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THE HERMENEUTICS OF POLICING: AN ANALYSIS OF LAW AND ORDER TECHNOCRACY

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ABSTRACT: Contemporary American policing practices are marked by increasingly top-down, racialized, militarized, and pseudo-scientific features. Social scientists have played a central role in creating this political situation: social-scientific advocates of "law and order," far from providing a value-neutral description of social reality, appear instead to have contributed to the creation of a peculiarly modern form of power.

Keywords: law and order; broken windows; stop and frisk; mass incarceration; race; technocracy; Hans-Georg Gadamer; Martin Heidegger; James Q. Wilson

People are trapped in history, and history is trapped in them.

—James Baldwin

Contemporary policing has attracted little attention from interpretive philosophers even as neighboring fields have seen an explosion of interest in the topic.

Historians have unmasked the discriminatory effects of contemporary policing in America, and the unequal enforcement of crime along racial lines—leading to the mass incarceration of mostly black and Latino men (Alexander 2010; Hinton 2016; Nunn 2002). Ethnographers and sociologists have brought attention to the increasing militarization of American police tactics and culture, showing that the line between police and military has been blurred in key respects (Balko 2014; Kraska 2001; Kraska and Kappeler 1997). Legal scholars have raised ethical concerns about the role of data analysis and computer algorithms in the shaping of police work (Ferguson 2017). These insights are important, and I will return to them in greater detail below. But certain key philosophical and epistemological features of this form of policing have gone unnoticed. By drawing creatively on Martin Heidegger's critique of technology and Hans-Georg Gadamer's notion of meaning making, hermeneutics can shed fresh light on policing in America today.

Hermeneutics, or interpretive theory, is the view that human action is constituted by historical and cultural meanings and therefore is not ultimately susceptible to scientific prediction (Bevir and Blakely2018). This premise generates a novel analysis of the relationship between knowledge and policing in contemporary American society. Specifically, interpretive theory reveals the way an epistemological discourse has helped to construct a top-down, militarized, and discriminatory form of law enforcement. In other words, there is a particular epistemic order underlying the political one. Thus,

assumptions about human action and the inescapability of interpretation can contribute to an analysis of the spread of technocracy in political life (Gadamer 1975).

My inquiry will have two distinct parts. The first offers a brief historical sketch of the "law and order paradigm" of policing and will contend that what claims to be an empirical, descriptive science is in fact a tendentious form of meaning making that helped build a political world. The key concept for understanding this phenomenon is the double hermeneutic effect. The second part of the paper draws on interpretive theory to argue that pivotal scholars in the law-and-order movement failed to meet the standards of value neutrality and of scientific explanation. Specifically, Heidegger's critique of technology introduces a distinction between the kind of causality appropriate to the explanation of human behavior and the kind that is appropriate to the brute objects of the physical sciences. Law-and-order scholars have failed to employ the proper concept of causality, and thus have used inappropriately mechanistic and ahistorical notions of human agency. Moreover, Heidegger's conception of the technological gaze as an ethical way of being in the world suggests that the law-and-order paradigm is not a legitimate form of scientific authority but a kind of ideological or ethical stance best understood as a form of technocracy. Thus, the rise of this technopolicing paradigm, which claims to rest on science, is, from the interpretive perspective, a problematic form of authority and social control.

I.   THE CONSTRUCTION OF LAW-AND-ORDER TECHNO-POLICING

There is widespread consensus among scholars across a variety of disciplines that criminal justice policy in America underwent a massive transformation beginning in the 1960s. Although details are contested, the broad outlines of the narrative converge. What historians have unearthed is a clear turn away from the New Deal approach, which emphasized rehabilitation and poverty alleviation, toward an order-maintenance approach legislating the incapacitation and swift punishment of an allegedly criminal underclass (Flamm2005; French 2018; Hinton 2016). Thus where New Deal social democrats focused on federal welfare programs (albeit unevenly administered across racial groups) to prevent crime, the order-maintenance approach pursued policing and promoted the metaphor of a war to save civil society (Herbert 2006).

