

Overview: Policing Protest and Youth

Editors

THE YEAR 2008 MARKED THE 100TH ANNIVERSARY OF THE FOUNDING OF THE FEDERAL Bureau of Investigation. In this issue, Peter Conolly-Smith tells the story of the FBI before J. Edgar Hoover became director in 1924 of the Bureau of Investigation, as it was then called. Hoover inherited, perfected, and passed on its surveillance methods to contemporary practitioners of domestic spying. Aided by emergency legislation passed during World War I, this was the largest effort in U.S. history to clamp down on dissent, silence protest, and incarcerate radicals. Methods included wire-tapping, the use of informants, and the monitoring of mail, the latter with the cooperation of the Postmaster General and the Post Office Department's Solicitor General, an operation Conolly-Smith compares to more recent forms of data-mining and communications surveillance, break-ins into suspects' homes and offices, and the retroactive legalization of illegal surveillance programs. Legislation authorizing domestic surveillance passed by a pliant Congress during wartime and national crisis often remain on the books long after the war or crisis has passed. The Bush-Cheney war on terrorism, with its boundless Orwellian timeframe, warrantless searches, and wiretapping programs that epitomized its extra-constitutional prosecution, has been deemphasized by the Obama administration, but it nonetheless supports renewing three provisions of the Patriot Act due to expire at the end of 2009, despite objections from liberal and conservative groups regarding excessive governmental authority to intrude into Americans' private lives. The American Civil Liberties Union, which opposes extension, characterized the administration's position as "a mixed bag," and hopes the next version of the Patriot Act will contain important safeguards concerning the collecting of international communications and specifically bar surveillance of protected First Amendment activities such as peaceful protests or religious assembly.

This issue contains two views on how globalization affects policing practices in the United States, including the policing of protest and of inner-city youth. Stephen Hill and Randall Beger argue that "paramilitarization" of U.S. security represents the convergence of two trends, with the police becoming more militarized (e.g., Special Weapons and Tactics units) and the U.S. military increasingly taking on police functions. The rapidity with which this trend is progressing, Hill and Beger argue, must be reversed before it reaches a threshold already crossed by the heavily militarized Israeli National Police. Paramilitary forces have often been historically synonymous with political repression and are generally undemocratic and unaccountable. Militarization of policing is a global trend since all states operating in

the globalized neoliberal economy respond to the same pressures. However, U.S. support for foreign paramilitary police forces and paramilitary police units abroad has intensified this process. A blurring of traditional distinctions between military/police, war/law enforcement, and internal/external security, the authors argue, is a product of globalization. As criminal and social issues such as drug trafficking, illegal immigration, and organized crime have become increasingly transnational enterprises, they have been subsumed under the mantle of counterterrorism. Yet the use of heightened national security threats to justify militarization of policing first emerged in the late 1970s, when Congress seized upon the War on Drugs to amend the 1878 Posse Comitatus Act, which had clearly delineated between police and soldiers. The more militarized the police become, the more they resemble their military counterparts in ideology and form. This “military operational model” encourages street-level officers and law enforcement executives to view the inner-city environment as a war-zone and the urban underclass as the enemy.

Whereas Hill and Beger allude to how the PATRIOT Act and the Homeland Security Act have transformed the “war on terrorism” into a catchall category used by the police to criminalize a wide range of nonviolent political and social activists committed to progressive social change, the point of departure for Amory Starr and Luis Fernandez’ article is state responses to the alterglobalization movement — those opposing the global governance strategies of transnational corporations, the World Bank, and the World Trade Organization, including earlier eco-defense and antiwar tendencies. They argue that since the terrorist attacks in 2001, fears of terrorism have been used to justify loosening regulatory restrictions on law enforcement activity, resulting in increased repression of nonviolent protest movements. Some areas of repression indicate massive innovation during the post-Seattle era (1999 on), while others seem to resurrect the FBI’s discredited COINTELPRO program, which targeted the Black movement, including tactics of inciting gang warfare. Among the dimensions of state organization that have emerged to protect global economic governance meetings is a new component of state repression: cross-border collaboration on tactics for protest policing. The authors focus on the legal aspects of social control and the forms of resistance employed by activists in the global justice movement.

