

RESEARCH ARTICLE

Institutional incentives and community policing

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Abstract

Most American police departments claim to practice community-oriented policing (COP). The stated goals are to build partnerships between the police and the community, maintain order and quality of life, and solve problems that contribute to crime and fear of crime. However, researchers have noted how most departments attempting to implement COP have fallen short in successfully adopting the recommended reforms. This paper argues that the institutional setting in which American public policing operates leads to this result. By contrast, the institutional features of private security make its operation more conducive to achieving the goals of COP. These institutional differences include whether economic calculation is possible, the domain that is policed, and which rules are enforced.

Keywords: Community policing; economic calculation; police; private security

1. Introduction

Most American police departments claim to practice community-oriented policing (COP). In contrast to traditional policing's focus on crime control through patrol and rapid response to calls for service, the goal of COP is to build greater trust between the police and the community, maintain order and quality of life, and solve problems that contribute to crime and fear of crime.¹ By 2013, seven in 10 local police departments, as well as nine in 10 departments serving populations of 25,000 or more, had a mission statement that included a COP component, incorporating 88% of all local police officers. The vast majority of departments in cities of 10,000 or more provided new recruits at least 8 hours of training in COP strategies, including problem-solving and building community partnerships (Reaves, 2015).

Despite the widespread efforts to implement COP, many scholars believe departments have been unsuccessful (Greene *et al.*, 1994; Mastrofski *et al.*, 2007; Mastrofski and Willis, 2010; Rosenbaum and Hanson, 1998; Sadd and Grinc, 1994; Tien and Rich, 1994). Several reasons have been offered by criminal justice scholars for why this is the case. These include inadequate resources (Mastrofski *et al.*, 2007), cultural resistance by rank-and-file officers (Hartnett and Skogan, 1997; Herbert, 2006; Moore, 1992; Zhao *et al.*, 1998) and management (Engel, 2002), and inability to develop effective police–community partnerships (Lyons, 2002; Rukus *et al.*, 2018; Skogan *et al.*, 2004).

Economists have contributed further insights. Boettke *et al.* (2016: 306) note that the above explanations are incomplete; they lack analysis of the institutional structures and policies that alter the incentives that police face in implementing community policing. They argue that federal subsidies to local police departments have distorted priorities away from community policing and toward federal initiatives, and have encouraged the militarization of the police and the dissolution of genuine police–community partnerships. Boettke *et al.* (2017) contend that the federal government softens the budget constraint faced by local police departments through civil asset forfeiture sharing programs,

¹COP is further described in section 2.

the 1033 program, and grants, undermining Tiebout (1956) competition that would lead to greater accountability to the community. However, what has been neglected in the economics literature regarding COP are more fundamental institutional issues that present barriers to the successful implementation of community policing. Even absent the substantial effect the federal government has had on local police priorities, efforts to implement COP would still likely be unsuccessful. The root of this barrier is the knowledge-generating properties of local police bureaucracies and the incentives they create. This can best be understood by contrasting the institutional features of public policing in America with those of private security.

Noteworthy is that a number of policing scholars consider the practices of private security to be consistent with COP. Bayley (1988: 233) writes, 'Private security is characterized...by the very qualities community policing hopes to develop...Accountability is obtained through contact as private police do what the client wishes. Operationally, private security is community policing obtained through the marketplace'. Sherman (1995: 338) defines community policing as police acting like private security guards. Benson (1998: 265) claims, 'Community policing, more accurately, [is] policing based on the private security model'. Shearing and Stenning (1981: 216) note that the activities of private security 'conform surprisingly well with the objectives of the "new police" as these were first conceived by Sir Robert Peel', whose ideas are considered 'the foundation of modern-day community policing' by COP advocates (Peed, 2008: 22). Given this assessment of private security, as well as the general conclusion that public police have failed to implement COP (elaborated in section 2), and taking the goal of implementing COP as given, this paper seeks to explain what institutional features of private security make it conducive to COP and what features of public policing present a barrier. These are important questions given the current dissatisfaction with policing in America and growing demands to radically rethink the role of the police, including defunding the police and replacing some of their functions with other organizations (Movement for Black Lives, 2020; Ray, 2020; Vitale, 2017). Understanding the institutional features of policing that contribute to this dissatisfaction is necessary for successful reform.²

Section 2 discusses 'community-oriented policing' as defined by various scholars and government entities and how they assess whether a law enforcement agency has implemented it. Section 3 explains the institutional differences between public policing and private security that lead to different epistemological properties and the incentives they create. Section 4 explains how these differences lead to different outcomes in terms of implementing elements of COP, particularly community partnerships, order maintenance, and problem-solving. Section 5 concludes.

2. Community-oriented policing

The history of American policing is divided into three eras (Chriss, 2015: 25–47; Kelling and Moore, 1988). The first era (1840s–1920s) is called the political era, characterized by the relationship between police and political machines. Police officers were chosen based on political loyalties and their function coincided with what was useful for who was in power. This included crime prevention and order maintenance, but also a wide variety of social services and electioneering. Technological limitations necessitated decentralization to the ward level, with the primary tactic being foot patrol. Officers served at the pleasure of whoever was in office, and it was not uncommon for entire departments to be replaced when new leadership was elected.

