

IMPLEMENTING LEGAL POLICIES THROUGH OPERANT CONDITIONING: THE CASE OF POLICE PRACTICES

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INTRODUCTION

One serious obstacle to the achievement of social change in America has been the intransigence of large bureaucracies toward changes in goals, procedures, and styles. Although programs *ad infinitum* to remedy evils such as poverty, segregation, crime, and pollution are proposed and even written into law, the day-to-day operation of our political institutions often fails to reflect these innovations. Thus we are unable to evaluate the merits of alternative solutions to such ills because they are never given the test of full-fledged implementation.

In this paper I am going to suggest various measures to modify the behavior of one important political institution which has been staunchly resistant to change—the police. Our understanding of police operations is still quite limited (due partially to the secretive nature of most departments), but as David Easton (1969) has argued, social scientists have an obligation to use whatever intellectual tools are at their disposal to obtain “quick, short-run answers” to questions of pressing social concern. To this end, what follows is an attempt to apply some principles of learning theory (developed largely in highly-structured psychology laboratories on infra-human subjects) to the chaotic environment of the cop on the beat.

Operant behavior is behavior controlled by its consequences, and operant conditioning is the molding of behavior by differentially rewarding behavior that is desired and/or punishing that which is unwanted. The power of positive and negative reinforcements in regulating human life is revealed by the suc-

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cesses of psychotherapists, educators, social workers, and others who have used conditioning to correct destructive or inadequate behavior. Lifelong stutterers have been cured, paralyzing phobias have been eliminated, autistic children have been "reached," and juvenile delinquents have been steered away from a life of crime.¹

That we are all conditioned to act in certain ways from our earliest years is hardly news. However, the notion that our patterns of behavior can be systematically and radically changed by altering patterns of reinforcement has not been fully appreciated by political scientists. Our discipline seems to have been seduced by those psychologists who are convinced of the existence of deep-seated cerebral states—personality traits (e.g., authoritarianism), attitudes (e.g., toward civil rights), complexes (e.g., deprivation of affection)—which subconsciously govern much of our private and public behavior. Certainly much of the literature on political socialization portrays man as the captive of early childhood experiences which become almost irreversibly internalized. Contrary to these notions, I assume that human behavior is extremely malleable, even at later stages of life, and that individuals can adapt readily and sometimes abruptly to new circumstances that impinge upon them.

Reflection about American political leaders suggests as much. Lyndon Johnson, the Texas Congressman, repeatedly votes against anti-lynching laws; as President he pushes strongly for civil rights and concludes a State of the Union message with the words "We Shall Overcome." Charles Goodell, the upstate New York Representative is a Vietnam war hawk; as Senator he becomes a leading dove. Sam Yorty originally runs for Mayor of Los Angeles as a moderate leftist (promising to fire Police Chief William Parker); shortly thereafter he becomes a spokesman for the far right. If presidents, legislators, and mayors can change colors, so can the countless and nameless "line personnel" like police, on whom prescribed social change so vitally depends. For better and for worse, we are all chameleons.

THE GOAL: POLICE RESTRAINT

One of the cardinal rules of conditioning is, simply, know what you want before you try to get it. Put otherwise, change agents must establish, with some precision, desired *behavioral outcomes* before mapping out strategies and tactics. This may sound obvious, but proponents of police reform are often quite vague about what they want to achieve. The Wickersham Com-

mission, appointed by President Hoover to investigate police, opted for efficient law enforcement, i.e., prevention of crime and the capture of criminals—an image of police popularized for years by Hollywood producers (National Commission on Law Observance and Enforcement, 1931). On the other hand, social scientists studying the police in recent years have pointed up the significance of order-maintenance or peace-keeping (e.g., breaking up fights) as an important goal of police work (Wilson, 1970; Banton, 1964). Still others see the police largely as a social service organization, whose forte should be retrieving cats, writing traffic accident reports, and counselling adolescents (Berkeley, 1969).

What I am seeking is *police restraint* in dealing with citizens no matter which of the above goals predominates. This was one of the major objectives of the United States Supreme Court under Earl Warren, and our constitutional law is now replete with specific rules about police practices. Limits have been placed on the right of police to interrogate (*Miranda v. Arizona*, 1966; *Orozco v. Texas*, 1969), arrest (*Spinelli v. U.S.*, 1969), search (*Chimel v. California*, 1969; *Shipley v. California*, 1969), and subdue (*U.S. v. Price*, 1966) citizens; there is now an authoritative national policy guaranteeing the citizen “due process” in his contacts with police. An individual, whether bearded hippie, militant black, vicious mobster, or middle-class speeder, is now *entitled* to the benefit of regularized procedures and respect for his life, liberty, and property.

Although my primary concern is translating these legal rights into the “living law” of actual police behavior, the outcome I would like to see attained goes much farther. The “good cop,” the end product which I would like to see fashioned, is the officer who treats and handles *all* as respectfully, decently, and justly as circumstances permit. Operationally this means that police do the following:

- 1) Refrain from verbal abuse of citizens;
- 2) Use only necessary force against those caught in the midst of crime or those resisting arrest;
- 3) Restrict field interrogations to persons likely to be suspects or witnesses to major crimes;
- 4) Ignore race as a factor in deciding whether to stop citizens, arrest them, or use force;
- 5) Make arrests only when they witnesses misdemeanors or have probable cause to believe an individual has committed a felony;

- 6) Make arrests sparingly (and as a last resort) in quieting minor street disorders;
- 7) Respect the integrity of private homes by forcibly entering them only after obtaining a search warrant or when observing a felony in progress.

I urge these ends because I think they are intrinsically worthy, part and parcel of the democratic ideal of "self-respect for everybody" (Riker, 1965: 17). But such goals are instrumentally valuable as well, given the fact that so much civil disorder in this country has been precipitated by police-citizen confrontations and standing grievances against the police (National Advisory Commission on Civil Disorders, 1968: Ch. 1, 11). In the 1967 Newark and Detroit riots alone (both of which were triggered by police incidents), 68 persons were killed, 1,049 injured and over fifty million dollars of property destroyed (National Advisory Commission on Civil Disorders, 1968: 115, 162). Certainly the underlying causes of such holocausts are complex, but devoting attention to bettering police-citizen relations might well reduce the probability that the social kindling in our cities will be sparked.

