft of stable authority to enforce community order, how can it possibly cultivate political leaders to represent that community and its interests? Wilson was an Aristotelian, he believed private authority is prerequisite for developing the political sensibilities necessary to become a public leader. A vacuum of indigenous community authority is where the police come in: endowed with authority that originates outside civil society, the police can restore order when the currency of local authority has crashed. But, for Wilson, the order the police provide cannot be shaped by the state, because that order is only meaningful when it represents the informal order that the community can identify as their own. The broken windows theory is an argument for embedding police within communities in decline, not to impose some

¹² James Q. Wilson, *American Politics, Then & Now: And Other Essays* (Washington, D.C., 2010), 167.

legal architecture from above, but to embolden local leaders to reassert their own authority and to provide them with armed reinforcements to do so. Implicitly, empowering local authority always means traditional authority: parents, property owners, employers, and so forth. If “community and familial norms are the ultimate foundation of public order,”¹³ then the demand for the police to solve violations of its norms signals when a “traditional social system”¹⁴ has an authority problem.

III. A Political Theory of the Police

Broken windows theory is above all else a theory of community policing. As conservatives responded to the political mobilization of historically subordinated communities by radically reconceiving the meaning of democracy to make it more exclusionary, Wilson contributed to this redirection with his own rethinking of what it means to democratize the police. Like in the 1960s, today there is a growing interest in ideas of community control over the police. In his 1968 book on the police, *Varieties of Police Behavior*, and again with broken windows theory Wilson gives his own idea of what community policing ought to be. There are four main reasons he doubts people in a community will ever be able to directly control their police. First, if one problem with the police is that they are perceived as enforcing the racist agenda of the white majority, it might not be the best idea to give neighborhood majorities the command over their own community militia. Any legislation that “gave the police” to black communities would also, he writes, necessarily “give it to others as well.” Without a hint of irony, he warns that the racial “exclusions” currently made through “informal controls and

¹³ James Q. Wilson, *Varieties of Police Behavior: The Management of Law and Order in Eight Communities* (Cambridge: Harvard University Press, 1968), 285.

¹⁴ *Ibid.*

threats of violence could then be accomplished by police harassment, the subtle withdrawal of police protection, or both.”¹⁵

Second, if the primary reason that certain communities are demanding direct control over the police is that they feel they are being policed by people who don’t represent their community, then the problem is first and foremost that those communities are failing to produce leaders capable of representing their interests in city politics. If communities do not have leaders who can successfully unify their internal divisions, then why would that cohesion materialize when it comes to controlling the police? ¹⁶

Third , for the most part the police cannot be controlled from above—not by police management, nor by courts, nor by politicians; and therefore, it is unlikely that community boards would have any greater success.¹⁷ The reason for this is that the police, when working in the street, use their own discretion, because what happens in the street cannot be anticipated in advance, only reacted to in the moment. The police department is unlike almost any other bureaucracy in that discretionary authority “increases as one moves *down* the hierarchy.”¹⁸ In traditional hierarchies, the lowest ranked tasks are the ones where the least personal discretion is used and that are the least complex. Police hierarchies are the opposite, as the lowly patrol officer is “almost solely in charge of enforcing those laws that are the least precise, most ambiguous” compared to the detective, whose focus is usually specialized.¹⁹

The duty of the patrol officers is to use their own judgment “over matters of the greatest importance (public and private morality, honor and dishonor, life and death) in a situation that is,

¹⁵ Ibid., 289.

¹⁶ Ibid. For why Wilson thinks this is particularly a problem for black communities, see James Q. Wilson, *Negro Politics: The Search for Leadership* (Free Press, 1960).

¹⁷ Ibid., 227

¹⁸ Ibid., 7.

