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Notes on Police Assessment of Moral Character¹

INTRODUCTION

1. For Western societies, at least, being noticeable and being deviant seem intimately related. The notions that one is suspect whose appearance is such that he stands out, and correlatively that the sinner can be seen, have the deepest of foundations. Indeed, in Judeo-Christian mythology, human history proper begins with the awareness by Adam and Eve that they are observables.¹ The next bit of social information they there-upon learn is: To be observable is to be embarrassable.² The first social technique they learn is: They can by mutual regard achieve privacy.³ And then they learn the first terrible norm: The retention of privacy is conditioned on naive conformity.⁴

1.a If, in American society, it is the case that the inferences as to moral character which particular appearances may warrant is a matter of central concern, then: We expect that there are specialized methods for producing from the appearances persons present such inferences as to moral character as can warrant the propriety of particular treatments of the persons observed.

1.b It is the case that the relation of observability to deviance is of central concern. In public places persons are required to use the appearances others present as grounds for treating them. Persons using public places are concurrently expected by others to present appearances which can be readily so used, and expect others to treat their own appearances at face value.

1.c While the regulation of inferences (hence of treatments) by reference to appearances determines an elegant means for routinizing casual public interaction, it obviously has characteristic problems. First, what is to be done about those persons whose appearance suggests no clear inferences, i.e. whose appearance does not warrant particular treatments?

Second, what is to be done about those persons whose appearance is projected to take advantage of the enforced inferences others make in order to do the latter ill?

Third, what is to be done about those persons who consistently or blatantly fail to properly read

appearances, who consequently produce inappropriate treatments?

Fourth, what is to be done about those persons for whom the problem of properly reading appearances is dramatically tortuous?

In this paper I shall not consider "what is to be done." Rather, I am concerned with how those about whom that question may properly be raised are located.⁵

1.d As the appearances persons present are of central concern, so too are there specialized methods for producing the inferences that appearances warrant.

The concern of this essay is to move towards their description. I shall proceed in this direction by attempting a description of a method used by specialists—the police—for inferring from appearances such a probability of criminality as warrants the treatment of search and arrest.

My grounds for the choice of the police are as follows. First, the police are engaged, with others, in locating persons about whom the question may properly be raised: can they give a legitimate accounting for their appearance?

Second, they are, in contrast to others so engaged, specialized in the locating of candidates on the basis of the appearances presented in public places.

Third, as specialists, certain problems of the relation of the first two and the last two problems of 1.c. above need not be examined. That the police are specialists means that they are accredited for regularly recognizing possible deviants. Since the regular recognition of possible deviants, quite as much as the failure to produce a proper appearance, constitutes evidence for deviance (e.g. paranoia), the professional accreditation of the police provides a quick and easy test as to whether a claimed recognizer of deviants should be given diagnostic examination. The "public-spirited" citizen receives special and ambivalent attention.⁶ Since, then, I want only to deal with the location of persons presenting improper appearances, choice of the police avoids in general the question of the possibly symptomatic status of recognizances. Fourth, as specialists their methods ought to be reasonably easy to discover.

¹ Formerly titled "Methods in Use for the Production of a Social Order: A Method for Warrant-Infering Moral Character." This paper was written about seven years ago as a paper for one of Erving Goffman's courses at UC Berkeley. It is heavily indebted to a reading of his work and also to materials he presented in lectures, some of which he has since published in his books *Encounters*, *Stigma*, and *Behavior in Public Places*. It was also, and equally much indebted to those writings of Harold Garfinkel which were then available, and which have now been collected and published in his volume *Studies in Ethnomethodology*. During the period of its writing I received financial support as a Pre-Doctoral Fellow of the National Institutes of Mental Health, U.S. Public Health Service, and from the Center for the Study of Law and Society, University of California, Berkeley.

1.e Since I am only interested in the police instantially, I shall restrict the investigation to a domain of their work involving a special concern for matters with which persons in general are, albeit less inten-sively, also concerned. I shall describe a method used for recognizing "suspicious persons," and shall not be concerned with methods used for recognizing either "wanted persons" or those seen in the commission of an offense. While some evidence will be offered that the method the police use for recognizing suspicious persons is in general use,⁷ a demonstration of its general use will not be presented in this paper.

A FIRST SIMPLIFIED STATEMENT OF THE POLICEMAN'S PROBLEM

2. Among the Americans, the police are occupational specialists on inferring the probability of criminality from the appearances persons present in public places. Since a mutual orientation to appearances defines a means for producing and accepting the appropriate proprieties by which casual public encounters are routinized, it is important that these means be protected from exploitation. One central role of the police involves pro-protecting the viability of these means. Patrolmen are intensively oriented to the possibly improper appearances persons may present.