A key feature of what came to be known as the law-and-order movement was anxiety about a diverse bundle of issues brought together under the umbrella category of "disorder." Disorder was a catchword for disparate social phenomena, including rising crime, civil rights activism, and antiwar protests. A remarkable effect of the discourse of disorder was to blur the lines between crime and the rising political dissent of the 1960s (Flamm 2005). For example, Martin Luther King was publicly accused by order-maintenance advocates of weakening respect for the law through his practice of civil disobedience. Ironically, King's peaceful movement was blamed for the rise of violent crime and rioting (ibid., 3-4, 64). Historians have also established that the emergent law-and- order discourse drew an "explosive equation" between "race and crime" that has remained central to the American discourse on policing ever since (ibid., 14). The policing of disorder, applied unevenly across racial groups, led to the mass incarceration of black and Latino men in particular and their exclusion from civic life (Alexander 2010; Goffman 2014; Rios 2011).

The basic outlines of the narrative sketched so far are widely known. However, what is far less frequently understood is that a complex epistemological order sits beneath this new political order. Here, interpretive theory has an important contribution to make to the discussion. First, hermeneutics shows that the modern social sciences do not exist in laboratory-like isolation. Instead, they penetrate and help to build the political lifeworld (Gadamer 1975, 316). This is made clear by what interpretive philosophers call the "double hermeneutic" (Giddens 2013, 374).

Interpretive theory insists that human beings are cultural animals—that is, they always embody and signal meaning through their actions, practices, and social spaces. As Clifford Geertz (1973, 5) famously put, "man is an animal suspended in webs of significance he himself has spun." This implies that human action and social life can in various and surprising ways incorporate the very social scientific theories that are used to describe it. That is, meanings of social-science developed by expert scholars and theorists can enter, shape, and radically change the cultural sphere. Social scientists try to decode and interpret a social space that already embodies interpretations—including those created by social scientists. The double effect is that the meanings of social scientists interpreting the actions of social and political agents can constitute the meanings and thus the actions of those agents.

This effect is dramatically on display in the case of "law and order," which began as a vision of crime first articulated by criminologists, sociologists, psychologists, and political scientists that, in turn, helped constitute and usher in a "revolution in American policing" (Nifong 1971, 1). Because this vision was couched as science, it had special power.

Of course, claims to a science of crime and law enforcement are far from new. The nineteenth-century basis of modern criminology was the premise that scientific rationality could guide the state in crime control. A key founder of modern criminology, Cesare Lombroso (2003, 1), argued that some people are biologically criminal and can be identified via anatomical features as "dangerous persons." In America, such pseudo-scientific theories helped build the post-bellum world of Jim Crow, with its obsessive focus on the so-called "Negro Problem" (Muhammad 2010; Hinton, 2016).

But a different epistemological discourse justified the twentieth- century shift to order-maintenance policing. The theorists of law and order rejected crude Lombrosian criminology and drew on the new paradigms of behavioral genetics, behaviorist psychology, and economic rational-choice theory to build what they viewed as a science of law enforcement. They also pitted themselves against a very different political antagonist than the nineteenth-century "Negro Problem" theorists who rejected Reconstruction and integration. Law-and-order scholars had as their main concern the New Deal belief that social inclusion, equality, and poverty alleviation were essential to addressing crime. Instead of welfare programs, these scholars believed that law enforcement and punishment ought to be placed at the very center of criminal justice policy.

The most prominent intellectuals behind this shift were James Q. Wilson, George Kelling, Richard Herrnstein, and Charles Murray. This group self-stylized as hard-nosed empiricists, willing to go wherever the data led—even if this meant discovering "innate differences" between "ethnic compositions" or establishing that "some people are wicked" because they have a "criminal personality" (Murray 2013, xvi, xiii, xvi, xv). Such findings would amount to a direct repudiation of the New Deal's emphasis on education and rehabilitation, as they suggested that no amount of poverty alleviation or educational intervention could adequately deal with crime. Instead, the best remedy was order maintenance—specifically, policing and imprisonment. Mass imprisonment was there- fore the

practical conclusion of a set of epistemological claims. For this new generation of criminologists, the fact that "imprisonment numbers … started to soar" in the 1980s marked scientific progress away from the misguided indulgence of criminal personalities (xvii).