There is a further reason for trying to restrain the police. Unlike most policy changes, little or nothing may be sacrificed by curbing police aggression. Although many argue that reducing police discretion will increase crime and diminish public safety, much crime by its very nature cannot be prevented by police (Wilson, 1969: 130). Since either stealth or impulsiveness are elements of most serious criminal activity, even the most vigilant police surveillance would only be minimally effective. In fact, the probability of criminals being apprehended and punished should actually increase if police become more trusted by citizens since information about events in question is the most crucial ingredient of crime solution, and lack of cooperation from victims (which characterizes high-crime areas) makes investigation very difficult. In any case, recent theories of criminology and high rates of recidivism raise doubts about the efficacy of penal sanctions in deterring serious crime. Thus, if there are no clear-cut social benefits from a free-swinging police department, we might as well protect the innocent (and guilty) who suffer from police anarchy.

How serious is police malfeasance—needless intimidation of citizens? What is the "base line" behavior we are trying to correct? Although measures are woefully inadequate because most police-citizen interactions are out of public view, recent

studies have produced evidence that police misconduct abounds. Forty-four citizens were improperly assaulted *before the very eyes* of Reiss's observers of Boston, Chicago, and Washington, D.C., police in the summer of 1966 (Reiss, 1968: 12), and the nationwide study of police conducted by the President's Commission on Law Enforcement and Administration of Justice (1967: 28) indicated that rules of restraint are "often disregarded in practice." Similar conclusions have been reached by seasoned journalists who cover urban police, such as William Serrin (1969) of the *Detroit Free Press*, who entitled an article on the Detroit police "God Help Our City" to convey the peril and urgency of the present state of affairs.

Because patrolmen operate rather autonomously in hostile and unpredictable environments, it is sometimes argued that police lawlessness is almost as inevitable as death and taxes. But the efficacy of police administrators in regulating the enforcement of substantive laws by the men on the beat belies this contention. Gardiner (1969) has shown how the level of traffic law enforcement is controlled at the top; he cites examples of ticketing rates in major cities jumping five and ten times from one year to the next when new chiefs take over or old ones crack down. Likewise, Wilson (1970: Ch. 3-7) explains the variance in the handling of misdemeanors such as public drunkenness or juvenile curfew violations by the eight police departments which he studied in terms of alternative preferences of high-ranking police officials. Naturally, the job itself does impose some constraints on police officers (one could hardly condition them to react nonchalantly to sniper fire), but restraint and judiciousness are reasonable expectations. Violence and brutality are *not* indispensable tools of police work and enlightened leadership can do much to curtail their use.

Notwithstanding the current public appeal of cries for tougher police methods ("law and order"), police departments have been and still are relatively immune from direct control of either voters or politicians. Pressure mounts when a ruthless killer prowls at large or when demonstrators take to the streets, but normally police operate with a minimum of community interference. Consequently, police administrators who opt for greater legality and sensitivity on the part of their men should be fairly free to pursue this goal.

What follows in the remainder of this paper is predicated on the assumption that the top police leadership that emerges in the near future will be more far-sighted than their predeces-

sors. They will recognize that terrorizing or maligning citizens, even those who are reprehensible outcasts or willful law-breakers, is likely to boomerang and intensify the fierce ordeal already facing police by inflaming the passions of the community. Some may scoff at this "new breed" as the "same old pigs" in more respectable apparel (most top cops have shed uniforms), who use sophisticated language and more genteel techniques to execute the same repressive policies. This kind of sweeping rejection is unwarranted. It was an event of significant proportions when in 1966 Thomas Reddin replaced the infamous William Parker as Chief of Police in Los Angeles; it promised a real tempering of police conduct and no amount of rhetoric about Fascist domination can obscure this fact.

Unfortunately, the "new day" never dawned in Los Angeles (Mathews, 1969)—a tale similar to that of other cities where progressive chiefs with the highest aspirations take over. Although a number of changes were instituted—popular Dodger catcher John Roseboro was hired as a liaison man with the black community, the community relations staff was increased from three to 120, police began playing baseball with kids, the department was decentralized—police-citizen relations continued to deteriorate. The reason is simple: Reddin was unable to control the behavior of the men on the beat, many of whom persisted in the forceful practices of the past. It is an uphill fight to sell a bad product.

So we come to one of the central points of this paper: re-making a police force, what it *does* and not how it looks, requires a stock-taking of the traditionally proffered methods to control police and a willingness to experiment with radically new approaches based on sound theories of human behavior. It is possible to renovate and salvage veteran police, but it involves more than relying on the commitment of the chief or the deference of the patrolman. What must be systematically exploited is the power of the payoff; police can be restrained—they will tame themselves—if it is made worth their while.

THE FUTILITY OF PUNISHMENT

The gut reaction of most liberals after reading *Rights in Conflict* (Walker, 1968), the official government study of police violence during the 1968 Democratic National Convention in Chicago, is one of anger, indignation, and vindictiveness. The hue and cry goes up for blood—wholesale purging of the department, public hearings, instant dismissals, criminal prosecutions, prison sentences.

Ignoring all that we have learned about the limitations of punishment to modify behavior, we steadfastly cling to the idea that perfecting the disciplinary system used against wayward police will rid us of the forces of evil. Strange, indeed—we now recognize (at least in theory) that hard-bitten criminals are not often reformed nor violent crime deterred by threats of punishment, but somehow police do not get the benefit of our enlightenment. Almost to a man, the critics of the police focus on ways of devising mechanisms for insuring and intensifying the application of punitive sanctions against incorrigibles. Whether the demand is for civilian review boards or “community alert patrols” (to police the police), the rather singular emphasis on redressing grievances of victims as a means of restraining police is ill-founded and unfortunate. Theoretically it is untenable and practically it will not work.

The Ease of Escaping Punishment

To condition behavior, reinforcements, whether positive or negative, must be administered according to a systematic schedule. Of course not *every* response need be rewarded or punished to be established and maintained, but it must become clear to individuals that they cannot escape the consequences of their action. If reinforcement patterns are totally unpredictable it simply makes no sense to rely on the off chance that they might fortuitously materialize. This is particularly so concerning punishment (i.e., the presentation of aversive stimuli following an undesirable response) because there usually are simultaneous positive reinforcements which *do* occur with regularity. The skid-row alcoholic who is jailed now and then for public intoxication is more than compensated by the instant satisfaction of reduced mental stress and satiated physiological needs accomplished by drinking. Guaranteed pleasure is a more powerful influence than intermittent or problematic pain (Bandura, 1969: 314).

Herein lies the fatal flaw of most discipline schemes against police. There are immediate rewards for roughing up citizens (peer group approval, feelings of superiority, self-protection) while the chances of getting caught are quite low. Paul Chevigny, a lawyer who for two years headed a well organized and reasonably well financed “Police Practices Project” to seek redress of grievances against New York City police, concluded that it was virtually impossible to bring offending police to task (Chevigny, 1969: 27). Police are usually able to legitimate or camouflage abusive conduct so most available remedies against

them are totally useless. They can, quite literally, get away with murder. There are at least eight factors that explain why most guilty police escape discipline: 1) the lack of witnesses; 2) police secrecy; 3) police lying; 4) "bargains" made with victims; 5) the meaninglessness of the "exclusionary rule"; 6) the softness of police review boards; 7) the difficulty of suing police; and 8) the impotence of victims. Let us look at them in turn.