2.a The decisional problem faced has the following form: Maximize the likelihood that those who will turn out to be criminals and who pass in view are selected, while minimizing the likelihood that those who would

not turn out to be criminals and who pass in view are selected. This prob-lem is faced under the conditions:

1. that the persons seen are (differentially, to be sure) oriented to the character of their own appearances as grounds of inference as to probable criminality⁸;

2. that the value of correct and incorrect inferences are neither equal nor uniformly calculable prior to a treatment decision.⁹

2.b Others—for example, homosexuals while cruising—face a similar problem. For our purposes the latter differ from the police in the following way: The police are concerned to recognize persons concerned to make themselves unrecognizable as criminals. The homosexual is con-cerned to recognize homosexuals and to inform them of the presence of a colleague; he is also concerned not to be-recognized as homosexual by others, particularly by the police. The issue reaches maximal complexity when police seek to have homosexuals recognize them as colleagues for the purpose of having the latter engage in a move that constitutes grounds for arrest.

The police face a similar problem with prostitutes, junkies, and the like, and that class of persons also faces the problem of differentially

communicating, by way of their appearances, with potential clients, the public and the police.

THE METHOD IN USE: AN INCONGRUITY PROCEDURE: ITS BASIS

3. The method that the police are trained to employ may be called an "incongruity procedure." It constitutes an attempt to refine a method for observing persons based on the wisdom noted above (1).

3.a It begins with the fact that persons within the society are trained to naively present and naively employ presented appearances as the grounds of treatment of the persons they encounter in public places.

The treatments for which appearances are ordinarily used as grounds of selection vary widely, from, for example, deciding whether "that one" is such a one as one can pass in the street without fear of attack, illegitimate approach, etc., to how it is that one may properly pass, follow, or approach "that one."

3.b Since mutual orientation to appearances determines a means for producing and accepting the appropriate proprieties by which casual public encounters are routinized, it is important for the continuing viability of these means that they be protected from exploitation.¹⁰ The incongruity procedure takes recognizance that the facts of 3.a determine a weapon by which inappropriate treatments may be garnered. Persons may exploit an ability to present appearances to which they are not otherwise entitled.

3.c If a group can be trained to (1) avoid routinely treating appear-ances at face value, and (2) alternatively to view the persons they see as presenting possibly improper appearances, they can (3) attend to a variety of features, such as the ease with which an appearance is presented, which may (4) warrant empirical investigation of the propriety of the presented appearance. Some comment on these points is appropriate.

First, that a warrant is necessary, i.e. that conditions are restricted under which an empirical investigation may be pursued as to the propriety of a presented appearance, is expectable.¹¹ The elegance of the use of appearances depends primarily on the fact that appearances in general are not to be questioned.

Second, users of the method do not propose that they are able to state definitively what features they will use to decide that an appearance may be improper, i.e. does warrant investigation. It is perhaps obvious why this should be so. As the police are oriented to using appearances as evidence of criminality, so criminals are oriented to using appearances as fronts, i.e. as hindrances to recognition. Were a definitive list compiled, one to which the police would themselves be bound, it

would provide criminals with de-finitive information on the appearances to avoid in order to assure safe passage across the policeman's line of vision.

Given the latter two points, one central problem of the use of the procedure may be exposed: How is the proper use of the procedure to be decided in any particular case?

While I shall consider this problem further below,¹² because of their general relation to the above discussion I note here the general features of its solution. Instead of the proper use of the procedure being decided by reference to the correctness of the inference of probable criminality, the propriety of the inference constitutes the condition for determining whether the persons selected are possibly criminal. And whether the inference was proper is decided in the courts by having the policeman state what it was that aroused his suspicions; the judge (or jury) then considers whether an ordinary person would have been roused to suspicion on such grounds. Only if so is the person selected by the policeman convictable.

A PRELIMINARY DISCUSSION OF THE INCONGRUITY PROCEDURE IN USE

4. Given that police ply a route, they must, in order to use the incongruity procedure, learn to treat their beat as a territory of normal appearances. The learned normal appearances are to constitute background expectancies in terms of which the beat is observed during particular patrols. Given these expectancies the patrolman must so sensitize himself as to be arousable by whatsoever slight variations appear which seem to be warrantable bases for making of the explanation of presented appearances a matter for investigation.

