

Policing Protest: The Post-Democratic State and the Figure of Black Insurrection. By Paul Passavant. Durham: Duke University Press, 2021. 368p. \$104.95 cloth, \$28.95 paper. doi:10.1017/S1537592722001311

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On June 1, 2020, amidst the successive waves of the uprising set into motion by George Floyd's murder, then-president Donald Trump stood in the Rose Garden and issued an ominous warning to the "professional anarchists, violent mobs, arsonists, looters, criminals, rioters, Antifa and others" engaged—so he argued—in acts of "domestic terror." In the service of restoring "security" to American cities and towns, Trump pledged a military response befitting a war: he would send "thousands and thousands of heavily armed soldiers" and well-equipped "military personnel" to "dominate the streets" if local law enforcement proved incapable of doing so (see transcript via the American Presidency Project, <https://www.presidency.ucsb.edu/node/342011>). While he spoke, police officers and National Guard units, clad in riot gear and armed to the teeth, hit protestors gathered in nearby Lafayette Square with tear gas and flash grenades, clearing the space to accommodate a photo op of the president standing in front of a church: the plumes of smoke and injured protestors, like the Bible Trump clutched, were nothing more than a bit of set dressing for an image meant to communicate both the violence and the pieties of "law and order."

It was a moment emblematic of the dual nature of the Trump regime—its muscular, Nixonian appeals to law and order backed by the power of the state to injure, incarcerate, and disorder, paired with the suggestion that perhaps the entire thing was designed less for state-building than for brand-building, a commercial aimed to increase market share and cultivate consumer loyalty. Yet, in both ways, this moment was not aberrational but rather indicative of a state formation long preceding Trump and likely to persist after him. As Paul Passavant argues in his illuminating new book, *Policing Protest: The Post-Democratic State and the Figure of Black Insurrection*, we would do well to view Trump's response to the 2020 rebellion by placing it within the framework of the neoliberal authoritarian state and the security model of policing protest that is attached to it.

Neoliberal authoritarianism, as Passavant characterizes it, is a "post-democratic," "post-legitimation" state formation that emerged out of a conjuncture of crises spurred by the radical mass mobilizations of the 1960s and the repressive reactions to them. Although the Black, urban rebellions late in the decade seemed to presage a legitimization crisis for a society conceived as a social democracy, the forces of counterrevolution had other plans. In the face of the entrenched, racialized immiseration made visible by

uprisings in Watts, Detroit, Newark, and elsewhere, conservatives contended that the real crisis was not too little democracy but too much—along with too much crime. The claims of the marginalized for full and equal personhood threatened, in Samuel Huntington's words, to "overload the system"; they also threatened criminal lawlessness, as critics purposefully conflated political protest with crime and violence—at once racializing crime and criminalizing protest. Social welfare provisions were construed as rewards for rioters, and demonstrations were conceptualized as disorderly, criminal disruptions to democratic politics rather than the practice of it. Neoliberal authoritarianism was born as reaction to the "figure of Black insurrection," to use Passavant's evocative phrase, and is perpetually haunted by the possibility of its reappearance.

These antipathies toward multiracial social democracy were multiplied in the face of the 1970s urban fiscal crisis caused by deindustrialization, white flight, and the discursive racialization of the welfare state. Under a new austerity logic, politicians and banks dismantled social welfare provision and reshaped urban economies, pushing them toward tourism and to the "FIRE" industries (finance, insurance, and real estate), ultimately forcing cities to "govern in accordance with market logics and to become market actors themselves" (p. 340). The consequence was what Passavant calls the development of "aesthetic government" and the reconstruction of public space on the model of the shopping mall: the "image a city seeks to project for itself or the forms of aesthetic or cultural experiences it offers" took precedence over the democratic rights of citizens to appear in public as a collective, democratic subject (p. 27). The latter must either be made not to appear at all—or if they do, are to be policed in ways increasingly uncoupled from legal legitimacy and democratic norms, beholden only to the logic of "security."

