POLICING IS NOT A TREATMENT: ALTERNATIVES TO THE MEDICAL MODEL OF POLICE RESEARCH

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Recent research about policing often aspires to emulate the model of medical research—randomized experiments designed to establish conclusively what works. This approach to scientific research produces instrumental knowledge about the best means to a given end, and it can contribute usefully to many important debates in policing. But by itself, it cannot speak to the full range of concerns relevant to criminal justice practice, which is characterized by a great variety and ambiguity of values. Police will benefit from instrumental knowledge, but they will also benefit from better forms of practical reasoning—something that scholarship can help to develop in ways that this article describes. Knowledge about policing should be more like legal knowledge than medical knowledge (or more precisely, than the aspect of medical knowledge that criminal justice scholars have emphasized).

The past two decades have seen a new model of research come to dominate the study of policing. Exemplified by the domestic violence experiments funded by the National Institute of Justice, this model of research has sought to demonstrate what works in policing in the same way that the medical community demonstrates what works in medicine. It marshals the randomized experiment in a struggle to understand how police can best reduce crime. It is a model that has increasingly been proposed or applied throughout the field of criminal justice (e.g., Blumstein and Petersilia 1995; DiIulio 1991:chap. 6; MacKenzie 2000; Sherman et al. 1997), and at times it has commanded a large share of research effort and money from key funding sources like the National Institute of Justice. Most important, it has also come to dominate the thinking of many leading researchers. For example, in a recent special issue of *Crime and Delinquency* devoted to experimental criminology, the issue editors asserted, no doubt correctly, that "there is little disagreement that ex-

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periments provide a superior method for assessing the effectiveness of a given intervention" (Feder and Boruch 2000).

This research model has been advanced most forcefully and clearly by Lawrence Sherman, who has drawn on the powerful analogy of medical research to justify and guide the development of this type of police research.[1] In Sherman's (1984) view, different uses of police discretion can be understood as different "treatments" likely to have different effects, and researchers can use randomized trials to determine which of these treatments works best. Just as the medical community subjects new drugs and treatments to controlled experiments to determine their worth, so the policing community should investigate discrete ways to use its discretion—whether to make arrests for domestic disputes or shoplifting, whether to stop motorists to search for guns, and so on (cf. Sherman 1992, 1998, 2000). Sherman has drawn extensively on the analogy of medical research to articulate the methods and ethics of this sort of research, suggesting, for example, that failure to heed its conclusions might constitute police "malpractice" (pp. 72, 75). More recently, he put forth an ambitious proposal to organize police work around evidence, calling for empirically tested guidelines and performance measures that would codify the most recent research results, drawing again on models in medicine for guidance (Sherman 1998).

This type of research has helped to advance knowledge about policing in many ways, and as John DiIulio (1991) has pointed out, it is often the *only* sort of knowledge that has any hope of overcoming the ingrained ideological positions that characterize the most polarized policy debates (pp. 252-58). Nevertheless, if taken to extremes, the aspiration to model police research solely after experimental research in medicine could lead the field astray. This article will explain the nature of that risk, and it will advance an argument about how the research agenda in policing should be expanded. The basic argument is that as an institution, policing is characterized by a high degree of value pluralism and that this fact limits (but does not eliminate) the role that any type of instrumental knowledge can play in guiding decision-making. Police will clearly benefit from instrumental knowledge such as that produced through experiments. But they will also benefit from better forms of practical reasoning, including better interpretations of ambiguous values and better ideas about how trade-offs among values should be made—something that research can help to develop by moving beyond the medical research paradigm. Knowledge about policing should look more like legal knowledge than medical knowledge (or at least the aspects of medical knowledge that have been emphasized in criminal justice accounts of that field, since even medicine has never survived on a diet of instrumental knowledge alone).

VALUE PLURALISM AND THE LIMITS OF INSTRUMENTAL REASONING

Decisions about what should be done are practical decisions, requiring the people who make them to take everything relevant into account (Toulmin 1988; Williams 1985). But what constitutes "everything" varies from institution to institution as well as from decision to decision within an institutional setting. In some cases, everything encompasses many things, and to act properly means to understand many goals and resolve the conflicts among them. But in other cases, everything encompasses only a few relevant considerations, and it is only necessary to decide the best means to a limited number of clear goals. One way to describe the relative variety and clarity of considerations that is relevant to a decision is through the idea of value pluralism, which can be viewed as a characteristic of institutional settings that is large when there are many ambiguous values and small when there are only a few straightforward aims. The level of value pluralism, in turn, has important implications for the form that useful knowledge should take.

Experimental research produces instrumental knowledge, or knowledge about the best means to a given end. As Max Weber (1958) has put it, the findings of this brand of social science lead to conclusions of the form, "*if* you take such and such a stand, then, according to scientific experience, you have to use such and such a *means* in order to carry out your conviction" (p. 151). That type of conclusion can go a long way toward answering the question of what should be done in situations in which value pluralism is small because all that matters is which means is most effective at promoting one clear and overriding end. But when value pluralism is large, instrumental knowledge leaves many questions unanswered and cannot serve as a firm guide to action. If ends are ambiguous, changing, multiple, and conflicting, the question of what means promote them cannot even arise in a straightforward way. As Donald Schön (1983) has put it,

> Technical rationality depends on agreement about ends. When ends are fixed and clear, then the decision to act can present itself as an instrumental problem. But when ends are confused and conflicting, there is as yet no "problem" to solve. A conflict of ends cannot be resolved by the use of techniques derived from applied research [i.e., instrumental knowledge]. (P. 41)[2]

Instrumental knowledge can offer limited guidance in this type of situation, but it cannot fully answer the question of what is to be done. It must remain silent about precisely the aspects of that question that are most vexing—what it is that the vague ends ought to mean in this situation and how to resolve the

conflicts among them. The remainder of this section will explain the difficulties that this commonsense observation raises for the medical model of police research. The next section will then ask whether other types of scholarship can answer the questions raised by value pluralism.

Value Pluralism in Policing

When criminal justice scholars have drawn on the model of medical research, they have described that field in terms of its body of instrumental knowledge, especially the findings of randomized experiments about the health effects of drugs and clinical procedures. That body of knowledge does not make up the whole of medical scholarship (for example, it leaves out the study of medical ethics), but it obviously has extremely significant implications for some aspects of medical practice. It is particularly important for individual treatment decisions in which the patient's health is the overriding concern, and decisions like that lie at the center of the discussions of medical research and medical practice that have appeared in the criminal justice literature. Sherman (1984), for example, has described the relationship between an oncologist's practice and scientific knowledge about the effects of cancer treatment in this way:

> If cancer treatment experiments consistently showed that chemotherapy produced higher survival rates than radiation for all types of people, oncologists would probably feel bound to prescribe chemotherapy. They could be sued for malpractice if they tried to vary the recommended treatment according to the race, age, sex, or "moral worth" of the patient (unless there was an interaction effect between those variables and the chemotherapy treatment). (P. 75)

In this example, an oncologist's decision about whether to use chemotherapy depends only on the best knowledge about how that treatment will affect the patient's likelihood of survival. Other considerations, such as the patient's moral worth, are irrelevant unless they mediate the health effects of the treatment. In more recent writings, Sherman (1998) has acknowledged that in practice, doctors do not always carry out the conclusions of medical research as readily as the oncologist in his earlier example. But the normative picture has not changed: The focus is still on medical decisions in which doctors *should* apply research findings to their patients because health is the overriding value. Given this image of medical decision-making, instrumental knowledge is immensely important for medical practice, to the point that departures from the prescriptions of research probably constitute malpractice.