4.a The novice policeman is obviously not in position to use the procedure. First he must learn how to see as a patrolman. By having a novice patrol with a mature officer, the former can be shown what it is that one can see by way of the method. The demonstration that may be offered can have a quite considerable charm.¹³

As he walks through his beat with a mature officer, persons who to him appear legit are cast in the light of the illicit activities in which the latter knows they are engaged. The novice is shown that he ought to see persons passing him in terms of the activities in which they are engaged. And the activities in which they are engaged are often more prurient than he might suppose. The lovely young lady alighting from a cab is now observable as a call-girl arriving for a session. The novice is shown how to see the streets as, so to speak, scenes from pornographic films. And what is more, he is able to see the illicitnesses under the conditions that few, if any, who observe him passing through the streets are able to see either that the officer is in such a scene or what it is that he is indeed observing. The

policeman, then, has the privacy of the stag show theatre, while parading the streets in full uniform, and, further, there is no noticeable entry or exit at which, if he is seen, embarrassment might be called forth.

4.b Training manuals provide the novice with lists of features constituting good grounds for treating persons who pass in his view.¹⁴ As we have noted,¹⁵ these lists are intendedly not definitive. They have an extremely interesting status. Aside from providing examples of the sorts of features any policeman ought to be attuned to,¹⁸ they operate as records in an expandable history of police success and failure. The import of those parts of the lists that consist of "great recognizances" or "great boners" is, to use Moore's term, autotelic.¹⁷ The policeman can attend to his route with an awareness that he can, by making an especially subtle recognizance, take a place within department history. That is to say, he is encouraged to engage, even when patrolling alone, in playing observation games; for example, glance at a store window, note to himself all the items that he can recall within it, then check back to see what he has missed or noted incorrectly. While such games are more readily played when police patrol in pairs, the attended history of recognizances permits the lone patrolman to play the games against the department's historical figures.

The persons on his beat can also reinforce the playing of observation games by expressing their amusement at his awareness when they make slight deviations from their normal habits. Then, too, the fact that one cannot pre-determine what information may turn out to be useful encourages the collection of seemingly trivial details because awareness of such details has occasionally paid off with an unexpected arrest which was heavily rewarded.

4.c What is normal for a place is normal for the place at a time. The meaning of an event to the policeman at a place depends on the time it occurs. The time at which it occurs is furthermore a matter of an over-lapping and changing group of cycles — that is, the meaning of an event is not merely a matter of the hour, but the day too is involved in deciding its significance; furthermore, the season counts, and then finally "while it didn't used to be that way here," now "such a thing is typical."

While in a sense these facts are obvious, it is obvious as well that sociological theories of deviance are not now constructed to deal with them. Yet even for demographic analysis such facts may be of real importance. For example, given the use of learned normal appearances as the grounds of locating suspect persons, we would expect that territories in transition will have higher crime rates than stabler territories simply because the policeman geared to the normal appearances of a beat may, not adjusting exactly to the rate and character of transition, be ready to see newer arrivals as suspicious for the beat seen as an area in

which they are not normal features.¹⁸

The time-ordered character of normal appearances poses a touchy strategic problem for the police. A patrolman can best be attuned to normal appearances by so scheduling his route such that he appears at places at the same significant time.¹⁹ In doing so he gets the closest awareness of the constancies and variances at that time for that place. But if his behavior is so scheduled, it provides criminals with definitive information about where he will be at a particular time, and consequently permits the scheduling of illegal events. In order to reduce the information criminals can gain by observing his course, the policeman is therefore concerned to randomize his path through a beat, i.e. to proceed through different ways each time, to double back occasionally, to take his breaks at different times and in different places. But doing this of course reduces his sensitivity to the normal appearances he uses to detect the presence of something awry or, to avoid that perhaps unfortunate phrasing, reduces his confidence that he can discriminate the peculiar because the range of what he uses as normal becomes more extended.

4.d The police treat the normal ecology of territories as a normative ecology. As sociologists describe them, cities typically consist of discrete ecological areas of socio-economic segregation. Juvenile gangs tend to treat the borders of ecological areas as boundaries. Persons who "don't belong" are seen as foreigners, and are subject to treatment as such. Their safe passage depends on the deference of the local lords. The police too treat ecological borders as of normative import. Persons whose appearance indicates that they are not normal members of an ecological area, e.g. whites in negro areas, the apparently poor in wealthy areas, etc., are subject to having a request made for "their papers" and an interrogatory made as to the reason of their presence.²⁰

Furthermore, as the police treat territories as a set of normal appearances, so they expect others to treat them.²¹

... Coming to a street intersection, the officers observed a man crossing the intersection who did not appear to know where he was going. The officers alighted from the car, questioned this man, and searched him. He provided the police with full credentials and indicated that this was the first occasion on which he had ever been questioned by a police officer. His answers satisfied the officers that this man was quite "legitimate." They thanked him for his cooperation and sent him on his way.

