

The Management of Police Killings

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Introduction

ALMOST FOUR YEARS AGO IN THE FIRST ISSUE OF *CRIME and Social Justice*, TAKAGI (1974) presented an analysis of police killings of civilians and of police officers killed in the line of duty in the United States. He examined the deaths of male civilians over 10 years old caused by police intervention during a 10-year period and noted the dramatic increase of civilian deaths (especially blacks) caused by the police between 1962 and 1969, a period of intense political struggle and popular militancy. The death rate for blacks was found to be consistently nine times higher than for whites for the entire period of 1950–1968. At the time of Takagi’s study, police killings of civilians had received virtually no attention, except in the studies of Robin (1963) and Knoohuizen et al., (1972).

Since 1974, a number of additional studies have appeared on this subject, including an important policy statement by the Ford Foundation’s Police Foundation (Milton et al., 1977; hereafter referred as Police Foundation report). In this article, we (1) present additional data to update the earlier Takagi study, (2) critically analyze new studies of police killings, and (3) examine the ideological and strategic premises underlying state efforts to *manage* police killings of civilians.

Police Killings

Table 1 shows that white males continue to be killed by the police at a rate of 0.2 per 100,000 males ages nine or over. There was a slight increase in the deaths of white males in the 1965–1968 period, but this leveled off to the previous rate in the next four years.

**Table 1: Civilians Killed by the Police
(Rate per 100,000 for Males Nine Years and Older)**

Year	White Males	Black Males
1969	.23	2.37
1970	.22	2.13
1971	.29	2.29
1972	.18	1.81

The rate of black males (ages nine and over) killed by the police continued to increase, a trend that started around 1962. It reached an all-time high of 2.4 per

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100,000 black males ages nine and over in 1969. The rate of police killings of civilians dropped sharply in 1972, a year in which a total of 300 killings was reported, in contrast to 412 total killings in the previous year. But police killings increased to 376 in 1973 and 375 in 1974. We were not able to obtain racial breakdowns for these years at the time of writing of this report.

What about police officers killed in the line of duty? In Table 2 below, we present the rate of death per 100,000 police officers classified as homicides.

**Table 2: Police Killed by Citizens
(Rate per 100,000 Authorized Police Personnel)**

Year	Rate
1971	31.06
1972	24.93
1973	27.19
1974	26.14
1975	24.72

The rate of police killed continues to fluctuate from year to year with no discernible trend. Takagi noted in his 1974 study that the killing of police officers peaked in 1967, with 29.9 deaths per 100,000 law enforcement officers. The rate dropped in the following year, but increased in 1970 and reached an all-time high of 31 deaths per 100,000 police officers in 1971. But as shown in Table 2, the rate dropped in 1972 and fluctuated around an annual rate of 25 deaths per 100,000 from 1972 to 1975.

Takagi's 1974 study reported the steady five percent growth in the number of authorized police personnel for California from 1960 through 1972. The pattern continued to hold nationally for the years 1971 through 1975, although national figures may reflect an increase in reporting agencies. There were 415,385 authorized police personnel in 1971, as reported in the FBI Annual Report. The number of personnel increased by 10% in 1972. The FBI reports a total of 521,764 authorized personnel for 1975, an increase of 20% over 1971.

The various reports (Kobler, 1975a, 1975b; Kania and Mackey, 1977; Police Foundation report, 1977) on homicides of and by the police published since 1974 agree upon and use the same data set. They all, including Takagi, rely upon quantitative data, neatly condensed into categories amenable to statistical manipulation. Where they differ from Takagi, however, is in the interpretation of data and implications for policy. Kobler fails to appreciate the full significance of his data and advocates utopian restraints on police violence; Kania and Mackey essentially argue that communities get the number of police killings that they deserve; and the Police Foundation is primarily concerned about the growing cost, financial and hegemonic, of unregulated police violence.

The “Justice” Model

In “Police Homicides in a Democracy,” Arthur Kobler (1975a) examines the same set of data as did Takagi and notes the marked increase in police killings of civilians in recent years. Kobler, however, fails to convert the raw data into rates, thereby totally ignoring the crucial fact that black men have been killed by the police at a rate nine to 10 times higher than that of white men. Similarly, Kobler notes the consistency of a 1 to 5 ratio of police killed to civilians killed. He implies that the two distinct phenomena are somehow related, but does not investigate further or provide an explanation.