The 'professional' or 'traditional' era (1930s–1970s) was characterized by reforms meant to address the apparent shortcomings of the previous era. Reformers wanted to insulate police from political influence through measures such as civil service protections. Officers were rotated periodically to different beats to reduce corruption. Part of the effort to reduce the discretionary excess of officers was to narrow their function to crime control and criminal apprehension, as well as organize policing through centralized control. Narrowing the role of police allowed for more legalistic management.

²This is not to argue that COP is necessarily desirable nor that the institutional features of police departments are anything but an optimal response to the constraints they face.

The tactics of this era changed to preventative automobile patrol and rapid response to calls for service. The police were to be impartial, effective enforcers of the law, with success measured through arrests, citations, and lower crime rates.

The community policing era that followed (1980s–present) can best be understood as a reaction to the perceived deficiencies of the professional model. These include the rising crime of the 1960s, rising fear of crime, strained relationships with the public (especially minorities), and reduced legitimacy of the police. It was also recognized that police work is not easily subject to regimentation or codification; officers use discretion in their daily decision-making and law enforcement is only a small portion of their activities. According to the Office for Community-Oriented Policing Services, although community policing means a wide range of things to various researchers and practitioners, a consensus agrees that it includes the following goals: '(1) building police–community partnerships, (2) problem solving, (3) crime prevention, and organizational support for these programmatic objectives' (U.S. Department of Justice, 2009: 18–20) [enumeration added].

To further elaborate these goals, it may be helpful to consider the evaluation of the largest single effort at their implementation, the 'Violent Crime Control and Law Enforcement Act of 1994'. The 1994 Crime Act was an unprecedented federal intervention into local law enforcement, spending \$8.8 billion over six years to hire 100,000 additional police officers and support COP initiatives. The National Institute for Justice (NIJ) evaluated whether departments successfully implemented COP, analyzing 561 non-grantee agencies and 1,537 grantee agencies, with four waves of surveys and 30 agencies with on-site assessments (Roth *et al.*, 2000).

The NIJ measured efforts to develop community partnerships through the use of eight tactics: joint crime prevention, regular community meetings, joint projects with businesses, projects with residents to remove signs of disorder, surveys of citizens, cleanup projects, citizen advisory boards, and citizen police academies (Roth *et al.*, 2000: 191). They distinguish between those 'that involve true *collaboration* in all phases of the work among police, community residents and organizations, local service providers, and other criminal justice system agencies' and those 'that include the mere *involvement* of such parties' (Roth *et al.*, 2000: 194). While the surveys found that almost all respondents considered themselves to be engaged in building police-community partnerships, the on-site observations revealed

...all too often, partnerships are in name only, or simply standard, temporary working arrangements. Partnerships with other law enforcement units and agencies merely to launch short-term crackdowns are not in the spirit of problem solving or partnerships, nor are partnerships in which citizens and business representatives are merely 'involved', serving primarily as extra 'eyes and ears' as before. True community partnerships, involving sharing power and decision-making, are rare at this time, found in only a few of the flagship departments (Roth *et al.*, 2000: 237).

The standard model of problem solving is Goldstein's (1979) SARA model (Scanning, Analysis, Response, Assessment). It is intended to address recurring issues of crime and disorder: rather than responding to individual incidents as though they are unrelated, police are to solve the issues underlying them using innovative methods and assess the effectiveness of their efforts. In their evaluation, the NIJ notes that few departments fully implemented Goldstein's SARA model and document their experiences to serve as case studies for other officers. 'Frequently...in the sites visited, responses characterized as problem solving consisted only of traditional police activities such as arrest, high visibility patrol, and the aggressive order maintenance activity now popularized as zero tolerance' (Roth *et al.*, 2000: 202).

Although not formally evaluated in their study, the NIJ cites the reduction of fear of crime as a policing problem in its own right for COP to address (Roth *et al.*, 2000: 38). The professional model of policing, with its focus on strict law enforcement, was perceived to have neglected 'order maintenance' in public spaces, with disorder involving acts that may not be criminal. An influential

article in this vein was Wilson and Kelling's (1982) 'Broken Windows', which argued that individuals not only fear violent crime but also fear disorderly people, such as drunks, panhandlers, prostitutes, addicts, and rowdy teenagers. The Police Foundation's (1981) study of foot patrols in Newark found that residents of communities in which foot patrols were deployed felt more secure, were more likely to believe that crime had been reduced and take fewer steps to protect themselves from crime, even though the foot patrols did not result in lower crime rates. Wilson and Kelling (1982) theorized that a community perceived to be tolerant of small acts of incivility, such as public drunkenness, graffiti, or broken windows being left unrepaired, indicated that more serious criminal acts could be undertaken with impunity. Police, by dealing with these small problems before they could grow into more serious ones, could prevent the conditions that lead to high crime areas. As such, COP is to be proactive in preventing crime, rather than mostly reactive as in the professional model.