1) Generally, there are no dependable and disinterested witnesses present to observe police brutality. The most brutal attacks against citizens usually occur in places of low visibility and are thus most difficult to verify; the squad car and the station house (particularly its inner recesses like the "lock-up") are ideal sanctuaries in which physical assaults can be rendered with impunity. As a result, most disputes concerning police abuse are nothing more than contests pitting the officer's word against the citizen's, so it is very difficult to prove the validity of the complaint in a legally acceptable manner. The aggrieved citizen claims he was pushed down a flight of stairs; the officer says the complainant tripped and fell; who is right? Without any outside corroboration, the benefit of the doubt normally goes to the cop.

Even if bystanders observe police brutality, they are ordinarily reluctant to intervene or get involved; the public apathy of urbanites that destroyed Kitty Genovese (who was viciously murdered in New York while 30 onlookers watched) puts the victim of the police in a similarly helpless position. Of course the risks of intrusion are considerable; the good samaritan protesting police action frequently winds up getting molested himself, or at least being arrested on an "interfering with an arrest" charge. Furthermore, few observers sympathize with the citizen who usually is some kind of social pariah, often is clearly guilty of a crime, and occasionally is a quite despicable specimen of humanity. Thus, the biggest frustration of lawyers representing challengers of police actions is that essential witnesses continually disappear from sight, preventing the authentication of complaints (Chevigny, 1969: 128). When this happens, the officer almost inevitably gets off scot free.

2) In most altercations, other police officers are around. But no norm is paid greater homage by police than the so-called "Brothers Code": you don't rat on a fellow cop. There is a strong obligation among police, enforced with stiff social sanctions, to protect each other from uncovering of malpractice.

Westley's interviews with police in a large midwestern city showed that 73% would not report another officer for stealing \$500 from a drunk and 77% would not testify against him (Westley, 1956: 255).

Equally significant is the finding of the Reiss study: in more than half of all instances of undue police coercion that were observed, at least one non-participating policeman was present who stood by and refused to restrain the offender (Reiss, 1968: 18). A "do your own thing" philosophy permeates most large forces, and the officer who tries to embody the department's conscience seriously jeopardizes his standing with his fellow men. This mutual tolerance of rule-breaking, backed up by secrecy, is a thick shield that hides most police abuses.

3) A corollary of the secrecy ethic is that police will lie, if necessary, to protect themselves and each other. Police will almost invariably fabricate criminal charges against their victims to justify the force which was used. A typical scenario might begin with an officer stopping a group of unfamiliar men meandering along a deserted commercial street late at night and making nasty cracks as he questions them. Someone curses the officer, who then proceeds to throw the defiant one against the squad car and frisk him (perhaps getting a few jabs in as he does). An arrest is then made for disorderly conduct even though the men were peacefully minding their own business when initially approached.

Similarly, a harsh beating administered by police in the interrogation room resulting in the hospitalization of the victim will be followed up by the placing of a felonious assault charge against him; it will be alleged that the defendant physically attacked police while being questioned. Or, more commonly, a car is stopped for a traffic violation, a citation is issued, and the driver responds insolently or sarcastically; the officer then roughs him up and slaps him with a resisting arrest charge. All of these cases have a common thread: the officer *falsely arrests* a citizen to legitimate his own illegal behavior. The injury to the citizen is thus compounded; he has not only been physically accosted but he must defend himself in a criminal prosecution where the odds are stacked against him notwithstanding his innocence. Even if he wins in court he is stuck with a criminal record which is a terrible stigma in our society.

The "cover charge" provides the officer with almost invincible protection against punishment because authorities will almost always exonerate him if his use of force was necessari-

tated by the citizen's obstreperous behavior. Since the latter is most persuasively demonstrated if the defendant is convicted of a crime, a two-fold *modus operandi* is standard procedure among policemen: 1) the intensity of violence used against defendants determines the seriousness of the charges preferred against them; 2) stories are contrived to support the charges. Short of administering sodium pentothal to accused police to get at the truth, it is almost impossible to break down the lies which excuse the officer's conduct.

4) In those few cases where defendants of these trumped-up charges *are* able to marshal a reasonably good case and counter the contentions of the police, prosecutors will often offer to dismiss the charges if the defendant will sign a waiver of claims for damages against both the city and the individual officer (Chevigny, 1969: 48-49). For most defendants who face the aggravations, expense, and uncertainty of a trial, this is too tempting a bargain to pass up, even though it disables them from seeking compensatory or punitive damages in civil court for the injuries that were suffered.

5) The "exclusionary rule" (see *Mapp v. Ohio*, 1961) which prohibits the admission of illegally obtained evidence into court is not much of a threat to police. The worst that can result from an unjustified search or seizure is an acquittal of the defendant, which is no great tragedy for individual police (unless the case has been highly publicized). Besides, the police, in carrying out some of the most egregious invasions of privacy do not envisage prosecutions at all; the major purpose is to secure information or harass deviants.

6) We normally expect those who act as judges to be impartial and unbiased, but this is decidedly *not* the case with most police review boards which hear allegations of police abuse of citizens. These are generally manned by senior police officers who have risen through the ranks of the department and sympathize with the men on the beat. It is therefore not surprising that the percentage of citizen complaints sustained by these boards is uniformly low.

The record of the Los Angeles Police Department Internal Affairs Division (indicated in Table 1) is typical. The "excessive force" complaints almost always originate from outside the department while the "neglect of duty" charges are brought by superiors from within. Those who slough off job assignments

TABLE 1: COMPLAINTS SUSTAINED BY THE LOS ANGELES POLICE DEPARTMENT^a

	<i>Excessive Force</i>			<i>Neglect of Duty</i>		
	<i>received</i>	<i>sustained</i>	<i>% sustained</i>	<i>received</i>	<i>sustained</i>	<i>% sustained</i>
1965	231	12	5.2	326	265	81.2
1966	301	16	5.3	288	232	80.6
1967	369	42	11.4	241	192	79.9

^a The Table is taken from American Civil Liberties Union of Southern California (1969: 22).