As I now hope to show, the epistemological authority of claims to science infiltrated and constructed the political lifeworld. I will focus on three major social-scientific themes from this body of work that helped generate the flesh-and-blood world of law and order policing.

The Determinism of "Law and Order"

The first theme is Wilson and Herrnstein's view that human psychology is structured by utility-calculating features that interact with inputs from genetics, the environment, and socialization. In their widely read work, Crime and Human Nature, Wilson and Herrnstein (1985, 44) argued that crime is the result of an individual calculation about "the ratio of the net rewards of crime to the net rewards of non-crime." According to this view, individuals will calculate differently dependent on a host of factors, including a personal history of past reinforcing consequences. The "net value" or "sum of all the reinforcements positive and negative" of past behaviors determines whether or not a crime was committed (ibid.,50). Specifically, "the larger the ratio of the rewards (material and nonmaterial) of non-crime to the rewards (material and nonmaterial) of crime, the weaker the tendency to commit crimes" (ibid., 61). Thus, it is "a mistake . . . to argue about whether a given offense is or is not 'rational,'"as all criminal psychology is a form of rational calculation and preference maximization (ibid., 56). Criminal psychology differs from ordinary psychology only in the inputs, but the structure of reasoning is fundamentally the same. Criminals have the psychology of *Homo economicus*.

With these premises in place, Wilson and Herrnstein reasoned that the role of government is to change the calculus of crime. Crime must in no sense "pay," so the chief focus of criminal justice should be deterrence through policing and punishment. Where social democrats often held that policing could not change the underlying social and economic sources of crime, Wilson and Herrnstein turned this assumption on its head. Now it was social inclusion, education, and economic policy that were inert. Policing and punishment, by contrast, were among the few levers government possessed that could effectively change the crime rate. The structure of rational agency put forth by Wilson and Herrnstein owed a large intellectual debt to the rising neoliberalized subject propounded by economics (see Bevir 2010 and Harvey 2005)). Law-and- order epistemology therefore participated in a much larger shift away from notions of public and shared goods, in favor of a vision of society as highly individualistic and calculative. Criminals are, in this view, market actors haggling, if only in their own heads, over the price of this or that violent crime. The implication for criminal-justice policy was that government needed to design the right kind of crime market (so to speak), in which the costs of purchasing a given infraction becomes prohibitively high.

One of the most dramatic forms of meaning making and world build- ing to stem from this theory was Wilson and Kelling's extremely popular "broken windows" thesis. Published in 1982 as an article in The Atlantic, Wilson and Kelling's largely speculative argument became perhaps the most influential crime-control theory of the late twentieth century.

The central claim of broken-windows policing was that visible signs of social disorder (e.g., vandalism, panhandling, loitering) raise the causal probability of violent crimes (e.g., assault, theft, murder). "Disorder and crime are . . . inextricably linked," Wilson and Kelling (2013a, 65) wrote, because

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"one unrepaired broken window is a signal that no one cares, and so breaking more windows costs nothing." In other words, would-be criminals are continually running calculations of the costs of crime in a given market. The result of letting the price of small misdeeds fall is a "criminal invasion" (67). If the invasion is to be repelled, every infraction of the law—no matter how small—must be made to carry a heavy price for the criminal.

The remedy was a form of policing that requires officers to take "informal" and perhaps even "extralegal steps" to change the market calculus of committing a crime (Wilson and Kelling 2013a, 65). Wilson and Kelling suggested that designing the right crime market might mean signaling that "rights" were something "enjoyed by decent folk" and not always applicable to "young toughs" (ibid., 68-69). This line of thought might be linked to the expanded exercise of police authority beyond traditional legal norms (e.g., stop-and-frisk policing). But the main thrust of Wilson and Kelling's argument was that changing the crime calculus required a zero-tolerance approach to petty offenses. Previously tolerated infractions such as loitering, panhandling, and turnstile jumping would now be swiftly punished. In this way, a social-scientific theory encouraged cracking down on petty crime, because unpunished petty crime was now causally linked to such serious misdeeds as assault and murder. In other words, small infractions no longer appeared so small: petty offenses alter the crime market, leading otherwise law-abiding citizens to calculate that crime pays and encouraging higher rates of grave wrongdoing. The result was the order-maintenance policing championed by Mayor Rudy Giuliani in New York City, which later spread across the country.

