The Role of Law in Policing

Tides and Currents in Police Theories Conference
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The well-trodden path
The law, police discretion and politics

- Legalistic-bureaucratic understandings (Dixon 1997)
- ‘Constabulary independence’ (R v Metropolitan Police Commissioner ex parte Blackburn [1968] All E.R. 763)
- Police culture
- ‘Working rules’ and ‘working assumptions’ (Smith and Gray 1985; Hoyle 1998)
- Rhetoric and ideology
- ‘Personal and bureaucratic motivations can explain why the police want to make arrests; the law itself explains why they may’ (McBarnet 1981, p. 32)
- Class and ‘police property’ (e.g. Hall et al. 1978)

The law and police powers

- The role of the police in society is ‘as a mechanism for the distribution of non-negotiably coercive force employed in accordance with the dictates of an intuitive grasp of situational exigencies’ (Bittner 1970, p. 46)
- ‘something-that-ought-not-to-be-happening-and-about-which-someone-had-better-do-something-now’ (Bittner 1990, p. 249)
- Extended to include their capacity to use means that are legally prohibited to the rest of the population? (Brodeur 2010)
The law and police legitimacy

- The sociological understanding of public perceptions of police legitimacy is based on three factors: normative consent to police authority, the legality of police actions and the sharing of beliefs and values between the police and citizens (Bottoms and Tankebe 2012).
- The conceptualisation of legitimacy has also been influenced by extensive social psychological research. Tyler (2003), for example, argues that the most important factor shaping the legitimacy of legal authorities is procedural fairness.

The road less travelled
Pluralisation, internationalisation and transnationalisation

- ‘In practice – the supreme authority to use the power to coerce or intrude into the privacy of the individual – is often diffused among national and transnational agents. To put the point starkly, some of what [SOCA] liaison officers do in the Caribbean, at least occasionally, would be unlawful were it carried out by foreign police in the UK’ (Bowling 2010, p. 297)
- In terms of police powers, the idea that the police have a monopoly over legally permitted forms of coercion can be questioned (e.g. Skinns 2011)
- The divesting of power from the police to other social actors means that it is not just legal authorities that need to be concerned with legitimacy

The road ahead
Conclusion

- The relationships between the sets of theories on the role of law in policing
- Theories about the role of law in policing might also incorporate and accommodate theories from beyond the Anglo-American world
- To what extent has the dominance of Anglo-American discourses on policing crowded out the varied meanings of ‘the law’, ‘police’, ‘policing’, and ‘legitimacy’ elsewhere in the world?