The 2009 Group of 20 summit (G-20) in Pittsburgh, Pennsylvania, which took place after Starr and Luis Fernandez’ article was written, was, according to President Barack Obama, relatively tranquil. The president disagreed with the opposition of many of the protesters to capitalism and free markets in general, but said they are free to express their views. However, Pittsburgh officials refused to grant permits to use several parks and routes that would have allowed demonstrators to march within sight and sound of the G-20 conference. Civil liberties groups decried the heavy-handed and unwarranted police response to actions organized by protesters, including the labor-green alliance. Private security guards were out in force, positioned outside the buildings they were paid to protect, and too-aggressive riot

officers focused on largely peaceful, if unsanctioned, demonstrations, instead of paying more attention to the small groups of vandals that smashed the windows of city businesses.

Crowd control in Pittsburgh included deployment of riot fences, heavily armored Humvees, Chinook, Black Hawk, and armored Apache attack helicopters, 25-foot Coast Guard patrol boats armed with M240 machine guns, and, for the first time, SWAT teams using directional sound cannons (American Technology Corporation's long-range acoustic devices, or LRAD) to control peaceful protesters. The U.S. Army, Navy, and Marines have employed this technology since 2003 in the Middle East and Iraq as an "anti-insurgent weapon" geared to crowd control, area denial, and for clearing buildings. Although LRAD can operate as a powerful megaphone, law enforcement bodies and the Border Patrol have obtained these devices through Homeland Security grants as non-lethal weapons (e.g., in place of pepper spray), but the ear-splitting noise they emit can produce serious injury to the inner ear and result in death under certain conditions. The LRAD device was on hand but not used against protesters at the 2004 Republican National Convention in New York City and again at San Diego town hall meetings in August 2009. The ACLU of San Diego described LRAD as a military-style weapon that stifles public dissent and whose use at public events is intended to chill free speech and free association.

Protest policing has built upon methods and databases developed in the policing of gangs. Two articles in this issue, by Paul Kaplan and Robert Durán, appraise the operation of anti-gang units in the western United States, which police departments began to organize in the early 1990s with the support of the FBI's Safe Streets Violent Crimes Initiative. Under scrutiny, these units have been plagued by severe rights violations, but they face intractable problems brought on by U.S. global policies and internal pressures for police to act as soldiers in a "war on crime." As Luis Rodriguez (2005) has observed, the country's most notorious "supergangs" originated in California. U.S. covert or overt military interventions in Southeast Asia and Central America brought to U.S. cities families that were forced to flee civil war and instability, genocide, and U.S.-sponsored death squads or dirty wars, with many suffering from posttraumatic stress and the loss of parents (see Chinchilla and Hamilton, 1999). Some young people who had experienced, and in some cases participated in, violence and brutality became gang members in the United States upon encountering alienating conditions, including hostility from African American and Mexican youth intent on defending their turf in rough-and-tumble neighborhoods abandoned by those paid to protect public safety.

Efforts to control gang activity aggravated the problem and gave it a transnational dimension. Due to the INS and later ICE policy of deporting actual or suspected gang members to their countries of origin, Los Angeles gangs were reproduced in the streets of major cities of El Salvador, Honduras, Guatemala, and Nicaragua. Weakened Central American states were unprepared and under-resourced, turning to private security firms to fill the gap; in Honduras, Ronald Reagan's rollback

initiative came full circle when a police officer was arrested for complicity in the death squad killings of suspected gang members (Ungar, 2007). Throughout the hemisphere, prisons have served as criminal finishing schools or command-and-control centers, and military operations have dispersed the leadership of gangs. Some immigrant youth in the United States thus passed from garden-variety delinquency to involvement in criminal enterprises. After the 1992 Los Angeles riot, police officials began to report that Los Angeles gangs were being exported to other southwestern states for the first time. The response was a new level of surveillance and community oversight in the Latino community, aggravating an already tense relationship.

Paul Kaplan looks at interpretations of the Rampart Scandal of the late-1990s, which involved the “Community Resources Against Street Hoodlums” (CRASH) unit of the Los Angeles Police Department (LAPD). Due to the scandal, over 100 criminal convictions were overturned and nearly 20 officers were fired or resigned, with several convicted of criminal charges. The article examines gaps in official and media representations of what contributed to the outrageous misconduct and allegations of police brutality. Kaplan concentrates on the relationship of ideology to police misconduct (e.g., the planting of evidence to obtain arrests or to justify officer-involved shootings). Official investigations and media representations blamed “bad apples” on the force, in this case Black and Hispanic officers, and fixed on procedural and training practices. Kaplan suggests less visible ideological causal factors: the war on crime and the privileging of the white juridical subject. In his view, CRASH-style units are neo-racist agents emanating from the war on crime. This war’s ideological work of inscribing young nonwhite men as criminals achieves neo-racism because race is never officially mentioned, the relevant factor being criminality, not race.

