

The Aspiration of Scientific Policing

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Abstract

Over the past three decades, policing scholars have increasingly emphasized research that investigates the impact of well-defined policing strategies on crime, trust, and other community outcomes. The National Academies of Sciences, Engineering, and Medicine's *Proactive Policing: Effects on Crime and Communities* (2018) provides a thorough, balanced, and wide-ranging review of what this body of research has taught us. In the process, it invites critical questions about the "evidence-based policing" agenda that inspires this work. I argue that this agenda has distorted our understanding of contemporary policing more than it has clarified it. Despite the growing methodological sophistication of contemporary scholarship, its conceptualization of policing practice cannot come to terms with the inherent complexity of police work, and the consequentialist moral framework it relies on is a poor match for the intricate normative structure of policing. In places, however, *Proactive Policing* also suggests the possibility and value of a very different research agenda—one that seeks to refine the framework of values that police and those who hold them accountable rely on to guide their continually evolving practices.

American policing has been in crisis since Darren Wilson killed Michael Brown four years ago in Ferguson, Missouri. For many activists, civil rights lawyers, and academic critics of the police, the most important source of trouble has been the turn towards a more aggressively proactive style of policing (e.g. Campaign Zero 2016; USDOJ 2016; Goffman 2014). Instead of waiting for the public to call them with an emergency, today's police increasingly try to root out crime on their own initiative by aggressively mining their authority to detain and pat down people on the streets, enforce minor quality of life rules, pressure landlords and bar owners to eject troublemakers, and heighten surveillance of the people and places that seem to be most at risk of crime. By intervening in community life to prevent rather than simply respond to crime, have American police gone too far? Not everyone thinks they have. For some of the police leaders who carry these strategies out and the commentators who have defended them, proactive policing at its best can be an essential strategy for police forces that hope to prevent crime and improve the quality of life in America's most troubled neighborhoods (e.g. Kelling and Coles 1996; Kennedy 2011; MacDonald 2018). For others, it has the potential to make policing more responsible and restrained—less beholden to the fickle and inegalitarian demands that private citizens impose on them (e.g. Thacher 2001b, 2009, 2016).

This debate has played out repeatedly since the inception of modern policing, and indeed before police forces as we recognize them today even existed. 18th century criminal justice was largely reactive: Responsibility for detecting and prosecuting crime overwhelmingly fell to crime victims, and law enforcement officials mobilized mainly in response to private initiative. The debate that finally, reluctantly, culminated in the establishment of full-time professional police forces in Britain and America in the 19th century hinged in large part on concerns about the potential for such proactive forces to become oppressive. Though it has been transformed by

changes in technology, organizational form, and social expectations about government, this basic concern remains central to the way we think about police today.

What light can the scientific study of policing shed on the contemporary version of this longstanding debate? Over the past two years, a group appointed by the Committee on Law and Justice of the National Academies of Sciences, Engineering, and Medicine, sponsored by the Laura and John Arnold Foundation and the National Institute of Justice, has considered this question. The final report of their efforts, *Proactive Policing: Effects on Crime and Communities*, provides a thorough and balanced summary of the “evidence-based policing” agenda that has reshaped research about policing over roughly the past four decades. Its appearance provides an opportunity to reflect on what research about American policing has become, as well as the scope and limits of the forms of guidance and critique it supports.

Proactive Policing describes the past two decades as a “golden age” for the development of scientific knowledge about policing practice, and it places police at the forefront of criminal justice institutions in their commitment to evidence-based policy (p. 168).¹ In my own view, the Committee’s painstaking review of the best scientific research on policing makes clear how limited is that work’s ability to answer the questions it set out to answer, and it illustrates how the consequentialist moral framework that underlies it distorts the normative structure of policing. Evidence-based policing is an attempt to look at the police institution from an objective, external point of view, evaluating standardized practices on the basis of their capacity to accomplish a predefined menu of effects. By that method, researchers pursue the goal of “fully quantifying the net social costs and benefits of proactive policing policies” (p. 300). That goal remains out of reach even in the current golden age of field experiments because fully realized

¹ Throughout, stand-alone citations to page numbers like this one refer to Weisburd and Majmundar (2018).

policing programs typically are not the kinds of things that have predictable effects; it has been difficult to achieve not because of the weaknesses of criminological methodology but because of the nature of policing practice. More important, the goal itself is misguided. It embodies an extreme version of consequentialist ethics that is both too narrow and too broad: Too narrow because it overlooks nonconsequentialist considerations that ought to shape our moral evaluation of police work, and too broad because it searches for consequences that turn out to be morally irrelevant. As *Proactive Policing* repeatedly runs into the limitations of evidence-based policing, it sometimes reveals glimmers of an alternative form of scholarship that might overcome them—one that tries to clarify how proactive policing alters the moral framework we use to evaluate police practices, as opposed to one that tries to identify the causal impact of those practices on a fixed menu of values. To do that, research and analysis need to look at complex policing practices from the inside, clarifying the reasons that police and those who oversee them need to take account of as they exercise their ineradicable discretion.²

In this way, *Proactive Policing* provides a valuable window on basic questions about how social inquiry can and cannot contribute to the improvement of legal institutions. Because it provides an exhaustive summary of the state of scholarly knowledge about many of the most significant ideas in contemporary policing, it provides an outstanding introduction to recent research about policing. Because it does not flinch from uncomfortable conclusions about the limits of that research, it provides a strong introduction to what remains unknown. And because