As Passavant shows, these larger shifts in political economy, law, institutions, and political culture fully crystalized in the late 1990s, resulting in the development and proliferation of a "security model" of policing protest. The security model responds to protestors as both criminals and political enemies, along a continuum "between zero tolerance, quality of life policing sensitive to the most minor signs of disorder and a force that responds in more spectacular, politically expressive manner with military garb, weaponry, and violence" (p. 187). Based on detailed, rich analysis of original interviews, police documents, and jurisprudence, and engaging with Jodi Dean's theorization of communicative capitalism, Passavant demonstrates how the New York City Police's approach to policing mega-events like the World Economic Forum and the Republican National Convention laid the groundwork for later encounters with Occupy Wall Street and the Movement for Black Lives. He reveals that protest policing today is defined by its excesses: aided by the courts and cheered on by a public affectively attached to (or apathetically

dismissive of) the performance of its violence, police surveil, disrupt, and abuse protestors—and express their immense delight in “kicking ass.”

Policing Protest is an exceptionally good book—persuasively argued, meticulously researched, and stunning in its explanatory power. It makes sense of what might appear to be contradictory trends: the coinciding of technocratic risk management with police behavior that heightens risk and causes disorder and the use of any legal infraction (no matter how small) as a pretext for arrest alongside arbitrary, unpredictable decision making that openly flouts legal procedure. As a “hybrid” whose orientation lies somewhere between crime and war, the security model combines “strategic incapacitation” with excessive violence and militarization, “zero tolerance” legalism with capricious disregard for law and procedure. Yet, despite the routine violation of protestors’ constitutional rights and the semi-regular spectacle of militarized, repressive, and chaotic police action, the threat of delegitimation does not serve as a restraint. Decades of neoliberal authoritarian rule, supplemented by the technologies and practices of communicative capitalism, have undermined the production of subjects oriented toward the once-hegemonic norms of social democracy. Today, viral videos of police violence “engender and amplify a subjective sense that either the norms were not norms” or provide “a vehicle for those who enjoy the appearance of violence against protestors” (p. 181).

So, what then is to be done? What is the alternative? “Negotiated management,” the predominant model of policing protest from the 1970s through the 1990s, provides the counterpoint to the security model for Passavant: its use is evidence that the violent repression of protest is not inevitable. Replacing the model of “escalated force” used during the mid-twentieth-century Black rebellions, negotiated management emphasized open communication between police and protestors, avoided violent escalation, and prioritized the protection of First Amendment rights. Passavant offers it as a model of policing that “promotes social integration and the reduction of physical violence” and recognizes “the fundamental right to assemble and demonstrate to redress the people’s grievances.” As a reformist achievement of the long civil rights era, negotiated management thus suggests the possibility of policing properly constrained as a servant of the people, “normatively oriented to the horizon of social democracy” (p. 161).

Although I appreciate Passavant’s ability to distinguish between better and worse orders of police, the idea of negotiated management as a constrained, constrainable democratic alternative is undone by the capaciousness of the police power as such. Passavant meticulously documents how the security model pushes policing beyond the function of law enforcement, but it is not clear that policing is ever limited to—or is plausibly explicable

as—the enforcement of law. As Markus Dirk Dubber (*The Police Power: Patriarchy and the Foundations of American Government*, 2005, xi) argues, citing the discussion prefacing the 1873 *Slaughterhouse* decision, the police power is defined by its discretionary authority to use repressive force—an authority that is conceptually “incapable of any very exact definition or limitation.” The security model is an undoubtedly antidemocratic, violent form of policing, but police power is precisely the power to exceed and overflow the bounds of legitimation.

In the long history of the United States’ white republic, moreover, it is police power itself—and not any specific order of it—that is haunted by the possibility of Black rebellion. Although the policing of organized protest indeed got less violent in the 20 years after the assassination of Martin Luther King Jr., policing in general did not. Indeed, the era of negotiated management coincides with the rise of SWAT teams, which proliferated through the 1970s; the dramatic increase in no-knock warrants; the start of the War on Drugs; and—as Passavant himself details—the development of “Broken Windows” policing. Very much in line with the reactionary forces unleashed by the crises of democracy and crime, cities violently policed racialized and poor communities with ferocity and increasing militancy. To give just one stark example, from the 1970s through the 1990s, the Chicago Police under the leadership of Jon Burge tortured and compelled false confessions from dozens of black men; the gruesome details anticipate those that would later emerge from Abu Ghraib. As Stuart Schrader contends in *Badges without Borders: How Global Counterinsurgency Transformed American Policing* (2019), decades before the development of the security model for policing protest, the policing of crime and the ordinary disorders of daily life worked on the logic of counterinsurgency.