In reality, medical decisions are often more complicated than Sherman's (1984) example has suggested because they involve a wider variety of

considerations than the single goal of improving a patient's health. As I will argue later, there may be many legitimate reasons why an oncologist would not treat her patient with chemotherapy even if research showed that that treatment produces the highest rates of survival. But for present purposes, it is not important to decide how accurately the oncology example captures medical decision-making in general.[3] What is important is that it is clearly incomplete as an analogy for policing. That does not mean that instrumental knowledge is irrelevant for police, but it does mean that such knowledge cannot answer many of the questions that policing confronts.

Police face more difficulty than Sherman's (1984) oncologist in part because they confront a broader range and a more ambiguous mix of values. Reducing crime is clearly one important goal for the police. But it must compete with other goals like equity, due process, just deserts, and parsimony. The movement for scientific research based on randomized experiments has largely ignored this fact, behaving as if policing was solely concerned with crime reduction. This criticism may sound unfair. Some of these researchers have suggested that experimentation could just as easily focus on other values as on crime reduction (even if it has not yet done so very often), and they have sometimes recognized constraints on the ability of police to adopt their scientific conclusions. I will return to these issues in a moment. Here, it is enough to note that Sherman himself has acknowledged the point being made here, suggesting that experiments in police discretion are attractive primarily to a "professional crime control" model of policing—one that sees crime reduction as the overriding value in police work (Sherman 1984:69 ff.). His defense of experiments in policing rests on this simplification of the values police work should serve. For example, he has rightly noted that a continued commitment to the idea that the police deliver justice (as opposed to preventing crimes) "will pose a major obstacle to immediate implementation of any new policies based on the results of [experimental] research" (Sherman 1984:75). More recently, he noted that experiments will not appeal to those who defend the importance of "retribution" (Sherman 1998:9).

The problem is that ideals like justice and retribution, as well as many other values that are distinct from crime prevention, do and should still hold considerable sway over police agencies. If medicine truly were committed to a single, self-evident value like health, it would be the exception rather than the rule. Many and perhaps most spheres of life are governed by multiple and conflicting values (Berlin 1988; Larmore 1987). In policing, the continuing importance of multiple values derives in part from the type of institution it is, namely, a public institution that wields the state's monopoly on force. Citizens grant the state that monopoly on the condition that it will be used fairly, parsimoniously, and equitably (e.g., Rawls 1971). More generally, the use of force raises the general demands of morality, which insist we treat people as

ends in themselves—individuals with rights and dignity, not simply means to whatever end we wish to pursue (whether the end is crime reduction or something else) (Kant 1964). These considerations have played important roles in justifying values like just deserts in criminal justice, and those values compete strongly with crime reduction, qualifying any conclusions we might reach solely on its grounds (e.g., von Hirsch 1985). Moreover, even the ideal that police should promote public safety is ambiguous. "Safety" may have as much to do with disorder and fear as it has to do with crime prevention, and each of those ideals—including the ideal of crime prevention, since "crime" takes many forms—is itself subject to interpretation and argument (Moore and Trojanowicz 1988; Zimring and Hawkins 1997).

Consequently, a central problem facing the police is how to apply and weigh the ambiguous and conflicting considerations of desert, equity, liberty, and safety—not simply how best to achieve any of them in isolation. Sherman (1998) and others have sometimes lamented the resistance of police to the conclusions of recent scientific experiments about crime prevention. But although some portion of this resistance may truly stem from misguided traditionalism and irrationality, another, irreducibly large portion probably stems from the inappropriateness of the conclusions for an institution tied to many values. It is simply not possible to develop legitimate guidelines about what the police should do based only on instrumental knowledge about the effect of police actions on crime.

Again, similar observations apply even to medicine, so there, too, instrumental knowledge cannot tell doctors everything they need to know; there, too, "resistance" to research findings may reflect a commitment to other values rather than plain irrationality. Nevertheless, medicine has at least one device for reducing its value conflicts that is not available to policing. Health care is organized as a voluntary relationship, and the patient can usually opt out of it—she can ignore doctor's orders or withhold consent for surgery. Doctor's orders are not really orders in the same way as decisions by police are. They are trumped by the value of free choice, which in turn enables patients to decide their own trade-offs among substantive values. A patient at risk for lung cancer may reject her doctor's well-researched advice to quit smoking, reasoning that the added years of life are not worth the price of abandoning this indulgence. Another patient whose health depends on a blood transfusion may decline the treatment for religious reasons. A chronically ill patient may reject treatment that might prolong her life to spare her family (or even herself) from protracted suffering. In all of these examples, the voluntary nature of the health care relationship preserves some possibility for other values to influence medical decisions, without much need for the doctors (or the researchers who tell them what works) to weigh those values in their own decision-making.

One should not, of course, put too much weight on these observations. In practice, the notion of informed consent turns out to be complicated because it ignores the reality of sick patients who "are often fearful and anxious, suffering the physical and psychological effects of their illness, and deeply desirous of putting their treatment in the hands of health care professionals they can trust," as one medical ethicist put it (Brock 1991:116; cf. Miller 1981). Consequently, doctors themselves must often consider values other than health in deciding what to do or recommend, and research findings that tell them which treatments promote health can no longer dictate their decisions. That problem has stimulated extensive scholarship about medical ethics, which is as much a part of medical knowledge as the findings of randomized experiments are. Nevertheless, here it is enough to note that even a problematic notion of informed consent can sometimes simplify the doctor's task. It helps to disentangle health from other values and carve out a space where doctors can pursue it with fewer distractions. The larger that space is, the greater the share of doctors' decisions that instrumental knowledge can direct with authority.

Police demands, on the other hand, are final, so the values they neglect cannot be picked up by someone else. Police must always make their decisions with an eye to all the relevant values. They cannot disregard equity and presume that those who value it more highly will opt out of their demands, the way that those who value quality of life or other considerations more than they value health can ignore their doctors. That is an important reason why research anchored in a single value like crime control can almost never legitimately prescribe police action on its own.

Consider the value of just deserts (e.g., von Hirsch 1976, 1985, 1993). As the gatekeepers to the punishment system, and as an agency whose actions inevitably ascribe a measure of blame, police must take some guidance from this principle in deciding when to make arrests. But guidelines based only on research about crime prevention will give desert no sway at all. To take only the simplest example, the well-known conclusions of the National Institute of Justice's domestic violence experiments suggest that police will have the most success reducing this crime if they arrest the employed but not the unemployed and residents of affluent neighborhoods but not poor ones (Sherman 1998). But guidelines that prescribed this course of action would run badly afoul of desert principles. Two offenders who committed the same offense and who were therefore equally blameworthy would receive widely disparate treatments—a clear violation of the proportionality that desert demands. Some proponents of the just deserts ideal would even object to the use of prior record (aka "repeat calls") on these grounds. "Evidence-based policing" raises the same objections as selective incapacitation (von Hirsch 1985).[4] In an era when the central problems of policing involve equity and the

use of authority as much as crime prevention, it is especially important to investigate those objections thoroughly.