² In formulating this contrast between objective/external and subjective/internal points of view, I rely variously on R.G. Collingwood's distinction between the "outside" and the "inside" of events (1946: 213 ff.); Michael Walzer's (1993) distinction between "detached" and "internal" forms of criticism; Thomas Nagel's distinction between the "objective" and "subjective" points of view in ethics (1979: ch. 14); and Charles Taylor's distinction between things that are "brute data observable" and those accessible only from an "intersubjective" viewpoint (1985: 28 ff.). Although these diverse distinctions are not identical and there is undoubtedly more to say about their differences, I hope the basic thrust of the contrast I have in mind will become clear over the course of this essay.

it remains flexible enough to sometimes depart from the strictest canons of evidence-based policing, it gives at least a hint of alternative approaches to policing scholarship. In short, *Proactive Policing* provides a meticulous, candid, and sometimes wide-ranging review of recent scholarship about policing. Any serious student of American policing will want to read it closely. At the same time, precisely because of its strengths as an up-to-date review of an important body of police research, it invites critical questions about the intellectual agenda that guides that work. I will argue that this agenda has distorted our understanding of contemporary policing more than it has clarified it.

The Scientific Assessment of Proactive Policing

Proactive Policing is grounded in a program evaluation paradigm that has become increasingly influential throughout applied social science. That paradigm conceptualizes an institution like policing as a collection of well-defined practices, each of which has some inherent capacity to accomplish given goals. Evaluation research aims to identify those capacities by rigorously studying the impact of each strategy in particular times and places, comparing the outcomes achieved in places where the strategy was implemented with those that would have occurred in a counterfactual world where that intervention was never implemented but everything else stayed the same (pp. 33 ff.; p. 321). In places *Proactive Policing* also reviews more basic scientific research about policing, such as economic theory and social psychology research about the nature and sources of racial discrimination, and it includes a significant amount of sophisticated legal analysis. But the bulk of the report and the guiding principles that frame it come from the program evaluation paradigm.

The first step in that paradigm is to carve the landscape of practice into distinct categories of “real-world interventions” whose impact can be investigated (p. 168). The broadest category

is “proactive policing” itself. That term originated in Albert Reiss and David Bordua’s (1967) distinction between the mobilization of police by citizen requests (reactive) and mobilization on their own initiative (proactive), but *Proactive Policing* uses it in a more restricted sense. As historian Samuel Walker put it in a paper commissioned by the Committee, “proactive policing” refers not to all police-initiated interventions but only to those that have been “guided by strategic intelligence about crime, disorder, and the capacities of police” (Walker 2016: 2). It is the subset of Reiss and Bordua’s “proactive policing” that arises out of an explicit and analytically informed organizational strategy for tackling crime and disorder (p. 303).³

The strategies themselves (as opposed to the broader umbrella concept of “proactive policing” that encompasses them) serve as the focal points for the Committee’s review of policing scholarship. All told, the Committee distinguishes a dozen specific strategies that qualify as “proactive policing”, including familiar strategies like stop and frisk, broken windows, and community policing that have become major subjects of public debate, as well as more *recherché* ideas known mainly to police and scholars, including third-party policing, hot spots policing, and problem-oriented policing. The goal of *Proactive Policing* is to review what social science research has taught us about the causal impact of each of these strategies on crime, community trust, police lawfulness, and racial discrimination (p. 321).

³ This specialized meaning explains the report’s surprising claim that proactive policing is a new phenomenon dating roughly to the 1980s. That claim will be jarring to any student of the 19th century police. One of the most obvious shifts in American policing from its first century to its second was a shift from a workload dominated by police-initiated encounters (19th century arrest dockets are filled with arrests for offenses like public drunkenness, which officers usually encountered during their regular patrols rather than in response to private complaints) to a workload dominated by response to 911 calls. The most natural way to describe this shift is to say that police have become far more *reactive* since the 19th century (though it is possible that the pendulum has begun to swing back somewhat over the past few decades). The Committee suggests, however, that the retail-level proactivity of 19th century policing does not meet its definition of “proactive policing” because it was neither organizationally directed nor guided by systematic analysis. In that respect, the report’s claim that “proactive policing” is new is not really a claim about the declining role of private citizens relative to police officers themselves in deciding when police intervention is warranted. Instead, it is a claim about the rising role of police managers and analysts relative to front-line officers in that decision. Even that claim is debatable, but this is not the place to debate it.

The evidence base assembled for *Proactive Policing* is extensive; this is not one of those academic reports whose only conclusion is that further research is needed. “The past three decades have been something of a ‘golden age’ for the production of systematic evidence on what works,” the Committee declares. “The police, more than other criminal justice agencies, have been amenable to running field experiments, and even non-experimental interventions are better documented than in the past” (p. 168). The standout is hot spots policing, which has been the subject of 19 rigorous impact evaluations, including nine randomized controlled trials, but most of the strategies covered in this report have been evaluated rigorously on many occasions over the past two decades. Not only have field experiments become more common, but non-experimental research strategies have become more sophisticated (pp. 33 ff., 321 ff.). Gaps remain, especially when it comes to outcomes other than crime reduction: The Committee warns that there is too little evidence about “the likelihood that particular proactive strategies increase or decrease constitutional violations” (p. 116), about these strategies’ impact on the racial incidence of police intervention (p. 333), and about their impact on community attitudes towards police (p. 331). But even here there is *something* to go on, including a few rigorous field experiments investigating the impact of proactive policing on community attitudes.