Kobler’s (1975b) second article, “Figures (and Perhaps Some Facts) on Police Killings of Civilians in the United States, 1965–69,” is based upon newspaper reports collected via clipping services. Despite the obvious limitations of such data, which Kobler recognizes, they allow a more detailed analysis of the circumstances of police killings than do quantitative data. (See, for example, Knoohuizen et al., 1972). Kobler, however, wastes this opportunity and converts the data to the same form used by government reports, namely, the time, date, and month of incident, location, age and race of deceased, presence of weapons, etc. Complex social phenomena are thus reduced to nominal categories.

Kobler did examine the race/ethnicity of the civilians killed by the police. The figures are white 43%; Spanish American 13%; black 42%; other (American Indian and Asian) two percent. This is an extremely important finding, the significance of which escaped Kobler completely. Since the United States Public Health Service, which issues the annual *Vital Statistics*, does not identify national minorities with the exception of blacks, Native Americans, and Asians, the nonwhite category, the data on white male civilians killed by the police are actually inflated by including in this group two oppressed national minorities, the Puerto Ricans and Mexican Americans. Assuming the generalization from Kobler’s findings that 13% were Spanish Americans, and adding this to the nonwhite group, it follows that 57% of the civilians killed by the police were national minorities. If the correction factor is added to Takagi’s study, black males were killed by the police at a rate *13 times higher* than for white males and not the nine to 10 times rate previously reported.

Kobler recognizes that police killings have got out of hand, but his solution is simplistic and utopian. Having evaluated the laws and regulations governing police use of firearms, he recommends that police administrators need to stringently enforce such regulations and that police who kill citizens improperly should be vigorously prosecuted. Without stricter application of regulatory and legal sanctions, according to Kobler, ghetto communities will continue to be suspicious of, and hostile to, the police and courts, as well as to the political system that law enforcement represents. This concern for the legitimacy of the state is, as we shall later discuss, made much more explicit by the Police Foundation.

Kobler’s faith in the rule of law and administrative regulation is similar to those

who advocate the “justice model” in penology. As the Schwendingers have noted (1977), this model “is not geared toward any fundamental changes in structural and administrative relations: it focuses instead on discretion, behavior of lesser state functionaries, and workers.” Kobler reduces police violence to a problem of administrative regulation, rather than locating it in the context of the overall repressive capacity of the state. He also assumes, without any evidence, that the police are a potentially neutral institution and that the legal system can harmonize class antagonisms.

Legitimizing State Violence

Whereas Kobler finds individual police officers responsible for killing civilians and seeks to regulate them, Kania and Mackey (1977) put the blame on the victims’ immediate environment. Causative factors, according to Kania and Mackey’s study of “Police Violence as a Function of Community Characteristics,” are not found in attributes of individual police or victims, but rather in the properties of the community. This criminological approach, which is elaborated in particular by James Q. Wilson’s (1975) *Thinking About Crime* (see editorial in this issue), is a variant of the positivist-empiricist paradigm. In this specific version, characteristics of the community cause the police to behave in violent ways; in short, the community is at fault. In this way, the causes of unemployment, poverty, and racism, which have produced the old and the new ghettos, and the role of the police to protect class interests, are not examined at all.

Kania and Mackey examine the same data set as Takagi did. But to obtain a wider database, the total number of police-caused homicides is cumulated for a 10-year period for each of the 50 states. Rates of police-caused homicides are calculated and the states rank ordered.

Kania and Mackey identify several indicators of socioeconomic conditions and correlate them with the rate of police violence. The indicators are: receipt of food stamps, crude birth rates, receipt of welfare aid, homes without hot water, crimes reported to police, violent crime exposure of police, homes without television, homes without access to a car, and persons over 25 years old without a high school diploma. All of these indicators are found to be statistically correlated with the rate of police-caused homicide. The highest correlations are: violent crime exposure of police, .812, and public homicide rates, .8295.

The investigators then employ a statistic, *lambda*, to measure the relative strength of the associations and find that the variables “violent crime exposure” and “the public homicide rate” have the highest “predictive value.” Kania and Mackey conclude:

It can be predicted that, as the level of community violence will fluctuate, so will that of police violence.... Thus the police officer is reacting to the community as he perceives it, a perception which is usually correct.