Sherman has acknowledged these points in many places. For example, in his review of the domestic violence experiments, he asserted that "law, ethics, and politics all forbid" the use of considerations like employment status as a basis for police policy for arrest (Sherman 1992:185). At other times, however, he has been more ambiguous. For example, in his most recent statement about this dilemma, Sherman reviewed the evidence just described and then suggested that "this research evidence could support guidelines for policing domestic violence that differed by neighborhood and absence or presence of the offender [another factor that interacts with arrest to predict recidivism]" (Sherman 1998:8). The trouble is that this proposal has implications for the values of just deserts and equity that cannot be addressed by research about crime prevention, and for that reason it calls for a different type of investigation and debate. Sherman himself insightfully analyzed some of these questions in his own work on the domestic violence experiments (esp. Sherman 1992). But in general, the policing field has not carried this dialogue forward by analyzing the full range of implications that Sherman's guidelines and other policy suggestions would have, nor has it engaged the normative questions raised by similar conclusions drawn in other experimental research. Reference to law and ethics usually signals the end of inquiry, not the beginning of it.

Benchmarks raise many of the same difficulties as guidelines do. In recent work, Sherman (1998) has suggested that independent of the use of guidelines, agencies should use benchmarks that evaluate officers or districts against predictions about how much recidivism they should expect (predictions based largely on demographic characteristics of their caseloads), and he also suggested that a national system of performance measurement should rank police departments according to their risk-adjusted crime rates, just as states have ranked hospitals according to their death rates for different diseases. But these systems would crowd out important values. Officers, districts, and departments would be judged poor performers if they resisted the urge to reduce crime to protect values like due process, desert, and parsimony. Performance measurement can surely shape behavior powerfully, but it is precisely for that reason that we must be certain we measure the right thing. Even for medicine, health alone is probably the wrong index of success when used in isolation.[5] For policing, crime alone is clearly not the right thing to measure (Moore et al. 1999).

It helps to some degree to draw normative boundaries around a domain where crime prevention holds sway, just as patient consent partially bounds medical action in pursuit of health. Sherman (1984) has implied this solution by suggesting that research implications could be countermanded if they

discriminated on the basis of "constitutionally forbidden considerations" (p. 78). But it is not obvious that this trump card gives all the weight to desert and equity that it should; there may very well be some residual role for those values to play, as is often the case where values conflict (Williams 1978). The situated judgments police make about whether to arrest an individual may involve an attempt to give proper consideration to those other values.

Situated decision-making like this often makes considerable sense. When faced with multiple values, the best solution is often not to try to rank them properly at the outset (which is what the law does when it forbids or permits police to take certain factors into account and what cost-effectiveness analysts do when they weight distinct values in an overarching objective function). Instead, it is often better to bring all of them to bear on particular situations. By doing that, it is sometimes possible to arrive at solutions that strike most people as legitimate, even when the same people *cannot* agree on the relative worth of each value in the abstract (Jonsen and Toulmin 1988; Sunstein 1995). Indeed, trade-offs among ultimate values are extremely difficult to make, so it should not be surprising if the proper choice depends heavily on context. When police make situated decisions about whether to invoke the criminal law, they may be engaging in this sort of practical reasoning—not the "capriciousness" or "malpractice" that Sherman (1984:79) and others have sometimes described as the only alternative to the prescriptions of experimental research.

It is because they work in an environment of great value pluralism that police cannot avoid these dilemmas. As Frank Remington (1965) wrote 35 years ago, police practices must "be tested against an objective which is inevitably an ambiguous and uncertain one" (p. 361). For that reason, instrumental knowledge can only speak to a limited portion of the decisions police must make. Often, the core uncertainty in policing is not about which means best realize a clear and given end but about how exactly each of many ambiguous ends is relevant in a particular situation and which end deserves how much priority over the others. This idea has important implications for the form that police research should take.

TOWARD A DIFFERENT AGENDA FOR POLICE RESEARCH

Because value pluralism looms so large in policing, the type of research that has recently overtaken the field can never speak to more than a partial share of its practical concerns. At the least, this observation may explain some of the "resistance" of police to new research findings. When police cling to their judgments in the face of contrary research, they are not necessarily exercising "whim and prejudice" and "capriciousness" (Sherman

1984:81, 79). It possible that they are guided, implicitly or explicitly, by important values that research has neglected.

Apart from this caution, what does value pluralism entail for the content of useful police research? On one view, we should simply be fanning out the subjects of research, analyzing them using same methods throughout. In *Preventing Crime*, the magnum opus of the medical model school in police research, Sherman et al. (1997) wrote the following:

> Many if not most government programs, of course, have multiple objectives. . . . Considerations of those other goals [apart from crime prevention] can be entirely appropriate in other contexts, and can be examined by scientific program evaluations. . . . Causing police to treat domestic violence victims more politely, to provide victim assistance, or to gather better evidence at the scene could all be important objectives of police training. Controlled experiments could show whether training accomplishes those important goals. (P. 2-16)

Few careful evaluations of this sort have actually been done,[6] but those who hold this view suggest that they could be in principle. More strongly, they insist that they *should* be evaluated in this way. Sherman et al. (1997) wrote: "Absent a strong scientific approach to program evaluation . . . descriptive evaluations of efforts say little about results for other goals besides crime prevention" (p. 2-16).

There is much truth to this position, and solid research into the way in which police actions affect values other than crime control could be very useful for policing because it would strengthen the ability to assess different possible courses of action. At the same time, some of these other values may be more closely tied to police actions than crime prevention is. In other words, the actions are more deontological than instrumental. When that is the case, experimentation is beside the point. We may not know a priori what effect a specific arrest is likely to have on recidivism, so it is essential to do good causal research to find out. But knowing whether a specific arrest upholds due process is different: The analysis involves interpretation rather than causation. As Sherman (1984) lucidly has observed in his original article on this subject, experimental research is most important in cases in which there is some "outcome" that is separated in time from the "treatment," as in the case of recidivism in domestic violence.

Of course, it is still possible to ask whether some managerial intervention leads officers to respect due process or other values more than they otherwise would have. Sherman et al. (1997) suggested this possibility in the quotation above, which suggests that research might ask whether a particular training curriculum causes officers to treat victims more politely. Again, that sort of

research could contribute in important ways to needed knowledge about policing. But it is important to note that it sets a higher standard than experimental researchers currently apply to studies of crime reduction because it calls for knowledge about the way in which managerial action can promote desired officer actions rather than knowledge about which officer actions should be desired. Applying the same standard to their research, it would be necessary to study not simply whether arrest deters domestic violence but also whether a particular policy or managerial practice encourages officers to *use* arrest where it is prescribed. Such research is not logically outside the scope of the experimentalist paradigm, but in practice it has not been taken up.