Although the Committee insists that its work should not be read as a direct response to the current “crisis in confidence in policing” (p. 304), its report does read as something of a defense of proactive policing against its critics, or at least as a defense of many of its specific forms. *Proactive Policing* concludes that many strategies—particularly those that “tightly specify and focus police activities” like hot spots policing and focused deterrence—are effective tools for short term crime prevention in particular places and times, and that they carry few if any risks to lawfulness, community support, or racial inequality (pp. 323 ff.). By contrast, broad

brush efforts to increase the number of street stops and misdemeanor arrests throughout a jurisdiction have not consistently been effective tools for crime prevention, and they predictably alienate those who are most directly affected by them (though there is no scientific evidence that they undermine trust in the community more broadly) (p. 324). The report also reads as a caution against excessive enthusiasm for some of the most influential ideas in policing, including the procedural justice model that served as the guiding framework for President Obama’s Task Force on 21st Century Policing and the older idea of community policing.⁴ There is no direct evidence that procedural justice or community policing are effective crime prevention tools, and there is surprisingly little direct evidence that procedural justice programs can improve community trust. A small group of rigorous studies suggests that community policing may have some modest potential to improve community attitudes toward the police (pp. 316-7).

Police leaders often welcome findings like these, which provide them with actionable advice about how they should respond to the problems their communities face. As Committee chair David Weisburd explained to a reporter:

Maybe a department is doing well, crime is going down, but the community seems unhappy. Then they can use these community policing ideas to develop better relations. . . . Maybe another chief is facing a situation where there's a sudden increase in violent crime. That person can read this report and say, “There’s an evidence base to use hot spots” (Diep 2017).

This statement succinctly expresses the philosophy underlying evidence-based policing. Researchers begin by surveying the existing landscape of practical strategies, and they assemble scientific expertise about the impacts that each strategy has. Their findings help police leaders to choose more carefully among those alternatives—to decide more rationally which programs their

⁴ One researcher for the Brennan Center worried aloud to a reporter that the report might come off as a “torpedo below the waterline for the entire concept of community policing.” (Maron 2017)

organizations should adopt, and therefore which tactics officers in the field should employ—on the basis of instrumental judgments about which of them will most effectively advance their current priorities, whatever those priorities happen to be. Although its own analysis and conclusions are constructive and optimistic, *Proactive Policing* repeatedly calls attention to the significant obstacles that agenda encounters, and it raises the question of whether the advice it provides to police leaders is sound.

The Scientific Limits of Evidence-Based Policing

We can begin to understand those obstacles with a mundane and seemingly petty observation: In spite of the Committee’s conscientious efforts to clarify the concept, it is not entirely clear what proactive policing is. Eric Garner died during an arrest for selling untaxed cigarettes on Bay Street in Staten Island, and for many people his arrest more than any other single incident exemplified what makes proactive policing so troubling. But the day before, someone had called 311 to report that a group of men (including “a man named Eric”) had been selling loose cigarettes and marijuana on Bay Street (Marzulli, Parascandola, and Tracy 2014). When Officers Justin Damico and Daniel Pantaleo approached Garner and tried to arrest him there the following day, were their actions part of a proactive Broken Windows policing strategy, or were they a delayed response to a low priority citizen complaint about a specific man breaking a minor law at a specific place?

If it is hard to characterize proactive policing as a whole and distinguish it from its reactive alternative, it is at least as hard to characterize and distinguish the more specific sub-strategies that comprise it. Hot spots policing, the most celebrated strategy in the report, is defined as an effort to “focus resources. . . on micro-geographic locations with high concentrations of crime” (p. 46), but the Committee observes that “the policing practices used in

the targeted crime hot spots can vary considerably” (p. 126). Hot spots interventions may or may not heighten routine patrol, pressure a landlord to evict an illegal tenant, use traffic stops to search for illegal guns, enlist the public works department to fence off a vacant lot, enforce quality of life rules aggressively, connect sex workers with social services, or recruit the narcotics team to conduct buy-bust operations (pp. 46 ff. and *passim*).⁵ Hot spots policing at least has a clear definition. Community policing, by contrast, is notoriously vague, and the examples that *Proactive Policing* reviews are correspondingly diverse: In one case, “community policing” meant a four-page newsletter mailed to neighborhood residents (p. 153); in another, it meant a department-wide effort to decentralize authority and require police to set neighborhood priorities in collaboration with residents during regular beat meetings (p. 67); in a third, it meant a holistic gang intervention that combined intensive enforcement, social services, and a new truancy court (p. 154; Cahill *et. al.* 2008). Other proactive strategies follow the same pattern. The Committee observes that documented examples of broken windows policing “are very heterogeneous in terms of the character of interventions” and that “such heterogeneity raises concerns about the interpretability of an effect size that is an amalgam of results from such diverse studies” (p. 167).

⁵ The report’s review of the hot spots literature relies heavily on a recent Campbell Collaboration meta-analysis, and the four highest-impact interventions in that review illustrate this diversity more concretely. In Philadelphia, a minimalist intervention assigned one officer to each of roughly 200 locations plagued by drug crime without much further direction (a Mayoral candidate derided the program as “scarecrow policing”). A Kansas City intervention focused narrowly on seizing illegal firearms: The department assigned extra officers to work overtime in one patrol beat and instructed them to make aggressive use of traffic stops, pedestrian stops, and arrests on minor charges to maximize the opportunities to search for guns. A natural experiment in Buenos Aires that reported the largest overall crime reduction of any intervention in the review did not actually focus on places “with high concentrations of crime”: In the wake of a terrorist attack on a Jewish community center, the Argentine government assigned a 24-hour police sentry in front of every mosque, synagogue, and other Jewish or Muslim institution in the city, and car thefts plummeted on those blocks (but not adjacent blocks). In Jersey City, police combatted prostitution in a five-block area with a multipronged problem-solving strategy: They arrested johns and prostitutes during reverse stings and intensive patrol, they convinced the public works department to fence off and clean a vacant lot that was littered with mattresses and pornography, and they worked with a treatment center and a citizens group to find help for the women involved.