The research procedures employed by Kania and Mackey contain serious methodological errors. When they employed Spearman's rank-order correlation (*rho*) of ordinal and interval type data, it simply measured the association of two phenomena. Spearman's *rho* measures the extent to which the two phenomena go together without implying all A is B, or the extent to which all B is A. Thus, the statistical findings (see their Table 7) merely show that police-caused homicide rates are mutually associated with several variables that indicate poverty conditions.

Kania and Mackey argue that there are three possibilities that could explain the relationship between police-caused homicides with what they call the societal matrix. "First, the societal matrix, or some part of it, directly causes, or creates conditions which cause police homicides. Second, police homicides produce the societal matrix," which they reject as being absurd. "And third, the matrix, which includes police-caused homicide, is produce by a third factor, or group of factors, as yet unknown," which they also reject, as there is nothing in the literature to suggest what this hypothetical factor might be. In this way, Kania and Mackey by fiat designate the direction of the association by making police-caused homicide the dependent variable and apply incorrectly the statistic, *lambda*, to conclude that the *cause* of police violence exists in the community.

Let us, however, accept for the moment the logic of their research and deal with the findings on their terms. All of the variables, including "police exposure to violence" and "public homicide rates," indicate that poverty conditions are related to police violence. Kania and Mackey could have examined the unemployment rate, but unemployment measures are notoriously unreliable. What about the percentage of national minorities in the state population? We took Kania and Mackey's police-caused homicide rate and correlated it with William Nagel's (1977) rank ordering of the states on the percentage of blacks in the population. Bearing in mind that up to 13% of those killed by the police are Puerto Ricans and Mexican Americans, which would affect the rankings of California, the southwestern states, Florida, and New York, we nevertheless obtained a *rho* of .685, making it the third-highest correlation in Kania and Mackey's Table 7.

There is considerable evidence supporting the correlation between unemployment and minority status, especially among black youth. As criminologists have studied hidden delinquency by employing self-reported violations of the law, the National Urban League (1977) has recently used the same method to get at hidden unemployment. Their findings indicate that 60% of all black teenagers who wanted jobs in 1976 could not find work. If the 60% unemployment figure among black youth holds for each of the states, then Kania and Mackey would have to explain the configuration of four factors: unemployment (or subemployment), percentage of national minorities in the population, homicide rates, and violent crimes. Fortunately, we need not speculate. Brenner (1976) reports that an increase in the unemployment rate by a mere one

percent sustained over a period of six years results in a subsequent 30-year period increase in the following social pathologies: homicides, suicides, cirrhosis of the liver (alcoholism), cardiovascular diseases, penal commitment, and mental hospital commitment. Criminologists are familiar with the relationship between race and homicide, race and penal commitment, and race and alcoholism. By examining a textbook in medical sociology, we find race to be related to suicides, mental hospital commitments, and cardiovascular diseases.

While the theoretical linkage between unemployment and social pathologies needs to be elaborated, there is empirical evidence not only from Brenner's study, but also from studies of families during the Great Depression of the 1930s, to show the devastation it has on social relations. The root cause is the historical process of capital accumulation: "the immense mass of social wealth and functioning capital, the extent and energy of capital accumulation, the growth of the absolute mass of the proletariat and the productiveness of its labor, the increasing relative mass of consolidated surplus population, and finally, the misery of 'official pauperism'" (Braverman, 1974: 401).

The official unemployment rates of anywhere from six percent to 10% conceal the subemployed and the pauperized layers of the population. Braverman (1974) analyzes the findings of the Census Employment Survey on the relation between poverty and the job market. In linking together the chain of unemployment statistics, individuals who earn less than \$3.50 an hour (the poverty level for supporting a family of four), discouraged non-job seekers, involuntary part-timers, and the officially unemployed, the average for all sampled areas in the United States comes to 61.2%!

