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A CULTURAL HISTORY OF AN
INSTITUTION

Edited by Klaus Mladek



Police Forces:

A Cultural History of an Institution

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edited by Klaus Mladek

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Edited by Eric D. Weitz and Jack Zipes

UNIVERSITY OF MINNESOTA

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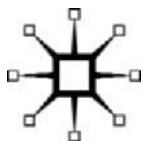
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Police Forces: A Cultural History of an Institution

Klaus Mladek, Editor

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CONTENTS

Acknowledgments	ix
Introduction Police Forces: A Cultural History of an Institution / Klaus Mladek	1
I. Beginnings	
1. War—A Fortuitous Occasion for Social Disciplining and Political Centralization? The Case of Bavaria under Maximilian I / Sigrun Haude	13
2. “Is It Useful to Deceive the People?”: Secrecy and Deception as Political Resources / Marc Schweska	25
3. State Desire: On the Epoch of the Police / Joseph Vogl	47
II. Police and Culture	
4. Nurturing the New Republic: The Contested Feminization of Law Enforcement in Weimar Culture / Sara F. Hall	77
5. A City Tracks a Murderer: Mass Murder and Mass Public in Weimar Germany / Todd Herzog	97
6. How Fat Detectives Think / Sander Gilman	123
III. Police and the Media	
7. “ <i>Passer à l’acte</i> ”: Policing (in) the Office: Notes on Industry Standards and the <i>Große Polizeiausstellung</i> of 1926 / Sven Spieker	147
8. Hitchcock’s Truth, or: Why <i>The Wrong Man</i> Is Not a Suspense Film / Hans-Christian von Herrmann	167

IV. Contemporary Investigations

9. Police, Paranoia, and Theater in Thomas Pynchon's <i>Vineland</i> / Martin Puchner	181
10. A Critique of Community Policing / William Lyons	199
11. Exception Rules: Contemporary Political Theory and the Police / Klaus Mladek	221
Contributors	267
Index	271

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The present book emerged out of a symposium on police and politics in Benjamin and Foucault, co-sponsored by the German Academic Exchange Service (DAAD) and the German Research Society (DFG), held at the Freie Universität in Berlin. Since then, the topic of the police has gained a life of its own with more and more people linking their own research perspective to this cross-disciplinary topic whose thrust becomes increasingly pressing in our political landscape today. I would like to thank particularly Kristin O'Rourke who, throughout the process, aided in the completion of the book with invaluable critique as well as with continual editing and translation suggestions and Wolf Kittler, who helped the editor greatly with the development of this volume and proposed its current title. David Prickett's three translations for this anthology allow for a wider American audience to access the non-English scholarship on the police. I would also like to thank Jonathan Crewe, John Kopper, and Donald Pease for reading essays, contributing ideas, and offering numerous suggestions, the Humboldt-Foundation for its generous research support in 2004, and the Dean's office at Dartmouth College for its recent help in the publication process.

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INTRODUCTION



POLICE FORCES: A CULTURAL HISTORY OF AN INSTITUTION

Klaus Mladek

Whether it is the plan for a “super police force” in the war against terrorism, the recent concept of community policing, or the rapid growth of both border police and various private police forces, the “police” has recently resurfaced as the crucial referent for societal fantasies of law and order. Equipped with the most recent technologies and linked to all available means of data collection, the modern police, as it cooperates with other disciplines of crime repression, such as, criminology, psychiatry, and penal law, works in the name of law and order as the quintessential agent of social control. The fear of crime alongside recent instances of excessive violence committed by the police has created an ambivalent mixture of repulsion for and appreciation of the police within modern democracies.

How did rulers, writers or philosophers over the last five centuries imagine the art of governing, the achievement of social order, public welfare or the “societal good”? What kinds of anonymous networks, institutions, media and control mechanisms emerged as a consequence of those reflections? Where can we find instances of disobedience or resistance against modern modes of social governance? What structures can we detect underneath the threshold of official law where the less ordered realm of law enforcement reigns? The

domain of social control and of the police was never merely an invention of philosophers or politicians executed by administrators; the domain of social control was consistently stirred by new mentalities and practices from various fields such as aesthetics, literature or film. It is the goal of this book to uncover the foundational structures of those paradigm shifts with a critical analysis of the European-American development of modern modes of social control.

Why has there been in scholarship so much attention paid to the law and so little to the question of “police,” “order” and “security”? Is the reason perhaps that the law can be more easily formalized for the purpose of scholarly research and thus more effectively contained within a conceptual framework? Is it that questions of order and security belong to such a messy area of informal practices and unwritten rules that they are more suited to story-telling, pop cultural epics or the dramas of everyday life than to systematic conceptualization? While “law and order” are usually mentioned in the same breath as if they are (were) complementary concepts, their similarity is deceptive. As, for example, Carl Schmitt knew very well, law and order must be understood as competing ideas which are often exclusive of each other. The pursuit of order follows more variable and flexible prerogatives than the rule of law. As the revolutions in France and in America have shown, it is a crucial difference as to whether citizens perceive themselves as objects of administrative control or as subjects of the law. The recovery of early concepts of the police reveals that law and the police belong to completely different traditions and set out different goals and ideas about the role of government and the state. The emergence of “police studies” as a field of sustained analysis must therefore unearth the historical thrust that gave credence to the rise of modern administrative rationality.

Undisputedly Foucault’s analysis of the “technologies of the self”¹ in the late 1970s lent fresh significance to the theory of the police and developed new venues of thinking about the origins of modern governance.² Despite Foucault’s powerful exploration into the emergence of modern government and biopolitics, the study of the police has been left mostly to criminologists, legal historians and sociologists.³ Furthermore, since the publication of Peter Manning’s *Police Work*,⁴ D.A. Miller’s *The Novel and the Police*⁵ and Mark Neocleous’ *The Fabrication of Social Order*,⁶ three crucial books which explore the police through a specific Foucauldian lens, the development of police studies has somewhat stalled.

As with many institutions that define what we call “modern democracy,” the police is much older than the particular mode of governance and power management with which we are familiar. The common assumption implicit in most police studies before Foucault was that the real police only emerges with the coming of the uniformed forces for the prevention of crime and the enforcement of law. But, as Neocleous’ study on the police reminds us, “central to the original police mandate was ‘good order,’ in the broadest possible sense, and that policing took the form of a range of institutions concerned with far more than crime.”⁷ The maintenance and production of “good order” (*gute policey*) necessitated a new science and a new art of governing; it could no longer consist of the static governance through law but required the employment of flexible administrative measures whose primary goal was to strengthen the health of the state. From its inception in the fifteenth and sixteenth centuries, *gute policey* meant the expansion of the economy of the ruler’s state and of the welfare of the community as a whole and was among the principle prerogatives of the sovereign as the *pater patriae*. The governed people were merely administrative—not legal—subjects of the king’s state and served as productive means for the empirical ends of the police. Contrary to the law, the police measures its success not on achieving justice or restoring the law, but on the strengthening of the good order and the ruler’s state. From the beginning the police overlapped with a wide range of legal powers such as the right of the sovereign to sentence, punish, and decide over the life and death of his subjects. The police as an integral part of the criminal justice system is primarily a development of the late eighteenth and early nineteenth centuries.

The contributions in this book have in common the treatment of the police as something more and something other than the petty police on the street corners. The police as we know it today develops with the *Polizeistaat* of the eighteenth-century into one of the supreme concepts of bourgeois society; the new liberal sanctification of law and security, the rise of the state and the emancipation of the liberal subject are ensnared in the institutions of police. The original thrust of the police function has remained intact up to today. New modes of police intervention and concepts of administrative order increasingly move across borders towards a planetary order, where a dense transnational framework of institutions and agencies forms what could be called a global police force. With this

in mind, pursuing a cultural history of an institution like the police, a collective body that has been so formative for our modern societies, turns out to be an enormously pressing and important task, particularly with regard to current political developments in the national and global arenas.

Not only is the police much more than the cop “walking the beat,” it is, above all, an institution in the multiple senses of the term. Like other institutions such as the law, the state or the family, the police establishes social facts and organizes specific actions and decisions, they structure our political aspirations, our anxieties and our fantasies. The modern police as it presents itself today is a highly networked institution that, perhaps even more skilfully than any other institution, is able to play at once on the psychic and on the sociopolitical registers.⁸ According to the sociologist Georg Simmel, institutions are independent entities, vast mediating and organizing networks scattered across the polity that transcend the relation of person to person. Institutions thus function as conduits of a social exchange that “generate posts and representatives, laws and symbols of group life, organizations and general social concepts.”⁹ In this sense, as the theorist of institutions Arnold Gehlen emphasized, institutions are always “stabilizing powers” whose function is to graft their norms and expectations onto the collective psyche. Furthermore, institutions must become internalized to such an extent, as second nature, that individual members of a society act voluntarily and predictably in accordance with the demands of the institution.¹⁰

Resistance to the police or to the police state must thus be understood in its full psychoanalytical weight: as an attempt to keep at distance what has already become uncannily close and what is fraught with modes of identification and revulsion. There is as much the compelling wish to inscribe oneself within the good order of the police as there is the desire to strike a blow against “it”. Yet, this “it”—the “core” of modern police power—is now more than ever utterly unclear. Deleuze and Guattari’s idea that only rhizomatic networks are able to threaten authority or fortified power structures must give way to the insight that the police today is itself a delimited, distributed and decentralized network power. The police not only employs the power of networks (with its obsession with links, traps, tracks and trifles), it also is, despite its inscription in a genealogy of sovereignty and hierarchy, itself structured like a rhizome. And precisely

what might make rhizomatic networks precarious and vulnerable also makes them, as Foucault knew, robust and sovereign.

This is the moment where questions of aesthetics, literature, the media and politics must enter. How did such fields aid in the emergence of the modern police and how do they reveal new thoughts and goals not compatible with the enforcement of order? Practices which present themselves as natural can suddenly be perceived—through the perspective of different disciplines—as dubious in an overly administered world. The intervention of critical analysis and writing opens up new modes of thinking, acting and feeling beyond and within administrative intelligibility. The rise of the modern police and administrative rationality coincides with new forms of resistance seen in the protest against the parameters of “good order” and in writing against their normalizing effects. A cultural history of the police must therefore do justice to the silent grinding of administrative mills (as in cataloging, normalizing, data collection and classifying) as well as to the dramatic or even theatrical contexts surrounding police work. As many contributions to this book show, particularly since the early twentieth-century, the question of law enforcement and the police has increasingly moved to the center of attention. Police in literature, crime fiction, film and critical thought has since become the object of wide-spread popular fascination as well as intense intellectual scrutiny.

Now again, the time of the police is running high. The critics of this development do not lag behind. In a time when the rule of law appears to be on the retreat, police studies begins to emerge as a field in its own right. This volume helps stake out this new discipline, considering the question of law and order from below: alleyways, borders, police stations, law offices, security bureaucracies, secret services and the minds of administrators, in which the quotidian workings of the law unfold. Although police studies has not yet coalesced into its own field of research, one can nevertheless notice a growing political and scholarly interest in modern forms of policing, particularly in the aftermath of Foucault’s analysis of biopolitics. Another crucial source for the future of police studies is Walter Benjamin’s text “Critique of Violence”.¹¹ Here, Benjamin opens up the historical dimension by referring to the “non-graspable, all-pervasive ghostly presence” of the police “in the life of modern civilized states,” a “degenerate” (*widernatürlich*) institution much more destructive to politics than were the police apparatuses of

absolute monarchies.¹² According to Benjamin, a particular rationality of the state, new techniques of social control and ever changing forms of punishment and surveillance envelop modern democracies and quell the “return of the political.”¹³

It is no surprise that political thinkers have begun to explore more closely the intricate and pervasive links between the police and the law, “might” and “right,” state violence and politics, social control and resistance. Beginning with Benjamin’s famous writings on the police in “Critique of Violence” or Foucault’s analysis of the police in “Technologies of the Self,” theorists such as Agamben, Derrida, Balibar, Žižek, Rancière and Negri/Hardt have recently triggered a profound reexamination of the police in its discursive, literary, historical and legal origins and ramifications. Whether with the more theoretical explorations of Derrida and Agamben or the political thrust of Žižek, Rancière and Negri/Hardt, recent scholarship acknowledges the links as well as differences between law and law enforcement, politics and policing, police intervention and crime prevention. In particular, the fundamental shift from the prosecution of criminals to a more all-encompassing form of crime prevention which emphasizes risk control, safety and order, has created a new legacy of law enforcement. The examination of the institution of the police as it is shaped and reshaped over the course of more than five centuries must be seen in light of the current developments toward more international police forces, the build up of homeland security agencies and new technologies of surveillance and tracking.¹⁴

The way in which the “arresting” power of the police within popular culture (film, video and TV, detective and crime stories, pulp fiction, journalism or in the poetics of everyday life) has forcibly captured our imagination and buried itself deeply in our unconscious begs also for closer analysis. The popular appeal of the police has its predecessors. At the dawn of modernity, the police rose to prominence in the absolutist state of Louis XIV organized and structured by de la Regnie and d’Argenson, the first prefects of police in Paris. Both admired and feared, the early French police set the pattern of the subsequent pop cultural treatments of police investigation, its ruses, secrets, knowledge and power. To acknowledge such an origin does not imply, however, that modern democracies do not shape the tools inherited from older systems according to their new needs and means. Hence, one must distinguish between police surveillance

within a concrete society, which in seventeenth-century Paris was accomplished by a network of commissioners equipped with state-of-the-art technology, and the administrative idea of a police force which cares for the welfare not simply of the state but of each and every citizen. Likewise one must differentiate between the restructuring of the police force, triggered by both legal reforms and new media at the end of the nineteenth century, and the latest expansion of its reach by means of digital technologies.

Rather than providing a complete “history” of the police, this book assembles a number of detailed case studies from a variety of disciplines and perspectives on the specific forms of an institution that has defined the interests of both citizens and nations from the absolutist state to our modern democracies. It is the task of this book to expand and multiply our perspectives on the institution of the police and thus to elucidate crucial features of policing in distinct time periods and cultures. The cultural history of the police as an institution in modern states from the sixteenth to the twentieth centuries, and of specific modes of police intervention and prevention, are the main concerns of this interdisciplinary investigation. While traditional histories discuss certain continuities between the concrete institution of the police and the broader issue of “policing” during five centuries of social control, the contributions to this volume are concerned particularly with differences, discursive breaks and cultural shifts.

These essays include a theory of political reason mirrored through the history of the police; a case study of Maximilian I’s attempts to “police” and thereby centralize his rule over Bavaria during the Thirty Years’ War; an analysis of the Cameralist concept of policing welfare from Leibniz to Schiller; an exploration of the role of deception and secrecy for politics since the sixteenth-century, including the development of the Secret Services; an investigation of the relation between criminology and sound film production in the Weimar Republic; a study of the emergence of a female police force in the wake of World War I in Germany; an essay on the motif of the “fat detective” in both the detective novel and in nineteenth-century neurology; a look at the rise of Dewey’s cataloging system as a tool to study, detect, and pursue crime; a comparison between the function of the police in Friedrich Schiller’s dramaturgy and Alfred Hitchcock’s film *The Wrong Man*; a discussion of the “state of exception” in conjunction with the rift between politics and police in recent political philosophy; an essay discovering police-induced

paranoia at the structural core of Thomas Pynchon's novels; and finally, an attempt to challenge the ideal of "community policing" in the United States today.

NOTES

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7. Neocleous, *The Fabrication of Social Order*, p. xi.
8. See Michael Taussig, "The Injustice of Policing: Prehistory and Rectitude," in *Justice and injustice in Law and Legal Theory*, eds. Austin Sarat and Thomas R. Kearns (Ann Arbor: university of Michigan press, 1996), 19–34. See also Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (Oxford: Oxford University Press, 2007).
9. Georg Simmel, *Soziologie. Untersuchungen über die Formen der Vergesellschaftung* (Lipzig: Dunker & Humblot, 1908), 56. (my translation)
10. Arnold Gehlen, *Anthropologische und sozialpsychologische Untersuchungen*, ed. Herber Schnädelbach (Hamburg: Reinbek, 1994), 71. I would like to thank Oliver Simons for pointing this passage in Arnold Gehlen out to me.
11. Walter Benjamin, *Gesammelte Schriften*, vol. II,1, Rolf Tiedemann and Hermann Schweppenhäuser, eds. (Frankfurt am Main: Suhrkamp, 1991), 179–203.

12. Benjamin, 189–190.
13. Chantal Mouffe, *The Return of the Political* (London and New York: Verso, 1993).
14. David Lyon and Elia Zureik, eds., *Computers, Surveillance and Privacy* (Minneapolis: University of Minnesota Press, 1996).

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PART I



BEGINNINGS

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CHAPTER 1



WAR—A FORTUITOUS OCCASION FOR SOCIAL DISCIPLINING AND POLITICAL CENTRALIZATION? THE CASE OF BAVARIA UNDER MAXIMILIAN I¹

Sigrun Haude

Maximilian I of Bavaria (r. 1598–1651) is widely considered the founder of princely absolutism in Bavaria; indeed, he stands as the paramount model of the early absolutist prince.² Aided by the Thirty Years' War (1618–1648), as one scholar argues, Maximilian came close to realizing his vision of a religiously and politically aligned body of subjects; neither country estates nor church institutions offered him much resistance when he incorporated them into his princely state.³ It is easy to see why most experts regard the duke, who from 1623 was also elector of Bavaria, as the founder of princely absolutism. Maximilian used a spy system to keep a close watch on his subjects and he demanded constant written reports from his officials on numerous matters. A micro-manager par excellence, he interfered with his officers' daily business whenever he saw the need. Even more importantly, Maximilian issued a flood of mandates, which tried to regulate every facet of social, economic, religious, educational, and private life: he pronounced on adultery and frivolity; blasphemy and swearing; almsgiving and beggary; schooling and catechism class;

plague control and censorship; religious duties and festivities; church services and prayers; food and drink; extravagant clothes and skimpy skirts; and on who might take a bath or share a room with whom.

These efforts were neither novel nor related solely to the war. However, while Maximilian did not chart a new course, he brought a far greater determination and rigor to his position as sovereign than his predecessors had. In addition, after the outbreak of war in 1618, the volume of mandates increased and, not surprisingly, the war became the propelling argument for the prince's attempts to maintain greater discipline, justice, cleanliness, and piety. The term "social control," which typically summarizes these activities, reflects the diversity and breadth of Maximilian's program only partially, as his program also aimed at establishing greater social justice by setting up a fairer legal and economic system, for example.

One should pause, however, before following the impulse to interpret Maximilian's course as the beginnings of the police state. It is true that, politically, concepts of government were changing at this time, particularly in the German territories of the Holy Roman Empire. During the sixteenth and seventeenth centuries, the old model of a state that preserves the law (*Rechtsbewahrungsstaat*) receded to make room for the sovereign ruler with his efficiently organized political apparatus. The concept of a state with unalterable laws was replaced with that of a legislative sovereign who reacted quickly to changing social and political conditions with the release of specific laws and mandates.⁴ Nevertheless, one needs to remember that in the early modern period up to the beginning of the eighteenth century there was no "police" as we know it today, and the term *policey* carried meanings distinct from the one it acquired during the modern era. *Gute policey* existed where citizens or subjects behaved in a decent and honorable manner and where the affairs of the state were well ordered.⁵ Laws then had the function to restore or maintain the good order of the common weal. This was no different with regard to Maximilian's countless commands and mandates. The term "police" did not yet connote an administrative and executive body of law enforcement. Moreover, the reestablishment and preservation of "good police" was primarily the task of citizens and subjects not that of a specialized police force. People were encouraged to watch over their neighbors and to report trespassers to the authorities. In other words, *gute policey* still lay largely in the hands of the community and did not depend on the administrative apparatus of a

police force. Overlords released ordinances commanding the population to follow their precepts, but there were few officers to oversee, much less ensure, the mandated behavior. Only in the eighteenth century did the term “police” begin to denote an administrative body and its members. At that time we see the emergence of new officers, such as, police director, police superintendent, and police inspector.⁶

Given these realities of the early modern period, how successful could a sovereign be in enforcing his political goals? This article, then, investigates the effectiveness of Maximilian’s efforts at social disciplining during the Thirty Years’ War. Looking not only at the prescriptive texts of his orders and mandates but also at Maximilian’s correspondence with officials and nobles across his territory, as well as the so-called *Umrittsprotokolle* (patrol reports) of the *Rentmeister* (district governor), this study will explore whether he was able to capitalize on the war as a means to heighten discipline and tighten control over his subjects.

During the early seventeenth century, Old Bavaria was divided into territories (*Rentämter*): Munich, Burghausen, Landshut, Straubing, and (after 1628) Amberg. These territories were each in the hands of a *Rentmeister*, who thus held one of the most crucial offices in the princely government. By the time of Maximilian, the *Rentmeister*’s responsibilities included finances as well as law and order.⁷ Every few years, Maximilian ordered his *Rentmeister* to visit each town and village under their jurisdictions and report on the state of their officers, local administration of justice, accounts, tax payments, and their *Pollizeywesen*. This term referred not to a police force but to issues pertaining to the local economy, such as weights and measures as well as the quality and price of meat, bread, and beer.⁸ Besides examining the local records of the last five or six years, the governor of Munich’s *Rentamt* (district territory) investigated the ministers’ performance and the congregations’ religious observance. In the report of Munich’s *Rentmeister* written in 1636, he also noted the degree of destruction in every town and village. In short, these accounts represent an invaluable source for learning about the conditions of the villages and to what extent Maximilian’s instructions were put into practice.

The fact that Maximilian repeatedly issued the same and similar mandates suggests not only that he attempted to exert greater influence over his subjects but also that his subjects did not follow his orders as fully as he desired. Similarly, his correspondence with his officials

reveals that princely intent and the reality in his territories often lay far apart. Indeed, the *Rentmeister* reports paint a picture of very uneven compliance with the electoral orders throughout old Bavaria. Since Maximilian resided in Munich, he was in a better position to oversee the execution of his commands in the city. But here, too, he consistently encountered resistance to his orders. Controlling the rest of his territory proved even more difficult.⁹ Still, one is struck by the elector's forceful desire and unending labor to improve the state of his subjects and his territory.

To promote social discipline and religious piety among his subjects, which, to his mind, were directly related to one another, Maximilian decreed numerous orders against dancing, gambling, drinking, and adultery. He also limited all aspects of wedding festivities and at various times prohibited carnival celebrations.¹⁰ Maximilian ruled on the proper dress code and forbade women to wear skirts that barely touched their knees.¹¹ Other ordinances proscribed the joint bathing of men and women.¹² Also, like his predecessors and neighbors, Maximilian assumed ecclesiastical authority whenever he believed the clergy was not doing its job, which, in his estimation, was most of the time. His detailed instructions on religious duties concerned church visits, catechism classes, special prayers, almsgiving, and cursing.¹³

Despite Maximilian's immense efforts, his letters to administrators and councilors are filled with complaints that his orders both before and during the war were not executed. The elector alleged that his subjects continued in their promiscuity, adultery, and blasphemy.¹⁴ People were also slow to attend the mandatory ten-hour prayer meetings, as Maximilian complained to his councilor in Landshut. The elector had learned from a reliable source that "the order concerning the ten-hour prayer, which has been established in view of the troublesome and still ongoing war, as well as the discontinuation of all dancing and music, as occurs every night in the streets and in the pubs, . . . is little respected."¹⁵ Rather, the dancing continued despite the prince's command. When the *Rentmeister* of Munich visited the market town Mainburg, he found a grave lack of piety: "Among other things one could observe clearly that, when the bell rings for the holy *Ave Maria* or other prayers, people do not pay any attention. Nobody prays and only few kneel down. In addition, a part of the burghers do not attend the service on time but come late."¹⁶ In Abensperg, too, instead of kneeling down when the *Ave Maria* or

other prayers were rung people simply leaned against the walls. Almost every Abensperter came late to worship. What was worse, the councilors mingled with the commoners rather than taking their position ahead of others in the choir.¹⁷ These incidents occurred in 1636, just after Bavaria had experienced horrific years in its battle against the Swedes and during the plague in 1634, which ravished large parts of the population.

Intriguingly, Maximilian's ire was directed not toward the common people but toward his officers and administrators who failed to ensure the observation of his orders. Sometimes local clerks delayed publicizing the electoral mandates and their governors ignored such negligence.¹⁸ In 1643 Maximilian ranted that he had hoped "in these sad times" his instructions would eliminate the insults against God and the cause of their punishment. But since this had not happened, he commanded his administrators to try harder: "Thus we order you graciously and under threat of losing your office and of other punishment, that you see to the observation of our earnest general mandate concerning dancing, gambling, drunkenness, swearing, and adultery; similarly that you admonish your subordinate administrators that they, by threat of punishment, do their duty with equal sincerity and apprehend the culprits so that they can be punished adequately. . . . And that you obediently report to us every quarter (of the year) on these issues."¹⁹

Besides the failing attention to his orders, Maximilian particularly censured the minimal punishment culprits received. Even when Munich's *Rentmeister* found a town or village on the right track with good administrators, adequate accounts, and people who attended catechism class, he usually reprimanded the overseer for being too lenient in his verdicts, especially in cases of promiscuity. Thus he rebuked one governor for his mild handling of several cases of cohabitation, which were not punished at all if the concerned parties later married.²⁰ In Abensperter, even though the magistrate was in the hands of fine men, the *Rentmeister* noted the lax treatment of drunkenness, indulgence, and promiscuity. According to the *Rentmeister*, these people should be punished to set a warning example to others.²¹

Remarks about inadequate sentencing of culprits stand out as a dominant feature in Maximilian's correspondence and in the *Rentmeister's* reports. However, it was not only the lack of obedience by local administrators that rattled the elector. He believed that such

lenient officers, in effect, encouraged rather than deterred criminal behavior. Maximilian was furthermore concerned that local authorities assumed jurisdiction when his electoral court should really judge a matter. This pertained particularly to instances of superstition and suspected heresy.²² For example, Vohburg's governor was reproved for not delegating to the electoral court a case where a couple had come neither to confession nor to communion during Easter.²³

The war—referred to in so many of the electoral mandates as punishment for their sins—had a grave impact on his subjects, but evidently not in the way Maximilian wished. Judging from the electoral correspondence and the *Umrittsprotokolle*, the crisis did not move people to show greater social and religious discipline than they did before. In fact, the war may have been more of a hindrance than an aid in Maximilian's program of social disciplining and political centralization. The elector himself pointed to the problem in 1635 in the context of yet another mandate sent to all his administrators and subjects in city and countryside:

We perceived some time ago with great displeasure that the strictly forbidden vice of licentiousness has spread a great deal too far among the old and the young and among both sexes. Dishonorable pregnancies have grown rampant, especially in the countryside, among the unmarried peasants and other common people. Worse, the utterly abominable vice of adultery as well as cursing and blaspheming (are just as common). The root and cause of this behavior can be found particularly in the circumstance that, during the last few years of war, the minor authorities of every locality failed to stop such frivolous life and secret rendezvous with the diligence and seriousness it required.²⁴

Here, Maximilian acknowledged that the war served as an impediment rather than an aid in bringing about greater social and religious discipline among the populace. The war's destructive consequences frequently became a reason for not following the prince's orders. More often than not, the local conditions were so dismal that it was impossible to uphold the kind of government the elector required. In several places the devastation inflicted by the war also brought on a coarsening of the population. During his visit to Gaimersheim, the *Rentmeister* noted: "In this market town, the economy, the fear of God, and in general things are in as bad a shape as they are in other, previously visited places. Neither the burghers nor the youths keep

discipline. Instead everyone is given the reins so that they do what they want.”²⁵ Furthermore, during his visitation in 1636, the *Rentmeister* frequently found the town’s accounts for the last four or five years in disarray or entirely missing. In the communal court (*Pfleggericht*) in Mainburg, “there were no Prothocola for the years 1631, 32 and 34” and he was given the feeble explanation that they “had been lost when the enemy was here.”²⁶ Pointing again to the sad times, the local authorities could produce only a few loose pages for the years 1633, 1635, and 1636. The *Rentmeister*, however, rejected this excuse and admonished the officers to keep better order in the future.²⁷ The administrator of the *Pfleggericht* Abenspert justified their utterly incomplete records by pointing to puny payments and incidents not worth recording.²⁸ More often than not, the local administrators probably told the truth. But the chaotic conditions during the war also gave Maximilian’s subjects the opportunity to escape his control.

The communal economy suffered severely during the war, and commonly the *Rentmeister* opened his reports with the words: “The *Pollicey* [economy] at this place is in very bad shape.” Even though he acknowledged that this sorry state of affairs was in most cases due to the war, he pressed the officers to establish fair and just economic rules as soon as possible.²⁹ The war also became an often honest excuse to postpone or even avoid paying debts or tithes. Neustatt refused to pay tithes or interest for the years 1633 to 1635 since they had been unable to grow anything during this time and were of the opinion that the war released them from their financial obligation. The *Rentmeister* enlightened the burghers that this was simply a “fabricated fantasy.”³⁰ Many local officers and nobles pleaded with Maximilian and his *Rentmeister* to alleviate their financial burden, but despite their poignant reports of the wretched conditions in their territory, the elector insisted on the proper payments. The two parties often corresponded for years over the issue. Maximilian’s persistence in this matter certainly reflects his financial needs but it may also indicate a fear that his subjects could use the war as an excuse to dodge their obligations.

The country estates, too, did not automatically acquiesce when their prince made demands on them. In 1624, Maximilian requested monthly payments to cover his military expenses, and the estates decided against it without much of an excuse. When he approached them two years later for a large one-time sum (800 fl.), they once

again fended off his request, arguing that the few gathered estates did not have the authority to make such a decision. Moreover, they declared the country was so exhausted from paying contributions to the armies that the common man was reduced to beggary.³¹ However, the estates' willingness during the following years to help alleviate the elector's financial burden illustrates that they did not simply use the war as a pretext to avoid payments.

Over the past few years the social-disciplining paradigm governing the early modern period has undergone substantial revision. To overcome the limitations of the qualifier "social," Berndt Hamm suggests "normative centering" as a more appropriate term to characterize the political, social, cultural, and religious changes that occurred during the early modern period. In addition, his concept seeks to embrace both the centralizing and pluralistic forces in this process.³² What the debate over the social-disciplining paradigm points out is the discrepancy between intent and reality.³³ Even under a sovereign as forceful and determined as Maximilian, the implementation of political, social, religious, and economic control remained fragmented at best. The police force as we know it is a later creation, and in the first half of the 1600s Maximilian lacked the infrastructure and staff to realize his elaborate program.³⁴ Nor did the war provide Maximilian with a more compelling argument for furthering his endeavor, despite the fervent rhetoric of his pronouncements. Whether by default or by design, the war became an excuse for resisting electoral orders.

How is one to interpret the evidence of noncompliance from large parts of the population? Instances of resistance are especially profuse where the electoral orders relate to social and religious practices. Maximilian could expect considerably stronger obedience from his subjects when his regulations concerned issues of safety and protection both of life and property. Here the interests of the government and the people converged.³⁵ By contrast, his agenda of social and religious discipline was often far removed from the traditions and needs of his subjects. Local and regional administrators frequently assessed the situation on the ground much more accurately than did the ruling elite in Munich. Consequently not only did townspeople ignore the prince's mandates, but many local administrators and officers, charged with executing Maximilian's commands, did as well. In the elector's mind, this failure at the local administrative level represented the greatest obstacle to the success of his program.

The evidence of the *Umrittprotokolle* also complicates another common assumption: the vital role of religion during the Thirty Years' War. It appears that a crucial mainstay of Maximilian's message failed to strike a responsive chord. In a considerable number of towns and villages, burghers seemed unimpressed both by Maximilian's references to the war as God's punishment and by his summons to special war-related prayer services. Nor were parishioners persuaded by the religious services provided by their churches—such as, an increase in sermons, prayers, and instruction—which only insufficiently addressed the needs of the congregations. This does not mean that people became irreligious but, more likely, that they followed their own blend of religious practices—a mixture of orthodox, semi-orthodox, and magical elements—to get them through life's crises.³⁶ The kinds of religion people relied on during the Thirty Years' War, therefore, need to be reexamined more closely.³⁷

Given his ambitious goal, could Maximilian have done anything but fail? Thirty years of his reign were characterized by the exceptional situation of war, which created loopholes rather than guarantees for a functioning social order. Moreover, he attempted to implement a program so grand and far-reaching that it was perhaps impossible to accomplish, even for a man of his determination, energy, and sincerity. Furthermore, from the perspective of his subjects, many of his instructions designed to appease God in reality took the fun out of life. Witness his order to get rid of all masquerades, dances, and entertainment. Sleigh riding was only allowed until 8:00 p.m., and there was to be no noise or shouting.³⁸ Who would want to follow such mandates?

NOTES

1. I thank the Charles Phelps Taft Fund at the University of Cincinnati for supporting my research for this project, as well as to Dr. Ingo Schwab at the Stadtarchiv in Munich for providing me with valuable references.
2. Gerhard Immler, "Maximilian I. Der Große Kurfürst auf der Bühne der europäischen Politik," in *Die Herrscher Bayerns*, eds. Alois Schmid and Katharina Weigand, 202–17 (Munich: Beck, 2001), 203.
3. Dieter Albrecht, *Maximilian I. von Bayern 1573–1651* (Munich: Oldenbourg, 1998), 1119.
4. Hans Schlosser, "Gesetzgebung und Rechtswirklichkeit im Territorialstaat der Frühen Neuzeit. Am Beispiel des Landesfürstentums Bayern

- (16./17. Jahrhundert),” in *Diritto e potere nella storia europea. Atti in onore di Bruno Paradisi*, 525–42 (Florence: Leo S. Olschki Editore, 1982), 528–29.
5. Franz-Ludwig Knemeyer, “Polizeibegriffe in Gesetzen des 15. bis 18. Jahrhunderts. Kritische Bemerkungen zur Literatur über die Entwicklung des Polizeibegriffs,” *Archiv des Öffentlichen Rechts* 92 (1967): 155, 158–60. Michael Stolleis, *Geschichte des Öffentlichen Rechts in Deutschland, vol. 1, 1600–1800* (Munich: C. H. Beck, 1988), 369–71; Schlosser, “Gesetzgebung und Rechtswirklichkeit,” 529–33.
 6. Knemeyer, “Polizeibegriffe,” 160–63.
 7. Reinhard Heydenreuter, *Der landesherrliche Hofrat unter Herzog Maximilian I von Bayern (1598–1651)* (Munich: Beck, 1981), 50–52.
 8. Again, the crucial aspect and focus of the Pollizeywesen was the functioning of the common weal, in this case the fairness and quality of the economy.
 9. Reinhard Heydenreuter, “Der Magistrat als Befehlsempfänger. Die Disziplinierung der Stadtobrigkeit 1579 bis 1651,” in *Geschichte der Stadt München*, ed. Richard Bauer (Munich: Beck, 1992), 189–210.
 10. For carneval, see Stadtarchiv München [StdAM], *Bürgermeister und Rat [B&R]* 60 B 3, f. 33r, January 31, 1642; StdAM, *B&R* 60 B 9, f. 4r6r, January 16, 1627; StdAM, *B&R* 62, f. 250v, January 27, 1616. These are examples that Maximilian’s efforts to ban celebrations of carnival predate the Thirty Years’ War. For weddings, see StdAM, *Ratssitzungsprotokolle* (Unterrichtserie) 249, f. 288v, August 16, 1634; 261/1, f. 196r, May 30, 1646.
 11. StdAM, *B&R* 60 B 1, f. 171r, September 19, 1631.
 12. StdAM, *B&R*, f. 93v, March 6, 1631.
 13. See, for example, Staatsarchiv München [StAM], *Hohenaschauer Archiv* 2, Akten A, 1725, May 24, 1631; June 8, 1642; June 12, 1645.
 14. StdAM, *B&R* 60 B 9, f. 37, September 20, 1635.
 15. Maximilian to the treasurer and councilor in Lanshut, Hanns Christoph, Freiherr von Preysing, August 3, 1620 (see StAM, *Hohenaschauer Archiv* 2, Akten A 1725, f. 1r.).
 16. StAM, *Rentmeister-Literalien [RL]*, fasc. 33: 124, f. 40v.
 17. StAM, f. 88v.
 18. StAM, f. 44r.
 19. StAM, *Familienarchiv Törring-Jettenbach*, C 5, f. 1r-v.
 20. StAM, *RL*, fasc. 33: 124, f. 4r.
 21. StAM, f. 61v6–2v, 79v.
 22. StAM, f. 4r–v, 223v2–6r.
 23. StAM, f. 223r–v.
 24. StdAM, *B&R* 60 B 9, 37, September 20, 1636.
 25. StAM, *RL*, fasc. 33: 124, f. 298v.

26. StAM, f. 3r–v.
27. StAM, f. 3r–v.
28. StAM, f. 49r.
29. StAM, f. 8v.
30. StAM, f. 119v.
31. StAM, *Hohenaschauer Archiv* 2, Akten 863, Diary of Johann Christoph von Preysing.
32. Berndt Hamm, “Normative Zentrierung im 15. und 16. Jahrhundert. Beobachtungen zu Religiosität, Theologie und Ikonologie,” *Zeitschrift für Historische Forschung* 26 (1999): 163–202. Hamm detects the beginnings of normative centering already in the fifteenth century.
33. In contrast to the enthusiastic followers of his paradigm, Gerhard Oestreich, the creator of the term, was well aware of the discrepancy between theory and practice, police mandates and their enforcement. See “Strukturprobleme des europäischen Absolutismus,” in *Geist und Gestalt des frühmodernen Staates*, ed. Gerhard Oestreich (Berlin: Duncker & Humblot, 1969), 179–97.
34. See also Winfried Helm, *Obrigkeit, und Volk: Herrschaft im frühneuzeitlichen Alltag Niederbayerns, untersucht anhand archivalischer Quellen, Passauer Studien zur Volkskunde*, vol. 5 (Passau: n.p., 1993), 277.
35. See also *ibid.*, 158–62.
36. See also Etienne François, “Seuchen, Hungersnot, Krankheit, Tod. Einführung,” in *Im Zeichen der Krise. Religiosität im Europa des 17. Jahrhunderts, Veröffentlichungen des Max-Planck-Instituts für Geschichte*, eds. Hartmut Lehmann and Anne-Charlott Trepp, 129–33 (Göttingen: Vandenhoeck & Rupprecht, 1999), 152.
37. I am presently working on an article that focuses on expressions of religion among the people during the Thirty Years’ War.
38. StAM, B&R 62, f. 250r–v (1616).

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CHAPTER 2



“IS IT USEFUL TO DECEIVE THE PEOPLE?”: SECRECY AND DECEPTION AS POLITICAL RESOURCES¹

Marc Schweska

On October 16, 1777, Prussian king Frederick II (1712–1786) issued a direct order to the Royal Academy of Sciences (*Königliche Akademie der Wissenschaften*) in Berlin devoted to topics of general interest and benefit and not to ones that were obscure. The Academy was to withdraw its invitation for entries on “primitive force,” which was ridiculed by academics in Paris,² and to challenge instead scientific ambition with the prize question of “whether it is useful to deceive the people.”³ The king’s decree put the Academy in an uncomfortable position. If it published this new prize question, would the European public wonder if the Royal Academy wanted to criticize its king, let alone the monarchical state system? On the other hand, the impression could arise that academics were toying with the principles of morality or, what was worse, that the king was making a mockery of his Academy. It is no wonder that the Philosophical Class (*Philosophische Klasse*) under Sulzer (1720–1779) made a motion for a plenary session in order to bring the commotion under control.⁴ Before any further steps were taken, it first had to be determined how the question, is it useful to deceive the people? could be presented to the academic public.

Normally, one viewed the *Volck* (people) as a human amalgamation for the purpose of benefiting the common good⁵—that is, the increase of the community's *Genuß* (enjoyment, welfare) and *Vorteil* (utility).⁶ In this context, the question of “whether it is useful to deceive the people” asked if deceiving those who had come together to increase their welfare and utility actually secured this same amalgamation.⁷ If it were shown that this were necessary, it could indeed be the case that it was in the people's best interest to be deceived.

This question's formulation became more fitting in terms of the conditions of governing in that the sovereignty was entrusted with the care of the people's *zeitliche Glückseligkeit* (temporal blissfulness).⁸ This could be promoted so that the single subject would sense nothing or, at the most, would sense the burdens of the frequent wars.⁹ What was more, the enlightened unleashing of the *Verbesserungstrieb* (drive for improvement)¹⁰—that is, the connection of the interest of the state with the belief in perfectibility and progress of the Enlightenment¹¹—battled traditional and mostly religious views as superstitions.¹² In the enlightened monarchy, the question arose as to whether the people were enlightened enough to entrust the princely sovereign and his scientific advisors with its blissfulness, even if the majority had no university degree, did not have a command of French and Latin, could not understand the political process of decision-making, and bore the burdens of progress.¹³ If the *Staatszweck* (purpose of the state), the ideology of the Enlightenment, and the subject and object of political action are introduced in the formulation of the prize question, the question of “whether it is useful to deceive the people” is reformulated to mean, “is any manner of deceiving the people beneficial if, in so doing, further delusions are propagated or if those that are old and deeply entrenched are allowed to persist?”¹⁴

The political meaning of the question of whether it was useful to deceive the people seemed more central during the enlightened monarchy and the height of the Enlightenment than at the time of Frederick's ambitious early work, the *Anti-Machiavelli* (1740),¹⁵ published anonymously under Voltaire's guidance and publicly available. In this work, the accentuation of deception as delusion shifted the issue from a moral question to one of political means and was closer to Bacon's criticism of idols than to Machiavelli's theories. With this new formulation, the Academy succeeded in circumnavigating the precarious cliffs of the original version of the prize question. This new

formulation was the version that the Academy and the king agreed upon.¹⁶ The set of problems that underlay the question's formulation nevertheless had a complicated previous history on many levels, as the participants knew. Not only did it deal with the tension between the reason of state and traditional ethics, which continuously dominated the political discourse of the early modern period, but it also referred to the scandal that arose from Machiavelli's dictum that the prince was to be a master of the art of *simulatore e dissimulatore* (deception and secrecy).

Moreover, the discussion about the people's ability to be led astray or trapped in delusion was not only a purely academic matter for political specialists but also of eminent political significance. For it was precisely the people—as *gemeiner Pöbel* (vulgar mob)—who were accused of becoming easy victims of superstition and delusion circulated through broadsheets and oral propaganda. In this manner, unrest and civil wars resulted.¹⁷ In discussions about the people's delusions, the memory of the religious and civil wars of the two previous centuries still lived on, even if it paled in the memory of the younger Enlightenment thinkers.¹⁸ Considering the assumed and latent irrationality of the majority, any utility derived from deceiving the people seemed to be out of the question.

Without eradicating any of Machiavelli's traces, Frederick II, in his old age and unbeknownst to the public, called on the Prussian Scientific Academy to focus their attention on a central question of the political ethics of the early modern period.¹⁹ The final years of his life coincided with the decline of the early modern princely state and the eve of the French Revolution.

DECEPTION AS VIRTUE

Political deception had led neither in antiquity nor in the Middle Ages to an independent discourse. This changed with Machiavelli's political writings. Machiavelli regarded *simulatio* (deception) and *dissimulatio* (secrecy) as necessary means for a state's founding, maintenance, and expansion.²⁰ This new and positive interpretation of deception and secrecy as political virtues was the result of Machiavelli's analysis of the system of humanist virtue for political power. His analysis revealed that when individual virtues are considered within the context of action and are applied to the action's

success, they are often both contradictory and inefficient.²¹ The value of the political action and of the virtues that guide it could only be measured against the degree of their success in a concrete situation. Added to this was the fact that the political action's presence and representation coincided neither in timing nor in public perception. If the calculated use of this difference were utilized intelligently—that is, appropriate to the situation—this could considerably expand the freedom of the political players. It was precisely in this temporary sphere between political action and the public representation of action that Machiavelli included secrecy and deception as political resources.

The control over secret information and the use of hidden activities increased political leeway because it allowed for the accumulation of time in which to act. This gain in time compensated for the inability to see into the future and made it possible to subtly employ the available means of power. Especially in terms of the conquest and increase of political power, the point was to use the available means of power effectively and efficiently. This was the reason Machiavelli recommended that the *principe nuovo* (new prince) be both lion and fox. The new prince was not only to rely on a politics of strength²² but also to incorporate the resources of time and knowledge in his politics in order to become and remain master of the situation.

Astuzia (craftiness) was disreputable in domestic politics and yet key for foreign politics and military strategy. Its revalorization within the index of political competency introduced an element to domestic politics that, with the exception of everyday pragmatism,²³ was rooted both in the specific realm of *Strategemlehre* (knowledge of military stratagem) and in the competitive principle of rhetoric.²⁴ This means not only that Machiavelli dislodged the normative bond of rhetoric but also that the differentiation between friend and enemy was an effective dimension both in foreign *and* domestic politics. Based on the condition that internal and external enemies were real and potentially always present, secrecy and deception proved to be a necessary means for preserving power.

However, it was clear to Machiavelli that public and covert activities that broke with moral and legal norms could only be utilized in certain situations and not on a permanent basis. Nothing was more threatening to the preservation of power than to be hated by the people, and hate inevitably arose if norms were consistently breached. The orientation toward the common good also comprised a central

factor of the preservation of power in Machiavelli's perspective of power analysis. In addition to the factors of *fortuna* (contingency) and *necessità* (context) that determined political action, there was a third factor. According to Machiavelli, the moral differentiation between good and bad was a result of political order and not of manifested religion. Political order was the essential requirement of all virtue. Therefore, the construction and preservation of such order was of the highest priority. Since political order originally established moral policy, it could not be subjected to rules it had itself created. For this reason, the preservation of state order did not require any justification and there was no limitation to the necessary means to do so.²⁵

LOGIC OF THE REASONS OF STATE

The continual civil wars of the sixteenth and seventeenth centuries²⁶ caused Machiavelli's theory to become surprisingly acute in the eyes of the political players and observers. In the collapse of the sociopolitical order of the Middle Ages, the claim that it was state order that first established the fundamentals for which moral conduct was crucial seemed to be supported by overwhelming evidence. The doctrines of the reasons of state from the sixteenth and the seventeenth centuries, which presupposed the absolute norm of self-preservation of the state, succeeded Machiavelli in this decisive subject. State sovereignty, which politically and legally subjected all population groups of a demarcated territory, seemed most likely to guarantee the inner political stability and the necessary security and order for the common good. All other moral and legal norms, including religious norms, were subordinated to this pledge of security and order.

However, this pledge and the state's implied self-serving disposition had to prevail against the competing political possibilities. Polemically, the reason of state was leveled in practice and theory at the universal and intermediate powers—at Emperor and Curia—whose force of power had slackened by the time of the conflict between Emperor Frederick II (1194–1250) and the Roman papacy. The same were dealt a death blow by both the Reformation and the estates that had discredited themselves as factors of escalating political force in the civil wars. In this configuration, the breakthrough of traditional norms via the reason of state had the concrete function of asserting state power against all other powers.²⁷ The discourse on

the reason of state centered on the question of how a state establishes, maintains, and expands a state, a government or a ruling power. Among the model terms of the "reason of State" (Lat. *ratio status*, Fr. *raison d'État*, It. *ragione di stato*, Germ. *Staatsräson*), the *Herrschaftsgeheimnissen* (secrets of power or ruling; Lat. *arcana imperii*), and the *Staatsklugheit* (political prudence; Lat. *prudentia politica*), the means that secured rule and government were debated. In this context, the discussion of the political arts of secrecy and deceit played a central role and was mainly a direct or covert reconciliation of Machiavelli's theories.²⁸

There were two reasons for urgency on the question of secrecy and deception that led to an extreme intensification of the discourse. For one, the set of problems related to deception touched on a central question of the Christian theology of morals that categorically ruled out *simulatio* (deception).²⁹ In his sharp-witted analysis, St. Augustine (354–430) had already determined that the *mendacio* (lie) tears the social bond and misuses the godly origin of language.³⁰ In theology, a lie was the work of the devil.³¹ Under these premises, even the valorization of craftiness was extremely problematic.³² Moreover, the claims of the usefulness of Christianity for politics of power, or rather, of the state, placed Machiavelli's maxim of deception in a decidedly anti-Christian framework. This must have led to the sharpest accusations in the age of reformation and counterreformation.³³ However, the resistance to the Machiavellian maxim of deception served even more fundamentally to defend the theological monopoly of truth in the face of both the confessional diversification of religious authorities and the political neutralization of the question of truth in the early modern state.

In addition to this, the use of deception by the "new prince" eliminated a central mode of the feudal relationships of liability—that is, the reciprocity of the loyalty of feudal lord and vassal. Machiavelli's devaluation of *fede* (loyalty) vis-à-vis *gloria* (glory), *grandezza* (greatness), or *fama* (fame) is not to be overlooked in this context.³⁴ His legitimization of deception as political strategy struck at the core of the three orders of the Middle Ages, simultaneously robbing the strength of universal monarchy, aristocracy, and clergy. This was set in motion a short time later by the politics of the reason of the state.

It was therefore no wonder when church and estate interests came together and formed an amalgam that was not to be disentangled from aggressive polemics of anti-Machiavellism. In addition, the

mixture of religion and estate was a central cause of civil wars. Accordingly, the party of the state-oriented politicians operated carefully and thoughtfully, discussing Machiavelli's theories and the reason of state. For a time, they only did this in secret under the name of Tacitus, the Roman historian.³⁵ Machiavelli's fundamental question—whether human coexistence and moral behavior beyond a political order were at all possible—did not play a role in the polemics of anti-Machiavellism. However, practitioners and theoreticians of the reason of the state founded their argument on this question. Therefore, their judgment about Machiavelli was often more favorable than it was advisable to be made known.

If the endangered state security so required, "the break from legal and moral norms in emergency situations and exceptional cases" was also part of the reason of state.³⁶ The break from traditional norms and rights of the estates and church have incalculable consequences for the legitimization of the political players and could thus endanger the state. Therefore, there were good reasons to apply secrecy and deception as political means. The tension between secrecy and deception on the one hand and legitimacy and legality on the other hand consequently led to extremely vehement controversies. Secrecy and deception were exemplary cases from which the relation between power and morality resounded. The debate surrounding Machiavelli and the reason of state leveled out in the early seventeenth century. A balance was struck between the extremes of its demonization and the straightforward justification of the compromise of the tempered reason of state with its *gemischten Klugheit* (mixed prudence; Lat. *prudentia mixta*). Justus Lipsius (1547–1606) had formulated mixed prudence, defended secrecy, bribery, and deception as political means. However, he condemned the breach of law and of contract, political murder, the repeal of estate privileges, and predatory attacks on territories of interest.³⁷

Mixed prudence, or the reason of state that was tempered in questions of secrecy and deception, proved to be the compromise that met with unanimous approval—especially among political specialists. Legally, it was reflected in the differentiation between God's law, natural law, and positive law, whereby the first was set as absolute, the second as relative, and the third as dispositive. This secured the Christian-confessional foundation and yet allowed the princely state "to repeal the obstructive legal positions with reference to *necessitas* [necessity], *ratio status* [reason of state], *utilitas publica* [public

welfare], and *bonum commune* [common good].”³⁸ The mixed prudence of the tempered reason of state was therefore a Solomon-like formula, because it made allowance for the shift of the power relations and demanded lawfulness without defending brutality. At the same time, the logic behind the reason of state counted the systematic acquiring of information and military strategies³⁹ among the duties of the state.⁴⁰ The question of whether it was useful to deceive the people was affirmed by the logic of the reason of state, with restrictions regarding necessary measures for the state’s preservation.

SECRET SERVICES AS INSTITUTIONS OF THE REASONS OF STATE

The discourse of the reason of state remained everything else but inconsequential. The doctrines of the *prudentia politica* (political prudence) and the *arcana imperii* (secrets of power or ruling) not only legitimized the early modern state but also helped shape it.⁴¹ This discourse justified and modeled the structuring of the centralized administration, the standing armies,⁴² and the secret services. Through government handbooks and university-educated advisors, it forced its way into state administrations.⁴³

The main duty and the most important sources of legitimization of the early modern state—domestic and foreign security—were approached on two levels. Domestically, this was the *gute policey* (comprehensive police force) that consisted of paternal care on one hand and social disciplining on the other.⁴⁴ In terms of foreign politics, it was pursued both in the development and the expansion of the diplomatic practices and the reform and armament of the military. In a world of hostile competitors, the logic of the preservation of power via the increase of power forced the development of new resources (territories, people, and finances) and the intensification of their use. In terms of their structure, their politics, the military, the police force, and the security services all developed characteristics intrinsic to modern organizations—that is, professional, specialized, and bureaucratic. In any case, one can speak of the princely state’s Secret Services as being institutionalized not just since 1800, as is commonly assumed, but since the sixteenth century.

The Inquisition was in many respects a model for state agencies. Ever since the precedents of political use of church interrogation

methods in the processes against the Templars or Joan of Arc, the church Inquisition was a model for secular criminal justice.⁴⁵ As early as 1483 in Spain, the *Suprema*, "the kingly council of the High and Universal Inquisition, a secret police and judiciary agency of the state that spread over the country with an invisible control network and that also knew to avail itself of the means of torture if the desired information was not to be obtained otherwise," was founded.⁴⁶

Via the means of penal inquiry, the Inquisition left behind its traces in the absolute, the later totalitarian, and the democratic constitutional states.⁴⁷ The church of the late Middle Ages had already supplied a strong impulse to the development of a politics of secrecy and the Secret Services. In the severe conflicts between Curia and Emperor in the late Middle Ages, the secret diplomacy of the popes proved to be an extremely effective tool.⁴⁸ With the concentration of the political infrastructure and the expedition of political communication in the early modern period,⁴⁹ diplomatic communication also intensified. The diplomats had to fulfill two duties. First, they led negotiations; second, they secured legal and illegal information.⁵⁰ The foreign politicians' and diplomats' influence by means of bribery was dealt with so matter-of-factly that French diplomats were very irritated when their Dutch counterparts refused to accept gratuities. Even if it served no practical purpose, for years even the English king was on the payroll of the French crown.

Diplomatic networks and secret networks of agents were established simultaneously. Walsingham, the first minister of English Queen Elizabeth I, systematically developed the espionage network of his predecessors. He received regular reports from twelve locations in France, as well as from nine in Germany, four in Italy, and three in Holland, Constantinople, Algeria, and Tripoli.⁵¹ Such was also the case for Cardinal Premier Richelieu (1585–1642), who was among the best-informed men of his time. His chief of the Secret Service, the "gray eminence" Père Joseph, achieved a fantastic degree of importance due to his command of confidential knowledge. Richelieu had the generals and even the king himself under surveillance.⁵² Louis XIV enunciated that which was self-evident for the doctrines of political prudence: being informed to the best possible degree belonged to a capable ruler's central duties.⁵³

The domestic political pendant to foreign espionage was the surveillance of one's own people. The people's everyday lives were not only regulated and regimented as a result of a continually growing

police system but also under observation with the establishment of the secret police. As early as the sixteenth century, spies were engaged in Bavaria in order to control the morality and religion of the people and the functionaries.⁵⁴ Added to this were the attempts of the state to influence public opinion through propagandistic means. Richelieu, who engaged an entire staff of academics, had newspapers printed and ordered the publication of books that justified the politics of the French crown. A growing journalism trade accompanied political positions in order to justify or support them. Some competed not only politically and militarily but also journalistically in the *guerra spirituale* (*spiritual war*).⁵⁵

The role of scientific knowledge for the structuring of the early modern state can hardly be overestimated. Already in the sixteenth century, the calculated use of this knowledge by the Catholics King Fernando (1479–1516) and Queen Isabel (1451–1504) spurred Spain's rise to one of the greatest powers of continental Europe. Fernando and Isabel consulted university scholars in the planning, realization, and legitimization of their politics. Fernando's ideological use of religion and the incorporation of the dimension of the future in political action made the Catholic king the ideal image of the "new prince" for Machiavelli.⁵⁶ The same could be said for Richelieu, a cardinal who was not only extraordinarily educated but also possessed one of the best libraries in Europe. He and his colleagues used this archive as a source for both the legitimization of the politics of the French crown and questions of church politics.⁵⁷

The expansion of diplomatic correspondence and reports from agents required the additional development of cryptographic methods, which always competed with the advancements of the cryptogram analysts. The diplomatic correspondence of the Curia had been secured by the use of secret code since the time of Pope John XXII (1316–1334).⁵⁸ The courts of the Renaissance followed the example of the Curia and cryptography and cryptogram analysis became flourishing trades in the Renaissance.⁵⁹ Soon, many ambassadors had their own secret secretary.⁶⁰ At the beginning of the sixteenth century, cryptography was nothing short of institutionalized. There were "cryptogram secretaries" with their own offices and salaries.⁶¹ Walsingham founded a school for secret codes.⁶² The Rossignols served Louis XIII and Louis XIV as cryptographers, and their offices were situated next to the King's chambers. For Louis XIV, they developed the *grande chiffre* (grand cipher) that was

first decoded at the turn of the twentieth century.⁶³ The practices of secrecy were conceived of as being so widely spread by the Elizabethan period that dramatist Ben Jonson (1572–1637) already ridiculed the boasting of esoteric knowledge as the nobility's addiction to prestige and steganography as the Secret Service's dilettantism.⁶⁴ In this context, the case of Mary Stuart, who lost her head because she trusted in the cryptographic naïveté of the Catholic conspirators, proved the importance not only of the Secret Service's competency but also of practical and political craftiness vis-à-vis all moral-philosophical reservations. In addition, it marked a turn in the history of cryptography. It led not only to the fall of Mary Stuart but also to the end of monoalphabetical encoding. In light of the advanced cryptograph analysts' frequent analyses, this encoding could no longer conceal any message.⁶⁵

It was no later than the turn of the seventeenth century that all European powers had secret cryptographic and cryptanalytic facilities in the *Schwarzen Kammern* (Black Chambers), in which entire work groups were active. The most famous was the *Geheime Kabinettskanzlei* (Secret Chancellery Chambers) in Vienna that ran a rousing business with the information it garnered with 100 letters processed every day.⁶⁶ However, the Black Chambers was only one facet of the all-encompassing police system with which the early modern state, with varying degrees of success, sought to regulate all areas of life. Without a doubt, the administration, the *policey*, and the Secret Services of the early modern state were by far not as efficient as was necessary in order to meet their goals. Nevertheless, the centralization, accumulation, and scientific development of means of power corresponded to every domestic political competitor on the political field. At the same time, foreign political competition accelerated this development.⁶⁷

Notwithstanding its low level of organization according to today's standards, the Secret Services of the early modern period can boast some impressive successes. The encoding skills of the cryptogram analysts had already foiled the Spanish invasion of England in its planning stages.⁶⁸ They smashed the Catholic Babington Conspiracy and led to the execution of Mary Stuart.⁶⁹ The Rossignols' cryptography sped the conquest of the besieged Huguenotic city, Re-Imont, in 1626. Richelieu's secret diplomacy ended the nobility's revolts in 1615–1616 and had a decisive influence on the suppression of the revolt of the Huguenots in Béarn in 1620.⁷⁰

SECRECY AND DECEPTION AS POLITICAL RESOURCES

In the fourth century BC, Sun Tzu's treatise about the art of war determined that the factors of time and knowledge could be decisive in war. He added that this was relatively independent of military strength. Sun Tzu's ideal warrior was, as it were, the "crafty fox." This was the same fox that Machiavelli had in mind after godly omnipotence, which indeed had always stood for omniscience, began to quit the political field. Contingency—that is, the impossibility of encasing future situations in rules—was the unrest that kept Machiavelli's and his successors' political thought in motion. Both the openness for the future and the diagnosis that habits of behavior—in other words, nature and traditions—were not enough to claim political power led Machiavelli to introduce secrecy and deception as (compensatory) means of the mastering of contingency. Machiavelli clearly formulates that final success or the political result (the ends) determined the value or lack of value of a mode of action, at least if it had to do with preceding decisions—that is, sovereign, law-giving, or law-establishing. With respect to an unpredictable future, modern politics calculate the chances and risks of secrecy and deception for heterogeneous purposes. The seeming or actual brutality of Machiavelli's formulation is indeed connected if one recalls Hannah Arendt's statement: "conscious denial of facts—the ability to lie—and the capacity to change reality—the ability to act."⁷¹ Machiavelli had recognized this and was prepared to extract all possible power and political advantages.

Even if legitimacy initially did not appear to be a political problem for Machiavelli, this assumption is deceiving. Machiavelli stressed *reputazione* (reputation), the complex relationship between power and trust, as an important factor for political power. Reputation was also one of Richelieu's political fundamentals. However, in contrast to Machiavelli, who believed it possible to compensate for the risk attached to the breach of norms with the overwhelming moment of success, Richelieu held the breach of the prince's promise as more dangerous than the life of the prince itself. For if the prince were to not keep his word, he could lose his reputation and his authority.⁷² Richelieu had in mind the concrete example of possible French alliances in the struggle against the Hapsburgs. Next to its moderate military strength, it was primarily these alliances that insured the French state's stability.

Richelieu's stance elucidates a problem that Machiavelli had indeed seen, although the importance of which he had strongly underestimated. The point here is that *breaches in legitimacy tie up resources*. In adverse circumstances, this leads to considerable loss of time, vigilance, and power. The decline of authority, triggered by the crisis of legitimacy, can rapidly translate into a loss of power. Since breaches of norms portray illegitimate and illegal deception and secrecy, they can trigger crises of trust and endanger the preservation of power to a far greater degree than the advantage of knowledge and time can enhance it. If an acute threat is present, mistrust is inefficient.⁷³ To draw the inverse conclusion from this—that in cases of acute threat, general mistrust (surveillance and intimidation) guarantees efficiency—would indeed be wrong.

Legitimacy's fundamental importance for political authority also explains why secrecy and deception were always, and will always be, thought of as political means. Not only is secrecy the presupposition of deception but it also provides the possibility of concealing questionable political actions.⁷⁴ In short, secrecy protects politics from damages to legitimacy because in breaches of norms and laws, responsibility can always be contested. In addition to the protection of—or rather, the assault on—legitimacy, the *command of time* is decisive for the use of the secrecy and intelligence methods of cryptography and cryptanalysis. No matter how information is gained or spread, the transmission of information must be secured from unauthorized access, as Eva Horn's precise formulation suggests: "The news always has to do with the command of time, with the command of the future. Whatever this news concretely says—regardless if it is an order, a report, or a question—it implicitly records what is to be done on the part of the recipient, as well as on the part of the enemy who intercepts it."⁷⁵ Exactly that which one called "intelligence" in the early modern period binds the secret knowledge of the Secret Services "to the doubling of acceleration and secrecy."⁷⁶

In addition to the factors of *legitimacy* and *speed*, *contingency* quite elementarily limits the importance of secrecy and deception. The breach of norms not only threatens the value of the knowledge of the Secret Service, but the type of secret knowledge presented is a political risk, as well. The uncertainty of the sources, the sheer quantity of data that yields no information if it is not appropriately interpreted, and the lack of public criticism lead to effects of "self-hypnotism" (Eva Horn) or the madness of omnipotence. The self-immunization

of the supposed knowledge of facts against correct analyses of situation and context then abruptly changes into a fatal self-deception. This does not occur because of a lack of professionalism but precisely because experts are at work confounding “facts” with “maneuvers.”