With this in mind, the history of negotiated management looks less like an achievement of civil rights reform and more like another attempt to prevent the appearance of a Black, collective democratic subject. For political elites taking stock of the 1960s, including the liberals shepherding civil rights legislation through Congress, the crisis of the decade was in part a crisis of publicity—a public relations disaster they could scarcely afford in the midst of the Cold War. Negotiated management was perhaps the necessary price for avoiding the kinds of confrontations that escalated force enabled—the kinds of confrontations that disclosed the racist violence at the heart of US democracy in front of the world and that enabled a disenfranchised minority to make their appearance in public a crisis for the racial order. Negotiated management, in this way, produces the spectacle of a well-ordered democracy: the “aesthetics of consent,” to borrow Passavant’s phrase. But it cannot produce the real thing and in fact serves to repress it. That it does so more gently, and with less violence, is indeed better. But the limitlessness

and discretionary power at the conceptual heart of police power, paired with its deep anti-Black orientation and purpose, suggest that such gentleness is never set to last.

What I suspect, then, is that the unruly, democratic appearance of the people out of doors—and the potential for multiracial social democracy that it carries—may require imagining not simply a world with *better* police but one with none at all.

Response to Erin R. Pineda's Review of *Policing Protest: The Post-Democratic State and the Figure of Black Insurrection*

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— Paul A. Passavant

I thank Erin Pineda for her thoughtful and provocative review. Pineda finds compelling my argument that the aggressive security model of protest policing has supplanted negotiated management's more tolerant model for police–protester interactions. My argument points to the dialogic interactions—characteristic of negotiated management—between police and protesters during the occupation of the Wisconsin Capitol in 2011 to show that the security model's forceful approach to demonstrations is not necessary. Protest policing scholars have long recognized the potential within negotiated management for so much management of demonstrations that the people's assemblies become nothing more than a performative aesthetics of consent. I will add that public safety does not require every demonstration to have police presence standing close by.

Where Pineda and I differ is beyond the scope of my study. Pineda contends that “the police power” inherently exceeds limitations or legitimation, and she invites us to imagine a world with no police at all. In the United States, the police powers of the state are the powers to regulate for the health, safety, and welfare of the people. State police powers are limited by the Supremacy Clause and constitutional rights such as those found in the Fourteenth Amendment (U.S. Const. Art. VI; *Loving v. Virginia*, 388 U.S. 1, 7 [1967]). Because neoliberal authoritarianism engenders a crisis of social reproduction, I believe that national and state governments need to do more to promote the people's health, safety,

and welfare—as the COVID pandemic has made especially clear.

With respect to “policing,” there needs to be more policing of corporations' violations of workers' rights, of toxic emissions, of carbon dioxide and methane emissions, and of financial markets. Since 1980, there has been a retraction of policing the “suites” and an intensification of policing the streets (John Hagan, *Who Are the Criminals?*, 2010). This refusal to police the “suites” has resulted in corporate impunity and growing inequalities, producing the crisis of social reproduction.

With respect to “the police,” this poses a dilemma. For 50 years, we have been “governing through crime” (Jonathan Simon, *Governing through Crime*, 2007). We see problems only through the prism of crime, government solutions only in terms of the police, and justice solely as a courtroom conviction. This contributes to the crisis of social reproduction. We must address poverty, education, childcare, addiction, and mental health on their own terms and not through criminalization.

Does this mean we should abolish the police? Here, I am haunted by the attack on Reconstruction to “redeem” white supremacy, whether by ballot or bullet (Ron Chernow, *Grant*, 2017, p. 815). The Ku Klux Klan, White League, and “rifle clubs” functioned as armed wings of the Democratic Party in the South. They wounded or murdered hundreds if not thousands of mostly Black, but also white, supporters of the Republican Party, Republican public officials, public school teachers, or Black people who sought to have their rights respected (W. E. B. Du Bois, *Black Reconstruction*, [1935] 1998). They overthrew municipal governments such as Grant Parish's county seat in Colfax, Louisiana (Eric Foner, *Reconstruction Updated Edition: America's Unfinished Revolution*, 2014, p. 437). Rights such as those protected by the Thirteenth, Fourteenth, and Fifteenth Amendments—to say nothing of ordinary criminal laws—became unenforceable. The lesson I take from Reconstruction is that when interracial democracy dedicated to reconstructing the crisis of social reproduction gains state power, it must expect the possibility of a violent reaction, and it must be capable of defending whatever victories it achieves. In sum, debates over police abolition have deeper roots: Should the state be abandoned, or is the state something to struggle for and use when possible for social good?