In light of all this variation, it is not surprising that the strategies often overlap (pp. 168-9). A coordinated effort to combat high rates of street disorder on a problem street block that relied on foot patrols and a crackdown on irresponsible liquor store owners could incorporate almost every strategy in the report—certainly hot spots policing, third party policing, broken windows policing, problem-oriented policing, and stop and frisk, and potentially community policing and procedural justice as well. “This hybrid character of real world interventions makes it more difficult to draw conclusions,” the Committee repeatedly laments (p. 212; cf. pp. 5-6, 167-8, 307, 327).

It is not just that each of these nominally distinct strategies comes in diverse and overlapping forms. Often the strategies can’t be distinguished from the institutional environment in which they are delivered—at their best they adapt to and reshape the context that surrounds them—so it becomes hard to isolate a meaningful “strategy” to evaluate. A central goal of interventions like community policing, third party policing, and problem-oriented policing is to strengthen police capabilities by leveraging cooperation with outside organizations and reshaping the way they operate, so the value of these forms of proactive policing must depend on the character and flexibility of a particular community’s organizational landscape (p. 223). Even a narrow administrative tool like predictive policing is not a self-contained intervention but a set of guidelines about how to deploy an organization’s existing stock of data and capacity for crime analysis, which may vary from place to place (pp. 130 ff.). Once the analyst uses the software to make predictions based on the locally available data, the patrol and detective divisions must then craft and implement a response—predictions alone are not a form of *policing*—so the value of predictive policing will again depend on variable forms of organizational capacity that are not themselves part of the program being evaluated. The value of this entire system, in turn, depends

on the actual nature of a jurisdiction's most pressing crime problems at the moment: A particular set of analytic capabilities paired with a particular capacity for police response may be a useful package for tackling drug dealing in abandoned homes but a weak tool for combating domestic violence. When the very nature of a strategy is this deeply entangled with so many different layers of its environment, evaluation results are not well-understood as the impact of a disembodied intervention but of a complex and highly localized interplay between intervention and environment. The question to ask about what the findings from one place mean for others is not really a question about the external validity of the "treatment effect" but about what the "treatment" actually is.

This complexity is a pervasive feature of the strategies reviewed in *Proactive Policing*. The problem is not that the researchers who studied those strategies have not defined their terms carefully enough; it is that policing practice itself is unavoidably complex. The police officers and others who carry these strategies out are not executing well-defined templates for action. They are making situated judgments about how to handle the diverse and continually evolving problems they encounter in the field, informed (but not bound) by the tentative priorities and the repertoire of provisional strategies and supporting resources that the program has provided, and which they and others have refined and adapted to their own unique environment and capabilities. Such strategies are irreducibly improvisational—a set of discretionary choices that practitioners make by exercising judgment *in situ*, rather than objective scripts that can be specified *ex ante*.⁶

⁶ For two different accounts of organizational action that try to capture this open-ended, non-rule-based character of practice, see Schön (1983) and Sabel and Simon (2011). Both, not coincidentally, are inspired by the work of John Dewey.

Can There Be a Science of “Programs”?

Both critics and advocates of evidence-based policing tend to focus on methodology, debating such questions as whether it is really necessary or feasible to conduct field experiments to identify program impacts. But the complex nature of proactive policing raises a different question: Are policing strategies the kind of well-defined and self-contained interventions that can reasonably be expected to *have* stable effects? That question is about the objects that evidence-based policing studies, not the methods it uses study them.

Philosophers used to say that scientists need to “carve nature at the joints” before they can get on with the work of explanation and prediction.⁷ Marine biologists who want to do scientifically meaningful work about “fish” need to replace the indiscriminate lay concept of “things that live in the water” with a more specialized concept that excludes whales and dolphins; mineralogists cannot say anything scientifically interesting about the properties of “jade” until they have distinguished the superficially similar “jadeite” and “nephrite”. The world of everyday life is pastiche; it is made up of many heterogeneous elements, each of them capable of generating diverse effects, operating in an indistinguishable and constantly shifting tangle. The members of the sets picked out by our everyday concepts go by a single name, but their elements vary in scientifically important ways. Our conclusions about their causes and effects will depend on the particular mix we happen to draw for today’s investigation (just as the weight of a given volume of “jade” in a jewelry shop will depend on the proportion of jadeite and nephrite that happens to be in the mix). We can identify the overall causal impact of any amalgam of factors we want. But the results may have meaning only as history, not as a guide to

⁷ “Used to” because the idea is vexed: Philosophers of science debate what the idea of “natural” groupings really means and whether anything in the world actually qualifies (Hacking 2007). But few of them doubt the more basic claim that science can only succeed when it restricts its attention in something like the ways I will discuss.