4.e Two related features of the use of the procedure involve the policeman's appearance.

1. Those who treat the presence of the police as other than normal are seen as other than normal themselves.²²

They were in search of "house jumpers"—who are individuals collecting current bet slips and who turn them in at a "drop" station . . . The officers indicate that they can determine who a collector is as a result of their experiences in dealing with these people. As an example, they indicate that if an individual gives them a "double look," they'll check him. By this the officers mean that if an individual sees them in their unmarked car and then turns to look at them once again, chances are the individual has some gambling paraphernalia on his person. In such cases, the officers leave their car and search the person in an attempt to uncover the current bet slips.

2. Conversely, as the police enforce on persons that they treat their presence as normal, so it is enforced on the police that they appear as they are expected to appear, i.e. that if they are present, their presence be apparent.²³

An officer attempted to develop an accosting and soliciting case through the use of a private and expensive vehicle. This case was thrown out of court upon the basis that "everyone knows that the police officers use cheap cars," and for a police officer to resort to the use of a Cadillac in order to develop an accosting and soliciting case constitutes entrapment.

Some time ago a handbook operation was going on in a downtown building. Since the handbook was located near the medical building, doctors dressed in white jackets sometimes frequented the place. An officer therefore disguised himself in a white coat and managed to place a bet. The case was thrown out of court on the ground that entrapment was involved.

4.f Given the orientation of the police to the beat as a territory of normal appearances, a notion of "normal crime" may be constructed. We may talk of the normal crime of an area not in terms of the statistical constancy of certain crimes for time units, but as that crime that is so managed within an area that those so engaged appear while so engaged as features of its normal appearance.

The notion of normal crime has the following import: given the orientation of the police, those routinely engaged in illegal activities will attempt to construct a front such that their routine appearance in a territory will (or can) be treated as a normal appearance of the territory by its patrolmen. Organizers of the numbers racket will, for example, employ those who have a reason for going through a neighborhood several times a day and stopping at a wide range of places. The newspaper deliverers and the mailmen are ideal.

Whether or not the numbers racket has happened to fix the patrolmen, it must adopt a front

for its routine collections and dispersals so that (a) public-spirited citizens and (b) various detective groups do not on observ-ing the area interpret their routine presence as "numbers men making pick-ups and deliveries." They must adopt this front not simply to avoid being noticed, but because if by some chance they happen to be noticed, the beat patrolmen who has failed to arrest must be able to reasonably claim that they simply appeared to him to be routine features of the territory, i.e.. that they gave him no good grounds for an aroused suspicion.

4.g We have noted above (3.c) that it is not the case that the proper use of the method is determined by the demonstrable correctness of the inferences produced.

The general warrant of the method is not based on the professional status of the police; its general warrant is that anyone can see its plausi-bility. Its warrant in particular cases is that the inference made is one which ordinary persons would make. This means that the policeman is not simply concerned to develop his sensitivity. He must balance his sensitivity against his ability to verbalize, i.e. to present descriptions of how he became, aroused. And what is more, though he is a specialist on the normal appearances of his beat, his inferences are judged by those who lack both his special knowledge and his developed sense of the unusual.

While the police would like their special skills in observation to consti-tute grounds of a recognition of their professional status, and their professional status to then operate as a preliminary warrant of their observations, the fact that the warrant of their observations is decided by a test of reasonableness for an ordinary man is not only irking but also places them in a severe bind.

Apart from the fact that they then tend to see the courts as hindering them in their work and in their search for professional status, they feel required to adopt a series of unpleasant adaptations.

1. The method of recognition and the method of presentation may become separate issues. The policeman may feel himself forced to "rationally reconstruct" what happened.²⁴

A court officer noted that a particular police officer would behave in the following manner:

He would state that he saw defendant come down the street, knew him as a long time police game operator, stopped him, searched him, found policy tickets, and brought him in. The prosecutor would advise he had no case as the search was not legal, and unless the search was made pursuant to a lawful arrest, the evidence was inadmissible. The officer would then say "put me on the stand." When on the witness stand, he would testify he was standing under a street light when the defendant came by, a man known to him to have been previously convicted of

policy violation, and that he saw his policy ticket sticking out of the defendant's coat pocket. Thereupon he arrested him, searched him, and found a number of such tickets and brought this prosecution.

The court officer noted, in this case, that in one year two individuals each obtained \$5,000 damages against this officer for false arrest. He was encouraged to resign from the force with his pension rights intact.