3. Institutional differences

There are institutional differences between a bureaucratically organized police department and privately hired security that have important epistemological implications that affect the incentives of those who operate in and interact with these organizations. These differences affect the ability to implement COP.³ A municipal police department is managed bureaucratically; instead of being managed based on profit and loss calculation, it is managed according to detailed rules that are meant both to ensure the execution of the organization's objectives as well as to protect the citizen's rights and freedoms (Mises, 2007: 37). Municipal police departments do not have market prices for their outputs and therefore are unable to determine through economic calculation whether they allocate their inputs (such as the labor of police officers) to ends more highly valued than alternative uses of those inputs. This is a result of the fact that police department revenue comes primarily from taxation and not voluntary exchange.

Given this, why are police departments managed bureaucratically? Economists argue that it is because there are features of policing services that have public goods characteristics (Mueller, 2003: 210; Ostrom *et al.*, 1961: 833; Tiebout, 1961: 80) and would therefore be undersupplied if provided by markets. For example, a neighborhood police patrol might reduce crime for even those in the neighborhood who do not contribute and excluding free riders may be costly. One way of addressing this issue is taxing all those who benefit from the patrol. Moving from voluntary exchange to taxation means leaving the realm of economic calculation for public administration. The challenge for public administration is producing the public good such that the size of the decision-making unit corresponds with the size of the externality – fiscal equivalence – and taxpayers pay according to the benefit they receive – the benefit principle (Boettke *forthcoming*). An implication is that public goods be provided by a polycentric system of governance (Ostrom *et al.*, 1961) and to the extent that the assumptions of the Tiebout (1956) model hold, public administrators will conform to the preferences of consumer-voters.⁴

Another way of addressing the issue of externalities is to transform the public good situation into one that can be subjected to economic calculation. MacCallum (1970) and Foldvary (1994) describe one way of doing so: administering a community as a proprietary enterprise in which relations of every member of the community are formed directly with the proprietary authority, who is a residual claimant of the community. Examples of such proprietary communities include 'shopping centers,

³Similarly, the epistemological differences resulting from the lack of prices in the criminal justice system affect the implementation of other goals, such as proportionality in criminal sentencing (D'Amico, 2015).

⁴Some critics of the decentralized structure of American policing, such as Lacey and Soskice (2015: 457), argue that homeowners have disproportionate political power in local elections and an incentive to block 'investment in serious foot patrols or "community" policing in poor areas', and this exacerbates disparate criminal justice outcomes across racial lines. While they infer that this is a result of insufficient centralization, it could also be indicative of insufficient decentralization. In their study of policing in black neighborhoods in Chicago, Ostrom and Whitaker (1974) found that residents in neighborhoods patrolled by independent departments rated them as more responsive compared to those living in comparable neighborhoods patrolled by the Chicago Police, despite the former paying less than one-tenth as much for policing services.

industrial parks, professional and research centers, marinas, mobile home parks, medical centers, and scores of multifunctional building complexes' (MacCallum, 1970: 57–58). Under such arrangements, the externalities of policing services are more easily internalized to those who pay for them.⁵ Other arrangements also serve this end. Nelson (2005: 75) notes that an important function of many neighborhood associations is the provision of security for residents. Changes in technology that affect the transaction costs associated with different goods may also diminish the cost-based rationale for government provision (Foldvary and Klein, 2003).

It should be emphasized, however, that sometimes the costs of transforming the public good situation to one conducive to economic calculation are prohibitive. In such situations, public administration and bureaucratic management may be the most desirable means of providing public goods. Specifying precisely where these boundaries are when it comes to policing services is beyond the scope of this paper. Rather, the intention is to explain what institutional features of private security make it more consistent with COP, as well as the institutional features of public policing that make it inconducive to the implementation of COP.

The primary relevant institutional difference is the ability to engage in economic calculation. Police departments lack this and therefore must find alternative ways of measuring performance. Ostrom (1971: 454) acknowledges that bureaucracies, including the police, generate records that provide the basis for developing measures of agency performance. Numbers of arrests and citations are used to assess the output of individual officers and crime rates are used as a barometer for the police department as a whole.⁶ COP proponents argue that police should instead focus on order maintenance, problem solving, and quality of life issues as defined by community members, and have the discretion necessary to do so. Such a change presents problems for police management in terms of monitoring and measuring the output of rank-and-file police officers. Part of the reason data such as arrests, citations, and response times have traditionally been emphasized by police departments is that they are low cost: they are produced incidentally from police activity. They are also 'objective' in the sense that management does not have to directly monitor officers to produce these data as they would with COP measures. According to Holmstrom and Milgrom (1991: 43), the rigid rules that characterize bureaucracies are an optimal response to difficulties in measuring performance. Consequently, these monitoring and measuring issues are part of why police departments attempting to implement COP have tended to revert back to more traditional forms of policing (Zhao *et al.*, 2001). The traditional measures are low-cost forms of monitoring, and officers focus on what gets measured in order to demonstrate their productivity to supervisors.