Ironically, crime rates, including those for juvenile crime, have fallen significantly after peaking in the early 1990s. This analysis does not yet reflect the severe economic downturn whose impact became most pronounced beginning in late 2008, so it remains to be seen how teenagers—the group most likely to turn to crime as their job prospects shrink—will be affected. Murders were down across the board between 2000 and 2007, except among young black males, who experienced a substantial rise (Barrett, 2009). NAACP president Benjamin Todd Jealous recognized the problem in setting out the organization’s new goals. He called for fashioning policing policies and practices that will help to solve the high number of homicides in the African American community, drug diversion programs as an alternative to prison, reducing disparities in sentencing, and improving educational opportunities (Fulbright, 2009).

According to Robert Durán, an ongoing war against gangs has unleashed an unrelenting attack against large numbers of Latinos and African Americans in the post-Civil Rights era. The demise of the Civil Rights-era approach of directly challenging discrimination and inequality coincided with the rise after the 1980s

of increasingly aggressive policing, mounting criminal records, and mass incarceration within the criminal justice system. In April 2005, the FBI launched a National Gang Strategy that targeted California-based gangs, which have proliferated across the country. The article compares gang enforcement and urban resistance in two cities, Denver, Colorado, and Ogden, Utah, and addresses how people of Mexican descent living in urban barrios respond to dominant group actions that criminalize innocent behavior. Durán's ethnographic research explores how street activists have reacted to gang units and aggressive policing. New tactics of "urban resistance" geared toward criticism, self-help, and the subtle threat of mass demonstrations have challenged the ever-increasing powers of the criminal justice system. Durán argues that the history of Chicano activism in Denver made resistance integral to the barrio experience, whereas Ogden remained silenced in the face of overwhelming overt and covert racism and religious persecution.

Elizabeth Brown's article underscores how the war on crime shifts the ideological terrain from race to criminality. Her textual analysis juxtaposes moral panics over "gang" and "school" violence as they appeared in 16 congressional hearings on youth held between 1995 and 2001. Through the lens of gangs, she states, youth violence suggests a population of predators who are most likely found in urban inner-cities, whereas the lens of school shootings offers the perspective that white, suburban shooters can be dealt with through early intervention and prevention opportunities. This approach leads to the possibility for a racially differential application and racially disproportionate juvenile justice dispositions. Brown highlights how racialized understandings of juvenile violence pervade the common-sense knowledge of congressional authorities about juvenile crime. Even though the juvenile violent crime arrest rate in 1999 was the lowest in the decade, the prevailing consensus was that the number of crimes and the rate of offending by juveniles nationwide remained too high. Harsher punishment was the result. In a massive political transformation since the 1960s, the focus of the criminal justice system shifted from rehabilitation and prevention to punishment and incapacitation.

A companion piece by Martin Guevara Urbina and William Sakamoto White, "Waiving Juveniles to Criminal Court," surveys the thinking of officials on the practice of judicial waivers. Stemming from the fear of crime, some policymakers have pushed for laws to be modified to enhance control over young criminals by using adult sanctions for adult crimes in the criminal justice system. The authors question whether such sanctions are necessary given the "best interest of the child" *parens patriae* philosophy of the juvenile justice system. Judges, prosecutors, and public defenders claim that waivers have utility, but key legislative expectations such as harsher sanctions in adult court, lower recidivism rates, and lower crime rates are not obvious. The authors find that practitioners are ill informed on the issue, and contrary to their theoretical argument in support of judicial waivers, when questioned individually decision-makers claimed the system is not in a better position to fulfill a primary objective of the penal system, the rehabilitation of

juveniles transferred to adult court. The case study portion of the article interrogates judges, prosecutors, and public defenders in all of Wisconsin's 72 counties on the issue. The authors argue that Wisconsin's approach is in some sense representative of broader national trends.

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