what will happen in the future, because this particular amalgam will be idiosyncratic and ephemeral. There may be no meaningful regularities on the surface of experience—nothing general to say about the impact of “hot spots policing”, “broken windows policing”, and “problem-oriented policing”—because the content of those categories is too diverse and unstable (cf. Haavelmo 1944: 27 ff.; Stinchcombe 1968: 40 ff.). The point is not that scientific understanding is impossible but that science needs to choose its objects carefully. It may not be possible to create a science of real-world programs.⁸

To make matters worse, even the most carefully curated entities do not usually behave in predictable ways in every context. After decades studying a wide variety of natural and social sciences, Nancy Cartwright concluded that scientific investigation usually does not identify any regularities at all in the unstructured world of everyday life. Regularities appear only in “highly structured, manufactured environments” like the petri dish in microbiology and the vacuums and near-zero temperatures of physics labs, where complicating factors are mostly eliminated (Cartwright 1999: 24). When it comes time to use this hard-won knowledge for intervention, we construct precisely engineered and shielded environments that eliminate unwanted forces just as carefully as the laboratory did (Cartwright 1999: 46-7). Both at the point of discovery and at the

⁸ *Proactive Policing* alludes to something like this perspective in several places. Early on, the Committee suggests that program evaluations might be viewed as a window into basic “mechanisms” beneath the surface of some fully realized intervention (p. 36), and the chapter on racial discrimination summarizes basic research in economics and psychology that clarifies the mechanisms of racial discrimination. But the conclusion to that discussion seems to minimize the importance of this work—that findings from theoretical models and the psychology lab are inadequate, and that real-world evaluation evidence about the impact of police training programs and specific proactive strategies on outcomes related to race would provide better guidance for practice (p. 333). Similarly, the review of the broken windows literature briefly mentions a prominent psychology experiment that tried to refine and test the basic psychological mechanisms underlying Wilson and Kelling’s theory (p. 164), but that study does not figure into the report’s overall assessment of the broken windows strategy, which focuses on real-world disorder reduction programs instead (pp. 167-8). In theory the Committee recognizes the value of research that focuses on basic mechanisms rather than fully-realized policing programs, but in practice it seems more wary. It does not seem to recognize the tension between its focus on “real-world interventions” (p. 168) and its endorsement of “mechanism experiments” (p. 36), which aim to isolate well-defined theoretical mechanisms even at the cost of programmatic realism (Ludwig, Kling, and Mullainathan 2011).

point of application, lawlike behavior arises only in very special contexts—within the confines of what Cartwright calls “nomological machines”. Outside of these elaborately controlled environments, the world is “obstinately unruly”, and “what happens in one instance is rarely a guide to what will happen in others” (Cartwright 1999: 86).

Although the report’s conclusions often seem to suggest otherwise, a close read of the evidence assembled in *Proactive Policing* repeatedly illustrates this unruliness. One roadblock conducted according to procedural justice principles improved drivers’ attitudes towards police, but two replications did not (p. 241); CCTV cameras installed throughout Chicago reduced crime in some areas of the city but not in others (pp. 133-4); an early foot patrol experiment had no effect on crime but a more recent one did (Police Foundation 1981; p. 150); a police newsletter in Houston made those who received it more worried about crime while a similar newsletter in Newark seemed to make the recipients complacent (p. 153); a community crime prevention initiative in Seattle had a significant impact on burglary but another in Minneapolis had none (p. 154). Of the strategies that have been evaluated repeatedly with rigor, *Proactive Policing* reports that about half have had “mixed” impacts on crime (impacts on other outcomes have been studied too rarely for the question of consistency to be meaningful).⁹

The other half, however, are more definitive. Perhaps, *contra* Cartwright, regularities really can be found in the wild. What is the nature of these interventions that in the Committee’s view consistently reduce crime? With one exception,¹⁰ all of them are forms of hot spots

⁹ Researchers have developed plausible explanations for some of this variation, and it would be scurrilous and tiresome to subject each of them to critical scrutiny. But it needs to be acknowledged that these efforts at synthesis rely on more purely correlational evidence than original findings they seek to reconcile, which rose to academic prominence because of their methodological rigor. Moreover, the subcategories these explanations rely on remain heterogeneous, and effects remain inconsistent within them.

¹⁰ The exception is focused deterrence. *Proactive Policing* endorses that strategy as a consistently effective crime prevention tool, though it admonishes that “the overall methodological rigor of focused deterrence evaluations needs to be strengthened” (p. 147). David Kennedy’s (2011) account of many years carrying out and refining focused

policing. Problem-oriented policing is judged “effective”, but 6 of the 10 studies that form the basis for that judgment focused on crime hotspots; the remaining four found variable results, ranging from substantial crime reduction to a backfire effect. The conclusion that third party policing, some forms of stop and frisk, and some forms broken windows policing reduce crime rests almost entirely on studies of micro-geographic places. Several hot spots interventions that were not cross-classified into these additional categories also appeared to be successful (p. 173).

So the claims for consistency overwhelmingly come down to hot spots.¹¹ I have already described how variable the content of this strategy is, so any finding that these disparate projects all had consistent effects would be surprising. In fact the claim of consistency seems overstated: The size of program impacts in the leading meta-analysis of hot spots policing varies substantially, from a very small backfire effect (likely due to chance) in three interventions to a 75% drop in car theft on targeted blocks in another. Still, a large majority of the interventions that have been studied rigorously seem to have a detectable impact on crime in the short run in the area targeted, and sometimes in a nearby catchment area. When police pinpoint a very specific trouble spot—usually a single address or street corner—and devote sustained attention to it, they can usually reduce crime there. It is not clear whether it matters *what* they do: Housing code enforcement, traffic stops, buy-bust operations, physical cleanups, and simply standing guard have all apparently worked. The key seems to be the small scale of the intervention. It is

deterrence strategies in cities throughout the U.S. describes many successes but also a few disappointments, and stalled efforts like the project in Baltimore were not evaluated formally. Evidence-based policy advocates would want to distinguish implementation failure from ineffectiveness, but this distinction becomes more difficult to draw as “programs” become more intertwined with their environment.