In this broader context, Kania and Mackey's findings take on a different meaning. Why didn't these authors examine test variables, such as race and unemployment, variables long recognized in the criminological literature as crime-related factors. Why didn't they test for spuriousness or elaborate the original relationships? The errors in this article cannot be understood only in terms of methodological incompetence. Its categories of analysis are rooted in a profoundly anti-working class ideology which, following James Q. Wilson (1975), has considerable support among leading criminologists. Ironically, the editors of *Criminology*, in which Kania and Mackey's article appears, criticize the criminal justice field for its "anti-intellectual amateurism" and "mechanical hyperpragmatism." They could not have found a better example anti-intellectualism, pragmatism, and shoddy scholarship than Kania and Mackey's article, which they chose to publish.

Managing Police Violence

The Police Foundation's (1977) *Police Use Deadly Force* is a study of "misuse of firearms" in seven cities (Detroit, Washington, Birmingham, Indianapolis, Kansas City, Portland, and Oakland), selected according to criteria that limit the general application of its findings:

Selection of cities for case studies ultimately did not involve a particularly complicated formula, but had the general goal of encompassing a wide range of settings (e.g., geographic balance, varying crime rates, and so forth), styles of administration, and police policies. Nevertheless, there were some essential criteria: the cooperation of local police officials was of paramount importance..." (1977: 7).

After acknowledging that "the small sample size does not allow statistically significant conclusions to be drawn at levels usually acceptable to behavioral scientists," the report goes on to draw conclusions based on this data, and recommends them to officials (p. 13).

Like the other recent investigations, the Police Foundation's report minimizes the significance of nonstatistical data and fails to investigate the concrete circumstances of police killings. There is no attempt, for example, to relate Birmingham's high rate of police killings of civilians to the department's notorious racism. Similarly, Oakland's police department is praised for its superior firearms use policies, even though it is currently engaged in a cover-up of Officer Michael Cogley's murder of Barlow Benavidez, whose head was blown off by a shotgun during a search—in clear violation, *at the very least*, of the department's gun policies.

Although the Police Foundation is concerned about the high level of police killings, they basically defend the police when they argue that "almost all persons shot were seemingly (*sic*) involved in criminal incidents—either directly engaged in illegal activity or acting in a suspicious manner" (p. 23). Thus, the report collapses into a single category teenagers shot in the back while acting "suspiciously" and armed robbers who shoot it out with the police. Moreover, the finding that 310 of 320 police killings of civilians occurred in the context of "crime control" (four were classified as bystanders, five were police officers shot by police, one was a civilian shot while attempting suicide), is both a gross distortion of the facts and inconsistent with other evidence.

The apologists for police violence attribute the killing of black males to their high rate of index crime violations. They typically compare the number of blacks arrested for index, especially violent, crimes with the rate of death by police intervention. In examining the history of police killings of blacks according to arrest rate, index crimes, and violent crimes, however, we find no evidence to support the argument that black males commit these crimes at a rate 13 times higher than do white males.

Knoohuizen's (1972) detailed case-by-case study of two years of police killings in Chicago finds, on the other hand, that fully one-third occurred under highly questionable circumstances and indicated serious violations of the criminal law and departmental regulations. In support of this conclusion, Kobler (1975b) reports that 30% of the civilians killed were not involved in criminal activity; 27% were engaged in property crimes; and only 20% were killed during the commission of

a “dangerous felony.” This is confirmed by the FBI’s 1974 study, which reported that of police killed on the job, only 18% were investigating a robbery; the largest group, some 22%, were killed while investigating domestic disturbances. Even the Police Foundation, apparently contradicting its own conclusion, admits that as many as 40% of the civilians killed by the police were not involved in serious criminal conduct.

The Police Foundation concedes that police violence is a problem, but locates its roots in rank-and-file “excesses.” The solution, for example, to the well-known police practice of routinely carrying a second gun or “throwaway” (to drop on the body of a civilian killed by mistake) is administrative regulation of firearms use policies:

Finally, by leaving so important a question as the carrying of a second gun to the discretion of the individual officer, a department risks reinforcing the belief of many rank-and-file officers that desk-bound command officials have no idea what it is like out on the street. If officers are allowed to decide for themselves what weapons they should carry, why not decide for themselves when to use them? (p. 56)

Although “no study has yet extensively documented the impact of formal policies on the rate or nature of police shootings of civilians,” the Police Foundation tortuously argues that tighter managerial control over patrol officers will reduce incidents of “misuse of firearms” (p. 57). Here, yet again, we have the “bad apple” theory of police misconduct.