(e.g., fail to answer radio calls, under-enforce traffic laws, show up with unpolished shoes at the Christmas parade, etc.) are dealt with harshly, but those who use force overzealously are likely to go unscathed. Chevigny (1969: 56) reached an identical conclusion after two years of dealing with the New York City Review Board, claiming that "it is an extremely fine sieve through which relatively few complaints are pure enough to pass." The message is clear: the departments do not welcome outside intrusion in the running of their affairs.

For all the political ballyhoo about civilian review boards in which outsiders take part in the disciplinary process, the few which have gotten off the ground have also failed to crack down on police offenders. For example, from 1958 to 1965 the Philadelphia Civilian Review Board received 704 complaints and wound up recommending penalties in only 38 cases (President's Commission, 1967: 201). What probably happens is that the civilians, most of whom are middle- or upper-class community elites who are unlikely to have had personal run-ins with police, wind up getting co-opted by the departments they are supposed to be controlling; this is especially likely when police representatives sit on the board. As it turns out, then, the civilian boards seem to be symbols of community control rather than meaningful checks on police.

The limitations of civilian review boards are of little moment anyway since no chief with any political acumen would presently strive for this kind of disciplinary system. The public, interpreting the boards' actions as coddling criminals and appeasing blacks, will not tolerate it (in 1966 it was defeated by a two-to-one vote margin in "liberal" New York). More significantly, such proposals are anathema to the police who have mobilized their considerable political strength to fight against them (Skolnick, 1969: 276-286). A chief who favors civilian controls faces nothing less than a revolt from the ranks and a breakdown of his authority.

7) Judicial personnel usually side with the police so outraged citizens normally have no recourse in the courts. Juries normally empathize with police and often abhor alleged victims so they tend to overlook police transgressions. Judges have another reason for believing police as a general rule: it keeps the rate of guilty pleas high in criminal cases and reduces the strain on the trial docket which is often hopelessly overburdened. The police implicated in the Algiers Motel incident during the 1967 Detroit riots were acquitted by the jury. (*New York Times*, 1970), and the same good fortune befell eight Chicago police prosecuted by the federal government for wantonly attacking newsmen during the 1968 Democratic Convention (Hasman, 1969). If these seemingly iron-clad cases (the later including close-up photos of the assailants) were insufficient to convict, it ill behooves the run-of-the-mill victim of police misconduct to waste precious resources fighting a losing battle in the courts. The police surely have little to fear from those quarters.

8) The victims of police brutality are ordinarily marginal, lower-class men—e.g., drunks, migrants, the unemployed—(Reiss, 1968: 16-18) who lack the initiative, resources, fortitude, and skills to fight the injustices inflicted upon them. It is now common knowledge that these kinds of individuals have a low sense of political efficacy, especially regarding legal institutions from which they are so totally alienated. They are either unaware of the proper channels for redress² or entirely dubious about the chances of success. Rarely can they afford to hire legal counsel, and most court-appointed lawyers or public defenders are only concerned about getting their “clients” off with the lightest sentence. These people are social expendables and are thus left largely on their own.

Consequently we have the paradox that those who hate the police the most, the racial minorities in the ghettos, took less advantage of the presumably responsive Civilian Review Board in New York during its short existence than the middle-class whites (President’s Commission, 1967: 201). If those who suffer most complain the least, guilty police are not likely to be apprehended. Punishment for abuse of authority, then, is a highly improbable event and no rational policeman would spend much time worrying about it.

Delayed Punishment

The more immediately punishment follows behavior to be modified, the greater its suppressive effects (Bandura, 1969: 295). The child who is spanked hours after he disobediently

strays across the street has meanwhile received a plethora of positive reinforcements (satisfied curiosity, the ebullience of rebellion, etc.); punishment is too late in the day to do much good. Since most serious sanctions imposed on police result only after multiple investigations, ponderous hearings, and all sorts of bureaucratic rigamarole, their efficacy in restraining future conduct is diminished.

The Leniency of Punishment

Abundant experimental evidence shows that severe punishment is necessary to permanently suppress responses unless alternative behavior is being rewarded at the same time. Azrin's pigeons, when shocked with 50 volts or less after each pecking response (which were simultaneously being positively reinforced with food) stopped responding completely the first day of the experiment but eventually recovered to a rate of 900 responses per day (contrasted with 2,800 per day during trials prior to punishment). When shock was weak (30 volts or less), responding recovered quickly to the prepunishment rate, but when the initial shock was severe (100 volts), the pigeons gave up pecking altogether (Azrin, 1960). The passing effects of lenient punishment are predictable; present satisfaction is a more compelling force than the recollection or anticipation of mild distress.

This principle renders laughable the measly sanctions which are sporadically meted out against errant police. A typical book on police administration states that "the oral reprimand, although the mildest form of discipline, can be the most effective in correcting violations" (Pell, 1967: 60-61). This, as any parent knows, is palpable nonsense; but it is a precept followed by many departments. From 1960 to 1965, 150 Detroit police officers were held responsible for misconduct by the Citizen's Complaint Bureau, but not one discharge was ordered and fewer than ten men suffered any loss of pay (Serrin, 1969: 120). The ill-fated New York Civilian Review Board also used kid gloves; it relied heavily on a "conciliation program" which pointed out a "mistake" to an officer without penalizing him (Black, 1968: 222). The issuance of token punishments (demerits, a few extra duties, etc.) may rankle the offender but hardly deters future improprieties.

Although this kind of discipline, the slap-on-the-wrist, is pointless, most chiefs really have few options. They are hemmed in by civil service regulations which usually require full-blown hearings for penalties in excess of five days' sus-

pension. Also, the understaffing of most departments (65% of all departments are between five and ten percent below preferred strength [President's Commission, 1967: 133]) and the increasing number of pre-retirement resignations put a premium on current personnel; lowering the boom on irreplaceable police not only results in the immediate loss of available manpower but could inspire droves of other men to quit in disgust. A less tangible but equally important constraint on police leadership is the muscle being flexed by police organizations in defense of their membership (e.g., a petition signed by one-third of the St. Louis police force vehemently protesting the one-month suspension of two officers for using too much force in arresting two black militants [Skolnick, 1969: 280-281]). The price of cracking down is just too high and so the threat of serious punishment will continue to be hollow—a transparent bluff which can be easily ignored.

The By-products of Punishment

There is only one threat that has made a serious impact on police—the specter of community vengeance. The phony arrest, the sadistic shooting, the degrading public shakedown, all can, and do, trigger far worse counterattacks on police—rock throwing, sniping, riots, and the like. Although most departments saturate the ghettos with police, the latter are still outnumbered, and they know it. The community's underlying capability of escalated violence is a working reality to police with far more potency than Supreme Court mandates or rule book pieties (Nieburg, 1969: 152-153). The retribution of the vigilante is swift and stern—most effective from the standpoint of learning theory.