¹¹ Because it is guided by the program evaluation paradigm, *Proactive Policing* frames this research as evidence about the effectiveness of a particular set of policing strategies. It might alternatively (and I think less problematically) be framed as evidence about the fruitfulness of the “criminology of place” as a theoretical perspective (Weisburd 2015). See footnote 8, above, for further discussion of the distinction between theoretical findings and the findings about program impacts.

possible to exert enough control over a single address or street corner to hold the unruly complexity of city life at bay and reduce crime there to an uncertain degree. At least among the large urban agencies that have had the wherewithal to participate in a research study, most police departments have apparently been able to construct a rough and ragged nomological machine for crime reduction.

Outside the Walls

The Committee observes that the corner of the world under the control of these hot spots interventions is very restricted—a very small geographic area, usually studied over a brief period of time while police attention remains intently focused on it (pp. 127-8).¹² What happens outside of these contained spaces, or after the intervention has ended? Many hot spots studies have investigated “displacement”, but their scope almost always extends only to the blocks immediately adjacent to the hotspot. Broader systemic effects of narrow interventions and other indirect forms of displacement are clearly possible. The Committee observes that hot spots interventions may divert police attention away from problems elsewhere (p. 128), and they are likely to impact institutions beyond the police themselves. Philadelphia’s Operation Safe Streets may have overloaded city courts with drug cases, leading judges to dismiss more cases than they otherwise would have throughout the city; a precursor program apparently precipitated a documented rise in the number of fugitive defendants citywide, and it may have strained treatment programs and jail resources elsewhere (Goldkamp and Vîlcicã 2008). The researchers who studied that experience concluded that “geographically focused and specific crime-type-focused interventions can have very generalized effects on the functioning of the justice system affecting more than just the targeted areas or targeted crime” (Goldkamp and Vîlcicã 2008: 375).

¹² One study that had a longer follow up found that crime reduction effect dissipated quickly (p. 127).

Those spillover effects are much harder to detect or even conceptualize than the effects on crime and community attitudes inside the hotspot (cf. Barr and Pease 1990). They also seem less likely to be consistent from place to place, since the complex local systems they ripple into are not under the intervention's own rigorous control. They are possibilities that may or may not come to pass in any particular time and place, not predictable impacts that can be characterized by a well-defined probability distribution. They may alert future police leaders to potential dangers of the hot spots strategy but not to confidently predict the costs and benefits of relying on it.

As *Proactive Policing* repeatedly observes, all of this means that the existing empirical research does not really tell us whether hot spots policing “works” in the sense that researchers originally hoped to determine.¹³ Individual hot spots interventions usually reduce crime to an uncertain degree in the very small areas where they are focused (as well as the immediately adjacent blocks), but we do not know what impact those interventions had elsewhere in the jurisdiction, and empirical research has not studied the net effect of adopting the hotspots strategy across an entire agency. “The research literature does not provide estimates of the systemwide or large-area impacts of hot spots policing when implemented as a crime-control strategy for an entire jurisdiction,” the Committee observes (p. 129). “The case for a hot spots model requires not only a demonstration that additional policing of hot spots reduces crime in those areas but also that in effect, the additional police are more productive assigned to hot spots than they would be in their alternative assignment” (p. 128). It is to the Committee’s credit that it does not flinch from this stark conclusion: The most impressive body of findings that evidence-

¹³ *Proactive Policing* suggests that the “logic model” underlying hot spots policing provides at least some basis for extrapolating beyond the existing empirical evidence, and it summarizes a simulation study that concluded that jurisdiction-wide adoption of hot spots policing would reduce crime overall (pp. 128-9; Weisburd *et. al.* 2017). That simulation and the associated logic model did not account for possible system-level effects like those articulated by Goldkamp and Vilciã (2008). The presence of such complex and idiosyncratic effects are precisely what make prediction difficult outside the tightly bounded confines of a nomological machine.

based policing has produced cannot tell us whether the benefits of hot spots policing outweigh the costs—cannot tell us whether hot spots policing “works” in the relevant sense. The problem is at least as serious for other policing strategies:¹⁴

The evaluation evidence. . . may actually provide a misleading impression of whether a program “worked,” whether in reducing crime or increasing community attitudes, for the entire jurisdiction, as opposed to having an effect only for the segment of the city represented by the treatment group. As we have noted throughout the report, most evaluations provide a local estimate of program impacts. They do not report how the program affected the jurisdiction overall. Absent such reports, or at least evidence-grounded estimates of jurisdiction-level impact, it is very difficult to provide guidance to police executives about how redeployment of resources will impact overall trends across a city (pp. 322-3)

To fill this gap, *Proactive Policing* calls for further research into broader jurisdiction-wide impacts (p. 330). That agenda is certainly a logical possibility, though it would require a qualitative leap in the scale and ambition of police research. (As the Committee observes, one reason there is so much hot spots research is that much easier to conduct randomized studies of microgeographic areas than broader environments like entire police jurisdictions [p. 126].) More important, it seems likely that its results would resemble the variable findings of non-hotspots research more than the relatively consistent findings of hotspots research itself: Large systems and broad areas cannot be controlled and shielded as tightly as small teams focused on microgeographic places. We may face a trade-off between predictive success and the scope of our predictions.