Legal scholars such as Bernard Harcourt (2001) have argued that "broken windows" did not in fact lower the crime rate in cities like New York. But more important for the present argument is that broken-windows policing had racially and economically discriminatory effects. This had in large part to do with the operationalization of the concept of "disorder." Minor illegalities associated with poverty (such as turnstile jumping and public drinking) became criminalized as disorderly, while violations of the law by a mostly white upper class (including tax evasion and certain kinds of drug use) were not seen as disorderly. Thus, empirically speaking, broken windows engendered the surveillance and policing of an "unattached, young, most often racialized other" (Harcourt 2002). In short, what began as a descriptive social science of crime generated its own very real world of racial bias and power (Rios2011). An epistemological order became partly constitutive of a political one.

The Genetic Ontology of "Law and Order"

A second line of thought pioneered by criminologists such as Wilson held that some individuals have deeply ingrained criminal tendencies. Wilson and Herrnstein argued that not everyone calculates the costs and benefits of committing crimes using the same biological, environmental, and social inputs. On this view, some people are from the outset much more given to criminality—even though each input is not determinative of criminality but only heightens the probabilities. For example, they claimed that there is "a clear and consistent link between criminality and low intelligence" because "low intelligence will favor impulsive crimes with immediate rewards" (Wilson and Herrnstein 1985, 148, 167). Criminals are also more likely to exhibit "assertive, unafraid, aggressive, unconventional, extroverted and poorly socialized" personalities (ibid., 177). Such factors are said to run "in families" because they have "both genetic and environmental origins" (ibid., 209). Thus, while Wilson and Herrnstein frequently stressed that their position was not a "theory of predestination" or an assertion of an inborn criminal personality, the truth is more complicated (ibid., 509). They naturalized criminality, but by means of an actuarial

logic that rejected the Lombrosian school's strict determinism. What emerged was portrayed as predictive knowledge about "high- rate, repeat criminals" (Wilson and Kelling 2013b, 142). Indeed, the probabilities may become so overwhelmingly high as to create a class of people who are in all likelihood headed for criminality. As Wilson and Herrnstein (1985, 374) put it: "a given individual . . . may be so predisposed to crime that no feasible change in institutionally controlled re-enforcers . . . may make any difference."

This conclusion is clearly a rebuke to the assumption that government intervention to combat poverty would lower crime rates. But it also points to the limits of deterrent strategies such as those enacted by broken- windows policing. Thus, a distinct line of practice is justified by the law-and-order paradigm: not just order-maintaining deterrence but the aggressive incapacitation (normally through incarceration) of certain select repeat offenders. In wider discourse this epistemological order underlies the popular, racially coded nomenclature of the so-called "superpredator"—an individual so deeply criminal and pathological that the only reasonable response is mass incarceration, repeat-offender laws, and mandatory-minimum sentencing (DiIulio 1996). The main goal of criminal justice, when confronting such individuals, is "incarcerating serious and repeat criminal offenders for lengthy sentences" (Harcourt 2003, 106. Once again, social-scientific discourse helps structure and create a regime of prosecution, sentencing, and punishment (Feeley and Simon 1992). Indeed, followed to its logical conclusion, this form of knowledge might even imply punishing criminals for crimes they have not yet committed. Wilson and Kelling (2013b, 138) note that while the traditional legal model focuses on responsibility for a past action, probabilistic prediction is instead concerned with future prospects of crime premised on access to a predictive science of human behavior.

But this social-scientific discourse also generates hermeneutic double effects on policing practices. The notion that there are (in fact) "superpredators" has been one factor in the spread of a culture of militarism in the United States police force. The point here is not to examine the problematic epistemological claim to knowledge of a "superpredator," but to once again note the link between social science and police authority. A series of ethnographies pioneered by Peter Kraska (2001a) and popularized by Radley Balko (2014) have brought attention to a "neo-praetorian" police culture in which a supposedly deteriorating society is salvaged by the order, structure, language, culture, and high-tech methods of the military. In this culture, the distinction between policing civilians and con- ducting militarized combat is blurred. Kraska notes in particular the higher use of special weapons and tactics units in the policing of what are considered high-risk zones. America's ghettos are increasingly framed in terms of a "counterinsurgency, low intensity conflict model" that seeks to eradicate the "gang problem" through the deployment of para-militarized police units (Kraska 2001a, 23-24). Once again, the epistemic order generates a political one. What initially appears to be simply a descriptive theory is involved in meaning making and world creation. The very aesthetics of the militarized police culture— the "futuristic style," "a cold, fearless, mechanistic look" of "Kevlar helmets," "wraparound sun- glasses," and the robotized trappings of a "techno-warrior image"—are expressive embodiments of a particular epistemological outlook (Kraska 2001b, 144-5). What this police aesthetic expresses is the vision of a society of scientifically legitimated use of authority and even violent force.