¹⁹ Ibid., 8.

by definition, one of conflict and in an environment that is apprehensive and perhaps hostile.”²⁰ One wonders how this is accomplished. How do police make these judgments? One thing that can’t be used by the police to guide their discretion is the law. Wilson explains that unlike criminal law, “laws regarding disorderly conduct and the like assert, usually by implication that there is a *condition* (‘public order’) that can be diminished by various actions. The difficulty, of course, is that public order is nowhere defined and can never be defined unambiguously because what constitutes order is a matter of opinion and convention, not a state of nature.”²¹ Therefore to handle the unknown, the officer “must assert his authority. To him, this means asserting his *personal* authority.”²² The problem with this kind of authority is that when it is challenged, the challenge is personal, which is why the authority of police can often resemble the maintenance of “self-respect” and “proving one’s masculinity.”²³ The dilemma of the police officer is that much of the time they cannot be alienated from their work, they cannot simply follow protocol—because they are responding to emergencies. But this problem also makes police management practically impossible and politically costly: much of policing cannot be properly regulated, and everything police do will appear as department policy.

Fourth, if the police were to be actually governed by neighborhoods this would mean “putting the police at the mercy of the rawest emotions, the most demagogic spokesmen, and the most provincial concerns.”²⁴ Moreover, he says, “if the study of urban politics has taught us anything, it is that, except in referenda, and perhaps not even then, ‘the people’ do not govern—organizations, parties, factions, politicians govern.”²⁵ The only thing the people do is elect

²⁰ Ibid., 21.

²¹ Ibid., 22.

²² Ibid., 32.

²³ Ibid., 34.

²⁴ Ibid., 289.

²⁵ Ibid.

leaders and that, he adds, is also their only constraint upon them. But what are police for Wilson? Are they political leaders? Not exactly. Order maintenance, the activity that he describes as the unique function of the police, “means managing conflict, and conflict implies disagreement over what should be done, how, and to whom.”²⁶ Is managing social conflict a political or simply a bureaucratic role, or in other words, are police neutral mediators or are they political governors? Elsewhere, Wilson provides his definition of politics: “Politics arises out of conflicts, and it consists of the activities—for example, reasonable discussion, impassioned oratory, balloting, and street fighting—by which conflict is carried on.”²⁷ This passage suggests that Wilson has a capacious definition of what politics is, but a narrow sense of who can govern. Policing is certainly political, but is it governing? The answer is most certainly yes, but the police govern in a special way for Wilson, one that highlights what government generally cannot do.

Despite opposing community control, Wilson is an advocate for community policing. Instead of dispersing police authority to the community, he argues that it should be decentralized internally. “To decentralize an administrative apparatus,” he writes, “is to give its component units greater freedom, within well-defined general policies, to handle local situations in a manner appropriate to local conditions.”²⁸ Making the police officer intimately familiar with neighborhoods, allows the officer to better “rely on judgments of character” and rely less “on objective characteristics (race, apparent social class, age) and empirical generalizations about the relationships between those characteristics and the causes of crime and disorder.”²⁹ Order maintenance compensates for the determinant trait of bureaucracies, which is that they treat everyone as if they were the same, because “order maintenance... assumes that people must be

²⁶ Ibid., 296.

²⁷ Edward C. Banfield and James Q. Wilson, *City Politics* (Vintage, 1963), 7.

²⁸ *Varieties of Police Behavior*, 290.

²⁹ Ibid., 291.

handled in full awareness of their moral differences.”³⁰ Recognizing these differences is crucial to good policing for Wilson, because the police do not simply stop crime or enforce laws, but primarily contend with social conflict.