In short, the goal of “fully quantifying the net social costs and benefits of proactive policing policies” (p. 300) remains out of reach. At best, some program evaluations have been able to identify the near-term and close-in effects of certain carefully limited types of police

¹⁴ Similar problems arise throughout the social science literature, where most findings about program impacts are merely “partial equilibrium” effects, which may provide a very misleading guide to overall “general equilibrium” effects (e.g. Heckman, Lochner, and Taber 1999).

interventions. Before those evaluations were conducted, police knew *something* about the immediate consequences of their interventions: The drug houses boarded up, the robbers arrested, the social service referrals made, the illegal guns confiscated, and the abused partners relocated. Evidence-based policing extends this knowledge slightly further down the causal chain (at least for a few interventions that focus on tightly bounded places), but by itself the empirical evidence it has produced does not support more comprehensive predictions of overall program impacts.¹⁵ It shines a small light in a large, dark room.

The Moral Limits of Evidence-Based Policing

Uncertainty is the human condition and we often just have to cope with it, but some recognition of that challenge ought to influence our decisions about which normative guideposts we choose to follow in the first place. The dark room that police researchers have worked so hard to illuminate is not the only path of moral evaluation we might choose to follow; the small light they cast is not the only navigational aid we might reasonably rely on. Evidence-based policing embodies a utilitarian approach to policy evaluation, one that judges policies on the basis of their “net social costs and benefits” (p. 300). Like all consequentialist ethical frameworks, it treats the question of what should be done as a question of what will ultimately make the world go best. But what if we have no way of knowing what will actually make the world go best? A framework for evaluation that continually calls for unattainable knowledge fails to provide the objective guidance it originally promised. It is badly suited to the complex and uncertain world

¹⁵ Advocates of evidence-based policing seem to assume that additional knowledge about impacts is always better, even if it is clear that the scope of the impacts that remain unknown dwarfs the scope of the impacts we are able to discover. But the subset of known impacts is not just small in relation to the broader set of all impacts: It is a capricious subset, determined by the current state of our methodological and conceptual tools more than principled moral distinctions between relevant and irrelevant consequences. It is not a random or otherwise representative subset of all consequences. When we treat it as a proxy for the broader set, we effectively grant moral weight to methodological choices and capabilities. I am aware of no argument that justifies why that weighting is appropriate.

we live in (cf. Lenman 2000).¹⁶ The problem here is not the unavoidable possibility that our moral judgments may turn out to be wrong. It is a more specific concern about one particular moral framework, which requires knowledge that may prove difficult or impossible to attain.

It would be one thing if these frustrations were unavoidable, but *Proactive Policing* repeatedly illustrates how researchers court them unnecessarily. Chapter 3 focuses on law, and it includes some of the most intellectually sophisticated analyses in the report, but the Committee bookends that material with an apology for failing to uphold its usual standards of causal inference: It turns to “non-empirical legal scholarship” only because “the limited existing empirical research does not permit strong conclusions about whether proactive strategies lead to constitutional violations”, and it calls for future research to fill that gap (p. 82; cf. p. 117). One insightful passage describes how proactive policing alters the content of constitutional rights: When a hot spots policing strategy officially designates a microgeographic place as a “high crime area”, it reduces the scope of individuals’ 4th Amendment rights because it lowers the standard for conduct that qualifies as “suspicious” (pp. 90 ff.; cf. *Illinois v. Wardlow*). But at the end of this discussion, the report seems to pull the evidentiary rug out from under these conclusions by invoking its commitment to causal analysis: “The Committee did not find causal empirical research to date that adequately engaged with this question” (p. 93).¹⁷

¹⁶ F.A. Hayek put this concern about the limits of knowledge at the center of his attack on utilitarianism: “Man has developed rules of conduct not because he knows but because he does not know what all the consequences of a particular action will be. And the most characteristic feature of morals and law as we know them is therefore that they consist of rules to be obeyed irrespective of the known effects of the particular action” (pp. 20-1). Hayek did not place moral rules beyond criticism, but he insisted that it is often foolhardy to try to assess them based on their consequences. In an unpredictable world, moral reflection needs to rely on what he called “immanent criticism”, which scrutinizes the internal logic of moral rules and their consistency with other accepted rules from the internal perspective that I will try to articulate in this section (Hayek 1978: 24).

¹⁷ The same pattern appears in the legal analysis of third-party policing. By mobilizing the legal authority of non-police institutions and strategically exploiting third party doctrine, administrative search doctrine, and related bodies of law to conduct searches and gather information that would otherwise require a warrant, third party policing may “narrow the applicability of Fourth Amendment protection to police efforts to obtain information” (p. 94). That strategy does not increase constitutional violations. To the contrary: It bypasses constitutional protections by

It is unclear what “causal analysis” has to do with insights like this one. The point is that under the relevant legal doctrine, a hot spots designation alters the rationale a police officer must provide to justify a pedestrian stop. The relevant logic is the logic of reasons, not causes; the relevant vantage point is the internal, subjective perspective of a police officer who has to justify a decision (or a judge who has to evaluate it) rather than the external, objective perspective of an observer witnessing a causal force that compels that officer act in the way she does (cf. Collingwood 1946: 213 ff.). By considering the character of a complex practice like hot spots policing from the officer’s (or the court’s) subjective vantage point and asking how it alters her reasons for action, the analysis makes it possible to identify, engage with, and criticize the normative structure of that practice (cf. Taylor 1985: ch. 3). It reveals, for example, how proactive policing subtly reshapes the normative content of constitutional rights, even if it cannot determine the causal impact of proactive policing on the number of incidents that fall into a static concept of “constitutional violations”.