Racial Consequences of "Law and Order"

In a third and final line of thought within this epistemological order, the argument becomes explicitly racial. Already in their influential 1985 tract, Wilson and Herrnstein insinuated a reductive account of

race and other alleged biological inputs as criminal tendencies. Indeed, they devoted nearly an entire chapter, on "Race and Crime," to black males as a potentially dangerous class. Through the course of this chapter (which only fleetingly considers other races), the authors advance claims about supposedly lower average intelligence, impulsive temperament, broken family life, a problematic history, and a deviant subculture (Wilson and Herrnstein 1985, 459-86). Black males were even said to more frequently exhibit the "heavy-boned muscularity" and "mesomorphic" physique associated with law breaking (ibid., 469). Although the authors were careful to present their findings as a probabilistic hypothesis subject to further empirical scrutiny, the overall message was unmistakable: statistically, blacks are, due to a conglomeration of biological, social, and psychological features, more prone to criminality. Thus, each of the major "theories" linking blacks to crime was declared by law-and-order scholars to be "probably true" and "partially correct" (ibid., 485).

A decade later, Herrnstein and his new coauthor Charles Murray would make this racial thinking explicit in The Bell Curve, where they claimed that behavioral genetics revealed the American class structure and racial inequality to be, for the most part, biologically determined. This argument was widely criticized as pseudoscience by biological geneticists and other psychologists (Panofsky 2014, 1, 5, 78, 196). However, where this pseudoscientific discourse succeeded was as part of the wider discursive shift towards the construction of "law and order."

Sociologist Aaron Panofsky (2014, 193) has argued that these theories were disseminated in wider American culture as part of a discourse of "astrological genetics." Where, in a bygone age, individuals were born under the sign Capricorn or Libra, they were now born under the sign of a particular race, "white," "Latino," "Asian," "Jewish," or "black." From these supposed racial signs, a broader popular practice of inferring social destinies ensued. Stop-and-frisk and racial profiling were partly constituted by this reading of signs, justified epistemologically by a claim to science. Racial bodies were then read, so to speak, as signaling a probabilistic tendency toward criminality.

Consider in this light the recent spread of "big data policing." With the advent of computers, police departments can increasingly make use of large data sets and algorithmic analytics that reveal correlations between crime and such variables as time and geography. This expanded on the older COMPSTAT (or computer statistics) organization of police departments developed in New York City in the 1990s (Toch and Grant 2005 258-59). More recently, anthropologist P. J. Brantingham (2009 and 2010) and his coauthors have become prominent advocates of place-based predictive policing technology. Using mathematical models, they claim the ability to predict where future outbreaks of crime are likely to occur due to formally identified environmental conditions. As Brantingham and his coauthors put it, "serious crimes … are strongly patterned in time and space, forming crime 'hot spots'" that allow for predictive policing tactics (Brantingham et al.2010, 3961).

What such modeling neglects is the existing world of meaning in which the algorithms are set into motion. Once social science has been embodied as a set of law-and-order practices (broken-windows policing, carceral incapacitation, and racial profiling), none of the inputs into the algorithms are neutral. Andrew Guthrie Ferguson has empirically established that big-data policing is saturated with racial and class biases. The initial data inputs for crime are built on existing policing practices. Hot- spot data science therefore becomes a "self-fulfilling prediction" that launders the original bias built into the numbers and recodes the entire practice around a purportedly value-neutral science of statistics (Ferguson 2017,

74). The brute, empirical data are not neutral. A particular interpretation of reality inaugurated the reality that big data measure. Social-scientific "facts" in this domain are the fabrications of a particular ideology. Thus, hermeneutics reveals that the social science underlying the law and order movement penetrates the lifeworld.