The double meaning of the Academy’s prize question—that expert knowledge could also fall victim to error—was not yet seen as a problem by the enlightened experts of the early modern state. As was to be expected, the prize question caused a great sensation:

No less than forty-two treatises were submitted, proving that the topic interested moral philosophers and politicians everywhere. Not one single text had to be rejected due to its subversive content; however, five were submitted too late, and in four others the author was named. Therefore, thirty-three were eligible to be judged. Twenty answered the posed question in the negative; thirteen affirmed it. Four of the former and seven of the latter were judged to be good. Two of them were crowned, so that the prize was shared: *Becker’s* essay, Governor of the Barons *Dachröden* in Erfurt (in the negative), and Prof. *Castillon* jun. in Berlin (affirmative).⁷⁷

The division of the prize among two prizewinners, one of whom answered affirmatively and the other negatively, was as Solomon-like as the idea of mixed prudence. It demonstrated that the Academy was willing to allow both reason of state and moral-philosophical deliberations to come into their own. Frédéric Castillon’s (1747–1814) limited affirmation advanced the arguments of the theoreticians of the reason of state. Becker’s limited negative response expressed support for the liberal principle of public knowledge in domestic affairs; however, in foreign affairs of state politics, it called for secrecy.⁷⁸

Rudolf Zacharias Becker’s (1751–1822) essay, written in 1781 in German with a *Zueignungsschrift an das menschliche Geschlecht* (dedication to the human race) and permeated with the pathos of progress, attempts to convince the reader that no contradiction exists between the Enlightenment and the reason of state. With the claim that arcane politics are irrational in the context of domestic politics, Becker points to the bourgeois revolutions of the near future. The argument of the foreign political necessity of secrets of power or ruling is still relevant for the present-day state. Truly, the politics of the Enlightenment—just like the politics of national interests and security today—shifted in Machiavelli’s horizon.

NOTES

1. The translation of German quotes and titles unless otherwise indicated have been rendered by the translator.
2. D'Alembert in a letter to Frederick II, September 22, 1777. Quoted in Adolf von Harnack, *Geschichte der Königlich Preussischen Akademie der Wissenschaften zu Berlin*, vol. 1.1 (Berlin: Reichsdruckerei, 1900), 417, <http://www.bbaw.de/bibliothek/digital/struktur/ak-gesch/harn-1-1/jpg-0600/00000002.htm>.
3. The question was originally posed in French: "S'il peut être utile de tromper le peuple?" Harnack, *Geschichte*, 417.
4. Ibid., 418.
5. Johann Heinrich Zedler, *Grosses vollständiges Universal Lexicon Aller Wissenschaften und Künste* (Halle, Leipzig: Zedler, 1746), s.v. "Volck," 50:362, <http://www.repositorium.net/zedleriana>.
6. *Genuß*, *Vorthail*, *Nutzen*, and *Interesse* are interchangeable terms in the language of the time. Of importance here is the notion of "a benefit for all members of society." Zedler, *Universal Lexicon* (1740), s.v. "Oeffentlicher Nutzen, gemeiner Nutzen, das gemeine Beste," 25:561.
7. Zedler, *Universal Lexicon* (1740), s.v. "Nutzen, Usus, utilitas," 24:1725.
8. Ibid., 561–62. For the German theory of the state, cf. Veit Ludwig v. Seckendorff, *Teutscher Fürsten=Stat* (Frankfurt: n.p., 1656), II, ch. 8, par. 2.
9. Zedler, *Universal Lexicon* (1740), s.v. "Oeffentlicher Nutzen, gemeiner Nutzen, das gemeine Beste," 25:561–62.
10. Rudolf Zacharias Becker, *Beantwortung der Frage: Kann irgend eine Art von Täuschung dem Volke zuträglich sein, sie bestehe nun darinn, daß man es zu neuen Irrthümern verleitet, oder die alten eingewurzelten fort-dauern läßt? Eine von der königlichen Akademie der Wissenschaften zu Berlin gekrönte Preisschrift, mit einer Zueignungsschrift an das menschliche Geschlecht. Teutsche, verbesserte und mit einem Anhang vermehrte Ausgabe* (Leipzig: Siegfried Lebrecht Crusius, 1781), v.
11. Robert Mandrou, *Staatsräson und Vernunft 1649–1775*, trans. M. Erbe (Frankfurt: Propyläen, 1992), 241–315.
12. Zedler, *Universal Lexicon* (1732), s.v. "Aberglaube," 1:107–11.
13. The contempt of the "mob" pervaded the political discourse of the entire early modern period. Cf. Herfried Münkler, *Im Namen des Staates: Die Begründung der Staatsräson in der frühen Neuzeit* (Frankfurt: Fischer, 1987), 300–306.
14. *Est-il utile au Peuple d'être trompé, soit qu'on l'induisse dans de nouvelles erreurs, ou qu'on l'entretienne dans celles où il est?*, in *Dissertation sur la question extraordinaire proposée par L'Academie royale des sciences et*

- belles-lettres, qui a partagé le prix adingé le 1. juin MDCCLXXX* (Berlin: George Jacques Decker, 1780); see Harnack, *Geschichte*, 418.
15. *Anti-Machiavel, ou Essai de critique sur Le Prince de Machiavel* (A la Haye: Aux dépense de l'Éditeur, 1740).
 16. Harnack, *Geschichte*, 418.
 17. Mandrou, *Staatsräson*, 33 f. See Zedler, *Universal Lexicon* (1732), s.v. "Aberglaube," 1:109–11.
 18. Becker's award-winning response makes this clear; see note 8. See also Reinhart Koselleck, *Kritik und Krise: Eine Studie zur Pathogenese der bürgerlichen Welt*, 8th ed. (Frankfurt: Suhrkamp, 1997), 12.
 19. Frederick insisted that the Academy not mention his name and that essays which attacked a government—regardless of which—were to be excluded from the judging. Harnack, *Geschichte*, 418.
 20. For more on the contemporary conception of the state, see J. H. Hexter, "Il principe and lo stato," in *Studies in the Renaissance*, ed. M. A. Shaaber (New York: Renaissance Society of America, 1957), 4:113–38; Susanne Hauser, *Untersuchungen zum semantischen Feld der Staatsbegriffe von der Zeit Dantes bis zu Machiavelli* (Zurich: Keller, 1967); Paul-Ludwig Weinacht, *Staat: Studien zur Bedeutungsgeschichte des Wortes von den Anfängen bis ins 19. Jahrhundert* (Berlin: Duncker & Humblot, 1968).
 21. Cf. Isaiah Berlin, "The Originality of Machiavelli," in *Against the Current: Essays in the History of Ideas*, by I. Berlin, ed. H. Hardy (New York: Penguin, 1980), 25–79; Quentin Skinner, *Machiavelli* (Oxford: Oxford University Press, 1981).
 22. Münkler, *Im Namen des Staates*, 175.
 23. Everyday pragmatism and the admiration of the craftiness of the weak are reflected in numerous folktales. Cf. Elfriede Moser-Rath, "Betrüger," in *Enzyklopädie des Märchens. Handwörterbuch zur historischen und vergleichenden Erzählforschung*, eds. R. W. Brednich and H. Bausinger (Berlin: de Gruyter, 1979), 2:230–38.
 24. In both *Principe* and the *Discorsi*, Machiavelli not only brings up deception, craftiness, and deceit but also craftiness in war in the *Arte della guerra*. For general information on craftiness, see H. V. Senger, ed., *Die List* (Frankfurt: Suhrkamp, 1999); on craftiness in war, cf. Michael Gimmerthal, *Kriegslist und Perfidieverbot im Zusatzprotokoll vom 10. Juni 1977 zu den vier Genfer Rotkreuz-Abkommen von 1949 (Zusatzprotokoll I)* (Bochum: Universitätsverlag Brockmeyer, 1990), 21–30; on military know-how, cf. Eva Horn, "Geheime Dienste: Über Praktiken und Wissensformen der Spionage," *Lettre Internationale* 53, no. 2 (2001): 56–64; on rhetoric, see Heinrich Lausberg, *Handbuch der literarischen Rhetorik*, vol. 1 (Stuttgart: Hueber, 1960), 446–50. The most famous Roman work on craftiness in war, *Iuli Frontini Strategematon*, was passed down in 83 manuscripts. The *editio princeps* appeared in 1487 in Rome. In the sixteenth century, there followed more than ten additional

- additions; in the seventeenth and eighteenth centuries there were many more, including Leiden in 1607, 1644, 1675, 1731, and 1779; Amsterdam in 1661; Leipzig in 1772. Especially in the sixteenth century, the work was translated many times: in French in 1514, 1536, 1664, and 1772; in Spanish in 1516; in German in 1532, 1540, 1542, 1750, and 1792; in Italian in 1536 and 1574; in English in 1539 and 1686.
25. Cf. Carl Joachim Friedrich, *Die Staatsräson im Verfassungsstaat*, trans. Alice Schmitt-Psotta (Munich: Alber, 1961), 11, 34–35. Translation of *Constitutional Reason of State: The Survival of the Constitutional Order* (Providence: Brown University Press, 1957).
 26. Fred E. Schrader, *Die Formierung der bürgerlichen Gesellschaft 1550–1850* (Frankfurt: Fischer, 1996), 17.
 27. Münkler, *Im Namen des Staates*, 9–13.
 28. August Buck, "Die Kunst der Verstellung im Zeitalter des Barocks," in *Studien zu Humanismus und Renaissance. Gesammelte Aufsätze aus den Jahren 1981–1990*, by A. Buck, ed. B. Guthmüller (Wiesbaden: Harrassowitz, 1991), 486–509.
 29. Gregor Müller, *Die Wahrheitspflicht und die Problematik der Lüge. Ein Längsschnitt durch die Moralthologie und Ethik unter besonderer Berücksichtigung der Tugendlehre des Thomas von Aquin und der modernen Lösungsversuche* (Freiburg: Herder, 1962).
 30. Aurelius Augustinus, *De mendacio, Contra mendacium* in *Opera*, vol. 3 (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1900); *De doctrina christiana* I, 36, 40, in *Opera*, vol. 4:1 (Turnholti: Brepols, 1962); *Enchiridion ad Laurentium sive de fide, spe et caritate liber unus*, 19–21 in *Opera*, vol. 8:2 (Turnholti: Brepols, 1969).
 31. Augustinus, *In Joannis evangelium tractatus* 42n13, in *Opera exegetica*, vol. 15, ed. Augustinus (Paris: Mellier, 1842); Augustinus, *Vorträge über das Evangelium des Hl. Johannes*, vol. 2, trans. v. Th. Specht (Kempten: Kösel, 1913), 220–21.
 32. Cf. Eberhard Schokkenhoff, "List und Lüge in der theologischen Tradition," in H. Senger, ed., *Die List*, 156–75.
 33. Not only did Machiavelli's *Opere* still appear in Rome in 1532 under the privilege of Clemens VII, but approximately five years later, the English cardinal Reginald Pole also began the anti-Machiavellian campaign in his *Apologia ad Carolum V* (1539). The demonization of Machiavelli and his theories spread rapidly. In 1559 Pope Paul IV indexed all of Machiavelli's works, which the Council of Trent confirmed in 1564. Cf. Heinrich Lutz, *Ragione di Stato und christliche Staatsethik im 16. Jahrhundert* (Münster: Aschendorff, 1961), 26–35.
 34. Cf. the informative comments on Renaissance "fame" in Jacob Burckhardt, *Kultur der Renaissance in Italien* (Stuttgart: Kröner, 1958), 132–43.
 35. Cf. Jürgen von Stackelberg, *Tacitus in der Romania. Studien zur literarischen Rezeption des Tacitus in Italien und Frankreich* (Tübingen:

- Niemeyer, 1960); Else-Lilly Etter, *Tacitus in der Geistesgeschichte des 16. und 17. Jahrhundert* (Basel: Helbing & Lichtenhahn, 1966); Kenneth C. Schellhase, *Tacitus in Renaissance Political Thought* (Chicago: Chicago University Press, 1976); Wilhelm Kühlmann, "Geschichte als Gegenwart. Formen der politischen Reflexion im deutschen 'Tacitismus' des 17. Jahrhunderts," in *Respublica litteraria: Die Institutionen der Gelehrsamkeit in der frühen Neuzeit*, vol. 1, ed. S. Neumeister and C. Wiedemann (Wiesbaden: Harrassowitz, 1987), 325–48; Michael Stolleis, "Lipsius-Rezeption in der politisch-juristischen Literatur des 17. Jahrhunderts in Deutschland," in *Staat und Staatsräson: Studien zur Geschichte des Öffentlichen Rechts*, ed. Michael Stolleis (Frankfurt am Main: Suhrkamp, 1990), 238–42; T. J. Luce and A. J. Woodman, eds., *Tacitus and the Tacitean Tradition* (Princeton, NJ: Princeton University Press, 1993).
36. Münkler, *Im Namen des Staates*, 12.
 37. Justus Lipsius, *Politiorum sive civilis doctrinae libri six* (Lugduni Batavorum: Franciscum Raphelengium, 1589), 4:14.
 38. Michael Stolleis, "Arcana Imperii und Ratio Status: Bemerkungen zur politischen Theorie des frühen 17. Jahrhunderts," in Stolleis, ed., *Staat und Staatsräson*, 67–68. For more on Lipsius, cf. Gerhard Oestreich, "Justus Lipsius als Theoretiker des neuzeitlichen Machtstaates," in *Geist und Gestalt des frühmodernen Staates*, ed. Gerhard Oestreich (Berlin: Duncker & Humblot, 1969), 35–79; G. Oestreich, "Justus Lipsius in sua re," in G. Oestreich, *Geist und Gestalt*, 80–100; G. Oestreich, *Antiker Geist und moderner Staat bei Justus Lipsius: Der Neustoizismus als politische Bewegung* (Göttingen: Vandenhoeck & Ruprecht, 1989); Mark Morford, "Tacitean *Prudentia* and the Doctrines of Justus Lipsius," in T. J. Luce and A. J. Woodman, eds., *Tacitus and the Tacitean Tradition*, 129–51.
 39. Cf. Gimmerthal, *Kriegslist*, 21–30.
 40. Münkler, *Im Namen des Staates*, 314.
 41. Cf. G. Oestreich, "*Policey* und *Prudentia civilis* in der barocken Gesellschaft von Stadt und Staat," in *Strukturprobleme der frühen Neuzeit*, ed. B. Oestreich (Berlin: Duncker & Humblot, 1980), 367–79.
 42. Cf. G. Oestreich, "Der römische Stoizismus und die oranische Heeresreform," in G. Oestreich, *Geist und Gestalt*, 11–34; Ulrich Bröckling, *Disziplin. Soziologie und Geschichte militärischer Gehorsamsproduktion* (Munich: Fink, 1997), 31–55.
 43. Münkler, *Im Namen des Staates*, 12.
 44. Cf. G. Oestreich, "*Policey* und *Prudentia civilis*," in G. Oestreich, *Strukturprobleme*, 367–79; Michael Stolleis, *Reichspublizistik und Policywissenschaft 1600–1800* (Munich: Beck, 1988); M. Stolleis, ed., *Policy im Europa der Frühen Neuzeit* (Frankfurt: Klostermann, 1996); K. Härter, ed., *Policy und frühneuzeitliche Gesellschaft* (Frankfurt: Klostermann, 2000).

45. Peter von Moos, "'Herzenseheimnisse' (*occulta cordis*). Selbstbewahrung und Selbstentblößung im Mittelalter," in *Schleier und Schwelle*, eds. A. Assmann and J. Assmann (München: Fink, 1997), 1:105.
46. Münkler, *Im Namen des Staates*, 314.
47. Moos, "Herzenseheimnisse," 105.
48. Stefan Weiß, "Das Papsttum und seine Geheimdiplomatie," in *Geheimdienste in der Weltgeschichte. Spionage und verdeckte Aktionen von der Antike bis zur Gegenwart*, ed. W. Krieger (München: Beck, 2003), 86–96.
49. Wolfgang Behringer, *Im Zeichen des Merkur. Reichspost und Kommunikationsrevolution in der Frühen Neuzeit* (Göttingen: Vandenhoeck & Ruprecht, 2003). The early modern state profited greatly from the communications revolution. It continually sped up the development in that the state invested in the expansion of the communications structure.
50. An example of this is Philippe de Commynes, *Mémoires*, vol. 3 (1524/28), 8. Cf. Münkler, *Im Namen des Staates*, 319.
51. Conyers Read, *Mr. Secretary Walsingham and the Policy of Queen Elizabeth*, 3 vols. (Oxford: Clarendon, 1925); Simon Singh, *Geheime Botschaften: Die Kunst der Verschlüsselung von der Antike bis in die Zeiten des Internet*, trans. K. Fritz (Munich: DTV, 2001), 58. Trans. of *The Code Book: The Science of Secrecy from Ancient Egypt to Quantum Cryptography* (London: Fourth Estate, 1999).
52. Münkler, *Im Namen des Staates*, 313–21; Klaus Malettke, "Richelieu und Père Joseph," in *Geheimdienste in der Weltgeschichte: Spionage und verdeckte Aktionen von der Antike bis zur Gegenwart*, ed. W. Krieger (Munich: Beck, 2003), 111–25.
53. In his memoirs, he wrote that "for a prince it is splendid to be informed of everything." Louis XIV, King of France, *Mémoires pour l'instruction du dauphin*, ed. J. Longnon (Paris: Tallandier 1960). Quoted in Mandrou, *Staatsräson*, 36.
54. Münkler, *Im Namen des Staates*, 314.
55. Cf. Jörg Wollenberg, *Richelieu: Staatsräson und Kircheninteresse* (Bielefeld: Pfeffersche Buchhandlung, 1977), 122.
56. During Fernando and Isabel's reign, the universities of Valladolid, Toledo, Granada, Sevilla, and Alcalá were founded. In particular, the University of Salamanca was supported by the Catholic kings. In the same manner, the kings supported the printing of books, which contributed to the establishment of Castilian as the standard and official language. The normalization of the language that followed was connected with the political union of Spain. The first printed grammar of a Romance language, Antonio Nebrijas' *Gramática de la lengua castellana*, appeared in 1492, shortly after Columbus's conquest of Granada and the discovery of America, and was dedicated to the Catholic queen. Cf. Hans Ulrich

- Gumbrecht, *Eine Geschichte der spanischen Literatur* (Frankfurt: Suhrkamp, 1990), 1:222.
57. In Richelieu's library, a large amount of the political, humanist, and religious works that also included those of the Huguenot Monarchomachs. In addition to these, Richelieu systematically collected state files. Cf. Wollenberg, *Richelieu*.
 58. Aloys Meister, *Die Geheimschrift im Dienste der päpstlichen Kurie von ihren Anfängen bis zum Ende des XVI. Jahrhunderts* (Paderborn: Schöningh, 1906); Weiß, "Papsttum," 86–96. See also Morone's cipher regulations for Cardinal Pole in the letters dated January 20, 1554 and March 9, 1554, in *Friedenslegation des Reginald Pole zu Kaiser Karl V. und König Heinrich II. (1553–1556)*, ed. H. Lutz (Tübingen: Niemeyer, 1981), 113–14, 146–50.
 59. Guicciardini already considers this in his *Ricordi* II, 193.
 60. Aloys Meister, *Die Anfänge der modernen diplomatischen Geheimschrift* (Paderborn: Schöningh, 1902), 14–16; Meister, *Die Geheimschrift*, 21–22; Herbert W. Franke, *Die geheime Nachricht: Methoden und Technik der Kryptologie* (Frankfurt: Umschau, 1982), 16; Singh, *Geheime Botschaften*, 44.
 61. The first European cryptographer of great importance, Giovanni Soro, was the "key/solution secretary" of Venice. Cf. Franke, *Die geheime Nachricht*, 16; Singh, *Geheime Botschaften*, 45.
 62. Singh, *Geheime Botschaften*, 17, 59.
 63. *Ibid.*, 76–79.
 64. Ben Jonson, *Volpone, or, The Fox* (1607; premiere 1605), on steganography II, 1.
 65. Read, *Mr. Secretary Walsingham*, 3:1–70; Franke, *Die geheime Nachricht*, 18–20; Singh, *Geheime Botschaften*, 50–104.
 66. Singh, *Geheime Botschaften*, 81–82.
 67. Analogous to this is the summary of the epoch between 1560 and 1660, in Bröckling, *Disziplin*, 55: "The reason of state preceded the formation of the state just like the strategies of production of military subordination preceded the *miles perpetuus*."
 68. Singh, *Geheime Botschaften*, 58.
 69. *Ibid.*, 50–64.
 70. Cf. Malettke, "Richelieu," 111–25.
 71. Hannah Arendt, "Die Lüge in der Politik. Überlegungen zu den Pentagon-Papieren," in *Wahrheit und Lüge in der Politik: Zwei Essays*, ed. H. Arendt (Munich: Piper, 1972), 8–9. Trans. of "Lying in Politics," *New York Review of Books* (November 18, 1971).
 72. Cardinal de Richelieu, *Testamente politique*, ed. L. André (Paris: Laffont, 1947) II, ch. 6, p. 355; cf. Wollenberg, *Richelieu*, 111.
 73. As already stated by Montaigne, *Essais* II, ch. 17.
 74. Krieger, "Einleitung," in *Geheimdienste*, 9.

75. Horn, "Geheime Dienste," 61.

76. Ibid.

77. Harnack, *Geschichte*, II, 1, 419–20.

78. Becker, *Beantwortung der Frage*, 119.

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CHAPTER 3



STATE DESIRE: ON THE EPOCH OF THE POLICE¹

Joseph Vogl

POLITICAL BODIES

Once, the destiny of the states lay in the stars. When the wandering gaze compares heaven and earth, just as the gaze is blinded by the sun, so too is it blinded by the gleaming crown of the monarch. In the constellations of the firmament, the gaze recognizes not only the fortune or crisis of earthly power but also a cosmological order in the existence of the state. God commands the angels, the angels command the people, the people command the animals, the soul controls the body, and reason controls desire. The prince is the exact likeness of God just as the world resembles a “duly appointed State.”² Therefore, as Jean Bodin said, whoever does not want to establish utopias but wants to inquire about the tangibility of a “political experience” encounters the fixed point of a sovereign power in these analogies. This sovereign power resurfaces in all circumstances and rules in an organized body in heaven and on earth, in the states, and in the family. Knowledge of the state does not revolve around people, goods, countries, “habitats,” or “populations.” Rather, it revolves around the unifying force of the sovereignty that determines in an unchanging and pure manner the measure of all things, as gold determines the price of objects and

the number "one" determines the value of numerals.³ The knowledge of the state thrives on the concept of increase and comparison—*superanus* or *superior*—and marks a rise from level to level.⁴ This knowledge simultaneously lies beyond the laws and brings them forth; it precedes them and yet speaks directly through them. All power is the power of the law concentrated in the hands of the monarch or the father of the house. The reality and the history of states lie in the manifestations of a sovereign force that defines the manner of existence of the entire state body. For this reason, every encroachment upon the laws and every easing of their strength signals a change in the goals of the State. To alter the laws that affect the state appears to be just as risky "as to shake the foundations and cornerstones that support the burden of a structure."⁵

One hundred years later, however, the chain of these similarities is interrupted. The monarch is no longer the state's exact likeness but rather its representative and delegate, and the knowledge of the construction of the state is no longer codified solely in its laws. If Grotius had blamed a mixture of legal doctrine and knowledge of the state on Bodin's theory of sovereignty,⁶ then contract theories since Hobbes and Pufendorf present a structure that shows the state as a summary of reluctant parts. In addition to the rearing of the statesperson, this structure encompasses an elevation of knowledge that deals with the elementary functions of the community. In the natural law theories of the seventeenth and eighteenth centuries, the new focus not only has to do with the merging of individual wills, a consensus of interests, or the immanent, secular founding of political rule but also with the development of knowledge that affects the rise and decline of social forms of interaction on the whole and the individual person as he really is. Those who pursue the study of social behavior strive to proceed according to the model of tangible object experience of the natural sciences—that is, the laws of movement that begins to define the emerging political anthropology.

If in Machiavelli's times one had already recognized an anthropological approach to politics,⁷ then an empirically constructed knowledge of the state would now revolve around one person who, with his senses and fancies, passions and desires, enters into the calculation of political rationality. The state revolves around a "person" who is assumed to be neither a moral being nor a political animal but is someone who is granted a preconceived dysfunctional character

and, accordingly, demands a new reckoning of his social and political conduct. Hobbes states:

For as in a watch, or some such small engine, the matter, figure, and motion of the wheels cannot be known, except it be taken in sunder and viewed in parts; so as to make a more curious search into the rights of states and duties of subjects, it is necessary, I say, not to take them in sunder, but yet that they be so considered as if they were dissolved; that is, that we rightly understand what the quality of human nature is, in what matters it is, in what not, fit to make up a civil government, and how men must be agreed amongst themselves that intend to grow up into a well-grounded state.⁸

From the end of the seventeenth century onward the state still defined itself as "government on the foundation of the law" in Bodin's doctrine of sovereignty.⁹ However, the principles of the state and the maxims of the government diverge and "all rules of natural law, which flow from selected theorems," appear as mere chimeras of the scholars.¹⁰ The unified and homogenous body of the state, united in the radiance of sovereignty, thereby falls apart, or at least falls into an inner dichotomy. Carl Schmidt has already referred to the immanent doubling of the Hobbesian State where a juristic construction of contracts explains the development of the sovereign person through representation. This person's inner logic does not, however, lead to a personality, representation, or summation of individual will. Rather, it leads to a break in the functioning of a well-adjusted machine, which primarily integrates and reworks the physical existence of the individuals under its rule. Emerging from the Cartesian mechanism, this designates a radical rationalization of the political being that profoundly transforms the conception of the political body.

However, representation, act, deed, and the representation of sovereign power do not suffice to describe the existence of the political body. Underneath the threshold to the natural law lies an empirical state object that is located somewhere beyond the juridical drafts. New entities appear on the map and with them the history of a discipline that is eager to develop knowledge of the state. In addition to forms of government, laws, constitutions, and dynasties, this history introduces other variables of the description of the state: the number, the characteristics, and the condition of the population; the means of production; the amount of transferable and fixed goods;

climate and cultural conditions; illnesses and accidents; transfer of money and the fertility of the land.¹¹ All of these factors are now thought of in complex relations and do not affect the laws but rather the relationships between persons and things within societal exchange.

Analogous to this is the formulation of the "two bodies of the King," which Ernst Kantorowicz described as a specific doubling of the potential body based on the example of legal theology of the Middle Ages: the mortal and the immortal, the physical and the impenetrable carrier of the kingdom. This duality, which emerged from Christological models, organizes a political iconography, a theory of monarchical rule, and certain legal mechanisms, that reach into modern forms of representation of the kingly person.¹² Also, from the seventeenth century onward, one could speak of the "two bodies of the State." This first is a symbolic body that inherits the medieval kingly power and proves its identity as a configuration of an incorporated common will made eternal. The second is a physical body that encompasses the interconnectedness of population, individuals, and goods, and in the games of passions and interests, one that ultimately organizes a complex out of altered "forces" and "capital."¹³ There now exist two bodies of differing compositions that outline a field of tension for modern questions of governing.

THE PHENOMENON OF THE POLICE

It may well be that the "people who died in the closing of the contract" rise again as a legal subject to become part of the polis and that the duty of the state to care for its citizens might now be interpreted by the citizens as a right to welfare.¹⁴ The "people" are, however, no longer contractually deducible or ruled by reason but rather the object of a rule that measures the strength of the body of the state by the organization of populations and by the management of individuals and riches. Whereas natural law and the question of sovereign representation allow for a diversion of the legal clauses from a few true basic principles, the life of the state is determined by rules that generate an abundance of data that cannot be grasped or categorized. This positive knowledge of the life of the state as the life of the population requires not only an extensive collection of various objects and materials but also the administration of a certain level of reality that was designated as the "economy" since the seventeenth century.

The category of economics and—if you will—the formation of an “economical ideology”¹⁵ is connected to that deep-reaching rearrangement of political knowledge, its representations, and expansions. This “ideology,” together with doctrines of social contracts and founding acts of natural law systematically open up the field of a political empirical method. This affects the knowledge of nature as well as the knowledge of people and of the social space. To rule well is to rule economically and after the dissolution of the old household economy as merely the maintenance of a household and before the emancipation of an independent national economic field in the nineteenth century, the economy designates an unrestricted mixture of relationships of social exchange and interaction affecting the questions of political rule and the structure of the smallest social allotments. With this, a new systematic ordering of the real and a way of thinking about functional dependencies revolving around the concepts of territory, population, and standard of living are inaugurated. Its consequences for the history of science have remained immense: the unity of the “house” is broken down within the complex relations of a macroeconomy, commutative actions of exchange transform themselves into extensive interdependencies, authoritative interventions are superceded by questions of control, and in the midst of the doctrine of virtue, an apologia of particular interests is formed that speculates on the purification of desires and the transformation of egoistic behaviors into the common good.

At a time when the search for a Leibniz, a Descartes, or a Newton in politics becomes increasingly urgent, the economy stands for a field of perception where the various disciplines make contact, coincide with, or flow into each other. The new economy marks a level where people have something to do with one another even before they appear as legal subjects or moral persons. In the forefront of the great social and economic changes since the end of the seventeenth century—the circle of demographic growth, the increase of agricultural production, monetary expansion, and the international intertwining of markets—the economy comes to be a privileged location in the self-portrayal of the societies that deliberate the dominant principles and legal mitigation of the community. Especially in German cameralism (*Kameralistik*), which formulates a program for the universal education of the economic person,¹⁶ the economy becomes a field of knowledge that integrates, collects and homogenizes disparate social and natural knowledge, and strives for a total

registration of man, his communications and interactions. This intensive administration of the space that implies living beings and riches constitutes the economy.

The state is no longer limited to a protective role or to the realization of domestic and foreign peace. On the contrary, it adheres much more to its economic—and especially cameral—dimension: the state is present in all relationships, it keeps an eye on the business of the people while keeping it in motion, and it constantly discovers new means and techniques to insure the comfort of all.¹⁷ A political anatomy of simple and complex relations is therefore connected to a pastoral principle of governing with a pastoral technology that, as Foucault has shown, transfers the Judeo-Christian theme of the duty of a “shepherd” to his “flock” into a new type of political rationalism that takes shape in the field of a “good police.”¹⁸

Just as the borders between the various offshoots and subbranches of the knowledge of the state appear blurred and fluid, neither can the field of knowledge of German cameralism and the science of police be separated by subject, by personnel, nor by institution. What one understands by “police” in the seventeenth and eighteenth centuries was similarly limited to specific object fields like cameralism or the economy. The application of the term “police” tends to be unlimited and now takes on the task of positive intervention within the political government. After freeing itself from the collection of local, city, and sovereign regulations on clothing, luxury, guilds, customs, fire hazards, and beggars, the term “police” is concerned with the living conditions of the people (*Volk*), the forms of societal cohabitation, and the areas of the body politic. The police views these areas from the perspective of social relations and interaction, and renders—in a slightly paradoxical fashion—the development of the individual and common welfare into a general strengthening of the state. In this manner, the police encompasses the “realization” of how a given condition of the community can be preserved and improved. After this, it registers the “means” of preservation and the multiplication of the “physical and moral forces” of a country. It is ultimately the aggregate of all of the current measures that must be seized upon in order to “preserve and enlarge the entire capital of the state via good internal systems and to obtain all internal power and force of which it is always capable according to its character.”¹⁹

The police is therefore simultaneously a means of recognition, an instrument of governing, and a program of intervention. Numerous contemporary definitions deal with two fundamental moments in the police: the optimization of social potential and the attempt to bestow upon the state continuity under concrete stipulations. Since the end of the seventeenth century, the police doctrines of cameralism form, above all, a new term of political control and a new paradigm of relevant events that generally take shape under the perspective of providence. If politics allows itself to be defined as art that can “read into the future,”²⁰ then the police now concerns itself with the task of a *cura advertendi futura*—that is, with the task of making the future of the state foreseeable.²¹ In this way, the police fantasies of the eighteenth century are not only concerned with penetrating all areas of the political body that can be labeled as completely totalitarian. They gain their theoretical and systematic meaning precisely because they orient their patterns of intervention toward concrete factors and the “Nature of Things,” and because they initially interrogate the regulation of contingent incidents. Be it in the branches of medicine, vocations, trade, personal property, public morality, internal security, or the politics of the population—a new perspective now conceives of the state as an institution of providence, prevention, and insurance vis-à-vis possible (mis)chance and accident.

Via this perspective, various projects come together that, under the rubric of the phenomenon of the police, promise a coordination of disparate developments within the structures of the system. These projects include a political arithmetic or statistics that, through the volume of individual data and in a series of past events, recognizes regularities and the possibility of a prospective order. This is again tied to the principles of a providential order: the establishment of public institutions and public authorities that observe and regulate illness, poverty, or crime as social detriments; the conception of insurance companies (*Assecuranzen*) that integrate the individual accident in an economy of compensation and into the harmony of the whole,²² an educational system that—especially in the Prussian-German development—conceptualizes a pedagogical influence by and for the state.²³ Finally this is also linked to the conception of the state itself as insurance—against others as well as itself—and as reinsurance as it organizes its capital toward the protection of its capital. As Johann Heinrich Gottlob von Justi declares, “In all enterprises

for which the total powers of the State are utilized, or which affect the capital of the State in this connection, the government must change in assured steps."²⁴

The economic development of the state and its systematic coordination of contingent chains of events are therefore two sides of the same circumstances. These still allow the assertions that compare the state with the organization of a fire insurance (*Brandkasse*), or conceptualize the bourgeoisie itself as stock corporation (*Aktien-Kompagnie*) in which a general distribution and compensation of gains and losses establishes itself.²⁵ In any event, the police has become the quintessence of all methods of observation and action of the state in German cameralism; it is an agency of control that operates under legal sanctions. Because of its blurred objective and institutional demarcation in the eighteenth century, the police has become an eminent object of political government through observance and intervention.

As far as the interest of the police is connected to relations between agents, to communications, and to forms of social interaction on the whole, the police is the observance of observances.²⁶ As such the police not only makes distinctions (according to the criterion of what is useful or its *raison d'être*) but also observes how distinctions are made elsewhere. *What* is observed and *who* is observed depends upon it, creating a structural uncertainty that leaves open the question of whether a determined characteristic is to be ascribed to an observer or to what is observed. In this manner a contingency ultimately emerges that should again be systematically reduced through repression and exclusion as well as through prevention, providence, elimination of obstacles, and stimulation. The police can be read then, on the one hand, as the regimentation of branches of the inner order, which was unregulated or hardly noticed until then, and as the emergence of a systematic tangible contingency on the other hand. This requires a "regulation" that can be traced back not to a legal principle, an "objective borderline," or a fixed criterion, but must rather be decided case by case and coincidence by coincidence. This can, without any particular qualitative difference, take on totalitarian and liberal characteristics. If, therefore, the economy of cameralism constitutes itself as an encyclopedic system of knowledge of state capital in the broadest sense, then the police in this system takes on exactly the function of an operator who intervenes in the formation of social potential, thereby strengthening the capital

and the powers of the state.²⁷ The police is the site at which contingency is equally observed, reduced, determined, and directed, and finally carries out of the mere coincidental itself productive turn.

The various positions of political economy therefore come together in a principle of governing that differentiates itself from the jurisdiction of *potestas*—indirect mechanisms for the coordination of economic, social, and personal conduct²⁸—that finds its privileged object in an efficient formulation and directing of coincidence. The struggle that ignited in the eighteenth century over the “addiction to regulate” (*Regulirsucht*), the “arbitrary attempts at regulation,” and the regulatory role of the police (e.g., among physiocrats and cameralists or among differing varieties of cameralism itself),²⁹ was made up of ultimately contingent movements in social interaction that allowed themselves to be directed more sensibly through minute measures and unnoticeable regulations. In this fashion, the inner completeness of the police with its “watchful eye” and “many subtleties, realization, and a good justice system, yea, completely secret manipulations” may be required in order to “proportion the food according to the people and the people according to the food, and to moderate each situation that arises without confusion and ruin, or the alteration and renovation of a place.”³⁰ Conversely, it is precisely in “not being noticed” and in the naturalization of police control that, as Jung-Stilling writes, “the kingly art” lies. “[F]or he who is not noticed is not hindered. Exactly for this reason nature also molds its greatest masterpieces in concealment: for it is here that no one can act against her.”³¹

In the political epistemology of the eighteenth century, the “economical,” especially in the form of German cameralism, takes on the figure of a general public knowledge of function and a doctrine of power that, with the police, regulates the grip on the contingent data of social interaction. The “entire body of society” is no longer able to be replicated, neither in the *corpus morale et politicum* nor in the symbolic and eternal body of the sovereign. It constitutes itself much more as an object of the knowledge of function that similarly encompasses a particular segment of reality—the economical—and a particular form of intervention—the police. In other words, until the end of the eighteenth century, an enlightened knowledge of the state develops through the dual and opposing structures of political and socio-philosophical theories. This knowledge breaks apart in both

parts of juridical codification and description of social fields of power—the representative and physical body of the state.

However, as the activity of every single body is based on power alone and its movement emerges from the coordination of forces, the functioning state constitutes itself as a diagram of powers, ultimately measuring its strength according to the size of the resulting force. Only through the union of wills and forces does a single body emerge. “A complete power is led by an understanding being and one single will: that is the concept that we have of the body that is animated by an understanding being. The Republic is therefore a simple, indivisible body that has the most exact coherence in all its parts.”³² In addition to the questions of the natural law and law of reason, the representation and limitation of sovereign force, and the abstract body of the statesman, a materiality and a reality of the state has emerged that assembles itself from the directions of various forces and from an accumulation of individuals led by their interests. This state reality does not merely allow itself to be systematized in legal clauses and laws. A physics of forces of the state has stepped in front of the power of the law and the sovereign ruler.

AESTHETICS AND THE POLICE

The doubling of the political body that continues into the theory of the state of the twentieth century can be understood as a specific antinomy of the “political” where rules of governing and legal clauses compete with each other for the power to define government and exclude, overlap, dovetail, or mutually strengthen each other.³³ The network of economic and police-governing techniques on the one hand and the law of sovereignty on the other hand are the two external boundaries of power that form the “welfare state problem” of modern societies. The boundary of the regulations lies in the law whose validity itself is again limited by the appeal to institute more refined mechanisms of control.³⁴

The French Revolution sharpened this tension and allowed the dichotomy of police and sovereign to emerge. For now, the empirical “status” of the state is just as unclear as the content of its derivation from natural law. An example of this is how Kant separates purely theoretical (*noumenal*) and phenomenal contemplation in his historical-political works. Kant saw in the original acts of the French

Revolution an act of reason but not a true act. While he also conceived of the statesman, an initial contract as regulation of the question of sovereignty and as a basis on which “alone a bourgeois and generally legal constitution and a shared community can be founded among the people,”³⁵ he argued the incompatibility of argumentation based on law, of reason with politics based on the pursuit of happiness, of juridical form, and of the doctrine of forces. The original contract is not exactly a fact but rather a “mere idea of reason,” and every reflection about its historical origin is considered a “fancy of reason” that is a threat to the state.³⁶ At no point do law and historical reality coincide; the sovereign spiritual body of the state has no material origin. However, it is exactly this body that now—according to Kant—in a daring exchange of genetic and paradigmatic time, goes forth as a premature event that cannot be caught up with. This also tears asunder the inquiry into the legal reason and into the empirical knowledge of the state. As a touchstone of legal mitigation, the law of reason carries out an asymmetrical shift in the center of representation, freeing itself from the foundation of its historical-pathological realization. While each individual has always already acted in an ideal sense, he will never do so in reality. The “representative system” is consequently the only means toward the bringing about of an ideal republic; however, its actual establishment remains pure fiction.

If around 1800 it was also a concern to “grant the State such a duration, that its existence must be safeguarded against all possible contingencies,” then one had to conceive of a level somewhere between speculation and pure empirical thought in which the “laws” of reason coincide with the “rules” of the state networks, and the double aim of state welfare and constitution coincide.³⁷ For the knowledge of the state, the gap between sovereign representations and the empirical body of the state becomes a site on which the entity of the state articulates itself as its own means of critical self-reflection. At a time when the cameral and police science findings reach their end and political knowledge begins to break apart into the various branches of national economics, sociology, and historical legal science,³⁸ a few models emerge from the shadows of the French Revolution that attempt to conceive of the complex and double nature of the state as once again single and unified.

Michel Foucault once claimed that there was a “gigantic thirst” for the state “that could not be tamed,” a “desire for the State,” and

a "will to the State" in modernity.³⁹ A special form of this desire for the state can be understood if, around 1800, a sort of transcendental development of political knowledge comes to pass that seeks out a common form of the state between sovereign representation and police control. On the one hand, a political empirical method, the collection of scattered data and facts and the welfare idea of politics in the pursuit of happiness now do not justify the principles of legal order. On the other hand, at this point still nothing is articulated about the way elementary rules of social organization, in a countermove, can allow themselves to be deduced from the laws of reason. A criticism of the "empiricism" of cameral and police science around 1800 therefore coincides with the interrogation into *a priori* state order on the whole and appeals to that unity in which the "heterogeneous physical and moral powers of the State citizens" directly harmonize with the laws of the "whole."⁴⁰

The unknown epistemological site of the state and the interrogation into its ideal status must ideally take place at the same time. They produce a hybrid form of knowledge of the state and ultimately must deal with a transcendental-political synthesis and the "solution of the main political problem": "Is a political life possible? . . . Are associations of the opposing *political elements* possible *a priori*?"⁴¹ This means, how does that vacuum in the political experience allow itself to be substituted or resolved? On which level does the state appear as that unity that holds together the individual wills as well as the diverging forces? How do dynamic processes allow themselves to be transformed into stable structures and vice-versa? And which system of symbols guarantees this homogenous representation, namely in a manner that allows the compact speech of *the* state and the self-enactment of its unity?

Therefore, to the extent that one wants to recognize the "damaging and deplorable results of regulatory systems of State management,"⁴² mediation, a moment of transition, and a reciprocal adjustment between a "pure theory" of the state and the "condition of its individual reality" must be guaranteed. This necessary meditation brings together the contingency of the economic and social chains of events with the principles of a "contradictory reason."⁴³ As Wilhelm von Humboldt suggests, this results in the liberal limitation of the principles of reason and the advancement of the required rapprochement between foundations of reason and empirical contingency via an all-encompassing operation of statistical feedback. The

state becomes an "observer" who, with the help of offices of statistics and a universal information system, undertakes or expedites certain changes that are already apparent or which have already come to pass.⁴⁴

At the same time, it is above all the phenomenon of the police that occupies a new epistemologically exact realm of tasks and functions. As such it becomes, according to Fichte, that agency that describes and regulates as "means of association" the "interaction" between sovereign power and the immense terrain of societal forces. As the "mediator," the police has become the embodiment of indirect control and with that the agency of an equally determining as well as reflecting power of judgment that subsumes or alternately raises disparate singularities to the level of a legitimate whole. "Just as the judgment is to the positive law in relation to the citizens, so is the police in relation to the authorities. The police determines when the law should be applied."⁴⁵ The police as means of realization and a form of intervention in this configuration has occupied the place of a capital that leads from the exceptional to the common, establishes a unity in diversity, and makes the political body on the whole receptive to the laws of reason.

This consequent staggering of the police and the power to judge in the order of political knowledge is more noticeable as it not only expresses the systematic character of a modern "government mentality"⁴⁶ but also demonstrates how, since the end of the eighteenth century, an aesthetization of the police and a policing of aesthetics has come to pass. Just as the power of judgment turns the exceptional into the common and vice versa, it also (as a technical, aesthetic, and practical power of judgment) aims at that "which can be done, which is fitting, and which is becoming."⁴⁷ Similarly, the finality of the police lies in an "inner policing of the peoples and the States."⁴⁸ Stated in an almost literal analogy: "the police [demands] that which is decent."⁴⁹

Powers of judgment such as that of the police refer in general to a field of operation that requires a reciprocal coordination of contingent events and legal moderations. That means that a specific ability to differentiate directly changes into a procedure of discrimination and relates to all the cases that are not provided for in the legal clauses but are nevertheless assigned to political control.⁵⁰ In Kantian terms, in the transcendental-philosophical system, the faculty of judgment closes the gap between the ability to recognize and

the ability to desire. It is an ability of transition that mediates between the material and the transcendental and thereupon first connects the two parts of philosophy to a "whole."⁵¹ Accordingly, the police is the transcendental-political knowledge around 1800 that bridges the rift between disparate forces, data, facts, and the law. In the transition from the "material and objective" to the formal foundations, it is the police that first guarantees the unity of the life of the state.⁵²

Exemplary for this overlapping, interplay, and homology, is Schiller's aesthetics. In his letters in *On the Aesthetic Education of Man* (*Über die ästhetische Erziehung des Menschen*), Schiller poses the problem very exactly, asking how does the "natural State," which is dependent on "powers" and relationships of powers, mediate with the legislation of reason? How does one successfully emerge from a given and real state of society to an ideal state based on reason that "is not present in experience"? How does the transition from "the dominion of mere forces to the dominion of laws" organize itself? How can the physical and actual person be presented simultaneously as moral and problematic? And how can the subject of the will conversely prove itself as "a dependable member in the causal nexus of the powers"?⁵³

Just as little as the state can be realized with the deduction of the moral law, so too can it not be founded according to the given facts of the "physical society." Here between the materiality of the social life and the reason of its lawfulness opens a large gap, and its closure ultimately determines the durability of state conceptions of order. Here also lies the transcendental-political problem:

[I]t would therefore depend on separating arbitrariness from the physical character and freedom from the moral character—it would depend on making the first be in accordance with the laws, the second on impressions—it would depend on distancing the former from the matter and bringing the latter somewhat closer to this material—in order to produce a third character that, related to both, would smooth the way for a transition from the rule by mere force to the rule by laws, and that, without hindering the moral character of its development, would serve much more to a material pledge of the invisible morality.⁵⁴

In the tension between the law of reason and contingent data, the development of the state (Schiller terms this the "transformation of the State") measures itself solely on the span of regulatory principles

that drive forth a moment of a commonality in the field of diverging powers, tendencies, and interests—a commonality that can be experienced via the law and that is in accordance with the law.

Schiller's solution to the problem is well known. The suffering state that has collapsed into the dichotomy of body and form finds its life principle in an "organization" that "forms [itself] through itself and for itself." This means that it does not merely have to do with raising up the natural or the material diversity into the unity of the laws. Rather, the "political artist" or the "State artist" reworks the given human material in such a manner that gives itself up to chance, brings forth unity in the diversity, and reproduces the entirety of the state in every one of its parts, as in zoophyte condition.⁵⁵ In a clear crossing of aesthetic and teleological faculties of judgment, the political site is outlined and defined. The arbitration of the diverse and notorious antagonisms in Schiller's theory (material and formal drives, "intuitive" and "speculative" reason, "spirit of enterprise" and "spirit of speculation") points to that mediator of the aesthetic state. This is the field that is exclusively structured by the "interaction" of material and form, life and structure. This is the mesh that transforms the mechanical interaction of the elements into an "organic life." Finally, this is the site at which the "dynamic State" of contingent powers and the "ethical State" of moral necessity meet each other and first make the "society" a reality.⁵⁶

No matter how ideal or utopian one may have interpreted or denounced Schiller's aesthetic state, it not only has to do with the principle of a faculty of judgment that makes the subjective grounds for determination in a *sensus communis* generally valid. Nor does it only have to do with the destiny of an aesthetically conceived general public or with the aesthetic solution to a potential problem.⁵⁷ For as much as the "Beautiful" (as a point of gravitation of the aesthetic republic) closes the gap between sensuality and the law and the material and the formal, and represents a free harmonization of abilities under the direction of the faculty of judgment; as much as the *a priori* of the commonality is fixed in an equally wavering and demanding generality, so too does this "Beautiful" allow itself to be conceived as a consequent expression and as a realization of a political idea of rule. In Schiller's systematic argumentation, the concept of beauty stands as a formula for a regulation that encompasses living individuals and legal subjects, installs laws as functions, and defines those indirect mechanisms and maxims of governing according to

which “the will of the whole is carried out through the nature of the individual.” It is therefore fully evident that Schiller’s aesthetic status, or rather, state, is the solution to the political problem that requires a coordination of dynamic processes and stable structures. For this reason, Schiller’s aesthetic politics lie squarely in the trend of indirect concepts of governance around 1800 that manifest themselves in such varying models as Adam Smith’s “invisible hand” or the “mysterious powers of the tower” from Goethe’s *Wilhelm Meister*.

Schiller’s early deliberations on the educational model of the stage already stand in close relation to that program of police science that not only concentrates on regulation and censorship of plays and “frivolities” but also structures the theater itself as a privileged institute of social determination. These arguments are found in the poetic police works of the Viennese financier, Joseph von Sonnenfels, who explicitly names the models of an enlightened poetics of the theater—mixed characters, identification of stage and audience, transfer of feeling, and contract of disbelief—as the realization of the police’s duty to regulate.⁵⁸ Schiller’s “moral institution” is therefore prefigured in the “school of morals”⁵⁹ of cameralists and police scientists and yet contains an exemplary gravity. For here it also has to do with an immense “web of human things,” that tie together causes unseen with grand effects. It has to do with the consideration of those events, deeds, and impulses that are not defined within the validity of the “laws” yet still determine the reality of the social forms of interaction.

While the rough matrix of justice and law only implies a negative, limiting, and obstructive method of action, Schiller’s stage model understands itself as a realm of intervention that penetrates the “sensual part of the people” (*Volk*) in a fine-meshed, productive, and stimulating manner and sets forth the “jurisdiction up to the most hidden corner of the heart.”⁶⁰ This is not a jurisdiction in the strictest sense and no longer a domination of legal terms. If the law of the stage begins “where the area of the worldly laws end,” then the criterion of what is in accordance with the law yields to a minute observance of characteristics, sensations, passions, and methods of action that operate not with terms but rather with experiences, not with provisions and laws but rather with rules. The “circle of influence of the stage” is therefore conceptualized as the site of filing, assessment, and correction of elementary social data. This socio-technical

and police task still reveals itself in the purpose of the Schillerian program that ultimately affirms itself as one of prevention.⁶¹

Because theater exhausts the “entire realm of human knowledge” and “all situations of life” and concentrates beneath the legal norm as a scene of action of a political anthropology, the theater becomes an agency of mediation and a “communal conduit,” pure and simple. It becomes an institution that organizes the communication between “lawmaker” and life, between the vanished site of the “law-giving power” and the materiality of the social mass of events, and only with this interplay does it guarantee the coherence of the “total State.”⁶² In light of this background, it would only be consistent if Schiller did not only develop his poetics of theater from thoughts on the *Polizey* but conversely turned the theater itself again to the presentation of police effectiveness. If one recognizes foremost among the objects of Schiller’s classical drama the immense field of politics of high representatives and state actions—a field that is especially formed by the theatrical visibility of power—then it appears even more noticeable when he makes a theme of a completely non-dramatic object that encompasses the invisibility of techniques of power.⁶³ Indeed, this is the case with the deliberations, drafts, and plans that in the years 1799 to 1804 formed a criminal drama entitled *The Police* (*Die Polizey*).

There are mainly four levels in which Schiller’s concept reflects upon the topic and the field of influence of the police function. Foremost is a problem of *presentation*. If Schiller grappled with the principles for the linking of a large and disparate personnel in the case of *Wallenstein’s Camp* (*Wallensteins Lager*), then it is precisely in *The Police* that this linkage itself becomes the program. The list of characters of this play is planned in such a way that it encompasses the broadest spectrum of social, moral, and psychological types and simultaneously defines the variations of the presented conditions and incidents from the outer limits: “The outermost extremes of conditions and moral cases come to view, and in their highest peaks and characteristic points. The simplest innocence as well as the most abnormal depravity; the most idyllic peacefulness and the most somber despair.”⁶⁴ The objects are therefore not simply plot, characters, and intrigues but rather are found in complex relations and in the totality of a social wealth of events that appeals to an extensive and diagrammatic level of presentation.

Paris, the setting of the drama, must “appear in its entirety” and ultimately finds in the police the agency of its articulation and visibility. Schiller constructs his *mise-en-scène*:

The story begins in the reception hall of the police lieutenant who listens in on his clerks and extensively expatiates on all branches of police business and through all quarters of the large capital. The audience member is thereby quickly transferred into the midst of the commotion of the vast city and simultaneously sees the wheels of the great machine in motion. . . . It is a colossal amount of action to process, and it is difficult not to confuse audience member with the variety of events and the large number of characters. A guide of sorts must be present that simultaneously connects everything and that acts as a cord on which everything is strung. Either they must be connected among each other or via the police surveillance. Finally, everything must interdependently resolve itself in the police lieutenant’s hall.⁶⁵

The police is therefore the organizational center that ties all elements together. Even with the topic of the police the coordination of people and events is prescribed, and the stage becomes a strategic site where police methods of action act. The police’s rationality resolves all other actions; it motivates and leads to one common point. “The actual unity is the police that gives the impulse and finally brings development. It appears in its true form at the beginning and at the end; in the duration of the play, however, it indeed acts constantly, but silently, behind the mask.”⁶⁶ With this, the impersonal part of the police becomes an actual, acting person, and Schiller’s model is set up in such a manner that an unseen effect manifests itself via the visible appearances of the persons.

Secondly, this doubling refers to a theoretical problem of plot, or more precisely, a *technical* problem of direction. In this instance, Schiller not only gives himself the task of presenting the police branches of work and knowledge in an encyclopedic and instructional manner—from direction of economic processes to health policy, care of the poor to surveillance of morals, guarantee of security to universal observation—but also presupposes and drafts the corresponding model of society.⁶⁷

Just as Kant, true to enlightened philosophy, still measured the quality of a state on the basis that it must be valid “even for a nation of devils,”⁶⁸ the idealist side of Schiller’s police also reaches completion through the affirmation of a realistic character. This affirmation

maintains the “superiority of the realists over the theorists.” The governing technical advantage of the police lies in the fact that it reckons with a “wild species of animal” and the “infamous side” of people, and it ultimately pursues the “production of the Good” exactly in relation to everything “vile.” A modification of the Mandevillean formula of “private vices, public benefits” can be intuitively recognized. Above all, the regulatory role of the police does not relate to abstract persons and subjects but rather to living individuals; the police pursues an indirect means of intervention behind the backs of the visible agents as an unseen agency; and the police represents with its knowledge the unconsciousness of the acting figures.

Third, the police is a “concealed, effective, higher reason”;⁶⁹ it is a regulator that, under diverging powers, first finds a social field—and this unconscious power—knowledge is even more meaningful. Schiller recognizes the core of a theory of drama or *poetological* model. The problem of elementary intrigues—for example, an unimportant occurrence that eventually points to a serious crime—lies in the consistent motivation of its context. More precisely, it lies in the question of how the heterogeneity of material contains its unified form. Schiller’s difficulties with the poetic organization of the *Wallenstein* material was a reflective point of departure that led to the consideration of whether the concept of a tragic analysis based on the model of *Oedipus* would equally force the *a priori* aesthetic “consumption” of the material. “Recently,” writes Schiller in 1797,

I have considerably occupied myself with finding a material for a tragedy that would be of the style of *Oedipus Rex* and that would supply the poet the nominal advantages. These advantages are beyond measure, even if I only mention the one: that the complex plot, which the form of Tragedy completely resists, can therewith be comprehended, in that this plot has indeed already taken place and consequently falls beyond Tragedy. . . . *Oedipus* is at the same time merely a tragic analysis. Everything is already present, and must only be unraveled. That can happen in the simplest plot and in a very short moment of time, if the incidents were also not so complicated and dependent on circumstance. That certainly does not favor *the* poet.⁷⁰

In this deliberation, one can sense an initial idea for the later draft of the police, and this assumption leads in a dual respect to the poetological role of the police itself. On the one hand, Schiller immediately admits that the prophetic oracle in *Oedipus* can no longer

justify its plausible share of the tragic realization in "less glorious" times. At the risk of merely seeming "ridiculous," he makes an appeal to a modern "counterpart." It is precisely this counterpart who is later realized in the "omniscience" and in the secret service of the police structure that clarifies the oedipal developments of the newer large cities: "A vast, highly developed offense that has entangled itself in many families, which, according to continued interrogation is becoming even more compounded and always brings new discoveries, is the main object. It likens a huge tree whose boughs are completely entangled with others, and to dig out such a tree, one must root up an entire region. In this manner, all of Paris is rooted up, and all forms of existence, of decay, etc. are on this occasion eventually brought to light."⁷¹

On the other hand, it is at that moment that the modern poetics of the police dissolves the tragic element from the tragic realization. In Schiller's model this is evident not only in the fact that he quite fundamentally wavers between an analogy of tragedy and an analogy of comedy but also that the police becomes the defining point of this differentiation and then the site of its annulment: "Perhaps it would be good if the comedy (*Lustspiel*) begins with a search for the traces of a capital offense and runs into humorous complications, and the tragedy (*Trauerspiel*) would search for something that was lost, had no criminal association, and leads to the discovery of a series of offenses."⁷² From the perspective of the knowledge of the police, comic complications and tragic fate are two sides of the same analytic procedure. This ultimately comes together with the finality of police knowledge that finds completion in Schiller's concepts of prevention and providence. This does not really differentiate between guilt and innocence but only between event and non-event. "The Minister of Police also. . . occasionally admonishes innocence as well as guilt. He not only sets out spies on the criminals, but also on those unfortunate persons who, in despair, could become the same. Such a person in despair is brought forward, to whom the police reveals itself as a savior."⁷³ It is not a coincidence that Schiller therefore conceived *Die Polizey* both as a "tr[agedy]" as well as a "com[edy]," or simply as "a play." For the most part, this wavering emerges from the subject of the fragment itself and evidences the fact that, in the police, the sought after harmony between material heterogeneity and unity of form is already prescribed.

At this eminent and fourth point, this harmony suggests that the police in the *Polizey*-project can be reconciled with Schiller's aesthetic theory. Certainly, the guide provided by the police-function establishes a unity in the diversity and can therefore claim for itself a certain legal quality in Schiller's conception of beauty. This confirms itself at the point where the historical model of the central Minister of Police—the notorious Marc-René d'Argenson, minister and *lieutenant general de police de la ville de Paris* under Louis XIV—has become one of Schiller's characters who, as a “fine social figure,” with “heart and spirit” and “exemplary behavior,” reveals himself as having a special “sense for the beautiful.”⁷⁴ Just as the police first manufactures society with its fine expediency, so too is its highest representative the exemplary social or police person in the center of the drama, namely, he has already been “policed” and is continually “policeable” with his sensibility for the beautiful. This means that with his sensuality and spirit he is one with the form and the material respectively.⁷⁵ Also, the aesthetic condition is therefore defined in accordance with the police just as the police itself defines the aesthetic nature. Both embody that disciplinary power that alone produces a “gregarious character.”⁷⁶

Thus, in Schiller's *Polizey*-drama, the police function operates in complex relationships that affect both the structure of that which is being represented as well as the representation itself. First, it solves a problem of presentation insofar as it defines a ratio for the connection of an immense number of events and figures. Second, it stands for a principle of control that does not aim itself at abstract legal subjects but rather at living individuals. This then accumulates an unconscious knowledge of the organization of social interaction behind the backs of said individuals. Third, a poetological reflection crystallizes itself in the police function insofar as it, as a specific means of recognition, achieves a joining of material heterogeneity and formal unity. Fourth, an exemplary position is attributed to it that is also present in the aesthetic condition and that lies in the mediation of material life and form and in the modulation of social interaction in general. Friedrich Schlegel instrumentalizes this attribute as evidence for his thesis that theater is “to be seen as an extremely strange and important means and problem of a very perfected police to preoccupy a complex mass of people and to control it without being seen.”⁷⁷

It is repeated yet again. The knowledge of the nature of the state since the seventeenth century has collapsed into heterogeneous areas and is confronted with the impossibility of its object around the end of the eighteenth century. Between deduction of natural law and the state body and between judicial institute and police control is a gap that hollows out the experience of the one just as the legal mitigation loosens the other. What has once carried the “structure” of the state has now become a “dry framework” that no longer defines the basic functionary means of the life of the state.⁷⁸

According to the requirement of this void, transcendental politics around 1800 require the absence of the “thing of the State” (*des Staatsdings*)⁷⁹ for its foundation. While the knowledge of governance begins to break apart into special sciences and the high point of the conception of the state will soon be overtaken by the conception of the society, varying attempts of political theory are once again intended for the construction of a homogeneous state form. It is precisely the cameralist police, which emerged from city ordinances and regulations and which became a political means of recognition or rather a technology of indirect rule in the eighteenth century that undergoes a further and final transformation.

Just as one could establish a policing of law for the beginning of the nineteenth century, so too can one speak about a policing of aesthetics or, once more, of the birth of modern aesthetics from the spirit of the police. Precisely in Schiller’s aesthetic theory, the systematic site can be designated at which police control and aesthetic condition cross and claim a double solution to a problem: placing in view a mediation of contingent events and laws of reason and naming a privileged organizational principle for the “societal” in general.

The search for the complete state body and its global representation, which can be found for the “feeling” of the citizen, installs a stately substance as a core of crystallization of a modern aesthetics and as a political philosophy.⁸⁰ This only dissembles the view that *the* state is not an autonomous source of power but rather a process of “perpetual penetration by the State.”⁸¹ It also confirms subsequently a foreclosure that organizes the visibility of the “political” since the end of the eighteenth century and leaves behind a political discourse without an object and effective technologies and acts of management without politics.

NOTES

1. The translations of all German quotes and titles, unless otherwise indicated, have been rendered by the translator.
2. Jean Bodin, *Sechs Bücher über den Staat*, ed. P. C. Mayer-Tasch, vol. 1 (Munich: Beck, 1981), 96, 105, 235, 284, originally published, 1576.
3. *Ibid.*, 1:101, 107; *ibid.*, 2:374, 498.
4. Cf. P. C. Mayer-Tasch, Introduction to Bodin, *Sechs Bücher*, 1:27; Helmut Quaritsch, *Souveränität. Entstehung und Entwicklung des Begriffs in Frankreich und Deutschland vom 13. Jh. bis 1806* (Berlin: Duncker & Humblot, 1986), 13ff.
5. Bodin, *Sechs Bücher*, 2:83.
6. Hugo Grotius, *Drey Bücher vom Rechte des Kriegs und des Friedens* (Leipzig: Verlegts Friedrich Groschuff, 1625), 83.
7. Cf. Gotthardt Frühsorge, *Der politische Körper. Zum Begriff des Politischen im 17. Jahrhundert und in den Romanen Christian Weises* (Stuttgart: Metzler, 1974), 35–36; Jürgen Mittelstrass, “Politik und praktische Vernunft bei Machiavelli,” in *Der Mensch—ein politisches Tier? Essays zur politischen Anthropologie*, ed. Otfried Höffe (Stuttgart: Reclam, 1992), 43–67.
8. Thomas Hobbes, *Man and Citizen*, ed. Bernard Gert, trans. Charles T. Wood, T. S. K. Scott-Craig, and Bernard Gert (Indianapolis, IN: Hackett, 1991), 98–99, originally published, 1658; cf. Albert O. Hirschman, *Leidenschaften und Interessen. Politische Begründungen des Kapitalismus vor seinem Sieg* (Frankfurt: Suhrkamp, 1980), 20–22.
9. Bodin, *Sechs Bücher*, 1:101.
10. Johann Heinrich Gottlob von Justi, *Natur und Wesen der Staaten als Quelle aller Regierungswissenschaften und Gesetze*, ed. H.G. Scheidemantel (Aalen: Scientia, 1771), 7; cf. Petra Gehring, “‘Eine politische Metaphysik ohne barbarisch zu reden. . .’ Staatswissenschaftliche Situierungsgesten bei Justi, Haller, Bluntschli,” in *Übertragung und Gesetz. Gründungsmythen, Kriegstheater und Unterwerfungsstrategien von Institutionen*, ed. Armin Adam and Martin Stingelin (Berlin: Akademie Verlag, 1995), 15–30.
11. Samuel Pufendorf, *Einleitung in die Historie der vornehmsten Reiche und Staaten, so itziger Zeit in Europa sich befindet* (Frankfurt: Knoch, 1683). For more on the recognition of Pufendorf as a historian of his time, see Friedrich Meinecke, *Die Idee der Staatsräson in der neueren Geschichte, Werke* (Munich: R. Oldenbourg 1960), 1:272ff.
12. Ernst H. Kantorowicz, *The King's Two Bodies: A Study in Mediaeval Political Theology* (Princeton NJ: Princeton University Press, 1957).