Policing style and practices are “not explicitly determined by community decisions, though a few of these elements may be shaped by these decisions. Put another way, the police are in all cases sensitive to their political environment without in all cases being governed by it.”³¹ Only in a limited capacity for things like traffic control are the police directly governed, which means they generally govern themselves using personal discretion. This is precisely why he believes community policing will replace the old function of political organizations: “Machine politics is dead; recreating the neighborhood precinct police will not restore the boss to power. New bases of power are being forged in the neighborhoods to perform, out of community-regarding rather than selfish motives, the functions once performed by the political party. Humanizing the police will be one of these.”³²

It would seem then that if the police, particularly in urban cities, historically enforced the interests of the party boss, their new, more sensitive prerogative, would be to enforce the order of the community itself. Not by its command but by becoming enmeshed within it. He writes, “if the police are not, in the routine case, governed by the community, neither are they immune to community interests and expectations...the community is a source of cues and signals—some tacit, and some explicit—about how various police situations should be handled, what level of public order is deemed appropriate, and what distinction among persons ought to be made.”³³

Wilson exposes how the problem of controlling the police is the same problem that a diverse,

³⁰ Ibid., 293.

³¹ Ibid., 230.

³² Ibid.

³³ Ibid., 233.

factions public has of making any elected representatives beholden to their interests: it is formally impossible to represent so many different ones! But, this impasse is precisely what makes the position of the police in the community so exceptional; unlike most other bureaucracies the police simply cannot treat people as having similar interests. Instead, they are compelled to respond to the most urgent problems people face with particularistic sensitivity.

When one believes, as Wilson did, that private authority is the most important kind for influencing character, and that shaping morals and sensibilities is the highest aim of politics—soulcraft—police have a special place in rule. As those who support private authority, authority in the home, at work, and in the street, police (with the possible exception of teachers) are the only members of government that can have direct hand in private rule. This is particularly important in societies where people cannot, as Wilson believed, govern; and whose representatives are rarely seen as acting in their best interest. Political scientists generally agree that for the most part people are not particularly informed or interested in local or national political debates, which often makes their political commitments either incoherent or vulnerable to manipulation. At one point political parties were more involved in the lives of their constituents on a local level. Throughout his life, Wilson can often be found romanticizing that period, but he also recognized it was gone. People do not call their elected representatives, they don't go to their party's local office when they have a problem. But they do call the police and the police come.

People are not always happy with what the police do, some wish they would do more and some wish they would do less, but generally people want the police to be able to perform authority when they cannot do so themselves. People call the police when they believe some sort of right has been violated, and that they are also in the right for asserting claim to it. In other

words, people call the police when they come across the limits of their own authority in private. Police are seen as authorities that can return authority that is either absent or in competition with separate claims to it in the home, in the workplace, or in public. Authorities call authorities. Those who feel that they have none, those who feel they are in the wrong, or who have no rights don't.

Wilson often bristled at the accusation that he was promoting a middle-class agenda. Some of this may be due to the fact that much of his early work was an attempt show how the liberals in the 1960s had devised a middle-class professional style of rule that was out of touch to with the ways neutral bureaucratic and universalistic solutions failed to contend with the realities of local problems of rule. However, he believes that if what his critics mean by “middle-class bias” is a “concern for security of person or property,” then it is unclear if middle-class “should be called a bias at all.”³⁴ Towards the end of his life, Wilson and Kelling wrote a response to Harcourt's critique that the police enforce rules regarding public order that are biased against the poor, saying, “Harcourt should direct his arguments to the ‘community members’ about whom he so vaguely writes who prefer a very different world than the one he endorses. They have already voted against the world he prefers, many times over.”³⁵ Worth considering is whether Wilson and Kelling might consider 911 calls just as much of a vote as the casting of a ballot.

Wilson's political theory of the police responds to the limits of representation in liberal democracy by theorizing that the police can bridge the structural gap between general rule and private interest. In a democracy, the police become the vehicle whereby political authority can respond to and mediate private quarrels. Paradoxically, it is not the middle-class whom Wilson

³⁴ Ibid., 297.

³⁵ George L. Kelling and James Q. Wilson, “A Quarter Century of Broken Windows,” *The American Interest*, September 1, 2006, <https://www.the-american-interest.com/2006/09/01/a-quarter-century-of-broken-windows/>.

sees the police as benefitting the most. For Wilson the middle class can be characterized as people typically living in homogeneous suburban communities, where they have enough internal cohesion to be involved in local politics and even to see their collective interest translated into governing practice. Because differences in the community are over political beliefs, not class or social position, their conflicts can for the most part be settled in the political realm. This allows the police to act primarily as enforcers of universalistic laws, such as ones regarding the regulation of traffic and not concerning existential conflicts stemming from differences in class.