More important, framing the research issue in this way—as a question of the effect of managerial action on the behavior of officers—displaces more immediate and equally difficult and important questions. Those questions center on the meaning and appropriateness of the officers' actions: how exactly an ambiguous value like "due process" or even "politeness" is relevant to different kinds of situations that police officers confront and how those values should be balanced against other aims in a particular context. In principle, the research on police management that Sherman suggested would address these questions along the way because it is not possible to say whether managerial actions promote politeness without determining what the value of politeness should mean in specific situations. In practice, however, experimental research (like positivist research in general) usually neglects the sophisticated normative analysis that this type of question calls for (Miller 1999; Selznick 1961; Zald 1991). Where the logic of the experimental method dominates, the definition of scientific rigor pays detailed attention to how well a study eliminated rival hypotheses (e.g., Sherman et al. 1997), but it usually has little to say about whether the research has developed and justified an appropriate definition of the policy objectives that it uses as a yardstick.

This lacuna is not especially harmful for research that focuses on relatively clear goals like crime prevention (although even in that case, it may be appropriate to analyze the nature and importance of the crimes prevented, e.g., Zimring and Hawkins 1997). It becomes more problematic when scholars venture into more ambiguous territory. The study of disorder, for example, calls for sophisticated analysis of what order means in a community that has only rarely been undertaken in the scholarly literature on that subject (see Skogan 1990:chaps. 1-2). The study of equity (Thacher 2001b; Thurow 1970), due process (Skolnick 1966), excessive force (Klockars 1996), and accountability (Thacher 2001a) also requires at least as much sophisticated normative interpretation as skillful causal analysis. Some of the most

important uncertainties about how police actions promote or hinder these values are not uncertainties about what consequences the actions have. Instead, they are uncertainties about the proper interpretation of these values, how they apply in particular situations, and what it would mean for either the actions themselves or their consequences to promote them.

In sum, if there are many, sometimes-ambiguous values that should guide a practice (rather than a single clear-cut value like crime prevention or health), then instrumental knowledge may not be able to inform many of its most pressing concerns. Working amidst value pluralism means that problem setting—figuring out which values are important in a situation and deciding how to evaluate different courses of action—is at least as important as problem-solving. Police need better structures of practical reasoning (Millgram 1997) as much as they need better instrumental knowledge.

Positivism and Practice

The positivist tradition in social science denies that scholarship can play a role in answering questions like these, arguing that science has no special competence to decide questions involving values (Black 1973; Weber 1958). On this view, social science cannot inform practice at all unless there is a clear division of labor between the two. That division of labor is best described as a client-professional arrangement between the practitioner and the analyst—one in which the practitioner provides the analyst with a clear set of (weighted) values and the analyst determines how well different interventions promote them. Joan Petersilia and Susan Turner (1993) have provided an example of this position in a description of their own work in evaluating intensive supervision parole programs: "The criteria for judging an ISP program's success should be straightforward," they wrote: "Did it achieve what it was intended to accomplish? However, there are often diverse, sometimes conflicting, perceptions about ISP's character and objectives." Their solution is to advocate for clarification:

> Jurisdictions need at the outset to specify their objectives, what mechanisms are supposed to accomplish those objectives, and how program effectiveness will be judged. . . . If crime control rather than rehabilitation is the primary goal, that should be made explicit at the outset. If a jurisdiction is primarily interested in delivery of an intermediate punishment, even if it does not reduce recidivism rates, that also should be made clear. Otherwise, the public will see the observed changes in recidivism rates as an indication of "failure." (P. 326)

The authors expressed a very real frustration of the evaluation researcher committed to the position that she herself cannot traffic in values—the posi-

tion that to the extent that values must underpin the analysis at all, they should come explicitly from practitioners. But this position is not entirely consistent, for it ends up taking its own strong normative position in telling policymakers how to make policy, that is, insisting that policy must take clear, unambiguous, and final positions on central value concerns (as when Petersilia and Turner 1993 implore policymakers that their ultimate aims "should be made explicit at the outset"). Practically speaking, it may not be terribly important if this stance reveals an inconsistency in the positivist philosophy. What is important, however, is that it is not a realistic prescription for public policy. There are good reasons to believe that policymakers do not want to be so single-minded in their pronouncements and that that fractured body called "the public" does not want them to do so either. Building a political coalition for any policy means tying together diverse and contradictory aims, and the almost inevitable result is different from an unambiguous, crystallized purpose. Moreover, many philosophers argue that public policy often promotes multiple aims that are all valuable to nearly everyone, that cannot all be satisfied at once, and that cannot be weighted or ranked in their order of importance in the abstract (Berlin 1988; Chang 1997; Tribe 1972). When it does, it is not possible even in principle to describe anything like a "social welfare function" that specifies the relevant values precisely and describes the way in which those values should be traded off against one another, which is what positivism would demand to transform normative questions into technical ones successfully. Martin Rein (1976) made these points 25 years ago:

> "Clients" can rarely provide a clear, unambiguous, and internally consistent statement about what they value. This is especially true of government, where competing interests are so widespread that consensus can often be purchased only at the price of ambiguity. Indeed, the aims of policy are always ambiguous, inconsistent, and conflicting, and as a result there is no simple consensual criterion, such as effectiveness, against which to judge performance. (P. 62)

Thus, the division of labor between politics and analysis can rarely be made cleanly, so the analyst cannot escape the challenges of value pluralism.

From a positivist perspective, this diagnosis of policing as a field unavoidably plagued by value pluralism has no implications for the form that knowledge should take; it only has implications for its scope. A strict positivist who accepted my diagnosis would suggest that institutions other than science (notably, the police themselves and, especially, those who oversee them) would have to take full responsibility for deciding what is to be done in the many cases in which values are unclear or in conflict (Black 1973).[7] Policing may simply be what Charles Lindblom (1981) has called an "indeterminate practice," one in which scientific knowledge has little role to play. As

suggested above, this conclusion should at least caution us against criticizing police for their resistance to scientific knowledge, which may not address the full range of their concerns. It might also caution us to moderate our claims about how much research can offer and, therefore, what level of resources it should command.

Scholarship and Practical Reasoning

Perhaps because, as an academic myself, I can hardly stomach the latter conclusion, I do not believe that scholarship has nothing to say about the problems raised by value pluralism. This is not the place to mount yet another extensive critique of the positivist position and the possibilities it neglects. But there are vibrant traditions of scholarship that have helped to inform the questions raised by value pluralism.

Some of those traditions are close at hand for students of policing. Within criminal justice, the field of penology saw a resurgence of philosophical literature in the 1970s that was at least as influential as empirical research in shaping punishment practice. Most important, by clarifying and justifying neglected concepts like desert and parsimony, and by challenging long-standing but unexamined utilitarian ideals, these studies helped to call the dominant rehabilitative ethic into question and thereby catalyze significant changes in punishment practices (e.g., Morris 1974, 1982; von Hirsch 1976, 1985). Empirical research about what works in reducing recidivism also influenced these changes (esp. Lipton, Martinson, and Wilks 1975). But evaluation research did not stand on its own, leaving all the relevant value questions to practitioners on the assumption that scholars had no business trafficking in values. Normative scholarship complemented the empirical (though of course, the conclusions offered by both are contested). Analogous scholarship has been scarce in policing, but Kleinig (1996) is one important example.