13. Cf. Samuel Pufendorf, *Acht Bücher vom Natur- und Völker-Rechte* (Frankfurt: Im Verlag von Friedrich Knochen Buchhändlern, 1711), 2:457ff.
14. Per Otto von Gierke, qtd. in Hans Meier, *Die ältere deutsche Staats- und Verwaltungslehre (Polizeiwissenschaft). Ein Beitrag zur Geschichte der politischen Wissenschaft in Deutschland* (Neuwied: Luchterhand, 1966), 221.
15. Louis Dumont, *Homo aequalis. Genèse et épanouissement de l'idéologie économique* (Paris: Gallimard, 1977).
16. This according to one of the earliest cameral texts: J. H. G., *Curieuser und nachdencklicher Discurs von der Oeconomia und von guten Oeconomis* (n.p., 1713), 16ff.
17. A. Sincerus, *Projekt der Oeconomie in Form einer Wissenschaft* (Frankfurt: n.p., 1717), 4; cf. Keith Tribe, *Governing Economy: The Reformation of German Economic Discourse 1750–1840* (Cambridge: Cambridge University Press, 1988), 36ff.
18. Michel Foucault, "Omnes et singulatim: Zu einer Kritik der politischen Vernunft," in *Gemeinschaften. Positionen zu einer Philosophie des Politischen*, ed. Joseph Vogl (Frankfurt: Suhrkamp, 1994), 65–93.
19. Johann Heinrich Jung-Stilling, *Lehrbuch der Staats-Policy-Wissenschaft* (n.p., n.d.), xxxiii, 7–9; Johann Heinrich Gottlob von Justi, *Grundsätze der Policy-Wissenschaft* (Göttingen: Im Verlag der Witwe Vondenhoeck, 1759), 3–8.
20. Frederic the Great, "Politisches Testament Friedrich des Großen (1786)," in *Politische Testamente der Hohenzollern*, ed. Richard Dietrich (Munich: Deutscher Taschenbuch Verlag, 1981), 331. Cf. Manfred Schneider, "Die Entdeckung der Zukunft des Staates. Friedrich II. und das Calcul," *Gutenberg und die Neue Welt* (Munich: W. Fink, 1994), 327–50.
21. J. S. Pütter, *Elementa juris publici germanici* (Göttingen: n.p., 1770); cf. Pasquale Pasquino, "Theatrum Politicum. The Genealogy of Capital: Police and the State of Prosperity," in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell et al. (Chicago: University of Chicago Press, 1991), 109.
22. Cf. Gottfried Wilhelm Leibniz, "Öffentliche Assekuranzen," in *Politische Schriften*, vol. 3 of *Sämtliche Schriften und Briefe*, 4th ed. (Berlin: Akademie Verlag, 1986), 3421ff.; Jung-Stilling, *Lehrbuch*, 360ff.
23. Rudolf Stichweh, *Der frühmoderne Staat und die europäische Universität. Zur Interaktion von Politik und Erziehungssystem im Prozeß ihrer Ausdifferenzierung (16.–18. Jahrhundert)* (Frankfurt: Suhrkamp, 1991), 230–31.
24. Johann Heinrich Gottlob von Justi, *System des Finanzwesens* (Halle: Rengerische Buchhandlung, 1766), 13; Justi, *Grundsätze*, 166. For a more general context, see Birger P. Priddat, *Zufall, Schicksal, Irrtum*.

- Über Unsicherheit und Risiko in der deutschen ökonomischen Theorie vom 18. Bis ins frühe 20. Jahrhundert* (Marburg: Metropolis-Verlag, 1993), 39–47.
25. August Ludwig Schlözer, *Allgemeines Statsrecht und Statsverfassungslehre* (Göttingen: Vondenhoeck und Ruprecht, 1793), 3 f.; Justus Möser, *Patriotische Phantasien*, vol. 6 of *Sämtliche Werke*, ed. Academy of Sciences, Göttingen (Oldenburg: Bey F. Nicolai, 1778), 255.
 26. Cf. Niklas Luhmann, *Beobachtungen der Moderne* (Opladen: Westdeutscher Verlag, 1992), 98–103.
 27. Georg Wilhelm Friedrich Hegel, *Grundlinien der Philosophie des Rechts, Werke*, ed. E. Moldenhauer and K. M. Michel (Frankfurt: Suhrkamp, 1994), 7:382–85.
 28. Cf. Peter Miller and Nikolas Rose, “Das ökonomische Leben regieren,” in *Anschlüsse an Foucault*, ed. Jacques Donzelot et al. (Mainz: n.p., 1994), 55.
 29. Johann August Schlettwein, *Grundverfassung der neuerrichteten ökonomischen Facultät auf der Universität Gießen* (Gießen: In der Kriegerischen Buchhandlung, 1778), 23, qtd. in Stichweh, *Der frühmoderne Staat*, 230.
 30. Johann Joachim Becher, *Politischer Discurs von den eigentlichen Ursachen des Auf- und Abnehmens der Städte und Länder*, ed. G. H. Zincke (Frankfurt: n.p., 1754), 968–69, originally published, 1688.
 31. Johann Heinrich Jung-Stilling, *Das Heimweh und der Schlüssel zu demselben* (Stuttgart: Henne, 1826), 1:44.
 32. Justi, *Natur und Wesen*, 51–56.
 33. Cf. Hans Kelsen, *Der soziologische und der juristische Staatsbegriff. Kritische Untersuchungen des Verhältnisses von Staat und Recht* (Tübingen: Mohr, 1928).
 34. Foucault, “Omnes et singulatim,” 75.
 35. Immanuel Kant, “Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis,” in *Werke*, ed. W. Weischedel (Frankfurt: Suhrkamp, 1964), 4:153.
 36. Kant, *Metaphysik der Sitten*, in Weischedel, ed., *Werke*, 4:438.
 37. Heinrich Bensen, *Freimütige Abhandlungen aus dem Gebiet der Polizei und Staatswirthschaft als Fortsetzung der Materialien für angehende Staatsbeamten* (Erlangen: J. J. Palm, 1804), 9:82, 95.
 38. Cf. Maier, *Staats- und Verwaltungslehre*, 235, 238 ff; and Tribe, *Governing Economy*, 153.
 39. Michel Foucault, “Methodologie pour la connaissance du monde: Comment se débarrasser du marxisme,” in *Dits et écrits (1954–1988)*, ed. D. Defert and F. Ewald (Paris: Gallimard, 1994), 3:617–18.
 40. Julius Graf von Soden, *Die Nazional-Oeconomie. Ein philosophischer Versuch, über die Quellen des Nazional-Reichthums und über die Mittel*

- zu dessen Beförderung (Leipzig: Barth, 1805–21), 1:2ff.; Leopold Krug, *Abriß der Staatswirtschaftslehre* (Berlin: Realschulbuchhandlung, 1808), 15–16.
41. Novalis, *Das allgemeine Brouillon (Materiellen zur Enzyklopädistik), Schriften*, ed. P. Kluckhohn and R. Samuel (n. p. 1960), 3:287, originally published, 1798–1799.
 42. Krug, *Abriß*, 16.
 43. Wilhelm von Humboldt, “*Ideen zu einem Versuch, die Gränzen der Wirksamkeit des Staates zu bestimmen*,” *Werke*, ed. A. Leitzmann (Berlin: B. Behr, 1903) 1:241–42; Humboldt, “*Ideen über Staatsverfassung, durch die neue französische Constitution veranlaßt*,” *Werke*, ed. A. Leitzmann, 1:79.
 44. Humboldt, *Ideen*, 235–36, 243.
 45. Johann Gottlieb Fichte, *Grundlage des Naturrechts nach Principien der Wissenschaftslehre, Gesamtausgabe*, ed. R. Lauth and H. Gliwitzky (Stuttgart: F. Frommann, 1964), I (4): 84–85.
 46. Cf. Miller and Rose, *Das ökonomische Leben*, 55ff.
 47. Kant, *Anthropologie in pragmatischer Hinsicht*, in Weischedel, ed., *Werke*, 6:509.
 48. Per a document from 1770, qtd. in Maier, *Staats- und Verwaltungslehre*, 127. For more on the “aesthetization of the conception of the police,” see Maier, *Staats- und Verwaltungslehre*, 127–30.
 49. Johann Wolfgang von Goethe, *Wilhelm Meisters Wanderjahre oder Die Entsagenden*, *Werke*, ed. Erich Trunz (Munich: Beck, 1982), 8:299.
 50. Humboldt, *Ideen*, 182–83.
 51. Kant, *Kritik der Urteilskraft*, 5:242–51.
 52. Bensen, *Freimütige Abhandlungen*, 85–86.
 53. Friedrich Schiller, *Über die ästhetische Erziehung des Menschen in einer Reihe von Briefen*, *Sämtliche Werke*, ed. Gerhard Fricke and Herbert Georg Göpfert (Munich: Hanser, 1968), 5:315–17.
 54. *Ibid.*, 316–17.
 55. *Ibid.*, 319, 324.
 56. *Ibid.*, 321, 347–48, 406.
 57. Cf. Dieter Borchmeyer, *Tragödie und Öffentlichkeit. Schillers Dramaturgie im Zusammenhang seiner ästhetisch—politischen Theorie und die rhetorische Tradition* (Munich: W. Fink, 1973), 97ff.
 58. Joseph von Sonnenfels, *Grundsätze der Staatspolizey, Handlungs- und Finanzwissenschaft. Zum Leitfaden der akademischen Vorlesungen* (Vienna: Joseph Kurzböck, 1765), 75ff.; Joseph von Sonnenfels, *Briefe über die Wienerische Schaubühne*, ed. H. Haider-Pregler (Graz: Akademische Druck- und Verlagsanstalt, 1988), originally published, 1769; cf. the editor’s Afterword.
 59. Sonnenfels, *Grundsätze der Staatspolizey*, 76.

60. Schiller, "Die Schaubühne als eine moralische Anstalt betrachtet," in Schiller, *Sämtliche Werke*, 5:93–95.
61. Ibid., 96.
62. Ibid., 98–99.
63. Friedrich Dürrenmatt, "Theaterprobleme," *Theater-Schriften und Reden* (Zurich: Verlag der Arche, 1966), 119ff.; cf. Borchmeyer, *Tragödie und Öffentlichkeit*, 178ff.
64. Schiller, *Die Polizey, Werke. Nationalausgabe*, ed. K. H. Hilzinger, K.-H. Hucke, and Herberst Kraft (Weimar: H. Böhlau Nachfolger, 1982), 12:97.
65. Schiller, *Die Polizey*, 91. Cf. Wolfgang Schäffner, "Das Indiz des Schönen, Ästhetische und Dispositive der Macht bei Karl Philipp Moritz und Friedrich Schiller," in *Das Laokoon—Paradigma. Zeichenregime im 18. Jahrhundert*, ed. Inge Baxmann, Michael Franz, and Wolfgang Schäffner (Berlin: Akademie Verlag, 2000).
66. Schiller, *Die Polizey*, 91–92.
67. Ibid., 92–93.
68. Kant, "Zum ewigen Frieden, Ein philosophischer Entwurf," in Weischedel, ed., *Werke*, 6:224.
69. Schiller on the "powers of the tower" in *Wilhelm Meister* that directs the hero of the novel "with their attention, and without disturbing the free run of nature . . . from afar and to a purpose of which he has no idea, nor is he allowed to have" (qtd. according to the commentary to Goethe, *Wilhelm Meisters Lehrjahre, Werke*, 7: 640).
70. Schiller to Goethe, August 2, 1797, *Werke. Nationalausgabe* (Weimar: Böhlau, 1977), 29:141; cf. also the commentary on *The Police*, 429–30.
71. Schiller to Goethe, 95, 96–97.
72. Ibid., 100. For more on the wavering between comedy and tragedy in the layout of Schiller's draft, see Ludwig Stettenheim, *Schillers Fragment 'Die Polizey' mit Berücksichtigung anderer Entwürfe des Nachlasses* (Berlin: Fontane, 1983), 7ff.
73. Schiller, *Die Polizey*, 96–97.
74. Ibid., 92.
75. In the *Briefe (Über die ästhetische Erziehung)* it is stated accordingly: "Through beauty, the sensual man is led to form and to thinking; through beauty, the spiritual man is led back to matter and given back to the material world" (Schiller, *Über die ästhetische Erziehung*, 364).
76. Ibid., 406.
77. Friedrich Schlegel, Vorrede zu Arnims "Erzählungen von Schauspielen," in *Kritische Friedrich-Schlegel-Ausgabe*, ed. E. Behler (Darmstadt: Wissenschaftliche Buchgesellschaft, 1975), 3:42.
78. Bodin, *Sechs Bücher*, 2:83; Adam Müller, *Elemente der Staatskunst*, vols. 1 and 4, ed. J. Baxa (Leipzig: Wiener Literarische Anstalt, 1922), originally published, 1809.

79. Translator's note: here, "thing" should be read in Lacan's psychoanalytical context of "the Thing" (in German, "das Ding").
80. Wolfgang Naucke, "Vom Vordringen des Polizeigedankens im Recht, d.i. : vom Ende der Metaphysik im Recht," in *Recht, Gericht, Genossenschaft und Policy: Studien zu Grundbegriffen der germanistischen Rechtstheorie. Symposion für Adalbert Erler*, ed. G. Dilcher and B. Diestelkamp (Berlin: E. Schmidt, 1986), 177–87.
81. Schiller, *Über die ästhetische Erziehung*, 325–26.

PART II



POLICE AND CULTURE

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CHAPTER 4



NURTURING THE NEW REPUBLIC: THE CONTESTED FEMINIZATION OF LAW ENFORCEMENT IN WEIMAR CULTURE¹

Sara F. Hall

Like many histories of the culture of the Weimar Republic, studies of that era's police forces tend to characterize the German interwar experience as a quest for a stable relationship between a struggling, paternalistic state and a disoriented, restless, and questioning populace. Few would dispute the fact that the tumult of war, revolution, and economic disaster spelled out personal displacement and social disorientation for many middle-class men and that the largely male police force served as a lightning rod for his interactions with a self-legitimizing state authority. However, as recent scholarship has demonstrated, these portrayals of Weimar culture, as bound in an Oedipal struggle over political authority and individual integrity, have ignored the particular contributions and experiences of the women living among the men whose stories are told.² This is no less true for the historiography of policing practices at the time.³

With a few exceptions, Weimar police scholarship was founded on the assumption that the constabulary and citizenry are generalizable as masculine, or more generously in the case of the citizenry, genderless. Most historians of German law enforcement have created the impression that Weimar women were deemed worthy of consideration only

when they strayed into criminal pathology and delinquency. As the story goes, it was only in such moments that they came into the scope of law enforcement, which then subjected them to discipline, scientific study, and rehabilitation efforts. Once reintegrated into the well-policed patriarchal society, women could again become invisible and unspoken.

An important figure is shut out of Weimar police history when this model is perpetuated: the female police officer. Ursula Nienhaus, Erika Fairchild and a few others have done the field a service by beginning to document in detail the female officer's activity in the profession.⁴ This is an examination of the policewoman's discursive presence in the culture that surrounded the practice of law enforcement through a discussion of the symbolic value of the female police officer as a new icon in German society and an examination of her presence in diverse texts produced between 1924 and 1930.

The female police officer was created and self-created as a public figure—for example, in articles in professional police journals, women's magazines, satirical *feuilletons*, urban exhibition displays, and police training films. In these settings she appears in various guises: as the military invader, the nation's wife and mother, the out-of-place cow-girl, and the feminine object of visual desire. The juxtaposition of these images makes evident that this historical figure stood at the intersection of debates over gender identity, the role of technology in society, the character of the new state's police force, and the Republic's capacity for and right to self-determination. Thus, the female officer's public image served as a cultural projection surface for responses to related changes in daily and institutional life in the Weimar Republic.

STRANGE SHAPES APPEAR IN THE STREETS OF COLOGNE

Although women had been engaged by the police in various German cities for assistance in matters of social welfare as early as 1903, rank and file female officers were not retained until twenty years later. The earliest female police collaborators were citizens with little formal attachment to the official force, working instead as "police sisters," "protective officers" (*Fürsorgerinnen*), "police guardians," or "police assistants."⁵ By June 1914, thirty-five German towns engaged women

in law-related social welfare projects. The women's offices were, however, disbanded during World War I and it took until three years after the war's end for advocates in the women's movement and the sex and welfare reform movements to see the fruition of their vision of German women engaged as full-fledged officers of the law. In the end, it was not the pressure from domestic women's groups that brought about a willingness to employ female officers in this new and authoritative line of work; it was the events accompanying the Allied Occupation of the Rhein Land, a circumstance that entrenched the issue of women's role in law enforcement in a discourse of national identity and sovereignty.

The first uniformed female police officers to serve in Germany were English vice squad officers assigned to post-war Cologne in April of 1921, stationed in response to an increased incidence of venereal disease among the occupying soldiers. At this time English authorities declared emergency measures dictating that any German woman found loitering would be suspected of solicitation and could be arrested. Cologne's local women subsequently complained to English administrators of their inappropriate treatment at the hands of the occupying military officers, and in January 1923, it was resolved that England would send to the territory a corps of their own female police officers specially trained in handling cases involving women, children, and sexual indiscretion. These officers were expected to protect the interests of their German counterparts.

One year after their arrival, the sight of the English officers on the streets of Cologne caught the eye of novelist and cultural critic Joseph Roth, who satirized the female troops in an essay entitled "Die Mannweiber der Sittlichkeit" (The Mannish Women of Morality). The article was published first in the *Neue Berliner Zeitung-12 Uhr Blatt* on January 3, 1924, and ran again in the *Prager Tagblatt* on the subsequent day.⁶ Roth had just returned to Germany from a stay in Austria, the country of his birth, where he escaped the destructive effects of Germany's spiraling inflation. He arrived in the occupied Ruhr Land in December 1923, at the commission of the two newspapers who sent him to report on the normalization of life in the region after the inception of Germany's currency reform.⁷ Roth fulfilled his December assignment not by reporting on finances and the German market place but by observing the social exchanges and cultural events that made up daily life for the people of the region.⁸ In this context, his critical eye was

drawn to the interactions between female police officers and civilians in the industrial city.

"The Mannish Women of Morality" portrays cultural perceptions of the dispatched officers through exaggerated means. In it, Roth displays Cologne's streets being patrolled at night by androgynous robot-soldiers. At first unrecognizable, these figures of science fiction gradually reveal their identities as uniformed female vice officers. Roth describes their bodies as mechanical and semantically transforms their uniforms into the trappings of machines: "It begins around ten o'clock at night. Strange shapes appeared in the streets of Cologne. Creatures from another planet, creatures born of machines. Mechanisms with gears in their breasts. Not men, not women. They wear small top hats on their shorn hair. Their necks are shaven clean; fat and thick, like those of old generals. Their faces are stiff, inorganically blank. . . . Their bodies are hemmed into gray military jackets and a short smock. The spirals of gray puttees roll around their legs."⁹ The strange creatures described by Roth bear little resemblance to familiar female forms, exceeding binary gender paradigm altogether. Roth is inspired to evoke their in-betweenness through vivid descriptions of their unique and rather jarring visual traits. Just as the officers' haircuts and uniforms obscure any physical signs of female identity, so does his text withhold the legible markers of gender. Through the first twenty lines, the author avoids referring to the English officers as women and refrains from using any gender-marked pronouns.

While the language is gender neutral, the message is not value neutral. By denying her a familiar place in the dominant gender paradigm, the author linguistically slights the English officer. His oblique insult is executed as an extension of the social and political chastisement that some of the local populace were staging in public discourse. Roth's language takes the policewoman to task for simultaneously over-stepping a normative gender paradigm and the limits of German sovereignty. References to old generals and military jackets meld the policewomen with the English soldiers they had followed to the Rhine Land. Whether they are male or female, these state-employed officers are part of the former enemy's war machine, which Germans feel bruising the flesh of their local culture even after the end of militarized conflict. Roth's language shows the terms in which the German, in particular the male German, seeks

to recuperate his dignity. His is an attitude and a discourse that denounce the female officers as sexless, mechanistic, and cold, especially in contrast to the sensuously appealing local women. His essay continues:

The English vice squad is composed of the *absolute ugliest women in the world*. This ugliness is murderous to Eros, it cools any steam, and it stamps out any thought of love. It is a complete perversion of the eternal laws of nature and a confirmation of the futuristic hypothesis, which prophesies that in the future human beings will be created by mechanical means. The female vice officers are on duty all night. This means they must linger in hallways and slouch quietly through the dark streets of love in as far as their studded boots allow, and as soon as a soldier appears with a girl, they must arrest her. The female lookout must often resort to violence. But in many cases no violence is necessary. Wherever a female vice officer appears each man—even if he is not an English soldier—abandons the woman he had just been making love to. This is the effect of the female vice officer.¹⁰

Roth then casts the English officers as representatives of a world-dominating colonial power and pegs them as the kind of women who when asked for a match pull out a lighter, which is the equivalent of pulling out a machine gun when your opponent is prepared to fight with a bow and arrow.¹¹

Roth's weaving of the binary linguistic and cultural discourses of gender and sexuality with images of the military and technology conveys a deep-seated hostility toward this strange new public intervention in the city's private life. He shows readers the sentiments of the citizens of Cologne, sentiments they themselves may not have recognized on the surface. As he does in so much of his politically-oriented journalism, Roth employs humor and irony to express his own ambivalent views on the current state of affairs in postwar Europe. His condemnation of the women officers is not specifically anti-English but rather critical of a style of military techno-imperialism that infiltrated the private spheres of human existence. Under the guise of a false morality, the female officers prosecuted as prostitutes any German women interacting with a man. In the terms of Roth's piece, the natural glow of the German erotic matchstick was burnt out by the force of the English mechanical lighter.¹²

RECRUITING THE LOCALS

It was in fact the presence of the English female officers, which Roth satirizes, that impelled the decision to employ German women as officers, first in Cologne, then across the Republic. In August 1923, the relatively small English troop decided to involve three, and then four highly skilled German social workers to accompany them and increase their profile amongst the locals. Among them was Josephine Erkens, who was selected for her public service work as a strict opponent of legalized, registered prostitution. As a policy, these officers were not to engage with the registered sex workers and their customers, but they instead focused on the unregulated prostitution that abounded in the city.¹³ Called the Women's Welfare Police, this troop had no formal police training and did not perform regular street patrol or have the power of arrest. Its members were deliberately housed in separate quarters and clothed in uniforms similar to, but distinct from, those of the English welfare police. In articles recounting their introduction to public life in Cologne, writers of the period emphasized that their job was not to serve the English state but rather to advocate for the interests of their fellow female citizens, protecting them from venereal disease and steering them away from the brothels and red-light districts.

Yet their affiliation with the English authorities cast a suspicious light on the German officers, and their work was met with an unsurprising degree of resistance. These defenders of public order were crossing the gender barrier that had always existed in law enforcement, and their work policing female sexuality necessarily entailed the policing of male sexuality. As Roth pointed out in the earlier context, it was not only English soldiers who were engaging in sexual relations with German women and girls but also German men. The new German vice/welfare officer banded with foreign women in policing male sexuality, an activity that could easily be interpreted as displaying a gender-based loyalty that overrode their institutional loyalty to their fellow national citizens.

Supposedly due to a lack of funds, but more likely due to the strength of political opposition, the German women's police squad was closed down in June 1925. Later that summer, three separate factions in the Prussian state parliament—the Democrats, Centrists, and the People's Party—put before the legislative body a motion to establish a nationally sponsored female officer's branch for service in

social welfare. On the grounds of the success of English officers in guiding youth at risk and monitoring prostitution and the spread of venereal disease, the Prussian Minister of the Interior took up the cause.¹⁴ In 1926, Josephine Erkens moved to Frankfurt to head the new women's detective division there, and in September of that year, the *Archiv für Kriminologie* reported that the first German woman to pass the state examination for criminal investigators had been transferred to work under her.¹⁵

Even after such advances, the daily papers, women's weeklies, and police trade journals continued to debate the viability of this new authority figure along with discussing further initiatives to enlist women as police officers. It was a professional challenge to introduce the female to the public in a fashion that would engender legitimacy and instill unquestionable trust in her capabilities. When broaching the idea of a local policewoman, proponents of the cause in the regions of Baden, Saxony, Hamburg, and Prussia emphasized that German officers were *influenced by* but *distinct from* their English compatriots. Articles and speeches pointed out that in most regions German women did not wear intimidating uniforms nor did most carry threatening weapons. It was emphasized that in Berlin, Essen, and Hamburg, the first units of policewomen were employed mostly to perform station housework.¹⁶

Functional compromises were struck so that this new ground could be broken. Nonetheless the question remains, why, as allied influence waned, did German cities so broadly instate female police squads despite such strong dissent? Indeed, the dam had been broken and the forces behind the wave of women's integration into police work were geared to the specific needs of German law enforcement at the time. In their introduction to the public, these women were held up as serving a general law enforcement initiative to recuperate postwar losses and assert the new Republican police's unique strengths and qualities. The introduction of the female officer provided authorities with an additional opportunity to promote their humane public reputation.

GERMAN POLICEWOMEN ON DISPLAY

The 1926 Great Police Exhibition in Berlin was an ideal site for making such introductions to a mass audience. As part of their effort to

renew the legitimacy of a police force still burdened by its origins in the highly formal, imperialistic Wilhelmine officer corps, Social Democratic officials from Prussia's Ministry of the Interior staged a promotional and informational exhibition that had never been seen before in Germany. From September 25 through October 18, 1926, over two million visitors filled the three spacious halls on the Kaiserdamm where they were invited to familiarize themselves with the methods and tools of police work as well as with the lives and personalities of the human beings behind the badge.

This Great Police Exhibition was the first major international exhibition in Berlin after World War I, and to this date it is likely the largest such production staged in the city's entire history. Those with the money and the power to produce events on such a scale decided it was not only legitimate but also absolutely necessary to satisfy the public's desire to know about the methods and actions of Germany's regional police forces and of Prussia's force in particular. While they had made great steps in implementing their plan to centralize investigative work and to improve their public image since 1918, the nation's police remained under public scrutiny and the heat was particularly strong in the capital city.

The Berlin police had been experiencing a crisis of legitimacy from the first days of the Revolution. Criticism that the force had survived the transition from the old regime intact and was thus practicing an undemocratic style of policing lingered into the 1920s with commentators continuing to charge that Berlin's officers treated the era's demonstrators, protestors, and strikers with unnecessary violence and with a policing style construed as militant and imperialistic. Although many citizens experienced the period between 1923 and 1927 as a time of increasing stability, from a policing perspective this was a most troubled time. The years 1925 and 1926 bore new forms of public disturbance in the form of violent clashes between the political left and right. Bodily assault and manslaughter between political enemies were the most regular entries in Berlin's police reports along with rowdiness at political meetings. Especially in Berlin, the Prussian police encountered criticism from all sides, and everyone insisted that the force was obviously favoring and protecting the interests of the other party. In response, with the support of the ruling Social Democrats, police officials invited the public to reformulate their opinions, bidding in the exhibition publicity slogan: "Bitte, treten Sie näher" (Please, take a step closer).

Arguably, a female presence in police work made the institutions of law enforcement seem more approachable and more distanced from the day's violent politics—a realm dominated by men. That potential for softening the face of the criminal justice apparatus might have inspired the exhibition organizers and the press to work together to bring the presence of female officers to the forefront in the general reception of the highly publicized event. Two representatives of the English welfare police were personally invited to visit the Great Police Exhibition and to take part in the opening festivities on September 25, 1926. Large-scale photographs of them entering the Kaiserdamm Halls featured prominently in the coverage in *Die illustrierte Zeitung* and the illustrated *Zeitbilder* (*Images of our Time*) weekly section of *Die Vossische Zeitung*.¹⁷ Besides a photograph of Minister of the Interior Abegg making his opening address, which was published in the *Zeitbilder* section, the female officers were the only contemporary figures pictured for their own sakes in the articles documenting the opening week. All other people pictured are mere “extras” taking part in the featured activities or exhibits.

The smiling, posed images of the female officers thus stood out from those of other officers pictured deeply engaged in displays of, for example, equestrian work or police technology. In the *Zeitbilder* layout, which also included a replica of the Alexanderplatz traffic light, an exhibit simulating the appearance of a jail break, and a model of a railroad assassination, the *Vossische Zeitung* presented these visiting officers as much a part of the display as the objects and historical photographs on view within the exhibition halls. As the organ of the Social Democratic party, this particular newspaper appeared to have a direct interest in publicizing the inclusion of the female officers in the official events. Their coverage kept the issue of women in police work in the forefront of the public's mind.

While the special guests from England were publicly paraded as they entered the exhibition halls, the local German female officers appeared in the forms of photographs, texts, and mannequins inside. In the third hall of the exhibition stood the Vice Squad section of the Criminal Investigation exhibit area—it was there that a display called simply Female Police presented the nature and structure of the Prussian female police force. The display panels in this section included information on “Police and Welfare Organizations,” “Moral Dangers of the Big City and How to Avoid Them,” and “Employment, Training, and Implementation of the Female Police.”

Although no photographs or detailed sketches of the area are in the records of the event, the section was well documented in writing by those cataloging and covering the event. The main exhibition catalogue, entitled *Arrangement and Division of the Great Police Exhibition, Berlin 1926*, written by Minister of the Interior Abegg describes the promise of the display as follows:

The Vice Squad will exhibit their public service works as well as their medical service in the fight against venereal disease and prostitution, in addition to their cooperation with both church and secular welfare groups. As part of this section of the Exhibition, the police social welfare organization will put present activities of their caretakers and their care facilities. Those serving citizens-at-risk will display the function of asylums, protective homes, advice centers, employment services, shelters, etc., in addition to youth protection services. . . . The exhibition section on the organization and division of the female force will cover the female criminal police, including the force dealing with citizens-at-risk, the female workplace inspectorate, and the work of female officers in other policing matters, for example their participation in the transport of arrested individuals. This area of the exhibition will represent an important advancement of our times while also demonstrating the possibilities for the further future development of the force.¹⁸

The comments written by Abegg echo the self-representative statements made by the pioneers of the female police in their struggle for recognition. In a characteristic article in the 1923 edition of the women's interest journal *Die Frau*, Anna Pappritz, one of the founders of the Committee for the Support of Women's Welfare Work with the Police, writes that policewomen trained in social work exhibit the great human understanding in performing work that was formerly done by the male vice squads, especially in cases involving venereal disease.¹⁹ Such descriptions ensured the German public that female officers were not overstepping the bounds of familiar, traditional gender roles, nor were they duplicating or encroaching upon the work of established male officers. The rationalizing tendency of the regulation of sexual activity was balanced by the natural aspect of maternal care. The presentation of the female vice officer in the police exhibition assured a potentially resistant population that its police authorities were engaged in welfare-oriented projects implemented by humane individuals. Exhibition visitors were offered

a palatable view of the new public role for German women, one that seemed to grow naturally out of their work in the private sphere.

Seeking social and political acceptance, the proponents of the women's police force countered the evaluation of their officers as aggressive, sexless, or cold. On one level, the negative responses to the diversification of the police force represented resistance to the general trend toward women entering unprecedented social and professional arenas. On another, the critique remained entrenched in a resentment that the new form of women's activity had been imported from the culture of allied forces, which some in Germany publicly condemned as over-rationalized and excessively open to women's liberation.

A KINDER, GENTLER POLICE TECHNOLOGY

In a brilliant example of commentary through juxtaposition, satirist Hans Reimann invokes the complex gender discourses circulating through police culture in a passage from his 1926 piece "Erinnerung an die Polizei-Stellung" published in *Das Tage-Buch*. He writes, "There was so much to see: built-in constabulary hot plates, electric stoves for the night watch . . . endless 'Kau-Boy-Mädchen' . . . photographs of a woman who died standing and of hookers on seedy streets."²⁰ Among the many objects cited by the author over the course of his essay, those in this passage crystallize into a pattern that outlines the public identity formation of the contemporary police-woman. She is the failed savior of the dead woman and the vigilant policer of the street-walkers mentioned with her status in the critic's eye summed up in the phrase "Kau-Boy-Mädchen." Reimann associates the round hats and boots of the female officers—visible in the section on police uniforms, in the press, and the catalogs, and of course on the women officers present in the exhibition hall—with the garb of a cowboy, an icon of U.S. culture. The author deliberately misspells the word "cow" as "kau" the German word for chew, drawing the association with "Kaugummi" or chewing gum, an import that stood for U.S. popular culture in general. The contrast between "boy" and "Mädchen" makes the officers seem as sexless at Joseph Roth's strange creatures on the streets of Cologne, a gender-ambiguity that resonates with the prior allusion to the fact that police officers might need to perform household duties—such as,

cook in their station houses. Reimann's understated list implies that the exhibition's manner of introducing the female officer and of humanizing the male officer through the display of his day-to-day human needs while on duty had the synergistic effect of bringing the two closer together on the gender spectrum.

In speeches and articles authored for the gala opening of the exhibition, Director of the Police Division of the Ministry of the Interior Abegg repeatedly emphasized the distinction between the new Prussian police and the military troops that recent critics insisted on comparing them to.²¹ Although he did not refer to her in making these statements, the female officer did play a significant role in substantiating such assertions. In Abegg's description, the Great Police Exhibition of 1926 marked the culmination of the complete reform of northern German police institutions. By this date, the postwar transition measures had been completely phased out and the new force was in both theory and practice thoroughly Republican.

Abegg acknowledged the fact that in the months immediately following the 1918 November Revolution, Berlin police officers had been accompanied by armed officers but that this pairing was intended to ensure an efficient transition *away from* Imperial police tactics. He countered the editorial protests against the combat training and military status received by these troops that had peppered the police trade journals and daily papers of the post-revolution years. In addition to assuaging the concerns of foreign officials who feared that the concentrated improvement of the German police entailed a disguised rearmament, Abegg pointed out that the Kaiser-damm displays and events would reassure a domestic public who bore the brunt of the violent enforcement of social order during the times of street fighting and general social unrest in the earliest years of the Republic.

In distinguishing the Republican police from a renascent military, Abegg and his Social Democrat colleagues addressed the qualms expressed on the left and right and at home and abroad. They recognized a relationship between technological development and the expression of nationalistic military force. To these critics, World War I had demonstrated the most destructive potential of advanced machinery and weaponry. The organizers of the 1926 exhibition reshaped the way technology informed the domestic interaction between Prussia's authority apparatus and the region's citizenry. Thus many displays in the police exhibition focused on the implementation of

technology in advanced police work, and especially on the way a democratic *Volkspolizei*, or people's police, used new inventions to "protect and serve" the greater populace. The displays specifically focused on women's professional contributions to law enforcement did so by excluding the image of the female officer.

In the available images of the exhibition, one finds numerous technology-oriented booths and displays. They not only featured prominently in the exhibition but were also highlighted in the accompanying documentation and publicity materials. A typical publicity photograph spotlighted the telephones and telegraphs connecting police stations across Europe, the emergency call boxes allowing people on the street to contact police headquarters from the city streets, and the office equipment streamlining administrative paper work. Other display booths featured the cars, planes, and boats employed in investigative and patrolling work as well as the optical devices such as cameras and microscopes used in the collection and analysis of crime scene evidence. To the critical observer it is only too obvious that these displays and their accompanying texts portrayed only *male* police officers interacting with modern police technology. Such a segregation of workplace scenarios served to maintain men's control over law enforcement's hegemonic construction of masculinity.

The women who were shown taking advantage of modern innovations in the exhibition were not the employed officers. Rather, they were the members of the National Association of German Housewives' Organizations who participated in the events staged in the display area headlined under the rubric "Police and the Housewife." As a floor plan from Exhibition Hall Number One demonstrates, this area consumed a disproportionately large portion of the display arena. In this space, the wives of officers demonstrated their service to the police by cooking hearty fish and potato dishes on industry's latest gas stoves; dishwashers and washing machines were exhibited as technological elements of modern living that enable the Weimar Republic housewife to nurture her family and thereby Germany. The article "Police and the Housewife" in the main exhibition catalogue pronounced the patriotic duty of Germany's wives and mothers, "The housewife as responsible citizen! . . . As protector of the household hearth, the housewife desired to be represented at the Police Exhibition, as protector of the national treasure she wanted to stand at the side of the men."²² Called to be a part of and support her

national community, the Weimar wife and mother was drawn out of the isolation of housework.

The "Police and the Housewife" exhibition humanized modern technology by associating it with purportedly socially beneficial, domestic activities such as cooking and cleaning, thus challenging the overarching disparagement of the evils of modern inventions. They also associated technology with bearing and nurturing the family, unlike the barren and sexless technology of weapons that Roth aligns with the work of Cologne's women occupiers. This display offered Germany's women a position of identification that they could engage with technology and participate in the institution of social authority that most affected them daily without disrupting the dominant gender paradigm or neglecting the maintenance of the nation. Women's lives were being radically altered through rationalization and technology, but the police exhibition succeeded in incorporating these changes into a non-militaristic German patriotic project that served to substantiate the work of the law enforcement.

OFFICER TRAINING

The public had to be introduced to the unique style of policing performed by the female units and so did the women who were enlisted to practice it. Contemporary accounts stress time after time that the female welfare officers and detectives were trained differently and separately from their male colleagues, and a professional educational film of the period gives us a view into the gender ideology behind that training. One title, *Die weibliche Polizei* (The Female Police Force), was produced by the Prussian police in the year following the Berlin exhibition and served as an instructional training film for new female officers in the police academies of Berlin and Dresden.²³ Through its images and loose storyline, it strongly reinforced the same reorganizational, promotional message of the 1926 Great Police Exhibition displays and catalogues. What is more, it contains another subtle but equally impressive statement on the relationship between technology and femininity in the work of the woman officer.

The film opens with an establishing shot introducing the title figure. A woman in casual uniform stands at the center of the frame while a montage of urban transportation technologies crosses her image in a superimposition. From all four corners the policewoman

is intersected by a bus, a streetcar, a train, and an automobile and the dark shades of the officer's outline blend with the forms of the vehicles. At the same time, the woman's tall, centered stance provides a point of stability and stasis in the midst of the visual flurry. The scene changes with a jump cut to a row of uniformed women that then dissolves into a matching shot of the same figures in athletic wear.

The film's subject is the physical training that will transform the female body into the officer's body. De-individualized in white t-shirts and black tennis skirts, the women are lined up to perform leg lifts, sit ups, and toe touches in regulated synchronization. The policewomen's bodies are initially de-eroticized through the beat of their repetitive, synchronized routine. However, their orderly movements are very much a means to an end—the enforcement of public welfare, safety, and morality. Despite the immediate associations, their routine is *not* intended to be seen as one performed in a military demonstration.

As the scene continues, the lingering view on the women prevents the sporty uniform and synchronized activity from completely de-eroticizing the figures. The visibility of full breasts and broad behinds through the cotton and wool outfits encourages the spectator to find a position of desire and admiration while looking upon the healthy, resilient female form. The trainees' non-fragmented physicality detracts from the mechanistic rigidity of a routine that would otherwise resemble military training. The film makes evident that the evolution of the female police officer is not incongruous with a culturally accepted standard of femininity.

After the opening sequence, the film contains no further reference to the relationship between the work of the officers and the technologies of modern life. The policewomen appear in framed story vignettes where they perform the type of nurturing social work described above by Abegg and Pappritz. They care for children who have been asked to serve as witnesses, they protect innocent girls from the lewd approaches of strange men, and they coax at-risk teenagers into morally upstanding life choices. Like the depiction of both policewomen and housewives in the 1926 exhibition, the film offers female audiences a vision of Republican citizenship and institutional participation as analogous to motherhood, establishing a companion role to the benevolent patriarchal authority embodied by the reformed Prussian policeman.

CONCLUSION

The last years of the Weimar Republic witnessed further advances in breaking the binary gender mold in policing, mostly under the persistent efforts of Josephine Erkens. She was brought from Frankfurt to Hamburg in 1928, to develop a female detective unit that would assist in the prevention of the spread of venereal disease and thereby put an end to the strict segregation of policing duties. She lobbied for women's right to be involved in the entire criminal process, even when men were involved. She brought two male officers into the ranks of her own unit, which was the first time that men were commanded directly by a woman.

Public scrutiny was, however, unceasing. In the aftermath of a scandal involving the supposed double suicide of her two strongest opponents in the police force, Erkens resigned from her post. As a result, in 1931 the Presidium of the German Criminal Police conducted a thorough investigation of the female police squads throughout the nation, and the legitimacy of their practices became one of the mostly hotly debated topics in law enforcement that year. Unfortunately, the outcome became a moot point after 1933. Under Hitler all women's policing units were disbanded and the role of the female law enforcement officer was reserved for the extreme exception of the female Gestapo agent.²⁴

The need for and possibility of a woman's police force had emerged out of the transformed social and economic conditions of postwar modernity. The female officer was a key figure in Germany's attempt to clarify the relationship between law enforcement, mechanized warfare, military defeat, and women's emancipation. In a way that male officers would not or could not under the current state of affairs, the female officer was expected to heal the wounds of modernization. In order to do so it was necessary that the familiar traditional values of womanhood be privileged both by her and those in charge of training and employing her. The female officer's presence was to provide comfort, not provocation—her public image had to do the same.

The insistence upon downplaying technically oriented police work in favor of technically enhanced housework or hands-on social work drew a division between the fact of technology and the idea of femininity. In the media of essayistic journalism, exhibition displays and catalogues, and educational films, the men and the women accounting

for the increased involvement and recognition of women in German police activity performed and thereby preserved a maternalistic version of femininity. Serving as a keystone in law enforcement's strategy to win public acceptance in a moment of deep crisis, this particular construction of femininity was to provide a natural counterforce to the threats of an overly rational, unsentimental, and impersonal world of the machine.

NOTES

1. The research for this article was assisted by a grant from the Berlin Program for Advanced German and European Studies 1998–1999, jointly administered by the Freie Universität Berlin and the Social Science Research Council with funds provided by the Land Berlin.
2. Katharina von Ankum, ed., *Women in the Metropolis: Gender and Modernity in Weimar Culture* (Berkeley: University of California Press, 1997).
3. Johannes Buder, *Die Reorganisation der preußischen Polizei 1918–1923* (Frankfurt: Peter Lang, 1986); Hsi-Huey Liang, Hsi-Huey, *The Berlin Police Force in the Weimar Republic* (Berkeley: University of California Press, 1970).
4. Erika Fairchild, "Women Police in Weimar," *Law and Society Review* 21, no. 3 (1987): 375–402; Ursula Nienhaus, "Einsatz für die Sittlichkeit": Die Anfänge der weiblichen Polizei im Weimarer Kaiserreich und in der Weimarer Republik," in *"Sicherheit" und "Wohlfahrt": Polizei, Gesellschaft und Herrschaft im 19. und 20. Jahrhundert*, ed. Alf Lüdtke (Frankfurt: Suhrkamp, 1992), 243–66.
5. Chloe Owens, *Women Police: A Study in the Development and Status of the Women Police Movement* (Montclair, NJ: Patterson Smith, 1969), 72.
6. Joseph Roth, "Mannweiber der Sittlichkeit," in *Unter der Bülowbogen. Prosa zur Zeit*, ed. Raner-Joachim Siegel (Cologne: Verlag Kiepenheuer und Witsch, 1994), 251–53.
7. This trip entailed his second assignment in the region; the Berlin paper had sent him there as a special reporter in March of 1923 to report on the region's crisis upon the entry of French troops into the city of Düsseldorf.
8. Klaus Westermann, *Joseph Roth: Eine Karriere 1915–1939* (Bonn: Bouvier, 1987), 41.
9. Roth, "Mannweiber der Sittlichkeit," 251–52. My translation.
10. Ibid, 252. Emphasis original.
11. Accounts of the experience from the English side are indeed revealing when read through the lens of Roth's description. In her autobiographical

writings on her participation, Mary S. Allen, one of the first Women's Auxiliary Service members sent to Cologne, relates the following: "In 1923 another call came, from the British Army of Occupation in the Rhine Provinces. Here, in Cologne, were several thousand troops, mostly young men, with more money in their pockets than they knew what to do with, and plenty of spare time on their hands in which to get into mischief, in spite of the fact that every attempt was made to provide interest and amusement for idle hours. The usual problems incidental to the quartering of a large body of men in a foreign town were made more serious by the presence of great numbers of women and girls from other parts of Germany, and even from foreign countries. The situation was becoming extremely grave." Allen's awkward and even embarrassed use of words and phrases such as "mischief," "amusement for idle hours," and "the usual problems" entails a revealing obfuscation of the real issue at hand: increased sexual activity among strangers. (Mary S. Allen, *The Pioneer Policewoman* [New York: AMS Press, 1923], 200.) In the subsequent description of her work involving prostitution, Allen dances around the subject with language such as "I took part in raids on suspected houses," and "I was present at a medical examination of girls in the Polizeipräsidium (police headquarters), and at an examination of controlled women," *ibid.*, 202. If Allen's language is any indication of her posture when doing her job, Roth's description seems apt. Such an unwillingness or inability to deal frankly with sex and sex work would have indeed seemed foreign to the members of the local culture as well.

12. In his feuilletons for the *Neue Berliner Zeitung* between 1921 and 1923, Roth had voiced a similar position in public debates over morality and culture; in dialogue with Kurt Tucholsky, Roth spoke out against the false morality of recent Weimar censorship laws in relation to the uproar inspired by the sexual content of a 1921 production of Arthur Schnitzler's play, *Reigen*. In the same year, Roth had made an unusual stance in the journalistic debate over the moral quality of the American dancing troops flooding Germany's *Tingel-Tangel* dance halls. Rather than declaring the performances acceptable or worthy of censorship, Roth lamented the fact that the rhythmically rationalized style of performance represented the Americanization—that is, hyperrationalization—or the body and erotic desire. See Westermann, *Joseph Roth*, 35–36.
13. Kerry Segrave, *Policewomen: A History* (Jefferson, NC: MacFarland, 1995), 69.
14. Anna Pappritz, "Weibliche Polizei," *Die Frau* (February 1923): 263.
15. "Der erste weibliche Kriminalkommissar in Deutschland," *Archiv für Kriminologie* 2/3, no. 79 (September 1926): 165.
16. Segrave, *Policewomen*, 70.
17. *Die illustrierte Zeitung* [Berlin] October 7, 1926; *Vossische Zeitung* [Berlin] October 3, 1926.

18. Wilhelm A. Abegg, *Aufbau und Gliederung der "Grossen Polizei-ausstellung Berlin 1926"* (Berlin: Kameradschaft/Gersbach and Sohn, 1926), 27–28. My translation.
19. Pappritz, "Weibliche Polizei," 151.
20. Hans Reimann, "Erinnerung an die Polizei-Ausstellung," *Das Tage-Buch* 7, no. 43 (October 23, 1926): 1601. My translation.
21. Wilhelm A. Abegg, "Deutsche Polizei und Ausland," *Vossische Zeitung* [Berlin], September 26, 1926.
22. Josephine Dautzenberg, "Polizei und Hausfrau" in *Grosse Polizei-Ausstellung Berlin in Wort und Bild* (Vienna: Verlag für polizeiliche Fachliteratur, 1927), 261. My translation.
23. Access to this film was generously provided by the Bundesarchiv/Filmarchiv in Berlin.
24. Segrave, *Policewomen*, 70–71.

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CHAPTER 5



A CITY TRACKS A MURDERER: MASS MURDER AND MASS PUBLIC IN WEIMAR GERMANY

Todd Herzog

I.

I will begin by looking at three criminals, all from Germany in the spring of 1931. The first scene takes place in a courtroom in Düsseldorf during the trial of Peter Kürten, the “Vampire of Düsseldorf,” who stood accused of nine counts of murder and seven further counts of attempted murder. Kürten’s defense attorney cross-examines one of the victims who escaped from her attacker:

Counsel for Peter Kürten: What did Kürten look like when he attacked you?

Woman Witness: Like the devil—like the devil incarnate.

President of the Court: What does the devil incarnate look like?
(Laughter.)¹

The second scene is from Fritz Lang’s film, *M*, which premiered less than a month after this courtroom exchange. While a police expert describes the unknown child-murderer as having strong psychological defects and traces of insanity, the scene shifts to the murderer, Beckert, who stands before a mirror and pulls down the corners of his mouth to form a grotesque image, transforming himself into

the visibly pathological beast being described by the expert on the soundtrack and sought by the police. But his mouth soon returns to its normal position and the killer becomes once again a harmless looking, even child-like, man whose criminality is utterly invisible to police and public alike.

The third, more famous, scene occurs near the end of the film. Beckert once again stands before a mirror and observes himself. And, once again, he sees himself as marked by his criminality: he notices, with horror, a chalk letter “M” that had been drawn on his back, marking him as the murderer and making him finally visible and able to be apprehended.

This essay will trace the movement between these three scenes. What, indeed, does the devil incarnate look like? Certainly not like the man sitting in the Düsseldorf courtroom who had confessed to a long series of brutal attacks dating back to his childhood. Impeccably dressed, articulate, of average size, and with no outstanding features, Peter Kürten seemed the picture of an honest, middle-class German citizen, complete with a wife, a home, and a respectable job. How could this man be the “Vampire of Düsseldorf?” Many observers who eagerly followed the trial through its extensive press coverage agreed with the position expressed in an open letter to Kürten after his conviction: “Kürten, I beseech you yet again: tell the truth, give up the role of the Düsseldorf murderer. . . . I know you from the trials and have studied your image intensively.”² But, of course, Kürten *was* the murderer, in spite of his normal appearance. The case of the Düsseldorf murders both before and following Kürten’s apprehension, signaled a moment of crisis in which the belief in stable, visible boundaries between the criminal and the non-criminal seemed to break down. Lang’s classic film, as I will argue, examines these unstable boundaries—between criminal and non-criminal but also between individual and institution, sound and image—in an attempt to work through this crisis.

As Janet Bergstrom has perceptively noted, Lang is ultimately not interested in detailing the personality of the murderer but rather in examining the institutional structures that make him what he is and, crucially, in seeking to defend society against him.³ *M* traces both the collapse of existing official institutions—such as the police, the court, and the scientific apparatus that they sustain, which are unable to deal with the uncanny disturbance in the social order that the murderer represents and the consequent development of a new institution, a community united to distinguish itself from and defend itself

against outsiders. I also hope to demonstrate that these ideas are not at all unique to Lang's film. Rather, *M* draws together three terms that enjoyed a close relationship in Weimar Germany: mass murder, mass culture, and mass public—all three of which are intricately bound up with the problem of the visibility of the dangerous individual.

Walter Benjamin recognized quite clearly the crucial link between criminology, crime fiction, and visibility: "The invention of photography," he wrote, "means no less for criminal investigation than the invention of printing meant for writing, . . . photography makes possible for the first time to preserve an individual's traces."⁴ And precisely at this moment, Benjamin continues, both modern criminalistic methods and the modern detective story are born. Both types of crime stories that Benjamin evokes—the scientific work of criminologists and the fictional tales of criminals and detectives—employ visual evidence and in both cases the criminal's body occupies the center of attention and is the object of a professional gaze. The new criminal anthropology of the nineteenth century attempted to locate a marked body, a distinct, visible difference in the criminal; I will be referring to this as the Cesare Lombroso method, named for the founder of the Italian positivist school. Detectives, both real and fictional, on the other hand, worked in the opposite direction, tracking visual clues in order to trace them back to and capture the individual criminal; I will refer to this as the Sherlock Holmes method. Though they differ in their methodology, both regimes are connected in their ultimate goal—the removal of the dangerous individual for the protection of society—and in their faith in vision as the tool to achieve this goal.

In the twentieth century, both visual approaches to criminality—that of the Holmes-like detective and the Lombrosian criminal anthropologist—would undergo enormous transformations. As discussion of criminal appearance and methods of tracing the individual body through the clues that it leaves behind occupied a larger public, the effectiveness of both visual regimes in dealing with the modern criminal came increasingly into doubt.

II.

Tales of crime, from scientific criminological works to "true crime" novels to *Groschenromane*, achieved an unprecedented level of

popularity during the Weimar Republic and discussions of criminality and legal reform were carried out in a broad public forum. Bernhard Weiß, Deputy President of the Berlin Police Force, coined the term “criminalistic fantasy” (*kriminalistische Phantasie*) to describe this active interest and engagement of the public in matters of crime, both real and imagined.⁵ He surprisingly did not condemn it but rather argued that the detailed reporting of sensational criminal activities was a crucial element of modern police investigation. Weiß saw the public as an important ally of the police and argued that they needed to be informed in order to aid the police in fighting crime. Countless films, newspaper stories, and books, both fictional and supposedly true, would attempt to satisfy the Weimar public’s *kriminalistische Phantasie* by bringing the shadowy criminal world into view, promoting the idea of omnipresent criminality and ultimately calling for alternative systems of tracking criminals, one that operated in the name of the law but independent of the legal system. Two of the many works that addressed themselves to a broad public in an attempt to reform the criminalistic system are Curt Elwenspoek’s popular 1931 study of police work, *Mord und Totschlag-Polizei greift ein!* (*Murder and Manslaughter—The Police Responds!*) and Robert Heindl’s important criminological treatise, *Der Berufsverbrecher* (*The Career Criminal*), which was first published in 1926.

Elwenspoek begins his book by placing his reader near the scene of a murder: a young man sits next to the reader on a bus casually glancing at a newspaper, having just robbed and murdered a woman. You, however, did not realize that “you have experienced this shoulder to shoulder along with the murder, so to speak—clueless of the events.”⁶ Elwenspoek turns from this fictional scene to descriptions of recent sensational murder cases—those of Karl Denke, Fritz Haarmann, Karl Großmann, and Peter Kürten—and mentions the many witnesses who failed to recognize the men as murderers until after they were captured. The problem, according to Elwenspoek, lies in the types of pictures found in the works of criminal anthropologists and the faith in the visible difference of the criminal: “You think that one must be able to read a murderer’s depravity in his face? Amateurish superstition! . . . Just look at six, eight images of executed murderers and ask yourself conscientiously whether you wouldn’t consider most of them to be perhaps obtuse, but harmless (and many even good-natured) fellows! . . . No, there is no truth to

the ‘pronounced criminal physiognomy.’”⁷ Danger, in Elwenspoek’s paranoid universe, is present everywhere—yet it is only visible to “the trained eye” (*das geübte Auge*) of the professional criminalist. Elwenspoek’s book can be seen as a sort of training manual, enlisting the reader and training him to have just such a trained eye.

Elwenspoek ends the book where he began, with an exercise in observation, testing the reader again on his ability to read visual signs and identify the criminal. He includes a series of mug shots along with the questions “Who is the criminal? Who is the innocent?”⁸ The top series of photographs turns out to be the author himself, the bottom series his secretary, and the middle series, “a multiple sex-killer.”⁹ The reader is, of course, still unable to read physical clues and separate the criminals from the innocents; the serial killer is no more marked than the author of the book. Neither of the nineteenth-century beliefs in the visibility of the criminal—that is, criminal stigmata and the following of traces—seem to be effective in the world that Elwenspoek details. The public must, therefore, be enlisted in the fight against crime. The criminal is no longer the subject only of a professional gaze but of a widespread network of surveillance which is just as omnipresent and invisible as he is.

It is not only in popular works such as Elwenspoek’s that one finds this type of paranoid world where criminality is both omni-present and invisible. In his enormously influential criminological treatise, *Der Berufsverbrecher: Ein Beitrag zur Strafrechtsreform* (*The Career Criminal: A Contribution to Penal Reform* [1926]), Robert Heindl adopts a similarly paranoid view. Though he admires Lombroso’s turn to the study of the criminal and, like Lombroso, seems to posit a sort of *delinquente nato* in his version of the *Berufsverbrecher*, Heindl does not resuscitate the notion of the visual difference of the criminal. In a series of pictures titled “Is there a Criminal Type?,” Heindl answers his own question in the negative, arguing that “one would . . . be more accurate in speaking of a ‘prison physiognomy’ (acquired while under custody) than of a ‘criminal type’ (Lombroso).”¹⁰ The career criminal cannot simply be subjected to scientific measurement to determine his criminality.

In Heindl’s estimation, the police and their system of tracing the individual through evidence is not effective in combatting the *Berufsverbrecher*. In a volume entitled *Polizei und Verbrechen* (*Police and Crime*), published concurrently the first edition of *Der Berufsverbrecher*, Heindl devotes over 100 pages to describing the

modern police methods of collecting evidence, photographing crime scenes, assembling fingerprints, etc., then turns to suggestions for improving crime fighting. His suggestions, it turns out, have nothing to do with further developing the criminalistic science that he described in such detail but rather with the enlistment of the public in the battle against criminals, arguing in favor of the sensational reporting of crime in the tabloid press in order to provoke the public into action. "The degeneration of morals," he claims, "is far better than the sterile work of the criminal police."¹¹ Heindl's *Berufsverbrecher*, though it falls within the genre of scientific criminology, is also, as Leslie Ann Pahl has argued, something of a sensationalist work, painting a picture of a world in which "crime is everywhere and everyone is potentially a criminal."¹² Like Elwenspoek, Heindl points to the recent cases of sensational serial killers and admonishes the public not to forget "the lesson that Haarmann and Großmann recently taught us!"¹³ Hence, he does not address his work to a professional audience—as did the criminologists he admires, from Lombroso to Hans Groß—but rather to the general public: "Our divergent opinion is not presented in bureaucratic language. One may excuse this decision since this work is not directed exclusively at jurists, but rather aims to alert a large public to the utopian notion of rehabilitation theory, the eminent danger of career criminals and the necessity of lifelong preventative detention by bringing these facts as emphatically as possible before their eyes."¹⁴ In Heindl's paranoid world, society is continuously threatened by an omnipresent, invisible criminality that is not brought before the eyes of the public. The police and the judicial system have proven ineffective in halting the modern criminal, thus leading Heindl to warn his readers: "Every people must defend itself against these parasites (*Schädlinge*). A people that fails to apply this principle rigorously will vanish."¹⁵

From criminological works to the tabloid press, the Weimar *criminalistische Phantasie* worked to paint a paranoid picture of a society completely undermined by criminality. *Hochstapler* and serial killers seemed to be lurking in every shadowy corner, hiding behind the normal appearance of the "man-next-door." This paranoid worldview further worked to charge every citizen with the task of defending themselves. From 1929–1930 the citizens of Düsseldorf would respond enthusiastically to this task, as a serial killer dubbed "the Vampire of Düsseldorf" continually eluded police and occupied the attention of all of Germany and much of the world.

III.

“Düsseldorf is at a fever-pitch! The Rhineland is trembling with excitement! Let’s put it calmly: all of Germany is tumbling these days from one sensation to another.”¹⁶ Thus begins a special issue of the popular crime monthly *Das Kriminal-Magazin* (*Criminal Magazine*) from 1930 devoted to the serial killer who terrorized Düsseldorf since February 1929, having committed no fewer than eight murders and attempted at least seven others, he continued to elude the authorities. The best criminalists from Germany were called in to investigate the case, including the celebrity homicide detective from Berlin, Ernst Gennat. Reporters from around the world descended on the Rhineland, and both Edgar Wallace and a retired detective from Scotland Yard were rumored to have taken temporary residence in Düsseldorf to attempt to crack the case. Yet, as the police conducted an exhaustive investigation, examining over 13,000 letters and following up “no less than 2,650 clues,”¹⁷ the bodies of victims continued to accumulate. The public was frustrated and enraged, leading the *Kriminal-Magazin* to assert that “not too many criminalists have faith in the possibility of a successful systematic search for the murderer, and the public doesn’t believe in it at all.”¹⁸

The serial killer, Peter Kürten, was eventually arrested by chance rather than clever detective work: an escaped victim wrote a letter to a friend describing the attack and, in an uncharacteristic error by the German postal service the letter was misdelivered to police headquarters. This set in motion a complicated chain of events, resulting in Kürten’s confessing to his wife who then reported him to the police. When Kürten first appeared before the public, the comment of one reporter was echoed countless times throughout the courtroom and the press: “Is this what a murderer looks like?”¹⁹ Though the press had repeatedly dubbed the serial killer a “vampire” and a “beast,” it had become obvious long before his capture that the murderer was, in fact, someone who blended in well with the population and who looked, in short, like everyone else. The Kürten case marked a crisis of belief in both of the visual regimes that had long dominated criminality—the Holmes—like tracking of the individual body through the physical traces it leaves behind and the Lombrosian faith in the measurable, visible difference of the criminal. This moment of crisis provoked an unprecedented widespread public

discussion of police tactics and a frantic search for alternative methods of social defense.

Ernst Gennat, the well-respected chief of the homicide division of the criminal police in Berlin and a pioneer in the science of evidentiary investigation, was called in to aid local authorities in capturing the murderer and proceeded to write a series of articles for the *Kriminalistische Monatshefte* (*Criminalistic Monthly*) beginning in January 1930 that discussed the case. It was unusual for the *Kriminalistische Monatshefte*, the standard trade journal of German criminalists, to discuss an ongoing investigation but as Bernhard Weiß, the editor of the journal, noted in his introduction to the first installment of Gennat's discussion, the Düsseldorf murders were unusual cases and the police tactics received widespread attention.²⁰ The police came under attack for their failure to capture the "Vampire of Düsseldorf," and Gennat needed to respond in their defense. A portly and more desk-bound version of Sherlock Holmes, Gennat was celebrated for his method of careful observation that insisted on the need to study all details. His techniques earned him a position as one of Weimar Germany's most prominent and respected criminalists, and he put them to work in the Düsseldorf case. In the series of essays, which appeared over the course of the first four months of 1930, he painstakingly details the evidence collected in the investigation—weapons, keys, handkerchiefs, and letters to the press—carefully describes the crime scenes, compares the timing and methods of the attacks, and even examines the type of paper and the color of the pencil (blue) that the murderer used to write his letters.²¹ By the end of his series on the Düsseldorf investigation, however, even Gennat seems to have lost faith in his method of carefully tracking clues in order to apprehend the criminal. In the final installment of the series, he calls for a shift in tactics: no longer will the investigation proceed "from the crime scene to the criminal," he writes, but rather "from the criminal to the crime scene—to the crime."²² Whereas the emphasis was placed on the careful collection and examination of evidence, Gennat argues, the investigation now shifted its focus to apprehending the criminal more directly. The Düsseldorf murders seemed to prove that the individual body of the criminal was no longer traceable through the clues that it left behind. The focus had to be shifted to a system of surveillance that spotted the criminal *before* committing his crime.