If, in addressing the ‘silent majority’ Nixon intended to speak to the masses who were not protesting the war in the street, Wilson repeatedly sought to illuminate a similar unifying interest in those who were not protesting the police but were calling them. Whenever addressing some sort of social ill, Wilson first liked to note that what is more shocking than the rising rates of murder or theft or drug abuse, is that they aren’t far higher. Self-interest, while to some degree constrained by incentive, is far more governed by shared morals. He insists that the vast majority of people have a common sense of right and wrong, of fellow feeling, and intuition of fairness.³⁶ Therefore, he rejects the notion that the preservation of person and property reflects a conservative bias and asserts that it is in fact the premise of liberal democracy. Wherever this foundation is eroded, so too is the capacity for political life. If polarization had left the majority of people, who are not themselves very political, without any political leaders who could represent that moderate interest, the police could fill that void by maintaining the day-to-day rule

³⁶ James Q. Wilson, *The Moral Sense*, Reprint edition (NY: Free Press, 1997); James Q. Wilson, *The Marriage Problem: How Our Culture Has Weakened Families* (Harper Paperbacks, 2003); James Q. Wilson and Richard J. Herrnstein, *Crime & Human Nature: The Definitive Study of the Causes of Crime* (New York: Simon and Schuster, 1998).

that people actually require of government. With the police fulfilling the material responsibilities of rule, understood as the need to provide private authority with the reassurance that the norms that undergird it have state support, then political leaders are free to float off into militant camps that hardly represent anyone, where they can accomplish little of what they say they want to do.

For Wilson, what most liberals failed to grasp in the 1960s was that insofar as they could not cure urban poverty, or bring jobs back to the inner city, or prevent crime through simply transferring tax dollars into the hands of welfare beneficiaries, liberals ultimately ignored what was most essential to the vitality of democratic communities: preserving political authority. Self-rule necessarily happens first in private; only after it is established there can it develop into public leadership. How it develops in private is most reliably through, surprise surprise, private property. Contra modern thinkers who consider private property to be the “enemy of democracy,” Wilson thought that “private property is the friend of democracy.” Turning to Aristotle, he wrote that in *Politics* Aristotle argued that “government exists to perfect the character of householders.”³⁷ By householder Wilson clearly means property owners, as he insists that “private property furthers democracy only if ownership is widespread.”³⁸ When the police protect the interest of property owners, they protect the interests of people with political capacities and therefore they support self-rule. Likewise, when the police penalize those who violate private property, they show that society values property ownership, and imposes costs on being without it. The reward is the authority of ownership, which in poor communities is the authority most lacking and the kind of authority most likely to be challenged. To revitalize community, the first task is to restore authority to property holders who can then assert their own vision of neighborhood norms.

³⁷ Wilson, *American Politics, Then & Now*, 167.

³⁸ *Ibid.*

Property holders are a kind of universal citizen for Wilson, and the property order is certainly one that he idealizes. But what this paper argues makes broken windows theory so compelling to some isn't just that it favors property values; police have always done that. Broken windows is expressly about empowering people and their personal authority. It isn't the neutrality of law and order that excites, but the imagined Reconquista of private life, the restoration of authority to those who feel theirs is imperiled. It is a reactionary theory that has the benefit of making its beneficiaries feel like they are part of a democratic project for community revitalization. However, even if it was spawned by the political right, broken windows was popular across the political spectrum. Community policing is something that many people from different ideological camps could come together on, and not because it just restored order or reduced crime, but because it put something back in the hands of the property holding majority. Broken windows theory is a kind of political power sharing that uses a decentralized bureaucracy to reinforce the dispersed authority of private rule.