It would be misleading, however, to suggest that scholarship must be one or the other—that *only* nonempirical philosophical studies can address the concerns raised by value pluralism. Much empirical scholarship does grapple with values. One way to seek knowledge that can help police to cope with value pluralism—knowledge about the content of ambiguous values and ways of thinking about trade-offs among them—is by closely studying the nuances of police practice and thinking. The tradition of qualitative research, which lately seems to have lost influence in policy-oriented police research, sometimes aims precisely to develop this sort of knowledge.[8] In at least one of its many manifestations, it examines the content of everyday understandings to clarify their contours—"to figure out from what the native says and does what the devil he thinks he's up to," as Clifford Geertz (1983) put it famously,

if a bit archaically. This account of the aims of ethnography is very close to Isaiah Berlin's (1999) account of the aims of philosophy:

> The task of philosophy, often a difficult and painful one, is to extricate and bring to light the hidden categories and models in terms of which human beings think . . . , to reveal what is obscure or contradictory in them, [and] to discern the conflicts between them that prevent the construction of more adequate ways of organising and describing and explaining experience. (P. 10)

Thus, the type of ethnographic analysis that Geertz described can serve as an essential first step in normative inquiry by articulating the core values that currently underlie a practice, as well as the way in which those values are brought to bear on particular situations. Because it is grounded in empirical study, it helps to contextualize normative considerations by locating them in the situations in which they actually arise (Hoffmaster 1992; Toulmin 1988). Moreover, this descriptive work can serve as a starting point for normative argument. By revealing the implicit frameworks that guide police decision-making, this research opens those frameworks up for critical scrutiny. Even though researchers themselves cannot claim to know the best structure of practical reasoning for certain, their work can open up a dialogue about it among scholars, the policing profession, and outside stakeholders.

Police research used to give these issues considerable attention. Many of the exploratory studies during the early years of police research at least partly took this form (e.g., Skolnick 1966; Westley 1971; Wilson 1968). None of them tried self-consciously to develop the sort of structure of practical reasoning that this article has argued is a pressing concern in policing. But some of them served an important critical purpose in revealing the way in which police interpreted important ideals, such as due process. Later research went further than that, notably, William Ker Muir's (1977) study of police as "streetcorner politicians." Through a mixture of philosophy and qualitative analysis, Muir developed a useful framework that described some of the central ethical choices police officers made in their daily work and offered arguments about how good police officers made them. By suggesting the nature of the "tragic view of human nature" that officers needed and the ways in which police organizations could promote it, Muir offered practical guidance for policing.

These earlier studies spoke to many concerns that experimental criminology as it is practiced today cannot address on its own. But to do justice to the most vexing problems that value pluralism poses for the police, scholarship needs to investigate those problems in a sustained and cumulative way. It is not possible to give a complete account of what that research program might look like here, but the next section will describe two examples of research

that offer glimpses of one possibility. The remainder of the article will then explain how those projects might serve as a starting point for a program of police research organized along the lines of legal scholarship rather than medical scholarship, with the aim of complementing rather than replacing the experimental program.

Police Research as Legal Inquiry

One example of research that potentially leaves room for both normative and empirical inquiry is George Kelling's (1996) recent work on police discretion, which in turn built on earlier ideas advanced by Frank Remington (1965) and others. In work with several police agencies, Kelling organized dialogues with police and citizens to develop guidelines that could inform the use of discretion. The basic method was to present the participants with prototypical situations in the form of vignettes and ask for their considered judgments about how the police should act. For example, the problems posed might involve whether police should break up a particular sidewalk gathering, whether they should ask a particular driver to consent to a vehicle search, or how they should handle complaints about a particular disorderly person. In the process of considering these situations, it is possible to clarify the considerations that the participants bring to bear on the use of police discretion—especially, which values they invoke and how context affects the way they apply them—and to subject those considerations to critical scrutiny. In short, it involves figuring out—in this case from what they say—what the devil they think they are up to.

The process Kelling (1996) has outlined could easily be informed by instrumental knowledge about what works, but it cannot be reduced to it. Its merit lies in the room it makes for the full exercise of practical reason—both problem setting and problem-solving—as opposed to the sole exercise of instrumental reason. Moreover, it pays proper attention to context. Rather than seeking to develop abstract statements about what principles should guide police decision-making in general, Kelling's approach sought to develop specific guidelines about what should be done in prototypical situations. This approach develops a taxonomy of hard cases rather than a statement of abstract principles, and in doing so makes room for situated judgments that are sensitive to context (Jonsen and Toulmin 1988; Sunstein 1996).

Carl Klockars (1996) has proposed a similar process of guideline development focused on police use of force (although he has not explicitly used the language of "guidelines"). Unsatisfied by the weak definition of excessive force enforced by the courts, Klockars suggested that police agencies themselves should develop more demanding standards for reducing the amount of

force that officers use. His general definition held that "excessive force should be defined as the use of more force than a highly skilled police officer would find necessary to use in a particular situation" (p. 8). That definition itself is subject to debate (Alpert and Smith 1994), but what is most significant is the way in which Klockars proposed to institutionalize it.

Klockars (1996) acknowledged that the law cannot enforce the "highly-skilled police officer" standard of excessive force, not least because most officers who run afoul of it lack the necessary mens rea (he noted that excessive force "can spring from good intentions as well as bad, mistakes and misperceptions, lack of experience, overconfidence . . . or a hundred other factors that might influence an officer to behave in a particular situation in a less than expert way," p. 8). Instead, he proposed an elaborate and nonpunitive system of administrative review within police departments. In each instance in which an officer uses a significant level of force, the officer's immediate supervisor must interview the officer and any witnesses to take a report on the incident, which describes the type of force used and the details of the situation. The supervisor then assesses whether the force used was appropriate by applying the highly skilled police officer standard to the facts of the situation (the assumption being that supervisors are themselves highly skilled police officers), and his report is then passed up the chain of command for further review by police managers. In cases in which departmental management concludes that the force used was excessive but not illegal, the officer is counseled on ways of handling similar situations that use force more parsimoniously.

In the system that Klockars (1996) envisioned, police agencies refine their understanding of what excessive force means by reviewing a series of cases that come to their attention. Over time, a department would develop a repertoire of preferred responses to standard police encounters that (ideally) minimize the use of authority while preserving an appropriate degree of police effectiveness. As in Kelling's (1996) research, the process would develop a taxonomy of cases that prescribed how police should handle different situations, here with an eye to reducing the use of force. There would be no universal "minimal standard" for the use of force but a variety of standards that are sensitive to context.