Gennat immediately emphasizes, however, that this move to the criminal cannot be based on outdated notions of visual difference. Commenting on the “personality and appearance of sex-murderers,” he writes, “one generally believes that such people possess a raw, brutal, and violent nature; strangely most are precisely the opposite. One tends to find people who seem sweet and good-natured in their surroundings. This is precisely the reason that sex-murderers are so seldom discovered. One often bypasses the real criminal, even when there is strong evidence to make him a suspect, because his personality stands in such marked opposition to the deed that one considers his guilt to be out of the question.”²³

Gennat is responding here to the reemergence in the Düsseldorf case of Lombroso’s criminal anthropology that was held to be outdated. Responding like Gennat to criticism launched at the police during the Düsseldorf investigations, a member of the criminal police named Kleinschmidt singles out the “publications by amateurs . . . in which the long-dismissed theses pertaining to the coincidence of certain body types with certain criminal tendencies . . . continually reemerge.”²⁴ The popular press called for an “emergency application” (*Nutzenwendung*) of criminal anthropology in this case to prove the guilt of the chief suspect prior to Kürten’s arrest, Hans Stausberg, an illiterate, epileptic, mentally-challenged twenty-one-year-old who had difficulty speaking—a man, in short, who had all of the features of Lombroso’s *delinquente nato*, right down to his alleged “misshaped skull,” “hare-lip,” “deformed mouth,” “assymetrical face,” “melanoid eyes,” and “twinkling, glassy stare.”²⁵ Though witnesses and the evidence from the crime scenes did not point to Stausberg as being responsible for the crimes he was accused of doing, many wanted to convict him of multiple murders on the evidence of his hare-lip. Kleinschmidt responds to this reappearance of Lombrosian thought with cynicism and ominous overtones of the system of “social defense” that would be put into place in Germany just three years later:

What possibilities would present themselves, for example, if it were possible to recognize a criminal as such on the basis of his appearance? Were one to put into place techniques of criminal investigation that would correspond to this, one could see it as a political necessity to separate all criminal elements as a preventative mechanism. We could do away with most of the police officers and jurists and replace them with an “expert” who would examine the creatures from time to time

and register all “criminal types” who could then be placed in concentration camps organized according to their crimes.²⁶

Stausberg, of course, turned out not to be the murderer and when the next body was found after the case was supposedly closed “a storm of indignation and terror” broke out throughout all of Germany “with redoubled ferocity.”²⁷ It became abundantly clear that the “vampire” looked nothing like Friedrich Murnau’s *Nosferatu* nor did he look like the pictures in the criminal anthropologists’ books. When Kürten was eventually arrested, nearly every observer expressed shock and even disappointment at the normality of his appearance, going to great lengths to marvel at his meticulous manners, his sartorial graces, and his good job.²⁸ In the Kürten case, the pattern of surprise that invariably accompanies the capture of a notorious killer was in its early stages—the system of visible differences broke down just as the system of evidentiary investigation broke down. This led to a moment of fear and shock so intense that Ernst Gennat, among others, referred to it as a mass “psychosis” brought on by “a sort of state of war.”²⁹ Gennat considers it a chief duty of the police to battle these psychoses, which he attributes to an over-stimulated public whose fantastic engagement with the criminal ran to an extreme—a paranoid environment that combines a fear of criminality with an excitement in the face of criminality.³⁰

The public was anxious and frustrated, with good reason, but recall the words from the special issue of the *Kriminal-Magazin* quoted above: the public “is at a fever-pitch,” it “trembles with excitement” and “tumbles from one sensation to another.”³¹ There is a marked excitement in the face of danger. “A mass murderer is playing with a city,” reads one section heading of the magazine, and the city seemed quite eager to play along.³² Like Gennat, the *Kriminal-Magazin*, whose readership was not the specialized criminalist audience that Gennat was addressing but rather a popular audience interested in sensational tales of crime (the magazine was edited by Edgar Wallace), emphasized that “the public had been taken hold of by a psychosis that often gave rise to the strangest practices.”³³ Maria Tatar argues in her perceptive examination of sexual murder in Weimar Germany that this emphasis on the psychosis of the public “succeeded in transferring signs of the murder’s ‘disease’ to the public” and indicates that the “population at large was thus seen as duplicating the psychosis of the murderer.”³⁴ While Tatar is

generally correct in this observation regarding a great deal of press coverage of the case, the *Kriminal-Magazin* puts this notion of psychosis to an interestingly different use. After diagnosing the populace as suffering from a “murderer psychosis” (*Mörderpsychose*), the *Kriminal-Magazin* does not proceed, as does Gennat, to offer a cure but rather to stress the *positive* effects of paranoia: “one may laugh at the murderer psychosis of the Düsseldorfer these days,” argues the magazine, but “without it the necessary attention of the public would not be possible.”³⁵ Whereas Gennat seeks to contain the psychosis, the *Kriminal-Magazin* seeks to mobilize it. Gennat’s patient examination of clues proved unsuccessful; if the crime is to be solved, the magazine states, “the public must unmask the murderer.”³⁶ The issue concludes with a call for a “mobilization of the public” and “the cooperation of the great masses” in order to capture the elusive killer.³⁷ Gennat’s methods, based on tracking the individual criminal, now seemed as inadequate and out-of-date as Lombroso’s faith in the visual difference of the criminal. A new system was needed—a thoroughly modern, ever vigilant, surveillance-oriented society to ensure “that this horrible criminal be rendered harmless.”³⁸ This amounted to an implementation of the system that was being developed in criminological works such as Heindl’s *Der Berufsverbrecher* and journalistic works such as Elwenspoek’s *Mord und Totschlag* and was tentatively and ambivalently being advocated by the police themselves. It is this new system and its consequences that Fritz Lang investigates in his response to the Kürten case, the 1931 film *M*. Lang’s position toward this new system is as ambivalent as that of professionals such as Weiß and Gennat, but his film is ultimately in line with the arguments of Elwenspoek, Heindl, and the *Kriminal-Magazin*.

IV.

Nearly every commentator on *M* has mentioned its connection to the Düsseldorf murders.³⁹ Lang himself, however, repeatedly denied that Peter Kürten was the inspiration for his film. In an interview conducted over three decades after the premiere of the film, Gero Gandert asked Lang how he came upon his film’s theme and whether Kürten, Haarmann, or Großmann served as “contemporary models” for the fictional child-murderer Beckert. “Who can truly say

how he comes upon a theme? What influences him?" was Lang's response, "When I believe in a theme—when I am possessed by one—I do quite a bit of research. . . . And at the time I decided upon the theme for *M*, there were many mass murderers in Germany—Haarmann, Großmann, Kürten, Denke—so I naturally asked myself the question: What moved these people to commit their crimes? They were not contemporary 'models,' as you put it, as none of them was a child murderer. But at this time there were terrible crimes against children in Breslau, and the culprit was never caught."⁴⁰

Though Gandert does not repeat the question, Lang feels compelled to return—unprompted—to his denial later in the interview. Gandert asks about the well-known anecdote, reported by Siegfried Kracauer, that Lang changed the title of the film from *Mörder unter uns* (*Murderers Among Us*) to *M* under pressure from a member of the Nazi party. Lang, however, answers another unposed question: "For once Siegfried Kracauer was not incorrect, except for his assertion that *M* was a film about the Düsseldorf child-murderer Kürten. First, Kürten was not a child murderer, and second the manuscript for *M* was completed before Kürten was arrested."⁴¹

At this point, one gets the feeling that Lang is protesting too much, acting like a suspect being interviewed by the police and continually denying his "guilt" in the charge of modeling his film upon the Kürten case. And, interestingly, he seems to betray himself here, getting his chronology confused. According to contemporary reports in both *Lichtbild-Bühne* and *Der Kinematograph*, the script for *M* was completed at the end of November 1930, and production on the film began in mid-December of the same year.⁴² Kürten was arrested on May 24, 1930, and was undergoing psychiatric evaluation during the period in which the script was being completed and the film was being shot.

Despite Lang's repeated disclaimers, the fact that *M* premiered on May 11, 1931, just over two weeks after Kürten was convicted on nine counts of murder and seven counts of attempted murder, and was still in distribution when Kürten was executed two months later, led nearly every contemporary reviewer to link Lang's film to the Düsseldorf events.⁴³ Herbert Ihering, for example, labels the film "an intellectual analysis of the problem of the Kürten case," and, like most critics, condemns Lang for the tastelessness of his timing: "The case of Peter Kürten as the plot of a novel, no, that is not possible."⁴⁴ Gabriele Tergit, a pioneer in the field of trial reportage in the 1920s

and well acquainted with recent criminal events, recognized *M* as a thinly-veiled version of the Kürten case: "The murderer film *M* is the hastiest attempt to capitalize on events. Just after the beast is in court, he is already on the screen."⁴⁵ Tergit's attack on *M* reminds us that this now classic film—which has found a place near the top of nearly every film critic's top-fifty list and was voted the best German film of all time in a 1994 poll of 500 members of the German film industry—was, at the time of its release, something akin to the modern "movie-of-the-week," whose plot was "ripped from today's headlines." For Tergit, there seems to be no distance between Lang's film and the Düsseldorf murders; she repeatedly refers to the fictional character of Lohmann, for instance, by the name of the real-life detective Gennat.⁴⁶ Tergit goes on to accuse Lang and co-screenwriter Thea von Harbou of bringing "Satan himself . . . into the business calculations and without respect or a sense of the gravity of the situation, to mint little pennies of success out of the suffering of the mothers whose children have been robbed from them and the horror of an entire city."⁴⁷ "Will they dare," she wonders, "to show this film in Düsseldorf as well? Will Fritz Lang show up in a tuxedo and Thea von Harbou in a white dress and take a bow?"⁴⁸

Like nearly every critic and contemporary viewer of the film, Ihering and Tergit had no doubt about the link between Kürten and *M*. Lang's film does not, of course, follow the Kürten case in detail: Beckert is a child-murderer, whereas Kürten indiscriminately killed women, men, children, and even animals; Lang sets his film in Berlin rather than Düsseldorf; and, most importantly, Kürten was ultimately captured by the police not the underworld, as in Lang's film. However, Lang's "fatty Lohmann" (*der dicke Lohmann*) is clearly a cipher for "fatty Gennat" (*der dicke Gennat*)⁴⁹ and even such details as the importance of the color of the murderer's pencil are repeated from the Kürten case.⁵⁰ The program issued to accompany the film's premiere even stressed the link between the Düsseldorf murders and Lang's film, incorporating statements by key figures from the Düsseldorf investigation and reproducing the letters that Kürten had written to the press.⁵¹ Though most postwar critics mention the connection between Lang's film and the Kürten case, they do not pursue the implications of these links in detail. By stressing the connection and Lang's later uneasiness about it, I hope to recover some of the initial shock-value of the film. Lang's classic film must be read as an urgent and controversial intervention in the ongoing debates

surrounding the Kürten case that I have been tracing—about the process of police investigation, the role of the public, and, crucially, the link between visibility and criminality. *M* traces both the breakdown of the two visual systems of investigation—the Sherlock Holmes method and the Cesare Lombroso method—and the emergence of a new institution that will take its place, the ever-vigilant mass, a community united in self-defense.

At the time of its premiere, Lang referred to his film as “a documentary report” and announced his intention “to correspond to the objectivity of the period in which we are living and to produce a film solely from documentary reports.”⁵² Among the signs of the time that Lang expresses a desire to examine is “the horrifying psychotic fear of the populace.”⁵³ The line of criticism on *M* since the end of World War II has repeatedly taken up this statement and read Lang’s serial killer as a sort of victim and the psychosis of the populace as the real target of Lang’s attack. No critic has pursued this reading as brilliantly as Maria Tatar, who argues that “Lang succeeds in turning a man who commits ‘the most heinous crime’ [Lang’s phrase] into a sympathetic, if also pathetic, character. . . . By the end of the film, Beckert’s pathology begins to take a backseat to the hysteria of the mothers, who are prepared to rush him and tear him limb from limb.”⁵⁴ Read in the light of the Düsseldorf murders, however, the notion of the killer as sympathetic victim is difficult to sustain. Contemporary reviews frequently mention the aggressive reaction of the audience to the film. Describing the scene in which Beckert confesses his inability to control his murderous impulses to an unsympathetic underworld tribunal, Hans Fell notes: “The women, in contrast—and not only those on the screen—advocate rendering him harmless through extermination.”⁵⁵ Tergit reported “enthusiastic applause” throughout the audience at the film’s gala premiere during the scene in which a gangster argues against sending Beckert to a legitimate court where he would surely be found mentally incompetent and therefore unable to be executed.⁵⁶ “Man is so conditioned,” writes Tergit, “that he wants a victim right away. Scratch a bit at the surface and a Tartar will always come into view. There were many Tartars in the Ufa-Theater am Zoo at the premiere.”⁵⁷ A reviewer for *Der Angriff* found *M* well in accordance with his own political tendencies, lauding the film as “the best argument against those who oppose the death penalty.”⁵⁸ And Joseph Goebbels recorded in his diary after seeing *M*: “Fantastic! Against humanitarian

soppiness. For the death penalty. Well made. Lang will be our director one day.”⁵⁹ When we consider the pre-Hitler reception of the film, we find ourselves quite far from the notion of the killer as victim that dominates the post-Hitler reception of the film.

Nor is the “psychotic fear” of the public the true subject of critique in this film. Like the special issue of the *Kriminal-Magazin* devoted to the Düsseldorf murders, Lang ultimately promotes this “psychosis” as an effective response to the crisis of faith in the ability to see criminals and as the cornerstone of an alternative model of social defense. Like Kaes, I see Lang’s film addressing the late-Weimar issue of “total mobilization,” the very call in Elwenspoek’s and Heindl’s monographs and in the *Kriminal-Magazin*’s response to the Düsseldorf murders. Unlike Kaes, however, I don’t think Lang ultimately “appears to question and critique the need for mobilization, fear, and heightened paranoia.”⁶⁰ Rather, he endorses it. Over the course of the film, a community forms around and against the child murderer as the empty spaces that characterize the opening sequences give way to crowded public spaces. This is a paranoid community, but Lang’s world here, as in most of his films, is a paranoid world in which danger is ever-present and usually invisible. Read in the light of the crisis produced by the Kürten case, Lang’s film can be read as an attempt to develop a new system of social defense based not on outdated notions of scientific or police investigation but rather on the development of a modern, mobilized mass evident in works such as Elwenspoek’s, Heindl’s, and the *Kriminal-Magazin*.

In the wake of National Socialist rule and the Holocaust, Lang distanced himself from this reading of his film, choosing instead to claim that he was ultimately interested in “man . . . what drives him to his actions, *what makes him tick!*”⁶¹ However, as the subtitle later added to the film (“A City looks for a Murderer,” *Eine Stadt sucht einen Mörder*⁶²) clearly indicates, Lang is primarily interested not in the personality of the murderer nor in his crimes but rather in the public investigation of the murder.⁶³ There are, of course, two parallel investigations in *M*: the police search and the gangsters’ search. Critics since Kracauer have made much of the scene in which the two are connected through crosscutting between the police discussion and the gangsters’ discussion of how to capture the killer: “At times,” as Noël Carroll observes, “the editing almost elides the two meetings; a criminal could be seen as addressing an official and vice versa.”⁶⁴ This use of montage, Carroll further notes, “is grounded

by a thematic point—namely, the identification of the two groups.”⁶⁵ Tatar argues that, in this scene, “it begins to dawn on the spectator that there is no real difference between the two factions.”⁶⁶ Gunning praises the “wonderfully witty cutting on gestures which ties the two groups together” and “reveals their shared use of surveillance and control through hierarchialised power.”⁶⁷ Kaes points out that “the editing establishes a common goal” and “[s]moking among men establishes a curious commonality which even includes Beckert, who betrays himself by leaving three cigarette butts at the crime scene as evidence.”⁶⁸ While all of these critics make perceptive and valid points that lead to sophisticated analyses linking the various characters, the investigations of the two groups are contrasted. Though both the gangsters and the police share a common purpose—the capture of the child-murderer—Lang stages in this scene and throughout the film a competition between the opposing methodologies of the two groups.

The police are consistently shown to be following the time-honored hermeneutic method of searching for clues. They examine fingerprints, dig up scraps of paper and cigarette butts, and literally seek out the traces that the killer leaves behind in the form of imprints on his writing surface or bits of red pencil on the window sill. The police investigation depends upon *visual* clues—that is, the Holmes—like method of tracking a criminal by the traces he leaves behind. Inspector Lohmann is every bit as punctilious as Gennat, carefully following up on “more than 1,500 detailed clues” that are collected in “sixty thick volumes.”⁶⁹

In a remarkable scene, in which the police president explains his investigation to a government minister who is pushing for results, Lang’s ingenious use of oppositions between the visual track and the sound track shows the two visual regimes that had long dominated discussions of criminality to be utterly ineffective. As the police president explains the difficulty of tracing fingerprints and the need to gather clues and submit them to the archive, the film launches into a documentary-like sequence, detailing the tedious process of evidence collection through blow-ups of fingerprints and scenes of detectives collecting scraps of paper from crime scenes. Even as the president admits that it is “almost impossible to recover a useful fingerprint from a piece of paper that has passed through so many hands,”⁷⁰ we are shown an enormous projection of a fingerprint, an “unreadable clue,”⁷¹ being carefully studied by the police. Later in

the sequence, we follow a crumpled piece of paper found at a crime scene on an unsuccessful journey in search of the store it came from. Visual evidence, whether a fingerprint or a scrap of paper, does not lead to the individual who left them behind, but the police seem to lack investigative alternatives. The overall tone is one of hopelessness and the inadequacy of the process.

During one part of this long sequence the film shifts to an archive where a police expert paces in front of a wall of files, dictating a description of the still-unknown criminal. Lang then cuts to a shot of the child-murderer, Beckert, standing in front of a mirror in his apartment as the police employee in the archive, in a voiceover, describes the pronounced psychological defects of the murderer. The expert is a graphologist who is constructing a profile of the unknown murderer based on his handwriting in a letter to a local paper. According to the graphologist, whose thick glasses, restless pacing on and off camera, and theatrical intonations seem to be a parody of such experts, the murderer shows traces of insanity: "In the whole form of his writing there is an elusive, but intensively palpable trace of madness."⁷² Meanwhile, the visual image shows Beckert pulling the corners of his mouth down, grotesquely distorting his face and constructing himself temporarily as the obviously subhuman beast that is being described. According to the criminalist, whose description we hear on the soundtrack, the criminal is different—that is, pathological—and it follows that he should be readily apparent as different. For a moment, Beckert's body betrays his deviant nature, just as criminal anthropologists such as Lombroso had argued it must, and just as the police expert in the film seems to be arguing.

The normal trajectory of the process of investigation, however, is shown to be reversed in this scene: whereas the criminalist seems to be using a clue in order to gather information about the criminal, to construct a profile of him and thereby distinguish him from others, in actuality the process moves also in the opposite direction—the criminalist's description actually seems to *impact* Beckert's appearance, as if Beckert were following the "instructions" as to what his profile should like even though he cannot hear the expert's description. The criminal adapts to and adopts notions of what he is supposed to be like and begins to conform to a type. The archives, which are powerfully represented in this scene as the wall of files before which the handwriting expert paces, dictating yet another

report to be placed in the files, not only gather information to construct composite profiles; they play a role in forming individuals as types. Serial killers, in particular, frequently take an enormous interest in researching the literature, both popular and clinical, on serial murder.⁷³ Peter Kürten, for example, confessed to learning the “trade” of serial killing by reading not only stories of Jack the Ripper (common among serial killers since the 1880s), but also Lombroso’s criminological treatises.

As in Franz Kafka’s short story, “In the Penal Colony,” criminological discourse and the law seem to be *writing their signs onto the face* of the criminal instead of reading signs in the criminal.⁷⁴ Of course, nothing is written onto Beckert’s body; his mouth quickly returns to its normal position and with it he returns to invisibility within society—he is no longer a “type” that can be spotted. His body is as unreadable a clue as the fingerprint and the crumpled scrap of paper depicted in the sequence. Indeed, as both Kaes and Gunning note in their discussions of this scene, the camera cuts to Beckert looking in the mirror precisely at the point the police expert comments on his writing style’s “expression of play-acting” (*Ausdruck von Schauspielerei*) and cuts back to the archive on the word “madness” (*Wahnsinn*).⁷⁵ Which is it finally, *Schauspielerei* or *Wahnsinn*? The film never answers this question, pursuing instead the seemingly more urgent question of how to identify and distinguish the killer.

The disjuncture between the sound and image tracks in this scene, between the pathogen being described and the man-next-door being seen, is one of Lang’s many masterful uses of the new medium of sound in his first sound film. It is also the central problem that the film works through: the breakdown of stable, visible boundaries between criminal and non-criminal and the ineffectiveness of tracking the individual body through evidence. As an elderly detective later tells the police gathered to discuss the case: “This is perhaps a man who, outside of the state in which he kills, is a harmless-looking, upstanding citizen. . . . Without this . . . I want to say . . . private harmlessness in murderers it is not conceivable that a man such as Großmann, Haarmann, can live for years in the same building with many other residents, without attracting any trace of suspicion.”⁷⁶ At this point—the only mention in the film of the real-life serial killers Großmann and Haarmann—this crisis of visibility leads, as in the works of Elwenspoek and Heindl and in the

Kriminal-Magazin dossier on Kürten, to a call for the police to solicit the help of the public in capturing the murderer. When an officer recommends asking for the public's help, however, Lohmann vehemently opposes the suggestion: "Enough with the cooperation of the public!", he snaps, "When I even think about it, it makes me want to vomit."⁷⁷ Lohmann then launches into a tirade against the same public "psychoses" that Gennat saw as impeding his investigation of the Kürten case.

The police with their clues, archives, and criminological experts are unable to apprehend the killer. It is the gangsters, through a very different method, who get to him first.⁷⁸ Shortly after Lohmann's outburst against enlisting the help of the public, Schränker, the leader of the gangsters, slaps his hand down over a map of Berlin and insists that the entire city must be put under surveillance by recruiting the help of the organization of beggars: "We must cover the city with a net of spies. Every square meter must be under constant surveillance. No child in this city will be allowed to take a step without us knowing about it."⁷⁹ Schränker's map, covered by his black-gloved hand, contrasts with Lohmann's map on which circles are slowly drawn as clues are sifted and categorized. In contrast to the police, the gangsters do not have archives, do not follow traces, and generally do not rely on visual clues. Indeed, they do not rely on clues at all; they do not attempt to proceed from the crime scene to the criminal. Instead, they enlist the aid of the public and construct a new system of total surveillance that, interestingly, concentrates not on visual but rather on *aural* clues. It is indeed a wonderful irony, as Tatar points out, that it is ultimately a blind man who "spots" the criminal.⁸⁰ But it is more than an ironic joke; it is also the central argument of the film. Relying neither on the hermeneutics of crime nor on a scientific system of measuring criminal difference, the gangsters turn instead to a system of surveillance and marking. In the film's most famous scene, Beckert stands again in front of a mirror, as he had when distorting his face and showing that he was not visible as a criminal. This time, however, he looks with horror at a chalk letter "M" on his back that marks him as the murderer. The body of the criminal finally betrays his criminality—he has been *made visible* in order to be tracked.

He has also finally been distinguished from the other citizens. In this final separation of the criminal from the crowd, a community seems to form out of a previously disunited mass. The empty spaces of

the early scenes of the film give way—beginning with the reports of the murder of Elsie and culminating in the gangster-courtroom scene—to crowded spaces. Benjamin remarked of Atget's photographs of empty Parisian streets that "he photographed them like a crime scene. The crime scene is also empty of people."⁸¹ The empty public spaces of the early part of *M* are all, essentially, crime scenes; the occupied spaces at the end, on the other hand, cannot be crime scenes. Disengaged private life gives way to public life over the course of the film and around the figure of the murderer, leading the broken families that occupy the entire film to gather for a mass "family portrait" at the gangster trial of the murderer.

Most critics as well as Lang himself, at least after 1945, have stressed the film's oppositional stance toward the hysteria of the mass public that tracks the killer. Kaes, for example, argues that *M* is "a work that explored how a single misfit could tear an entire city's social fabric,"⁸² while Tatar asserts that "by the end of the film, Beckert's pathology begins to take a back seat to the hysteria of the mothers."⁸³ There is certainly no denying that *M* ridicules and expresses horror at these "psychoses." However, there is a powerful tendency in this film to endorse the formation of the public into a united community as the only effective alternative in fighting crime and as a movement from disengaged private life to engaged public life.

The 1939 Nazi film *Der ewige Jude* (*The Eternal Jew*) is as well known and contains a clip of Beckert's "confession" scene that equates the narration of the fictional criminal's confession with that of the Jewish actor, Peter Lorre, who portrays him.⁸⁴ A lesser-known photo-essay in a National Socialist newspaper from the same time as *Der ewige Jude* also resuscitates a scene from *M* under the heading "That was less than ten years ago," it places a photograph of Beckert distorting his face in front of the mirror next to one from the film *Wien, du Stadt der Lieder* (*Vienna, You City of Songs*), depicting a group of "sons of Israel disguised as Europeans."⁸⁵ Both pictures, especially in their juxtaposition, pose the "problem" of making a "pathogen" visible. It is not difficult to see the connection between the chalk "M" that branded Beckert at the end of Lang's film and the yellow Star of David that the Jews were forced to wear so that they would no longer be able to "disguise" themselves as "Europeans." Felix Nußbaum's famous self-portrait *Selbstbildnis mit Judenpaß* (*Self-Portrait with a Jew's Passport*) also alludes to the scene from *M* where Beckert sees himself in the mirror and notices

the *M* on his shoulder. Nußbaum's painting highlights the Nazi's mania for identification and the shock of the self-experience of the identified.

This system of marking, as I have shown, has its origins in the paranoid turn that accompanied a collapse of faith in the ability to distinguish between the criminal and the non-criminal. Indeed, *Der ewige Jude*, like a number of popular and clinical Weimar texts, could be seen as a sort of training film for spotting a hidden Other and for insisting that bodies cannot—and yet must—be read. To return to the three scenes of criminality from the beginning of this essay: though it is not at all straight or obvious, a line can be traced from the “man-next-door” serial killer Peter Kürten, who can be caught only by accident, through the almost invisible Becker, who can be stopped only by a totalitarian network, to the Nazi stigmatizing of the Jew and Others as inherently criminal, who can be preemptively stopped by marking them and removing them from society.

NOTES

1. Quoted in Henry T. F. Rhodes, *The Criminals We Deserve* (New York: Oxford University Press, 1937), 126.
2. Anonymous open letter to Peter Kürten; rpt. in *Leben und Wirken des Peter Kürten, genannt der Vampir von Düsseldorf*, ed. Elisabeth Lenk and Roswitha Kaever, 330–31 (München: Rogner & Bernhard GmbH, 1974), 331.
3. See Janet Bergstrom, “Psychological Explanation in the Films of Lang and Pabst,” in *Psychoanalysis & Cinema*, ed. E. Ann Kaplan (New York: Routledge, 1990), 163–80.
4. Walter Benjamin, *Das Paris des Second Empire bei Baudelaire*, in *Gesammelte Schriften*, ed. Rolf Tiedemann and Hermann Schweppenhäuser (Frankfurt: Suhrkamp, 1972), I, 2:550.
5. Bernhard Weiß, “Kriminalensationen,” *Vossische Zeitung (Morgenausgabe [The Morning Edition])*, January 16, 1927.
6. Curt Elwenspoek, *Mord und Totschlag: Polizei greift ein!* (Stuttgart: Dieck, 1931), 7.
7. *Ibid.*, 17–18.
8. *Ibid.*, 273.
9. *Ibid.*
10. Heindl, *Der Berufsverbrecher* (Berlin: Pan-Verlag Rolf Heise, 1926), 113.

11. Robert Heindl, *Polizei und Verbrechen* (Berlin: Gersbach & Sohn Verlag, 1926), 118.
12. Leslie Ann Pahl, "Margins of Modernity: The Citizen and the Criminal in the Weimar Republic," PhD diss., University of California-Berkeley, 1991, p. 307.
13. Heindl, *Der Berufsverbrecher*, 223. Compare Pahl, "Margins of Modernity," 322.
14. Heindl, *Der Berufsverbrecher*, 1.
15. Ibid., 394.
16. "Das Geheimnis von Düsseldorf: Wer ist der Mörder?" *Kriminal-Magazin (Sonderausgabe, 1930)*, rpt. in Lenk and Kaever, *Leben und Wirken des Peter Kürten*, 13.
17. See George Godwin, *Peter Kürten: A Study in Sadism* (London: Acorn Press, 1938), 9.
18. "Das Geheimnis von Düsseldorf," 36.
19. "Massenmörder Kürten berichtet," *Berlin Lokal-Anzeiger (Abendausgabe)* [The Evening Edition], April 13, 1931.
20. Editor's note to Ernst Gennat, "Die Düsseldorf Sexualverbrechen," *Kriminalistische Monatshefte* 4, no. 1 (January 1930): 2–3.
21. See Gennat, "Die Düsseldorf Sexualverbrechen," *Kriminalistische Monatshefte* 4, nos. 1–4 (January–April 1930). Anton Kaes discusses Gennat's involvement in the Düsseldorf murders in his wonderful study of Fritz Lang's film *M* in its sociohistorical contexts (See Anton Kaes, *M* [London: British Film Institute, 2000], 32–33). My discussion of Kürten and *M* owe a large debt to Kaes's study, but my placement of the case and the film within the wider context of criminal investigation and the involvement differs in crucial respects, as will become clear.
22. Gennat, "Die Düsseldorf Sexualverbrechen," *Kriminalistische Monatshefte* 4, no. 4 (April 1930): 79–85, 84. Gennat repeats this call in a special issue of the *Deutsches Polizeiblatt* on "Die Düsseldorf Sexualverbrechen von 1929," which appeared on April 8, 1930, pp. 1–18.
23. Gennat, "Die Düsseldorf Sexualverbrechen," 83–84.
24. Kriminalpolizeirat Kleinschmidt, "Problematik in der Kriminalistik," *Kriminalistische Monatshefte* 4, no. 5 (May 1930): 103–6, 103.
25. Quoted in *ibid.*, 103.
26. Ibid.
27. Margaret Seaton Wagner, *The Monster of Düsseldorf: The Life and Trial of Peter Kürten* (London: Faber & Faber, 1932), 44.
28. See the discussion in Evans, *Rituals of Retribution*, 593–94.
29. Gennat, "Die Düsseldorf Sexualverbrechen," 80.
30. Tatar discusses these "psychoses" in *Lustmord*, 47, and Kaes discusses them in *M*, 32–33. Both consider them in relation to Fritz Lang's *M* and argue that the film works to combat these problems. My analysis discusses

the ways in which both Gennat and Lang seek to harness these “psychoses.”

31. Gennat, “Das Geheimnis von Düsseldorf,” 13.
32. Ibid., 13.
33. Ibid., 13.
34. Tatar, *Lustmord*, 45–46.
35. Gennat, “Das Geheimnis von Düsseldorf,” 36.
36. Ibid., 37.
37. Ibid., 36–37.
38. Ibid., 37.
39. See, for example, Tatar, *Lustmord*, 154–55 and Kaes *M*, 30–33, for the two most extended discussions of the Kürten case as it relates to *M*.
40. Fritz Lang, “Fritz Lang über *M*,” in *M: Protokoll*, by Fritz Lang (Hamburg: Marion von Schröder, 1963), 123–24.
41. Ibid., 127.
42. See *Lichtbild-Bühne* December 9, 1930; and *Der Kinematograph* December 10, 1930. Kaes’s chronology differs slightly from this, as he pronounces the screenplay finished before Kürten’s arrest (see Kaes, *M*, 30). He agrees, however, that the Kürten case was a significant influence on the film. The original screenplay for *M* has long been lost, precluding a more detailed investigation of its relation to the Kürten case.
43. See, for example, Felix Henseleit, “Filmkritische Revue,” *Reichsfilmblatt* 20 (May 16, 1931); Leo Hirsch, “Fritz Lang: *M*,” *Berliner Tageblatt* 221 (May 12, 1931); Karl Tölle, “‘*M*’: Tonfilm von Fritz Lang,” *Arbeiterbühne und Film* 18, no. 6 (June 1931); “Der Film vom Sexualmörder,” *Vorwärts* May 13, 1931; and “Zweimal ‘*M*,’” *Montag* 19 (May 18, 1931).
44. Herbert Ihering, “*M*,” *Berliner Börsen-Kurrier* 218 (May 12, 1931).
45. Gabriele Tergit, “Der Fritz-Lang Film: Der Film des Sadismus,” *Die Weltbühne* 27, no. 23 (1931): 844–45, 844.
46. “Wenn Kriminalrat Gennat erfährt, daß die Ganoven den Mörder gefangen haben, dann geht er rasch aus dem Zimmer und hält den Kopf unter die Dusche, bitte, in einem *Kürten*-film, einem Film, der an die letzten Dinge zu rühren wagt, an jene dunkle Mauer der Triebe.” (Tergit, “Der Fritz-Lang Film,” 845.) Emphasis added.
47. Ibid., 845.
48. Ibid.
49. The phrase is used by a gangster during a police raid (see Lang, *M: Protokoll*, 33). Part of Gennat’s celebrity status rested on his size and his thematization of it. He could well have been the origin of the cop-doughnut connection, and, along with his assistant, “Bratwurst Helga,” he openly preferred deskwork to physical work. His weight was, therefore, not incidental to his intellectual and archival style of investigation.

50. The blue pencil that Kürten used to write his letters to the press was an important clue in the Düsseldorf investigation (see Gennat, "Die Düsseldorfer Sexualverbrechen," *Kriminalistische Monatshefte* 4, no. 1 [January 1930]: 6). In *M*, traces of "Rotstift" found in Beckert's apartment lead Lohmann to proclaim "Herrgott, endlich!! Also endlich sind wir auf seiner Spur!" (see Lang, *M: Protokoll*, 71). Compare Kaes, *M*, 32.
51. See "Reklame-Spiegel: Tatsachenberichte," *Lichtbild-Bühne* 117 (May 16, 1931).
52. Fritz Lang, "Mein Film 'M': Ein Tatsachenbericht," *Die Filmwoche* 9, no. 21 (May 20, 1931), rpt. in *Fritz Lang: Die Stimme von Metropolis*, ed. Fred Gehler and Ullrich Kasten, 267–70 (Berlin: Henschel Verlag GmbH, 1990), 267–69.
53. Lang, "Mein Film 'M,'" 269.
54. Tatar, *Lustmord*, 164.
55. Hans Fell, "Fritz Lang's Tonfilm: 'M'" *Film-Kurier* 110 (May 12, 1931).
56. Tergit, "Der Fritz-Lang Film," 845.
57. Ibid., 845.
58. "M," *Der Angriff* 6, no. 111 (May 30, 1932).
59. Qtd. in Tom Gunning, *The Films of Fritz Lang* (London: British Film Institute, 2000), 192. Gunning rightly cautions against taking Goebbels's claim as evidence that Lang's film was pro-Nazi, arguing that it is "as dangerous to make these associations automatically as it is to ignore them" (197–98).
60. Anton Kaes, "The Cold Gaze: Notes on Mobilization and Modernity," *New German Critique* 59 (1993): 105–17, 116.
61. Lang, "Fritz Lang über M," 123.
62. Lang himself did not add the subtitle, which has now become part of the standard title.
63. Both Bergstrom and Tatar make this point in their analyses of the film. See Bergstrom, "Psychological Explanation," 163 and Tatar, *Lustmord*, 153–54.
64. Noël Carroll, "Lang, Pabst, and Sound," in *Interpreting the Moving Image*, by Noël Carroll, 92–104 (Cambridge: Cambridge University Press, 1998), 94.
65. Ibid.
66. Tatar, *Lustmord*, 166.
67. Gunning, *The Films of Fritz Lang*, 181.
68. Kaes, *M*, 44.
69. Lang, *M: Protokoll*, 29.
70. Ibid., 24.
71. Bergstrom, "Psychological Explanation," 171.
72. These lines are left out of the published *Protokoll*.
73. See Seltzer, *Serial Killers*, 14.

74. See Mark Anderson's very insightful reading of both "In der Strafkolonie" and *Der Prozeß* in *Kafka's Clothes: Ornament and Aestheticism in the Habsburg Fin de Siècle* (Oxford: Clarendon, 1992), 145–93.
75. See Kaes, "Das bewegte Gesicht. Zur Großaufnahme im Film," in *Gesichter der Weimarer Republik*, ed. Hrsg. Von Claudia Schmölbers and Sander L. Gilman, 156–64 (Köln: DuMont Buchverlag, 2000), 166–68; and Kaes, *MI*, 56. See Gunning, *The Films of Fritz Lang*, 178–79. See also Herzog, "'Den Verbrecher erkennen.' Zur Geschichte der Kriminalistik," in *Gesichter der Weimarer Republik*, 51–75.
76. Lang, *M: Protokoll*, 45.
77. Ibid.
78. Though Gunning is correct to emphasize that the police succeed in identifying Beckert at almost the exact same time that the criminals capture him. Again he emphasizes the similarities between the two investigations, arguing that both groups are in a sense working together and "actually achieve different parts of the objective." See Gunning, *The Films of Fritz Lang*, 184.
79. Lang, *M: Protokoll*, 50.
80. Tatar, *Lustmord*, 169.
81. Walter Benjamin, "Das Kunstwerk im Zeitalter seiner technischen Reproduzierbarkeit," in *Illuminationen* (Frankfurt: Suhrkamp, 1977), 148. See Seltzer's discussion of this passage in *Serial Killers*, 245. Seltzer's discussion of what he calls the "sociality of the wound" and the formation of a community around the figure of the serial killer informs my reading of *M* (see esp. 276–81).
82. Kaes, *M*, 72.
83. Tatar, *Lustmord*, 164.
84. See *ibid.*, 170–72.
85. The clipping, the source and date of which are not identified, can be found at the Stiftung Deutsche Kinemathek in Berlin (Mappe 3119 2/2 PA). The caption—"Das ist noch nicht zehn Jahre her" (This wasn't even 10 years ago) would seem to indicate a date around 1940.

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CHAPTER 6



HOW FAT DETECTIVES THINK

Sander Gilman

If there is a moment when fat takes on a positive meaning in defining the masculine quality of the “fat man” it is at the close of the nineteenth century. It is in the body of the “fat detective” that obesity or at least corpulence begins to define and be defined by the mental processes of the detective. How a fat detective thinks is different and defines his male body. Steven Shapin, a short, rather rotund scholar of the history of science, wrote a striking essay on the eating habits of skinny philosopher-scientists.¹ His argument is that, at least in the West, there is a powerful myth as early as Marsilio Ficino’s Renaissance book on the health of the scholar, about the need for such men to have a “lean and hungry look.”² That all of Shapin’s examples are men is not incidental. Our collective fantasy of the appropriate body of the male thinker stands at the center of Shapin’s work. I want to ask the corollary question: What happens to the image of the “thinking male” when that male body is fat, even obese? Shapin’s point is that Sir Isaac Newton, that proverbial thinker who is reputed to have forgotten whether he had eaten his chicken or not, actually died hugely bloated like so many academics. There is a great disparity between the way we imagine bodies should look and function and our mythmaking about them. In complicated ways, the fat detective is the antithesis of the lean philosopher.

The concept of the fat detective reflects how general as well as medical culture shifted its image of the thinking body in the late

nineteenth and early twentieth centuries. What is there about a fat detective that puts him in a different category than a thin philosopher? This tale is rooted in a certain notion of the body and its relationship to thought. The image of the fat detective can be found well before the nineteenth century and continues, as many of us have seen, in the overweight title character from the recent BBC detective series *Cracker*, Dr. Eddie “Cracker” Fitzgerald (played by Robbie Coltrane). Dr. Eddie Fitzgerald, nicknamed Cracker, is an out-of-work forensic psychologist who occasionally helps the Manchester police “crack” hard to solve cases by interrogating or “cracking” suspects and witnesses. But the central qualities of this character are his own nervousness, his own sense of himself as a misfit, and his own marginal status as a professional. His oversized body seems to represent this symbolically. But it also evokes his mode of inquiry. His approach seems to be empathetic rather than analytic; he feels with and for the victims and even with the criminals, rather than being a “pure intellect” uncovering the criminal. However, that when ABC unsuccessfully remade *Cracker* for American television and moved its setting to diet-conscious Los Angeles, the svelte Robert Pastorelli was called in to play the protagonist, now called Gerry Fitzgerald. The character was the same; only the body was different. The viewers’ response was equally different.

The fat detective’s body is a different sort of male body than that of the skinny philosopher. Huge, ungainly, sedentary, it houses the brain of a detective. But it is a different sort of detective than the strong hard-boiled or the thin ratiocinating one. It is a body out of all moderation. It is not a “modern” body, if by modern we imagine the body as trained, lithe, strong, active, and thus supremely masculine. Such an obese body seems more feminine but certainly not female; it is expressive of the way the detective seems to “think.” His thought processes strike us as intuitive and emotional rather than analytic and objective. In other words, the fat detective’s body is feminine.

The ratiocinating detective, such as Edgar Allan Poe’s C. Auguste Dupin, thinks with his brain. The hard-boiled detective, such as Humphrey Bogart’s rail-thin depiction of Dashiell Hammett’s Sam Spade, thinks with his fists. Our fat detective seems to think with his gut.³ For it is the visible body fat that marks his body. This is quite a different version of the ratiocinating detective like Sherlock Holmes, whose “kingdom is his study and his weapons are intellectual—logic, memory, concentration. He traps criminals in the corridors of his

own mind rather than in a back alley at midnight. He is a cultivated gentleman, whose recreation is the library.”⁴ The fat detective is the diametrically opposed type to this intellectual detective. He seems to think but he is primarily intuitive and empathetic; he needs his fat as a shield from the world. His physical immoderation becomes a means of showing both his vulnerability as well as his strength. He is sedentary rather than active; his intellectual gifts feed his intuition.

Michel Foucault, in *The Uses of Pleasure*, wrote that there has always been a contrast between pleasure and the rational in the West: “The relationship of the logos to the practice of pleasures was described by Greek philosophy of the fourth century. . . . Moderation implied that the logos be placed in a position of supremacy in the human being and that it be able to subdue the desires and regulate behavior. Whereas in the immoderate individual, the force that desires usurps the highest place and rules tyrannically, in the individual who is *sophron*, it is reason that commands and prescribes.”⁵ What happens when desire becomes a means of thinking—an alternative mode of intelligence? The immoderate, according to the Greeks, could never rationally think. Our fat detectives seem to do well in this department, for their job, which is always well done, is to solve the case. And that they do with elegance and grace—not in spite of, but because of their bulk.

FICTIONS OF FAT DETECTIVES

In 1891 Wilhelm Raabe, best known as one of the foremost regional colorists in late nineteenth-century German letters, published his novel *Stopfkuchen*, subtitled “A Murder and Sea Tale.”⁶ Translated as Tubby Schaumann, a rough approximation of the nickname of the protagonist, it is the exemplary and perhaps the first account of the mental process of the fat detective. Here we have an amateur sleuth whose primary quality seems to be his huge body and his insatiable appetite. Heinrich “Stopfkuchen” Schaumann’s bulk and his fleshly desires make it seemingly impossible to leave the world of the small village where he was raised. He lives for cakes and pies; his primary position is lying prone under the hedges looking for people who come down the paths. He is the prototypical fat man, “so lazy and so fat and so decent and so loveable.”⁷ His body is “seen” as different. Indeed his name, Schaumann, means one who sees or is seen.

The antithetical body in this murder mystery is that of his youthful friend, Eduard, whose narrative frames the novel. He returns from South Africa where he had made a new life to visit his hometown. There he discovers his old friend had indeed married the daughter of Quakatz, the owner of the isolated and infamous Red Bank Farm. Quakatz had been accused of the murder of the farmer Kienbaum, with whom he had often quarreled. Never prosecuted for the crime because of the lack of evidence, his guilt seemed plain to every one in the town. After his victim's lifeless body had been found decades before, he had spent all of his waking hours trying to prove his innocence. Into his home came the young Tubby Schaumann, who married Quakatz's vivacious, redheaded daughter. "How a man with Tubby Schaumann's physical constitution managed [to have her fall in love with him] so quickly I don't know, but he did."⁸ The novel reveals to his visitor and the reader how Schaumann uncovered the identity of the real murderer. In doing this, the physical nature of the sleuth becomes his greatest asset. No one would imagine that this passive, overweight farmer could unravel any mystery, especially one the community believed was long solved. (By the way, the real murderer was Störzer, the postman whose stories of the world had inspired Tubby's friend to immigrate to Africa.)

Tubby's fat body is his most powerful ally. He is invisible in his bulk and he is tenacious in his powers of observation. He is the scientist-observer as the late nineteenth-century detective story used to great effect. He is an amateur paleontologist, whose discovery of a mammoth skeleton makes his reputation in scientific circles. But his contemporaries see him as he sees his discovery—as a huge, unwieldy, primitive object. This double vision frames his scientific gaze. Tubby's body is a primitive body that should contain a primitive consciousness.⁹ His school biology teacher had compared him to the bradypus: "Look at him all of you, Schumann, the sloth. There he sits again on the dullard's bench, like the bradypus, the sloth. Has hair the color of withered leaves and with four molars. Crawls slowly up onto another class—I mean, climbs up a tree and stays there until he has eaten the last leaf."¹⁰ Even his friend sees his preoccupation with food as a sign that he should be "let to crawl sloth-like into his tree."¹¹ But this sloth-like demeanor has "cold-bloodedness which had something uncanny about it."¹² Schaumann unravels the murder to his friend, revealing to Eduard that the postman, whose friend and disciple he was, had committed the crime.

But, of course, the fat body of the detective here is not the body of the sloth. What appears to be slothfulness is in fact introspection. Tubby's hobby, the collecting of fossils, is a closer clue to his relationship to the "primitive" body of the sloth. He is the observer whose passivity masks the rational mind at work. He is pure intellect encased in an immobile body.

Schaumann proves, at least to himself, that he had solved the crime when, in good detective style, he observes the actual murderer at the grave of his accused father-in-law. Evoking the means by which Hamlet captured the conscience of the king, Tubby watches Störzer as he listens to the preacher's eulogy at Quakatz's grave. Schaumann's knows by observing him silently; his trick is to place his bulk in one place and look at the world, whether at the landscape of Quakatz's Red Bank Farm or the world of the murderer. He sees Störzer's discomfort in confronting the corpse and knows his guilt. He knows because his bulk, fed by the riches of the world in which he exists, seems almost an extension of the farm.

The "model" for Raabe's fat man, if we need to look for a model at all, is Charles Dickens's "fat boy" from *The Pickwick Papers* (1836).¹³ Raabe was a fanatical reader of Dickens and saw in his work the best type of narrative presentation for complex and contradictory characters. There is one odd but effective moment in *The Pickwick Papers* where Mr. Wardel's "boy" Joe accidentally sees an attempted comic seduction take place in the garden. He is seen and the seducer looks at him "perfectly motionless, with his large circular eyes staring into the arbour, but without the slightest expression on his face that the most expert physiognomist could have referred to as astonishment, curiosity, or any other known passion that agitates the human breast. Mr. Tupman gazed on the fat boy, and the fat boy stared at him; and the longer Mr. Tupman observed the utter vacancy of the fat boy's countenance, the more convinced he became that he either did not know, or did not understand, anything that had been going forward."¹⁴

But of course, he had understood all too well. As Tupman walks off "there was a sound behind them, as of an imperfectly suppressed chuckle. Mr. Tupman turned sharply round. No; it could not have been the fat boy; there was not a gleam of mirth, or anything but feeding in his whole visage." The fat physiognomy was unreadable, but he knew! Later he turns to his employer's aged aunt to whom he wishes to reveal all. She is initially frightened at his desire to speak

because he had been marked by a silence that reflected his girth and protested that she had always treated him well and given him enough to eat. He responds with the ambiguous statement: "I want to make your flesh creep."¹⁵ In revealing what he has seen in all of its detail, he shows that not only does he recognize but that he can tell the story for his own betterment.

Raabe's protagonist does precisely the same. He is able to observe, because in his girth he is invisible. His physiognomy is unreadable, like that of Joe. In Wilhelm Ebstein's study of obesity, already a standard when Raabe publishes his novel, Ebstein quotes the eighteenth-century German essayist Georg Lichtenberg: "there be people with such plump faces that they may laugh under their fat, so that the greatest physiognomist shall fail to notice it, while we poor slender creatures with our souls seated immediately beneath the epidermis, ever speak a language which can tell no lies."¹⁶ Tubby is inscrutable in his obesity, but the tale he tells will make all notice him. He tells stories that will indeed "make your flesh creep" at his own pace, in his own time, when the murderer is dead, and, by chance, his youthful companion has returned to town on a visit. He suddenly has his audience and his time. James Joyce knows the power of this moment when, in the Scylla and Charybdis chapter of *Ulysses*, he has John Eglinton say that Stephen Daedalus "will have it that Hamlet is a ghost story. . . . Like the fat boy in Pickwick he wants to make our flesh creep." And our flesh does creep at these ghost stories.

Tubby Schaumann's childhood friend, in spite all of his peregrinations throughout the world, knows much less of the world than the fat man who remains at home. He is a German in the sense that Raabe evokes national identity. But that is also true of Hamlet, as an anonymous English commentator in 1830 observed of him: "He is by birth a German; and from indulging in the inactive habits of that deep-thinking nation, he has become 'fat and scant of breath' as the Queen says."¹⁷ Eduard's lean and fit look is appropriate to the explorer, but his exploration cannot uncover the basic truths of the world that Schaumann's sedentary life of observation does. Schaumann comments to his friend: "We licked our plates and we licked the world, poor creatures that we were. For the many things that I had to keep to myself down there in the town and in that school of yours I had all the outlet in the world up here. And this is where I developed the lyrical and epical qualities buried within my genial corpulence, as you used to call it down there. Of course,

my sense of the dramatic I gladly left lying dormant there in what you termed my paunch.”¹⁸ At the end of the novel, after Störzer’s death, Tubby tells Edward the name of the real murderer, revealing it in the town pub so that all will know his father-in-law’s innocence. This is the dramatic moment he uses to reveal to the world not only the identity of the murderer but also his insight into the workings of the human mind. His gut knows and reveals the truth.

The gut truth of the fat detective is not to be found in the world of the intellect but in his body. Tubby’s doctor warns him to avoid the strain of the mind. This is ironic, as the life of the mind is and has been Tubby’s hallmark. But he falls back when he needs to on the idea that too much mental activity might be harmful. He is invited formally to expose Störzer, who had died just before his friend had returned from Africa, to the public prosecutor to clear the name of his father-in-law: “I’d love to, if it were possible and my doctor hadn’t forbidden it,” laughed Schaumann. “Oh, if you had any idea, Schellbaum, how emphatically that man Oberwasser has forbidden me intellectual stimulus of any kind, you would leave me lying under my hedge as in other and better days.”¹⁹ He leaves the inn, with his friend, having solved the murder without claiming the laurels of the detective but with the truth revealed to all who would overhear.

The fat detective in Raabe’s novel is able to solve the case of Kienbaum’s murder over the course of decades because of the passive, sedentary nature of his body. His body, bloated and obese, is the perfect vehicle for the sort of emotional rather than intellectual exploration of the inner souls of those about him. He is not an “intellectual” but a keen observer. His ability, like Cracker’s, to place the real murderer into circumstances where he confesses his crime, is the reflex of the fat that forms his body and reflects the empathetic nature of his soul. He does not track him down but waits until he comes to him and confesses. This is another form of intelligence, seemingly contradicted by the visible form of Tubby’s “slothful” body. Schaumann is more than corpulent; he is fat incarnate. His fat is not only the sign of the successful farmer, as his friend notes when he first sees him sitting for the farmhouse, having not seen him for decades; it is also a sign of the type of archeology of the soul the detective undertakes. Tubby’s girth seems to be an impediment to his role as a scientist, but, in fact, it becomes the sign of his success, as farmer, as paleontologist, and as sleuth.

Tubby's body seems to be a return to the primitive, pre-rational, and pre-industrial world. But it only masks his inner nature. In that sense it is a truly "modern" body. During World War I Gottfried Benn in his "Gesänge" conjures, like many of the moderns, the return to the primitive as desirable:

O dass wir unsere Ururahnen wären.
 Ein Klümpchen Schleim in einem warmen Moor.²⁰
 (O that we were our ancestors' ancestors.
 A lump of slime in a warm moor.)

This desire to return to the primitive state, before the rational, seems to be a result of the war and its destruction of the value of the rational. As Theodor Adorno noted about this poem, it is the "repulsive nature of the state to which the poet pretends he wishes to return, but to which no return is possible, reinforces his protest against a suffering which has historical causes."²¹ But it is the intellectual, a term Benn comes to detest, who can write about this return to the primal state. The return to the primordial fat body can be accomplished while the return to the slime cannot. This modern body, externally fat but masking the internal processes of civilization, is that of the fat detective. The fat detective represents a reaction—or at least half a reaction—against the claims of science, objectivity, the world, and the intellect. This is the world against which the modern reacts, even in the form of Raabe's world.

The clear antithesis of Tubby Schaumann is the most important fictional detective of the 1890s, Sir Arthur Conan Doyle's Sherlock Holmes.²² Created in 1887, whip-thin, addicted to cocaine rather than food, and always ready to head off on a chase at the drop of a clue, Holmes remains the exemplary rational detective.²³ His regular feats of observation stun his rather dull-witted companion, Dr. John Watson, but all rely on the ability to causally link "facts" following the model of analytic thinking Doyle learned in medical school from Dr. Joseph Bell.²⁴ Here it is the activist scientist who makes the perfect intellectual detective. Holmes often sinks into a stupor, aided by tobacco and cocaine. But this detective also goes out into the world gathering facts, and roaming the length of Europe—all the way to Tibet—for knowledge. His is the explorer's body, Sir Henry Morton Stanley's body, as well as that of the detective.

But there is another Holmes in these tales. Holmes's older and wiser brother Mycroft who is introduced in 1892 in *The Strand Magazine's* publication of "The Case of the Greek Interpreter."²⁵ Like Tubby Schaumann he is huge and sedentary. "Mycroft Holmes was a much larger and stouter man than Sherlock. His body was absolutely corpulent, but his face, though massive, had preserved something of the sharpness of expression which was so remarkable in that of his brother."²⁶ Mycroft's intelligence, glimmering in his eyes, seems overburdened by his primitive body. There is something quite archaic about it; he has "a broad fat hand, like the flipper of a seal."²⁷ He is not quite a sloth but close enough.

Mycroft is the better brother, as his younger sibling grudgingly admits. Sherlock states that "he was my superior in observation and deduction. If the art of the detective began and ended in the reasoning from an arm-chair, my brother would be the greatest criminal agent that ever lived."²⁸ What makes Sherlock better is that he is willing to use his powers in the world. In the end, Mycroft, like Tubby Schaumann, is an amateur sleuth and not really a consulting detective. And the amateur nature of his undertaking is seemingly tied to his lack of desire to pursue truth to its bitter ends: "What is to me a means of livelihood is to him the merest hobby of a dilettante."²⁹ Here the quality of the amateur, in Tubby's case the amateur paleontologist as detective, is central. These are not the professional detectives whose world is the world of action but the amateur whose interests include other models of the world besides that of rational detection. This is the model that eventually evolves into a string of fat detectives, which culminates in *Cracker*. Such detectives of the 1890s and the turn of the century are imagined as thinking differently. They are related to the figures of Sherlock Holmes, but they do seem to think in a different manner. They appear to think through their bodies but this is deceptive. Their bodies provide an image of obesity that masks their sharp powers of observation and deduction.

THE SCIENCE OF THINKING WITH YOUR GUT

To understand the notion of the fat detective it is necessary to examine the conception of thinking and judgment in regard to the body in the period from 1880 to 1914. During the course of the nineteenth

century the relationship between the brain and the nervous system became better established. The notion of “thought,” which had been a component of the “soul,” was transmuted with the introduction of a medical materialism by scientists such as Johannes Müller into a model of thinking through the body. The nervous system was seen at the place where thought and judgment took place. The central discoveries here were in the realm of the nature of the nerves themselves. One of the striking developments of the course of the nineteenth century was the discovery that the nerves consisted of two types of fiber. One fiber carried impulses. The other, in terms of the model of electricity dominant in representing the nervous system during this period, served as insulation. Surrounding the nerve was fat, which by mid-century was called “myelin.” It was understood as absolutely necessary to the correct function of the nervous system.³⁰ It increased the speed of transmission of nerve impulses. One can think of this model of the nerve as insulation wrapped around energy, the inert shielding the active, or thought clothed in fat. It was seen as the sign of evolutionary development that enabled human beings to become human. That leap was defined in their new ability to think—more specifically to make judgments.

It is clear, as a number of contemporary scholars have shown, that the notion of the thinking body is ancient. It is tied to notions of brain localization, which has its modern formulation in the work of Franz Joseph Gall and Johannes Spurzheim and its roots in ancient physiognomic theory.³¹ Fat bodies were imagined to “think” differently as “fat” came to be a physiognomic characteristic when permanent (like bone structure) rather than mobile qualities (like expression) of the body were defined. The idea that the fat body thinks is an inherent aspect of Talmudic discourse. Indeed in *Baba Metzia* 83b–85a the tale of Rabbi El’azar, the son of Shim’on, so ably explicated by Daniel Boyarin, the intuitive nature of this Rabbi knowing the truth seems to be a reflex of his body. As a Roman “quisling” he makes judgments that seem destructive, arbitrary, or foolish but, because he knows the truth intuitively, are correct. He is a fat sleuth whose solutions are always accurate. One day, a “certain laundry man” whom he angrily arrested insults him. Before he can come to his senses, the man is hung. As he stands below the body and weeps for his error, he is told that the man had violated a number of those *mitzvot* (laws) that would have condemned him to death any way. When his judgment is so proven, “he placed his hands

on his guts and said: 'Be joyful, O my guts, be joyful! If it is thus when you are doubtful, when you are certain even more so. I am confident that rot and worms cannot prevail over you.' He is drugged and 'baskets of fat' are ripped from his gut and placed in the July sun. 'And it did not stink. But no fat stinks. It does if it has red blood vessels in it, and this even though it had red blood vessels in it, did not stink.'"³² It is the belly, now separate from the body, that has a life of its own. It represents the intuitive ability of this otherwise suspect figure to judge truth from falsity; it is a gut feeling, quite literally.

What happens to this ancient trope—that is, that the fat body thinks differently—in the course of the nineteenth century is that the question of how the body thinks and with what the body thinks comes to the foreground. The notion of the brain as the site for ratiocination provided an odd Cartesian moment. For the brain, in thinking, is separate from the body. But if the brain is part of the neural network, even if it is a central and vital aspect, then the body itself, through the nerves, thinks. This thought may be different or more primitive than the thought of the brain. As the layers of critical action and localization are explored, even the brain is seen to have a history, an ontogeny, inscribed on its anatomical structure. Fat around nerves becomes the sign of the development of higher powers of thought, for it is only with the increased speed of neural transmission that thought becomes possible.

Historically fat has a central role in constituting the neurological body. At the beginning of the nineteenth century the nerve was first understood as having differentiated parts. It was shown to have layers of fat that wrapped themselves around what was seen as a conduit for pure energy. It was only in 1836 that Robert Remak showed the difference between these myelinated and unmyelinated fibers.³³ He thus discovered that white matter tracts are really attached to cell bodies. While he never actually used the word "myelin," he recognized the difference between fat and nerve tissue. Based on this observation, new theories of human development and the way we judge evolved.

It was with another neurologist, Sigmund Freud, that the idea of myelin became closely connected to the ability to produce judgments. Freud's early, unpublished study, *Project for a Scientific Psychology*, of 1895 proposes a neurological model of the body, and this is never lost in his way of conceiving the biological "space" for

the psyche. It postulates a basic or primitive neural network that underlies all consciousness. Freud distinguishes between the permeable neurons, those offering no resistance, which are the transmitters of perception, and the impermeable neurons, which are the place of memory and are "loaded with resistance."³⁴ This distinction is underlined by Freud's later discussion in this same essay of the difference between remembering and judging.³⁵ Perception has implanted memory on the impermeable neurons, and judgment exists when there is a disparity between new perception and stored perceptions. Judgment is thus, for Freud, "not a primary function but presupposes the cathexis from the ego of the disparate [non-comparable] portions [of the perception]."³⁶ Judgment is therefore an unconscious process, which is a "method of proceeding from the perceptual situation that is given in reality to the situation that is wished-for."³⁷ All judgment thus resides in the nerve's ability to retain mimetic images of actual perceptions and to recall them on an unconscious level. It is a judging through the body's memory.

The image of where judgment takes place is also central to much of Freud's later work—such as, *Beyond the Pleasure Principle* (1920). In part four, Freud postulates a model of the nervous system in which the unconsciousness dominates because of inherent limitations in the evolution of the nervous system. Consciousness in this account is notable in not being a medium in which memory can be stored. Rather, the aspects of the psyche engaged in the "excitatory process" are provided with a literal shield against these stimuli of perception.³⁸ This shield envelops the cortical layer and shields it from external stimuli but not from internal ones. Freud postulates that this is a higher or later level of embryological and therefore evolutionary development. The most simplified organism is "an undifferentiated vesicle of a substance that is susceptible to stimulation."³⁹ Such exposed organisms can exist only if they develop some form of protection against unmediated exposure to the world. This is accomplished through evolutionary change: "Indeed embryology, in its capacity as a recapitulation of developmental history, actually shows us that the central nervous system originates from the ectoderm; the grey matter of the cortex remains a derivative of the primitive superficial layer of the organism and may have inherited some of its essential properties."⁴⁰ This external level—that is, the primitive level—becomes "permanently modified" by acquiring a crust in order to limit and channel the reception of stimuli. The nervous system wants

to limit such excitation and this external, procrustean layer begins to serve as insulation. It permits internal stimulation from the unconscious while limiting and structuring access from the external world. Freud is speaking of the psyche in this context, but his model and structure is that of the nervous system with its layer of insulation.

Fat thinks; fat judges. Or at least, the fat about the nerves provides the most elemental level of response to the world. The fat detective thinks with the most primitive part of the nervous system: his fat. This primitive response—that is, the response of the body—is intuitive and therefore in a world that doubts rationality as the sole answer solves the case. But not all of us want to believe that.

The key to Freud's differentiation between internal processes and their dependence on the evolutionary structure of the brain is keyed to the meaning of fat as a sign of health rather than pathology. If myelin is the sign of the ability of the nervous system to work more efficiently and thus permit the detective's judgment, body fat in the nineteenth century becomes the analogous "public" sign of this health. Simply put, fat is good for neurologists, including Freud. It is a sign of the qualities that makes the human being human: thought and judgment.

Body fat is the visible equivalent to the myelin about the nerves. Fat makes the body healthy since it prevents the exposure of the nerves. It is thus the sign of the possibility of higher thought (as in the fat sheath around the nerves) and the preservation of mental health (bodily fat). Mitchell's phenomenology of the fat and thin body was accepted without question by physicians such as Anna Fischer-Dunckelmann and paralleled the truth-value of "seeing" the stained myelin sheath as the source of intelligence in the body.⁴¹

The fat male sleuth from the late nineteenth to the mid-twentieth centuries is the model of the thinking and judging body unlike the "fat" body of the female of the time, which is a reproductive body. S. Wier Mitchell differentiates between the soldierly and reproductive functions of the healthy, fat bodies of men and women. The male body thinks with its visible fat. It is empathetic and responsive. The fat detective only functions in his role as an intuitive solver of problems when he responds to his "gut" feelings. Here Freud's model, in *Beyond the Pleasure Principle*, has its appropriate place. The limitations on the experience of the world provide a barrier for other, external experiences; they must be highly structured and controlled. Thus the passivity of Tubby Schaumann and Mycroft Holmes

becomes a means, in their own narratives, of limiting the world's access to them rather than their own access to the world. It is their internal processes of remembering the forgotten and sensing that which cannot be experienced that shapes their ability to discover hidden or forgotten truths. It seems to be primitive (like a sloth or walrus) but it is indeed the hallmark of the most sophisticated and highly developed male body. Here our contemporary notion of the "enteric nervous system [that] is pharmacologically more complex than the sympathetic or parasympathetic systems, involving many neuropeptides and other transmitters (such as 5-hydroxytryptamine [a.k.a. serotonin]) and is often described as a collection of 'little brains'"⁴² can be evoked. The body itself is understood as thinking. The parallel nature of the nineteenth-century understanding of fat and thinking is that the cultural assumptions that shape the language of neurology simultaneously shape the language of popular fiction. It is a language that sees the need for "fat" as part of a cultural discourse of appropriate, if slightly quirky, masculinity.