When institutional arrangements allow for security services to be provided through voluntary means, economic calculation is possible. In the institutional setting in which private security is provided, consumers are able to compare the value of output either ordinally against the cost of producing or purchasing it (i.e. the evaluator of the output also is able to evaluate alternative uses of the inputs) or cardinally (the purchaser of security services can compare the cost of production with its contribution to revenue, losses prevented, or changes in the capital value of the asset protected). Examples of the latter include commercial and industrial enterprises purchasing contract security or providing security 'in-house'. Clients of contract security agencies include recreational facilities, hospitals, community colleges, universities, office buildings, warehouses, industrial plants, shopping centers, transport companies, financial institutions, construction companies, apartment complexes, hotels, private homes, computer companies, and insurance companies (Business Round Table, 1994; Jones and Newburn, 1998; Kandt, 1974; Shearing *et al.*, 1980).

⁵Indeed, the correlation between private security and shifts in property relationships, particularly 'mass private property', is well recognized (Shearing and Stenning, 1981: 228–229; Wakefield, 2003: 18–34)

⁶Most police departments use arrests as a measure of how much work is being done. "Prosecutable felony arrests" is often a part of a department's formal or informal officer-appraisal system. From the viewpoint of an individual officer – especially in departments where overtime pay is available for the hours an officer spends in the booking process – and that officer's immediate supervisor, an arrest looks like a benefit' (Kleiman, 2009: 105).

An additional institutional difference relevant for how well public police and private security are able to implement COP is the domains within which they operate. Public police primarily operate on public property, which is not traded and therefore has no market value. As such, contributions by public police to the orderliness or other desirable aspects of public property cannot be measured through the price system. By contrast, since private security primarily operates on private property, such contributions can be measured.

A final institutional difference is the relative flexibility in what rules can be enforced and how they can be enforced. As agents of the state, public police enforce statutes passed by legislatures and the manner in which they enforce them must be in accordance with constitutional guidelines regarding due process and civil liberties. Private security is constrained in a different way. While they are not subject to the same constitutional restrictions in terms of the rules they may enforce while on the property of their client, they are constrained by competition and lack the immunities enjoyed by public police. The implications each of these differences have for implementing COP are explained in the following section.

4. Differences in implementing COP

4.1 *Community partnerships and involvement*

A pillar of COP is that police build partnerships with the community in order to facilitate cooperation in the production of public safety and the solving of community problems. Friedman (1994: 265) provides an example of what he considers to be a successful police–community partnership in Chicago’s 24th Police District, which he characterizes as ‘one of Chicago’s most ethnically diverse, a mixture of moderately high- and low-income areas, of middle income and poverty, renters and homeowners’. The neighborhood had a number of problems, including open air drug dealing and absentee landlords failing to maintain buildings that came to be used for prostitution, loud parties, gangs, and drug dealing. Within the neighborhood was the Jargowood Block Club, whose leadership was involved in the Chicago Police’s Task Force campaign for community policing. The key leaders had attended community policing trainings. They were told by their liaison with the Task Force that officers could arrest the dealers, but they would be back; a longer-term solution required more creativity. With the help of volunteers, block club members identified the owners of the problem buildings and urged them to evict certain individuals. They visited the bank that held one of the owner’s mortgages, getting them to pressure the owner. They also called the owner’s suburban home when his tenant’s parties got too loud or illegal activity was observed. For a period of six weeks, 40–70 volunteers spent Thursday, Friday, and Saturday evenings occupying the open-air drug market, taking down customers’ license plate numbers in an attempt to be a nuisance. The role of the police in the campaign was to occasionally arrest visible dealers, to protect residents during their loitering of the drug markets, and help get the city to inspect the buildings and write code citations. These efforts eventually paid off in better tenants, a quieter area, and a lack of street corner drug dealing.

Friedman notes that this effort was mostly on the part of the community and involved only occasional police intervention. From this, he lists four conditions that must be met if problem-solving partnerships are to be effective: there must be ‘(1) grassroots organizations through which volunteers can work and be educated, (2) informed local leadership, (3) the presence of independent, staffed organizations that can support local efforts and provide them with training, education, and technical assistance, and (4) an appropriate problem-solving target’ (1994: 268). Further, he argues that it is not the job of police to engage in community organizing, as they lack the desire and skills, but more importantly, community organizations should exist independently of the police, as the long-term quality of life in the community depends on them and is more than just a criminal justice matter. In this example, successful problem-solving via a police–community partnership was mainly the result of highly motivated individuals involved in pre-existing community organizations recruiting police assistance in tasks requiring their unique authority.

However, one of the major difficulties police departments have faced in implementing COP is the lack of community involvement. Very few communities with serious criminal problems have the level

of organization Friedman says is necessary for police–community partnerships to be successful. Rather, it is those communities with the highest level of organization that are least in need of police interventions (Rukus *et al.*, 2018).

While one of the goals of COP is for police officers to have more ‘face time’ with the public in order to get to know the residents of one’s beat, their perspective on problems in the community, and build trust, officers claim that they have no time for such activities because they are still required to respond to calls for service. Some departments have responded to this issue by establishing dedicated units of COP officers who are not required to respond to such calls.⁷ However, observations of these officers have found that they spend less than 20% of their shift interacting with the community and tend to interact with its more respectable members, rather than less pleasant individuals who may be more crucial in helping solve community problems (Mastrofski, 2006). In other cases, officers frequently left their beats in order to serve as backup to calls to which they were not required to respond, citing boredom. In their evaluation of this program, researchers noted, ‘the patrols never received a sufficiently clear definition of how their behavior and role should differ from that of a regular patrol’ (Sherman *et al.*, 1973: 107–108).