Law-and-order techno-policing is undoubtedly part of a wider shift in government that Jonathan Simon (2007, 4) has dubbed "governing through crime" in America. What an interpretive approach lays bare is the problematic relationship between theory and embodiment. What appears to be descriptive science is in fact part of a much wider, tendentious form of political and ideological world making.

II.   TECHNOCRACY, VALUE NEUTRALITY, AND EXPLANATION

Scholars such as Herrnstein and Wilson (1985, 514) frequently insist that their findings are scientific and value-neutral, giving no "comfort to . . . any ideology." But an interpretive approach to social science significantly problematizes this classic Weberian dispensation. Specifically, Heidegger's critique of technology provides social scientists with conceptual resources for grappling with issues of both accuracy and ethics raised by "law and order." I do not wish to litigate whether or not law-and-order scholars have successfully established that their tactics empirically diminish crime. My point, rather, is philosophical.

Hermeneutics draws attention to the way in which law-and-order scholars have failed to offer an appropriate explanation of human action. Law-and-order theories employ the wrong philosophical conception of causality—one appropriate to the physical but not the human sciences. Ethically, my point is not the impropriety of treating human beings like brute objects for scientific manipulation (though I do find this deeply ethically objectionable). Rather, my argument is that the construction of this kind of authority is itself an ideological way of being in the world; it is not simply the officially scientific approach to society. Indeed, the claim that law-and-order scholarship is hard-nosed empirical science is itself an attempt to construct technocratic ideological authority.

The Problem of Causation

Heidegger (1977) famously proposed that the widespread view of technology as a value-neutral instrument—a means for achieving an end—is far from the whole truth. One problem, according to Heidegger, is that this view does not understand the mode of relating to the world that makes technology possible in the first place. Technology is often conceived as an instrument that can be used by different people for different ends, but Heidegger notes that this misses the way that modern technology is grounded in a particular way of looking at reality. This way of looking then generates various technological artifacts typical of modernity (e.g., hydroelectric dams and airplanes). From within the technological gaze, reality appears as a field of objects whose energies can be scientifically controlled and released. In other words, for Heidegger the techno- logical outlook on reality begins as a general way of being; only later is it formalized into epistemology.

Although Heidegger believed that this way of looking at reality extended far back into the history of the West, he also thought it had achieved a particularly decisive articulation in the wake of the natural- science revolution, which emphasized only one kind of causality—the "*causa efficiens*" or impersonal mechanistic causality—to the exclusion of all other forms of causality (ibid., 7, 23). This excluded the notion of the *causa finalis*, or causality that is guided by human purposes and goals that

cannot be fixed by antecedent mechanistic conditions. Heidegger noted that modern technology is not primarily instrumental or neutral because it reduces non-mechanistic features (like human agency) to impersonal, machine-like causes. The human lifeworld (along with nature) is treated increasingly like a mechanics.

One lesson social scientists might draw from Heidegger's line of thought is that there is an important philosophical distinction between the form of causal explanation appropriate to the physical sciences and that which should be employed when explaining human behavior. Heidegger's critique of the mechanistic causal bias of the technological mode of thinking can thus generate a conceptual critique of America's technopolicing practices. Consider, for example, the way Wilson's broken-windows theory assumes that human reasoning is mechanistically structured and triggered by certain surrounding conditions. Even a "law- abiding" person is triggered in mechanistic and predictable ways when an environmental cue or "signal that 'no one cares'" enters his or her field of vision (Wilson and Kelling 2013a, 66). One might think, in contrast, that the beliefs someone holds are important to the meaning one ascribes to "disorder" (or even to whether one perceives a broken window, a panhandler, or vandalism as disordered at all). For example, depending on the beliefs a given person holds, a panhandler might evoke pity or frustration with societal indifference instead of inspiring criminality. Similarly, graffiti might be viewed as a form of urban art or political resistance instead of an invitation to crime. Tommie Shelby (2016) and Koshka Duff (2017) have suggested that street crime in American ghettos is sometimes better conceptualized as a form of political resistance, an expression of no-confidence in the prevailing political order.