MORE FAT MALE SLEUTHS AND THEIR NERVES

The model of the primitive body that thinks in an intuitive way becomes one of the models for the detective in the course of the twentieth century. Other versions of the fat sleuth followed Doyle. In 1911, G. K. Chesterton began the publication of his Father Brown tales.⁴³ Here the question of belief and the body of the fat amateur detective are again linked. The priest's body is represented as chubby; his response to the murders he investigates is intuitive rather than rational. Indeed, Chesterton saw the Father Brown stories as a means of furthering his Anglo-Catholicism, seen in England even after Cardinal Newman, as a form of the irrational. The squat body of Father Brown represents the innate seeking for truth beyond logic. He is the embodiment of the idea of thought and faith as aspects of one truth. It is a truth to be found by those who are able to see it, not necessarily by those ordained by the state to seek it.

By 1934 and the publication of Rex Stout's first Nero Wolfe mystery, the tradition of the fat detective as a type had been well established.⁴⁴ In 1929 there was Duddington Pell Chalmers, the obese detective hero of John T. McIntyre's *The Museum Murder*, as well as Gerald Verner's Superintendent Budd, "the stout detective, "who is

fat, lazy, graceful on his feet,” “prone to shut his eyes while thinking,” and “not susceptible to feminine beauty.”⁴⁵ Like Father Brown who is celibate by definition, Nero Wolfe’s body is not a sexualized body nor is that of Mycroft Holmes. Yet this asexual aspect of the male detective’s body masks a life of passion. In the course of the Nero Wolfe mysteries we learn of his earlier romantic attachments. All of these took place at a point before his present bulk both inhibited and freed the detective from the power of physical passion.

In Rex Stout’s first novel, *Fer-de-Lance* (1934), the hard-boiled associate of Wolfe, Archie Goodwin, notes the almost archaic shape of Wolfe’s body like the early twentieth-century fantasies of Neolithic man: “Wolfe lifted his head. I mention that, because his head was so big that lifting it struck you as being quite a job. It was probably really bigger than it looked, for the rest of him was so huge that any head on top of it but his own would have escaped your notice entirely.”⁴⁶ Wolfe’s body is not only fat; it is huge and archaic in its form.

Wolfe’s fat is the fat which protects: “I said to him something I had said before more than once, that beer slowed up a man’s head and with him running like a brook, six quarts a day, I never would understand how he could make his brain work so fast and deep that no other men in the country could touch him. He replied, also as he had before, that it wasn’t his brain that worked, it was his lower nerve centers.”⁴⁷ Wolfe, unlike Archie, thinks with his guts: “I am too sensitive to strangers, that is why I keep these layers over my nerves.”⁴⁸ His fat isolates his nerves: “I carry this fat to insulate my feelings. They got too strong for me once or twice and I had that idea. If I had stayed lean and kept moving around I would have been dead long ago.”⁴⁹ One of the best commentators on the Wolfe novels observed that: “Upholders of order are our romantic heroes, and Wolfe qualifies under that category. His daily schedule is as much an insistence on order as a tribute to it: similarly, Wolfe’s fat, his gruffness, and his seclusion betray his struggle to insulate himself from emotions, to harness them, to grant them a place, but a smaller one than they claim. Reason then is a goal; it is also a process, a struggle. The Wolfe novels value it as both.”⁵⁰ The archaic body struggles with its basic emotional nature. Fat is the weapon that enables Wolfe to succeed as a detective.

But the very act of thinking for Wolfe is with his body: “Wolfe looked up again, and his big thick lips pushed out a little, tight together, just a small movement, and back again, and then out and

back again. How I loved to watch him doing that! That was about the only time I ever got excited, when Wolfe's lips were moving like that. . . I knew what was going on, something was happening so fast inside of him and so much ground was being covered."⁵¹ The pursed lips are the organ of eating but also the organ of thought. Here the parallel to Tubby Schaumann and the rest of the lineage of fat detectives is clear. The body has its own life and its own rules. It compliments or contradicts the rational mind and provides the means by which fat detectives set themselves off from all other scientific observers.

The fat detective Nero Wolfe took to the screen in *Meet Nero Wolfe* in 1936 with Edward Arnold as the protagonist. Edward Arnold was one of the few clearly portly leading men of the age who could do Nero Wolfe and in the same season play romantic leads as he did in *Come and Get it* with Joel McCrea as his competitor in love. The popularity of Nero Wolfe continued with a long series of spin offs of fat detectives beginning with Dashiell Hammett's Brad Runyon from 1946 to 1950 on ABC radio. The announcer opened the show with the following observation: "He's walking into that drugstore . . . he's stepping onto the scales . . . (SNICK! CLICK!) Weight: 237 pounds. . . Fortune: Danger! Whoooo is it? The . . . Fat Man!" The oversized actor J. Scott Smart who played him on the radio actually outweighed his character by over thirty pounds. World-weary Runyon was a cross between Wolfe and Sam Spade. The first episode, written by Hammett, was *The Black Angel* and broadcast on November 26, 1946. The image of the fat detective on the radio could only be evoked in the listener's mind. As such his bulk became part of the fantasy of the obese body as heard rather than seen. Rex Stout's Nero Wolfe became part of the invisible world of the fat detective on the radio. In 1982, the CBC tried bringing back old-time radio with thirteen 13 one-hour episodes of Nero Wolfe based on novellas or short stories written by Stout. The svelte Mavor Moore played the bulky Nero Wolfe, but all the listener heard was the voice of the fat detective.

In 1956, Orson Welles turned Whit Masterson's novel, *Badge of Evil*, into the stunning study of corruption in the film *Touch of Evil*. Starring Charlton Heston, Welles played Detective Quinlan, a malevolent private detective of gargantuan proportions. Welles also directed the film, which captured his corporeality. Welles moved from the figure of the fat detective in *Touch of Evil* to *Chimes at Midnight / Falstaff* (1966) in which the obscene body of the Shakespearean

knight, Falstaff, serves as a metaphor of an innocence doomed by a failure to come to terms with the real world. Welles's own ever expanding male body served as the rationale for such films, Detective Quinlan and Falstaff serve as readable and oddly related versions of the male obese body. In *Touch of Evil*, Detective Quinlan remarks, "My game leg, it's talking to me." His body speaks to him, as Falstaff's does.

A more visible world of the fat detective played itself out on television. In 1981, NBC's TV series based on novellas and stories by Rex Stout starred William Conrad as Nero Wolfe. Conrad, whose voice was well-known from his role as the lanky sheriff on radio's version of *Gunsmoke*, went on to play Frank Cannon, a tough, expensive, overweight private detective—a sort of hybrid between Sam Spade and Nero Wolfe.⁵² Directed by George McCowan, *Cannon* ran successfully from 1971 to 1976. According to the plot, the key to Cannon's character lies in the fact that his wife and infant son die in an automobile accident after which he placed all his energy and considerable weight into his new profession of private detective. In 1987, Conrad continued a version of the Nero Wolfe character in *Jake and the Fatman*, produced by Ron Satlof and Fred McKnight, in which his role as J. L. "Fatman" McCabe was much more sedentary. He was transformed into a slovenly former Hawaiian police officer turned Honolulu district attorney. From the Fatman to Cracker the space of the fat detective comes again to be one filled with the emotional, elemental, intuitive, and empathetic. And all of this began on a German farm with Tubby Schaumann's careful observations of the world about him as the key to solving the murder that haunted his world.

No modern fat detective has been as purposely immobile as Ironside, played by Raymond Burr. Burr, already quite portly in his successful *Perry Mason* television series became this new role with a made-for-TV movie in 1967. As Perry Mason, Burr played Nero Wolf to detective Paul Drake; in *Ironside* (1967–1975), Burr undertook the role of Robert Ironside, chief of detectives of the San Francisco police department. Shot by a gunman, Ironside was paralyzed from the waist down and wheelchair bound in the initial movie. The large Burr returned in 1993 for a last time with a final made-for-TV film. Ironside's limitations seem to be that of the thinking detective. As a private detective, Ironside is able to function because his staff serves as his legs. He is also transported in a specially

fitted van to pursue the villains. The coupling of the portly actor and his sedentary role provides a further rationale for the immobility of the fat detective.

Certainly the key figure in the contemporary representation of the “fat detective” is to be found on ABC’s *NYPD Blue* as Detective Andy Sipowicz, played by Dennis Franz. Since premiering in 1993, the show has centered itself around this character. Co-creators Steven Bochco and David Milch, along with executive producers Mark Tinker and Michael Robin, continued Franz’s character from one who had appeared in Bochco and Milch’s earlier success, *Hill Street Blues*. Franz had played Lt. Norman Buntz from 1985 to 1987. But Buntz was merely a “tough cop.” In Sipowicz the darkness and complexity of the figure was clearly related to his sense of self as a detective. Sipowicz was portrayed as a recovered alcoholic, the father of a son he had neglected and a man of open emotions and clear prejudices. He is a muscular man gone to fat. It is because of rather than in spite of these “flaws” that he is able to be empathetic with his colleagues and have insight into his own character. The flaws in his character, represented by his overweight body, make him a better detective. Franz had played in two short-lived detective series, *Beverly Hills Buntz* (1987) and *NYPD Mounted* (1991), in which the complexity of the “fat” character was lacking. It was in *NYPD Blue* that he was able to develop his role as a detective by self-consciously using his fat body as an image for his flawed character. Bochco and Milch used this self-consciously in the series. The body of the character was exposed in a nude scene, one of the first on commercial television, in which Franz was photographed from the rear. Dennis Franz’s body became the key for the figure of the fat detective.⁵³

The image of the giant, hulking, primitive body, which responds intuitively in a stimulus more basic than rational thought, remains a powerful cultural commonplace. It is only the appearance of the fat detective, which leads us to assume his “primitive” state. In a cartoon drawn by Scott Adams, the creator of *Dilbert*, a baby dinosaur comments to Dogbert: “my Dad says that good is what you know in your heart. He says evil is a bad gut feeling.” Dogbert replies, “Well, of course, your dad’s brain is so tiny that his other organs have to pitch in like that.” The baby dinosaur replies, “Maybe I shouldn’t learn about life from a guy who counts with his toes.” Dogbert concludes,

"And thinks with his guts."⁵⁴ This is the way that fat detectives seem to think—of course, we know better.

NOTES

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12. *Ibid.*, 225.

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14. Charles Dickens, *The Pickwick Papers*, ed. James Kinsley (Oxford: Oxford University Press, 1986), 89.
15. *Ibid.*, 93.
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17. "An Eye-Witness," in *Readings on the Character of Hamlet, 1661–1947*, ed. Claude C. H. Williamson (London: Allen, 1950), 55.
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PART III



POLICE AND THE MEDIA

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CHAPTER 7



PASSER À L'ACTE: POLICING (IN) THE OFFICE: NOTES ON INDUSTRY STANDARDS AND THE GROÙE POLIZEIAUSSTELLUNG OF 1926

Sven Spieker

'Voir sans être vu' est l'un des adages de la non-communicabilité policière. Bien avant celui de l'anthropologue ou du sociologue, le regard jeté par l'enquêteur sur la société est éminemment extérieur à celle-ci.

—Paul Virilio¹

THE UNIVERSAL POLICE, AND AFTER

In his *Comparisons between European, Asian and Other Apparently Barbaric Governments* (1762), Johann Heinrich Gottlob von Justi refers to public administration as *Polizeiwissenschaft*, the science of the police.² Justi wrote at the tail end of the so-called *Polizeizeit* (the era of the police), a time when the police—in the comprehensive sense of that word as essentially all of *res politicae*—and the (administration of) the state were one and the same.³ During that time, the term *police* described nothing more and nothing less than the (administration of) the state, hence the *polis*, itself, and the police

took care of a vast array of things, from the maintenance of an army to the administration of justice and the management of external affairs. As a police publication early last century put it, "What was not explicitly entrusted to other agencies . . . belonged to it [the police, S.S.]."⁴

After the end of the *Polizeizeit* the police changed from *being* the state to maintaining order *inside* of it. Indeed, after the end of the eighteenth-century *Polizeistaat*, the range of the police's responsibilities shrank to such insignificance by comparison that when public administrators in the early twentieth century urged the supplementation of largely ineffective local police forces with national ones whose operational range would be vastly greater, this passed almost for a revolution. In 1919, Bill Drews, the official in charge of the overhaul of the public administration in Prussia, urged the creation of a "rigidly organized state police whose responsibilities are not limited to the local level, like those of the local police forces that work independently from each other and without any mutual connection."⁵ Of course, Drews is far from suggesting that the police return to run *res politicae* the way it had done in the eighteenth century. What he does suggest is that in order to be effective the modern police has to abandon or modify its local organization by forming interdependent structures modeled, presumably, on other large networks such as the electric power grid or the telegraph network; the police state meets the state police.

In this essay I will not be concerned with the eighteenth-century universal police *per se* but with a moment in the history of modern policing when the universalism of the eighteenth-century police returns in the claim to know everything. I will concentrate on the mid- to late 1920s, a time when the systematic management of an ever-increasing stream of data appeared to become more and more of a concern for the police, and a time when it appears as if only (office) machines were capable of dispensing the order that we all expect the police to produce. What I call the modern data police consists of a set of interconnected and interconnecting media technologies—from typed reports to portable card indexes—entrusted not only with gathering an ever-increasing quantity of data but also, crucially, with organizing and storing that data in such a way that it could easily be combined in any number of ways.⁶ The exponential growth in the amount of information stored by the modern police is not only, as is often said to be the case, an effect of the improvement in the techniques and technologies of observation, it is also, crucially,

an effect of the fact that through the increased application of universal standards in the production and storage of records these could be linked and combined any number of ways. A prerequisite of this type of networking was the effective organization of records.

Modern police technology (*Polizeitechnik*), hence, is (also) office technique (*Bürotechnik*). The modern police is not only responsible for the maintenance of order in the public, it is also itself dependent upon order—that of the ever-increasing quantities of data it gathers, stores, and exchanges. In Edgar Allan Poe's short story "The Murders in the Rue Morgue," Monsieur Dupin criticizes the Parisian police for "being cunning, but no more. There is no method in their proceedings, beyond the method of the moment."⁷ Dupin continues: "Vidocq, for example, was a good guesser, and a persevering man. But . . . he impaired his vision by holding his object too close. He might see, perhaps, one or two points with unusual clearness, but in so doing he, necessarily, lost sight of the matter as a whole."⁸ "The matter as whole," in the age of the control revolution, signifies nothing more and nothing less than all the records kept about the case at hand.

Some time ago, James Beniger referred to the period 1880–1930 as the "control revolution." By this Beniger meant the "loss of economic and political control . . . at . . . local levels of society during the Industrial Revolution. Before this time, control of government and market had depended on personal relationships and face-to-face interactions; now control came to be reestablished by means of bureaucratic organization, the new infrastructures of transportation and telecommunications, and system-wide communication via the new mass media."⁹ The control revolution corresponds to a "growing need for coordination of functions that accompanied differentiation and specialization,"¹⁰ so that in the age of the steam engine information would be communicated at the same speed and with the same efficiency as mass-produced material goods.¹¹ For Beniger, the control revolution becomes a reality between 1870–1920, first, by means of the rationalizing modern bureaucracy and, second, by means of communications technologies developed at around the same time.

The "rationalization" Beniger attributes to technologies such as rotary power printing (1840s), the typewriter (1860s), transatlantic cable (1866), telephone (1876), motion pictures (1894), wireless telegraphy (1895), magnetic tape recording (1899), radio (1906), and television (1923)¹² relies on their ability to process a record

amount of data in a record amount of time. Already in the 1920s, the sales catalogues of the office technology industry included not only typewriters but also mechanical and electrical calculators, encrypting machines, machines for the creation of statistical tables, machines for folding letters and addressing envelopes, machines for the sorting of large amounts of punchcards, machines for the copying and addition of such cards, and many others. Such machines, whether they were electrical or mechanical, revolutionized the way records were produced and processed in the modern office in a way that can only be compared to the effect Taylorism had on modern production techniques in the car industry. In advertisements, the superiority of office machines such as the mechanical stapler was shown mathematically by the demonstration that a machine could create x amount of records in x amount of time, and that the ratio between the two was inevitably lower if humans fulfilled the task.

The problem is, however, that the office machines that came into use, especially in business offices between 1870 and 1920, not only processed existing records at record speed, they also produced record amounts of new data. In other words, the very technologies designed to stem the tide of record production were also in no small measure responsible for its intensification. For instance, if the introduction of telephones into the office removed to some degree the need to communicate in writing, the requirement in many companies and parts of public administrations to produce written memos of every phone conversation led, on the contrary, to an increase in the production of paperwork which then had to be filed and stored. With the introduction of carbon copies, the typewriter, too, was transformed into a remarkably efficient copy machine. In other words, the “control revolution” that took place between 1870–1920 also contributed toward the crisis of control that it was designed to conquer. If we can believe T. R. Schellenberg, the U.S. federal government increased its production of records more than a hundred times between the civil war and the end of the second world war.¹³

THE GROÖE POLIZEIAUSSTELLUNG

The rationalization Beniger quotes as the principal engine behind the machine-based control revolution hinged on the establishment of a set of universally enforced standards not only in the area of

industrial production but also in the realm of the (office) media, standards that would allow not only for effective data recording but also for their combination and communication. One of the pioneers of the introduction of such standards into *Polizeitechnik* was the engineer Alphonse Bertillon (1853–1914), the head of the bureau of identification at the Paris *préfecture*. Bertillon's fame rests on his anthropometric treatment of criminals, and on his combination of photography with measurement and text. Bertillon's photographs of crime scenes allowed for the measuring of distances and sizes in retrospect, on the photograph itself. Bertillon's special apparatus for these purposes was later simplified by Franz Eichberg of the Viennese police. Famous for his expansion of the use of photography by the police, Bertillon also developed an innovative system for the classification of criminals' names, suggesting that the police classify the names of criminals according to the way they were pronounced, not how they were written in a given language ("On classe comme on prononce"). In this way the French name *Bailly* was classified alphabetically as *Bai*, *Bachimont* as *Bachimon*, and so forth. For, as the great pioneer of *Polizeitechnik* wrote, "in the mouth of a German, T could be confused with a D; B will often be taken for a P and vice versa. An English person will inevitably confuse the vowels A and E, E and I. . . . An Italian will pronounce sh instead of s where in a French name the letter s precedes the vowels E or I."¹⁴ Bertillon's code allowed for the networking of data in a code that aspires to the same universal applicability as did the police in the era of the enlightenment. International standards in the coding and storage of information together with the (office) media that process it, then, bring back what the police appeared to have lost once and for all, to be and to know "everything."

In Germany, a crucial catalyst for the introduction of industry standards into modern policing was the *Great Police Exhibition* held in Berlin from September 25 to October 10, 1926. Officially, the exhibition, organized by the Prussian Ministry of Interior Affairs as a kind of world's fair of modern police, aimed to demonstrate—less than ten years before the seizure of power by the Nazis—that the German police had successfully completed the transition from the imperial *Obrigkeitsstaat* to a democratic system.¹⁵ Beyond that, the idea was to give a "systematic" overview of police history and technology on an (inter-)national level.¹⁶ It is not by coincidence that in a booklet that explains the structure of the exhibition one of its organizers

makes explicit reference to the eighteenth-century *Polizeistaat*: "The history of the police as a phenomenon of modern public life does not begin with the appearance of the word . . . in fifteenth- and sixteenth-century . . . jurisdiction but only with the organization of a technical . . . administration."¹⁷ The Great Police Exhibition treated the police as a network of knowledge-gathering agencies and practices, giving the visiting public "a rounded and complete image of the multifarious tasks and the multi-faceted activity, the different uniforms and the technical equipment of the modern police."¹⁸ Interestingly, at least two of the sections into which the Great Police Exhibition was divided, most notably the ones dealing with the suppression of "illegal literature and art" and "indecent images and writings" were accessible only to "specialists" with a special permit. This is interesting not only because it proves, predictably, that the willingness of the police to exhibit itself has certain limits, but also because secrecy, or rather the technological preconditions for its mechanical production and protection, was in fact one of the themes of the exhibition. An encryption machine produced by the Kryha office supply company won a prize for its technical innovation (the machine could be used as either an encryption or a decipherment device, and its electrical version could even write messages at the same time). Beyond that, the public display of the close relationship between the police and office supply manufacturers was an explicit goal of the organizers: "At the same time a close mixing [*eine enge Vermischung*; sic!] between police technology [*Polizeifachtechnik*] and industry . . . and commerce will occur by dint of the fact that the companies that participate in the exhibition are shown not separately but within the police agency with which they cooperate."¹⁹

The Kryha encryption machine is a good example of the way in which by the late 1920s industrial standards had become an important marketing tool. The machine not only used an encryption code that was, in the company's own words, "practically almost infinite," the manufacturers also claimed that it could be used anywhere: "Kryha encryption machines are international [sic] and can be used . . . in any city on earth without there being the slightest danger that the number of keys might not be sufficient. . . . If ten million people buy the machine any single one of them can change the system ninety million times without any two people ending up with the same system." The same company advertisement goes on to say that "Kryha encryption machines are . . . indispensable for all government departments and agencies, diplomats, armies, navies

[sic], air forces, the police, banks, industry and commerce, economic and political associations, as well as the press and news agencies.”²⁰ Numerical encryption codes then were not only seen as somehow more “international,” they also ensured greater variability than the letters of the alphabet. Kryha, which sold many machines to the Prussian police, proudly quotes from an article that appeared in the professional journal *Die Polizei* in 1928: “In Germany the police agencies have already begun to use this new invention *on a grand scale and with complete success.*”

During the year the Great Police Exhibition took place, the *Commission on Industry Standards of German Industry* (*Normenausschuss der deutschen Industrie*, founded in 1917) renamed itself the *German Commission on Industry Standards* (*Deutscher Normenausschuss*). The commission’s goal was to supervise standardization and rationalization of all aspects of commerce, industry, and administration. The assumption was that with the standardization of (office) hardware the hitherto unregulated human use of this hardware would become equally standardized in the process and that the standardization of one product would spawn an entire industry of related products. In his book on the 1925 International Design Exhibition in Paris, the architect Le Corbusier gives a good example of the effects of industry standardization:

When the typewriter was born, writing paper was standardized. This introduction of an industry standard had important consequences for furniture. . . . Typewriters, coal paper, filing trays, files, . . . filing cabinets, in one word, an entire furniture industry was influenced by the introduction of the standard.²¹

To be sure, the standardization Le Corbusier addresses is not confined to industrial hardware. The introduction of standard digital codes used for the transmission of information was one of the most important concerns of the Great Police Exhibition. A meeting of the International Police Commission held at the time of the exhibition discussed the introduction of a universal code for telegraphic communication between the police forces of various countries. The idea was to “network” police forces not only on a national but also, increasingly, on an international level. The code debated at the conference was developed in 1923 by the police chief of the city of Vienna, Dr. Brandel, and was met with the immediate approval of the delegates. It was based on a three-letter system and consisted

of a coded sequence of three letters that replaced either one word or an entire sentence. The idea was that this code would not only make communication between different police forces more cost-effective as telegrams no longer had to be translated but also, crucially, that it would encrypt messages in such a way that they could not be understood by an outsider who was not in possession of the key. A further advantage to the introduction of the universal telegraphic code for the police was seen in the fact that it was not tied to any language in particular, even though it could be translated into any existing language. At the same meeting, delegates also discussed other ways of promoting international codes that would facilitate policing, such as, the establishment of an international system of traffic signs; the introduction of specially embossed forms for passport applications; the introduction in all countries of a passport that would include the bearer's fingerprint and signature; and the development of an international dictionary of *Kriminaltechnik*.²²

THE AKTENPLAN FOR THE PRUSSIAN POLICE (1928) AND THE OFFICE REFORM

Apart from general exhibits relating to various aspects of the modern police both in Prussia and abroad ("The Historical Development of the Police"; "The Police and the Press;" "Illegal Literature and Art"; "Indecent Images and Writings," etc.), the *Große Polizeiausstellung* featured a startling exhibit that showed "the original clothes and the files [*Aktenstücke*] concerning the Nuremberg foundling Kaspar Hauser."²³ Aged about sixteen at the time, Kaspar Hauser was found in Nuremberg, Germany, on Whit Monday, 1828, and taken to a police station where allegedly he answered all questions with "*woisznit*" (dunno). Unable to speak coherently, Hauser was able to write the name given to him by a policeman who then proceeded to take him into custody. It is not altogether clear why the Hauser exhibition was included in the *Polizeiausstellung*, except to demonstrate that in the age of the wireless telegraph (*Fernschreiber*) and the telephone, traditional office files (*Aktenstücke*) were rapidly being transformed into museum pieces. It is perhaps not by coincidence that police files increasingly became the staple diet of a new kind of literature that consisted almost entirely of quotes from the (purportedly) authentic files of various police agencies. Volumes such as Matthias

Blank's *The Battle With Crime. From the Files of a Police Inspector* (*Der Kampf mit dem Verbrechen. Aus den Akten eines Polizei Inspektors*, 1909) or E. Thiemann's *From the Secret Files of the Political Police. Reminiscences of Its Former Activity* (1919) drew their revelatory appeal from the fact that they quoted freely from what the reader expected were closed files accessible only to the police.²⁴

The standardization in the way the police gathered and stored data concerned not only its formatting but also, crucially, the way it was filed and archived. When in 1928 the police in Prussia (first in the city of Magdeburg) introduced an *Aktenplan* or filing plan that would abolish the traditional filing room, or *Registratur*, this measure was part of a general program of standardization that affected practically all areas of *Polizeitechnik*. This development took place before the general background of the office reform movement of the mid-1920s, a movement whose goal was to increase the efficiency and cost-effectiveness of the public administration through the deployment of standardized office technologies.²⁵ The officials behind the reform, especially Dr. Brecht of the German Ministry of the Interior, were well aware of the fact that, in the administration and elsewhere, the (office) media were anything but passive receptacles. According to Brecht, "even such things as forms are not something purely external."²⁶

The core of the office reform was a sweeping overhaul of the way official records (*Akten*) were handled by the public administration. The term *Akten*, of which the English term "file" is but an approximate translation, is derived from the neutral form of the passive past participle of the Latin verb *agere* (to act) and could be translated as "that which has been acted upon." In imperial Rome, the term *acta* designated among other things the personal papers of the magistrates and other public officials, as well as the daybooks that were kept in Roman house archives (*tablina, populi diurna*). Another word for *Akten* is *Vorgang* (related to *vorgehen*, something that occurs at the present moment). *Akten* are written transcripts not so much of the contents of a decision, its "final copy," but rather of the process that led to its adoption.²⁷

The first classification of *Akten*—at the police and elsewhere—occurred in the so-called registries (*Registraturen*) whose task it was to count or register the paperwork that circulated in an agency and to account for its whereabouts.²⁸ The registry acted as a relay station where incoming correspondence was received, attached to existing

paperwork, and then assigned to the clerical worker in whose responsibility its contents belonged. When a letter was sent to an agency it first went to the registrar who looked it over, registered it in the so-called daily ledger [the *Tagebuch*, or diary] under a consecutive number, and attached to it any previous correspondence that could be relevant in making a decision in the given case. These ledgers were navigation manuals in the hands of the registry official, aimed at ensuring the safe passage of a letter to its destination, and the prevention of its loss:

On its left side incoming papers were entered with notes of their contents and other characteristics, some columns in the middle made it possible to show the course of each paper within agency, and on the right side the necessary entries were made with regard to the outgoing letter and the call mark of the transaction.²⁹

Whenever *Akten* were passed on from one office to another they had to go by way of the registry where its trajectory inside the agency was meticulously recorded. In this way, the ledger functioned, ideally, as a screen on which the whereabouts of the many documents that were circulating in an agency at any moment in time could be tracked.

In order to expedite the search for specific items in the registry, the daily ledger was traditionally supplemented by an index that consisted of an alphabetic list of keywords that were derived from the entries in the daily ledger. Using the numbers under which individual items were listed in the ledger, it was possible to shift back and forth between the ledger and the index in the search for individual files. Another index that accompanied the ledger listed the persons (or, at times, the places) named in the papers that appeared on the ledger. These indices were kept in the form of books that usually ran over several years.

As a bureaucratic institution the registry stands between the office, where papers are produced, and the archive, where they are stored in perpetuity at a time when they are no longer relevant for current business. If an archive preserves those papers that are no longer needed for the dispatch of current business, the registry looked after them while they still circulated within the agency, and while it was thought that they might become relevant or necessary again for ongoing business.

The idea behind the abandonment of the registry and the diary at the Magdeburg police headquarters was that individual officials would be given more freedom to keep and maintain their own paperwork. The real objective, however, was to standardize the rules under which the (police) bureaucracy operated. As the chief of the Magdeburg police district pointed out in 1928:

In management science . . . the problem of an administration without registry . . . occupies much room. It has now been scientifically analyzed and practically proven, and it is therefore ready to be implemented. The elimination of central and departmental registries, . . . the distribution of files among the officials who can now administrate their own files with the help of steadily improving office technology represents undoubtedly a big step in the direction of any genuine office reform, a.k.a., the improvement . . . of administration through simplification, acceleration and standardization of office procedures.³⁰

Traditionally, the Prussian bureaucracy arranged its paperwork according to so-called provenances, a principle of archiving that preserved *Akten* in chronological order according to the agency in which they originated.³¹ The narrative-based *principle of provenance*, which was developed in the late nineteenth century, made it difficult to network data from different agencies because it was assumed that every single file could only be understood in conjunction with the other files in the same series (provenance).

The abolishment of the registry in Magdeburg and elsewhere was designed to remedy this problem by classifying all files according to their subject matter with the help of numbers. The use of the numeric system for the classification of police *Akten* represented a radical departure from the traditional method based on alphabetic writing. The number code used for this reorganization was derived from the system invented by the American librarian Melvil Dewey for use in libraries. The Dewey system conceived of the (hypothetical) totality of all files to be organized as a whole number (one, ten), and of all the sub-categories it comprises as fractions of that totality, indexing all categories with an individual number code. By indexing the total knowledge of the police with the help of decimal fractions it became possible to conjoin concepts vertically as well as horizontally, a.k.a., between agencies on the same level in the hierarchy.

The point of abolishing the traditional registry and introducing the Dewey system for the organization of police files was, once

again, that it constituted a standard system that could, like the telephone, be used more or less uniformly all over the world. During the massive controversy that surrounded the (partial) introduction of the Dewey system in libraries in the late 1920s, it was indeed referred to both by friend and foe as a *Weltsystem*, a world system.³² With the introduction of this system, the police, too, may have hoped to become again the universal police it once was. Beyond that, the number-based Dewey system demonstrates a weakening of alphabetic writing as the sole organizing medium used by the police in the management of its data. With the introduction of the numerical Dewey system the historical-analytical era of the police (Sherlock Holmes) gives way to a new era, that of numbers and, eventually, computers. It is hardly a coincidence that the computer put together in the apartment of his parents by the amateur painter Konrad Zuse came into being a mere fifteen years after the introduction of the Dewey principle at the Berlin police and that a few years after that the first computers were used for the computation of data by the police.

The Prussian police's transition to the *Aktenplan* at the *Polizei-präsidium* in Magdeburg went hand in hand with an effort to standardize the office hardware used by the police. Among other things, this involved the introduction of a uniform color code designed to distinguish the files of various agencies:

For the files solid folders are used. The back of the file folders has a white paper strip glued on to it that is identical for all [police, S.S.] agencies. In order to distinguish the files of the three main divisions more easily from each other they additionally receive a paper strip of three centimeters width: a green one for the administrative police, a blue one for the urban police [*Schutzpolizei*], and a yellow one for the crime squad [*Kriminalpolizei*].³³

Where traditional filing methods had emphasized the historicity of the files, the new method was happy merely "marking" them. In 1928, the police headquarters in Magdeburg became a *Musterbetrieb* (a model example) also in that it was provided with the latest developments in office technologies, the kind of machines that were often lacking or scarce in other police departments. For example, the Magdeburg headquarters were supplied with more than two dozen mechanical and electrical typewriters and accounting machines of the well-known Mercedes brand whose slogan was: "*Ordnung durch*

Mercedes!" (Order Through Mercedes!). We may be surprised to find that what appears to be the traditional domain of the police, a.k.a., the creation of order, here becomes the mission of the office media acting, as it were, in the police's place. In any event, the introduction of the *Aktenplan* in Magdeburg was accompanied by intense advertisement and lobbying on the part of office supply companies. Among the products these companies peddled to the police were standard electric typewriters, calculating machines, wireless telegraphs, address machines, separate telephone systems, and mechanical card indexes. Interestingly, in the many advertisements of office and organization technologies in police publications, the efficiency and power of these machines was generally measured not in words but in numbers. One advertisement by the Berlin Adrex company for an automatic address machine announced that the machine was "capable of printing 1200 addresses every hour."³⁴

It is instructive to compare the way data is stored by the new, standardized and registry-less police administration with the more traditional, narrative forms of data-storage that were still used by the police at the time when the Dewey system was introduced. I have in mind in particular the so-called incident report, a piece of narrative prose that the police bureaucracy was at pains to bring up to the rigorous standards of machine-style objectivity. As narratives, incident reports struggled to adhere to a set of rules that prescribed everything from the use of the personal pronoun "I" to the descriptive measurement of varying degrees of drunkenness:

Every policeman is obliged to report everything he perceives [*alle Wahrnehmungen, die er macht*], . . . especially any infringements of the law to his superiors. All . . . reports have to conform strictly to the truth. . . . The incident should be related exhaustively, clearly, and precisely, without any unnecessary details. The report should consist of short sentences without any subordinate clauses so that it may be read fluently and comprehension is facilitated. Evaluative statements such as "in my opinion" or "to my mind" ought to be omitted.³⁵

To the extent that it lists "everything" perceived by the observer, the police record encourages us to think of it as something akin to a camera. At the same time, the (conflicting) demand that the report should not include "any unnecessary details" reintroduces what the machine-ideal appeared to have banished, the human observer's judgment. Such judgment, of course, is precisely what the camera

omits as it records literally *everything* that comes before its mechanical eye. The tension between (camera-like) objectivity, on the one hand, and subjective judgment, on the other, structures the incident report even in its outward appearance as the two conflicting demands are tangibly present in the way such reports were formatted—the page on which the incident report was written was split vertically, with the left column used for reference matter (incident, name of suspects, articles seized, etc.), and the right for the report itself.

The tension between machine-like objectivity and subjective judgment is also apparent in the following stipulation:

In a report the facts that are the object of the illegal act . . . have to be stated with the greatest precision possible. For example, it is not sufficient to say: “The accused resisted my attempt to apprehend him.” Instead the report should indicate how or by what means resistance was offered. To give an example: “N.N. violently resisted his being taken into custody by stemming his feet against the ground, shaking his fists wildly and kicking me with his feet.”³⁶

Of course, the “precision” of the phrase “N.N. violently resisted his being taken into custody by stemming his feet against the ground, shaking his fists wildly and kicking me with his feet” is questionable, hinging as it does on subjective experience. Perhaps the reason for the ambiguity implicit in incident reports, and for their notorious unreliability, is the fact that the information they dispense, no matter how objective, is contained in a narrative, and thus complies with the laws that govern narratives. As narratives, incident reports encourage a way of thinking that is implicitly or explicitly inductive and syntagmatic, and that conceives of contiguous facts as causal links in a historical chain of events. The following is an excerpt from a report included as exemplary in a police manual:

On 7 January 1909, at half past one in the afternoon the merchant Max Kunze, Bismarckstrasse 17, II pointed out to me a man and said that he had come to his house to beg for money and that when the maid had refused him entry into the house he began to curse in the most coarse fashion. Despite the fact that the maid asked him repeatedly to leave he did not budge and instead broke the windowpane in the vestibule, which was worth 8 marks, with his cane. Only when . . . Mr. Fritz Schubert, who lives in the same house, entered the scene did he leave the house, cursing all the way. There he continued to disturb the

public order and deliberately jostled several ladies who were passing by. . . . I stopped the man . . . but he denied having begged for money, made noise or jostled the ladies. . . . At this point I asked the man to follow me to the police station. He said to me: "You poor miserable fellow, I will not come with you." [*Du trauriger, elender Kerl, mit Dir gehe ich nicht.*] . . . Shortly before we reached the police station all of a sudden a woman approached us, shoved the suspect aside and said to me: "Let this man go, he has done nothing, he is my husband." Then she took him and dragged him away from me so that he wanted to run away. I however reacted quickly, grabbed him and led him into the police station. The woman then also entered the station. Here the man was identified on the basis of his papers as. . . .³⁷

As a narrative, the report represents the "incident" as if it were a scene in a film script. The scene is orchestrated deftly and with great deliberation, moving from an atmospheric introduction that sets the tone to a central climax and peripeteia, and then to the final *dénouement*. The report *stages* the incident reported as an urban drama punctuated by crisp syntax, direct speech and economic use of adjectives.

In the late nineteenth century, the Prussian police increasingly introduced forms of data storage that bracketed the (narrative) representation that held the incident report hostage, without however abolishing the latter. The media I have in mind are indexes of standard-sized cards contained in boxes, the *Karthoteken*. By the late 1870s, the use of such card indexes by the police had become widespread.³⁸ The *Karthotek* that came into use in Berlin in 1876 was a derivative of the *Verbrecheralbum*, the vast, multi-tome album of photographs of criminals (inspired by Bertillon's prototype) that were designed to facilitate recognition by crime witnesses and victims. The album consisted of a large number of photographs of suspects that were glued into the album according to specific criteria. The images contained information about the suspect's height and the color of his/her eyes and hair. The portraits in the Berlin album did not contain the names of the persons depicted. Instead a number referred the user to a special index where the numbers were matched by names, so that the people in the photographs could be identified without prejudice. In the *Verbrecheralbum*, lists of different types of criminals replaced the syntagmatic narrative characteristic of the incident report. The *Verbrecheralbum* used in Berlin was divided into more than thirty categories, from "1" (murderers and robbers) to "29a" (international bank robbers).

However, only the use of portable, standard-sized index cards (instead of bound books like the *Verbrecheralbum*) enabled the police to network data between different albums. Such cards could easily be copied and filed into multiple boxes. If, given the nature of the crime, a criminal belonged into more categories than one, he or she could thus be classified in a variety of different ways. At the Berlin police, the images included in the *Verbrecheralbum* were glued onto index cards that were then placed in a special collection of so-called *Fahndungskarten* (investigation cards) containing all the basic information about a criminal. A color code organized the cards into male (yellow) and female (light blue, later green), and the card also contained basic information about the suspect (name, crime category, number in *Verbrecheralbum*, etc.). Whenever a card was removed from the box by an agent, a piece of paper was inserted in the box—often of a different color—that listed the inventory number, data, and signature of the card that had been taken out. The *Fahndungskartei* was designed, among other things, to function as a mobile data bank that a detective could carry with him during his hunt for a suspect. The identification of the criminal by the detective happened, at least ideally, by comparing the suspect with the photo on the card. The police detective functioned like an office clerk whose expertise consisted of his ability to master a variety of (office) media.

At least seven different types of card indexes were in use by the police at the time of the *Große Polizeiausstellung*, from the Signal Card Index (*Merkmale Karthotek*) that was designed to facilitate the recognition of suspects according to special bodily traits to the *Steckbriefregister*, the list of persons wanted by the police. In 1920 the Berlin *Steckbriefregister* comprised of more than hundred boxes for male suspects and thirteen boxes for female suspects, with many thousands of single cards. The *Leichen- and Vermisstenkarthotek* in its turn contained information about dead bodies found by the police and about people who had been declared missing, with detailed data about their appearances.

In his writings Norbert Wiener frequently makes allusions to the dream (the nightmare) of transmitting a human being as if he or she were a message sent through a telegraph. In a way, *Karthoteken* as they were used by the police aimed to do just that. Card indexes divided the human body into a sequence of signals that could not only each be combined in any conceivable way but that could also be communicated like any other digital code. In the 1920s, the crime

squad in the city of Dresden established its own *Verbrecheralbum* in the form of a card index, consisting like its counterpart in Berlin of cards made from cardboard that carried a photograph of the criminal. Inside the box these cards were arranged in horizontal lines according to the type of criminal, and in vertical rows according to the criminal's height. In this way, the tallest criminals appeared in the upper rows, and the shortest in the lower rows. Within each box there were sub-categories according to age, the shape of the nose, and the shape of the lower ear lap (*antitragus*). The criminal as it is put together (or taken apart) by this card index mutates into a collection of discrete physical signals that can be either present (on) or absent (off). The identification of the criminal with the help of these categories was no longer a question of narrative since no syntagmatic links between them were required.

Similar card-based techniques had been in use in censuses for some time. Cards filled with a standard set of data inspired in the 1890s Hermann Hollerith, of the U.S. Census Bureau, to invent his automatic tabulating machines, machines that by the time of the *Große Polizeiausstellung* had been in use at the Berlin police for more than a decade. Allegedly, Hollerith had the idea punching holes into the census cards as he was watching a conductor on the train.³⁹ Hollerith's punched cards made any human classification of the cards in a *Karthotek* unnecessary. They not only represented a virtually infinite archive of records stored according to prescribed standards, they also indicated that statistics was fast becoming one of the most central areas of data processing—at the police and elsewhere.

NOTES

1. Paul Virilio, *La machine de vision* (Paris: Galilée, 1988), 94
2. Johann Heinrich Gottlob von Justi, *Vergleichungen der Europaeischen mit den Asiatischen und anderen vermeintlich Barbarischen Regierungen* (Berlin: Stettin, Leipzig, 1762), 41.
3. Etymologically, the term "police" points to the "good [administration of the] state."
4. Hans Menzel, *Der Aktenplan der preußischen Polizei. Entwurf* (Berlin: Kameradschaft, 1933), 3.
5. B. Drews, *Grundzüge der Verwaltungsreform*. (Berlin: Carl Heymanns Verlag, 1919), 53.

6. On technological and bureaucratic data management and its effect on the police's command structure and activity, see Brian A. Grosman, *Police Command. Decisions & Discretion* (Toronto: Macmillan, 1975), 49–57; Peter K. Manning, "Information Technology in the Police Context. The 'Sailor' Phone" in *Information Technology and Organizational Transformation. History, Rhetoric, and Practice*, ed. JoAnne Yates and John van Maanen (Thousand Oaks: Sage, 2000), 205–22; Peter K. Manning, "Information Technologies and the Police," *Modern Policing. Crime and Justice. A Review of Research* 15 (1992): 349–98; David J. Bordua and A. J. Reis, Jr., "Command, Control, and Charisma: Reflections on Police Bureaucracy," *American Journal of Sociology* 72 (1966): 68–76.
7. Edgar Allan Poe, *Selected Writings* (Harmondsworth: Penguin, 1981), 204.
8. Ibid.
9. James R. Beniger, *The Control Revolution. Technological and Economic Origins of the Information Society* (Cambridge, MA: Harvard University Press, 1986), 37.
10. Ibid.
11. Ibid.
12. Ibid.
13. T. R. Schellenberg, *Modern Archives. Principles and Techniques* (Chicago: University of Chicago Press, 1956), 36
14. Alphonse Bertillon, *Notice sur la classification phonétique* (Melun: Imprimerie Administrative, 1951), 8.
15. The Berlin conference was not the first of its kind. In May 1925, for example, there had been an International Police Conference in New York City.
16. The exhibition included representatives from foreign police forces.
17. N. Abegg, *Aufbau und Gliederung der "Großen Polizeiausstellung Berlin 1926."* (Berlin: Verlagsgemeinschaft Kameradschaft, 1926), 5.
18. Ibid., 3.
19. Ibid., 4.
20. Hans Menzel, *Der Aktenplan der preußischen Polizei. Entwurf* (Berlin: Kameradschaft, 1933), 36.
21. Le Corbusier, *L'Art Décoratif d'aujourd'hui* (Paris: Éditions de Seuil, 1996), 76.
22. *Der Kriminalist. Mitteilungen über Polizeiwissenschaft* 17 (May 10, 1926).
23. Ibid.
24. E. Thiemann, *Aus den Geheim-Akten der politischen Polizei. Erinnerungen an ihre ehemalige Tätigkeit* (Berlin: Verlag der Volkswacht, 1919), 4
25. For more information on the office reform movement in Germany, cf. Dr. Brecht, "Die Büroreform in der Verwaltung," *Deutsche Juristen-Zeitung* 9 (1926): 628–33; Botho Brachmann, "Zur Geschichte der Büroreform,"

Archivmitteilungen. Zeitschrift für Theorie und Praxis des Archivwesens 1 (1959): 6–14.

26. Brecht, "Die Büroreform in der Verwaltung," 628.
27. Angelika Menne-Haritz, *Der Vorgang und was steckt dahinter? Paradoxien im Entscheidungsprozess der Verwaltung* (Deutsche Hochschule für Verwaltungswissenschaften Speyer [Speyerer Vorträge. Heft 49], 1999), 21.
28. Already in the eighteenth century, clerical offices almost everywhere featured their own registries where all files were taken before they were transferred to the actual archive—that is, their final resting place. This is not to say that registries were limited to the public administration. They also existed into the twentieth century in larger companies, especially in industrial and insurance companies.
29. Ernst Posner, "The Role of Records in German Administration," in *Archives and the Public Interest. Selected Essays by Ernst Posner*, ed. Ken Munden (Washington, DC: Public Affairs Press, 1967), 95.
30. Hans Menzel, *Der Aktenplan der preußischen Polizei. Entwurf* (Berlin: Kameradschaft, 1933), 3.
31. Cf. Ernst Posner, "Max Lehmann and the Genesis of the Principle of Provenance," in Munden, ed., *Archives and the Public Interest*, 36–44; Georg Winter, "Das Provenienzprinzip in den preußischen Staatsarchive\en," *Revista de la biblioteca, archivo y museo* 38 (1933): 180–90.
32. See, for example, Wilhelm Weinreich, "Zur Frage der Dezimal-Klassifikation." *Minerva-Zeitschrift. Zentralblatt für die gelehrte Welt* 5 (1929), 43.
33. Hans Menzel, *Der Aktenplan der preußischen Polizei. Entwurf* (Berlin: Kameradschaft, 1933), 7.
34. *Ibid.*, 24.
35. Max Weiß, *Die Polizeischule. Ein Lehrbuch und Leitfaden zum Unterrichte an Polizeischulen und in kriminalistischen Unterrichtskursen, ferner ein Buch zum Selbstunterrichte für Polizeianwärter und ein Nachschlagebuch für Beamte der Sicherheits-, Kriminal- und Wohlfahrtspolizei* (Dresden: Verlag der Polizeischule, 1920), 150.
36. *Ibid.*, 152.
37. *Ibid.*, 155.
38. Card indexes (*Zettelkästen*) had been used by scholars and writers since the eighteenth century, but it was not until 1900 that standardized versions began to appear. For a cultural history of the Zettelkasten, see Markus Krajewski, *Zettelwirtschaft. Die Geburt der Kartei aus dem Geiste der Bibliothek* (Berlin: Kadmos Kulturverlag, 2002).
39. More immediate predecessors, of course, are Jacquards's famous looms and Charles Babbage's designs for his *Difference Engine*.

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CHAPTER 8



HITCHCOCK'S TRUTH, OR: WHY *THE WRONG MAN* IS NOT A SUSPENSE FILM¹

Hans-Christian von Herrmann

*We did away with the real world: which world remained? The false world, perhaps? . . . On the contrary! Along with the real world, we also did away with the false world!*²

—Friedrich Nietzsche

During a fifty-hour interview in the mid-1960s about Hitchcock's work, François Truffaut asked Alfred Hitchcock: "Do you believe that *The Wrong Man* is a successful film?" "Well, yes," answered the master, "My determination to follow the true events as exactly as possible is the reason for the considerable weaknesses in the film's construction. . . . It meant too much to me to stick to the truth. I was too afraid to allow myself the necessary dramaturgical freedom."³ What is lacking from this film, which was shot in 1956 prior to *Vertigo* and *North by Northwest*, is the element that defines Hitchcock's movies: suspense. Instead of surprising the audience with unforeseeable twists and turns, Hitchcock presents the audience with a "true story" as he explains in a short prologue. This prologue is markedly

different from his otherwise ironic short cameo appearances. Standing in a single spotlight behind a film studio set, the director addresses his audience much as a radio reporter would: "This is Alfred Hitchcock speaking. In the past, I have given you many kinds of suspense pictures. But this time I would like you to see a different one. The difference lies in the fact that it is a true story, every word of it. And yet, it contains elements that are stranger than all the fiction that has gone into many of the thrillers that I've made before."⁴

In the place of artistic fiction is pure fact. The presentation is done in such a way that the typical elements of Hitchcock's film, which constantly "give a deathblow to triteness,"⁵ are not lost. As he denies the difference between truth and fiction and between reality and art in this manner, the prologue of *The Wrong Man* assigns an almost metalinguistic status to the film. It is as if he were saying, "Enough with the usual indirect approach—here you have my truth without any pretense." Instead of hurling his heroes through every production device available from day-to-day life into a dizzying abyss, Hitchcock seems to step into the background as the director. "Because it embodies so many of the director's recurrent themes within its true story, *The Wrong Man* occupies a special place among Hitchcock's films. In it, for once, reality seems to validate the motifs that run through his fictional tales."⁶

The true story, which forms the basis of the script and the film allegedly retells in unaltered form, is the case of the arrest of jazz musician Manny Balestrero by the New York police. Based on witnesses' accounts, the police accuse him of having committed a series of robberies. However, if the incident first reported in June 1953 by *Life Magazine* under the title "A Case of Identity" is compared with the film adaptation, aggravating differences clearly refute Hitchcock's claimed documentary approach. Indeed, the details of the arrest and the subsequent court proceedings in the film are based on factual evidence. However, the film overlooks the sloppy police investigation as well as the quick proof of an alibi by Balestrero and his lawyer.⁷ Moreover, the style itself of the black-and-white film, based on the newsreel, proves to be highly ambivalent.⁸ In that the film was shot completely outside of the studio, in the streets and houses of New York, it is also associated with *film noir*. In the decade after World War II, *film noir* aesthetically differentiates itself from the Hollywood studio productions with its strict limitation to location shots.⁹

With regard to content and form, the boundaries between truth and fiction in *The Wrong Man* cannot be clearly drawn. What misled Hitchcock to such indecisiveness, or more precisely, to the reliance on a truth in which an elementary principle of form is simultaneously revealed? Instead of simply grounding the entertainment film in a socially critical manner in the supposed gloom and despair of American everyday life, the prologue of *The Wrong Man* introduces an aesthetic problem with the question of material and staging. What is more, the film is, for the most part, a detailed portrayal of the police apparatus—that is, the mechanics in which Manny Balestrero, played by Henry Fonda, is caught. At the same time, the “*story* [itself leaves] *us indifferent*. We are aware of Manny’s innocence and therefore should identify with his point of view—however, *the identification backfires*.”¹⁰ Instead of producing suspense and empathy for its heroes, the film demonstrates an analytical interest in the practices and spheres of the registering, interning, and parading of delinquency.

With the shift of focus from the fate of a protagonist to the practices and spheres that both allow him to develop and define him, *The Wrong Man* can be compared to *Die Polizey* (*The Police*), a dramatic fragment by Friedrich Schiller written between 1799 and 1804. Along with Louis Sébastien Mercier’s *Tableau de Paris* (1781–1788), *Die Polizey* draws its material from the history of everyday life.¹¹ The “actual unity” of the plot, according to Schiller, “is the police that gives the impulse and ultimately brings development. It appears in its true form at the beginning and at the end; in the duration of the play, however, it indeed acts perpetually but silently behind the mask.”¹² The drama “begins in the reception hall of the police lieutenant who listens in on his clerks and extensively expatiates on all branches of police business and throughout all quarters of the large capital. The audience member is thereby quickly transferred into the midst of the vast city’s commotion, and simultaneously sees the wheels of the great machine in motion”¹³. Christian Gottfried Körner, the first publisher of Schiller’s posthumous works, remarks, “[t]he idea of a dramatic portrait of the police in Paris under Louis XIV occupied Schiller’s thoughts for some time. Above the motley, milling crowd of the diverse figures of a Parisian world, the police, like a higher being, was to soar; its gaze surveying an immeasurable scope and penetrating into the most secret depths, just as nothing is unattainable for its arm.”¹⁴

As a "higher being" that holds all the strings of events in its hand, the police is unmistakably a *doppelgänger* of the dramatist who equally possesses power over his characters and whose structure establishes the plot's unity. In terms of motifs and story line, the text Ludwig Stettenheim writes "is connected with the first poetic act of Schiller's *Die Räuber* (*The Robbers*). However, the societal enemies who stand in the foreground become of secondary importance; we see an important person [the police lieutenant Marc-René d'Argenson] act as the protector of the common good and the guardian of the law. On the whole, it has a realistic character: from the romantic robber-heroes of youth, Schiller moves to the shady criminal mob of the modern city, and out of the Bohemian forests into the quarters of Paris."¹⁵ The time that lies between *The Robbers* and *The Police* can be designated as "years of apprenticeship," in which "the subject" Schiller "sows his wild oats and then adapts himself through his wishes and pure opinions to the establishment and its propriety."¹⁶ In other words, the forty-year-old Schiller's draft of the state manifesto simply betrays the secret of production in his early works, writings which had indeed utilized "the advantages of the dramatic method," in order to "catch the soul in its most secret operations."¹⁷ This kind of theater is no longer part of a courtly representation or a site of combative dialogues. Rather, Schiller's theater has become Bentham's "panopticon" in the Foucauldian sense of a disciplining and individualizing "architecture, which no longer merely serves the purpose of being seen (like the pomp of the palaces) or the surveillance of the exterior area (like the geometry of the fortresses), but rather the inner, organized, and detailed control of the visualization of its inmates."¹⁸ All those "'Observatories' of human diversity," that is, the prisons, hospitals, infirmaries, madhouses, factories, schools, etc. that take shape in the course of the seventeenth and eighteenth centuries in Europe and pave the way for "a new knowledge of man"¹⁹ also form the historical premise of a psychological theater in which language and movement are always an expression of isolated individuals.

Schiller's attempt to shift the panopticonism of his theater from the level of form to that of content and to personify the same in the state institution of the police was bound to fail if panopticonism were indeed to result in a drama that comes into being on an open stage. However, it is precisely via this impossibility that *The Police* reveals the secret of Schiller's poetology. For this reason it cannot be

surprising that d'Argenson clearly pursues aesthetic measures in his care of the State's well-being. For just as the "aesthetic state" Schiller's letters, *Über die ästhetische Erziehung des Menschen* (*On the Aesthetic Education of Man*), speak of, in which "man appears to man . . . merely as figure, just as an object of free play" who mediates between the "terrible empire of force" and the "holy empire of law,"²⁰ so too does the police, under d'Argenson's direction, create order in the bustle of the Paris streets. People in police files take form and become the object of free play of a secret surveillance.²¹ As Schiller writes, the Chief of Police has "seen too much of the people's shameful side for him to be able to have a noble conception of human nature. He has become more skeptical of the Good and more tolerant of the Bad. However, he has not lost his sense for the Beautiful, and whenever he meets with it unequivocally, the more ardently he is moved by it."²²

Therefore, instead of believing in the good of the people or damning the bad, d'Argenson understands his work as an aesthetic assignment in the face of a morally mixed human nature. "The human is always seen by the chief of police as a species of wild animal and is treated as such"²³—that is, set apart via the registration of personal data like an animal in a corral and subjected to permanent observation. This makes it possible to know potential offenders so well that an intervention can ideally take place already prior to the deed.

Just like the father confessor, the Minister of Police knows the flaws and weak spots of many families and, just like these, requires the highest discretion. A case is presented in which someone is amazed and alarmed by the Minister's omniscience but discovers in him a considerate friend.

He also occasionally admonishes innocence as well as guilt. He not only sets out spies on the criminals, but also on those unfortunate persons who, in despair, could become the same. Such a person in despair is brought forward, to whom the police reveals itself as a savior.²⁴

The aesthetic- or police-state not only subjugates the individual will to that of the whole through sanctions but also "carries out," via precaution and education, "the will of the whole through the nature of the individual."²⁵ The "horror" of the police is therefore its "eye, which penetrates everything."²⁶ This "eye" turns Paris into a "prison . . . under control of the monarch" who, with the help of the police, has "a million under lock and key"²⁷ not in a dark dungeon

but rather in a panopticon flooded with light. Much like Bentham's model architecture, the police in Schiller's drama sketch out a dispositive of visualization. If the central theme is namely a "poetic portrayal of the *Night in Paris* [and not] the actual subject and scope of the police,"²⁸ then the play's place of action is not only determined but also the institution itself. The night is the subject and scope of the police in as much as its techniques of visualization must be preserved here in a special manner. In that the police works its way through the darkness of the Parisian night, it brings to light "all forms of existence, of depravity, etc."²⁹ that should constitute the personnel of the Schillerian drama. Schiller had already said the same in 1784 when he declared in his programmatic lecture to the Electoral Palatinate German Society that the bourgeois "stage [is], more than any other public institution of the State, a school of practical knowledge, a signpost through the bourgeois life, an infallible key to the most secret entries of the human soul."³⁰ The secret of the bourgeois theater and its psychology is the police's pervasive gaze that seeks to draw the individual out of the darkness of his heterogeneous being into the light of knowledge.

In addition to psychological drama, a prerequisite for the theater of the police was an entirely new concept of stage lighting that would bring an end to the flickering candles and the oil lamps' smoke, thereby lending an unalterable visuality to the silent performance of the actors' physiognomies. As Antoine-Laurent Lavoisier declared in 1781 before the Parisian Academy of Sciences, it is imperative "to place the actor in the proper light. For he bestows Life to the theater and sees to it that the soul of the spectator feels thoughts. His smallest movements, the slightest variation in his expressions: all these must be perceivable; none may escape the spectator's notice. Everyone knows that the play's perfection lies precisely in these small details and the interest of the plot; indeed, often the play's entire success depends on them."³¹ Shortly thereafter, Lavoisier was given the opportunity to construct a model theater completely without the *clair—obscur* of courtly splendor—that is, with the use of "elliptical street light" or reflectors that he made on the occasion of a prize competition in 1767 "to illuminate the streets in Paris."³² As a light source, he used the oil lamp with a hollow wick and glass cylinder that was invented by Ami Argand.³³ The lamp's construction was based on Lavoisier's own theory of oxygen, and the oil burned cleanly and with a much brighter flame due to the added air.³⁴ From the union of the science of reflection (*Katoptrik*) and chemistry,

reflector- and Argand-lamp, the first form of what could be termed "theater lighting" emerged. Around 1800, this theatrical medium was second only to the dramatic work itself. Light produced in this manner revealed the physiognomic performance of the actors to a level of visibility that was simultaneously known as *polizeyliche Überwachung*—police surveillance.

Just as in Schiller's drama, in Hitchcock's film *The Wrong Man* it is also the police that ensures the actual unity of plot, no longer in terms of political science but rather in terms of criminality. As in Schiller, the police appears as a huge and terrible machine that produces visibility and knowledge and cannot be evaded. The political utopian splendor that Schiller gave to the police was now truly lost. If the police take Manny Balestrero into custody, then pure chance rather than a pedagogical aesthetic mandate is responsible. The police assigns to Balestrero the role of the guilty party, a role he must perform either well or badly in the lineups and trials. At the end, he will see how the newly arrested "right" man, Daniell, whose name is first revealed in the closing credits, takes over Balestrero's part to perform in the same way. Thus, the gaze of power in Hitchcock is clouded from the outset and is therefore highly questionable. This is different than in Schiller, whose dramatic sketch celebrates the terrible as well as benevolent. Other as an agent of the truth holding all strings in its hands. The subject, who is far from revealing his soul to the police, is a dizzying vacuum expressed in the space of difference. In this manner, it is not the individual's handwriting (for example, a demand for money reproduced in capital letters) that incriminates Balestrero, but rather, it is the omission of two letters—DRAW instead of DRAWER—that was identical to the original.

The final scene of the film, Daniell's entry into the film store, is nothing more than the filmed staging of the difference of two photographic portraits. While Balestrero repeatedly mumbles the word "help" and beseechingly fixes his gaze on a painted head of Christ—the image of all images—that hangs on a wall in his room, a fade-over reveals a passerby in a trenchcoat becoming increasingly larger until finally his face covers Balestrero's. For a short moment, the two cannot be told apart. In the next instant, only Daniell's face can be seen. For all of its similarity, the face has clearly discernable characteristics, and in it, a careful viewer of the film recognizes precisely that man Balestrero ran into on his way to the insurance office.³⁵ Shortly thereafter, when Daniell is overpowered and handed over to

the police by the owner of the small grocery store that Daniell held up, one of the detectives who took part in Balestrero's arrest is present. It is in the mind's eye of this detective that the photographic process of identification originated by Francis Galton and Alphonse Bertillon begins.³⁶ Identity is no longer the correlate of a name but rather an effect of a differentiating mechanical operation. This is the fate of the subject in the sign of a bureaucracy that is no longer based on alphabetization but on technical media. In *North by Northwest*, when the mysterious Eve Kendall asks the ad agency's boss and supposed agent Roger Thornhill what the "O" in his company sign ROT stands for, his response is "nothing."

What separates Schiller's *Die Polizey* and Hitchcock's *The Wrong Man* is their affiliation to two different dispositives of power. The light utopia of a closed surveillance state supported by Schiller's *Die Polizey* transforms itself into the gloomy image of a power at whose mercy is the helpless subject. Or one could also say that in Schiller, subject and power meet in the sign of psychological truth whereas in Hitchcock, they meet in the sign of criminal contingency. Indeed—and this differentiates *The Wrong Man* from Hitchcock's successful thrillers—this contingency is not the trigger of a suspenseful plot with the hero leaving completely on his own to take his fate into his own hands. Rather, this contingency remains without any connection to the main character since the film formally takes on the indifferent gaze of the police. "Although Hitchcock engages the technique [of the subjective camera] which is meant to produce viewer identification with the victim, the victim reacts as if the events at hand would not effect him/her; as if s/he were their indifferent observer."³⁷ In this respect, Slavoj Žižek can determine the special position of *The Wrong Man* among Hitchcock's works "in keeping with the dialectical axiom, according to which the way to the single underlying law of the universe is always bypassed via its exception."³⁸ The film, according to Žižek, reflects "that which stems from the fundament of Hitchcock's universe, which is based on experience" and presents this in a completely analytical manner "as 'pure reality' without the resonance of a phantasma that lies within."³⁹

Instead of allowing the viewer to become a voyeur of a film plot with all elements combining to form a closed universe whose secret one seeks to fathom, Hitchcock provides a series of events that remind one of the typical elements of suspense films but never allow the paranoid question of a concealed connection to arise. To be sure,

the phantasmatic dimension does not completely disappear but rather returns to the level of the plot as a diagnosed psychosis in one of the main characters. The documentary claim of the film is in keeping with the bureaucratic gaze of the police, judges, and doctors, whose methods are presented in the film. In contrast, in the eyes of Balestrero's wife, Rose, this same world appears increasingly distorted. She is, so to speak, the only person who experiences the events as if they were taken from a Hitchcock thriller. To begin with, a hairbrush she injures her husband's head with during a fight causes his mirror image to be split in two parts. With that, his subject status is split. And as if she were a malicious and god-like director who allows the hero to rush headlong into destruction, she takes the blame for everything that happens to her husband. After his wife's first psychiatric consultation, Balestrero is told:

Well, at the moment her mind is an eclipse. She doesn't see anything as it is. And she blames herself for everything that has happened to you. . . . And she believes this so strongly that it darkened the whole world for her. She sees great, lurking dangers, everywhere. And she thinks she brought them on you.⁴⁰

Hitchcock films reflect on their role as photographic medium that registers the subject in service of criminality and psychiatry completely independent from its linguistic capability. In this manner, the subject is always assigned a pre-symbolic, psychotic status. Additional symptoms of the deficiency of the phantasmatic-paranoid dimension in *The Wrong Man* are the unyielding and indifferent actions of both police officers who arrest Balestrero in front of his house. They do what they do with the same continual lack of emotion. They thereby embody—like the stone busts of the presidents in *North by Northwest*—the “ensemble of exterior relationships that determine the fate of the subject” and “the system of referents as the automaton.”⁴¹ The subject is drawn into this through no fault of his own if, in typical Hitchcock fashion, this entanglement triggers a nightmarish plot that only the hero, by ceasing to insist on his innocence and joining instead in the game, is able to save himself. In this way, the otherwise constitutive aggressive structure of Hitchcock's films is reduced to only a few moments in *The Wrong Man*. Here it becomes apparent that the analytic-registering act of seeing must be differentiated from a gaze that the subject sees itself “hit” and threatened

and whose secret he simultaneously tries to fathom. For example, at the beginning of the film, when Balestrero enters the insurance office in order to inquire about the possibility of taking out a loan against his wife's policy, the camera takes the position of one of the staff who seems to anticipate a possible hold-up based on Balestrero's hesitant gestures. Becoming aware of the "gaze of the Other" as a "deadly threat" is the point of entry of the "suspense" in Hitchcock's thrillers that, as Slavoj Žižek stresses, "is never the product of a simple physical confrontation of the subject with the aggressor, but always demands the mediation of that which the subject *reads in the gaze of the Other*."⁴²

The question as to why *The Wrong Man* is not a suspense film can therefore be effectively answered as follows: the police appears as a dark and threatening force, but the hero does not try to elude it through countermeasures. He gives himself over to the bureaucratic-criminalistic machine that operates without respect to individuals. However, such a machine cannot be staged but can only be described according to its operations. For this reason, one can also explain the failure of *The Wrong Man* with reference to the relationship of theater and machine. "The theater," as the sphere of the subject, "banishes the performance of the machine to the background, behind a boundary that can no longer be crossed."⁴³ In that Hitchcock allows the machinery of identification to appear on the scene, the theatrical structure based on the gaze collapses in order to give way to a mere enumeration of events. At the beginning, Balestrero is arrested and assumes the position of the guilty party without any resistance. He finally leaves this position again when, through another triggering of fate, another takes his place. However, suspense can only occur if the action does not appear as a mere series of events but as an intrigue. In this respect, the film had to fail as a production that attempts to attain the reality of the practices and spheres that determine the subject's fate in everyday life. *The Wrong Man* demonstrates the dispositive of police identification and in the end it reveals the truth about Hitchcock's cinematic work. If bureaucracies and their media determine what counts in the social world, it follows that in the relation between subject, power, and history (to paraphrase Freud), there is no innate sign of reality (*Realitätszeichen*). However, what this relation does yield are both the archive and paranoia.