Aside from their methodological inadequacies and superficial remedies, it is important to understand why the Police Foundation and others are concerned about police killings. For the Police Foundation, the main concerns are cost, community reactions, and legitimacy:

Individual incidents (of police use of firearms) can have a powerful deleterious effect on the life of a community. Presidential commissions established to study violence and urban riots have pointed out that the precipitating event is often a police shooting of a civilian which, at the time, seems questionable or pointless. On other occasions, such shootings yield less explosive, but still harmful results: personal suffering on the part of victims, police officers, and families alike; lawsuits and substantial judgments against financially hard-pressed cities; and a significant erosion of confidence in and respect for the police (pp. 3–4).

The increase in suits against the police has fiscal repercussions. In Macon, Georgia, a 12-year-old boy who had been shot in the leg obtained a \$50,000 judgment against the city after the mayor had instructed police to “shoot to kill” during civil disorders. In Florida, Miami and Dade County’s insurance premiums

increased from \$60,000 to \$150,000 in one year; and in Philadelphia, in 1975, settlement payments and jury awards stemming from illegal police violence totaled about \$400,000. As the Police Foundation concludes:

The number of civil suits filed against police departments and individual officers rises each year, and almost 30 percent of these filings contain some claim of excessive use of force.... As the number of cases coming before the courts increases, the result may very likely be more decisions refining and extending tort liability for the unjustified use of deadly force (p. 42).

Although police liability insurance premium have more than doubled in the last year, cost is not the main problem. As the state attorney general of Dade County put it, "the increasing cost of proven police brutality is, of course, an important factor, but the cost of what that means in terms of faith in the fair administration of justice is incalculable" (*New York Times*, February 2, 1975). Or, as the Police Foundation argues, "unwarranted use of firearms...ultimately may result in community pressure to discontinue an otherwise productive police practice" (p. 121).

The management of police violence has to be understood in the context of a police system that is often unreliable and disorganized, despite the massive infusion of federal monies. On the one hand, rank-and-file patrolmen have consistently resisted managerial innovations, such as the reallocation of jobs, changing work hours and shifts (such as the fourth platoon during high crime hours), the civilianization of police work, and the introduction of new computerized command and control technology. On the other hand, the failure of the police to deal effectively with crime and their record of wanton brutality during the rebellions of the 1960s have brought them under serious criticism from working-class communities and liberal reformers.

The growth of the police and their military capacity, pumped up by LEAA funding, has understandably made them more deadly. In the face of increasing unemployment and popular disaffection with the economy and work process, the police are increasingly called upon to exercise their repressive powers, particularly in the ghettos and barrios where riots and rebellion are always close to the surface. The Police Foundation wants to regulate the conditions under which the police use deadly force because they recognize from experience from Watts to Vietnam that indiscriminate state violence can be "counterproductive."

Although most police killings are designated "justifiable homicide" by the coroner and the victim's identity and circumstances of death disappear into computer files, this kind of cover-up is becoming increasingly problematic. Police killings are increasingly likely to trigger resistance and to politicize masses of people.

For example, on October 21, 1977, a brief item in the local paper reported a

federal grand jury indictment of four Houston policemen on a charge of violating the civil rights of a Mexican American prisoner by beating and pushing him into a bayou where he drowned. The indictment followed after two of the officers were given probation following a conviction for negligent homicide, a misdemeanor. The news item states: "The light sentence inflamed Mexican Americans in Texas and resulted in demonstrations in Houston against the police." The day before, in the same local paper, an item reported the criminal indictment of four policemen in Oakland, California, for beating an unarmed prisoner. The item notes that witnesses complained to the police department that they had seen four policemen subdue and beat Stanley Hendrix. On the same date, an item in a national weekly reported the conviction of police chief Frank Hayes, his wife Dorothy Hayes, and her sister Alice Baldwin, for their role in the 1975 murder of Richard Morales. The indictment and conviction resulted from a vigorous letter-writing and street campaign from the Chicano community in Castroville and San Antonio demanding that the federal government try the criminals for civil rights violations.