Neither of these proposals was put forward as with the idea of cumulative scholarly inquiry in mind, but both could support such an enterprise. One approach would be for scholars to focus on the most difficult cases uncovered by Kelling's (1996) dialogues or Klockars' (1996) departmental reviews, such as those that raise difficult questions about how much "effectiveness" to trade for parsimonious use of authority. Academic scholars might analyze the normative dilemmas that these situations raise in the same way that medical ethicists analyze the "hard cases" that confront doctors and the way that

appellate courts review the hard cases that arise in law. In doing so, they might restrict their attention to the facts of the situation described in the guidelines and accompanying vignettes (in the case of Kelling's proposal) or the reports that police themselves produce (in the case of Klockars' proposal). But they might also return to the field to develop their own profile of the relevant events. Indeed, independent of any police commitment to the processes that Kelling and Klockars described, academics could already describe such hard cases and analyze them from a normative point of view. Much of the academic study of medical ethics takes this form, and hundreds of dialogues have emerged in that literature about how doctors ought to handle particular situations that have been described in the literature (e.g., Miller 1981). The entire field of law can be described in similar terms.

Such a scholarly role could serve two important purposes. First, one important weakness of both proposals is that they isolate individual police departments from one another; scholarly involvement could serve to bridge the gaps among them. For example, in the case of Klockars's (1996) proposal, police officers within a department would learn from one another about how they should handle prototypical situations, but they would not learn from officers in other departments. To the extent that the excessive force problem is a problem of bad barrels rather than bad apples, this isolation undermines the best hope for a solution. An important function of professional communities and the scholars who participate in them is precisely to facilitate the transfer of knowledge across organizational lines (Rein 1983). Second, by playing a role in disseminating and debating information about police practices, scholars and the professional community at large (including Peace Officer Standards and Training commissions and foundations such as the Police Executive Research Forum) could help to increase the transparency and accountability of decision-making by individual police departments. This goal seems especially important in the case of Klockars's proposal, which explicitly excluded outside input into police decision-making. Although Klockars made a strong case for the value of *police* review of the use of force (he argued that in general, laypeople are less demanding than the police themselves because they are often unaware of alternatives to the actions that an officer has taken), it does not seem right to prevent outside oversight of police standards altogether.

The type of work that Kelling (1996) and Klockars (1996) exemplified could form the basis for a research agenda along the model of legal knowledge rather than medical knowledge. Legal knowledge evolves through a combination of judicial opinions, which confront data in the form of specific factual situations and analyses by legal scholars in law review articles. Mark Moore (1982) has described the logic of this approach in an article that proposed it as a model for research in public management:

> In law school cases [i.e., court decisions], there is typically a specific fact situation and a question of what the law requires a judge to decide in that situation. . . . Much of the "case," then, is a judge reasoning about how the law is to be applied—which facts are relevant, which law takes precedence, what social interest counts more than others, and so on. Given a certain number of fact situations and different legal rulings, someone will decide to write a law review article that seeks to expose an underlying logic that makes varied court decisions coherent. It is the form of reasoning, the specific decisions, and the more or less successful integration of diverse findings that constitutes the body of legal knowledge, and the act of putting this together that constitutes legal scholarship. (Pp. 72-73)

It is not hard to see how this strategy would apply to the type of work proposed by Kelling and Klockars. In each proposal, the goal was precisely to articulate and make sense of the considered judgments that police officers and others make about what should be done in different fact situations. In a more thoroughgoing version of the legal model of police research, those initial judgments and the associated reasoning could make up the raw material for a broader analysis of underlying principles, that is, for the development of general principles "that make varied court decisions [or police guidelines] coherent." Of course, the status of the judgments themselves—whether they can be taken to be *correct* judgments—is subject to debate, and that weakness might be seen as fatal to the whole enterprise. But other fields like medical ethics, political philosophy, and even law have flourished in the face of the same challenge.[9] It is not possible to describe how those fields have responded to that challenge in detail here, but suffice it to say that they have engaged in fruitful debates about the notion of a "considered judgment" and about how best to integrate judgments whose rightness is inherently uncertain into defensible normative theory (e.g., Dworkin 1977, 1985; Rawls 1971:19-21, 48-50).

The ongoing findings of this research, then, involve considered judgments about what police should do in particular cases (judgments that are always subject to revision in the light of new arguments) together with general principles that help to integrate and perhaps justify those judgments. Those principles can then help to inform analysis of future cases. To be sure, some legal scholars and moral theorists downplay the development of general principles, pointing out that demands to unite diverse judgments can be impossible to meet, they can be socially destructive if they are taken to extremes, and often they may not even be necessary—the judgments themselves can illuminate future cases with the assistance of analogies, which show how future cases are more like some precedents than others (Jonsen and Toulmin 1988; Sunstein 1995, 1996). Other legal scholars, however, insist that it simply is not possible to decide the hardest cases without developing and elaborating

general principles about what the law should try to accomplish (or at least what particular bodies of law should try to accomplish).[10] Ronald Dworkin (1986) is the most prominent proponent of that view, arguing that judges and legal scholars face an unavoidable need to identify general principles that underlie the complex detail of existing legal practice to make appropriate decisions about new hard cases. He described that process of identifying underlying principles as one of "constructive interpretation," which involves showing the best purpose that the practice can be taken to serve. According to Dworkin (1985), a good interpretation of this sort must satisfy two criteria: "It must both fit that practice and show its point or value." The latter notion—the notion of showing the point or value of a legal practice—is particularly important in Dworkin's scheme, and he clarified it as follows:

> Law is a political enterprise, whose general point, if it has one, lies in coordinating social and individual effort, of resolving individual disputes, or securing justice between citizens and between them and their government. . . . An interpretation of any body or division of law, like the law of accidents, must show the value of that body of law in political terms by demonstrating the best principle or policy it can be taken to serve. (P. 160)

On this view, legal interpretation begins with assessments of how to resolve particular cases, but it does not end there. It develops further by trying to articulate general principles that underlie the individual decisions, showing the "point or purpose" that those disparate decisions serve. For Dworkin, those general principles are ultimately grounded in political theory. Legal inquiry draws on that body of theory to decide individual cases, and it contributes to it by investigating how well different theoretical principles can account for considered legal judgments (Dworkin 1977, 2000). In the present context, it is interesting to note that Dworkin explicitly argued that his conception of "constructive interpretation" applies not only to legal practice in particular but to social practices in general (Dworkin 1986).

This image of legal inquiry represents a model of scholarship that can support both empirical study and normative analysis in a theoretically sophisticated way—in a way that draws on and contributes to a distinctive body of normative social theory. The work by Klockars (1996) and Kelling (1996) has suggested how it might apply to the study of policing. Neither of those scholars has directly engaged bodies of political and social theory that might integrate the diverse findings that their studies would produce, so for the most part, that task remains for future researchers. Nevertheless, existing research in other areas of policing has sometimes taken that additional step.

Consider the study of police-community partnerships. This aspect of community policing raises important questions about whether and how

citizen participation in administrative agencies is consistent with the ideal of equitable decision-making—an ambiguous but important value that surely calls for clarification because concerns about inequity have preoccupied the community policing field for years (e.g., Koven 1992; Skogan 1990). In engaging those questions, most scholarship has drawn implicitly or explicitly on pluralist political theory to assess whether community partnerships are equitable. From a pluralist perspective, that means asking whether all communities have an equal chance to articulate their interests because pluralism conceives of "the public interest" as some aggregation of all individual interests (Henig 1978; Skogan 1988; Skogan and Hartnett 1997; cf. Dahl 1961, 1989; Olson 1971; Truman 1951). As it turns out, most research has found that poor and minority neighborhoods are less likely to organize than others (Henig 1978; Skogan 1988; Skogan and Hartnett 1997), suggesting that police-community partnerships risk undermining the ability of the police to promote the public interest equitably.