Thus, the invocation of impersonal causal mechanisms by law-and- order scholars is predicated on a fundamental conceptual error. The law-and-order scholars are trying to explain human behavior with the causal apparatus appropriate to brute physical objects. This mechanistic conception of causality is what generates the ahistorical, transcendental features of the theory: a human agent who reasons according to ahistorical structures, and the reification of meanings as triggers in the social environment. What is effaced are the actual people under scrutiny—that is, the actual cultural meanings shaping and guiding their behaviors as final causes.

This issue of scientific explanation requires a little more clarification. Interpretive theory holds that beliefs and purposes, which Heidegger associated with final causes, are central to explaining human behavior. By contrast, in Wilson's theory, although individuals are sometimes characterized as rational calculators, the mechanics of human thought are treated as scientifically fixed by inputs or triggers. This is probably due to the openly avowed influence of behaviorist psychology on Wilson's thinking; according to behaviorism, human agency is determined by environmental stimuli that trigger predictable actions. Efficient or mechanistic causality is presented as overriding whatever mediating beliefs an individual might hold that could motivate action in another direction. Indeed, Wilson and Herrnstein (1985, 505) frankly admit that their entire theoretical framework assumes "that much, if not all, criminal behavior can be traced to antecedent conditions."

There is undoubtedly a logical tension between the rational-choice aspects of Wilson and Herrnstein's theory and the behaviorist, environmental approach that eliminates the possibility of choice. But my concern is not to explore this tension but rather to note that interpretive philosophy usually holds that human action is never fixed or determined by an efficient cause. This is what distinguishes physical movements from actions: the former are exhaustively explicable in terms of

antecedent, impersonal *causa efficiens* while the latter are explicable only when a social scientist properly identifies the beliefs and meanings that constitute a given action. Thus, such phenomena as "disorder" are not brute antecedent causal triggers with ready-made meanings that can be stipulated by the social scientist. Rather, they have a semantic content that is only intelligible when situated within a cultural context that must be ethnographically explored if it is to be understood. In other words, the explanation of human behavior is first and foremost the interpretation of the meanings of human actions (Bevir and Blakely 2018). This is what law-and-order scholars neglect in their employment of a technocratic conception of causality.

The Making of Meanings

Hans-Georg Gadamer is widely credited with clarifying the thesis that human beings are meaning makers who inherit and live within thick traditions of historical meanings. Human belief does not have a universal structure or content; meanings are historically formed by rival significations (Gadamer 2004, 265-85). Gadamer's historicizing of the human subject brings attention to the fact that the concept of "disorder" is not a transcendental, scientific descriptor but is filled in by rival meanings that are contingent on rival traditions. From this perspective, the notion that a sign or cue in the environment ("disorder") heightens the probability of triggering a hidden disposition ("criminality") is the product of deep philosophical confusion. The human agent is being treated as a complex of *causa efficiens*, which makes the historical meanings informing and shaping action disappear from view. If human action is guided by a *causa finalis* that is comprised of historically contingent beliefs, then the mechanistic predictive project of the natural sciences is misguided. The plan to found a science of human actions on *causa efficiens* is thus pseudoscientific.

This line of thought also suggests that advocates of law-and-order epistemology cannot offer a defense of the theory of broken windows on interpretive grounds. The fact that law breaking of certain kinds is culturally specific to a time and place is incompatible with the theories of causality (as efficient) and of agency (as ahistorical and transcendental) built into the theory. It is true that a future advocate of law-and-order criminology might yet offer a thicker, cultural account of crime in twentieth- century America, and from the interpretive philosophical perspective, this would mark an improvement. However, any such future theory would be radically different in conceptual content, abandoning the claims of rational choice, ahistorical behavioral triggers, or a criminal personality structure in favor of the cultural meanings and self-understandings of the actual agents being analyzed. It is difficult to say what parts of law- and-order theory, if any, would survive this radical philosophical reconceptualization.