These are not isolated events. Bulletins issued by the Department of Justice show that police officers have been indicted in every region of the United States for "acting under the color of law, unlawfully shot the victim, taking away his constitutional right not to be deprived of liberty without due process of law." The federal indictments do not mean that "justice" has been obtained because all too often the police officers are found not guilty; nor does it mean that the Department of Justice, concerned about due process, initiated the criminal proceedings against individual policemen. In many instances, the militant struggles of black and Chicano communities and well-organized campaigns to publicize the blatantly racist nature of the criminal justice system have led to federal intervention. And even though 180 out of 228 officers indicted by the federal government between 1971 and 1975 were acquitted, the struggles continue.

The concept of due process has no practical reality in Third World communities. Back in 1973, New York police officer Thomas Shea shot and killed a 10-year-old black youngster. Shea said he thought the boy was a hold-up suspect and claimed that he pulled a gun. The tragic and familiar fact is that the suspect was unarmed. Shea had been previously charged by the department for hitting a 14 year old with his revolver; the same Shea had earlier shot a 22-year-old robbery suspect. The suspect was unarmed and no charges were filed against him.

Following the funeral of the 10-year-old victim, huge crowds swept through the shopping center of South Jamaica, menacing and beating the few whites in the area. The hostility remained and many demonstrations continued. Shea was suspended and charged with murder. Almost a year later, Shea was tried and acquitted.

Again the black community protested. Bands of black youth shattered the windows of police cars; white people were randomly attacked; and sporadic violence continued well into the night.

The New York City Police Commissioner, in response to community pressures, promised to establish a panel to weed out the “violence-prone” officer and to develop new regulations involving firearms. Subsequently, a Firearms Review Board was set up to review each firing of a weapon by a police officer (*New York Times*, May 6, 1973).

On November 9, 1976, a 15-year-old black youth was killed by a white police officer, Robert H. Torsney. Mass demonstrations occurred and some two thousand people attended the funeral of the victim. Torsney was indicted for second-degree murder (*New York Times*, December 1, 1976).

While many police killings have prompted mass demonstrations of anger and frustration, some support has also come from individual police officers. Here and there, police officers, typically a novice or a racial minority, have come forward to sustain public claims of police brutality. In Houston, Texas, it was police officer Carless Elliot, age 20, whose testimony against five Houston police officers for the beating and drowning of a Mexican American prisoner eventually led to their conviction. A few weeks later, another young Houston police officer, Alan D. Nichols, filed charges against colleagues for unnecessarily beating a young black man.

But these individual actions are not without some risk. Both Elliot and Nichols were suspended, albeit with pay. In January 1974, an Asian American police officer of the Berkeley, California, police department filed an internal complaint against his own supervisor for police brutality against a black prisoner. For eight months following officer Jung’s complaint, his superiors subjected him to systematic harassment. Although Jung received some support from his colleagues, it was an individual struggle against a racist police structure.

The police, however, encounter contradictions in covering up their “mistakes” when community pressures force the district attorney’s office or the grand jury to at least conduct an investigation. As one veteran New York City police officer put it:

There’s an old saying that goes “nobody likes a squealer.” But when you stop to think about it, it’s kind of a waste. Let’s say you’re a guy with three or four kids at home and there’s a good possibility that the story you’d tell to cover another cop might go contrary. There’s a good chance you’re going to jail for perjury. And you say, “What’s my family going to think?” (*New York Times*, October 31, 1975)

Conclusion

Increasing numbers of police killings and brutal attacks on civilians, as well as increasing concern among state officials and intellectuals about the regulation of official violence, reflect the current crisis in the political economy. The main burden

of the economic crisis is being carried by the working class, especially national minorities, in the form of reduction of wage levels, increasing unemployment, speedups, and cutbacks in social services.

Not surprisingly, the criminal justice apparatus plays an important part in this crisis. Since the late 1960s, the number of police has doubled, budgets have increased four to five times, officers have received additional riot training, new forms of technology and managerial control have been developed, and patrolmen on the beat have been overloaded with increasingly deadly weapons. This new weaponry has greatly increased the repressive power of the police. Such weapons include automatic shotguns loaded with deadly buckshot, and loading service revolvers with Teflon-tipped bullets filled with tiny shot pellets that blow apart on impact, causing instant shock and unconsciousness wherever the victim is hit. Over 100 police departments are now equipped with a new weapon called the "American 180," which fires 30 shots per second following a laser beam sight that virtually cannot miss. This gun can cut a car literally in half, shoot a telephone pole in half, or wipe out a crowd of hundreds in a few seconds.