Under public policing, not only are the problems to be solved often underspecified, but so is the *client*, particularly in a geographical sense. Private security tends to operate in areas that are privately owned and therefore have a residual claimant of their capital value. Wakefield (2003: 167) in her field observations of three different private security forces, serving an arts plaza, a shopping center, and a night-time leisure complex, found that one of their primary activities was ‘housekeeping’. Part of their patrolling was to check for any safety hazards, ensure maintenance and safety standards, and report any spillages or misplaced rubbish. Officers would also patrol for disorderly conduct from patrons, issuing warnings and asking those who refused to comply to leave. Loitering by the homeless and drunkenness were daily issues at the night-time leisure complex. The presence of such disorderliness interferes with the enjoyment of services by other patrons, and therefore affects the profitability of the commercial enterprise protected by private security. Dealing with these issues after they occur is more costly than preventing them, and this is a major factor in explaining the observation that private security is more prevention-oriented than public police, who measure crimes they clear by arrest, not crimes they prevent.

Disorder and incivility that take place on public property do not affect the capital values of those spaces. Private individuals will tend to only exert efforts to help solve problems that take place on public property to the extent it affects them personally or is reflected in the value of their adjacent property. Ironically, for the same reasons that it is argued that there is a market failure in the private production of policing (at least in geospatial contexts where individual property holdings are small enough such that positive externalities from policing are not internalized), there will be under-provision of citizen involvement in the production of safety and orderliness. If public safety is a public good, such that individual citizens will tend to free ride on the efforts of others, citizen involvement in solving community problems would also be a public good. This is a reason why police intending to foster greater efforts on behalf of individuals in response to problems occurring on public property have trouble garnering their support.

With private security, partnerships with the client exist by default due to the voluntary nature of the relationship. Private security is purchased by clients to address specific problems, and the client will naturally cooperate. While various factors contribute to some communities’ refusal to cooperate with the public police (Goodman, 2017), it would be non-sensical for the client of private security to refuse to cooperate with their own hired help. Additionally, the client is able, through the use of economic calculation, to determine for which tasks the security provider has a comparative advantage and which are lower cost if performed by the client, extending the division of labor in the production of safety.

⁷A common side effect of having special units as the implementers of COP, rather than it being an all-department-encompassing project as its proponents advocate, is the stigma that officers in that unit are not pulling their fair share, and/or not doing ‘real police work’ (Sherman *et al.*, 1973).

It should be noted that not all tasks performed by private security are necessarily security-related. Observations of a security operating in roles that interact with the public show that they are not only engaged in rule enforcement functions, but a number of activities that increase the value of the service received by consumers. The multi-faceted role of private security allows for them to have natural interactions with the public in non-enforcement contexts. Wakefield (2003: 168) lists a second core function of the security officers she observed as ‘customer care’, which was

...evident in the customer-friendly image that their casual uniforms were designed to present and in the customer care training they had received. Customer care duties were carried out in the interests of public relations, and the officers usually acted as the first point of contact for customers needing assistance.

The most common reason for officers’ contact with the public was to give information. Other customer care activities undertaken during the period of observation included dealing with lost and found property, relaying phone messages to customers, providing wheelchairs for disabled customers, as well as putting on a bear costume to entertain children. All of these activities under the function of customer care were ‘central to the property owners’ objectives of manipulating the environment as an aid to profit-making’ (Wakefield, 2003: 170). Interactions with the public were in pursuit of a clear goal. Importantly, whether this goal has been achieved can be determined through profit and loss calculation. Efforts of public police to foster positive, non-enforcement-related interactions with the public, whether through athletic leagues, block meetings, door-to-door contact strategies, or other means, lack a similarly clear measure of whether they achieve the ends of community policing.

It is interesting to note that these types of functions are labeled as ‘feminine’ by Wakefield (2003: 168), bearing no resemblance to the “‘macho”, authoritarian role that the security function might seem to embody at first consideration’. Similarly, these preventative activities are called ‘mickey mouse’ by Shearing and Stenning (1981: 218), who state that

This categorization is interesting not only because it captures the common popular and public police conception of private security, but also because it serves to trivialize the most significant aspects of the phenomenon. Its ‘mickey mouse’ nature means that private security work does not have the appearance of importance normally attached to apprehension-related activities (such as the making of arrests or laying of charges). This view of private security work, which incidentally makes it appear nonthreatening, arises from its most fundamental features.

It is these types of activities that some public police reject as ‘social work’ or not ‘real police work’ (Sherman *et al.*, 1973). While many scholars categorize such resistance by rank-and-file officers as being due to ‘cultural’ reasons, the reason private security performs such activities is not because of a cultural difference between them and public police, but because the institutional features of private policing dictate that the activities that are most profitable are the ones that will be chosen.