Nonetheless, even effective punishment of police, whoever inflicts it, is fraught with risks of untoward consequences. First of all, one effect of punishment is to evoke emotions such as fear and anxiety when individuals are in situations similar to those that were originally punished. These incapacitating emotions, partially physiological in nature (higher blood pressure, twitching, etc.), often cause individuals to panic and act irrationally when confronted with the threatening stimuli. Police officers disciplined for wrongfully shooting a fugitive might well find themselves paralyzed—"gun shy"—when they have to fire to protect their own or others' safety. Similarly, policemen who have been attacked by black revolutionaries would probably be chronically tense when patrolling any black neighborhoods, and nervous reactions to events are *not* likely to be restrained.

Highly-charged emotions result in impulsive and unpredictable behavior.

Another dangerous side-effect of punishment is the phenomenon of "generalized inhibition"—the stifling of appropriate behavior along with the unacceptable. Disciplining an officer for making an invalid arrest may cause him to refrain from making many perfectly legitimate arrests; much-needed aggressiveness on patrol is deterred along with the needless aggression. In McNamara's study of experienced New York City police, 62% of those interviewed agreed with the statement that "disciplining a patrolman usually has the effect of making him a less active cop," while only 12% disagreed (McNamara 1967: 238). Of course these police perceptions cannot be taken at face value, but others have alleged (including the FBI) that Philadelphia police, fearing the civilian review board, were so cautious during the 1964 riots that they allowed looters and burners to carry on unmolested (President's Commission, 1967: 148). This may or may not be true, but one can well imagine police exercising prudence to the point of impotence in order to ward off threats of impending punishment.

Closely related is the problem of avoidance or escape behavior—staying clear of situations where punishing agents are present. If blacks in the ghetto have been retaliating against police, the latter may simply fail to take any action if it places them in a precarious position. When coming upon a gang brawl they might just watch from the sidelines rather than risk a mob action in which the crowd turns against them. Or they may pay no attention when the radio announces a robbery in progress in a housing project thought to be infested with snipers. This will, in turn, just aggravate police-community tension because most slum-dwellers living in high-crime locations are more angry about non-enforcement of the law (i.e., the unresponsiveness of police to their calls for help) than they are concerned about police brutality.

Thus, strategies which emphasize confrontations between the police and the community will not succeed in moderating police conduct. Police will not be pounded into submission, and if they were, they would cease to be police. The negative approach to governing police, like so many attempts to force conformity and compliance, is a dead end.

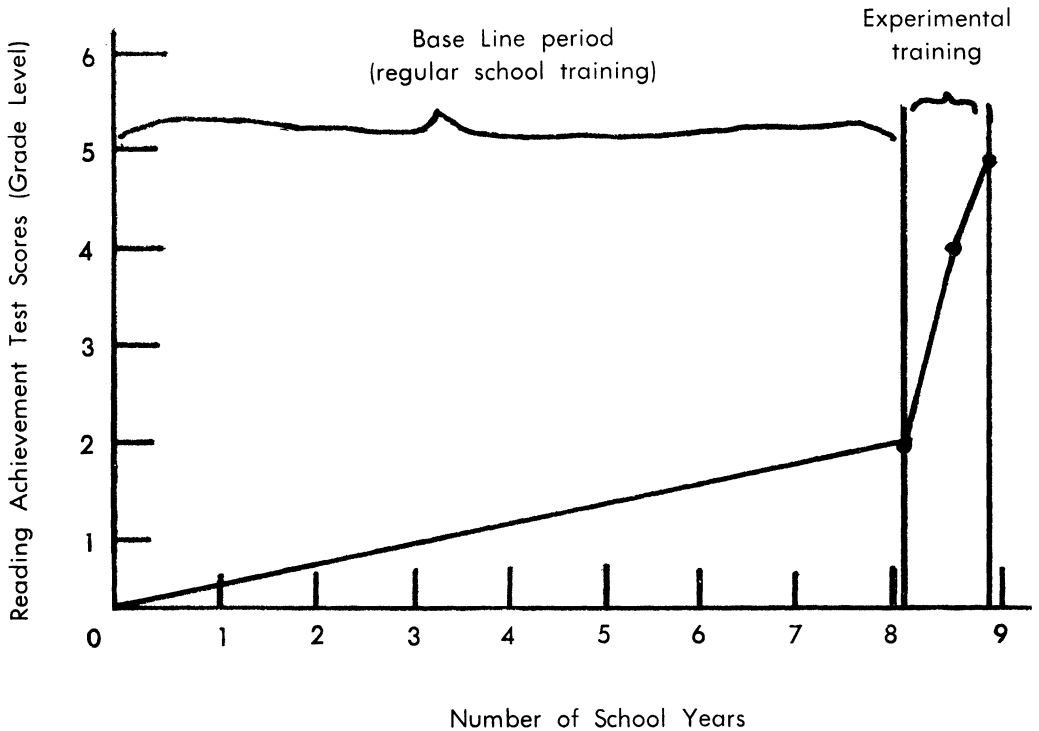
THE POTENTIAL OF POSITIVE REINFORCEMENT

The cardinal tenet of operant conditioning is that positive reinforcement of behavior increases the likelihood of that behavior being repeated. Higher-order animals are to a great extent self-interested and future-oriented so they will conduct themselves in a manner conducive to receiving rewards (which are *anything* of value to them). They will engage in all kinds of miserable tasks if there is a reasonable expectation that something more gratifying will be forthcoming. The human species, in particular, chooses its actions in a largely purposeful manner. Therefore the goal of police restraint will be facilitated if the police are offered an irresistible temptation to act discreetly. By selecting powerful reinforcers and arranging reward schedules efficiently, police administrators can induce behavior that could never be coerced.

There is an old adage that money isn't everything but it's way ahead of whatever is in second place. While I would not want to vouch for the universal applicability of this proposition, it certainly seems valid for America in the 1970s. Actually, in almost any modern society the free marketability of money, which enables the owner to satisfy his own unique set of preferences, makes it a powerful incentive.

The remarkable power of the monetary reward has been demonstrated by Staats and Butterfield (1965) who have used it to remedy reading deficiencies in culturally deprived delinquent adolescents. One subject was a fourteen-year-old Mexican-American, the fifth of eleven children, who had a second-grade reading level and had never passed any subject in his eight and one-half years of school. He was a constant troublemaker who smoked and drank excessively and who had been referred to juvenile authorities nine times for various offenses, including burglary. The treatment involved teaching the boy first to read single words, then sentences, and finally entire stories. The vocabulary items were written on index cards and the boy received token rewards worth from one-tenth to one-half of a cent each when he correctly pronounced the words; additional tokens were given to him upon completion of more complex tasks. Figure 1 shows his exceptional progress in reading after four and one-half months and 40 hours of treatment; he also attained passing grades in *all* subjects. It is worth noting that the total cost was \$20.31 for the token exchange items.³

FIGURE 1: READING ACHIEVEMENT TEST SCORES AS A FUNCTION OF SCHOOL INSTRUCTION AND TRAINING USING MONETARY REINFORCEMENT ^a



^a The source is Staats and Butterfield (1965).