2. Once information has been gathered about criminal activities, the police may engage in staging observable crimes. For example, if the police know that someone is selling dope, they may—because they cannot say that the fellow was seen selling dope, only that an exchange of something was seen—arrange through the use of hired addicts for a purchase to take place which is sufficiently observable for recounting in court.

The staging of crimes is especially messy. First, the police may have to employ persons who would otherwise be institutionalized. In doing so they assure these persons at least a temporary freedom, sometimes indeed to pursue their illegal endeavors.²⁵ Second, where they are unable to get hired hands, they may themselves have to spend time in such activities as smiling in public toilets, making time with the lonely women who frequent bars, etc.

A SECOND SIMPLIFIED STATEMENT OF THE POLICEMAN'S PROBLEM

5. A policeman takes it that the persons he sees engaged in passing through the streets are oriented to a social order in terms of whose features they select the proper or improper courses of action which bring them to use the streets. His aim is to find a way of making activities observable in the particular sense of allowing him to see the passing of persons in terms of the courses they have selected.

Typically, he is in a position merely to observe persons passing in the street and does not engage in fully tracking their paths from entry to the streets to exit therefrom. In locating persons who are to be candidates in a test of their possible criminality he does not begin with information about the courses in which they are engaged. That they are possibly engaged in illegal activities must first be decided by way of the incongruity procedure, i.e. by way of a device for locating candidates from the set of observed persons.

Once located, his concern is to produce information about the paths candidates select and then to transform the information about the paths they select into evidence of the courses they have selected. He seeks, that is, to transform information about the paths candidates select into a descrip-tion of a set of acts which may be seen as the assembly of a crime.

His problem then seems to be:

Given that

1. he encounters persons in and by way of the streets, persons engaged in undetermined activities;
2. the activities are taken to be parts of selected courses of action constructed with an orientation to their propriety;
3. candidates for investigation are located prior to tracking their paths or knowing the course of action in which they are engaged;

Then:

How, by way of their street activities can one look at persons so as to be able to use their appearances to isolate candidates for investigation, and

How can one then use what candidates do both as materials for discovering the courses of action in which they are engaged, and for determining in terms of those courses, that sense of their observable acts on the basis of which a strategy may be generated for demonstrating the observable character of their activities as the assembly of a crime ?

5.a While the police might treat the streets as merely incidental locales of the persons they encounter, in fact they treat the streets with great seriousness. The police take it that what takes place in the streets stands in a determinable relation to that organization of concerted courses of action which involves persons in using the streets. If they discover who to investigate, then by tracking him they can at least determine the strategic problem that exposing the course to which he is oriented poses. Exposing the course itself will not be a problem patrolmen will be concerned with. But it is their job to determine who is to be tracked.

5.b As the police take it that those engaged in illegal activities do not randomly use the streets, so too persons routinely engaged in illegal activities are concerned to regulate the activities of those of their agents who use the streets in the course of work so that the use does appear random.

Persons who organize illegal activities are concerned to minimize the clues that use provides to those who might, by analyzing street activities, expose the organization regulating those activities.

However, the strategic problem they face in doing so involves them in a bind similar to that the police were shown to face (4.c). Organizers of a numbers operation will, for example, regularly move the stations to which route-men go in delivering their slips. They may also attempt to have route-men vary the way they proceed through a territory. But the attempt to randomize has its drawbacks. Persons making purchases are kept in a far more viable mood if those they deal with keep a regular schedule. Then, too, those who keep a regular schedule will, if they are not held in suspicion, be less likely to arouse suspicion.

For the police, the problem of locating the persons using the streets as parts of coordinated illegal activities has a different purport than that of locating persons engaged in sole crimes. In the former case it is the organizers they seek to make observable, and the persons using the streets constitute not the sought-for criminals but possible resources by which organizers may be located. The police are oriented to the organizers, and are by and large willing to let the street operatives alone, because they are aware that those who use the streets are readily replaceable, and because, insofar as the organizers are not located, arrest of street operatives means only that the work of exposing the organization must begin again from the beginning, i.e. with an attempt to locate and track their replacements. Organizers, on the other hand, cannot rest content with the fact that their street operatives are not being bothered. For, even if this is so, it may be the case that the police are accumulating information that may soon be sufficient to crack the organization itself.

5.c Encountering by way of the streets what is taken to be a managed social order has a wide range of other imports.