4.2 Order maintenance

An important institutional difference that leads private security to be more conducive to order maintenance is the legal environment: the authority of private security to issue commands to individuals derives from the property rights of their client, whereas the authority of public police to coerce derives from state statute and is circumscribed by constitutional limitations. Barnett (2014: 220) summarizes the reason for this dichotomy:

A society that includes extensive public property holdings is faced with what might be called a dilemma of vulnerability. Since governments enjoy privileges denied their citizens and are subject to few of the economic constraints of private institutions, their citizens are forever vulnerable to

governmental tyranny. Therefore, freedom can only be preserved by denying government police agencies that right to regulate public property with the same discretion accorded private property owners. Yet steps to protect society from the government also serve to make citizens more vulnerable to criminally inclined persons by providing such persons with a greater opportunity for a safe haven on the public streets and sidewalks and in the public parks.

Other scholars also have observed that constitutional constraints on public police can be an impediment to their ability to maintain order (Skogan, 1990; Wilson and Kelling, 1982). Skogan (1990: 163) notes that in the past, state codes prohibited certain disorderly activities – vagrancy, loitering, panhandling, soliciting, public intoxication – but these statutes have been challenged on constitutional grounds. Some have been voided for vagueness, for being overly broad (and thus interfering with constitutionally protected activity), or for violating the 14th Amendment’s equal protection clause by having the police intervene when there is no probable cause to believe that a crime has been committed.

Private security is not constrained by such constitutional limitations. This allows them greater leeway in deciding what kinds of conduct are prohibited on the private property they protect. They can prohibit behaviors that would be constitutionally protected on public property. This is illustrated by one of the longest standing private security forces in the world, the Beadles of Burlington Arcade, a 196-yard-long covered shopping arcade in London that contains 40 high-end shops. Inside Burlington Arcade, prohibitions against singing, humming, drunkenness, opening umbrellas, and hurrying are all enforced by the Beadles. While part of the purpose of these rules is to maintain the historical decorum of the arcade, they also exist to prevent criminal and other undesirable behaviors. Whistling is banned because it was used as a code between pickpockets. Making clucking sounds is prohibited because of prostitutes who rented rooms above the shops and tried to attract the attention of men below (Country Life, 2019). In a study of two shopping centers with private security, Shapland (1999) found that a range of nuisance as well as criminal behaviors were unacceptable, and the security staff enforced rules through the continuous monitoring of visitors and exclusion of the offending individuals. Security officers ejected street traders, vagrants, religious preachers, political demonstrators, people wearing offensive T-shirts, and people collecting for charity. Such rules, if enacted in the municipal codes of American cities and enforced by police officers, would be struck down as unconstitutional.

A corollary difference is that private property owners can exclude people who choose not to follow the rules. On public property, every citizen must be permitted unless proved guilty of a crime. This presents a barrier to the ability of public police to engage in prevention, and partially explains why the traditional style of policing is reactive, rather than proactive as COP calls for. By being able to preliminarily exclude those who create the conditions that lead to fear of crime or disorder, private security is able to be proactive in maintaining order on the properties they police. Wakefield’s (2003) observations of security in large commercial centers illustrate this. Officers observing disorderly behavior would ask the offender to cease their behavior and notify them that they would be expelled if they failed to comply. The security teams kept logbooks on the occasions where exclusions were made, which listed the reason for exclusion. These reasons include drinking, vagrancy, youths playing disruptively, loitering, threatening behavior or fighting, begging, attempted theft, trespass in service areas, smoking cannabis, and indecent behavior. Wakefield found ‘little evidence that the legitimacy of the security officers in policing the centres was called into question by visitors to the centres, so that most people appeared to comply with instructions issued by the security staff’ (2003: 182).

This should not be taken to imply that private security is unconstrained in terms of the types of rules they can enforce or the discretion with which they can apply them. Private security engaging in invasive enforcement tactics commonly used by public police, such as stop-and-frisk, will only be able to continue doing so if the value of any gains in security (as evaluated by consumers) outweigh the costs of consumers taking their business elsewhere. The firms employing private security face real costs if they are perceived to be enforcing rules in an unjustified manner. In this sense, the rules and

the way they are enforced by private security are themselves subject to economic calculation, and the competitive process leads to the discovery of which rules and methods of enforcement are preferred by consumers.

4.3 Problem-solving

As noted above, in their evaluation of departments attempting to implement COP, National Institute of Justice researchers found that agencies who considered themselves to be engaged in innovative problem-solving used only 'traditional police activities such as arrest, high visibility patrol, and aggressive order maintenance' (Roth *et al.*, 2000: 202). Sometimes these methods work. In his *Why Brute Force Fails*, Mark Kleiman (2009: 34) discusses instances of police addressing specific problems, portraying them as successful examples of 'the practical possibility of having less crime and less punishment'. One example is the NYPD's response to squeegee men who would approach cars stopped in traffic, wash their windshields, and then ask for payment. Complainants found this experience unpleasant and frightening. So the police commissioner instituted a 'zero tolerance' policy in which anyone observed squeegeeing on the streets would be arrested and booked. Kleiman (2009: 43) states that, after a few months, illegal squeegeeing dropped to a tiny fraction of what it was and the NYPD did not have to expend many resources to maintain the zero tolerance policy, as surveillance of it only required periodically driving past the relevant intersections. In a similar fashion, the NYPD cracked down on turnstile jumpers in the subways, and results followed a similar pattern: after a burst of enforcement, there was a large decrease in the prohibited behavior as well as the resource demands of maintaining the zero tolerance policy. However, resource-intensive bursts of enforcement did not work the same way in curtailing driving under the influence (DUI): although DUI checkpoints can be effective in reducing the prevalence of DUI, they remain resource-intensive over time because the cost of manning a checkpoint does not fall when the prevalence of DUI falls.