It would seem that money would be equally effective in altering intractable police whose resistance to learning is probably no greater than that of the youth just described. Indeed, material benefits are the primary reason they are on the job; salary attracted them to police work (McNamara, 1967: 194-195) and security keeps them on.⁴ Lipset (1969: 81) claims that notwithstanding the notoriety of the occasional right-wing political stands taken by patrolmen's benevolent associations, they are essentially trade unions whose members are concerned "with getting more for themselves."

Since the Samuel Gompers mentality seemingly prevails, the dangling dollar should be quite enticing to police. This is especially so since they suffer from woefully inadequate incomes; in 1966 the median starting salary of police in cities over

500,000 population was \$5,384, which is really a pittance in large cities with high costs of living (President's Commission, 1967: 134). But across-the-board salary increases, advocated by almost everyone, are most definitely not the answer to police failings because non-contingent reinforcement requires no special performance to merit the additional return. Rather, I suggest a novel approach—establishment of a substantial contingency fund out of which lucrative bonuses (\$1,000? \$2,000? \$3,000?) would be granted to those officers who, over the year's time, won the respect of the community.

To make sure that awards go only to those who are deserving, who have dealt with citizens fairly and (when ever possible) humanely, neighborhood-based police advisory committees (which have already been created in some cities) should be authorized to select or recommend the recipients. Using various methods of gathering information (systematic observation of police, "inside dope" from trustworthy police, sample surveys of the community, "the grapevine," and so forth), the communities would separate the good eggs from the rotten.⁵ Currently these committees, theoretically composed of a cross-section of community leaders, serve only a communications function; it is not surprising that they have generated minimal interest from the "grass roots" (President's Commission, 1967: 156-158). Giving them major clout would inspire more citizens to become involved in a constructive way in police-community relations, which itself should lessen some hostilities, and more importantly, it would be the most reliable way of evaluating the on-the-street judiciousness of police.

At the risk of sounding fanciful, let me suggest a more radical refinement of this basic plan which is consistent with learning theory. Since behavior is molded most effectively when reinforcement immediately follows correct responses, members of the citizen committees could rove the streets and be empowered to grant small awards to police who are observed acting in a particularly sensitive or sagacious manner. This would essentially amount to a "variable ratio" reinforcement schedule—one in which the number of responses per reinforcement is randomly *varied* around a selected average so that the subject can never predict exactly when the payoff will come. This pattern is extremely powerful in maintaining behavior, as any gambler knows (Skinner, 1965: 102-104); it has been used to condition pigeons to peck levers 220,000 times without being paid once (Aldis, 1961: 60). Sooner or later police officers could be sure to run into a goody-dispensing citizen patrol, so

he would rationally want to pass muster *all the time* knowing that at any given moment his number might come up. Moderate uncertainty keeps people on their toes.⁶

Because our interest is in changing an entire social system and not just isolated individuals, interdependent contingency systems might also be utilized. Under such programs, the pay-offs shared by a group are dependent on the performances of individual members so a sense of social responsibility is an additional incentive to act correctly. In an experiment conducted by Wolf and Risley (1967) the disruptive classroom behavior of a child was more efficiently controlled when both she *and* her peers earned *one* point for every time period she behaved well than when she *alone* received *five* points for acting commendably; peer group pressures were quite effective. In like fashion, entire police "teams" (e.g., all the patrolmen in one precinct) could be rewarded upon receiving good ratings by citizen boards with the booty to be divided equally among the police. Or, a city-wide competition might be held between precincts with honors (and greenbacks) going to the unit most appreciated by the community it serves.⁷ Peer approval is very important to police, who have greater camaraderie with each other than is true of other labor forces, so it makes sense to take advantage of this fact in trying to effect change. Those who object to such "collectivism" should remember that this is the identical principle used to promote excellence in the World Series and the Super Bowl—two of the nation's most venerated institutions.

This type of community control should not engender the intense police opposition which discipline-oriented proposals create because police would have much to gain and nothing to lose. Regardless of who receives pecuniary honors, all police would be receiving their guaranteed wage; these special allotments would be gravy on the mashed potatoes. The most significant cost might be the initial dissonance resulting from knowing that preferred work styles (e.g., knocking heads and cussing blacks) are no longer economically profitable, but this tension should be resolved if, as is hoped, police values change to match their new behavior. I would guess that most officers will find it easier to treat people decently, even if it is somewhat unpalatable at first, than to "moonlight" for extra cash.

Optimally the attraction of fiscal rewards would eventually be supplemented by another kind of reinforcement—the gratification of relating to one's fellow human beings. Carl Rogers

(1968) argues that men find it highly fulfilling to feel close to one another, and it is not inconceivable to imagine a "new breed" of cop who communicates in a meaningful way with many of the troubled citizens whose paths he crosses. Police who are tactful and understanding may actually become the benevolent stalwarts of the provinces in their charge. This is not romantic dreaming; success of the San Francisco Community Relations Unit in handling some of the city's most difficult social problems, like racial conflict and the drug scene, shows that police *can* be human and still come out alive.⁸

Playing a positive role in the community might in turn give police something they sorely lack today—intrinsic satisfaction from police work itself.⁹ A more powerful and durable reinforcer to maintain police restraint could not be found. Self-reinforcements—call it self-actualization, self-esteem, or plain old pride—are important regulators of human life (Bandura, 1969: 32-38).

Extinction of Preemptive Police Aggression

One common police practice to be eliminated is what I call preemptive aggression—the use of unnecessary force in speech or action to prevent the victim from himself initiating some defiant behavior. The officer "gets the jump on the draw" and shows the citizen who is really "in charge" of the situation. Instead of asking politely for an ordinary motorist's identification, the officer growls: "Let's have your license, bud." Or a group of seedy-looking blacks on a street corner are approached at gunpoint and frisked prior to any investigation about their purposes or business. Of the same ilk but with disastrous repercussions is the indiscriminate firing into a unruly but unarmed mob; this is Kent State. These actions are to be distinguished from legitimate self-defense where there is an objective danger to the officer.