1. Police seem often to treat an area as an "expressive unit." Suppose they see a group of persons standing on a street corner. The meaning they attach may be neither behavioral (e.g. how crowded they are) nor be conceived in terms of the conduct of those persons (e.g. what they are up to). A group of persons on a street corner may be seen as "the neighborhood is restless tonight," i.e. as a gesture of the territory. Conversely, in producing their own responses to neighborhood gestures they see their own actions as an answer to the neighborhood. Thus a policeman, having felt that the young toughs are getting over-rowdy, may pick one out and rough him up, taking it that this will be seen as instigating, as a remark that such persons had better get back in line. While such remarks often seem to be understood, i.e. the one that was beaten up takes it that he is incidental, and the others take it that police intend them to calm down, it seems also to be the case that when communication failures occur, the recipients of a gesture may experience both puzzlement ("why me, I was just standing on the corner?") and may have a hostility towards the police reinforced ("they have to maintain a quota of arrests, and don't care who they take in" or "they just pick on us, so what is the use of playing straight?").²⁶

2. They also take it that the appearance of a neighborhood is attended to by those who pass within it as the shape in which it is maintained by the police. Thus, they may feel called on to make arrests because they feel that persons passing can see that the police see unshapely activities going on.²⁷

The wretched man positively insisted on being arrested. I'd been watching for a long time. And I

didn't see how I could let him carry on much longer like that. He might get killed. Or someone might make a complaint at the police station. Then where would I be? There were a lot of people watching him and I thought most of them knew I had seen him. They would be thinking it was time I did something about it. They couldn't be expected to realize that I was a policeman who had never made an arrest. I could almost feel them looking at me, wondering how long it would be before I went into action.

If only he would actually get on to a bus it would be all right. He would be whirled away, out of my uncomfortable little world, in no time at all. But he never did get on to a bus. He tried often enough, but usually the conductor waved him off, or he waited too long, grabbed wildly at the handrail as the vehicle drew away and, losing his balance, went reeling into the gutter. What a skinful he must have had! He was as tight as an owl.

3. For the police, the range of sights, sounds and the like which they observe while going through the streets is conceived in terms of the access these might give to private places. If the private places of a territory are the dominant setting for its activities, then the police attend to the streets with a highly refined sensitivity. Persons living in suburban areas report that "the only way" they can walk in the streets at night without being stopped by the police is if they can get a dog to accompany them. And the police chief of Beverly Hills notes that even this may not be sufficient, since his police are familiar with the persons and dogs who make a habit of walking at night.²⁸

4. For the police, objects and places having routine uses are conceived in terms of favorite misuses. Garbage cans are places in which dead babies are thrown, schoolyards are places where molesters hang out, stores are places where shoplifters go, etc.

5.d For the police, each patrol of a beat is conceived as potentially adding items to a cumulative set of values; they want a patrol to count. What any patrol may, however, add to (or subtract from) an assembled body of knowledge, reputation, security, opportunity, etc. may vary considerably.

Given that some sort of mathematics seems attended to in the patrol

as an occasion within a continuing set of occasions, we can appreciate the police concern with the matters that are seen as unordered, for example, the fact that "breaks," i.e. unexpected large accumulations (or losses) of units occur at undetermined points within a career. A policeman may, whether rookie or oldster, happen upon a crime in its course which, because of the public attention it gets, assures him then and there of fame and promotion. Or an old policeman, having assembled a large collection of units of value, may suddenly be caught in a compromising situation,

and see himself stripped at a point when re-assembly cannot be looked forward to. Or a policeman who knows the habits of the crooks he usually deals with may encounter a young hood who, being unaware of the business relations regular crooks and regular cops arduously establish, on being caught, fires and kills the cop.

The import of these unordered contingencies are, quite simply, that talk of the "course of a policeman's career" must recognize that the policeman is never able to say at what point he currently is in his career. Where he is now is radically a matter of where he will have turned out to be. This corner he approaches may be the corner at which he will have been killed.

5.e That the police seek to be professionals is well known.²⁹ While this might be accounted for in terms of a general search for status, one basis for the status seems to be their concern, and the concern of those they deal with, i.e. criminals, to develop means for establishing their relation as business-like, i.e. as impersonal, code-governed, etc.

The police claim that crime is a business is not merely a cry on their part for more adequate means to attack crime. It is as well an attempt to suggest, given quite limited means, that if criminals behave reasonably the police, too, will try to do so. The persons feared most by either side are the green groups of the other. The new criminal is felt to be most dangerous; the old pro, trustable, almost a partner. And the criminal, too, is much more afraid of the rookie cop than of the veteran.