NOTES

1. The translation of all German quotes and titles have been rendered by the translator.
2. Friedrich Nietzsche, *Werke*, ed. K. Schlechta (Frankfurt: Ullstein, 1984), 3:409.
3. François Truffaut, *Mr. Hitchcock, wie haben Sie das gemacht?* trans. F. Grafe (Munich: Heyne, 1995), 232.
4. Marshall Deutelbaum, "Finding the Right Man in *The Wrong Man*," in *A Hitchcock Reader*, ed. M. Deutelbaum and Leland Poague (Ames: Iowa State University Press, 1986), 208.
5. Truffaut, *Mr. Hitchcock*, 13.
6. Deutelbaum, "Right Man," 207.
7. *Ibid.*, 209.
8. *Ibid.*, 214.
9. *Ibid.*, 210; Michael Walker, "Film Noir: Introduction," in *The Movie Book of Film Noir*, ed. I. Cameron (London: Studio Vista, 1994), 17: "The Hitchcock film that seems most strongly noir is *The Wrong Man*."
10. Renata Salecl, "Der richtige Mann und die falsche Frau," in *Ein Triumph des Blicks über das Auge. Psychoanalyse bei Hitchcock*, ed. S. Žižek (Vienna: Turia & Kant, 1992), 172.
11. Ludwig Stettenheim, *Schillers Fragment "Die Polizey" mit Berücksichtigung anderer Entwürfe des Nachlasses* (PhD diss., Rostock, 1893), 41–48.
12. Friedrich Schiller, *Die Polizey*, in *Werke. Nationalausgabe*, ed. H. Kraft (Weimar: Böhlau, 1982), 12:91–92.
13. *Ibid.*, 91–92.
14. Stettenheim, *Schillers Fragment*, 12.
15. *Ibid.*, 41.
16. Georg Friedrich Wilhelm Hegel, *Ästhetik*, ed. F. Bassenge (Berlin: Aufbau, 1955), 558.
17. Friedrich Schiller, *Sämtliche Werke*, ed. G. Fricke and H. G. Göpfert (Munich: Hanser, 1958–1960), 1:484.
18. Michel Foucault, *Überwachen und Strafen. Die Geburt des Gefängnisses*, trans. W. Seitter (Frankfurt: Suhrkamp, 1977), 222.
19. *Ibid.*, 221.
20. Schiller, *Sämtliche Werke*, 5:667.
21. "The character of a person who is being sought by the police is fitting to the point of the unmistakable" (Schiller, *Die Polizey*, 92).
22. *Ibid.*
23. *Ibid.*, 93.
24. *Ibid.*, 95–96.
25. Schiller, *Sämtliche Werke*, 5:667.

26. Schiller *Die Polizey*, 95–96.
27. Ibid., 97.
28. Ibid., 93.
29. Ibid., 96.
30. Schiller, *Sämtliche Werke*, 5:826.
31. Antoine-Laurent Lavoisier, “Ueber die Erleuchtung der Schauspiel-Säle,” in *Magazin für die bürgerliche Baukunst*, ed. G. Huth (Weimar: Hoffmann, 1796), 2:25.
32. Ibid., 30.
33. Ibid., 33.
34. Carl-Friedrich Baumann, “Licht im Theater. Von der Argand—Lampe bis zum Glühlampen—Scheinwerfer,” in *Die Schaubühne. Quellen und Forschungen zur Theatergeschichte* 72, ed. C. Niessen (Stuttgart: Steiner, 1988), 8–9.
35. Deutelbaum, “Right Man,” 216.
36. Thorsten Lorenz, *Wissen ist Medium. Die Philosophie des Kinos* (Munich: Fink, 1988), 182–86.
37. Salecl, “Der richtige Mann,” 172.
38. Slavoj Žižek, “Hitchcocks Universum,” in *Ein Triumph des Blicks über das Auge. Psychoanalyse bei Hitchcock*, ed. S. Žižek, 201–74. (Vienna: Turia & Kant, 1992), 201.
39. Ibid., 211.
40. Alfred Hitchcock, *The Wrong Man* (Warner Bros. First National Picture, 1956).
41. Žižek, “Hitchcocks Universum,” 207.
42. Ibid., 206.
43. Gilles Deleuze and Félix Guattari, *Anti-Ödipus. Kapitalismus und Schizophrenie*, trans. B. Schwibs (Frankfurt: Suhrkamp, 1988), 1:396.

PART IV



CONTEMPORARY INVESTIGATIONS

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CHAPTER 9



POLICE, PARANOIA, AND THEATER IN THOMAS PYNCHON'S *VINELAND*

Martin Puchner

The modern police systematically investigates the citizen without special prompting. It is an agent that ceaselessly follows traces wherever they lead and distrusts everyone.¹ One consequence of the emergence of the modern police, famously analyzed by Michel Foucault, is the increasing internalization of police control: the omnipresent modern police extends its disciplining power to the internal fabric of the modern subject. More than simply investigating everywhere and everything, the police burrows its way into the heart of the citizen.² This process is captured most vividly in what Louis Althusser calls his “little theoretical theater,” a street scene in which the subject is constituted by virtue of being addressed by the state: “Hey, you there!”³ The agent doing this calling, who acts for and on behalf of the state and therefore enacts the Ideological State Apparatus is none other than the “most commonplace everyday police.” This Althusser-Foucault view might be called the interpellative-disciplinary theory of the subject, according to which the modern subject is constituted by the modern police.

What has received less attention is a second consequence of this theory, namely the emergence of a modern police hermeneutics: the police becomes a privileged interpreter of signs. The transition from

the old-fashioned palace guard to a standing and omnipresent police force was codified in Victorian London through the Metropolitan Police Act of 1829 and in the United States not much later.⁴ This act also created the first modern police in the world, whose primary duty was to prevent crime rather than to arrest perpetrators after the act.⁵ Nothing limits the investigative gaze of this modern police force, as it hunts for indicative and revealing details that point toward hidden crimes. Only civil liberties, which must be forced onto the state and its police organs from the outside, restrict the police in its ceaseless investigation of more and more traces. There can never be too many details, facts, or hints. Fred Inbau, the apologist of the modern police in the United States, urges every investigator to pursue the chase for evidence as far as possible, since juries, spoiled by television and detective novels, cannot be trusted to evaluate evidence correctly: "It is vitally necessary, therefore, that the investigator look for . . . far more incriminating evidence than that which has already convinced him of the suspect's guilt."⁶ Confined by civil liberties and the jury system, the police is forced into an unending and excessive gathering of evidence. The result is a police hermeneutics that is defined by two features: the closure of meaning because it already knows the result of the analysis (in this sense, it is structurally similar to traditional literary hermeneutics); a search for evidence that can never come to an end, giving rise to an interpretative overdrive.

The emergence of the modern police hermeneutics is also the condition for one of the most successful literary genres: the detective novel. Here, literary hermeneutics and police investigation are brought into contact and support one another.⁷ Whether the reader knows more or less than the detective and whether the text exposes evidence or withholds it, both the reader and the investigator are occupied with deciphering signs and searching for evidence in order to find the one trace that leads to the crime. Both are conditioned to be fundamentally suspicious. Even though the great hero of the detective novel, Sherlock Holmes, is not employed by Scotland Yard and in fact constantly ridicules its incapable employees, Sir Arthur Conan Doyle's novels are unthinkable without the emergence of the modern police. Holmes embodies the ideal of the investigator and he trumps the police only because they have not learned to be suspicious enough. The police can become the model for hermeneutic reading more generally. Carlo Ginzburg uses Holmes as a representative of an anthropological and hermeneutic paradigm of indication: from the

hunter and gatherer all the way to modern medicine and to Freud's psychoanalysis, eroding traces, medical symptoms, and hidden traumata are equally excavated and reassembled into meaningful units and lines of causality.⁸ In a similar vein, Umberto Eco points to the relation between Doyle and the semiotics of Peirce, which he relates to the discussion about induction and deduction.⁹ But whether it is hypothesis or observation, falsification or verification, that guides the interpretation of signs, the detective novel is characterized by a confluence of reading, deciphering, and investigating. What Peirce presents as a theory of signs, Holmes takes as a practical hermeneutics of clues. The readers can compete with the hermeneutical detective depending on their respective access to potential evidence. The dynamics of this hermeneutic competition, the manipulation of different horizons of knowledge, is the most important stylistic technique of this genre.

THE DETECTIVE NOVEL IN REVERSE

Nowhere is the relation between literary interpretation and police investigation as close as it is in the work of Thomas Pynchon. Pynchon, however, adds a third element as a catalyst: paranoia. From his earliest short stories to *Mason & Dixon*, hints invariably coalesce into evidence for conspiracies: the secret postal service in *The Crying of Lot 49* (1966); secret agents in WWII Germany appear in *Gravity's Rainbow* (1973); the police in *Vineland* (1990); and finally the ominous West India Company in *Mason & Dixon* (1997).¹⁰ One reason paranoia seems to fit so well into the nexus of police and literature is the fact that Freud's paradigmatic study on paranoia is itself not based on the analysis of a living patient, but on the interpretation of a text, namely the *Memoirs of my Nervous Illness* by Daniel Paul Schreber.¹¹ Even though this study is an anomaly within Freud's oeuvre, the interpretation of literary texts occupies a significant place within psychoanalysis: the texts Freud reads in order to establish central concepts of his theory range from Sophocles to Shakespeare and Hoffman. Whether it deals with the prohibition of incest, melancholia, or the uncanny, psychoanalysis calls on literature as its primary witness.¹² Pynchon continues this collaboration between psychoanalysis and literature by other means.

Schreber's *Memoirs* is a document that shows interpretative paranoia at work everywhere: all phenomena become signs that point to

the center of an obsession, more and more minute details acquire extreme significance through Schreber's interpretative compulsion, fewer and fewer counter arguments count. In the end, after having turned everything into a sign, there is no more outside of the text for Schreber. But if he textualizes everything, he also has a tendency to theatricalization. The world becomes, in Schreber's eyes, unreal, "carelessly sketched" (flüchtig *hingemacht*), or "magically conjured" (*hingewundert*), as he puts it in his invented language. Cities, such as Leipzig, are merely "stage sets" for "human plays" (*Menschenspielerien*).¹³ Thus unrealized, the world becomes the stage for Schreber; even his own body, including his bowel movements, is merely simulated by a vengeful God. Schreber's is a theatrical conspiracy theory; paranoia takes the form of a play, conceived of by a director in secret collaboration with the actors. It is a paranoia that suspects the essential theatricality of everything.

Pynchon uses a similarly paranoid hermeneutics against the readers of his novels: his manipulations of signs catch the reader in a net of interpretation that includes the act of reading itself, the search for evidence, the compulsion to read everything in terms of conspiracy. While Schreber is particularly suspicious of the psychiatric establishment, *Vineland* directs its paranoid energies against the police. Unlike the detective novel in the tradition of Doyle, which depicts the police from the perspective of the detective, *Vineland* depicts the police from the perspective of the suspect. *Vineland* can thus be described as a text of police paranoia that turns the detective novel on its head. Police work is not assimilated to the perspective of the reader but becomes an object of paranoid representation. The result is a detective novel in reverse. Not unlike Schreber's Manichean system that imagines a cosmic battle between Ariman/God and Schreber, *Vineland* stages the battle between the pot-smoking ex-hippie, Zody, and the prosecutor, Brook Vond. Vond has set his eyes on Frenesi, Zody's ex-wife and mother of their daughter Prairie, who lives with Zody; and Vond is willing to use the entire police apparatus to reach his goal. His motives, deals, and manipulations remain obscure and can only be gathered from dispersed clues. Besides the conspiring prosecutor Vond, there is the DEA field agent Hector Zuniga, who is also pursuing Zody (V 10) and who suddenly reappears at the beginning of the novel once more searching for Frenesi. This time, however, he does not act in the service of Vond, but on his own behalf. What he wants is to shoot a film about Frenesi's life

in order to expose “all those long-ago political wars, the drugs, the sex, the rock an’ roll” as a bad example—a public education film that, it turns out, was commissioned by the police. In addition, Zuniga hires secret police informants among the drug-consuming dropouts to spy on one another.

These are only the main characters and they are surrounded by a number of uniformed and non-uniformed policemen and paramilitary associations: CAMP, a special drug unit created by Reagan and commanded by Karl Bopp, former officer in the Luftwaffe; an east-Asian martial arts order called Kunoichi, located in the mountains east of San Francisco; a Bolshevik-Leninist splinter group that maintains contact with all kinds of people, complete with a suspicious doctoral student named Rex; and a private police force, including sirens and uniforms, that can be hired by former smokers to keep them from falling back into their old habit. They all conspire, plan, observe, and pursue the traces of Frenesi, leading them mistakenly to the guileless Zody and his daughter. Zody, however, finds himself on a hunt for Frenesi himself that is more hallucinatory than real but that implicates him in the hermeneutics of paranoia as well: “Try to read signs, locate landmarks, anything that’ll give a clue, but—well the signs are there on street corners and store windows—but I can’t read them” (V 40). Zody finds himself surrounded by signs, and they would lead him on the right track if he could only read them correctly. He knows, in the manner of a paranoid, about the conspiracy of signs, but he can’t lift its secret. Like Schreber in the first phase of his illness, Zody remains in the dark even though he is in the midst of revealing clues.

The different military and paramilitary groups, private and public police forces, and detectives do not work in the service of one single secret organization, comparable to the divine torturers in Schreber’s system. In contrast to the systematic representation of the conspiracy and its goals, which Schreber manages to sketch out after long and tedious studies, *Vineland* disseminates suspicious signs so as to invite paranoid interpretation but without ever revealing its inner workings. *Vineland* thus takes to an extreme the “characteristic indistinctness and vagueness” (V 106), which Freud diagnoses in Schreber’s writings. Applied to the police, there is not only one police but many police forces, and you can’t always tell them apart by their uniforms.

The dissemination of the police into a host of police and para-police forces must be understood in the context of the history of the police in the United States. The police historian, C. Emsler, for example, argues that the competition between state, local, and federal police forces led to a lack of a central police in the United States.¹⁴ The different police forces, furthermore, operate according to different codes, laws, cultures, and modes of supervision. In addition, the United States has traditionally relied and still relies to a much larger extent than other industrial nations on a host of private police forces. One historically significant example was Pinkerton's Northwest Police Agency, which became the model for other private police forces.¹⁵ In 1972, New York City could boast 40,000 private guards versus 30,000 municipal policemen; in midtown and at Wall Street the ratio of private to municipal policemen was 1 to 10.¹⁶

This multi-layered and heterogeneous nature of the police in the United States is the point of departure for the construction of Pynchon's police paranoia. Different police forces try to capture Zody and his daughter, from whose point of view the novel slowly builds up its system of secret connections and hidden convergences. Often, the two do not even know where the police ends and the civilian life begins. At the beginning of the novel, the policeman Hector Zuniga tells Zody that Zody's ex-wife has been living in the secret witness protection program; he describes this program in the following words: "Your ex-old lady, up till they terminated her budget line, was livin in a underground of the State, not like th' old Weatherpeople for nothin, OK? but a certain kind of world that civilians up on the surface, out in the sun thinkin 'em happy thotz, got no idea it's even there" (V 31). The splintering of public and private police forces means that the police is everywhere, even hidden under the surface of civilian life. Below the civilian life, there is the underground of the state, the place where state and crime secretly converge. It is this type of underground, reminiscent of the Weathermen, through which *Vineland* stages the superimposition of police, paranoia, and the interpretation of signs. The language of surface and underground becomes the paradigm for hidden convergences and a potentially ubiquitous police.

But Zody's police paranoia is only partially due to the apparent omnipresence of police investigation, as they are figured in "ubiquitous though unnamed Hector" (V 43). For Zody knows the police in the form of drug police, the "federal narcs" (V 24), which appear everywhere, "in those years there were so many federal narcs in the

area that if you were busted in the South Bay you actually stood less chance of its being the local Man than some fed" (V 24). Even Zody finds himself entangled in such collaborations, whether he likes it or not. In his hippie drug culture there exists an impenetrable web of police violence, informants, and anti-drug forces; what's worse, Zody indirectly profits from the money his associates get for their spying services. Zody never took money directly from Hector, but this does not mean that he is not in his pay: "Zody, to be sure, made a point of never pocketing any of Hector's PI money personally, though he was content to go on eating the groceries, burning the gas, and smoking the pot others obtained with it" (V 24). Police, informant, and perpetrator seem to constitute a closed system, an economy in which everything hangs together and where you can't be sure of anything—not even of the pot you smoke because it could be paid for by the police.

Money is the perfect conduit for secret links and therefore the way Pynchon feeds paranoia-inspiring connectivity. Frenesi finds out, for example, that more and more of her fellow revolutionaries directly or indirectly live off the state: "as betrayal became routine, government procedures for it so simple and greased that no one, Frenesi was finding out, no matter how honorable their lives so far, could be considered safely above it, wherever 'above' was supposed to be, with money from the CIA, FBI, and others circulating everywhere, leaving the merciless spores of paranoia wherever it flowed, fungoid reminders of its passage" (V 239). Like pollen, the dirty money of the state corrupts the air of the revolution by creating invisible dependencies. These kinds of undercurrents increase once the novel begins to lay bare Frenesi's activities during the 60s, which she documented on film. Even more important than Frenesi herself is the odd mathematician, Weed Atman, who teaches at the "College of the surf" (V 204). Under his command, the students turn the campus into an autonomous area—the People's Republic of Rock and Roll. Frenesi is not only part of the revolt but also one of Atman's lovers and thus close to the new power emerging in this campus commune. The antagonist of this couple is once more prosecutor Brock Vond. Zody's daughter, Prairie, and the reader slowly begin to realize that this distribution of roles is only a matter of superficial appearance. While the relation between drug police, informers, and drugs consumed composes a closed economy, the confrontation between the revolutionaries and the state leads to a veritable short

circuit: Frenesi, who is at the center of the revolt, maintains a secret love relationship with Vond, and this relationship is politically charged, for Frenesi lets herself be used to undermine the revolutionary forces.

However, Frenesi is more than a regular turncoat and secret informer used by the police against the autonomous campus commune. Just as the circulating money served as the conduit for the secret relations between police and drug consumers, so Frenesi serves as a communicating vessel for the opposing parties in this conflict. Whether motivated by jealousy or political calculation, Vond seeks to find out as much as possible about her revolutionary lover:

"I watched all the film footage, too, but I never saw anything about his spirit. That's what I'd like to hear about sometime. I want his spirit, hmm? I'm happy to leave his body to you."

"Oh, I don't know, Brock, he might be just your type."

He took off his glasses, smiled at her in a way she'd learned to be wary of. "Actually he is, and I'm sorry you had to find out this way. Remember last time, when I told you not to bathe, hmm? Because I knew you'd be seeing him that night, knew he'd go down on you—didn't he? Ate your pussy, hmm? Of course I know, because he told me. You were coming in his face and he was tasting me all the time."

Brock's homophobic sense of humor? She tried to remember if that was how it had happened, and couldn't . . . and what did he mean about "wanting" Weed's spirit?

"You're the medium Weed and I use to communicate, that's all, this set of holes, pleasantly framed, this little femme scampering back and forth with scented messages tucked in her little secret places" (*V* 213–14).

Frenesi's provocative remark and Vond's homophobic humor cast her as the channel through which secret communication happens. The fact that a homosexual fantasy is part of this communication is, according to Freud, part of the symptomology of paranoia.¹⁷ In his study on Schreber, he even traced Schreber's condition to repressed homosexual desires and concluded that paranoia is always connected to homosexuality. *Vineland* uses homosexuality as well, not, however, as a trigger for paranoid behavior but as an example of secret connections between superficially opposed individuals. The secret communication between Vond and Altman takes the form of a sexual

conspiracy with Frenesi functioning as the medium through which messages can be sent and received.

Pynchon not only represents the paranoid projections of his characters but also bombards them—and the readers—with suspicious details without enabling them to decide whether the conspiracies thus hinted at are real or imagined. In this way paranoia is at once de-pathologized and becomes a narrative technique.¹⁸ Importantly, the police is splintered into a whole host of police forces much like the army of “sub-devils” in Schreber’s system. How do you recognize a federal narc? A prosecutor? An informant? How do you know whether or not the money in your hand stems from the CIA or the FBI? And how do you distinguish these figures from the private “smoking police,” which stages its raids like a real police force with sirens and uniforms? Frenesi’s uniform fetish, which her mother believes Frenesi has inherited from her, is also part of this question about the external signs and uniforms of the police.

While the splintering of the police into several private and public police forces feeds the police paranoia that builds novels such as *Vineland*, the United States also has a tradition of right-wing libertarianism with its own form of right-wing paranoia that is difficult to find in England or in continental Europe. A typical example of such right-wing paranoia is the *The Turner Diaries*, the fictional diaries written by Andrew Macdonald, published in the mid-1980s.¹⁹ *The Diaries* begin with the decision on the part of the hated federal government to tighten gun laws and thus to effectively “disarm” the country. The militia cell to which the writer belongs sees this action as an attempt on the part of the federal government to undermine the power of the political right. Behind this plot stands a secret alliance of Jews, blacks, homosexuals, and intellectuals. This paranoid conspiracy theory is now projected back onto the federal government, referred to as “the system.” According to the diaries, Washington conspires against the right because it itself is haunted by a paranoid fear of an armed citizenry.²⁰ This inversion—even for Schreber the conspiracy *against* him becomes, in the later stages, a conspiracy *for* him—is not even the end of the confusion; from time to time there are reports that parts of the militias—“the organization”—are being paid off and maintained by the government in order to justify retroactively the government’s paranoia. The paranoia of the one justifies the paranoia of the other and vice versa.²¹ There is never just one paranoia but many.

POLICE GHOSTS

The splintering of the police—that is, the impossibility of delimiting its proliferation—is systematically connected to the ambiguous role of the police in modern society as discussed by Walter Benjamin in his “Critique of Violence.”²² On the one hand, the police serves to maintain the law, but in order to do this, it must work through policies and directives that in fact anticipate and exceed the law. The result is a gray area in which the police must anticipate and in fact usurp the law: “The police intervenes ‘for security reasons’ in countless situations, even when such interventions have no legal ground” (G 44). In addition, the police tends to enlarge this gray area and thus moves further away from its official function of upholding the law. Police memos, policies, and executive decisions increase as the police assumes a new role: preventative surveillance. The desire for surveillance becomes a form of intrusive power that leaves behind the police’s original function of enforcing the law. Benjamin continues the passage quoted above: “if it does not accompany the life of the citizen, filled as it is with policies and procedures, in the form of a brutal harassment without any reference to the law and even through outright surveillance” (G 44). Benjamin describes the desire of the police for spying on citizens as the extreme form of law-positing violence (*rechtsetzende Gewalt*), only thinly veiled as law enforcement. For Benjamin, this gray area between creating the law and enforcing it, where the police operates and constantly seeks to enlarge, is a “shameful” (G 43) anachronism, a mixture of functions that should be separated as clearly as possible.

Benjamin ascribes to this mixture of law creation and enforcement a “spectral” (G 43) quality. The role of the modern police is difficult to grasp and its law-creating interventions are usually not visible as such. The law recognizes that each and every decision has to be subject to critique and must be treated in its own right; it has, according to Benjamin, its own independent integrity and essence. The police, however, does not admit to such a critique: “An analysis of the police does not encounter a [metaphysical] essence” (G 54). It is this “lack of essence” that makes Benjamin expand on his initial observation about the spectral quality of the police. Regarding the institution of the police, Benjamin writes: “Its violence/power is without a body (*gestaltlos*) just like its ungraspable, omnipresent, and spectral appearance in the life of the civilized nations” (G 45).

Pynchon's strategy for representing the police through a host of improper figures and imposters preserves these spectral qualities. *Vineland* relentlessly multiplies police figures and thus avoids any discussion about the essence of the police from the beginning. There is no police and for this reason everything can be part of the police—Freud observed in his study on Schreber that paranoia “dissects” (*zerlegt*)²³ and “doubles” (*doubliert*).²⁴ The police figures in the novel are only uniforms through which the police appear and are being (indirectly) represented, masks that are put on without being ontologically grounded. The police have no face and therefore many faces; they remain elusive, and for this reason the surveilled citizen must look for them and their traces everywhere. This ghostly police force that constantly transgresses its boundaries can only be represented in a paranoid novel. *Vineland* is a detective novel in reverse because it tries to capture the police itself. In the attempt to represent the spectral police, detective work degenerates into paranoia and the detective novel becomes a paranoid novel.

PARANOIA AS TOPIC AND TARGET

While in *Vineland* the police is the intangible, conspiratorial, and spectral object of pursuit; Pynchon's *The Crying of Lot 49* does not even bother with such an object and invests its energies into the medium of any paranoid system, namely the manipulation of signs. *Vineland* may have found in the spectral police and its secret relations to crime a perfect object of paranoia, but *The Crying* shows that paranoia works best when it has no object at all. Instead it deals exclusively with channels and systems of communication and thus with the distribution and exchange of signs. For this reason, *The Crying* can tell us much about the narrative technique of the paranoid novel; it is a kind of textbook accompanying Pynchon's paranoid poetics.

The Crying may not have a conspiratorial center, but it has an agent, who is already dead when the novel begins. Pierce has made Mrs. Oedipa Maas and a man called Metzger into the executors of his will, a job that entangles Maas into a web from which she can no longer hope to escape. The novel ceaselessly self-theorizes paranoia through the vocabulary of communication studies in conjunction with terminology borrowed from Maxwell's second law of thermodynamics. Information, entropy, and the imaginary figure of Laplace's

daemon make up the language in which *The Crying* theorizes the flood of signs it directs against the reader. Again Pynchon integrates the act of reading into his system of paranoia: communication is based on the circulation of signs and their interpretation. Once interpretation is lured into paranoid overdrive this will effect the reader as well. Now, however, paranoia is directed not at the spectral police but at the secret channels of communication themselves—no matter who might make use of them.

Besides the federal postal service there exists a second secret postal system with secret mailboxes and secret mailmen, the remains of a once glorious organization called "Trystero." This organization is connected to the acronym W.A.S.T.E. (We Await Silent Trystero's Empire) and indeed does not use simple mail boxes but trash cans, not mailmen but trash collectors who collect and transmit secret messages. W.A.S.T.E. thus doubles all the functions of the postal service through a system modeled on the waste system. The difference between the ordinary trash collectors and the secret postal service—that is, between W.A.S.T.E. and waste—is sometimes almost invisible: "she had to look closely to see the periods between the letters."²⁵ Similarly small are the differences and displacements of other letters and signs that suddenly interrupt their normal usage and begin to point toward secret matters. These are the silent and small changes that the novel systematically exploits until neither Oedipa nor the reader can trust a single normal sign anymore, not even a period. Indeed, the name Oedipa itself is a variation on the antique figure whose lack of paranoia turned out to be a grave mistake and who is therefore the figure haunting all paranoid types.

Like Schreber, who suspects that the world is a stage set, and like Althusser, who stages his police paranoia in a "theoretical theater," Pynchon is drawn to the theater to represent his own kind of paranoia. One trace that points towards the secret story of W.A.S.T.E. is a strange revenge tragedy, *The Courier's Tragedy*, authored by the fictive Renaissance writer Richard Wharfinger. *The Courier's Tragedy* is a collage made out of the known revenge tragedies of Kyd, Marlowe, and Shakespeare and tells the story of wild conspiracies, severed limbs, torn out tongues, and, most importantly, misplaced, intercepted, and secretly delivered letters. This drama, "a road runner cartoon in blank verse" (C 51), is being staged by an experimental theater group more or less in the tradition of Artaud and the Theater of Cruelty. Artaud himself, one might add, ended up suffering from

severe paranoia. In this Artaudian performance and the obscure textual history of the revenge tragedy, Oedipa finds further indications of Trystero's secret police. As in the case of W.A.S.T.E., we are faced with small textual changes, for example, the disappearance of the name Trystero in one version of the text, a disappearance that suddenly acquires decisive significance.

Textual and sometimes inaudible displacements of signs abound in this novel, for example when it comes to the heraldic sign of the Trystero organization: a muted postal horn (a silent version of the heraldic sign of Turn and Taxis, former owners of the post monopoly); a group of deaf-mute people who are communicating in sign language (non-phonetic sign languages have themselves triggered paranoid reactions by the state, afraid that they could be used as a secret language for conspiratorial purposes, and have therefore been repeatedly outlawed). In *The Courier's Tragedy* one character, Domenico has his tongue ripped out (a reference to Shakespeare's *Titus Andronicus* and Kyd's *The Spanish Tragedy*) and the secret name "Trystero" can only be stuttered during the performance. These silent or silencing changes of signs invite paranoid interpretations. Are all of these displaced signs interconnected? Is there really a different postal system behind the official one, "another mode of meaning behind the obvious?" (C 126). This novel not only provokes reader and protagonist with suspicious signs but also confronts them constantly with the question of whether this whole business of the secret post is really true or "only" the product of paranoia, "another mode of meaning behind the obvious, or none" (C 126). This interpretative paranoia is doubled. Turn and Taxis go underground because its postal monopoly makes the church paranoid, and the battle of Trystero against Turn and Taxis creates one more layer of paranoia on top of it: "Possibilities for paranoia become abundant" (C 114). Paranoias are made to multiply.

Even Dr. Hilarius, Oedipa's shrink whom she consults to treat her increasing paranoia regarding the W.A.S.T.E. signs, the muted horn, the silent displacements of signs, becomes paranoid himself. When Oedipa enters his practice, the secretary tells her, "He thinks someone's after him" (C 92). It turns out that Dr. Hilarius used to conduct psycho-pharmaceutical experiments in Buchenwald and is now afraid to be brought to justice by Israel. And now, the spectral police enter *The Crying*. Once Dr. Hilarius hears the sound of the sirens, he knows "they" are after him, whether they are uniformed or not. "I

can't guarantee for the safety of the 'police'" (C 93), he says to Oedipa and cunningly places the "police" in quotation marks, as if he knew that there is not one proper police, but many. The "police" becomes nothing but a name, "'the police,' or whatever they are calling themselves tonight" (C 93); hidden behind this name is a shapeless and menacing force that can never be directly grasped.

Dr. Hilarius considers his condition to be normal, a normality, however, that bears the name of paranoia: "a relative paranoia, where at least I know who I am and who the others are" (C 94). But the "others," which sometimes call themselves police and sometimes not, who appear in different shapes and uniforms but who always conspire against him are precisely a product of this "relative paranoia" which still knows the difference between subject and environment. With LSD, however, which Dr. Hilarius carefully avoids, this difference on which paranoia is based is erased. For this reason, there is a connection between what Oedipa calls "the reality principle" and Dr. Hilarius's "relative paranoia," which both acknowledge the other as "other." Without the difference between subject and environment there is either total paranoia, for example, the manipulation of Schreber's own body, or the end of paranoia because there would be no more environment, no other, that could conspire against the subject.

This division within paranoia, the splintering of paranoia itself, is central for Pynchon, who not only uses paranoia as a narrative technique but also tries to represent it as an object of representation. In the course of this thematization, however, he stumbles onto the subject for *Vineland*: police paranoia. In *Vineland*, he allows himself to move from merely thematizing paranoia to directing it toward its privileged object: the spectral and limitless power of the police as theorized by Benjamin. Once a novel has disseminated paranoia-inducing signs, readers are confronted with a single alternative: accept the paranoid world of the novel or expose it as pathology. But this means rejecting the novel entirely; it means reading it, as Freud read Schreber, as pathological symptom. But wouldn't this amount to an overreaction? A paranoid fear of paranoia? As an attempt to represent the modern police, the paranoid novel applies the technique of the detective novel to itself: rather than search for the criminal, it searches for the essence of the police. Since there is no such thing, this search ends in paranoia. But it is through this paranoia that the spectral quality of the police is made to appear.

NOTES

1. This essay was written in 2002. It therefore does not include reference to the more recent literature on the subject.
2. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage, 1995).
3. Louis Althusser, *Lenin and Philosophy and other Essays*, trans. Ben Brewster (New York: Monthly Review, 1971), 174.
4. cf. Clive Emsley, "Polizei und Arbeitskonflikte-England und die USA im Vergleich (1890–1939)," in "*Sicherheit*" und "*Wohlfahrt*": *Polizei, Gesellschaft und Herrschaft im 19. und 20. Jahrhundert*, ed. Alf Lüdtke (Frankfurt am Main: Suhrkamp, 1992).
5. Wilbur R. Miller, *Cops and Bobbies* (Chicago: University of Chicago Press, 1977), 2.
6. Fred Inbau, Marvin E. Aspen, and Frank Carrington, *Evidence Law for the Police* (New York: Chilton, 1972), 98.
7. D. A. Miller considers the relation between the novel and the police. Writing in a Foucauldian paradigm, he sees the disciplinary of the police at work in the nineteenth-century novel itself and not only in the detective novel. *The Novel and the Police* (Berkeley: University of California Press, 1988).
8. Carlo Ginzburg, *Miti Emblematici: Morfologia e storia* (Torino: Einaudi, 1986).
9. Umberto Eco and Thomas A. Sebeok, *Il Segno Dei Tre: Holmes, Dupin, Peirce* (Milan: Bompiani, 1983).
10. Thomas Pynchon, *Gravity's Rainbow* (Penguin: New York, 1987), originally published, 1973; Pynchon, *Vineland* (Boston: Little, Brown and Company, 1990), the latter hereafter shortened as *V*.
11. Sigmund Freud, *Zwei Falldarstellungen: Bemerkungen über einen Fall von Zwangsneurose "Der Rattenmann,"* Freud, *Psychoanalytische Bemerkungen über einen autobiographisch beschriebenen Fall von Paranoia (Dementia Paranoides) "Der Fall Schreber"* (Frankfurt: Fischer, 1982).
12. The genre of Schreber's own text is difficult to pin down. Schreber himself opines "that it could be of value for science and religious truths" (Denkwürdigkeiten 61), while Freud uses it as material for a psychoanalytical reader, as material that is "of value" to psychoanalysis. At the same time, Schreber's text can be seen as a literary text. Not only does it speak "in images and similes" (67), it wants to express things "that cannot be expressed in human language." Consequently, Schreber invents a new language, which he calls the "basic language" (*Grundsprache* 77) and characterizes as a "somewhat old-fashioned, but forceful German, characterized by a richness of euphemisms." In addition it is full of allusions to the Bible and to literary texts. For an excellent study of Schreber, see

- Eric L. Santner, *My own private Germany: Daniel Paul Schreber's Secret History of Modernity* (Princeton, NJ: Princeton University Press, 1996).
13. Daniel Paul Schreber, *Denkwürdigkeiten eines Nervenkranken*, edited and with an introduction by Samuel M. Weber (Frankfurt: Ullstein, 1973), 124, 126, 163.
 14. Emsley, "Polizei und Arbeitskonflikte." Also see Emsley, *The English Police: A Political and Social History* (New York: St. Martin's, 1991).
 15. Bryan Vila and Cynthia Morris, eds., *The Role of Police in American Society: A Documentary History*, ed. Bryan Vila and Cynthia Morris (Westport, CT: Greenwood, 1999), 26. Also see Philip John Stead, ed., *Pioneers in Policing*, ed. Philip John Stead (Montclair, NJ: Patterson Smith, 1977), 96.
 16. James S. Kaklik and Sorrel Wildhorn, *Private Police in the United States: Findings and Recommendations*, vol. 1 of the RAND study, 14. Also see, *The Iron Fist and the Velvet Glove: An Analysis of the U.S. Police*, ed. Center of Research on Criminal Justice (Berkeley: Garrett, 1975), 149–59.
 17. Freud, *Fall Schreber*, 125.
 18. Leo Bersani supports a similar thesis concerning *Gravity's Rainbow* in "Pynchon, Paranoia, and Literature," *Representations* 25 (1989): 101. Bersani also remarks how the paranoia of the characters infiltrates the paranoia of the act of reading, initiating a paranoid narratology (107).
 19. Andrew Macdonald, *The Turner Diaries* (Washington, DC: National Alliance, 1980).
 20. As soon as paranoia not only describes the pathology of the individual but also as in Deleuze and Guattari, social, political, and economic systems, the questions whose paranoia we are dealing with becomes increasingly difficult to answer. Gilles Deleuze and Felix Guattari, *Anti-Oedipus: Capitalism and Schizophrenia*, trans. Robert Hurley, Mark Seem, and Helen R. Lane (New York: Viking, 1977).
 21. In the spring of 1998, the debate about paranoia resurfaced in the trial against the so-called Unabomber, Theodore J. Kaczynski. Here, we are not faced with a militia organization but with an individual whose bombs and manifesto terrorized the nation for over a decade. Dr. Sally Johnson's diagnoses during the trial was "paranoid schizophrenia" and thus led to a quick resolution of the trial. It meant that Kaczynski was stripped of the right to defend himself, and this also meant the defense of a political position and he was thus forced into a plea bargain (William Finnegan, "Defending the Unabomber," *The New Yorker*, [March 16, 1998], 61). Like Kaczynski, Schreber considered the representatives of the state and of the psychiatric establishment to be part of a conspiracy directed against him and tried to avoid medical exams. The difference between Schreber and Kaczynski is thus that of violence—Schreber did not constitute a danger to his environment with the exception of his

frequent bursts of anger, while Kaczynski killed three people and crippled twenty-three.

22. Walter Benjamin, *Zur Kritik der Gewalt und andere Aufsätze* (Frankfurt: Suhrkamp, 1965). Hereafter shortened as *G*.
23. Freud, *Fall Schreber*, 116.
24. *Ibid.*, 117.
25. Thomas Pynchon, *The Crying of Lot 49* (London: Picador, 1979). Hereafter shortened as *C*.

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CHAPTER 10



A CRITIQUE OF COMMUNITY POLICING

William Lyons

[T]he conditions that produced the dissolution of ghetto communities are actually getting worse . . . unemployment, poverty, social disorganization, segregation, housing and school deterioration, and crime are worse now than ever before. . . . Under such conditions, it is unreasonable to expect that the residents of the inner city will have the characteristics—whether social, economic, or political—that are required to sustain the partnerships required of the community policing approach.¹

INTRODUCTION

On February 25, 2002, an Albany jury of four blacks and eight whites found NYPD officers Sean Carroll, Edward McMellon, Kenneth Boss, and Richard Murphy not guilty on all charges in the shooting death of Amadou Diallo. On the same day, Rafael Perez, a former officer of the LAPD Rampart Division's CRASH unit (Community Resources Against Street Hoodlums), who confessed to altering crime scenes and lying in court to frame innocent citizens, offered the following advice to other officers: "Whoever chases

monsters should see to it that in the process he does not become a monster himself.”²

The police abuse of Abner Louima, Amidou Diallo, and perhaps thousands of inhabitants of Los Angeles cannot be separated from the willingness of public officials and residents to encourage officers to police more aggressively.³ While the tragedy and hubris manifest in these incidents deserve thorough analysis, I am interested here in the role that citizen participants in police-community partnerships play in these ongoing political struggles, and the ways in which their participation is sought, managed, and sustained. In the *Los Angeles Times*, a business owner who works with the police justified police misconduct as effective crime control, saying, “I don’t care if they have to hit some ‘chuy’ upside the head to stop crime in this city, and the public doesn’t either.”⁴ Another article noted that “despite the allegations, a vocal group of merchants and residents” continued to praise Rampart officers.⁵ A community activist partnering with the Rampart Division offered the following analysis: “The LAPD is caught in the middle. They want to please the good folks and go after the bad guys. Citizens want cops to do their job but we don’t allow them to do it. Sometimes the end justifies the means. In their vigorous endeavor the police department used what they felt was necessary. . . . When you are in a war, you use any means possible. No one wants to see a rogue cop, but we gave them a tough job and told them to do it. This is the price we pay for safer neighborhoods.”⁶

The brief success with police-community partnerships in south-east Seattle began long before establishing a police-community partnership that the National Institute of Justice called a model of community policing. Much of the community revitalization that occurred can be traced to the long-term activism of its residents, cooperating across a wide range of concerns not simply mobilizing against crime. Multiple, diverse groups of residents loosely cooperated to mobilize formal and informal resources to challenge various forms of unaccountable power in their neighborhoods. In this way their activism built on their roots in the community and contributed to the strength of the community by subjecting criminals, property owners, and the police department to critical public scrutiny.

The citizen activism finally forced the police chief to form a police-community partnership. The police chose to partner with a group organized out of the Chamber of Commerce. In the first year of the partnership, the council focused on targeting hot spots and

monitoring police performance very closely on these targets, challenging the police on issues of personnel and resource allocation. But efforts to revitalize the neighborhood by fighting all sorts of unaccountable power atrophied as council members became less concerned with holding the police or property owners accountable and more focused on pressuring the police to aggressively deploy existing professional strategies against the targets of their choice.

Community policing in Seattle was initially established in response to a citizen initiative that pressured the Seattle Police Department (SPD) to agree to establish a police-community partnership. In doing so the SPD was forced to respond to the articulated concerns of several segments of communities, but the police decision to define the community as the chamber group left the partnership without a mooring in the communities most victimized by crime. The agreement to partner excluded several other citizen groups who were more critical of the police and even citizen participation in the chamber was increasingly constrained by police resistance to micro-management. The citizen's role was thereby reduced to providing the police with information-gathering services, lobbying efforts, and a stamp of community support for more aggressive and less accountable forms of professional police work.

This paper examines police-community partnerships and the stories that reflect the struggles inherent in these partnerships as well as the larger, ongoing political struggles they are a part of. The partnerships constitutive of community policing programs to date are, among other things, a strategy for mobilizing largely conservative citizen support for providing the police with more resources and empowering officers to patrol more aggressively and with less accountability. Police officers are encouraged in this approach to community policing to be more proactive, expanding their capacity to act as "primary definers" to include the power to define the community. The scholars and practitioners who advocate this style of policing justify the increased aggressiveness primarily on the basis of the political and financial support of these community partners.

While community policing partnerships provide the police with information, volunteer labor, political support, and legitimation, the partnerships themselves are most often not reciprocal and are unrepresentative. Information flows only from citizens to the police, who in turn jealously guard their data and decision-making authority. These postmodern community organizations fill the political niche

once occupied by powerful neighborhood ward organizations. They are the putatively democratic mechanisms that justify current police practices, such as zero-tolerance or quality-of-life policing in New York City. But unlike neighborhood wards these partnerships lack the powerful citywide political networks necessary to hold the police accountable for wrong-headed practices.

Community policing partnerships are generally composed of law-and-order type citizens excited by the opportunity to assist the police. But even these partners are limited to articulating only operational, crime-related concerns in the process of forming a partnership agenda. They are invited to assist with the preexisting police mission, as defined by the police. What this excludes are concerns about police agency, racial profiling, beat integrity, or tolerance policies. In excluding these concerns, partnerships also exclude those communities most victimized by crime, since it is in these communities that such concerns are a priority.⁷ For citizens fortunate enough to have the police recognize them as the legitimate community and worthy of an official partnership, this selective enhancement of citizenship takes the form of off-loading responsibility to the "community" without a commensurate sharing of resources or increasing the capacity of these citizens to hold police officers accountable. This social foundation for the current practice of community policing, then, excludes some communities and includes others in ways that disempower them both.

The rhetoric and reality of community policing today more aggressively targets minor disorders; none dispute this. Further, it is increasingly clear that community policing more aggressively targets young black males, like Amadou Diallo and Abner Louima, who disproportionately harm their bodies, their families, and their neighborhoods. The stories examined here suggest that community policing also mobilizes a politics of fear to support and justify a particular "distribution of non-negotiable coercive force."⁸ And this distribution, like that characteristic of the professional policing model community policing is supposed to replace, further disadvantages the poorest, minority communities. Today's community policing is about managing rather than preventing crime and disorder. It is also about managing citizen participation to empower police departments and reinforce state agency, compounding the disadvantages experienced in those communities most victimized by crime.

POLICING AND THE POLICE: COLLECTIVE RESPONSIBILITY AND BUREAUCRATIC INSULATION

The police are a mechanism for the distribution of non-negotiably coercive force employed in accord with an intuitive grasp of situational exigencies.⁹

Even within one of the most widely accepted definitions of policing, there is an explicit recognition of the political and distributional character of police work. Historical analysis also highlights that struggles to control the police have been central aspects of urban politics since the founding of the republic. "Whoever controlled the police possessed an enviable flexibility to respond to confrontations and crises in ways consistent with their own political objectives, which was a tremendous advantage in a society so prone to group conflict."¹⁰ Taking Bittner's definition of policing to introduce an analysis of community policing highlights two fundamental questions. First, if policing is the "distribution of non-negotiably coercive force," then in what ways will policing reforms, like community policing, alter these distributions? Put somewhat differently, in what ways is community policing a new way to distribute resources and in what ways is it a continuation of the distributional politics characteristic of the professional policing model?

Second, while it is critical to understand the distributional choices—political calculations and policy outcomes—embedded within particular approaches to police work, this definition also highlights the importance of the "situational" contexts within which these resource distribution decisions are made. Giving contexts for these choices includes those factors that weigh most heavily on the formation of officer intuition, including police department policy, police subcultural norms, prevailing political-cultural significations regarding the law enforcement consequences associated with class and racial antagonisms, and those factors that contribute most to transforming the "concentrated disadvantage"¹¹ characteristic of those communities most victimized by crime into justifications for a more aggressive and less accountable distribution of non-negotiable coercive force in these neighborhoods.¹²

There is no doubt that the concentrated punishment of particular neighborhoods is, in part, a drama of social control enacted for an audience further removed from these neighborhoods and the

vulnerabilities they experience.¹³ Community policing is not yet a new era distinct from the professional policing model, as many advocates assert, but rather it expands the distributional priorities of the professional policing model to fit the social control consequences of deindustrialization, suburbanization, and the spiral of decay and punishment characteristic of many parts of our inner cities. The bulk of the argument presented here is critical of the prevailing rhetoric and reality of community policing, an articulation increasingly identified with the zero-tolerance, quality-of-life policing in New York City. The persuasiveness of prevailing stories, however, depends upon an implicit set of countervailing stories, competing narratives, about revitalizing those communities most victimized by crime through enhanced information sharing and developing innovative police practices that are tailored to the specific concerns of culturally diverse populations.¹⁴ In this sense, then, prevailing stories, while powerfully state-centered, also deliver resources for resistance to defining community policing in ways that empower police departments, enhance surveillance, and further insulate police work from critical public scrutiny. But the discursive struggle cuts both ways.

The prevailing stories about community and policing advanced by advocates of community policing can be seen as efforts to reconstruct history to support state agency, strengthen the insulating capacity of police professionalization, and legitimate the expansion of police power. At the same time, prevailing stories about policing draw discursive resources from references to empowering communities *with specific capacities*.¹⁵ Prevailing stories fail to enable informal social controls, integrating more decentralized stories about policing and community revitalization only to the extent that these normalize deference to state agency, strengthen the capacity of state agents to surveil, and increase citizen dependence on a more powerful and less accountable police and state.

But implicit, competing stories about revitalizing communities with specific characteristics also highlight a diffuse and uneven resistance to police-centered reform. These stories can be seen as attempts by communities to repoliticize the narrow conceptualization of police work as professional law enforcement and reassert a broader and more decentralized understanding of policing. Tomlins argues that the current "institutional bias of modern analysis of police" obscures the fact that this broader notion of policing as a collective responsibility to contribute to self-governance has deep roots in the American

political experience.¹⁶ This idea of policing still survives in the American constitutional doctrine of police powers, and the Supreme Court explicitly treats policing as local governance or, as Tomlins later says, “the community’s capacity to ensure good order.”¹⁷

In the last quarter of the eighteenth century, *law* and *police* constituted distinct conceptual bases upon which paradigms of republican socioeconomic order might be erected. The police paradigm was . . . [the] purposefully administrative activity by a democratic state for the promotion of human happiness and the maximization of individual and collective creative energies. . . . Americans ended up choosing a different paradigm—that of *law*—which elevated the maintenance of order above mere politics. . . . In this paradigm, the social order was constituted principally by protecting property rights from the expanded political nation through constitutional confinement of the scope of democratic politics.¹⁸

Tomlins “has located a road not taken by mapping the history of the concept of the police,” transforming prevailing stories into efforts to construct history for state-centered purposes.¹⁹ This provides an historical basis for seeing the discursive struggle to define community and policing in community policing as a political struggle between more decentralized stories about collective responsibilities and stories about state agency organized to shield police departments from political oversight.

To address these questions, the stories that comprise the history of policing in the United States must be examined. Kelling and Moore divide American policing history into three periods they call *political*, *reform*, and *community*; these categories, while by no means static, provide an adequate framework for understanding the prevailing interpretations of trends in policing. The political, or machine era (1840s to 1920s) was characterized by “struggles between various interest groups to govern the police.”²⁰ The organization of policing was decentralized, its function broadly defined, and the police were integrated into the neighborhoods they served. They were seen as a collective resource against disorder and a viable avenue of social mobility for new immigrants.

Political policing provided immigrant and working class neighborhoods with jobs, status, social mobility, public safety, and a reason to participate in politics.²¹ Police departments provided soup kitchens, shelter for the homeless and wayward, and access to assistance with

dignity for those not born into privilege. As such, police officers were neither street-level bureaucrats nor street-level criminologists. Officers were members of the community who could provide personalized assistance for the hard working, law-abiding citizens who lacked political connections. They were a street-level resource, familiar faces that “knew the score and could do something about it.”²²

The extent that police work during the political era was responsive to community concerns was due to police officers and departments being physically and politically embedded within communities with real political power. But machine era policing was also punctuated by moral crusades, brief episodes when ward control of policing gave way to city, state, or federal control.²³ Between these waves,²⁴ machine era policing remained more responsive to the working-class ethnic neighborhoods where officers lived and worked than they were to elite interests downtown. Neither high nor low tide policing, however, was especially responsive to the range of concerns articulated in African-American communities, because they lacked both the economic power of the elite moral crusaders and the political resources of organized (white) working-class wards.²⁵

The reform era (1920s to 1970s) created the professional model, according to Kelling and Moore that was a “remarkable construction—internally consistent, rigorous, and based on the most advanced organizational and tactical thinking of the time.”²⁶ Reform era policing sought to insulate the police from politics. Since there is rarely political controversy attached to aggressive police action against murderers, rapists, burglars, or arsonists, police officers were trained to concentrate on enforcing the law by arresting serious criminals.²⁷ However, the core tactics of this approach—rapid response, random preventative patrolling, and investigative follow up—have failed to accomplish this narrower mission of effectively fighting serious crime.

The political era’s decentralization of police power and political forms of accountability failed to provide a fair distribution of public safety, non-negotiable coercive force, or citizenship. The professional policing model that emerged during the reform era centralized police organization by closing neighborhood precincts, often over the strenuous resistance of community residents, has similarly failed. The problems in minority neighborhoods, for instance, shifted from too little police attention and exclusion from the patronage system characteristic of the political era to a deadly combination of excessively punitive police attention and unsafe schools, insecure

jobs without living wages, and weakened communities where families cannot prosper free from fear. Referring to this first generation professional policing, Williams and Murphy note that the changes it put in place were more about political drama than public safety for minority neighborhoods:

As dramatic as this change must have appeared to the white middle-class inhabitants of America's major cities the transition to the reform era was barely noticeable to blacks and other minorities. Relying on law, rather than politics, as the source of police authority had many desirable aspects for those provided full protection by the law. Once again, however, for those who lacked both political power and equal protection under the law, such a transformation could have little significance. . . . For members of minority groups . . . the change from the political era, in which they lacked political power, to the reform era, in which they lacked the support of the law, meant, for the most part, more of the same.²⁸

Professionalizing police work did, however, shift the political allegiances of patrol officers from precinct-centered police work serving neighborhood ward captains to bureaucracy-centered police work serving downtown business interests.²⁹ Civil service protection, rapid response, and beat rotation replaced patronage, foot patrol, beat integrity, and distinctively political forms of accountability to insulate officers from corrupting community connections and bureaucratic command and control. Professional officers were expected to focus on arrests, their actions supervised by a paramilitary chain of command according to a bureaucratic set of standard operating procedures. Professional officers began to look more to the agency and less to communities for direction.

The community era we now find ourselves in is expected by today's reformers to combine the strengths of both political and reform policing. Political policing drew its authority from the community, and reform policing shifted to authority based on law and professionalism. Community policing, according to Kelling and Moore, will be authorized by all three: community, law, and professionalism. Community policing is expected to combine an earlier, decentralized service orientation with centralized, professional crime control.³⁰ This construction of community policing involves shaping stories that identify problems, solutions, and expectations. Like the political and reform eras that preceded it, the shape of

these prevailing stories are as influenced by ongoing political struggles as they are by the best available research on effective police work. To see this in currently prevailing stories, however, we need to hear them in a context that will highlight the gaps and overlaps between these and competing stories from residents and critics advancing alternative understandings of community policing.

PREVAILING AND COMPETING STORIES ABOUT COMMUNITY POLICING

As noted above, one opportunity to manage political inputs occurs when an officer's intuition intersects with "situational exigencies" in the process of making the distributional decisions inherent to police work. The structuring of these opportunities has, however, changed significantly since the advent of professional policing. Perhaps most critical are changes in the structure of urban political economies. Population densities and labor unrest around the turn of the century, for instance, encouraged, as a part of Progressive Era reforms, the formation of full-time, armed, and professional police forces. A professionalized city government also meant the destruction of the neighborhood ward system, which had supported patronage policing as both a powerful resource for the social mobility of the power-poor and a resource personally rather than bureaucratically accountable to ward-based political leaders.

Deindustrialization further weakened city neighborhoods as manufacturing jobs are sometimes replaced with lower-paying service sector jobs. The loss of employment opportunities and white flight to the suburbs left cities with a "diminishing tax base and increasing problems of social control," a consequence of the uneven development of markets opportunities and an impetus for further policing reforms.³¹

Cities cannot control deindustrialization, suburbanization, or federal government decisions to create additional burdens for urban areas in programs to eliminate welfare as we know it. Yet, cities, unlike state or federal government agencies, cannot find solace in symbolic approaches to the social control problems that result. "Urban politics, in short, is a politics of dependency. Consequently, the political terrain within cities (more starkly than in other arenas of American politics) has become a terrain of social control,"³² where

problem solving is constructed to mean aggressive order maintenance and forms of containment tailored for the underclass in decaying inner cities³³ and tailored for suburbanites in fortress communities.³⁴ As a result, city efforts to “manage the consequences of their inability to solve urban problems”³⁵ provides a context for developments in policing—one resource cities have traditionally controlled—that have more to do with efforts to contain political conflicts and insulate this management strategy from critical public scrutiny than with public safety. “Thus Banfield and Wilson’s widely accepted distinction between the two principal functions of municipal government—a service function of delivering goods and service, and a political function of ‘managing conflict in matters of political importance’—breaks down, since both may be considered dimensions of a single social control process.”³⁶

Within this analytical frame, community policing begins to look like a Republican New Deal, creating prison jobs for conservative constituents by transferring funds from public schools to be replaced with union-busting charters schools. It remains an exchange model, with a new management strategy for mobilizing citizen participation that fits with the political and economic characteristics of hyper-ghettos and suburban shopping malls. “The vacuum created by the crumbling of the ghetto’s indigenous organizations has been filled [in the hyper-ghetto] by state bureaucracies of social control, themselves largely staffed by the new black middle class whose expansion hinges, not on its capacity to serve its community, but on its willingness to serve as custodian of the black urban sub-proletariat on behalf of white society.”³⁷

Prevailing stories construct community policing to operate on two levels. First, as seen in the few detailed empirical studies of community policing partnerships to date, the services delivered (political output) continue to emphasize professional crime-fighting and law enforcement tools (arrest, buy-busts, saturation patrols) and continue to concentrate the distribution of coercive force associated with these upon the young, black males living in neighborhoods of concentrated disadvantage. Further, to the extent that the services delivered differ from the previous professional efforts, they are more aggressive, anticipatory, and targeted.

Second, this increasingly aggressive and targeted professional policing derives a significant amount of its political support from the fear reduction efforts of community policing partnerships. These

efforts organize and channel political inputs, anchored in the support for more aggressive policing found in those communities least likely to be victimized but more susceptible to political messages targeting their fear of crime. And understanding this articulation of community policing at both the political input and output levels involves examining the prevailing stories that justify this particular power-knowledge nexus.

Competing stories, on the other hand, highlight how these arrangements simply strengthen the police, without any clear connection to more effectively reducing crime or violence, or responding to community concerns about police agency. These stories place particular emphasis on the failure of the police to partner with those communities most victimized by crime. This failure is, of course, politically significant, since excluding our already least advantaged communities serves to amplify their disadvantages. But it is also operationally significant, since it is the information embedded within these communities that the police seek to improve their capacity to fight or prevent crime.

Kelling argues that policing improves under the community policing model because community policing professionalizes order maintenance, "invites and channels" latent mechanisms of informal social control from the community, and increases the department's access to information.³⁸ This story about policing-past and policing-future promises more intensive police-citizen contacts without returning to the corrupt policing of the political era. "The bureaucratization, unionization, and professionalization that characterize contemporary policing seem more than ample bulwarks against the inappropriate influence of any single neighborhood or interest."³⁹

Eck and Rosenbaum similarly argue that community policing is the latest attempt by police professionals to improve effectiveness, equity, and efficiency.⁴⁰ Their story about community policing identifies these expectations as a continuous thread in policing history, demonstrating that community policing *retains* a focus on crime control, response times, arrests, and clearance rates. Community policing is understood to provide additional tools, enhancing rather than replacing the professional policing model by improving the capacity of police officers to tap communities as a resource and for police departments to manage political inputs as well as policy outputs.

Prevailing stories serve to identify the centrality of fear-reduction partnerships to community policing and to show how these partnerships

are represented as a significant break with the professional model. A core assumption in the logic of community policing is that police-community partnerships can reduce fear to mobilize the informal mechanisms of social control. "The essence of the police role in maintaining order is to reinforce the informal control mechanisms of the community itself. The police cannot, without committing extraordinary resources, provide a substitute for that informal control."⁴¹ Fear of disorder paralyzes communities, stifling informal controls, which in turn amplifies the consequences of disorder. Left unattended, this spiral of disorder, fear, and decay invites more serious crime and requires costly, often futile police intervention. Wilson and Kelling argue, therefore, that the effective response is aggressive, anticipatory, and professionalized order maintenance.

To stop the cycle of decay, make neighborhoods safer, and reduce the cost of providing public safety, the police need to strengthen those informal mechanisms of social control weakened by the decline of community life. These mechanisms are weakened when residents see disorder going untended and thus modify their behavior—by using the streets less and refraining from the neighborly interaction that is the basis of informal controls. This approach to community policing attacks disorder—it responds to community concerns by fixing broken windows—and thereby expects to reduce fear. No longer paralyzed by fear, communities can cooperate with the police and contribute social capital and other resources to the coproduction of public safety.⁴²

Competing stories often focus on the nostalgic link back in time to political era policing where officers were a more integral part of the communities they "served and protected" than as the decentralized, problem-solving, revolution in policing suggested by the stories told about community policing. Nostalgic images of traditional community life are manifest in stories about the return of beat officers on foot patrol, negotiating policing as a familiar part of living in a strong community.⁴³ Upon closer examination, however, it becomes clear that these prevailing stories about contemporary policing reform see community policing not as a return to an earlier "police paradigm"⁴⁴ but as the latest installment in a linear progression toward more aggressive professional law enforcement.

The power imbalances institutionalized in police-community partnerships are one manifestation of a political failure to invest in resilient communities capable of genuinely coproducing public safety.

The structure and composition of these partnerships can actually become an obstacle to mobilizing informal social controls and increasing police access to the crime-related information. Structured to preemptively exclude some concerns and composed largely of affluent white business owners, current partnerships retell a familiar story about more powerful communities using the police to control and manage power-poor communities.⁴⁵ Taken together, these provide an explanatory context for the competing stories that describe the failure of community policing to date to reduce violence, prevent crime, improve the quality of life, or reduce the fears of those critical of the police.

While competing stories appear to suggest the importance of rethinking current trends in policing reform, prevailing stories may still retain a *political* utility important enough to trump the likelihood of addressing biases in this particular construction of police work. Prevailing stories justify a more aggressive police presence in communities least able to hold the police accountable and reinforce the geographic targeting of power-poor communities in response to the politically amplified fears of more affluent communities. These more aggressive police practices simply assert what must be achieved—community—and blur the distinction between neighborhood communities empowered to police themselves and powerful political communities willing to finance a more aggressive, professional policing of others. As such, these stories are at least as much about political struggle as they are about more effectively fighting crime and reducing victimization.

REDISTRIBUTING NON-NEGOTIABLE COERCIVE FORCE, FEAR, AND CITIZEN AGENCY

Fear and crime have emerged as “preferred metaphors for all forms of social anxiety.” In fact, they have become the “preferred contexts for governance.” As Jonathan Simon puts it, “[w]e govern through crime to the extent to which crime and punishment become the occasions and the institutional contexts in which we undertake to guide the conduct of others.”⁴⁶ The degradation of police-community partnerships into a top-down, agency-centered strategy to mobilize conservative citizen support confirms the contention that trends in criminal justice can be as fruitfully analyzed as government responses

to a legitimization crisis as they can be defended as sound crime policy. Further, I suggest that this analysis of community policing partnerships contributes to our understanding of governing through crime by identifying specific mechanisms that link criminal justice practice to larger political efforts to guide the conduct of others.