The explanatory problems with law-and-order criminology imply that there is a philosophical tension between the epistemological structure and the political one. "Law and order" is unable to legitimate itself by making an appeal to scientific theory. Without theoretical support, the practices no longer have the inevitability of science. Instead, from an interpretive perspective, they are further traditions of meaning making. "Law and order" is thus only one historical way of creating a world of criminal justice and not a particularly scientific or rational way to do so. Interpretive social science thus robs law and order epistemology of both its scientific authority and its aura of universality–the notion that science has proven that deterring criminals requires X. Rather than an expert scientific vocabulary about order and policing, there are only rival traditions of crime control.

In short, law-and-order scholars' claims to scientific authority (via efficient causality) are rhetorical and not scientific. What calls itself "science" is in fact ideology. Technocracy, we might say, is a form of

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politics that studies culturally muted objects with the aim of manipulating them so as to engineer certain outcomes. The technocratic approach of law-and- order scholars such as Wilson, Herrnstein, and Murray is not value neutral but implies a particular ethical and ideological form of being in the world.

Technocratic Policing

Technocrats view social reality (and physical reality more generally) as what Heidegger (1977, 17) famously dubbed "standing-reserves" or resources. Reality under the technocratic gaze is reduced to a set of resources that bundle certain energies. Physics is the model, as it offers a science of the exact measurement of the world as comprised by various energies. Nature becomes a grid of objects whose energies must be challenged in a struggle for domination. As Heidegger puts it, "modern technology is a challenging, which puts to nature the unreasonable demand that it supply energy" (ibid., 14). The unreasonableness stems from attempting to order something that might not ultimately be able to yield the full, intended result, as that would presume "the ordering of the orderable" (ibid., 17). In the case of the human sciences, the problem is one of demanding control over something that "man does not have [ultimate] control over"—i.e., other human beings (ibid., 18). The technological gaze sees people as so many resources, so many bundles of energy, to be instrumentalized and controlled via knowledge of the *causa efficiens*. According to interpretive theory, this way of looking at other human beings is at the very heart of modern technocracy as a form of rule via scientific control.

I have treated the issue of explanation and ideology as distinct. In reality, however, they are intertwined by what Heidegger saw as the technological gaze or way of being in the world. This technological gaze is detectable in the law-and-order theories and attendant police practices examined above. Murray's, Wilson's, Kelling's, and Herrnstein's theories are all pervaded by a worry about how to engineer and control hidden criminal energies concealed within individuals. These criminal energies are made visible for technocratic management under certain signs: demo- graphic ("youth," "black," "male," "Latino," "unemployed"); tempera- mental ("impulsive," "assertive," "unconventional"); physical ("heavy- boned"; "muscular"); and psychological ("below average intelligence"; "poorly socialized"). Each of these categories is part of an actuarial, probabilistic account of criminal energies. In other words, the empirical signs are correlated with mechanistic, causal properties. These properties can join with others to generate a causal mechanism that leads to a criminal act. And although no one is born a criminal, "some individuals are more likely to become criminals than others" due to scientifically calculable energies (Wilson and Herrnstein1985, 79). The supposed criminal energies of young, black men are a particular source of anxiety for law- and-order scholars. This has helped generate a palpable tension in American society over how to (scientifically) control and redirect the energies of racial minorities.

The law-and-order movement is buttressed by a technocratic epistemology whose conceptual logic shapes its theory and practice. In Heidegger's language, everything is placed under the "ordering attitude" of "modern physics" and the view that all forces are "calculable" (Heidegger 1977,21). The theories of law and order are pervaded by an anti-humanistic, mechanical, technocratic worldview. At the same time, law-and-order dis- course narrows the range of debate on "scientific" and "rational" crime policy. Science has supposedly decided beforehand on what must be the response to crime. If majorities or local communities dissent from the findings of science, then, their attitudes are de facto irrational and unscientific.

But the question of what ought to be the meaning of order, crime, and policing in a given neighborhood or community is one that cannot be answered by an ahistorical science of society. One community might follow Bogotá, Colombia in decriminalizing "disorderly" graffiti art (which inspired a world-famous urban art scene). Another might, by contrast, find the meanings of these practices to be undesirable or otherwise problematic. Indeed, interpretive social science remains open to the possibility of entirely new cultural constellations, in which the current "hard facts" of crime and criminality have been superseded by new worlds.

NOTE

⬚. A critical case has already been made by Harcourt 2001.

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