Throughout this century, each generation of oldsters seems to see the young members of the other as over-ready to engage in unwarranted violence, and to remark to their co-generationists about the businesslike relation they might have were it not for the young hot-heads.³⁰ A business-like relation need imply no bribery, of course; merely that minimizable risks be minimized.

NOTES

1 By the term "being an observable" I mean having, and being aware of having, an appearance that permits warrantable inferences about one's moral character. This use conforms with a usual use of the term "observable" as the object which an appearance permits inferences about. I might note that the use of the range of terms such as "appearances," "inferences," etc. is not a matter of philosophical or other like election. They are used simply because they seem the most empirically appropriate terms.

2 While I shall not focus on the matter in this essay, the central sociological status of the "possibility of embarrassment" is strongly suggested by its prominence in Genesis. Not only is it that the first human encounter with God begins with embarrassment, but the treatment of Cain suggests

that, if only to avoid embarrassment alone, a conforming life is recommended. He, we recall, is condemned not to death, but to "observability for life."

That these are not merely arcane issues is accentuated by the concerns of modern literature. For example, each of the major works of the great social analyst Franz Kafka begins with, then develops a description of, what life is procedurally like after the transformation of the hero into an observable.

3 Although, again, I shall not focus on the matter, some remarks on privacy are in order. For the society under consideration, giving a public accounting is about as serious a situation as one can face. Furthermore, given the concern to use the appearances persons present in public as the materials for deciding their proper treatment, privacy is not merely valued, but is enforced. In routine interaction others need not attend to one's actual grounds of conduct. Indeed, within the bulk of legal situations "actual grounds" are enforceably excluded; one enforceably attends only to the typical grounds appearances suggest. See further the author's *The Lawyer's Work*, mimeo.

4 Conformity is not sufficient. It is the comfort with which one wears conformity that seems critical, as the ensuing (esp. ss. 4.) shall suggest. If this is so, it may lead to the development of an explanation for such data as Messinger's, *Sociometry*, v. 25, 1962, pp. 98—109, where the trouble ex-mental patients felt was a lack of comfort with their conformity.

The position noted in the text has been expressed most dramatically by Emerson:

Commit a crime, and the earth is made of glass. Commit a crime, and it seems as if a coat of snow fell on the ground, such as reveals in the woods the track of every partridge and fox and squirrel.

Quoted in *Nightstick*, by L. J. Valentine, 1947, New York.

6 Let me note, however, that the question "what is to be done" is handled quite widely by requiring of a properly located candidate that he offer an accounting for his appearance. If a person is competent to reasonably answer "why" questions, then that seems to stand as an indicator of his competence to regulate his affairs.

While one might suppose that the term "reasonably" is the sticker here, it does seem to be the case, perhaps curiously so, that even when persons are under interrogation for possibly serious offenses, ones for which their lives may be at stake, confessions can be garnered by saying to them that what they have said at some point is inconsistent with what they have said at another point. One might imagine them to say "How can it be inconsistent; I said both those things," or et cetera. A preliminary investigation of the method of interrogation suggests that while in exploration of what goes on in such situation is of great interest, it

is by no means to be supposed that persons take lightly the reasonableness, consistency, clarity, and so on, of their answers, and may well be more concerned with preserving their claim to consistency than their claim to innocence.

Persons whose competency is denied, i.e., who are not given the right to state the sense of their actions seem to find the situation of interrogation tremendously frustrating.

6 The public-spirited citizen is not simply someone who responds with moral indignation towards perceived offenses; he is one who adopts an organization of observations—and indeed attends the world—so as to produce and explain with respect to legal system notions, the behavior of his neighbors. Below are some excerpts of what seems to have seemed strange.

... A complaint was received to the effect that neighbors suspected that a woman was a "bookie." The complainant, who remained anonymous, indicated that this woman has been boasting of her winnings on the horse races and has been purchasing clothes and furnishings in excess of what she is capable of purchasing on her husband's earnings as a mail carrier. Neighbors also indicated that a man visited the house each morning and left something in the mailbox, vol. 11, p. 61.

... Some patrons of a bar reported to the local police that they believed gambling was going on there because two or three other patrons seemed to have quite a bit of money and no visible means of support, p. 62.

The above quotes are from pp. 61 and 62 of volume II, *The Administration of Criminal Justice in the United States*, Pilot Project Report, American Bar Foundation. This study will hereafter be referred to as ABF.

7 See ss. 4.g. below.

8 See ss. 4.f. below.

8 This feature is of course crucial to the problem of bribery. Failures to arrest may have low visibility. The surprise situation of halting for interrogation prominent citizens and officials, and the generally negative but occasionally positive gains to the policemen are well known. See further ss. 5.d.