More recent research, however, argues that the pluralist interpretation of police-community partnerships is incomplete. It cannot account for our considered judgments about those partnerships (i.e., whether specific policy and strategy decisions made in the context of police-community partnerships are appropriate), and it offers an impoverished view of their point or purpose. As I have argued elsewhere (Thacher 2001a), a constructive interpretation of police-community partnerships must recognize that they involve more than the articulation and aggregation of individual interests. Partnerships are better conceived of as sites of public deliberation about the common good. From that perspective, the key principle that distinguishes appropriate partnership decisions from inappropriate ones is not the principle that all affected interests should be directly represented in the partnership; they never are. Instead, the key principle is that due attention must be paid to the proper design of what John Dewey (1927) has called "the methods and conditions of debate." In particular, police have an obligation to focus the attention of a partnership on the question of the common good, to call attention to the needs and wants of absent publics, and to bring in objective information that sheds light on the wisdom of neighborhood demands. When they meet these obligations, police-community partnerships are able to promote the broader public interest in an equitable way even in cases in which the community participants are patently unrepresentative—where groups that have a clear stake in the decisions are underrepresented or absent (Fung 1998; Thacher 2001a).

In short, this research about community partnerships argues that Dewey's (1927) political theory offers a constructive interpretation of this aspect of police practice in two senses: It shows the point or purpose of many police actions that pluralism has no place for (those that involve improving the methods and conditions of debate), and it can account for our considered

judgments more adequately than pluralism can (it allows for the possibility—often encountered in practice—that unrepresentative partnerships can lead to equitable results). To support these claims, it is obviously necessary to look closely at the details of what happens in actual police-community partnerships—particularly at how police manage the hard cases that they confront, such as those involving unrepresentative partnerships—because the quality of an interpretation that tries to show the point or purpose of a practice rests in large part on whether it can be shown to fit the details of that practice. (For example, to say that Deweyian political theory offers a more compelling account of police-community partnerships than pluralism does is in part to claim that the police can and sometimes do take actions that can fairly be interpreted as improving the methods and conditions of debate.) It is also necessary to advance and at least tentatively defend judgments about the appropriateness of police practice in specific cases and to show that those judgments are more consistent with the principles of Deweyian political theory than with pluralism.

This account is obviously a schematic one because it leaves many key questions unanswered. I have only gestured at what exactly it means to say that a constructive interpretation "fits" a practice, and I have ignored difficult questions such as how to choose between two interpretations of a practice when both of them seem to fit. By way of reference, the field of legal philosophy has engaged in an extensive debate about these issues (e.g., Dworkin 1985). My goal here is simply to suggest in broad outline how police research might follow the model of legal inquiry to investigate the difficult questions that value pluralism raises.

CONCLUSION

It should not be surprising if the model of legal inquiry is at least as relevant for police research as the model of experimental research in medicine: Policing is, after all, a legal institution. Indeed, some part of this knowledge has already been developing in the legal world through decisions about the constitutionality of different police practices. This article has proposed that such inquiry needs to be extended further into the operation of police departments than that part covered by constitutional law because many aspects of police decision-making can usefully be subjected to a scrutiny that is both empirical and normative. As Klockars (1996) has pointed out for the specific case of excessive force, legal requirements often set only minimal standards that good police work should aspire to exceed. In other cases, the law provides no guidance at all about important police decisions (Kelling 1996). In still other cases, the courts have chosen to lay down standards for the police

even though they are unable to do so adequately only because the police have not assumed enough responsibility themselves (Remington 1965). Scholarship of the sort that this article has described would help to fill these voids and to develop and refine the structures of practical reasoning that are so crucial in an environment of value pluralism.

These suggestions should not be read as arguments against the study of the impacts that different criminal justice interventions have (providing that the field asks those questions broadly enough to encompass all the relevant values without reducing everything but "crime reduction" to an undifferentiated group of "financial and other costs" that are themselves evaluated quite weakly). Part of the professional knowledge of a good police officer will surely consist of the sort of instrumental knowledge that researchers like Sherman have developed so skillfully. But there is always a danger that this research could undermine other important aspects of policing by crowding them out of our conception of what good police work consists of. Overuse of the medical model for police research (at least, as that model has been portrayed among criminal justice scholars) carries precisely this danger. Because that type of research only develops instrumental knowledge, its findings cannot speak to the full range of police concerns.

Even if the experimental agenda were carried to its unlikely conclusion, an irreducible area of ambiguity would remain because experimentation can never dictate how police should reassemble the pieces of value that it has taken apart to study. The area of ambiguity that will always remain involves the normative questions of how to think about each of the different values and how to think about the trade-offs among them. In a field plagued by value pluralism, these are among the most pressing problems that research and practice confront. They cannot be solved through experimental research into the impact of different interventions, but they can be approached through philosophical and qualitative research, perhaps through the model of legal research that this article has described.

NOTES

1. This article will mostly focus on Lawrence Sherman's work because he has been among the most articulate and thoughtful proponents of the medical model. But the same metaphor underlies many other treatments of criminal justice research. For example, Alfred Blumstein and Joan Petersilia (1995) have argued that criminal justice should emulate medicine, which they see as the exemplar of a field in which practitioners value empirical research highly. They contrasted the medical field in this respect with the legal profession, in which "every case is addressed in its own terms" and in which "the search for generalizable knowledge that is the essence of empirical research—and that should provide a basis for public policy—is not a central aspect of legal professional work" (p. 471). This critique is not entirely fair, and because the point is relevant to a

central claim in this article, it is necessary to address it briefly here. Judicial opinions do lead to the development of knowledge about how abstract principles apply in particular cases (not just the case at hand but others that are more like it than any case that has come before), and the principles themselves evolve in the course of their application. Both developments involve the creation of new generalizable knowledge. It would be more precise to say that legal knowledge alone tends not to develop causal knowledge, but causal knowledge is not the only type of knowledge that should provide the basis for public policy (Rein 1976).

2. Nathan Glazer (1974) gave this point a more institutional expression 30 years ago, suggesting that the level of value pluralism in a professional field influences its intellectual organization. Glazer focused especially on what he called "the schools of the minor professions" (including schools of social work, urban planning, education, and divinity), arguing that the inability of those fields to settle on a "fixed and unambiguous end" made it difficult for them to develop a fixed content of professional training. Medicine, by contrast, was, according to Glazer, "disciplined by an unambiguous end-health," which "settles men's minds" and identifies "a base of knowledge which is unambiguously indicated as relevant for professional education," namely, knowledge about how best to promote health (p. 363). Glazer's influential analysis suffered from several weaknesses, including a failure to recognize the existence of knowledge other than instrumental knowledge and an overly simple view of the ends of the major professions—including medicine, in which the value of health is not always as clear and predominant as he suggested. Nevertheless, he was surely correct to suggest that clear and simple ends make it easier to develop a professional curriculum based on conventional science.