As Garland notes, current trends in crime control can be characterized by two emerging strategies. One set of strategies is what Garland calls adaptations, and these depend on reducing the fears of law-abiding communities to encourage their political mobilization. Garland locates these adaptations in the connections between an emerging criminology of everyday life and policy-making "to create new techniques for acting upon the problem of crime" that focus on organizing political support. This "supply-side criminology," according to Garland, directs our attention toward potential victims, seeking to "embed controls in the fabric of normal interaction, rather than suspend them above it in the form of a sovereign command."⁴⁷

These adaptations off-load a portion of responsibility for crime control to police-community partnerships without actually removing state agents from the center of social control activities. The analysis of partnerships presented here suggests that these adaptive strategies speak to the white, urban and suburban, middle-class communities, reducing their fear of the police, in part by persuading them that the primary threat to their interests comes from the lazy, welfare-dependent criminals below them and not from the failed leadership and unbridled greed of those above them on the social ladder. In the language of policing reform today this is positively referred to as targeting police practices to the needs of particular communities.

The police organize the partnerships, select partners, direct partnership activities, coordinate enforcement actions, and occupy a privileged position with regard to media access and defining problems, policing, and communities. In this context, cooperation with the police serves as a precondition for being recognized as a law-abiding community. Those with a more critical posture toward aggressive policing are excluded by virtue of the political disorder read into their efforts to participate in the coproduction of public safety. Both communities are defined by the police, both subject positions (virtuous citizens and disruptive subjects) reflect and encourage acquiescence to police agency, and both are left less able

to hold the police accountable for the ways they distribute non-negotiable coercive force, fear, or citizenship. “[I]t is a new form of governance-at-a-distance, which represents, in this field at least, a new mode of exercising power. . . . The state does not diminish or become merely a night-watchman. On the contrary, it retains all its traditional functions—the state agencies have actually increased in size and output during the same period—and in addition, takes on a new set of coordinating and activating roles . . . [leaving] the centralized state machine more powerful than before.”⁴⁸

Emerging in response to the financial imperatives of police bureaucracies and legitimization problems of the state, these adaptive strategies characterize offenders as “rational consumers, individuals just like us” to reduce citizen fear of working with the police by suggesting that extreme punishment works. These stories about not being afraid to take action are, however, interwoven with a second set of strategic stories—punitive stories to symbolically reassert state power—that speak to the mobilized partners about other dangerous citizens living in urban communities.

Stories about not being afraid to support the police coexist with stories that “demonize the criminal, to excite popular fears and hostilities, and to promote support for state punishment.”⁴⁹ The capacity of the former to mobilize particular communities depends on the symbolic force of the latter to activate citizen outrage, intolerance, and support for aggressive police action. Taken together, these two crime control strategies articulate a pattern of governance central to understanding prevailing stories about community policing. Aggressive professional policing privatizes democratic politics in exclusive partnerships, combining fear-inducing and fear-reducing strategies “for managing the danger and policing the divisions created by a certain kind of social organization [capitalism], and for shifting the burden of social control on to individuals and organizations that are often poorly equipped to carry out this task.”⁵⁰

This combination represents “an official criminology that fits our social and cultural configuration—one in which amorality, generalized insecurity and enforced exclusion are coming to prevail over the traditions of welfarism and social citizenship.”⁵¹ The contradiction at the heart of governance through crime control centers on the fact that the two emerging strategies Garland refers to address different communities with distinctly different approaches to the fears characteristic of these communities, and this targeting also contributes to

the distribution of resources and agency necessary for these communities to subject unaccountable power—gangster and police power—in their neighborhoods to critical public scrutiny. The rhetoric and reality of partnership examined here construct community policing according to this calculus where system imperatives trump the concerns of many communities. As managed participation further undermines democratic aspirations, middle and upper class political input supports a more finely calibrated and aggressive professional policing, and a “marginalistic integration of individuals into the state’s utility.”⁵² Partnerships policing fear, as one mechanism of governing through crime control, include some people—as individuals and as communities—in terms that disempower them and exclude others in terms that criminalize them.

Policing—once the subject of more decentralized and explicitly political control and legitimation—is now increasingly managed to strengthen the administrative capacities of the state. Legitimation has shifted from politics to law to order. And, “[i]t’s impossible to reconcile law and order because when you try to do so it is only in the form of integration of law into the state’s order.”⁵³ As the shift to law confined the scope of democratic politics, the shift to order today uses unexamined references to “community” in community policing to obscure professional and operational biases in police work, constructing systems of social control that reinforce police and state agency. Instead of investing in social capital, current policing reforms are being propelled by the imperatives of legitimation and governance, responding more to where the needs of select communities intersect with the needs of the criminal justice system than to the needs of those communities most victimized by crime and violence.

NOTES

1. Hubert Williams and Patrick Murphy, “The Evolving Strategy of Police: A Minority View,” in *Perspectives on Policing Series* (Washington, DC: National Institute of Justice, 1990), 12.
2. Linda Deutsch, “Ex-LAPD Officer Apologizes,” *Akron Beacon Journal*, February 25, 2000, p. A3.
3. See William Lyons, *The Politics of Community Policing: Rearranging the Power to Punish* (Ann Arbor: University of Michigan Press, 1999).
4. Shawn Huber, “In Rampart, Reaping What We Sowed,” *Los Angeles Times*, February 17, 2000, p. 1.

5. Anne-Marie O'Connor, Antonio Olivo, and Joseph Trevino, "Crime, Poverty Test Rampart Officer's Skill," *Los Angeles Times*, November 10, 1999, p. A1.
6. John Mills, "The Police Must Retain Order," *Los Angeles Times*, October 2, 1999, p. B9.
7. See David Cole, *No Equal Justice: Race and Class in American Criminal Justice* (New York: New Press, 1999); Michael Tonry, *Malign Neglect: Race, Crime, and Punishment in America* (New York: Oxford University Press, 1995).
8. Egon Bittner, *The Functions of Police in Modern Society* (Cambridge: Oelgeschlager, Gunn and Hain, 1980), 46.
9. Ibid.
10. Robert Fogelson, *Big City Police* (Cambridge, MA: Harvard University Press, 1977), 19.
11. Robert Sampson and Dawn Jeglum Bartusch, "Legal Cynicism and (Subcultural?) Tolerance of Deviation: The Neighborhood Context of Racial Differences," *Law and Society Review* 32, no. 4 (1998): 147.
12. The literature on community policing uses the term "community" without specifying what communities have the crime-related information critical to revitalizing communities with the specific informal social control capacities that advocates like Wilson and Kelling suggest make community policing a good public safety policy. By using the term "communities most victimized by crime" I am insisting that this logic become manifest when police officers choose community organizations to partner with. Using this specific and analytically precise term is an effort to make it more difficult to justify partnering with those groups in the community already closely allied with the police department or white business organizations often seeking to pressure the police to more aggressively deploy existing professional techniques against those most disadvantaged in the community. A second reason for using this phrase is to highlight that these communities are victimized in multiple ways: poverty, city neglect, poor schools, and the unaccountable exercise of power by criminals and the police in their neighborhoods. In this way, using this phrase focuses on the importance of constructing community policing programs that will enable these residents, by partnering with them and addressing their full menu of fears, to better subject all forms of power in their neighborhoods to critical public scrutiny. Community policing partnerships that fail to partner with these communities are as likely adding new layers of disadvantage as they are responding to the needs of those communities most victimized by crime.
13. See Peter Manning, "Community Policing as a Drama of Control," in *Community Policing: Rhetoric or Reality*, ed. Jack Greene and Stephen Mastrofski (New York: Praeger, 1988).

14. Carol Greenhouse, Barbara Yngvesson, and David Engel, *Law and Community in Three American Towns* (Ithaca, NY: Cornell University Press, 1994), 2, define discourse as “an interrelated set of cultural meanings—symbols, values, and conventionalized interpretations—that shape and make comprehensible the terms people use to converse in everyday life.” My use of stories is close to the way these authors use the conversations between court officials and citizens; like these conversations, the stories here map out the mobilizations of conventionalized interpretations as well as counter-mobilizations contesting them. For this reason, I distinguish between prevailing (state-centered) and competing (uncentered) stories, examining how these discursive struggles contribute an articulation of stories and practices, constituting an interrelated set of cultural meanings with political utility. The official state-centered stories about community policing utilize the power of references to “community” and “partnerships” to reinforce state agency and expand police power. More uncentered stories place crime and crime control in the larger community and urban context where employment, health care, zoning, and other issues are clearly seen as both cause and consequence of criminal disorder. Here, I do not spend a lot of time telling the detailed stories (see Lyons, *Politics of Community Policing*) but rather use stories as an analytical category to get at the competing visions of social control and American democracy that animated the drive to community policing.
15. Everyone from Wilson and Kelling to the most progressive advocates of community policing focus on the importance of revitalizing community-based informal social controls. But none are serious enough to examine what it takes to revitalize a community with these specified capacities. None examine the concrete social relationships constitutive of communities with these capacities, the direct and multi-faceted networks of interaction that create and maintain a sense of shared values, or the general and specific reciprocity necessary to build the social capital that can be invested in informal social control efforts (Lyons, *Politics of Community Policing*).
16. Christopher Tomlins, “Law, Police, and the Pursuit of Happiness in the New American Republic,” *Studies in American Political Development, An Annual* 4 (1993): 5–7.
17. *Ibid.*, 19–20.
18. *Ibid.*, 6–7.
19. Joyce Appleby, “Historians, Community and the Pursuit of Jefferson: Comment on Professor Tomlins,” *Studies in American Political Development, An Annual* 4 (1993): 36.
20. George Kelling and Mark Moore, “From Policing to Reform to Community: The Evolving Strategy of the Police,” in Greene and Mastrofski, ed., *Community Policing*, 6.
21. Fogelson, *Big City Police*, 36–37.

22. Robert Merton, "The Latent Functions of the Machine," in *Urban Government: A Reader in Administration and Politics*, ed. Edward Banfield (New York: Free Press, 1969), 226.
23. Fogelson, *Big City Police*.
24. Gregg Barak, "Between the Waves: Mass-Mediated Themes of Crime and Justice," *Social Justice* 21 (1994): 133–47.
25. Hubert Williams and Patrick Murphy, "The Evolving Strategy of Police: A Minority View," in *Perspectives on Policing Series* (Washington, DC: National Institute of Justice, 1990), 4–6.
26. Kelling and Moore, "From Policing to Reform," 6.
27. The less glamorous work of order maintenance policing was categorized as less than real police work because policing inherently ambiguous situations involving minor disorders and incivilities were not usually best resolved through an arrest, which might escalate the danger in such situations, and were often ripe with political controversy. Professional police agencies failed to train officers for these situations, failed to encourage officers to engage in order maintenance, and failed to reward those officers who did. For more on the distinction between law enforcement and order maintenance, see James Q. Wilson, *Varieties of Police Behavior: The Management of Law and Order in Eight Communities* (Cambridge, MA: Harvard University Press, 1968).
28. William and Murphy, "Evolving Strategy," 9–10.
29. Fogelson, *Big City Police*; Richard Hofstadter, *The Age of Reform* (New York: Vintage, 1955).
30. Kelling and Moore, "From Policing to Reform," 19–22.
31. Ira Katznelson, "The Crisis of the Capitalist City: Urban Politics and Social Control," in *Theoretical Perspectives on Urban Politics*, ed. Willis Hawley and Michael Lipsky (Brunswick, NJ: Prentice Hall, 1976), 218.
32. *Ibid.*, 220.
33. See Mike Davis, *City of Quartz: Excavating the Future of Los Angeles* (New York: Vintage, 1990).
34. See Lyons, *Politics of Community Policing*.
35. Katznelson, "Crisis of the Capitalist City," 220.
36. *Ibid.*, 220.
37. Loic Wacquant, "Deadly Symbiosis: Rethinking Race and Imprisonment in Twenty-First Century America," in *Boston Review* 27:2 (2002), available at <http://bostonreview.mit.edu/br27.2/wacquant.html>.
38. George Kelling, "Order Maintenance, the Quality of Life, and Police: A Line of Argument," in *Police Leadership in America: Crisis and Opportunity*, ed. W. A. Geller (New York: Praeger, 1985), 300.
39. *Ibid.*, 306.
40. John Eck and Dennis Rosenbaum, "The New Police Order: Effectiveness, Equity, and Efficiency in Community Policing," in *The Challenge of*

Community Policing: Testing the Promises, ed. Dennis Rosenbaum (Beverly Hills: Sage, 1994).

41. James Q. Wilson and George Kelling, "Broken Windows," *The Atlantic Monthly* (March 1982): 34–35.
42. *Ibid.*, 32, and James Q. Wilson and George Kelling, "Making Neighborhoods Safe," *The Atlantic Monthly* (February 1989): 51. Wilson and Kelling focus additionally on how the police can "strengthen the informal social control mechanisms of natural communities in order to minimize fear" (Wilson and Kelling, "Broken Windows," 35). A sober understanding of what will strengthen informal social controls, however, highlights the fact that one neighbors' *informal* capacity to "control" another neighbor depends on the degree that their relationship is ongoing and reciprocal (Michael Taylor, *Community, Anarchy and Liberty* [New York: Cambridge University Press, 1982]). If one can expect her neighbor to reciprocate in a generalized or specific manner, then the threat of withdrawing that reciprocity is the core sanctioning power behind informal social controls. In a context where there are no stable relationships among neighbors or the relationships have not generated an expectation of reciprocity, one cannot persuasively justify efforts to strengthen informal social controls that fail to focus on reciprocity and economic stability. Put somewhat differently, when informal social controls work, they mobilize social capital, and it is this resource that community partners can contribute to the coproduction of public safety. Social capital is not manifest in currency or land but "inheres in the structure of relations between actors and among actors" (James Coleman, "Social Capital in the Creation of Human Capital," *American Journal of Sociology* 94 [1988]: S95–120). To the degree that members are invested in the multi-faceted and overlapping relational networks that constitute their communities, they are better able to mobilize the resources—that is, the social capital—that inhere in these relationships. The relational networks constitutive of communities with the specified capacities to coproduce public safety are weakened by police practices (including police-community partnerships) that fail to invest in social capital. For a more detailed discussion of reciprocity and social capital in community policing, see Lyons, *Politics of Community Policing*.
43. David Bayley, "Community Policing: A Report from the Devil's Advocate," in Greene and Mastrofski, *Community Policing*.
44. Tomlins, "Law, Police, and the Pursuit of Happiness."
45. Cole, *No Equal Justice*; Fogelson, *Big City Police*; Alan Altshuler, *Community Control: The Black Demand for Participation in Large American Cities* (New York: Pegasus, 1970); Lyons, *Politics of Community Policing*.
46. Jonathan Simon, "Governing through Crime," in *The Crime Conundrum: Essays on Criminal Justice*, ed. Lawrence Friedman and George Fisher (Boulder, CO: Westview, 1997), 171–73.

47. David Garland, "The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society," *British Journal of Criminology* 36 (1996): 451.
48. Ibid., 454.
49. Ibid., 461.
50. Ibid., 466.
51. Ibid., 462.
52. Michel Foucault, "The Political Technology of Individuals," in *Technologies of the Self: A Seminar with Michel Foucault*, ed. Luther Martin, Huck Gutman, and Patrick Hutton (Amherst: University of Massachusetts Press, 1988), 153.
53. Ibid., 162.

CHAPTER 11



EXCEPTION RULES: CONTEMPORARY POLITICAL THEORY AND THE POLICE

Klaus Mladek

Our war on terror begins with Al Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated. . . . Freedom and fear are at war.

—President Bush, speech to the joint session
of Congress, September 20, 2001

[W]ith whom is the war I should suggest we're fighting? . . . Will the war never be over as long as there is any member [or] any person who might feel that they want to attack the United States of America or the citizens of the United States of America?

—District court, January 2002, ordering
that these questions be answered,
in the case of *Hamdi v. Rumsfeld*

THE BREAKDOWN OF POLITICAL TERMINOLOGY AND THE RETURN OF THE POLICE

Guantánamo, Abu Ghraib, Lampedusa,¹ Iraq, Afghanistan, Sudan, Rwanda, Bosnia, Florida—contemporary politics has rediscovered the lawless zones where the darker practices and fantasies of civilization are outsourced. The law's withdrawal from all fronts coincides

with the reemergence of atavistic modes of violence that once again can be freely employed without the inhibitions of conventions and rights. Sublime sovereignty, once rich with imagery and pomp, now makes way for more anonymous powers whose effects, though muted, are no less devastating. Moreover, these states of exception² have hit home. Skirting the restrictions of civil liberties and court oversight, Western democracies systematically seek out law-free zones—where legal codes do not reach—abroad and at home. Refugees across the globe suffer from expulsion, exploitation, social injustice, genocide, state terrorism, racism, and war. Bereft of formal protections, they import their emergencies into the wealthy fortress of the Western world. Yet the leading statesmen of the First World, betraying a curious lack of imagination for the potential of the political, do not have much more than security, order, and danger on their minds. Hence, wherever we look at National Security initiatives, “super-police forces,” intelligence agencies, and military intervention troops are popping up while belligerent threats, war-like mobilizations, shadow diplomacy, and frenzied media coverage envelop the globe. We live in a state of exception that no one has decreed but to which everyone subscribes.³

Now, suddenly and traumatically, the sovereign exception, aided and abetted by the twin spectres—police intervention, under the name of security, and military action—has obtained a global reach called a new “imperial power.”⁴ Has political theory kept up with the rapid political, legal, cultural, and social changes that took place in the aftermath of the cold war? Have the humanities and social sciences honed their analytical skills to fathom the causes and effects of contemporary modes of police, security, and secrecy? Has the complete breakdown of our traditional political vocabulary (enemy, war, territory, etc.) been interrogated to the necessary extent? It is no accident that political theorists from various provenances have arisen recently from an analytical slumber in order to present new visions for political engagement. Derrida, Balibar, Negri and Hardt, Agamben, Badiou, Žižek, Rancière, Nancy, Laclau, Butler, Habermas, and Nussbaum—the work of each bespeaks the significance of this topic. The problem, then, is certainly not a lack of importance regarding the police. Rather, the challenge is in deciding how to stay calm and reflect critically on what has happened to the established parameters of the traditional political edifice.

In the shadow of such grave changes in the political landscapes of Western democracies, even before the attacks of 9/11, political philosophy has radicalized its analysis. A new sense of urgency and political engagement has gripped theoretical thinkers. Particularly political theorists—such as, Derrida, Agamben, Rancière, Žižek, Negri, and Hardt—in the past decade increasingly turned their attention toward the highly contested arenas of contemporary politics and the police, their structures, their limits, their violence and, above all, the potential for a different political practice in the twenty-first century. According to Carl Schmitt, who made the state of exception a prominent category of Constitutional Law and political philosophy in the 1920s, the sovereign exception suspending the constitution (without completely abandoning it) marks the core of the political. It is no surprise that Benjamin, seeing the effects of the state of exception having become permanent during the Nazi period, must challenge Schmitt's central thesis. The passage from the state of exception to what Benjamin called the “real state of exception” (*der wirkliche Ausnahmezustand*)⁵ is clearly marked as the transition from police governmentalities thriving under the state of exception to an emphatic concept of politics.

This article also attempts to find the fulcrum for resistance—that is, the possibility of a political practice distinct from governing through police and security. Other questions will emerge along the path of inquiry: What are the differences between legally defined states of exception and factual states of emergency (for example, in times of siege, civil war, famine, and natural disaster)? Have the boundaries between questions of law (*quaestio juris*) and questions of fact (*quaestio facti*) hopelessly blurred as Benjamin and Agamben suggest?⁶ If sovereignty can no longer be understood as transcendent of the social sphere, and if the bodies of the sovereign are ever more difficult to localize, how do we theorize and understand new forms of political power?⁷ What happens to democracy and political participation when the states of exception become permanent and citizens define themselves primarily as potential victims of crime or terror?⁸ Should we not also account for the psychological dimension of police power, its hold on our fantasy and imagination—particularly in the age of conspiracy theories, of “terror” and “counterterror”?⁹

Considering the attention given to institutions of law enforcement in contemporary political theory, one must think through the figure of the police as a new mode of governance in order to arrive

at a new understanding of politics. This “return of the political”¹⁰ is, in most cases, accompanied by renewed concern in Arendt’s, Schmitt’s, and Benjamin’s notions of the political, the law, and the discovery of new regimes of power. Time and again Foucault’s concept of “biopower” serves as the prime tool to analyze contemporary “governmentalities.” Deleuze’s philosophy of movement, minority, and multitude is frequently invoked as it serves to complete Foucault’s discursive diagnosis while at the same time propelling a more utopian impulse of the political.¹¹ In Negri and Hardt it is the multitude¹² that prominently forms the counter-empire against the new modes of global biopower. In an almost uncanny fashion, the swelling tide of recent interest in the theories of sovereignty, the state, and international law runs parallel to the profound crisis that those concepts nowadays find themselves in. As if to dispel their decline, an enormous clamor of threats and armed conflicts have broken out around the world. Wars, terror, peacekeeping interventions, police and intelligence operations, humanitarian aid efforts and a whirlwind of diplomacy leave the political observer puzzled over what has happened to the conceptual framework of politics over the last few decades.

Numerous long-held distinctions and oppositions within political theory have become blurred, if not altogether obsolete. Where does peace end and war begin? What are the differences between civilian and military; foreign and national affairs; police and counter-terrorism agencies; traditional war, guerilla warfare, and civil war; or state and non-state actors?¹³ This profound crisis of political terminology has, particularly after September 11, 2001, triggered an enormous outburst of debates over civil and constitutional rights in the international arena. Should we, for example, regard Al-Qaeda’s terrorist attacks as “acts of war” or view them merely as crimes and thereby deflate the aura of modern day terrorists? Or should we attempt to find a term in between, as some civil liberties advocates suggest, and call them “armed attacks causing a political emergency”? Such clumsy and haphazard attempts to account for the sea change in politics—just like the call for various remedies to preserve the rule of law in the age of emergency—tend often to reaffirm the rule of exception and the governance through police. In the extensive debate in the *Yale Law Journal* on this issue, Bruce Ackerman proposed an “emergency constitution” that authorizes temporary emergency powers to the executive branch in order to rein in excesses of presidential power and to limit the time U.S. government officials

can assert extraordinary powers.¹⁴ But this debate, besides its focus on the United States (as if it were only a national issue) and its acceptance of the security culture as a whole, does very little to elucidate the mentalities and discourses that currently make the massive reorganization of security bureaucracies around the world possible.

Most legal scholars have taken for granted the contemporary spectacle of the police, thus agreeing more or less willingly with Vice President Dick Cheney's assessment that the situation after September 11, 2001, should be considered the "new normal." This new normal is, however, nothing but the state of exception as a permanent state. Given the political success this rhetoric promises, it is not surprising that the breakdown of political terminology in the face of the current situation has been most successfully appropriated by think tanks and politicians throughout the world. But the political exploitation of this crisis makes the development of a completely different political language and analysis all the more urgent as well as necessary. Political theorists have recognized this and begun to outline a new political terminology.

The disturbingly ambiguous qualifications in the current political vocabulary extend to the central question of the enemy-friend distinction whose existence, according to Carl Schmitt, is at the very crux of politics. Once the enemy loses his sharp contours¹⁵ and becomes—as "the embodiment of your own question" (*TP* 87)—more abstract, diffuse or even "monstrous" and "auratic," as Negri and Hardt argue (*Mu* 31), the survival of the political itself is at stake. Schmitt saw two threats to the figure of the enemy and his diagnosis from 1962 has proven to be right on the mark of current political developments. In the managerial fantasy, the enemy is nothing more than an obstacle to social peace and progress that, through prudent organization and management, will ultimately be removed "like a dog from the highway" (*TP* 80). In the administrative rationale, the political confrontation with the enemy is reduced to a social conflict as the enemy is nothing but a disturbance of order—that is, a mere "nuisance" (as Senator John Kerry prominently stated in the presidential election campaign in 2004) who poses no serious political or philosophical challenge. Here the enemy is a matter for the police.

The other threat to the political essence of the enemy for Schmitt comes from his metamorphosis into an "absolute enemy," an "inhuman monster" (*TP* 94) that needs to be annihilated, "smoked out" like a rat or "hunted down" like a beast. Since Lenin's propagation

of the revolutionary guerilla fighter and the invention of modern weapons of mass destruction, the view of the enemy has changed dramatically. No longer an equal opponent to be treated with respect, the enemy now must be completely destroyed both physically and morally. In the name of the highest values for whose triumph no price is too high, this subhuman enemy, damned and criminalized, must be rooted out. As we see in contemporary politics, the modern enemy, whether as an “unlawful combatant” or as a “detainee” without the right to criminal proceedings, does not even attain the status of the criminal subject or lawful combatant.¹⁶ Held on the basis of secret evidence, neither the detainee nor his lawyer will be able to learn the grounds for his arrest because of the “sensitivity of classified information.” Recently, the traditional enemy has been supplanted by a demonized figure raised as a potent specter not only to mobilize the public but also to legitimize a politics of exception. Only the projection of an excessive figure that must be exorcised from the political plane gives credence to the spectacle of police and military.

If the enemy is truly the embodiment of our own question, as Schmitt wrote, what does this new enemy tell us about ourselves? Is this new enemy possibly much more our neighbor than we can bear to admit? Has he become a figure whose threatening and uncanny closeness we are increasingly unable to face?¹⁷ And has the traditional enemy, respected and respectful, perhaps become too distanced from us, both conceptually and temporally, to be fathomed as a source of our deepest anxieties? Do we proclaim this new enemy an “enemy combatant” in an attempt to expel his abject and loathsome presence from our communities as part of a more generalized self-cleansing effort, denying this new enemy the status of both the neighbor and the enemy? Does one carve out a new category in order to reassert that our homes, our neighbors, and our neighborhoods will be safe and secure—free of “sleepers,” terrorists, or illegal immigrants? Both the neighborhood watches called for by the Homeland Security Agency and the sanitized “neighborhood” of community-based policing (see below) could then be read as defense formations against the political presence of a new enemy who has become more and more neighborly.

Either as an apolitical social disturbance—that is, a police matter—or as a metapolitical monster, new forms of the enemy alter his immensely political thrust and announce a new era of politics, which, as Schmitt fears, “enmity will become so horrible that one perhaps can no longer talk about the enemy or enmity” (*TP* 95). Does the

disappearance of the enemy in his traditional form announce a completely different political framework? It is clear that the times of enmity and defining an enemy are far from over. To the contrary, where the limits of the clearly determined enemy fade and when his various incarnations inhabit the *inside* of our own societal and psychic fabric—for example, in “sleeper cells”—his danger is perceived as much greater and the need for his repression is far larger than before.

According to Negri and Hardt, the “enemy is unknown and unseen and yet ever present, something like a hostile aura” (*Mu* 30), and paranoia and conspiracy theories begin to dominate political discourse. Terms such as “threat,” “fear,” “security,” and “emergency” gain more political weight, shaping the calculations of politicians. It is no surprise that those terms also make up the basis of police work. Having always in mind the concepts of security, being “tough on crime,” or the need to “root out terror,” Western politicians today govern largely through crime and security¹⁸—that is, through the police. Consequently, political theory, that is, keeping track of the pulse of our political developments, has turned increasingly toward an exploration of the police. There is an undeniable link between the conception of the modern enemy and of the police. The more the enemy is both inside (in the homeland and domestic sphere) and outside, the more the borders of the police become confused with related activities such as military intervention, border control, or intelligence gathering.

The end of the traditional enemy and the emergence of his ghostly *revenant* coincide with the fundamental importance of the police for contemporary governance: “In the context of this cross between military and police activity aimed at security there is ever less difference between inside and outside the nation-state: low-intensity warfare meets high-intensity police actions. The “enemy,” which has traditionally been conceived outside, and the “dangerous classes,” which have traditionally been inside, are thus increasingly indistinguishable from one another (*Mu* 15). Particularly in the war on terror and the war on drugs, the concepts of war and policing gradually merge. The new enemy is seen both at home and abroad, as a normal citizen and yet an inhuman monster at the same time; it is an ambiguous figure that stands in for the disturbing nearness of the neighbor and constitutes the trajectory of “neighborhood” and “defending the homeland.”

THE WAR ON TERROR AND THE MERGING OF MILITARY AND POLICE

This new enemy must be treated in a new manner with new paradigms of prevention and preemption and under a different model of warfare. After George W. Bush declared a national emergency on September 23, 2001, he stated three days later that this new brand of war is “unlike any other we have ever known.” Dick Cheney added in a speech that this war must be fought “in the shadows: this is a mean, nasty, dangerous, dirty business. We have to operate in that arena.” Exceptional circumstances require exceptional means, exceptional rhetoric, and, above all, exceptional powers for the executive branch to be able to wage that exceptional war.¹⁹ During the Supreme Court hearings of *Rasul v. Bush* in 2004, Theodore Olson, then Solicitor General of the United States, still invoked a state of exception characterized by the ongoing hostilities in Afghanistan and emphasized in a brief that U.S. soldiers were engaged in armed conflict with “an undisciplined, unprincipled, and savage foe.”²⁰ If such a foe has any rights, they are to be “determined by the Executive and the military, and not the courts.”²¹

Four years before Olson, Negri and Hardt described this development toward the increasing power of the executive branch in their book *Empire*: “Armies and police anticipate the courts and preconstitute the rules of justice that the courts must then apply” (E 38). The detention of “enemy combatants” after September 11, 2001, is a case in point. It was Attorney General John Ashcroft who, in 2001, announced the “paradigm of prevention” as the new operative mantra for the design of the Homeland Security Agency. By using noncriminal proceedings, including immigration hearings, the detention of people as material witnesses, and the military custody of “enemy combatants,” the administration removed all obstacles to this preventative strategy. Emergency urges immediate action and the Supreme Court reasoning from 1951 in *Dennis v. United States* (a milestone case during the communist hunt of the McCarthy era) has been thus widely quoted during the last few years: “The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack.” The administration in 2001 demanded anticipatory police action and most courts around the country followed suit.

The president, as the United States Court of Appeals for the Fourth Circuit argued in January 2003, must be given great deference in conducting the war against terrorism since “courts are ill-positioned to police the military’s distinction between those in the arena of combat who should be detained and those who should not.”²² The secondary nature of the court and the law to the rule of factual force has been made blatant in the last years not only in the United States but in all Western countries. The indeterminable war against terrorism can no longer function with clean legal distinctions and deliberate court proceedings; the situation demands swift decisions and actions, the police and the military therefore must take over in this “mean, nasty, dangerous, dirty business” where no one remains clean or innocent. “The murkiness and chaos that attend armed conflict mean military actions are hardly immune to mistakes,” claims the same federal appeals court. “Murkiness” and “chaos” might also be the words that best describe the state of confusion in today’s political vocabulary. While politics and law in the state of emergency are on the defensive on all fronts, the police and the military are in their prime.

The “enemy combatant” is a construct to put the modern enemy outside of the reach of the Geneva Convention and of the courts. It is also the principle figure of the modern *Homo Sacer*: the outlaw who is not protected by law, by the criminal justice system, or any international laws. As Agamben has shown, the *Homo Sacer* inhabits a blurred sphere between law and fact. While the law in the state of exception is suspended, naked facts (arrest, deportation, imprisonment, torture) rule the fate of the unlawful enemy. The state of exception, once having become permanent, has ceased to be merely a provisional state of factual danger and turns into the juridical rule itself.²³ This uncanny form of facticity that determines the uncertain universe of the enemy combatant is thus neither inside nor outside the law. One cannot simply say that enemy combatants are not covered by the law for they are supposed to be treated “humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Third Geneva Convention of 1949.”²⁴ The new paradigm of warfare attempts to stay faithful to the principles of the Geneva Convention and to “military necessity.” By setting a dual goal that adheres to both the inalienable rights of the Geneva Convention and to military necessity, the current U.S. government wants to have its cake and eat it,

too. Thus the modern *Homo Sacer* as enemy combatant inhabits not a purely lawless sphere but a hybrid space between law and necessity. The enemy, far from being the political or legal challenge that he was in Schmitt, has become a matter of “managerial authority”;²⁵ he stands under the mere semblance of a law that is administered by the imperatives of military prerogatives.²⁶

The *Homo Sacer* as object of the police also becomes visible in the arena of border control. Looking at the borders of the Western world, the police not only separates citizens from noncitizens but also has recently created a strict hierarchy of noncitizens according to lower or higher levels of “national security risk.” Border police, much to the dismay of immigration agencies, are taking over border control in an unparalleled manner. As immigration laws become increasingly obsolete and immigration agencies are reduced to playing the role of guidance counsellors, law enforcement has cut the ties to both and effectively controls the flow of immigration. Many political observers believe that this declaration of a state of emergency in September 2001 and the armed rhetoric only concern this particular U.S. government, but similar wordings and measures also pervade German, French, British, Spanish, and Italian policy decisions today. German politicians think about using the military and the border control (*Bundesgrenzschutz*) to secure sensitive sites inside the country—such as, nuclear plants and bridges. At the same time, Germany’s former Minister of the Interior Otto Schily has founded an anti-terror center in Berlin that houses both the secret service (*Bundesnachrichtendienst*) and the national law enforcement agency (*Bundeskriminalamt*) in order to share sensitive information and maximize intelligence exchange between law enforcement, the intelligence community, and the military. Like in the past years in the United States, new acronyms for these new entities have emerged, such as, “Piaz” (*Polizeiliches Informations- und Analysezentrum*) and “Niaz” (*Nachrichtendienstliches Informations- und Analysezentrum*).

Discussions in the Western world²⁷ about the “necessary” use of torture, the systematic outsourcing of interrogation to third-world countries²⁸ (or law-free zones like Guantánamo Bay) and the implementation of ever harsher investigative techniques demonstrate that war *and* the police collaborate on many fronts. Negri and Hardt state accordingly: “[T]he torture techniques used in the name of police prevention take on all the characteristics of military action” (*Mu* 19). Police techniques in interrogation, information gathering,

surveillance, and security apparatuses increasingly make up the central thrust of modern military warfare—that is, a nation building working toward a New World order.

It is remarkable to see how a variety of political philosophers from completely different theoretical backgrounds are largely in sync with each other in their diagnoses of how long-held political distinctions are rapidly losing their sway in current world politics. This hybrid between the military and the police with its relation to the question of civil liberties poses another, possibly far greater, concern for political theory: according to Agamben, Negri, and Hardt we find ourselves in the midst of a *Weltbürgerkrieg* (worldwide civil war), a term coined simultaneously by Schmitt and Arendt in 1963.²⁹ Instead of declaring and ending war under codified rules of war, as in the political tradition, numerous civil and guerilla wars are continuously waged across the global terrain without any determinable geographical or temporal limits in sight. Under Clausewitz's paradigm, "war is a continuation of politics by other means," but contemporary politics often proceeds in the obverse manner: military intervention or its threat is employed as the premise for political or diplomatic engagement.

POLICE: A NEW MODE OF GOVERNING

If we are confronted with a worldwide civil war, as Agamben, Negri, and Hardt contend, then we are left with continuous police interventions aimed at producing security within a single, global territory. The terrifying insight means that there is no politics outside of war and police. This would be a new kind of police, as Derrida writes, a "police without borders"³⁰ in the double sense: without territorial limits and without legal restrictions. Its mandate would be unbounded and its field of intervention potentially infinite. In this new form of global governmentality traditional rules of war are no longer regulated by international law but are supplanted by risk and danger assessments and by the necessities of global security through local urgencies. In short, those new modes of intervention are deeply "rooted in a police mentality" (E 37). According to Negri and Hardt, moral interventions by nongovernmental organizations (NGO) often function as the frontline force; they are the "moral police" that create public outrage and define victims as well as perpetrators. Among

political theorists, the suspicion of humanitarian organizations concerning their complicity with major global powers is widespread.³¹ For many, NGOs lay the groundwork for later interventions and shape the symbolic representation of the enemy, as “rogue,” terrorist, or criminal: “they conduct ‘just wars’ without arms, without violence, without borders” (*E* 36). What render the NGOs actions distinctively police—like are their means and goals: the improvement of human life, health, general conditions, and common welfare through a form of surveillance and control (“watch groups”) which are as attentive as the police. The care for people in the world, the concern for the domain of population, climate, fertility, disease, hunger, and death is accompanied by statistical knowledge, techniques of practical prevention, and above all, a particular humanistic morality based on an “ethics of difference” that, as Badiou argues, turns ever more potential political subjects into mere “victims.”³² A certain strand of the “victims’ rights movement” thus goes hand in hand with the mentality of modern policing.

But is there truly a definable “police mentality” that determines modern politics and pervades seemingly nonpolitical humanitarian organizations? Rancière stated clearly in his book *Disagreement*, a work influenced by Foucault’s studies on the police,³³ that the police is a mode of government that in the seventeenth century “covered everything relating to ‘man’ and ‘happiness’” (*D* 28) and thus cannot be confused with the petty policeman on the street corner. In his chapter “Wrong: Politics and Police,” Rancière shows that “police” must be conceived of as a practice that appropriates the impetus of the political by managing a social order in which each individual is cared and accounted for: “Politics is generally seen as the set of procedures whereby the aggregation and consent of collectivities is achieved, the organization of powers, the distribution of places and roles, and the systems for legitimizing this distribution. I propose to give this system of distribution and legitimization another name. I propose to call it the police.”³⁴

Politics in this sense would be nothing other than police, the reduction of the state to a police agent, servicing the consensually established needs of multiculturalist, tolerant policing. Not that this is necessarily “bad,” according to Rancière (since there is always a better or worse police), but it ought not be confused with politics. The radical break with this conflation of police and politics becomes the crucial instrument to be used against the transformation of

democratic political struggle into the post-political procedure of negotiation and policing. According to Rancière, for too long the management and application of a vast legal-psychological-sociological network of measures, including the identification of the specific problems of groups, subgroups, or threat groups, has prevented politicization proper. This development has turned politics into police by transforming the democratic struggle into competition, consensus or modes of deliberation.

The mentality with which the first world approaches the third (mainly through military intervention and the humanitarian distribution of aid) resembles for many theorists exactly what Rancière proposes to call the police. Foucault coined the term “governmentality” for this new paradigm of administrative rationality. For Foucault it means a mode of “good governing” that emerged in the sixteenth and seventeenth centuries and formulated a new purpose for government. While the traditional juridical principle of sovereignty is exercised on legal subjects and on a particular territory, modern governmentality is concerned with the specific relation of men to things. Similar to the rule of the head of a family over his household and his goods, the absolutist ruler—the *pater familias*—governs with great care over his *oiconomia* and his state, its wealth, population, resources, accidents, and misfortunes. This art of government as it emerged “is just at this time beginning to be called *police*” (G 92). For Foucault the new apparatuses of police and of “security”³⁵ epitomize the birth of biopower—the minute management of life and death, happiness and welfare, that is, population. Like the regimes of discipline, biopower is not prohibitive but productive in its very essence. Police work can thus be clearly distinguished from governing through juridical principles where the definition of “‘the common good’ means essentially obedience to the law, either that of their earthly sovereign or that of God, the absolute sovereign” (G 95).

For Foucault, sovereignty and governmentality do not exclude each other, rather they always coexist. The police with its multiform tactics is given an institutional and juridical foundation in the law and conversely, laws themselves are used as police tactics; juridical principles lend themselves to police goals. Sovereignty and governmentality, according to Foucault, are therefore distinguishable but never separable from each other. Foucault rejects any historical claim that would list a succession of modes of government in modernity;

governmentality thus does not mean the end of the age of sovereignty, “on the contrary, the problem of sovereignty is made more acute than ever” (G 101). Is this “more acute than ever” a warning to consider new modes of sovereignty? Can we detect in the shadows of governmentality the rise of a different type of sovereignty, more resourceful and better organized than ever before—now enriched with the insights of governmental artistry? Will sovereignty absorb governmental ends and work in tandem to overhaul the old liberal distinction between bureaucracy and the law, police and individual rights?

Agamben, Negri, and Hardt pick up precisely where Foucault left a loose thread. The concept of “nation building” or the vision of a “new world order” are not merely police ideas concerning the perfection of the art of global biopower, they also rest upon the principles of sovereignty to achieve its ends. New in this global governmentality is a sense of urgency and emergency. Neither Foucault nor Rancière thematized this new dimension that links the means of security with those of emergency. Negri and Hardt’s sweeping judgments regarding the all-pervasive police powers certainly require a more differentiated evaluation since almost all moral and political intervention would then fall under the rubric of “policing.” But their diagnosis of a world politics ruled by permanent police activities is shared by many observers in political theory. For Negri and Hardt in *Empire* and *Multitude*, Rancière in *Disagreement*, Derrida in *Rogues: Two Essays on Reason*,³⁶ Žižek in *The Ticklish Subject*,³⁷ or Agamben in *Means Without End. Notes on Politics* or his recent *Stato di Eccezione*, political philosophy must begin with the analysis of the current power structures that limit the potentially disruptive force of politics and democracy. What characterizes those powers that inhibit a new concept of politics from coming to the forefront? The answer regularly focuses either on the regimes of biopower (the police) or on the rule of sovereignty (the sovereign exception). Both sides of the Foucauldian analysis, governmentality and sovereignty have thus in the last decade occupied the center of theoretical attention.

In *Means Without End. Notes on Politics*, Agamben entitles one chapter “Sovereign Police,” but can the police itself ever be sovereign? Would this amalgamation of police and sovereignty be a conflation of two distinct paradigms of power? And how could we conceive of this new kind of police? What Foucault carefully distinguished,

Agamben sees as the realization of modern sovereignty through the regime of biopower. Agamben starts his essay with the claim: "One of the least ambiguous lessons learned from the Gulf War [I] is that the concept of sovereignty has been finally introduced into the figure of the police."³⁸ Since the first Gulf War, military interventions are disguised as mere "police operations," whereby, in the name of order and security, violence is employed without being grounded in the law. The result for Agamben is therefore the figure of the global cop who, without a sovereign decision in Schmitt's sense, operates autonomously in the state of exception. Similarly, Negri and Hardt's central claim in *Empire* and *Multitude* touches upon a new type of imperial domination, a "network power, a new form of sovereignty" (*Mu* xii). This new form of sovereignty is precisely an uncanny fusion of bureaucracy and law into one meta-power reminiscent in many ways of the mercantilist police state—a tradition liberalism thought it had left behind: "Bureaucracy operates the apparatus that combines legality and organizational efficiency, title and the exercise of power, politics and police" (*E* 88). But now the sovereign police attained a global dimension. According to Negri and Hardt, modern sovereignty functions through bureaucracy, purposefully breaking with Foucault's distinction between governmentality and sovereignty. The time is over when leftist politics comforted itself by separating society and state. For Negri and Hardt, the administrative vectors of power absorb the vast range of societal forces and *produce* both individual and society. "Foucault refers to this transition as the passage from the paradigm of sovereignty to that of governmentality, where by sovereignty he means the transcendence of the single point of command above the social field, and by governmentality he means the general economy of discipline that runs throughout society. We prefer to conceive of this as a passage *within* the notion of sovereignty, as a transition to a new form of transcendence. Modernity replaced the traditional transcendence of command with the transcendence of the ordering function" (*E* 88). Negri and Hardt's account of Foucault's thesis is inaccurate in that Foucault clearly distinguishes between the society of government and the disciplinary society (see *G* 102). Foucault furthermore does not consider sovereignty as merely a question of command and even less is it "a single point." Negri and Hardt's examination nevertheless points to a constellation that marks a crucial passage in contemporary political

thought. Governmentality as a new mode of political calculation has been fully integrated and incorporated into sovereign power. Imperial sovereignty is nothing but the global dominance of the administrative function.

The “sovereign police” is the loathed specter of political philosophy whereby the omnipotence of sovereignty merges with the omnipresence of the police. Not by accident is this a threatening configuration as the fate of politics and theory itself is at stake. Once every political action is determined by transient police tactics and administrative apparatuses in the name of security and biopower, other matters—such as, a thought beyond the sustenance of bare life or the project of political participation in a democratic society—are discarded as secondary. Above all, where the figure of the sovereign police enters the field, paranoia flourishes. One is tempted to say that a particular rhetoric and certain undercurrents in Agamben’s and in Negri’s and Hardt’s political *oeuvre* could easily fuel a discourse of leftist political paranoia.³⁹ Although their analyses explicitly contradict a methodical plan behind sovereignty and challenge any idea of a single power (see *E* 3), the all-pervasive rule of the police nevertheless elicits the fear of a meta-power, an anonymous “they” that thinks about you. Did not Foucault, with his analysis of discursive formations of material forces “from below,” deflate once and for all a political analysis that presupposes any kind of omnipotence or omniscience? Particularly the later Foucault warned against the danger of imagining a monolithic Other (a discourse, an ideology or the state apparatus as *monstre froid*), while persistently distinguishing different configurations of political power (such as, “government,” “biopower,” “sovereignty,” or “domination”). Foucault focuses on the multiple sources of power-formation that never congeal into *one* discourse dominating modern political life.

However, one could ask whether any reflection on the police unavoidably engages in some mode of paranoia as all police work rests on some form of covert activity, on simulation and dissimulation? Is not paranoid fear to a certain extent constitutive of police work? Where traditional political distinctions crumble, police fantasies tend to fill the void and where the contours of the enemy become blurred, police paranoia has its heyday. Perhaps much of police power thrives on the *paranoia of the police* in both senses, as *genetivus subjectivus* and *objectivus*—the fearful and the feared police? Does the police not inexorably anchor itself in the psychic

apparatus as a *simulacrum* of the super-egoic instance? How could the diagnosis of the current political discourse resist the temptation to fantasize about an institution that knows everything and penetrates into the deep fabric of societal relations?

DERRIDA, POLICE, AND AUTO-IMMUNITY

Derrida may be the political philosopher in recent times who is the most keenly aware of the detrimental effects of promoting some form of police paranoia. From his early rejection of Foucault's idea of a "discourse police" or of "one reason" that defines what is considered reasonable or insane to his later deconstruction of the law, Derrida maintained a strict, counter-paranoid impetus in his political philosophy. One could say that Derrida, along with Lacan, would view the grandeur of Empire or the sovereign police as defense formations against an unconditionality that resides in the midst of the global biopolitical regime and that, at any moment, could break out and manifest itself in the event. Throughout his career, Derrida emphasized not so much how certain modes of power tend to domesticate figures of excess but, conversely, how an unconditional logic always already inhabits seemingly homogeneous regimes of power. To deconstruct the sovereign police, that is, to ruin the order and logic of sovereignty and the police, could thus be the most important task at the advent of a future politics. In his last book *Rogues: Two Essays on Reason*, Derrida offered such a reading. The secret center of gravity is, as for Agamben and many other political philosophers, Walter Benjamin.

The case of Derrida is particularly illuminating since he is among the first philosophers to dedicate a long passage to the police, based on his reading of Benjamin's "The Critique of Violence," in his 1990 "Force of Law."⁴⁰ Looking at his last books and his collaboration with Habermas in the collection *Philosophy In A Time of Terror*, his impulse toward politicizing his previously more implicit political philosophy is quite remarkable. Of course, Derrida was always a deeply political and ethical thinker,⁴¹ but there is no question that in his last decade he was much more outspoken and explicit about current political affairs. His own account of the confusion between police intervention and war (*R* 154), the entire crisis of the traditional political vocabulary is very similar to Negri and Hardt or

Agamben. But Derrida applies even more scrutiny to every political concept in our philosophical heritage. Considering the demise of virtually all laws of war, Derrida questions in his last book whether certain qualifications in the European legal tradition, such as, “war,” “guerilla war,” or “civil war,” could even apply to current conflicts around the world. According to Derrida, a new type of violence announces itself, a violence whose name and definition escapes our political language, a violence that “is more visibly suicidal or autoimmune than ever” (R 156).

This new form of violence cannot be grasped with words such as “world war” or even “terrorism” since the classic goal of terror, the liberation of a nation or community on a particular territory—what Schmitt called the “telluric character” (TP 26) of the guerilla fighter—no longer applies. With this suicidal violence, Derrida is not primarily talking about the suicide terrorists, but about a much more pressing issue: the “autoimmunetarian”⁴² violence in modern nation states themselves. While fighting rogue states, terrorists, and other types of unruly enemies, modern states act out a suicidal tendency and thus threaten their own democratic foundation. The state itself turns into the most serious transgressor, thereby jeopardizing its own democratic legitimation, often by declaring a state of exception or emergency. The state acts excessively and falls victim to the powers it defies. Although an apparatus of justification is put in place to legitimize its own terror as the necessary means for self-defense, Derrida debunks it as mere rationalization that ultimately boils down to the right of the stronger. The most powerful states suddenly turn into the biggest rogues, a lesson that for Derrida can be generalized for the history of politics beyond the immediate insights gained from Western counterterrorism after September 11, 2001.

Since the Reign of Terror in the French Revolution, which marks the beginning of the term “terror,” state terrorism, always justified as defense against prior acts of terror, demonstrates *par excellence* the autoimmune mechanisms of counterterrorism. The parties involved in terrorism will always ask the rhetorical question, “who is the most terrorist?”⁴³ and the unambiguous answer to that question will then regularly serve to legitimize the respective acts of violence. The harmful effects of counterterrorism do not only concern questions of physical violence; where intelligence agencies around the globe⁴⁴ gather classified information like never before, counterterrorist measures also affect democratic claims of public participation

and transparency.⁴⁵ Particularly in times of crisis, “nothing is so fanatically defended by the bureaucracy” as “the concept of the ‘official secret,’”⁴⁶ as former Senator D. P. Moynihan observes.⁴⁷

This aggressive and rogue-like defense strategy, with all its secrecy, threat and mobilization of force, is “terribly effective, to be sure; concrete, rational and real, it can define and deafen the entire earth” (R 156). Such denials and rationalizations of state power do not take into account the logic of the unconscious; they are symptoms of an uncanny self-destructive force meandering through the very heart of the modern nation state. By desperately reaffirming the power of national sovereignty (through the death penalty, military threats, and the state of exception⁴⁸—the last attributes of sovereignty), the modern nation state betrays the profound crisis that engulfs it. For Hobbes, state terror was the last resort of the sovereign state; today this terror has become the norm. Something inherently rotten inhabits the concept of the sovereign nation state today and Derrida views it as the central thrust of political philosophy to challenge this logic of sovereignty. The principles of unity, indivisibility and its “right to exception” must be interrogated along with the underlying ontology of sovereignty. State sovereignty is supported by a particular order of being and by what Derrida calls an “ontotheology” (R 157) where the name of God in his unique unity, his indivisible omnipotence is transferred over, as in Carl Schmitt’s theory of decision, to the political sphere.

In “Force of Law,” Derrida’s discussion of the police is more concerned with a structural and deconstructive than a political analysis of the “ghostly presence of the police.” Although Derrida at first attempts to do justice to Benjamin’s claim that the discussion of the police must center around the concrete institution in our modern democracies, Derrida soon focuses on more general questions regarding the “spirit of the police, the police violence *as spirit*.”⁴⁹ In 1990, Derrida’s police was a spectral, quasi-transcendental force that constitutively dismantled the distinctions between presence and absence, order and disorder. With a much more concrete political task in mind, Derrida analyzes the police in his essay “On Cosmopolitanism” from 1997, published directly after hundreds of African immigrants (*sans-papiers* [those without papers, i.e., illegal immigrants]) occupied the church of St. Bernard in Paris in the summer of 1996. As Derrida remarks, the question of the police is crucial for understanding the emergence of this new kind of violence:

[O]ne has to be mindful of the role and status of the police, of, in the first instance, border police, but also of a police without borders, without determinable limit, who from then on become all-pervasive and elusive, as Benjamin noted in *Critique of Violence* just after the First World War. The police become omnipresent and spectral in the so called civilized states once they undertake *to make the law* instead of simply contenting themselves with applying it and seeing that it is observed. This fact becomes clearer than ever in an age of new teletechnologies. As Benjamin has already reminded us, in such an age police violence is both “faceless” and “formless,” and is thus beyond all accountability. Nowhere is this violence, as such, to be found; in the civilized states, the specter of its ghostly apparition extends itself limitlessly. (OC 14)

Derrida cautions us immediately not to fall into an “unjust” or “utopian discourse of suspicion of the function of the police.” This utopian discourse would always border a discourse of paranoia where police is the placeholder for all power, violence, and might. The increasing importance of the border police across the world—as well as the police without borders—ought therefore not to be employed as a vehicle to inflate its importance to the level of a sovereign police. However, the limits of police jurisdiction and the conditions it operates under in the global arena must come under careful scrutiny also in Derrida. In “On Cosmopolitanism,” Derrida proposes a new ethics, a “new cosmopolitics of the cities of refuge” (OC 5). This new cosmopolitics entails an unconditional duty of hospitality that runs counter to both the “police forces of all countries” (OC 6) as well as to the sovereignty of the nation state. Derrida’s adherence not simply to a “new” but “*an other*” (OC 23) politics that is doing justice to the unconditional in political theory (for example, forgiveness, hospitality or the gift) has become his signature trait.

Derrida’s critique of political affairs revolves around a similar set of concepts as that in Negri and Hardt or Agamben, although he approaches them with a distinctly less fateful diagnosis of our current political situation. The reason is two-fold: Derrida does not have a theory of biopower around which the paradigm of the “Camp” (Agamben) or “Empire” (Negri and Hardt) revolves. Secondly, Derrida insists on the importance of the event (in this regard similar to Badiou) and on a nondistributive concept of justice for a politics of deconstruction. His notions of justice, of the event and of the impossible demand for a “democracy to come” insert an incalculable

force into the thought of the political. For Derrida, without the possibility of unconditional exposure, vulnerability, and weakness, there is neither an opening for politics nor justice and the event. At the same time, the insertion of justice into political calculation hollows out the core of an absolute sovereignty from within. Herein lies Derrida's political impulse, to ruin the conceptual foundation of sovereign exception *tout court* (its self-identity, unity, and autonomy, see *R* 10–12, 153–54) in order to account for an unaccountable force in the midst of political thought.

Agamben's and Negri and Hardt's political diagnoses put much less emphasis than Derrida does on a notion of justice beyond rights and laws. This is somewhat surprising since Negri's idea of a "constituent power" outside law and sovereignty⁵⁰ as well as Agamben's conception of "potentiality" that propels one to affirm privation and "impotentiality"⁵¹ are well suited to a new understanding of nondistributive justice. In Negri's and Hardt's *Empire* and *Multitude*, the subversion of the conceptual framework of the sovereign police is part of a political *practice* that employs a similarly muscular rhetoric to the dominant imperial order it fights. In our current political affairs, Negri and Hardt depict the regime of the sovereign police in *Empire* as largely intact; only in the future—in the horizon of the "not yet"—does the assurance of its demise exist. In Derrida's "yet to come" the possibility of the event is already at work, pressing and impinging on the present formation of politics. For Derrida, the political discourse as it unfolds today remains inherently haunted by self-destructive and self-contradictory forces whose disastrous effects offer, in the here and now, the opportunity to be seized for new modes of resistance and analysis.

For Derrida in recent years, to tease out the possibility of a divisible, vulnerable and fragile "nonsovereignty" (*R* 157) or "an unconditional without sovereignty"⁵² has become an immensely important political project. The resonances of Benjamin in Derrida's political philosophy are unmistakable. Derrida does not insinuate Benjamin's "divine violence," the destruction of the spellbinding power of the law; he is rather fascinated with another one of Benjamin's religiously charged figures: the "weak messianic force" whose powerlessness drives us toward a different path of political thought. This "messianicity without messianism" (*R* 153) is a weak force, because it exposes itself to the possible arrival of an event that has no determinable horizon and thus can also not function within the confines of a

“regulative idea” in Kant’s sense.⁵³ This unpredictable and weak force holds open the possibility of a thought for a coming democracy central to Derrida’s project of a future politics.

Benjamin is without doubt a key figure also for Agamben, Rancière and for Negri and Hardt; Benjamin’s reinterpretation of Schmitt’s concept of sovereignty in the *Origin of the German Mourning Play* (1925) and of law and the police in “The Critique of Violence” (1921)⁵⁴ introduces an impotence into chief concepts of political and legal theory that deflate the idea of a sovereign police along with its paranoid coattails. Contrary to Schmitt who weaves an intricate web of interrelations among decision, sovereignty, law, and the state of exception, Benjamin challenges each one of them individually, demystifies their glorified aura, analyzes their spatial dimension, and lays bare their inherent rottenness. While at times arguing in an almost paranoid vein, Benjamin renders visible the mythological wake on which police power and sovereignty rely. It is therefore not surprising that Derrida, Negri and Hardt, and Agamben all refer to Benjamin’s discussion of sovereignty and the figure of the *Geheimrat* (the secret advisor of the sovereign) in his *Origin of the German Mourning Play*.⁵⁵

SOVEREIGNTY AND THE RULE OF THE POLICE

What happens after the sovereign has decided upon the state of exception? Who organizes the state of exception after it is in place? At this moment the state bureaucracy and particularly the senior officials and the counselors of the sovereign take over. Although these “secondary” members of the state do not decide on the state of exception, they are its experts thriving in its meticulous administration; they know its special codes and rules better than does the sovereign. Such figures are epitomized by the secret advisor (*Geheimrat*), the “grey eminence” behind the sovereign, the master of ceremony and political organization who effectively pulls the strings. He is not the origin but the administrator of the state of exception.⁵⁶ With direct access to the cabinet of the sovereign, he is among the most potent actors on the political plane; he can manipulate or control the facts as they are reported to the sovereign and is often entitled to take extraordinary measures in the governance of the state. Negri and Hardt mention Samuel Huntington, conservative

thinker, professor, and author of *The Clash of Civilizations*, as the best example of the “imperial *Geheimrat*,” “the one who has most successfully gotten the ear of the sovereign” (*Mu* 33). A demonic ambivalence floods from the unknown powers and silent maneuverings of the secret advisor. Traditionally he has been vilified as the cynical and cold defender of the *status quo* and at the same time adored as the loyal servant to the sovereign. Schmitt in his *Politische Theologie* does not give much thought to the afterlife of the sovereign’s decision or to the sovereign’s state apparatus; the analysis of the “state” in the state of exception is conspicuously absent.

It was Benjamin in his *Origin of the German Mourning Play* who drew attention, as Samuel Weber pointed out, to the *site* of decision—what also could be called the spatial and theatrical dimension of the Baroque court.⁵⁷ Benjamin does not focus on the formal act of decision as Schmitt does but rather on the dynamics of decision-making and the tumultuous emotions that accompany it. Benjamin thereby offers a different reading of the concept of sovereignty in the modern era. He is not interested in the increasingly absolutist rule of the sovereign, as are many studies on the political history of the sixteenth and seventeenth centuries; rather Benjamin begins from the observation that the Baroque theory of sovereignty develops from the “discussion of the state of exception” (*OG* 245). The court in the Baroque play is in continuous mayhem as confusion (“*Verwirrung*,” *OG* 273) characterizes the dealings of its actors and their internal life. Catastrophe is the key term for the Baroque view of history and the Baroque court world is thus regularly marked by “war, revolt or other catastrophes” (*OG* 246). Benjamin rewrites Carl Schmitt’s concept of sovereignty (the “sovereign is [he] who decides on the state of exception,” *PT* 13) by declaring that the most important function of the Baroque prince is not to decide upon but to *exclude* the state of exception (*OG* 245). The prince must face up to a condition that *precedes* his deliberations on the decision. Unlike Schmitt’s concept of the sovereign decision, which is “born from a Nothing” (*PT* 38), all of his decisions take place within a specific situation with tangible actors and particular emotions. Surrounded by emergencies and haunted by affects of the most extreme kind, the state of exception under the sovereign’s hands expands and cannot be contained.

The Baroque prince never decides nor operates out of sovereign self-determination; he is never by himself and also never himself. In

Benjamin's account it is always another or something other that makes the decision in place of the sovereign. With the demise of this crucial emblem of absolute power—the capacity for an autonomous *creatio ex nihilo*—the sovereignty of the prince is in peril. What Benjamin stated for the Baroque mourning play is certainly also true for Shakespeare's dramas, in both the histories and tragedies (for example, *Richard II* or *Coriolanus*): the lack of sovereign self-determination, the king who is overcome by affects and loses control of himself. Benjamin moreover purposefully blurs Schmitt's strict distinction between the "real" state of exception, the *complete* suspension of the existing law (see *PT* 13), and other, more minor exceptions and emergencies in order to break the spell of the sublime sovereign aura that regularly establishes itself in a quasi-theological supremacy. The clandestine mechanizations of the various police figures replace the fantasy of sovereign agency and hint at the eerie proximity of a lawless state of exception that effectively rules the political edifice.

The *Geheimrat* to the prince in Benjamin becomes the true spiritual sovereign (see *OG* 276) as he fills the power vacuum left by the prince. The secret advisor turns into a chief of police *avant la lettre*, a supreme physiognomist and mind reader who exploits his knowledge for the highest political interventions ("Anschläge," *OG* 276). This decomposition of the sovereign—similar to what Foucault frequently described regarding the sickness of Louis XI—allows Benjamin to highlight the whole bureaucratic apparatus that fills the vacated sovereign space; but the court bureaucrats no longer attempt to occupy the position of the sovereign subject. They accept the exception as permanent and content themselves with administering its disorder rather than trying to restore order.

Benjamin opens a political space away from the aura of monarchs and toward the actual locations of power, which in the Baroque mourning play are the antechambers, corridors, salons, and bedrooms, where high politics is devised by the court bureaucrats. This spatialization of sovereignty is now open for the exploration of how the exception is organized and how information is delivered to the sovereign. The figure of the plotter marks a fundamental shift in the history of political power from command (and decision) to function. This shift manifests itself as the transition from sovereignty to police. Schmitt himself was well aware of Benjamin's point—as Samuel Weber pointed out⁵⁸—namely that the spaces of power tend

to overwhelm the sovereign as even the “most absolute ruler”⁵⁹ is at the grace of the surrounding bureaucratic apparatus.

The police is the institution par excellence inhabiting the ante-chambers and corridors of political power: collecting information, selecting data, secretly intervening, and preparing proceedings *before* and *outside of* the sovereign decision. Once everything is ready and mobilized, from the intelligence gathering of the bureaucratic apparatus to the means of intervention, the sovereign has very little choice but is compelled to declare the state of exception. The police prompts us to consider a governmental power before and without decision or sovereignty. It is precisely this new mode of governing that Foucault pursues in his writings on the police. At this juncture, Agamben points to another small but significant historical detail: the “decision” regarding the execution of the “final solution” at the Wannsee Conference was neither a sovereign decision nor a decision in the strict sense at all; lower level police officers coordinated the means for the “final solution” without ever having “decided” anything.⁶⁰ Murderous and genocidal administrative acts without sovereign decisions emerge in a totalitarian regime almost systemically from the suspension of the law in a permanent state of exception. This lower level police activity underneath the threshold of sovereign power marks Schmitt’s weakest point, as he himself admits in the preface to the second edition of his *Politische Theologie*. The decisionist is always in danger of missing the “immovable Being” in every great political movement, because he focuses all of his attention on “functionalizing the moment” (PT 8).

Benjamin in both *The Origin of the German Mourning Play* and in “The Critique of Violence” moves the question of sovereignty away from the juridical sphere toward the police and the art of governing. While the decision on the state of exception in Schmitt becomes independent of context and reasoning (see PT 37), in Benjamin it is the police who become independent—of decision and the law. Since the law has not yet been thought of as outside of its enforcement and application, that is, outside of the threat of violence, modern legal systems are in effect, according to Benjamin, nothing other than police. The police, on the other hand, acts *as if* it were the factual sovereign but without ever openly assuming the sovereign mandate:

The assertion that the ends of police violence are always identical or even connected to those of general law is entirely untrue. Rather, the “law” of the police really marks the point at which the state, whether from impotence or because of the immanent connections within any legal system, can no longer guarantee through the legal system the empirical ends that it desires at any price to attain. Therefore, the police intervene “for security reasons” in countless cases where no clear legal situation exists, when they are not merely, without the slightest relations to legal ends, accompanying the citizen as a brutal encumbrance through a life regulated by ordinances, or simply supervising him (CV 243).