'Operation Pressure Point' was a crackdown of blatant open-air drug markets in Manhattan's Lower East Side, involving 1,000 officers making 17,000 arrests (Kleiman, 2009: 44). After six months, enforcement was reduced to normal levels but the drug market never recovered; the area gentrified and was less attractive as a dealing spot. However, the resources required for such a crackdown, especially from the court system, are unsustainable. Kleiman contrasts this 'hard way' of breaking up street drug markets with the 'smart way' used in High Point, NC. High Point's West End neighborhood had a considerable crack dealing problem. Advised by John Jay College Professor David Kennedy, the police department engaged in dialogue with neighborhood members over several months regarding the drug trade, the neighborhood's racial grievances with the police, and the need to get the dealers in the neighborhood to stop. 'Given neighborhood support, actually suppressing the market turned out to be fairly cheap and easy' (Kleiman, 2009: 46). With the help of the West End community leadership, the police identified all the dealers and engaged in undercover buys to build cases against them over the course of three months. Instead of prosecuting them, they sent out teams consisting of a police officer and community leader to the dealers' homes and invited them for a meeting. At the meetings, community members told the dealers that the community would support them in legitimate pursuits if they got out of the drug trade; social service providers offered assistance in getting them jobs; and prosecutors would show them the evidence amassed against them. Nine of the 16 active dealers decided to quit and only seven arrests were made. The drug market in the West End was effectively closed. Though drug dealing moved to the strip clubs at the edge of town, it no longer disrupts the life of residents of the West End (Kleiman, 2009: 48).

The drug intervention effort in High Point shows that public police are capable of engaging in innovative problem solving. But all of the other examples provided by Kleiman involve the police engaging in aggressive crackdowns, similar to what the NIJ and other researchers found in their evaluation of problem solving efforts (Capowich and Roehl, 1994; Clarke, 1998; Corder, 1994; Read and Tilley, 2000). What determined success was not the ability of the police to tailor their solution to the particular problems, but how conducive the problems were to being resolved by crackdowns. It should not be surprising that police rely on crackdowns given the measures by which individual police officers

are evaluated. Kleiman (2009: 170) notes that ‘managerially and for the purposes of accountability – to the public and to elected officials and their appointees – it is essential to have a limited set of performance measures and to keep each organization focused on its assigned tasks...Moreover, there are not very good mechanisms for adding resources to an agency to allow it to do something that is not its central mission’. There is a direct tension between the goal of having police officers be directly accountable to their supervisors and giving officers the discretion to engage in innovative problem solving. ‘To the extent that police organizations retain the bureaucratic features essential to control abuses, they cannot be expected to provide officers the scope of discretion necessary to accomplish order maintenance objectives’ (Mastrofski, 1988: 59). Given the variables facing police officers in the situations they must address, it is not possible to codify benevolence for every situation *ex ante* (Rizzo, 2005).

The institutional features of private security enable innovative problem-solving approaches to issues similar to those that public police face, such as problems associated with the drug trade. McLeod (2002) is the proprietor of the Canadian security firm Intelligarde, which serves various clients, including housing projects. He describes the process his company undergoes in order to restore order within low-income apartment buildings that had been overtaken by crime. First, he and his agents would sweep a building, starting with the area outside of it, identifying lookouts for drug dealing gangs, then moving to areas conducive to drug dealing and prostitution, such as stairwells, roofs, laundry rooms, and parking garages. They then implement the ‘trespasser interdiction program’, which consists of excluding outsiders – dealers and prostitutes who are not residents – from the building, and then concentrate on problem renters. One of the tactics they use is inserting undercover people who can pass for prostitutes or drug pushers and can identify people in the building who are sources of problems.

They hold a meeting for building residents, seeking out existing or potential group leaders, and invite the police. McLeod asks the building residents about their grievances and advises them on how they can assist in changing the ‘psychology of the building’ (92). If one of the drug-selling residents of the building shows up to the meeting, McLeod will arrange for the undercover operative and uniformed security to handcuff them in front of the residents and deliver them to the attending public police. He claims that the meeting and arrest creates a turning point in the quality of life in the building in which the residents are motivated to overcome their fear and take back the building. The same night, McLeod and his team will encourage residents to play card games in the lobby, setting up tables for them, and explain how they are setting up stringent security rules for the building. These include requiring residents to provide identification to security officers when requested and that visitors announce themselves. They evict those who contribute to the problems. McLeod (2002: 94) notes how, by removing the disorderly elements from the building, the community is resuscitated and residents feel comfortable and safe in the common areas of the building again.