IV. Conclusion

The capitol riots provided much insight into the real political circumstances of the police in the US. Both sides saw the police as having betrayed them. The rioters believed the police to be members of their own political camp and themselves as supporters of the police—they made it known that they were constituents of the project of policing and that police should join them in rescuing democracy from a fraudulent election. Members of congress, on the other hand, saw the failure of the police to stop the riot after they had put down so many others, as shattering the illusion that the police simply uphold the law, and even hinting that the police might be directly responsive to partisan politics of the masses. The riot also revealed that, like everyone else,

legislators had authority only so long as the police supported it. If defunding the police was a tough sell to liberals before, that day made the police all the more indispensable to them.

Yet, despite consensus in Washington that the police are necessary, political tides are turning. Everywhere, more and more people are unwilling to simply watch police kill for nothing. In cities across the country people are attempting to make changes to city budgets to reduce what the police do. Meanwhile, inequality is increasing, people are poorer and more in debt. This continues to be especially true for racial minorities. The subprime mortgage crisis ravaged middle-class wealth, but none lost more than black Americans. If Wilson's theory is to be entertained, and the police respond to those in the community who already have authority to claim, then the police will not represent the interests of a growing share of the population of whom a greater proportion will be non-white. In each demonstration one can sense the ratcheting of contradictions as more people become less willing to be policed, while the reality of being policed becomes likely for more people.

The police are in trouble and their authority is being questioned. But if their authority is uncertain, what does that mean for the kinds of authority they protect? The zealotry of the Blue Lives Matter movement is a testament to the stakes people have in the maintenance of police authority. Approval of the police is heavily skewed along party lines, but the parties are also racially divergent. Republicans are mostly white and tend to view the police favorably, although that support has been dropping in recent years. Whereas Democrats have become more critical of the police and what they do, but white Democrats less so than other groups. There is no doubt that those who fiercely support the police are worried that the kinds of authority they have stake in are exactly the kinds of authority that the police have long maintained. If the authority of the

police are in question, it means that their base, those whom they supply with authority, must be in even worse shape.

The police aren't losing authority because lawmakers are trying to take it away from them, but because there is a crisis in the private authority they uphold. Of course, political leaders are supporting the police, but so too are the people who benefit from them. That both support for and threats to the police are fiercest in popular politics and not in Washington is indicative of where the power of the police is really housed. One thing that Wilson seems to have gotten right is that the police, in their order maintenance function, will always become embroiled in the conflict of a community. He also recognized that they would take sides in this conflict and that they were vital for their side's dominance. Therefore, even if the police become the object of political revolt, the real antagonism is between different parts of society. However, just because the material conflict within society manifest in a revolt against the police, does not mean the police are not a meaningful target for political action. For one part of society police are the rule of despotism, for another they are a kind of crypto-democratic utopia—where rule is decentralized, responsive, sensitive and willing to fight for you in your most private quarrels.

Another thing that is worth considering is that Wilson did not believe the police could be meaningfully reformed. The police simply cannot be controlled without crippling their primary function as order maintenance in the street. If they are released into the street they will use discretion to respond to the unanticipated things they encounter every day—nothing, he said, would change that. To reform them so that their behavior could be controlled would require reducing policing to purely detective work and other legalistic activities such as traffic control. Not the worst outcome for those interested in non-reformist reform, but also unlikely to gather

political headwind, as order maintenance, the discretionary part of policing, is necessary for political leaders to have any discretionary power over society.

What gives the police authority is the support they receive from those they support, but the power of those they empower is everywhere threatened, and the political will of their antagonists is growing; the future of policing is highly uncertain. If the claims of this paper are convincing, and the police are recognized as performing a vital a function for a conservative mode of democratic rule, then the demise of the police should be seen as a dagger in the heart of a conservative style of politics that supports private authority and the rule of both political parties. A blow that is lethal to a social order can only be described as a revolution. If the movement to end the rule of the police would see itself victorious, this is the level of seriousness it must assume.