3. In truth, and contrary to the suggestion of Glazer (1974), even doctors can rarely avoid value pluralism. The value of health is surely a predominant concern for much of medical practice, but it is neither an exclusive goal nor always an unambiguous one. Particularly as technology has extended our ability to prolong life, "health" has increasingly become a contested concept, and its relationship to quality of life has blurred (Mordacci and Sobel 1998; Toulmin 1988). Moreover, the last part of the twentieth century witnessed a growing recognition that values other than health (including justice, autonomy, and quality of life) should play significant roles in medical decisions (Cassell 2000). All of these developments mean that even doctors cannot make their decisions solely on the basis of instrumental knowledge about the effects of a treatment on health. They must obviously consider whether a treatment is likely to cure the disease it is designed to cure, and instrumental knowledge helps them to make that judgment. But they must also consider issues of quality of life, pain management, cost, appropriate levels of risk, patient autonomy, and even justice (Brock 1991; Buchanan 1991; Cassell 2000). The need for doctors to grapple with the way in which these values apply to treatment decisions has driven a renaissance in the field of medical ethics (Toulmin 1982). Moreover, even within the experimentalist fold, it has led to critiques of existing methods for assessing the value of treatments. For example, one group of health economists has criticized conventional cost-effectiveness analysis in medicine for neglecting many ethical considerations, such as a special concern for alleviating the most extreme suffering. In response, these scholars have proposed a more encompassing calculus designed to capture those values (Gold et al. 1996; Menzel et al. 1999; for a critique of this general strategy, see Tribe 1972). For these reasons, a picture of the medical model of research that only includes randomized experiments that investigate survival rates or other health effects is incomplete. Even those who accept the conclusion that knowledge about policing should look like knowledge about medicine should not restrict themselves to experimental research, at least as it is usually practiced today.

Nevertheless, the image of experimental research driving medical practice may have some truth to it, at least as a historical matter. Toward the end of the 1950s, the medical field became more and more specialized and more and more committed to a narrow concept of health—indeed, to a focus on the proper functioning of individual organs. It was precisely in this

environment that scientific medicine flourished, and the public image of medicine became tied to its bases in experimental research. Eric Cassell (2000), a prominent critic of this development, explained that "with increasing knowledge about science and medicine, the public bought into medical definitions of treatment, improvement, and cure—largely devoted to parts of the patient rather than to the person of the patient." Given this technical definition of the doctor's role, the findings of medical science became a doctor's most important tool: "It is not doctors, one might guess from the attitude of the public, but their scientific knowledge and technology that diagnose, treat, and cure" (p. 15).

4. Similar problems arise where arrest is not recommended. For example, if research concluded that counseling best reduced the risk of domestic violence recidivism, police still might decide to make arrests on desert grounds. This is a generic problem that plagues public health approaches to crime prevention because those approaches do not assign just condemnation to deplorable acts (Moore 1995).

Note that von Hirsch himself might well reject my application of the desert principle to policing, for he viewed his theory specifically as a theory of punishment—not as a theory of the criminal justice system in general (von Hirsch 1993). He has been particularly critical of the idea that it applies before adjudication on the grounds that desert does not apply until a person has been judged legally guilty (von Hirsch 1985). But that view depends on a highly legalistic conception of guilt, and it would lead to obvious violations of proportionality among the sentences of those who are factually (as opposed to legally) situated similarly (cf. Thurow 1970).

5. The problem is that hospital decision-making does regularly involve values other than health. For example, city hospitals that accept uninsured patients on equity grounds may end up with a more difficult caseload of patients who have only come to them in extremis, lacking proper preventative medicine and therefore suffering from more acute forms of disease. These hospitals will then have worse "success" rates even if their doctors are equally skilled.

6. The most common exceptions are studies that focus on fear reduction and order maintenance (e.g., Mazerolle, Kadleck, and Roehl 1998; Pate et al. 1989).

7. Legal sociologist Donald Black (who has had an important influence on many policing scholars) is one example of a scholar who has taken this position. Black (1973) accepted the validity of what he called "impact" studies—studies "that compare reality to legal ideals with a very plain and specific operational meaning, . . . [that is,] a statute whose purpose is rather clearly discernible or a judicial decision unambiguously declarative of policy. The Miranda decision, for example" (p. 43). But he firmly criticized anything less well specified, where ideals are ambiguous or inconsistent:

> Sociologists, however, may launch these implementation studies where legislation or judicial opinion is considerably more ambiguous than in Miranda. In such instances, the 'impact' may be difficult to measure. What must be done, for example, to implement In re Gault? Though it is generally recognized that Gault guarantees to juvenile suspects constitutional rights previously accorded only to adults, the extent of these juvenile rights is not at all clear. Hence it becomes difficult, if not impossible, to identify the degree to which Gault has been implemented. (Pp. 43-44)

Even worse, Black felt, are studies in which sociologists try to "compare legal reality to an ideal grounded in neither statutory nor case law," such as "rule of law," "arbitrariness," and so on (p. 44). In Black's view, science should not approach such subjects at all, or else it should reduce them to "impact" studies by simplifying the relevant ideals. The problem is that none of Black's criticisms suggests that it is not important to investigate these difficult questions—whether the law is arbitrary, what *In Re Gault* has wrought, or the status in practice of any number of vague and conflicting legal and social ideals. Black did not deny this, but he did deny that sociologists

or anyone else claiming title to the mantle of science are the right people to study these questions. But in reality, who else will take up the charge? And who should: Is it better to have no one but advocates research these questions? Is there no place for a commitment to impartiality, rigor, and systematic inquiry—even if as elusive ideals—in the study of such centrally important social questions?

8. Interestingly, one student of medical ethics articulated this same connection between qualitative research and some forms of ethical analysis (Hoffmaster 1992). His proposal for research that is both empirical and normative speaks to the disillusionment some medical ethicists have felt over scholarship that remains at the level of philosophical abstractions. Often, that type of purely normative analysis develops principles that do not apply in a straightforward way to concrete situations. Investigating normative judgments in context may offer more promise (Jonsen and Toulmin 1988).

9. In contrast to the other fields of normative inquiry listed in the text, the law can often point to the institutional pedigree of a decision to legitimize it (Hart 1994). But as Ronald Dworkin (1977) has pointed out, institutional pedigree cannot do all the work it is sometimes claimed to do in the legal system, in part because some court decisions will inevitably come to be seen as mistakes.

10. The discussion in the text has drawn a sharp distinction between these two theories of legal interpretation, and that is how the literature on the subject has usually viewed them. But in practice, the two views sometimes look very similar: Dworkin's best legal interpretations are steeped in a detailed account of legal practice (e.g., Dworkin 2000), and Sunstein (1996) explicitly has allowed for the development of broad principles in some situations. Indeed, these two legal scholars have recently come to fairly broad agreement about some central points of interpretive theory. See especially the fairly civil dialogue between Dworkin (1997) and Sunstein (1997) associated with Dworkin's Order of the Coif lecture.

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