Benjamin puts the “law” of the police” in quotation marks, thereby highlighting the police as an impostor that supplements for a constitutive lack in sovereign state power with an uncanny hybrid of law and order. The police compensates for the inherent impotence of the state in attaining its empirical ends. The legal system does not provide enough flexibility to act freely and only the police can contrive reasons (“security,” “surveillance,” etc.) to intervene in legally unclear situations. The police always devises states of exception where it becomes a matter of necessity to skirt strict compliance with the law. Contrary to the liberal tradition that gave so much credence to the universality of a law purged from all political or state interference, Benjamin attempts to demonstrate that the seemingly crucial difference between legislative and executive branch, law, and order, collapses in the institution of the police as well as—and this is often overlooked—in the modern legal system as a whole. The state of exception, the domain of the police, demonstrates this in an exemplary manner: even the liberal tradition has always contended that in exceptional situations the rule of law must yield to police prerogatives in order to avert dangers to the survival of the state.

As we know, particularly the later Foucault held the liberal separation of law and order in high regard. At the end of his article on police utopias from the sixteenth to the eighteenth centuries, “The Political Technology of Individuals,” he points out the impossible police dream of reconciling law and order, “because when you try to do so it is only in the form of an integration of law into the state’s order.”⁶¹ The increasing “*étatization*” (G 103) and “policification”⁶² of the law in the eighteenth and nineteenth centuries are precisely what blur the distinction between law and state order. With only police laws in place, the exception becomes the rule. The nexus

between the rule of exception and the “law of the police” (*CV* 243) is what we, according to Benjamin, must raise to the level of historical and philosophical analysis.

With the advent of administrative law, police regulations are ennobled and themselves attain legal status. According to liberal thought, legal subjects belong to a sphere independent of political goals, but once there is a law of the police, legal subjectivity suddenly includes being subjected to the rules of administrative efficiency and thus becomes part of a different calculus. The legal subject is now both an end in itself⁶³ *and* a productive source for the strengthening of the state. This is precisely Benjamin’s contention: modern administrative law combines law and bureaucratic management and conflates politics with police.

Benjamin’s essay therefore forcefully contradicts Foucault’s statement that “modern political rationality is permitted by the antinomy between law and order.”⁶⁴ For Benjamin, law’s intimate collaboration with the empirical goals of the state manifests the most fateful incarceration of political thought in a logic of means and ends devoted to only one goal: the disarming of all other extralegal powers in order to affirm law’s monopoly of violence. For Benjamin, the detrimental effects of the tie between state and law for the political can only be forestalled by a politics of non-instrumental means—for example, in the general strike that radically breaks from the current state order. Politics for Benjamin can thus neither be recovered by a law irreducible to order (law without enforcement) nor by a suspension of law as a break within law (Schmitt’s state of exception). Hence, neither the figure of the outlaw nor the search for other lawless zones can be the source of a different politics as they still presuppose the law as their vanishing point. Benjamin instead urges the radical disarming of legal and governmental powers altogether and presses for the search of a political life outside and beyond the law and the state. Consequently, Benjamin wrests “justice,” “divine violence,” and “human life” away from the tentacles of the “policed” legal apparatus and breaks with the fantasy of a sublime law detached from empirical means. It is precisely this vision of politics that contemporary political thinkers from various provenances emulate. Negri’s nonlegal “constituent power,” Agamben’s “means without end,” Badiou’s understanding of the “event,” Rancière’s contrast of “Politics vs. Police,” and Derrida’s “unconditionality” are all reminiscent of Benjamin’s revolutionary concept of politics.

The history of sovereign exception is, for Benjamin, the history of its passionate critique. Where the lives of the oppressed are at stake, as in his eighth thesis on the philosophy of history (and in his own life),⁶⁵ the question of a politics outside of the state and the law—the “real state of exception”—have become utterly pressing. Schmitt in 1922 wrote in the concluding sentence of the first chapter on the question of exception: “The norm proves nothing, the exception proves everything. The exception thinks the rule with energetic passion” (*PT* 21). Benjamin thinks the exception not from the standpoint of the resolute sovereign decision but from underneath, through the suffering of its victims. In his “Theses on the Philosophy of History,” written shortly before his death, Benjamin says that the “tradition of the oppressed teaches us that the ‘state of exception’ in which we live is not the exception but the rule.” He then states: “The current amazement that the things we are experiencing are ‘still’ possible in the twentieth century is *not* philosophical. This amazement is not the beginning of knowledge—unless it is the knowledge that the view of history which gives rise to it is untenable.”⁶⁶

Political analysis ought not to begin or end with awestruck amazement or political outrage “that the things we are experiencing are ‘still’ possible.” Contemporary political theory in the vein of Benjamin must stay faithful to an analytical and critical impulse keenly aware of the haunting presence of our inherited political vocabulary. Derrida similarly identifies the most important task of the contemporary political philosopher to correlate the conceptual framework of our political tradition to the current “juridico-political system that is so clearly undergoing mutation.”⁶⁷ The shift in contemporary politics toward emergency, management of fear, security, and prevention might be considered the most fundamental mutation in our “juridico-political system.” And it requires perhaps an emphatic concept of democracy as the political state of exception (as in Rancière) to counter the spectacle of the police.

SECURITURGENCY, TERROR, FEAR, AND THE GLOBAL HOMELAND

Benjamin viewed the police with intense feelings of disgust and fear and with more suggestive power than any political theorist before him, he highlighted the emotions (anxiety, paranoia, and revulsion)

that are regularly associated with police work. Today in our media culture perhaps more than ever before, the question of the police is inseparable from important psychological dimensions that have rarely been made explicit. Fear, fantasy, and paranoia not only decide political elections, they also prop up the power of the police. The question of security and “feeling secure” is a case in point. Immediately after the end of the cold war and well before the terrorist attacks on September 2001, security culture expanded its scope. During the eighteenth and nineteenth centuries, security performed broad economic, social and political functions in the service of the healthy state.⁶⁸ The last twenty years have seen the recovery and reinstatement of this earlier and larger meaning of security, beyond the narrow, military definition of the term it held for most of the twentieth century. As a result, there is a grave political change noticeable in the shift from order to security.

Increasingly, the demand to produce security replaces the defensive call to maintain order, the vague connotations that are associated with a somewhat old-fashioned, even moralistic vision of society. While security is proactive and adheres to the new paradigm of crime prevention and risk management, order is reactive and calls for intervention *after* a conflict has already erupted.⁶⁹ The enormous growth of security measures, tracking technologies, and intelligence bureaucracies in recent years testifies to this groundbreaking paradigm shift. New surveillance technologies like computer profiling,⁷⁰ epidemiologic data banks, genetic screening, and immigration data banks differ radically from traditional forms of surveillance in that they no longer operate on the basis of actual conflicts, but instead they pre-detect such situations by correlating factors deemed liable to produce danger. It was therefore not former Attorney General Ashcroft who brought law enforcement to this new paradigm of prevention after the terrorist attacks in 2001; long before that, bureaucracies and technologies of prevention have been in place to meet and possibly even fuel the demands for governing through security.

The new dominance of security and prevention is inseparable from a long-standing police utopia, the “technocratic rationalizing dream of absolute control of the accidental,”⁷¹ as Robert Castel wrote. Today this dream generates its own reality—the reality of security culture. Aided by the newest surveillance technologies, this new police force is both more invisible and more “citizen-friendly”

than ever. All these characteristics of modern law enforcement can be best seen in the community-based policing concepts of the 1980s and 1990s, a model that has since dominated crime prevention strategies in the United States and the rest of the Western world. Community-based policing is seen as responsible for the lowest crime rates in decades but at the same time for the "huge jump in civilian complaints against police."⁷² James Q. Wilson's and George L. Kelling's seminal essay on community-based policing, entitled "Broken Windows," refers to this notion of preventive intervention. According to Wilson's and Kelling's trajectory, modern police is primarily not a crime fighter but a producer of security. Security for the first time includes the expectation and the *feeling of being safe*.⁷³ What this means is that police work takes a criminological and a psychological turn as it is not enough to fight or to prevent crime, the police are also responsible for the repression of the *fear* of crime. The police must now take a whole range of symbolic measures (presence in streets, employing private security forces, installing video cameras) to produce the feeling of security in the populace.

It is quite astonishing how closely the rise of interventions in the name of security on the international arena resembles the local policing concepts of the last two decades. The concept of nation-building and the current attempts to democratize Afghanistan and Iraq follow the same patterns as that of the community-based policing. Community policing with its soft, productive tools of intervention and its pastoral image of community wants to render visible the *normal* functioning of the police in the age of security. The idea of nation-building similarly aspires to emphasize the constructive and productive side of interventions abroad and follow the same calculations of risk. Both concepts, community policing and nation building, rest upon a perceived crisis (either the shattered and crime-ridden community or anti-democratic forces in rogue states) and an urgency to act swiftly. Security culture can only extend to its full force once the threat of emergency adds to the existing fears and intensifies the police fantasies of "absolute control of the accidental." The new paradigm of preemptive war, one could argue, only became possible when the spirit of security in community policing converged with the state of national emergency declared on September 17, 2001.

Nowadays, disaster lurks everywhere. True security, on the other hand, is to be found nowhere. The security measures of the Department

of Homeland Security have produced new practices, mentalities, and habits (in workplaces, schools, airports, and private homes) adapted to the new security requirements. Contemporary politics breathes, acts, and thinks what I propose to call “securiturgency,” the amalgamation of security culture and the state of emergency. Conspiracy theories and paranoia today flourish and it would be premature to dismiss those sensations as pathological. The paranoid and fearful unconscious might be already aware of this new type of law enforcement and its inherent threats. Terror, this archaic theater of violence, is primarily a strike against imagination, as is counter-terror. Terror elicits primordial anxieties about arrests without warrants, unknown, secret evidence⁷⁴ and arbitrary intrusions into the private sphere. This type of paranoia in the age of securiturgency is as symptomatic as it is unavoidable. Particularly, but not exclusively, in times of crisis, unrest, or war, paranoia and conspiracy theories have always been an integral part of police work.

Is the central question truly whether the threats and dangers are real or imagined? Paranoia has little to do with the presence of an actual danger, a discourse can be paranoid even if the threats and dangers have to be considered “real.” What happens when the dots take over the connections and the security culture is bewildered by its own widely contradictory assessments, such as, the misinformation before the Iraq War in 2003? The state then turns into its own biggest security risk. When does the collected intelligence data cross the threshold into reliable knowledge, into what U.S. Defense Secretary Donald Rumsfeld called, in a self-assuring manner, the “known knowns” and “known unknowns”?⁷⁵ Information overkill can leave even the highest of secret agents with only dots, blanks, and disconnected letters. How many people are even able to find their way through the jungle of new agencies, acronyms, and programs?⁷⁶ As we know from Kafka’s literary universe, this confusion and the labyrinthine web within institutions also have a consoling dimension. This confusion, like the *Verwirrung* in the Baroque court, would certainly demonstrate that the “they” of the paranoid mindset is far from being a homogenous entity behind the scenes with everything under control.

Consider for example the figure of the “sleeper.” His possible existence alone creates terror in the imagination of a populace. The sleeper continues the long-standing tradition of the “evil neighbor” who, with his evil gaze, is the bad object that threatens the good

neighborhood and our very existence. The sleeper is the embodiment of the impossibility of delimiting knowns and unknowns; his threat is *per se* incalculable and limitless. In the midst of the domestic sphere, planted in the “within” where societies are the most vulnerable and most defenseless, the sleeper remains dormant until—like a vampire—he “wakes up” from the inside of the homeland to strike. For years or even decades, the sleeper lives a completely normal, middle-class existence, is a model citizen or family father, displays no signs of risk, leaves no suspicious traces and thus falls through all profiling efforts and tracking devices. The terrorist is masked as the good neighbor; the enemy is not external or visible and cannot be distinguished from the friend. The sleeper is to a certain extent the personification of the kernel of terror as Derrida defined it:

[S]ince we are speaking here of terrorism and, thus, of terror, the irreducible source of absolute terror, the one that, by definition, finds itself most defenseless before the worst threat would be the one that comes from “within,” from this zone where the worst “outside” lives with or within “me.” My vulnerability is thus, by definition and by structure, by situation, without limit. Whence the terror. Terror is always, or always becomes, at least in part, “interior.” And terrorism always has something “domestic,” if not national, about it. The worst, most effective “terrorism,” even if it seems external and “international,” is the one that installs or recalls an interior threat, *at home* [in English in the original—GB] and recalls that the enemy is also always lodged on the inside of the system it violates and terrorizes.⁷⁷

The “fear of terror” thus gains a slightly different meaning as a fear that disavows the wound of terror, that cannot acknowledge its full psychological dimension, and inadvertently—without self-reflection, doubt, or mourning—must flee into a rhetoric and practice of retribution and war.⁷⁸ The mechanisms of terror and counter-terror are so automatic and so profoundly inscribed in a repetition compulsion that law and political deliberation regularly yield to expanded police powers. George Bush’s address to the nation on September 20, 2001, might be the exemplary case for the psychological mechanisms of counter-terror. More importantly, however, his speech announcing the creation of an Office of Homeland Security was a highly performative manifesto for contemporary police:

On September 11, enemies of freedom committed an act of war against our country. Americans have known wars, but for the past 136 years they have been wars on foreign soil, except for one Sunday in 1941. Americans have known the casualties of war, but not at the center of a great city on a peaceful morning. Americans have known surprise attacks, but never before on thousands of civilians. All of this was brought upon us in a single day, and night fell on a different world where freedom itself is under attack. . . . I will not forget this wound to our country or those who inflicted it. I will not yield; I will not rest; I will not relent in waging this struggle for freedom and security for the American people. . . . Our grief has turned to anger and anger to resolution. Whether we bring our enemies to justice or bring justice to our enemies, justice will be done [Applause]. . . . Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists. . . . Our nation has been put on notice: we are not immune from attack. We will take defensive measures against terrorism to protect Americans. Today, dozens of federal departments and agencies, as well as state and local governments, have responsibilities affecting homeland security. These efforts must be coordinated at the highest level. So tonight I announce the creation of a Cabinet-level position reporting directly to me—the Office of Homeland Security. . . . We will come together to give law enforcement the additional tools it needs to track down terror here at home. [Applause] We will come together to strengthen our intelligence capabilities to know the plans of terrorists before they act, and find them before they strike.

Bush cites the core meanings of terror (“our country,” “center of a great city on a peaceful morning,” “thousands of civilians,” “single day . . . different world,” “wound . . . inflicted,” “terror here at home”). What appears to be an intensely political moment in the sense of Schmitt (“decision,” “[e]ither you are with us, or you are with the terrorists”), turns into a police manifesto. The dramaturgy of the speech reminds the listener of the founding of a state: a primal sacrifice has been made, blood has been shed, and an originary crime or murder has been committed. After this original catastrophe we awaken to a “different world” and a new state: it is the state of exception that has dawned upon us. We are now in this new time and called upon to rally around this new state that, in order to be secure, must adhere to the paradigm of preventative intervention; the people will be mobilized to cooperate with the efforts of the police. The troops will be coordinated as they prepare for a new goal: the war on terrorism at home and abroad. The speech transforms the potential

for political exception into a mere police exception and operation, propped up by moral resolve and a sacrificial rhetoric.

The term Homeland Security, viewed in light of this speech, contains a biopolitical dimension. Homeland Security is the contemporary police through and through. The alarmist undertone of Bush's speech ("Our nation has been put on notice") highlights all ingredients of the police: the pastoral care for the innocent, unsuspecting homeland, the inflicted wound on the city and the entire body politic of the country, the new era we abruptly must cope with, the paradigm of prevention, the mobilization of the public, the security partnership, the extended police powers, the better coordination of agencies, and the urgency of action. The psychological mechanism of counter-terror and the immediate lashing out at various "enemies" also follow the prescribed patterns.

Bush's speech of October 8, 2002, in Cincinnati⁷⁹ extends the paradigm of police prevention and homeland security from the United States to the world; the threat of global terror at home marks the central argument for aggressive international involvement: the new American frontier must be brought abroad—to the new enemy. Homeland Security, a seventeenth- and eighteenth-century police idea in essence, originates at home but it can no longer end there; it must cover the entire globe. A police effort "at home" and a national security concern mold the basis for an American exilic fantasy: the global homeland.⁸⁰ This is point where the permanent state of exception inscribes itself into the history of American exceptionalism.⁸¹

THE POLICE SPECTACLE AND THE TRUE STATE OF EXCEPTION

Guy Debord stated in his foreword to the third French edition of the *Society of Spectacle* from 1992, that the society of spectacle has now become ever more "integrated" as the "unified practice" of the spectacle is now "using police methods to transform perception." Since the early nineteenth century, Parisian police, the model for modern forms of law enforcement, had placed a watchful eye in the center of its emblem: police then and now operates with the domination over perception. By "police," Debord no longer means the bureaucratic apparatus as he did in the first edition of 1967, since by 1992 "the police in question, incidentally, are of a completely new variety."

After the end of the cold war, contemporary police has become more powerful and unified, the remaining “*one block*” rests on the “consensual organization of the world” and the “media event” addressed to the “*Homo Spectator*.”⁸² We inhabit what one could call the “police spectacle” that influences the psyche, language, everyday practice, and perception; it affects the very communication of human beings as humans and of political subjects as subjects. The prime-time crime police spectacle today takes center stage and allows for little political language and thinking outside its codes, mentalities, and communicative parameters.

Governing through police and security is thus much more than a management of fear⁸³ and more than simply an ideology and certainly more than a question of manipulation. One must examine how, for whom, and with what meaning security, crime, and terror are being deployed. For Debord and many other political theorists, this type of governing indicates a profound discursive and structural change in how reality is viewed and how political aspirations are articulated. If citizens view themselves primarily as potential victims of crime and terror and politicians win elections by “being tough on crime” or “defending homeland security,” governing through police, as Jonathan Simon remarked astutely, transforms the people and the situations it is seeking to govern in the very process of governing them. Crime, war, and terror bring people together, including those who engage in them; those who produce security against them; those who process them; those who bear witness to them.⁸⁴

Television shows feed the frenzy of crime while fortifying moral resolve and celebrating the triumphant victory of police work. Suddenly, as Avital Ronell in her essay on the Rodney King beating in 1993 pointed out,⁸⁵ another police excess is taped and appears on the TV screen like the return of a repressed specter. Since the Rodney King beating, police excesses belong to a recurring inventory of nighttime news entertainment. The media enact the emerging new stories that have “just come in” as “breaking news” or “news alert” and bolster the states of exception. Every time the Homeland Security Advisory System heightens its evaluation of the threat level from yellow (elevated) to orange (high), the state of exception is a media, political, military, and police event all at once. This alert spectacle commands great performative power throughout the world with very concrete police actions and costs attached; it remains,

however, like many warning systems, completely bereft of content and often divulges no specific information for its grounds.

Should politics not be in search of paths that open up the field of political thinking toward something other than security, crime, and police? Michael Hardt aptly proposes, and this is shared by most political theorists, to escape the long-held alternative of liberty versus security by pursuing the cosmopolitical project of a democracy without condition: "One of the most threatening discourses that we have heard from politicians and mainstream media in the wake of the tragedy [September 11, 2001] is that we must be willing to sacrifice liberty and security, that we must, in other words, turn control of our lives over to the police. The alternative between liberty and security, however, is a false one and the history of political theory is filled with arguments against it. The only path to long-term security is instead democracy, now democracy conceived not only on the national but the global plane."⁸⁶

It is astonishing, considering the long-standing rejection of democracy by the vast majority of philosophers since Plato, that almost all contemporary political theorists subscribe to a more or less emphatic concept of democracy today more than ever. Jacques Rancière might be the most radical theorist of democracy as he connects the project of democracy with the true state of exception. Politics for Rancière means a specific rupture of the biopolitical logic of the police—such as, "proper" roles in different interest groups and "normal" distributions of positions of power, rights, and duties. In his article "Ten Theses on Politics,"⁸⁷ democracy is thus neither a political regime that assembles the "glorious body of the people" under the common authority of the state (the idea of consensus) nor is democracy about the power struggle of parts of the community with each other (deliberation and competition). The genuine democratic moment is one where the "unaccounted-for" or "the part of those who have no part" inscribe an excessive supplement into the social body that makes it possible to identify them with the "whole of the community."

The unaccounted for are not simply included into the whole; rather, via litigation, interruption, and contestation, they themselves become the whole. This demonstrates why for Rancière democracy begins always "with the murder of the king: in other words, with a collapse of the symbolic, thereby producing a dis-incorporated social presence" (Thesis 5). Democracy in a radical sense thus rests on

uncounted “people” as empty, supplementary parts who threaten the perception (*aisthesis*) of the whole; while the police excludes and separates the sensible and the sayable and “presupposes a partition between what is visible and what is not, of what can be heard from the inaudible . . . [p]olitics is first and foremost an intervention upon the visible and the sayable” (Thesis 7).

At the heart of the police principle are statistics, the management and classifications of groups, dangers, professions, etc. that thereby reaffirm the space of circulation where everything moves smoothly. “Move along! There is nothing to see here” (Thesis 8) will always be the motto of the police. The police quells any disruption of its order; it refigures and transforms the space within the confines of what can be done, said and perceived. Politics and democracy in Rancière confront the police with a struggle and litigiousness where all prior principles of order are suspended: “What thus characterizes a democracy is pure chance or the complete absence of qualifications for governing. Democracy is that state of exception where no opposition can function, where there is no pre-determined principle of role allocation . . . this exceptional state is identical with the very condition for the specificity of politics more generally.” (Thesis 3) Rancière responds—with Benjamin—to the state of police exception with the true state of exception, which is the repoliticization of politics and of democracy. Rancière’s emphatic pledge for a radical democracy grounded in “pure chance or the complete absence of qualification for governing” will do without the dramaturgy of “a major event,” such as, the terrorist attacks on September 11, or another “original symbolic catastrophe [that] transforms the political exception into a sacrificial symptom of democracy” (Thesis 5). Such spectacular events employ the economy of sacrificial promise and resolve as the central tenet of democracy. The spectacle of police exception repeatedly attempts to mimic the exceptional state of democracy, but it will never be able to supplant politics proper or prevent the *political* state of exception, as disruptive of police logic, from suddenly taking place. The fear of and fascination with crime and terror and all its paranoid underpinnings as the basis for political thinking have always had profoundly depoliticizing effects; hence democracy, as the political state of exception, does not engage in a paranoid rhetoric or in a politics of fear. The opposite is the case: it is always the police that will fear this state.

NOTES

1. Lampedusa is a small island in the Mediterranean between Africa and Europe, not far from the southern tip of Italy. The island serves as a camp for African refugees and exists outside of the jurisdiction of the European asylum and immigration laws.
2. On the history of the state of exception in twentieth-century Germany, France, Britain, and the United States, see Clinton Rossiter, *Constitutional Dictatorship* (Princeton, NJ: Princeton University Press, 1948); for a short synopsis see Giorgio Agamben, *Stato Di Eccezione* (Torino: Bollati Boringhieri, 2003), 21–32.
3. On the permanent state of exception, see Quiao Liang and Wang Xiangsui, *Unlimited Warfare* (West Palm Beach, FL: NewsMax, 2002); and Agamben, *Stato di Eccezione*, 9–19.
4. Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2001), 7. Hereafter shortened as *E*.
5. Walter Benjamin, “Theses of the Philosophy of History,” in *Illuminations: Walter Benjamin*, ed. Hannah Arendt (New York: Schocken Books, 1968), 257.
6. See chapter 5 in this volume. On the relation between the police and the “hybrid of law and fact” in the state of exception, see Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford, CA: Stanford University Press, 1998), 170–74. Hereafter shortened as *HS*.
7. See Chapters 3 and 5 in this volume.
8. See Chapters 6 and 7 in this volume.
9. See Chapters 5, 6, and 7 in this volume.
10. See Chantal Mouffe, *The Return of the Political* (New York: Verso, 1993).
11. Paul Patton, *Deleuze & the Political* (New York: Routledge, 2000); Alan Badiou, *Deleuze: The Clamor of Being* (Minneapolis: University of Minnesota Press, 2000).
12. Michael Hardt and Antonio Negri, *Multitude* (New York: Penguin, 2004), 15. Hereafter shortened as *Mu*.
13. Jonathan Raban in his recent article “The Truth about Terrorism” quotes an article by several Army and Marine Corps officers on “fourth generation” warfare published in 1989 in the *Marine Corps Gazette*: “In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between ‘civilian’ and ‘military’ may disappear.” *The New York Review of Books*, January 13, 2005, p. 22.

14. Bruce Ackerman, "The Emergency Constitution," *Yale Law Journal* 113 (2004): 1029.
15. The "Strategic Studies Institute" of the U.S. Army War College for example published in April 2005, a study by Stephen D. Biddle entitled *American Grand Strategy After 9/11: An Assessment*, which criticizes the Bush administration for never having had a clear definition of enemy. In the synopsis it says: "In the three years since 9/11, the Administration has yet to arrive at a clear definition of the enemy or the aim in the War on Terrorism; to date, American policy has combined ambitious public statements with ambiguity on critical particulars."
16. Carl Schmitt, *Theorie des Partisanen: Zwischenbemerkung zum Begriff des Politischen* (Berlin: Duncker & Humblot, 1963). Hereafter shortened as *TP* (my translation).
 Schmitt, *Politische Theologie: Vier Kapitel zur Lehre von der Souveränität* (Berlin: Duncker & Humblot, 1922). Hereafter shortened as *PT* (my translation).
 When Negri, Hardt, or Schmitt (see *TP* 95) therefore talk about the trend toward the "criminalization" of the enemy (see *Mu* 95, 15) to justify the use of brutal war fare and infringement of human rights, they have overlooked that the modern enemy has long crossed the threshold of criminality. The criminal is still a legal subject and is part of the system; the absolute enemy, however, is stripped of any legal protection, moves outside human order, and thus becomes the object of "extinction" rather than of the law.
17. See Slavoj Žižek, Eric L. Santner, and Kenneth Reinhard, *The Neighbor: Three Inquiries in Political Theology* (Chicago: University of Chicago Press, 2005).
18. See Jonathan Simon, "Governing through Crime in a Democratic Society," conference paper at the *American Sociological Association*, Toronto, 1997; and Giorgio Agamben, "Security and Terror," *Theory & Event* 5, no. 4 (2002).
19. Several court decisions in the United States affirmed the right of the president to use extraordinary measures, such as, arrest without due process and use of secret evidence, under this new paradigm of prevention laid out by John Ashcroft in September 2001. Regularly the courts referred to the new form of the enemy, the special circumstances under which the United States has to defend and secure itself today.
20. *Shafiq Rasul et al. v. George W. Bush, President of the United States et al. No. 03-334*; "Brief for the Respondents in Opposition" 19 (2004), http://supreme.lp.findlaw.com/supreme_court/briefs/03-334/03-334.resp.pdf.
21. "Brief for the Respondents in Opposition," 26.
22. "Excerpts from the opinion of the United States Court of Appeals for the Fourth Circuit," *New York Times*, January 9, 2003, p. A10.

23. See Agamben, *Homo Sacer*, 168.
24. Office of the White House Press Secretary, Fact Sheet, *Status of Detainees at Guantanamo I*, February 2, 2002, <http://www.whitehouse.gov/news/releases/2002/02/20020207-13.html>.
25. S. Robert Post distinguishes between "governance" (a mode of government guided by the rule of law) and "managerial authority" (police prerogatives without law), "Between Governance and Management: The History and Theory of the Public Forum," *UCLA Law Review* 34 (1987): 1713. See also Markus Dirk Dubber, "Polizei-Recht-Strafrecht," in *Festschrift für Klaus Lüderssen*, ed. Cornelius Prittwitz and Michael Baurmann (Baden: Nomos Verlagsgesellschaft, 2002), 186–88.
26. See also Martin Puchner, "Guantanamo Bay: A State of Exception," *London Review of Books*, December 16, 2004, p. 7.
27. The use of torture has been also hotly discussed in Germany in the so-called *Folterprozess* ("torture trial") where the vice president of the police threatened the suspect of a child kidnapping with torture if he would not reveal the location of the victim. A wide-spread dispute about the use of torture in an extra-legal state of emergency began among legal scholars and the public often discussed in parallel and in contrast with the interrogation techniques at Guantánamo Bay and the prisoner abuse in Abu Ghraib. Could the police use torture in case terrorists did not reveal the location of a ticking bomb? The "torture case" can serve as a great example for how quickly basic interdictions of human rights can become "quaint" or "obsolete" once a perceived state of emergency is proclaimed.
28. See Jane Mayer, "Outsourcing Torture," *The New Yorker*, February 14, 2005, p. 106–23. See also Stephen Grey, "U.S. Accused of 'Torture Flights,'" *The Sunday Times* (London), November 14, 2004, p. 24.
29. For a diagnosis by Schmitt in *Theorie des Partisanen* (PT96) and Arendt in *On Revolution* (New York: Viking, 1963). See also Agamben, *Stato Di Eccezione*, 11.
30. Jacques Derrida, "On Cosmopolitanism," in *On Cosmopolitanism and Forgiveness* (New York: Routledge, 2001), 14. Hereafter shortened as OC. On the problematic concept of "political borders," sovereignty and outsiders, see Etienne Balibar, "World Borders, Political Borders," *PMLA* 117 (2002): 71–78.
31. See Derrida (OC 5). Agamben writes: "In the final analysis, however, humanitarian organizations—which today are more and more supported by international commissions—can only grasp human life in the figure of bare or sacred life, and therefore, despite themselves, maintain a secret solidarity with the very powers they ought to fight" (HS 133). According to Jacques Rancière, humanitarian organizations are another way to curb politics. The "world police of humanitarianism" is just a double of the "state managerial police" since it globalizes the human,

that is, the figure of the victim, and breaks down political subjectivity into a belonging to the world of properties, groups, identities, interests, sex, religion, race, culture, etc.—precisely the *modus operandi* of what Rancière calls the police. Jacques Rancière, *Disagreement: Politics and Philosophy* (Minneapolis: University of Minnesota Press, 1999), 136. Hereafter shortened as *D*.

32. Alain Badiou, *Ethics: An Essay on the Understanding of Evil* (London: Verso, 2001), 10–11.
33. See Michel Foucault, “Omnis et Singulatim” in this volume; and Michel Foucault, *Technologies of the Self*, ed. Luther H. Martin, Huck Gutman, and Patrick H. Hutton (London: Tavistock, 1988). Michel Foucault, “Governmentality,” in *The Foucault Effect: Studies in Governmentality*, ed. Michel Graham Burchell, Colin Gordon, and Peter Miller (Chicago: University of Chicago Press, 1991). Hereafter shortened as *G*.
34. Rancière makes a radical distinction between police and politics. He defines the concept of politics in contrast to that of the police, as break of the rigid police allocation of places, professions, parts, of certain ways of doing, ways of being and ways of saying: “I know propose to reserve the term politics for an extremely determined activity antagonistic to policing: whatever breaks with the tangible configuration whereby parties and parts or lack of them are defined by a presupposition that, by definition, has no place in that configuration—that of the part of those who have no part. This break is manifest in a series of actions that reconfigure the space where parties, parts, or lacks of parts have been defined. Political activity is whatever shifts a body from the place assigned to or changes a place’s destination” (*D* 29–30).
35. “The ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power, which has at its target population, as its principal form of knowledge political economy, and as its essential technical means apparatuses of security” (*G* 102).
36. See Jacques Derrida, *Rogues: Two Essays on Reason* (Stanford, CA: Stanford University Press, 2005) Hereafter shortened as *R*.
37. Slavoj Žižek, *The Ticklish Subject: The Absent Centre of Political Ontology* (London: Verso, 1999).
38. Giorgio Agamben, *Means without End. Notes on Politics* (Minneapolis: University of Minnesota Press, 2000), 102–4.
39. Agamben, Negri, and Hardt, when they develop a “Logic of Sovereignty” (the “Camp as Biopolitical Paradigm of the Modern,” *HS* 15–38 and 117) or an “Imperial Sovereignty” (together with the rhetoric of “Empire” and “Counter-Empire,” *E* 183–204), are always at risk to assume a political super-structure.
40. Derrida mentions this passage in “Force of Law: The Mystical Foundation of Authority,” *The Cardozo Law Review* 11 (1990): 93–96.

41. See Giovanna Borradori, *Philosophy In A Time of Terror. Dialogues with Jürgen Habermas and Jacques Derrida* (Chicago: University of Chicago Press, 2003), 137–39.
42. Ibid., 94.
43. Ibid., 107.
44. Patrick Radden Keefe, *Chatter: Dispatches from the Secret World of Eavesdropping* (New York: Random House, 2005).
45. For two highly elucidating studies on the inherent dilemmas of counterterrorism see William M. Arkin, *Code Names: Deciphering US Military Plans, Programs, and Operations in the 9/11 World* (Hanover, NH: Steerforth, 2005); and Timothy Naftali, *Blind Spot: The Secret History of Counterterrorism* (New York: Basic Books, 2005).
46. D. Patrick Moynihan, *Secrecy: The American Experience* (New Haven, CT: Yale University Press, 1998), 7.
47. The vast explosion of intelligence activities and classified secrets in Western democracies after September 11, 2001, have gone largely unnoticed, *The 9/11 Commission Report* (New York: Norton, 2004) warned unambiguously about the detrimental effects of secrecy for both security and democracy. In the Executive Summary, the commission concludes: “Secrecy stifles oversight, accountability, and information sharing.”
48. Is it, for example, a surprise that the first action taken by chancellor Alawi as the sign of the newly acquired sovereignty of the state of Iraq in June 2004 were the instatement of the death penalty and the decision on the state of emergency? The hand over of sovereign power apparently goes hand in hand with those two last resorts of national sovereignty.
49. Derrida, “Force of Law,” 96.
50. Antonio Negri, *Insurgencies: Constituent Power and the Modern State* (Minneapolis: University of Minnesota Press, 1999), 1–34.
51. Giorgio Agamben, “On Potentiality” in *Potentialities*, ed. Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1999), 181–82.
52. Jacques Derrida, “Psychoanalysis Searches,” in *Without Alibi*, ed. Peggy Kamuf (Stanford, CA: Stanford University Press, 2002), 276.
53. Derrida, *Terrorism*, 134–35.
54. Walter Benjamin, “Critique of Violence,” in *Selected Writings*, ed. Marcus Bullock and Michael W. Jennings (Cambridge, MA: Harvard University Press, 1996), 1:236–52. Hereafter shortened as CV; and Walter Benjamin, “Ursprung des deutschen Trauerspiels,” in *Gesammelte Schriften*, ed. Rolf Tiedemann and Hermann Schweppenhäuser (Frankfurt: Suhrkamp, 1991), 1:245. Hereafter shortened as OG (my translation).
55. Agamben in *Stato di Eccezione*, 72–73; and Negri and Hardt allude to this discussion in their chapter “Samuel Huntington, Geheimrat” (*Mu* 33–35).
56. Negri and Hardt write on the new modes of political decision-making and the figure of the *Geheimrat*:

Machiavelli's *The Prince*, which some read as a guidebook for nefarious rulers, is in fact a democratic pamphlet that puts the understanding of violence and the cunning use of power in the service of republican intelligence. Today, however, the majority of political scientists are merely technicians working to resolve the quantitative problems of maintaining order, and the rest wander the corridors from their universities to the courts of power, attempting to get the ear of the sovereign and whisper advice. (Mu 33)

57. In this analysis, I will follow Samuel Weber's excellent study on Benjamin's *Origin of the German Mourning Play* entitled "Taking Exception to Decision," in Walter Benjamin 1892–1940, ed. Uwe Steiner (Bern: Peter Lang, 1992), 123–37.
58. *Ibid.*, 135.
59. Carl Schmitt, *Gespräch über die Macht und den Zugang zum Machthaber: Gespräch über den Neuen Raum* (Berlin: Akademie Verlag, 1994), 17–20.
60. Agamben, *Notes on Politics*, 105.
61. Michel Foucault, *Technologies of the Self*, 162.
62. See also Wolfgang Naucke's excellent article on the increasing *Verpolizeilichung* of the law since the early nineteenth century, "Vom Vordringen des Polizeigedankens im Recht, d.i.: vom Ende der Metaphysik im Recht," in *Recht, Gericht, Genossenschaft und Policy*, ed. Gerhard Dilcher and Bernhard Diestelkamp (Berlin: E. Schmidt, 1986), 186–87.
63. See in this context Benjamin's discussion of Kant's categorical imperative (CV 241).
64. Michel Foucault, *Technologies of the Self*, 162.
65. "The tradition of the oppressed teaches us that the state of emergency in which we live is not the exception but the rule. We must attain to a conception of history that is in keeping with this insight. Then we shall clearly realize that it is our task to bring about a real state of emergency, and this will improve our position in the struggle against Fascism." (Walter Benjamin, "Theses of the Philosophy of History," 257).
66. Walter Benjamin, "Theses of the Philosophy of History," 257.
67. Giovanna Borradori, *Philosophy in a Time of Terror*, 106.
68. See Peter J. Katzenstein, Introduction to *The Culture of National Security: Norms and Identity in World Politics*, ed. Peter J. Katzenstein (New York: Columbia University Press, 1996), 10; and Michel Foucault, "Security, Territory, and Population," in *Ethics: Subjectivity and Truth*, ed. Paul Rabinow (New York: New Press, 1997), 67–71.
69. See also Negri and Hardt (Mu 20): "Both within and outside the nation, then, the proponents of security require more than simply conserving the present order—if we wait to react to threats, they claim, it will be too late. Security requires rather actively and constantly *shaping the environment*

through military and/or police activity. Only an actively shaped world is a secure world.”

70. Robert O'Harrow, *No Place to Hide: Behind the Scenes of Our Emerging Surveillance Society* (New York: Free Press, 2005).
71. Robert Castel, “From Dangerousness to Risk,” in *The Foucault Effect: Studies in Governmentality*, ed. G. Burchell, C. Gordon, and P. Miller (Chicago: University of Chicago Press, 1991).
72. Jim Newton, “Wilson: The Man Behind Community-Based Policing,” *Los Angeles Times*, November 27, 1996, p. A14.
73. “The citizen who fears the ill-smelling drunk, the rowdy teenager or the importuning beggar is not merely expressing his distaste for unseemly behavior; he is also giving voice to a bit of folk wisdom that happens to be a correct generalization—namely, that serious street crime flourishes in areas in which disorderly behavior goes unchecked. The unchecked panhandler is, in effect, the first broken window.” James Q. Wilson and George L. Kelling, “Broken Windows,” *The Atlantic Monthly* (March 1982): 31.
74. “Secret evidence”—that is, evidence that is too sensitive to be shared with the defendant or his counsel—as the courts decided in February 2005, can in exceptional cases and for the first time in American legal history be used to convict U.S. citizens.
75. Slavoj Žižek, “Iraq’s False Promises,” *Foreign Policy* (January/February 2004), <http://www.lacan.com/zizek-iraq2.htm>.
76. In the hearing before the 9/11 Commission, the reporter Sheryl Gay Stolberg from the *New York Times* described this intelligence agency labyrinth and a curious incident with former Attorney General Janet Reno:

Everyone knows the F.B.I. and the C.I.A. But this week’s hearings were laden with references to what Ms. Gorelick called “numerous entities with a bewildering array of alphabet in front of them.” Some samples: the Information Analysis and Infrastructure Protection Directorate (I.A.I.P.); the Homeland Security Operations Center (H.S.O.C.); the Foreign Terrorist Tracking Task Force (F.T.T.T.F.); and the Terrorist Threat Integration Center (TTIC, pronounced tea-tick). Even some witnesses were confused. On Tuesday, Timothy J. Roemer, a commissioner, asked Janet Reno, the former attorney general, how often she met with the chiefs of the F.B.I. and C.I.A. “I spent a lot of time at the S.I.O.C.,” Ms. Reno replied, referring to the Strategic Information and Operations Center, an F.B.I. division. “The S.I.O.C.?” Mr. Roemer asked, “If you’d explain.” Ms. Reno was baffled. “Somebody help me,” she said. (*New York Times* [April 15, 2004], p. A11)

77. Giovanna Borradori, *Philosophy in a Time of Terror*, 188.

78. President George W. Bush in his September 20, 2001, address to the nation.
79. In Cincinnati, Bush invoked the danger of a "mushroom cloud," that is, the fear that something much worse than 9/11 could take place. This danger was then repeatedly echoed by the former Security Advisor Condoleezza Rice.
80. I would like to thank Donald Pease for this idea.
81. On American exceptionalism see Harold Hongju Koh, "On American Exceptionalism," *Stanford Law Review* 55, no. 5 (2003): 1479–527.
82. Guy Debord, *The Society of the Spectacle* (New York: Zone Books, 1994), 8–9, 74.
83. See Barry Glasner, *The Culture of Fear: Why Americans are Afraid of the Wrong Things* (New York: Basic Books, 2000); and David Altheide, *Creating Fear and the Construction of Crisis* (New York: Aldinede Gruyter, 2002).
84. See the concluding remarks of Jonathan Simon, "Governing through Crime in a Democratic Society," 13ff.
85. Avital Ronell, "Learning from Los Angeles: Haunted TV," *Artforum* (September 1992): 72.
86. Michael Hardt, "Sovereignty," *Theory & Event* 5, no. 4 (2002).
87. Jacques Rancière, "Ten Theses on Politics," *Theory & Event* 5, no. 3 (2001): 9–17.

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CONTRIBUTORS

Sander L. Gilman is Distinguished Professor of the College of Liberal Arts and Sciences at Emory University as of 2005. A cultural and literary historian, he is the author or editor of over seventy books. His Oxford lectures, *Multiculturalism and the Jews*, appeared in 2006. He is the author of the standard study of *Jewish Self-Hatred*, the title of his Johns Hopkins University Press monograph of 1986.

Sara F. Hall is an Assistant Professor in the Department of Germanic Studies at the University of Illinois at Chicago. Her book, *Police Presence: Cinema and the Production of Law and Order*, is forthcoming.

Sigrun Haude is Associate Professor of Early Modern Europe in the Department of History at the University of Cincinnati. She is the author of *In the Shadow of 'Savage Wolves': Anabaptist Münster and the German Reformation During the 1530s*. She is presently writing a monograph, *Survival During the Thirty Years' War*.

Hans-Christian von Herrmann, Dr. phil. habil., teaches Media Studies at Friedrich-Schiller-University Jena. He published a book on Bertolt Brecht (*Sang der Maschinen. Brechts Medienästhetik*, 1996) and on the origins of theater studies in Germany (*Das Archiv der Bühne. Eine Archäologie des Theaters und seiner Wissenschaft*, 2005). Recently he co-edited a book on Max Bense's aesthetics and its affinity to early computer art.

Todd Herzog is an associate professor of German Studies at the University of Cincinnati. He is the author of *Crime Stories* (forthcoming with Berghahn Books) and co-editor of two volumes on culture and politics in post-Wende Germany and Austria.

Bill Lyons is an associate professor of Political Science at the University of Akron and the Director of the Center for Conflict Management there. His first book, *The Politics of Community Policing: Rearranging the Power to Punish*, was published by the University of Michigan Press in 1999. His third, co-edited book, *Punishing Schools: Fear and Citizenship in American Education*, came out in the spring of 2006 with the University of Michigan Press.

Klaus Mladek is Assistant Professor in the Department of German Studies at Dartmouth College. His book, *Theater of Justice (Kant, Kleit, Nietzsche and Kafka)* is forthcoming. He is currently working on a study *Criminal Subjects: Politics and Police in German Literature and Thought (1800/1900)*.

Martin Puchner is the H. Gordon Garbedian Professor of English and Comparative Literature at Columbia University and author of *Stage Fright: Modernism, Anti-Theatricality and Drama* (Hopkins, 2002; expanded German edition, Rombach, 2006) as well as of *Poetry of the Revolution: Marx, Manifestos, and the Avant-Gardes* (Princeton, 2006). He is co-editor of *Against Theatre: Creative Destructions on the Modernist Stage* (Palgrave, 2006) and of the *Norton Anthology of Drama* (Norton, forthcoming).

Marc Schweska is an author, cultural anthropologist, historian, and art critic. He holds an MA in Cultural Studies, Aesthetics, and European Cultural Anthropology. In 2001–2004 he did postgraduate studies at Humboldt-University Berlin and in 2005 he received the Author's Grant of the Berlin Senate. In the moment he is writing a novel entitled *In the Last Instance*.

Sven Spieker is teaching at University of California, Santa Barbara in the Department of Germanic, Slavic, and Semitic Studies and the Department of History of Art and Architecture. He is the author of *Figures of Memory and Forgetting in Andrej Bitov's Prose*:

Postmodernism and the Quest for History (1996) and *Gogol: Exploring Absence: Negativity in 19th-Century Russian Literature* (1999).

Joseph Vogl is Professor for German Literature, Cultural and Media Studies, Humboldt-University Berlin as of 2006. His most recent publications are *Kalkül und Leidenschaft. Poetik des ökonomischen Menschen* (2002, 2004); *Europa. Kultur der Sekretäre* (co-ed.; 2003); and *Gesetz und Urteil. Beiträge zu einer Philosophie des Politischen* (co-ed.; 2003).

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INDEX

- Abegg, Wilhelm, 86, 88
absolutism, 13
Ackerman, Bruce, 224
Adams, Scott, 140–41
Adorno, Theodor, 130
aesthetics, 59–62, 68, 171, 173
Agamben, Giorgio, 223, 229,
 234–35, 241, 245
Allen, Mary S., 94n11
Althusser, Louis, 181
archives, 156–57
Arendt, Hannah, 36
Argand, Ami, 172
Arnold, Edward, 138
Artaud, Antonin, 192–93
Ashcroft, John, 228
Augustine, Saint, 30

Balestrero, Manny, 168–69,
 175–76
Becker, Rudolf Zacharias, 38
Bell, Joseph, 130
Beniger, James, 149–50
Benjamin, Walter, 6, 99, 116, 223;
 “Critique of Violence,”
 190–91, 237, 241–42, 245;
 Origin of the German
 Mourning Play, 243–48
Benn, Gottfried, 130
Bentham, Jeremy, 170, 172
Bergstrom, Janet, 98
Bersani, Leo, 196n18
Bertillon, Alphonse, 151, 161, 174
Bittner, Egon, 203

Blank, Matthias, 155
Bochco, Steven, 140
Bodin, Jean, 47
body: coding of, in recordkeeping,
 162–63; fatness of, 135–36,
 140; female, 135; male,
 123–24, 129–30; and
 thinking, 131–33, 135–36
Boss, Kenneth, 199
Boyarin, Daniel, 132
bureaucracy: in government, 149,
 235–36, 242; of police,
 205–7, 211, 244–45
Burr, Raymond, 139–40
Bush, George W., 227–28, 252–53

cameralism, in Germany, 51–52, 54
Cannon (television series), 139
Carroll, Noël, 111–12
Carroll, Sean, 199
Castel, Robert, 249
Castillon, Frédéric, 38
censorship, 62
Cheney, Dick, 228
Chesterton, G. K., 136
Chimes at Midnight (Orson Welles,
 1966), 138–39
Christianity: and government,
 29–30; and secret police, 33
cities, 203–5, 208–9
civil liberties, 182, 231
Coltrane, Robbie, 124
communication, 191–92

- community policing: discourse of, 209–11, 217n14; and fear, 212–15; history of, 200–201, 205–7; politics of, 201–4, 207–8, 212; and social control, 204–5, 210–12, 217n15; and surveillance, 204, 249–50
- Conrad, William, 139
- conspiracy theory. *See* paranoia
- Cracker* (television series), 124
- crime novels. *See* detective narratives
- criminal anthropology, 101–2, 105–6, 113, 174
- criminality: fear of, 212–13, 250; narratives of, 100–102, 106, 113–14, 204–5; and social control, 98, 201, 210–11, 216n12, 255; and surveillance, 104, 111–12; and terrorism, 224; visibility of, 99, 103–4, 106, 112, 114–15, 255; in *The Wrong Man*, 173–74
- cryptography: and secret police, 34–35; technology of, 152–54
- d'Argenson, Marc-René, 67, 170–71
- Debord, Guy, 254
- deception: in government, 25–28, 29–32, 37; Machiavelli on, 27–29, 36. *See also* secret police
- Deleuze, Gilles, 196n20, 223–25
- democracy, 256–57
- Derrida, Jacques, 231, 252; political philosophy of, 237–41, 248
- detective: body of, 123–24, 129–30, 136–37; paranoia of, 182–83
- detective narratives: and criminality, 99, 113–15, 215; fat detective in, 123–24, 129–30, 136–37; hermeneutics of, 182–83; and paranoia, 189, 191–92, 194; popularity of, during Weimar Republic, 99–100, 102, 106; and recordkeeping, 159–61; on television, 139–40
- Dewey Decimal System, 157–58
- Diallo, Amadou, 199–200
- Dickens, Charles, 127–28
- Doyle, Arthur Conan, 130, 182–83
- Drews, Bill, 148
- Ebstein, Wilhelm, 128
- Eck, John, 210
- Eco, Umberto, 183
- economics, 50–52, 55–56
- Elwenspoek, Curt, 100–101, 107
- empiricism, 48–49, 57–58
- Emsler, C., 186
- enemy: terminology for, 225–27; in war on terror, 229–30, 259n16
- Erkens, Josephine, 82–83, 92
- espionage: and diplomacy, 33–34; and paranoia, 251–52. *See also* secret police; surveillance
- Ewige Jude, Der* (1939), 116–17
- Fairchild, Erika, 78
- fatness: of detective, 123–24, 129–30, 136–37; and epistemology, 131–35
- fear: of criminality, 212–13, 250; of terrorism, 252–53. *See also* paranoia
- Fell, Hans, 110
- Ferdinand, King of Spain, 34
- Fichte, Johann Gottlieb, 59
- Ficino, Marsilio, 123
- film noir*, 168
- Fischer-Dunckelmann, Anna, 135
- Fonda, Henry, 169
- Foucault, Michel, 2–3, 52, 57–58, 125, 181, 245–47; on biopower, 223–25, 233–35

- Franz, Dennis, 140
 Frederick II, King of Prussia, 25–27
 Freud, Sigmund, 133–35, 183–84, 171
- Gall, Franz Joseph, 132
 Galton, Francis, 174
 Gandert, Gero, 107–8
 Garland, David, 213
Geheimrat. *See* secret advisor
 gender: of detective's body, 124, 135–36; and policing, 79–81, 87–90, 92–93
 Geneva Convention, 229
 Gennat, Ernst, 103–7
 Ginzburg, Carlo, 182–83
 Goebbels, Joseph, 110–11
 government: and bureaucracy, 149; and Christianity, 29–31; in cities, 208–9; deception in, 25–28, 31–32; and Enlightenment, 25–26, 38; and fear, 212–15, 227; in Germany, 14–15, 51–52, 84, 88; legitimacy of, 36–37; and paranoia, 189; police as, 227, 231–33, 236; and secret advisor, 242–44; and security, 255; and sovereign, 13–14, 48–49, 233; and sovereignty, 233–35, 245–46. *See also* politics; sovereign; state
 Great Police Exhibition (Berlin, 1926), 83–88, 151–55
 Grotius, Hugo, 48
 Guattari, Felix, 196n20
 Gunning, Tom, 112
gute policey: defined, 5, 13–14; and state power, 32, 52
- Hamm, Berndt, 20
 Hammett, Dashiell, 138
- Hardt, Michael, 224, 227, 234–35, 241–42, 255–56
 Hauser, Kaspar, 154
 Heindl, Robert: *Der Berufsverbrecher*, 100–102, 107
 hermeneutics: of novel, 182–83, 191–92; of policing, 181–82
 Hitchcock, Alfred, 167–68, 174.
 See also *Wrong Man*, *The*
 Hobbes, Thomas, 49
 Hollerith, Hermann, 163
 Homeland Security Agency, 228, 252–54
 homosexuality, 188–89
 Horn, Eva, 37
 Humboldt, Wilhelm von, 58
 Huntington, Samuel, 242
- Ihering, Herbert, 108
 Inbau, Fred, 182
 information: and community policing, 210, 249–50; and criminality, 174; and paranoia, 191–92, 251; and secret advisor, 244–45; standards for, 151–54, 161–63; and technology, 148–50
 Inquisition, 32–33
 institution: and criminality, 98–99; and recordkeeping, 155–56; secret police as, 32, 35. *See also* bureaucracy; order; social control
Ironside (television series), 139–40
 Isabella, Queen of Spain, 34
- Jake and the Fatman* (television series), 139
 Jonson, Ben, 35
 Joyce, James, 128
 Jung-Stilling, Johann Heinrich, 55
 Justi, Johann Heinrich Gottlob von, 53–54, 147–48

- Kaczynski, Theodore J., 196n21
 Kaes, Anton, 109–10, 114
 Kafka, Franz, 114
 Kant, Immanuel, 56–57
 Kantorowicz, Ernst, 50
 Kelling, George, 205–6, 210–11, 250
 King, Rodney, 255
 Königliche Akademie der Wissenschaften. *See* Royal Academy of Sciences (Berlin)
 Körner, Christian Gottfried, 169
 Kracauer, Siegfried, 108
Kriminal-Magazin, 103, 106–7
Kriminalistische Monatshefte, 104
 Kürten, Peter, 97–98, 103–8, 114, 117
- Lang, Fritz, 107–8. *See also* *M*
 Lavoisier, Antoine-Laurent, 172–73
 law: and aesthetics, 61–62; and emergencies, 224–25, 245–46, 250–51; and empiricism, 48–49, 57; and state power, 31–32, 48, 56–57, 215, 246–47; and surveillance, 190–91; and war on terror, 228–29
 Le Corbusier, 153
 Lichtenberg, Georg, 128
Life Magazine, 168
 Lipsius, Justus, 31
 Lombroso, Cesare, 99, 101–2
 Lorre, Peter, 116
 Los Angeles Police Department, 199–200
 Louima, Abner, 200
 Louis XIV, King of France, 33–34
- M* (Fritz Lang, 1931): criminality in, 97–98, 111; and Kürten case, 107–10; and Nazi era, 116–17; police work in, 112–14; reception of, 109–11; social control in, 111–12
 Macdonald, Andrew, 189
 Machiavelli, Niccolò: on morality, 31–32; on political deception, 27–30, 36
 Manning, Peter, 2
 Masterson, Whit, 138
 Maximilian I of Bavaria, 13–18, 20–21
 McIntyre, John T., 136
 McMellon, Edward, 199
Meet Nero Wolfe (1936), 138
 Mercier, Louis Sébastien, 169
 Milch, David, 140
 Miller, D.A., 2, 195n7
 Mitchell, S. Weir, 135
 Moore, Mark, 205–6
 Moore, Mavor, 138
 Müller, Johannes, 132
 Murnau, F. W., 106
 Murphy, Patrick, 207
 Murphy, Richard, 199
- National Institute of Justice, 200
 Negri, Antonio, 224, 227, 234–35, 241–42
 Neocleous, Mark, 2–3
 New York Police Department, 199
 Nienhaus, Ursula, 78
 nongovernmental organizations, 231–32
North by Northwest (Alfred Hitchcock, 1956), 174
 Nussbaum, Felix, 116–17
NYPD Blue (television series), 140
- Olson, Theodore, 228
 order: in cities, 208–9; and community policing, 201–2, 211, 212–15; and criminality, 98–99; and deception, in government, 28–29, 52; and gender, 82, 89–90; as *gute policey*,

- 5, 13–14; and recordkeeping, 151–54, 159–63; and security, 249–50; and the state, 29–30, 53–55, 246; and surveillance, 33–34; and women police officers, 82–83, 85. *See also* security; social control
- Pahl, Leslie Ann, 102
- Pappritz, Anna, 86
- paranoia: and politics, 227, 236, 248; in Pynchon's *The Crying of Lot 49*, 191–94; in Pynchon's *Vineland*, 185–87, 194; in Schreber's *Memoirs*, 183–85, 188–89; and security, 249–52. *See also* fear
- Pastorelli, Robert, 124
- Peirce, Charles Sanders, 183
- Perez, Rafael, 199–200
- Perry Mason* (television series), 139
- photography, 161–62
- Pinkerton's Northwest Police Agency, 186
- Poe, Edgar Allan, 149
- police: and aesthetics, 59–62, 68, 171, 173; aggression of, 199–201; Benjamin on, 190–91; and border control, 230; and criminal anthropology, 99; and detective narratives, 100, 113–14, 182–83; and fear, 213–15, 236, 248–49; as government, 227, 231–33; and Great Police Exhibition (Berlin, 1926), 83–90, 151–52; hermeneutics of, 181–82; and information, 151–54, 244–45; in New York City, 199, 204; and order, 3, 245–47; in popular culture, 6, 111–13, 255; and private police forces, 186; professionalization of, 205–7, 211; in Pynchon's *Vineland*, 185–87, 194; recordkeeping of, 151–54, 159–63; Schiller on, 63–67; and secret advisor, 243–45; and security, 252–54; and social control, 54–55, 203–4; and sovereign, 56–57, 243–44; and sovereignty, 233–35, 244; and state power, 52–53, 60, 68, 194, 214–15, 240; and subjectivity, 4, 181–82, 247; and surveillance, 5, 171–72, 181–82, 189; technology of, 89, 148–49, 158–59; as term, 12, 52, 147–48, 203; and theater, 63, 169–73; in United States, 205–7; and violence, 239–40, 245–46; and war, 230–31, 234–35; and Weimar Republic, 77–78, 84. *See also* community policing; detective; secret police; women police officers
- police studies: as discipline, 2–3, 5; and Weimar Republic, 77–78
- politics: Benjamin on, 247–48; in cities, 208–9; of community policing, 201–4, 206–7, 215; Derrida on, 237–41; and paranoia, 227, 236; police as, 232–33; theories of, 222–27, 235–36, 248, 255–56. *See also* government; state
- power: and community policing, 209–12; and paranoia, 236; of state, 52–53, 60, 68, 194, 224; and surveillance, 174–75. *See also* social control
- psychoanalysis, 182–84
- Pynchon, Thomas: *The Crying of Lot 49*, 191–94; *Vineland*, 183, 187–89, 191, 194

- Raabe, Wilhelm, 125–29
 Raban, Jonathan, 258n13
 race: and city politics, 209; and community policing, 203–4, 206, 213
 Rancière, Jacques, 232–33, 256–57
 recordkeeping, 151–54, 159–63.
 See also bureaucracy; information
 Reimann, Hans, 87–88
 Remak, Robert, 133
 Richelieu, Armand Jean du Plessis, Cardinal, 33–34, 36–37
 Ronell, Avital, 255
 Rosenbaum, Dennis, 210
 Roth, Joseph, 79–81
 Royal Academy of Sciences (Berlin), 25, 27, 38
 Rumsfeld, Donald, 251
- Schellenberg, T. R., 150
 Schiller, Friedrich, 60–61; on theater, 62–63; works of: *Die Polizey*, 63–67, 169–71; *Die Räuber*, 170; *über die ästhetische Erziehung des Menschen*, 171; *Wallensteins Lager*, 63, 65
 Schily, Otto, 230
 Schlegel, Friedrich, 67
 Schmitt, Carl, 49, 225–26, 243, 245
 Schreber, Daniel Paul, 183–84, 188–89, 191, 194
 Seattle Police Department, 200–201
 secret advisor, 242–44
 secret code. *See* cryptography
 secret police: and cryptography, 34–35, 152; and espionage, 33–35; institutionalization of, 32, 35; in Pynchon's *Vineland*, 185, 189; and social order, 34; timeliness of, 37
 security: and democracy, 256–57; and police, 248–52; and terrorism, 252–54. *See also* order; social control
 September 11, 2001, terrorist attacks, 228, 249, 252–53
 sexuality, 82
 Shakespeare, William, 244
 Shapin, Steven, 123
 Simon, Jonathan, 212
 Smart, J. Scott, 138
 social control, 5, 20; and absolutism, 13; in cities, 208–9; and community policing, 202–6, 210–12, 217n14–15, 219n42; and criminality, 103–4, 111; as deception, 26–27; and economics, 55–56; in Germany, 54–55, 88, 105, 116; as *gute policey*, 32; and information, 163; of sexuality, 82; of venereal disease, 79, 82–83, 86, 92. *See also* order; security; surveillance
 sovereign: and government, 13–14, 25–26, 49, 223; and law, 49, 57; and police, 56–57; power of, 47–48, 243–44; and social control, 20
 sovereignty: Benjamin on, 243–44; and government, 233–35; and power, 223–24; and violence, 239. *See also* subjectivity
 Spurzheim, Johannes, 132
 standardization: of police records, 155–56, 159–60; of technology, 151–54
 state: and community policing, 204; and economics, 50–52, 55–56; and law, 31–32, 48, 56–57, 246–48; and police, 52–53, 60, 68, 147–48, 232–33; and sovereign, 49;

- violence of 238–39. *See also*
 government; order; politics
 Stausberg, Hans, 105–6
 Stettenheim, Ludwig, 170
 Stout, Rex: *Fer-de-Lance*, 136–38
 subjectivity, 4, 181–82, 247
 Sun Tzu, 36
 surveillance, 5; and community
 policing, 204, 249–50; and
 criminality, 104, 107, 115; and
 power, 174–75, 190–91, 232;
 and social order, 33–34; and
 subjectivity, 181–82; as
 theater, 171–72

 Talmud, 132–33
 Tatar, Maria, 106–7, 110, 115–16
 technology: and cryptography,
 152–54; and information,
 149–50, 158–59; of policing,
 89, 148–49, 155–56, 174
 Tergit, Gabriele, 108–109
 terrorism: and border control, 230;
 and criminality, 224; and
 security, 249–50, 252–54; and
 state, 238–39; and war,
 228–29
 theater: censorship of, 62; lighting
 of, 172–73; and panopticon,
 170–71; and paranoia,
 183–84, 192–93; and police,
 63, 169, 176
 Thiemann, E., 155
 Thirty Years' War: and governance,
 in Bavaria, 15–19; and
 Maximilian I, 13–14; and
 taxation, 19–20
 Tomlins, Christopher, 204–5
 torture, 230
Touch of Evil (Orson Welles, 1956),
 138–39
 Truffaut, François, 167

 venereal disease, 79, 82–83, 86, 92
 Verner, Gerald, 136–37
 violence: of police, 239–40,
 245–46; and power, 222–23;
 of state, 238–39. *See also*
 terrorism; war
 visuality: and criminality, 99,
 103–4, 106, 112, 114–15; of
 police, 254–55; and record-
 keeping, 161–62; and theater,
 170. *See also* surveillance

 Wallace, Edgar, 103, 106
 Walsingham, Francis, 33
 war: and police, 230–31, 234–35;
 and security, 250–51; and
 terrorism, 224, 228–29
 Weber, Samuel, 244
 Weimar Republic: censorship
 during, 94n12; detective
 narratives during, 100–101;
 and order, 88–89; and police
 studies, 77–78
 Weiss, Bernhard, 100, 104
 Welles, Orson, 138–39
 Wiener, Norbert, 162
 Wilson, James Q., 211, 250
 Williams, Hubert, 207
 women police officers: and German
 national identity, 79–81, 90;
 and Great Police Exhibition
 (Berlin, 1926), 85–90; public
 image of, 78, 83, 87–88, 90,
 92–93; training of, 90–91
Wrong Man, The (Alfred
 Hitchcock, 1956): criminality
 in, 173–74, 176; as documen-
 tary, 167–68, 175; and
 Schiller, 169; surveillance in,
 174–76

 Žižek, Slavoj, 174, 176
 Zuse, Konrad, 158