A routinely effective way of terminating any undersirable behavior is "extinction" — discontinuance of the positive reinforcements which have maintained the behavior. But there are two barriers to extinguishing preemptive aggression. First, police culture approves of such conduct and constantly reinforces it. Second, the overuse of force at the outset of a confrontation is strongly reinforced by its usual success in averting assertiveness or resistance; the maltreated citizen silently and stoically takes it on the chin.

To break the hold of police culture is not easy, but some actions would seem to facilitate this end. The use of one-car

patrols and single foot-beats abate the opportunities for police to "egg on" fellow officers who may be ambivalent or hesitant about using extra force but cannot resist this encouragement. Steering rookies on beginning assignments away from ultra-cynical veterans might insulate them somewhat from the prevailing ethos. Stimulating police to join outside organizations and privately associate with civilians should have the effect of whittling down the staunch and singular allegiance to their occupational group since they will occasionally find themselves subject to cross-pressures. However, this is easier said than done because police often face exclusion and rejection if they seek entry into the larger social world (Skolnick, 1967: 49-51).

The proven technique for getting rid of inappropriate defensive behavior like preemptive attacks is to introduce individuals to the aversive stimuli (in this case the potentially-antagonistic citizen) at non-threatening levels and to gradually increase the degree of threat until the most frightening conditions can be faced with equanimity. So, to extinguish police pugnaciousness we might first take an officer into a lily-white, high-income area and select a harmless-looking traffic violator (e.g., a mother with three kids) to be stopped and treated respectfully. When this is accomplished without dire consequences, a speeding sports car is stopped, then a hopped-up car driven by teenagers, and so forth. Not only do we gradually increase the suspiciousness of the encountered citizen, but we start moving into more dangerous neighborhoods with higher crime rates and greater resentment of police—while still requiring the officer to be calm and reserved. At the same time the natural tension of the police-citizen contact is raised; from the officer's beginning traffic stops he moves to noisy parties, marital fights, and on up to burglaries in progress and mass demonstrations. At each step of the training the officer is emphatically instructed to remain low-keyed; little by little, he learns that his generalized fear of being abused is unrealistic and a more subdued handling of citizens will not undermine his authority or endanger his life.

The key to this modification procedure is incrementalism—building self-confidence in the officer by slowly guiding him from trivial matters to greater challenges and finally to tasks that are very taxing. Although technically feasible (at least in large cities), it would be enormously costly because at any given time the officer's functioning would be seriously circumscribed, and many instructors would be needed to positively

reinforce the new, non-aggressive posture being taken.¹⁰ Thus, it is unrealistic now since a large burden of many chiefs is merely keeping enough men on the streets to deal with the daily business; but should the society at some future point make a full-scale commitment to control of the police, gradualized extinction of combativeness could be a very useful in-service training program. Indeed, it might also be a salutary way of introducing recruits into police services by extinguishing paranoid outlooks *before* they take their toll when the officer is on his own.

Reducing Police Emotionalism through Counter-Conditioning

Jack Webb in many ways fits our image of the ideal police officer—calm, steeled, self-contained. Yet Webb is an actor and *Dragnet* is fiction; the real-life cop, taunted, tormented, and tried day in and day out, often responds with his heart instead of his head. This section suggests some classical conditioning processes to reduce this kind of emotional reaction to stress—to give police thicker skins and smaller mouths.

Numerous studies have shown that disrespect manifested toward police—the wisecrack, the contemptuous snarl, the filthy curse—precipitate more police infractions than any other cause (Westley, 1953: 38; Wilson, 1970: 130; Chevigny, 1969: 73; Walker, 1968). Police interpret such insolence as a personal affront and react in a hotheaded and disproportionate way. In short, they “blow their cool.”

Desensitization through counter-conditioning is an ideal way of dealing with this problem, since it is a procedure in which disliked phenomena are repeatedly paired with artificially created positive experiences so that the threatening stimuli *lose* their aversive quality. Insults and epithets thrust at police are negatively valenced stimuli that seemingly could be neutralized by associating them with more felicitous circumstances.

Therapists commonly induce “muscular relaxation” to induce a pleasant and tranquil feeling in clients who are then presented with disturbing stimuli (e.g., snakes, heights, sex) in imaginary, symbolic, or real form. As with extinction, stimuli are introduced in graduated intensities, from mild to strong. But *any* means of relieving subjects of worries and anxieties can suffice, so similar results can be produced by presenting fearful objects in an ultra-relaxing physical and social environment.

To “de-fuse” disrespect toward the police of its emotion-arousing properties, officers might be placed in a congenial atmosphere (perhaps a specially constructed lounge or retreat with soft music, good food, comfortable furniture, and so forth), far removed from the turmoil of the throng on the streets. In this context police would be called a succession of foul names, starting with the innocuous “cop” and working up to the adrenalin-releasing “mother-fucking pig.” Also films and tape recordings vividly portraying snide mortorists, bellicose drunks, impudent gangs, and gesturing protesters would be presented, always, of course, building climactically to the really hated experiences.

Upon completing the sessions, officers will have been exposed to a plethora of obnoxious and unnerving events—but all taking place in a benign kind of setting. If the treatment works the officer, when faced with identical behavior patterns out on the beat, should be less distraught and consequently less inclined to retaliate. He might not grin, but at least he could bear it.¹¹

Two unknowing applications of counter-conditioning theory by police have been made. Montgomery County (Maryland) police were involved in a crash training program shortly before the 1963 March on Washington to deal with interracial conflict that might spill outside the boundaries of the nation’s capital. With the leadership of personnel from the National Institute of Mental Health, the officers engaged in lengthy discussions airing their fears and hatreds of assertive blacks. Subsequently they were able to eject picketers from private property in a restrained and even gentle manner, actually winning the praise of those who were arrested (Shellow, 1965).

The other example is the case of police in several cities who recently have adopted pigs as mascots and have started wearing “P.I.G.” buttons, standing for pride, integrity, and guts. This was reported humorously in *Life* magazine (1970); but it follows desensitization principles to a tee. The disgusting pig is imbued with positive virtues, so when this particular invective is spewed at police they should be more able to shrug their shoulders and laugh it off.

The reverse kind of treatment, “aversive counter-conditioning,” might have a place in keeping police from heaping indignities on citizens when there is no provocation. One of the deepest grievances of ghetto residents against the police is that they are spoken to, as a matter of course, in a discourteous

and demeaning way. The first words they often hear when approached by an officer are, "Hey, nigger, get your fat ass over here" (President's Commission, 1967: 180-182). Although causing no permanent damage, this verbal needling is highly incendiary to people who have been disparaged and oppressed in hundreds of ways since birth. For police, however, expressing such insults is positively reinforcing; it enhances their feelings of superiority and feeds their need for power.