Dale Brown founded Threat Management Center, a for-profit security firm that serves businesses and residential clients in the Detroit area, provides free self-defense training to individuals and police officers, and offers pro bono protection for domestic violence victims. Some of his clients own apartments in low-income, high crime areas that have issues with drug dealing. Brown has used various creative methods of reducing the presence of drug dealers in and around the buildings of his clients (Woods, 2016). In one instance, he told a group of dealers who congregated outside of an apartment building that cameras had been set up to observe that location and the footage was being given to the police to analyze whether it recorded anyone with outstanding warrants. This message was not relayed as a threat, but as though Brown was doing the dealers a favor, for which they thanked him, left, and did not return. The cameras Brown installed did not even work. Another tactic Brown used was posting signs in the entrance of apartment buildings that read, ‘Notice to all police. You must call this number because there are undercover armed security posing as drug dealers in the building’, with his own cell phone number at the bottom. There was no armed security and police never called the number, but dealers started distrusting one another and no longer wanted to hang out in hallways or other public areas within the building. One final example is when Brown and his team dealt with the problem of drug dealers on the corner of a major street in Detroit. Brown and his partner travel to the intersection in a van equipped with a

loudspeaker, over which Brown tells the dealers to disperse. After he and his partner get out of the van, they are approached by two of the dealers who yell, 'We're not moving!' One grabs at Brown, who uses a baton to strike his shin, and a lateral vascular neck restraint to subdue him and put him in the van. His partner also gets into a physical altercation with the other dealer, manages to overpower him and put him in the van, after which he and Brown drive off. The other dealers, having seen men being abducted off the street, never return to that corner for fear of the 'body snatchers'. The two abducted 'dealers', however, were trainees in Brown's program.

These examples of innovative problem solving are encouraged by the institutional features of private security. Intelligarde could exclude certain individuals from their client's building and enforce rules against disorderly acts. The fact that Intelligarde and Threat Management Center do not have the authority to arrest required that they find alternative ways of making crime less attractive on their clients' property. But even if they did have arrest powers, they would still have the incentive to address the underlying conditions that make their target area criminogenic and do so in low-cost ways.

5. Conclusion

COP seeks to create police forces that are preventative rather than reactive, focused on the overall quality of life rather than just enforcing the criminal code. This paper has argued that the institutional features of private security make it more conducive to achieving these goals. Public police agencies attempting to implement COP have mostly continued in their use of traditional methods. While the COP literature has attributed this to police culture or bureaucratic inertia, an economic approach to analyzing the institutional features of public and private policing and the knowledge and incentives they create offers a richer explanation. This analysis has a number of implications.

Theories of COP need to account for the role of private security in community policing's division of labor. Given COP's emphasis on partnerships between the police and a large variety of non-police entities, including other government agencies, schools, churches, block organizations, and businesses, it is surprising that private security is given relatively little attention in the COP literature. Part of this stems from the under-specification of public safety tasks, which tend to be categorized either as a job for the police or as something for 'the community' to do, meaning volunteers. There are tasks that fit into neither category because the use of public police officers to perform them is too expensive yet the task is too intensive for volunteers. Some problems may just require the hiring of a watchman who fulfills an intermediary function between a volunteer serving in the Neighborhood Watch and a sworn peace officer. In this way, private security can serve a 'parapolice' function (McLeod, 2002), freeing up police officer time for more valuable uses.

COP partnership strategies need to more seriously consider the incentives for citizens to be involved. If the benefit derived from solving a problem is a public good, one's individual contribution to the solution to that problem is not crucial, and participation cannot be bundled to other benefits, then contributions by citizens will be minimal. It must be recognized that there is a reason that individuals did not take action to solve the problem prior to police involvement and therefore if cooperation is going to occur, police involvement must change those conditions that prevented the community from solving the problem on its own.

COP and policing strategies focused on order maintenance need to account for the role of public and private property in their analysis of the conditions that lead to problems and how they can be addressed. While some spaces are in the commons because of legal prohibitions on private appropriation, others are because the benefits of appropriation are too small (Barzel, 1989; Demsetz, 1967). If property rights can be re-organized in such a way that private individuals have an incentive to ensure that order is maintained, responses to disorder will be more sustainable. This may involve privatizing spaces in the commons or changing rules that affect the incentives of the owners of private property.⁸

⁸A guide to problem-solving from the Office of Community Oriented Policing Services cites the example of the Chula Vista Police Department's response to high numbers of calls for service from motels (U.S. Department of Justice, 2011).

But what should be acknowledged is that if problems take place in spaces in the commons in which no one has a personal stake in improving, public police will likely be on their own in addressing them.

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Part of the solution involved drafting a new ordinance that required motels to apply for an annual operating permit, one of the conditions being an acceptable call-for-service ratio based on the previous year's median, essentially outlawing motels with too many calls for service. The guide reports that calls for service to Chula Vista motels dramatically dropped but is unclear on what the precise mechanisms were. What is notable is that part of the problem may have been the fact that calls for police service were a common pool resource and motel owners were forced to find alternative means of order maintenance when calls for service were taken out of the commons.

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