The strengthening of the police institution is an important rationale behind the imposition of the death penalty, another form of state killing of civilians. Some 40 states have enacted, or are in the process of enacting, the death penalty. Follow *Furman v. Georgia* (1972), in which the U.S. Supreme Court ruled that the death penalty, as imposed up to that time, was cruel and unusual punishment, the states began to revise their death penalty statutes to get around the Court's decision. One of the revisions considered was to specify the conditions under which the death penalty could be imposed, as, for example, in the homicide of a law enforcement officer, a provision in all of the death penalty statutes. While we do not minimize the rate of police deaths, data were presented in Takagi's 1974 study showing law enforcement work to be considerably less dangerous than in several major industries.¹

It is, however, in the interest of the state to exploit and publicize the impact of police deaths in the line of duty. Doing so (1) boosts sagging morale in police departments; (2) aggrandizes police power; and (3) sharply restricts the ability of citizens to forcibly resist the illegitimate use of police power—to do so always runs the risk of the death penalty if an officer gets killed.

It is safe to speculate that the fatality rates for the major industries have not changed; we know that it has not changed for law enforcement. What has changed since *Furman v. Georgia* is the sanction for the occupational fatality of a police officer (the death penalty), but there has been no corresponding provision in the law for the systematic violations of safety conditions that lead to the deaths of workers. Neither does it provide for the extreme sanction in the case of a civilian death at the hands of the police.

Looking at the death penalty in this fashion shows that penal sanction is essentially class law for the exploitation of wage labor. Even though the fatality

rate of police officers shows neither an upward nor downward trend, the legislating of the death penalty in the death of a police officer clearly has nothing to do with the deterrence argument advanced by its supporters. The data clearly support the conclusion that there has been no increase in the rate of death among law enforcement personnel before or after the moratorium of the death penalty.

Although it is incorrect to see the state's repressive apparatus as the *major* means of maintaining the current capitalist social system, the willingness of the state to use force—death, jail and prison terms, arrest and temporary detaining for questioning on the street—is always required as part of broader social control mechanisms. The willingness of the police to kill people exerts a control power far beyond any statistical measure of the actual incidence of police killings (376 cases in 1973), and is therefore a key element of police control capacity. Even the widespread belief that the police use poor judgment and are “trigger-happy” performs an important function: any person who encounters a police officer runs the chance of being shot, putting a life or death premium on exerting exemplary conduct; and there are more than enough “accidents” to underscore this point. The mere capacity of the police for vicious and “irrational” violence is an important part of the state's repressive apparatus, regardless of statistical frequency.

Historical support for this analysis can be found in studies of the role of whippings and lynchings in the control of the slave population in the South. Fogel and Engerman (1974), in *Time on the Cross*, a reactionary and now thoroughly discredited analysis of slavery, cite the small number of whippings of slaves (less than one per slave per year) as evidence that slaves were content and little force was needed to control them. Gutman (1975) cites data showing that there were more whippings than were reported, but then goes on to argue that it is not the rate of whippings that is the real measure of their impact, but the effect that whippings had on the slave community.² According to Gutman, whipping was an important form of slave control since it was completely under the control of slaveholders and could be applied for any reason, with any level of severity. Whippings had far-ranging social consequences, since everybody knew of incidences of severe whippings applied to family members, friends, acquaintances, or merely people they had heard about.

Similarly, as Gutman argues, lynchings had a great impact on controlling the black population in the post-Civil War period, even though the number of lynchings was statistically very small (usually about 100 a year, and proportionately not much less than the level of police killings presently). E.P. Thompson (1975) makes a comparable argument about the broadening of the death penalty during the Middle Ages. Although only a very small proportion of the violators of the Black Act were hanged, the Act potentially subjected a huge proportion of the population to the death penalty; it thus represented an important increase in state repression and strengthened the power of the bourgeoisie in a period of intense class conflict.