It is possible to develop conditioned avoidance of such behavior by contiguously associating it with exceedingly painful sensations. In psychotherapy, emetics and electrical shock are often the unconditioned aversive stimuli utilized to create repulsion to clients' debilitating cravings. Alcoholism, sexual fetishism, and drug use have been successfully controlled by counter-conditioning negative affect toward the formerly attractive objects (Bandura, 1969: 511-551).

For many officers, prejudice against non-whites and social deviants is deeply ingrained, so debasing the latter with racial slurs or profanities is habitual behavior which cannot be cured by departmental edicts prohibiting such speech. Aversive counter-conditioning might be used, obviously only with an officer's consent, to suppress this compulsive language. The method would be straightforward: apomorphine or emetine would be administered to the subject and as soon as nausea occurred, he would be required to viciously curse and berate blacks or "long-hairs" who were brought into view (either actually or on slides). The agony of the nausea should create negative feelings in the subject toward the kind of behavior in which he was engaging while undergoing the physical trauma, to wit, abuse of minorities. If the conditioning takes hold, future impulses to mock such individuals will be internally blocked; the nasty words are inextricably associated with the previous physical suffering so the officer will suppress the former to avoid the latter. Recollection of intense personal misery, although artificially induced, might deter socially destructive conduct by police.

CONCLUSION

There is a song from the early 1950s that starts out: "You've got to accentuate the positive and eliminate the negative." The central theme of this paper is just that: Both political actors and academic thinkers ought to be devising methods of making good police rather than concentrating attention on means of weeding out those who are bad. Strict discipline against abu-

sive police is both impractical and unwise; the last thing this nation needs (white and black, young and old) is more bitterness on the part of police, which greater emphasis on punitive sanctions would undoubtedly engender.

To improve the quality of police work and achieve the goal of police restraint, we ought to be taking full advantage of the science of human behavior—which we are *not* doing now—at the planning, recommendation, and implementation stages of policy making. It is endlessly argued that what is needed is more “educated” police or more instruction on “human relations” in training programs; thus the Task Force on the Police urges that recruits be given “a much more solid foundation in the fundamental principles of democratic government and the society in which we live” (President’s Commission, 1967: 37). This is vacuous balderdash; it is highly questionable whether and how sophistication in the liberal arts or additional civics courses would be translated into more acceptable on-the-job performance. My own guess is that some of our most animalistic patrolmen *already* possess the intellect and knowledge to behave in a more temperate way; it does not take the I.Q. of Einstein or mastery of sociology to be able to act fairly and dispassionately. What *is* necessary, and what I have suggested above, are systematically calculated programs which give police a vested interest in treating people like human beings.

On a broader level, my intent has been to demonstrate the potential utility of operant conditioning in modifying the operation of large-scale political institutions. Major legal changes usually require alteration in the practices of many individuals, both in and out of government, so a very important consideration in formulating new policies should be devising schemata to reverse the inertia of their time-honored routines. If some resources were set aside in the budgets of our multi-million dollar programs for *rewarding* those who comply with new directives, the number of massive policy failures might be lessened and more rapid social change accomplished. In shaking up bureaucracies, let us start using more carrots (green ones) and putting less faith in sticks.

One closing note is in order on a more philosophical plane. Some may raise objections to the use of technology—applied social science—to manipulate people for ends of which they disapprove. This concern about modern tendencies toward totalitarian control is legitimate; I too look with horror at the *Brave New World* (Huxley, 1932). But a critical problem today is that

so many institutions seem totally *out of control*—the police, the military, the schools, even the family. What I favor is the more *rational* use of social controls that protect and promote individual dignity—the manifold controls attempted by many of us (Supreme Court justices, police chiefs, teachers, parents) which so often miss the mark and defeat their own purposes. Beyond all doubt counter-controls must also be encouraged so that choices of ends can be widely dispersed and precious freedoms guarded. But in an age where decrying “Big Brother” is becoming a rallying point for so many, it is sobering to recall the words of B.F. Skinner (1956: 1065): “Fear of control, generalized beyond any warrant, [can lead to] . . . the blind rejection of intelligent planning for a better way of life.”

FOOTNOTES

- ¹ Albert Bandura’s definitive work on conditioning thoroughly reviews the varied therapeutic applications. See his *Principles of Behavior Modification* (1969).
- ² It is often totally unclear where grievances can be registered since 75% of all departments lack formal complaint procedures (President’s Commission, 1967: 195).
- ³ It is interesting to note how the boy converted the tokens. The items he purchased included “beetle shoes,” hair pomade, a phonograph record, and a ticket to a school function; he also gave a cash gift to his brother. The diversity and uniqueness of these purchases attest to the beauty of money as a positive reinforcement.
- ⁴ Seventy-three percent of McNamara’s respondents agreed with the statement: “It would be difficult to keep most patrolmen on the job if it weren’t for the salary and other benefits connected with the job” (McNamara, 1967: 242).
- ⁵ Some department practices might be changed to accommodate this assessment procedure. Squad car numbers might be enlarged for easy identification at some distance; badge numbers could also be made more conspicuous.
- ⁶ At great inconvenience to himself, the enterprising real estate agent graciously consents to show homes to dozens of people who are not even in the buying market, because he cannot tell in advance when the iron will strike and he will have a serious customer on his hands.
- ⁷ It would only be fair to have different classes of competition depending on the level of crime, since the temptation to get out of line is greater in high than in low crime areas.
- ⁸ Journalist William Turner, a former F.B.I. agent, says that the unit “has earned the respect, trust, and confidence of even the most militant and police-suspicious elements in the city” (Turner, 1968: 159). See also Leary (1969).
- ⁹ More than half of McNamara’s sample of New York police said they received little personal satisfaction in performing police duties (McNamara, 1967: 242).
- ¹⁰ There is some evidence, however, that self-managed extinction treatments can be successful if the individual’s motivation to change is high. See Bandura (1969: Ch. 6).
- ¹¹ The experience of Colin Barker (the fictitious name of one of the San Francisco police officers accompanied on the beat by journalist L. H. Whittemore) is relevant here. One evening while patrolling Haight-Ashbury, Barker was met with the usual profusion of derogatory and obscene comments (“Gestapo!” etc.) which he took in stride. Finally, however, one of the resident haranguers came up to him and, speaking right into his face, said “Fuck you, cop!” That sent Barker beyond the boiling point; he threw the young man against a wall and began

pummelling him. The youth was eventually arrested after a wild fight ensued, but had Barker been desensitized to this kind of vulgarity he might have just turned his back and walked away. The incident is described in Whittemore (1969: 225-232).

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