10 It is perhaps because of this orientation of the police that the most dangerous of persons are felt to be the person who uses his appearance as a policeman to cover his crooked acts. The members of the Denver police force who were also thieves used police cars as look-outs. Gosling, in *The Ghost Squad*, 1959, notes that criminals who presented the appearance of detectives were a matter of tremendous concern because of their effect in undermining public certainty about the import of apparent police status.

11 While, given the means of routinizing casual public interaction it is expectable that persons need good grounds in order to make the explanations of appearances a project for empirical investigation,

this fact that they do need good grounds is by no means of trivial status. The norm "do not investigate, unless a problem is warrantable" may be the practical theorists' correlate of the scientist's norm of elegance. Theorists who warrant their investigations on the grounds that they will have no practical import are perhaps producing a warrant of the sort although there is no good grounds for investigating this, it is investigatable because nothing practical will come of it. If something practical will come of it, then good grounds may be needed. Cf. the emergence of sociology from the study of recognized social problems.

The normative import of knowledge of the world held in common seems such that those who will make of this knowledge a problem must first suggest the troubles we now have with its use.

12See ss. 4.g. below.

13See McAllister, R., *The Kind of Guy I Am*, New York, 1957.

14See e.g., ABF vol. 5, pp. 1-19 to 1-29, or Callan, G. D., *Police Methods for Today and Tomorrow*, ch. 3, Newark, 1939.

15Ss. 3.c. above.

18"Milwaukee recruits are instructed that if they observe a young man crossing the street with an overcoat on, collar up, and hat pulled down, in warm weather, they are to suspect that he is a burglar." ABF vol. 5, pp. 1-19.

17Anderson and Moore, "Autotelic Folk Models," *The Sociological Quarterly*, Vol. 1, pp. 203-16.

18If one feels that it is strange that the rate of crime vary with the suspiciousness of the police, one probably has in mind crimes of violence or robbery as typical crimes. And these might be expected to be reported by the public. However, such matters as gambling, prostitution, dope selling depend for being listed in statistics on the ability of the police to locate arrestable persons.

19By significant time I mean only that "the same time" may not be the same clock time. It may be "closing time" or "dinner time" or the like.

20Ibid., pp. 115, 123.

21ABF vol. 2, p. 118.

22Ibid., p. 120; see too Gosling, op. cit., p. 56.

23Ibid., pp. 137, 138.

24Ibid., p. 160.

25For example:

After an unsuccessful effort to contact a source of supply for narcotics, the following occurred: The agents took Myra to A Street, somewhere near B Street where she was to begin hustling. Myra mentioned that she had not been picked up by the police for the past two weeks for some reason she could not explain, but facetiously guessed that the Detroit police "must know I've been copping for the Feds." Ibid., p. 90.

26See O'Connor, Len, *They Talked to a Stranger*, 1957, passim.

27Thorp, A., *Calling Scotland Yard*, p. 9, 1954.

28Anderson, C. H., *Beverly Hills is My Beat*, 1960, pp. 33-4.

29One training manual states the matter neatly:

"Once a man has chosen police work as a career, he should do his part to make it a profession." Towler, *Practical Police Knowledge*, p. 58, 1959.

30"Once or twice he had gotten close to Sutton, but the wily bank robber seemed to have a second sense that told him Phillips was closing in. Phillips had picked up a former partner of Sutton's, and hoping for a lighter term than he faced, he had told Frank a lot about the fugitive. 'I seen Bill Sutton six weeks ago,' the prisoner said earnestly. 'He knows you're after him and he don't like it. Sutton never used a gun in his life, but he swears he'll kill you if he ever catches up with you. He's never forgotten what you did to Eddie Wilson.'

"He didn't tell her about this, but one of his partners did. When she mentioned it to him he laughed, 'Sutton is a professional like I am. He knows I have nothing personal against him. He's a crook; I'm a cop. He knows the rules of the game as well as I do. To Sutton I'm a business rival — nothing more. That punk I collared who sang about Sutton was just trying to make things easy for himself.'

"And so it proved. When Sutton was finally caught he told Phillips about the rumors he had heard about his reported personal vendetta against the detective. That bothered me,' Sutton said. 'Sure I was afraid you'd make me some day and grab me, but I knew there was nothing personal about you trying to collar me. Shooting a cop is for these trigger-happy young punks who are loaded with junk. I'm a bank robber, not a killer, Frank. Believe that. Of course,' he added with a grin, 'there were some days when I didn't like you so much. . . .'"

Reynolds, Q., *Headquarters*, pp. 15-16, 1955.

Notes, pp. 294-296 447