Moreover, police killings of civilians must be seen as only a small part of the total level of state brutality directed at the civilian population. It is not an exaggeration to say that millions of Americans now alive have been beaten by the police. Data cited by James Q. Wilson (1975) show that five percent of all blacks (over one million people), and two percent of all whites (over four million people), report themselves to have been unjustifiably beaten by the police at least once. Albert Reiss (1971), in an extensive LEAA-financed study, found that the police used unnecessary force in three percent of all police-citizen encounters, representing hundreds of thousands of cases of brutality a year. When these data are understood in the context of peer groups and family relationships, a very large proportion of the population faces on a day-to-day basis the threat of police violence. The possibility of death at the hands of the police is always a very real and likely component of this high level of violence. The aggressive patrol practices of the police, concentrated in working-class neighborhoods, implemented in racist ways, rely in substantial part on popular fear of police violence.

NOTES

1. We attempted to update the occupational fatality rates for the several industries with higher fatality rates than law enforcement: mining, construction, agriculture, and transportation. We discovered, however, that the government's occupational safety bureau no longer reports these data. We then turned to the Department of Labor bulletins, but found they reported only accidents and injuries. We talked to experts in the public health field on and off campus, but no one was able to help us.
2. Herbert Gutman's vigorous response to the publication of *Time on the Cross* is found in Paul A. David et al., *Reckoning with Slavery* (New York: Oxford, 1976: 57). See also Herbert Gutman, *Slavery and the Numbers Game: A Critique of Time on the Cross* (Urbana: University of Illinois Press, 1975).

REFERENCES

- Braverman, Harry
1974 *Labor and Monopoly Capital*. New York: Monthly Review Press.
- Brenner, Harvey
1976 *Estimating the Social Costs of National Economic Policy: Implications for Mental and Physical Health, and Criminal Aggression*. Joint Economic Committee. Washington, D.C.: U.S. Government Printing Office.
- California Bureau of Criminal Statistics
1973 "Homicides in California."
- FBI Uniform Crime Reports
1974 "Law Enforcement Officers Killed—Summary." Washington, D.C.
- Fogel, William Robert and Stanley Engerman
1974 *Time on the Cross, Volume 1: The Economics of American Negro Slavery*. Boston: Little, Brown and Co.

- Gutman, Herbert
 1975 "The World Two Cliometricians Made: A Review Essay of F + E = T/C." *Journal of Negro History* (January).
- Kania, Richard R.E. and Wade C. Mackey
 1977 "Police Violence as a Function of Community Characteristics." *Criminology* 15,1.
- Knoohuizen, Ralph, Richard P. Fahey, and Deborah J. Palmer
 1972 *The Police and Their Use of Fatal Force in Chicago*. Chicago Law Enforcement Study Group.
 1971 *The Police and the Public*. New Haven: Yale University Press.
- Kobler, Arthur
 1975a "Police Homicide in a Democracy." *Journal of Social Issues* 31,1 (Winter).
 1975b "Figures (and Perhaps Some Facts) on Police Killing of Civilians in the United States, 1965." *Journal of Social Issues* 31,1 (Winter).
- Milton, Catherine, Jeanne Wahl Halleck, James Lardner, and Gary L. Albrecht
 1977 *Police Use of Deadly Force*. Police Foundation.
- Nagel, William G.
 1977 "On Behalf of a Moratorium on Prison Construction." *Crime and Delinquency* 23,2 (April).
- National Urban League
 1977 "The State of Black America 1977." *Black Scholar* 9,1 (September).
- New York Times*
 1976 December 1.
 1975a October 31.
 1975b February 2.
 1973 May 6.
- Reiss, Albert
 1971 *The Police and the Public*. New Haven: Yale University Press.
- Robin, Gerald D.
 1963 "Justifiable Homicide by Police Officers." *The Journal of Criminal Law, Criminology, and Police Science* 54.
- Rusche, Georg and Otto Kirchheimer
 1958 *Punishment and Social Structure*. New York: Russell and Russell.
- Schwendinger, Herman and Julia Schwendinger
 1977 "Penal Trends in the United States." (unpublished paper).
- Takagi, Paul
 1974 "A Garrison State in a 'Democratic' Society." *Crime and Social Justice* 1 (Spring-Summer).
- Thompson, E.P.
 1975 *Whigs and Hunters: The Origin of the Black Act*. New York: Pantheon Books.
- Wilson, James Q.
 1975 *Thinking About Crime*. New York: Basic Books.