This internal perspective provides many of the most important insights in the report’s analysis of law, such as the brilliant analysis of proactive policing’s potential to shift the locus of legal accountability for policing from criminal procedure to civil liability. On the one hand, traditional rules of criminal procedure like the exclusionary rule are relatively unimportant for strategies that often do not rely on prosecution at all, and that typically involve no physical evidence or extensive motions practice even when they do (p. 107). On the other hand, it becomes easier to establish standing to sue a police department for constitutional violations when those violations result from an ongoing, forward-looking program that targets relatively common

strategically mobilizing exceptions to the rules that have traditionally restrained police searches and seizures. But then the rug-pulling: “The Committee knows of no empirical literature assessing these risks” (p. 95).

conduct (such as stop-and-frisk) than it is for more traditional police practices (pp. 105-6). These are not and should not be claims about causal impact: The point is that given the normative structure of each type of legal remedy, proactive policing strategies open up new avenues of legal redress and close others relative to more traditional policing strategies. The point is not to predict that victims of police injustice and civil rights groups *will* revise their legal strategies; it is to help them understand more clearly how the normative logic of the practice they are engaged in has changed, and thereby make their efforts “less stumbling and more clairvoyant,” as Charles Taylor once put it (1985: 119).

A similar spirit animates the report’s analysis of 4th Amendment doctrine, which illustrates another contribution that this mode of inquiry makes to normative understanding. The Committee observes that in order to ensure that officers have “adequate flexibility to address the myriad, and sometimes unpredictable, circumstances officers face”, federal courts have established permissive rules governing police authority to stop, search, and arrest. The Supreme Court has sometimes justified these expansive grants of discretionary authority by suggesting that officers have little incentive to abuse it—that they “are most likely to use the full zone of flexibility permitted by Fourth Amendment doctrine only when circumstances most warrant it” (p. 86). But proactive policing strategies like stop and frisk and some forms of broken windows policing may change this calculus, since their essence is to deliberately mine the full scope of police authority in particular times and places and against particular people; in the process they “encourage legal stops, frisks, and arrests even for equivocal or minor conduct” (p. 86). Legal authority crafted before the rise of proactive policing is now being used in ways that those who crafted it did not envision—indeed in ways that they explicitly did not believe it would be used. The issue here is not that proactive policing violates the law but that it transforms policing

practice in a way that potentially undermines the rationale for the existing legal rules. The point is not the causal impact of proactive policing on the rate of constitutional violations. (If the analysis *had* focused only on that narrow question it would have entirely missed what is most significant about proactive policing.) The point is the novel way that proactive strategies use the available legal authority, and thereby the questions they raise about whether the scope of that authority remains justifiable.

This internal perspective on policing practice appears most clearly in the legal chapter, but it is not a unique feature of doctrinal analysis; it can be applied to subjects other than legal doctrine as well (Thacher 2001c). Unfortunately, *Proactive Policing* does not recognize that possibility, so it misses the opportunity to use the internal perspective to clarify the implications of proactive policing for a variety of non-legal values. The report's review of third party policing makes reference to Matthew Desmond and Nicol Valdez's intensive mixed-methods study of Milwaukee's nuisance property ordinance, which made landlords subject to a large fine or even jail time if their tenants became a "nuisance"—most often by calling 911 excessively, which in Milwaukee meant more than twice in 30 days. A detailed look at every nuisance property citation issued over a two-year period found that one of the most common reasons for repeat calls was domestic violence. Landlords could avoid the fine by developing a police-approved plan to abate the nuisance, and the overwhelming majority of those plans involved formally or informally evicting the tenant—a response that police encouraged and sometimes required, in that they repeatedly rejected plans that stopped short of eviction. Eventually landlords began to discourage tenants from calling 911 in the first place, telling one “you can't be calling the police because your boyfriend hit you again” and—shockingly—advising another that she should get a gun and kill her abuser in self-defense (Desomond and Valdez 2012: 131, 135). These responses were

particularly common in the city's predominantly black and mixed-race neighborhoods, where police were most likely to cite properties that met the technical definition of a "nuisance". (The ordinance, it turns out, was remarkably overbroad, in that police never cited more than a small fraction of properties that met its criteria, and this discretion apparently opened the door to discriminatory enforcement; cf. Roberts 1999.) In this way, Desmond and Valdez peered behind the sterile language of "nuisance abatement" to understand what Milwaukee's third-party policing strategy actually looked like in practice. In the process, they clarified the dilemma it created for the victims of domestic violence. As Desmond put it in his subsequent book, the program "presented battered women with a devil's bargain: keep quiet and face abuse or call the police and face eviction" (Desmond 2016: 192).

Proactive Policing briefly summarizes this detailed account of the way Milwaukee's third-party policing initiative figured into the decision-making landscape of police, landlords, and domestic violence victims, but then it returns to the external perspective of counterfactual analysis: "Because this descriptive study lacked a comparison to the distribution of harms where no such coercive third party policing program was present, the results do not provide evidence confirming a causal impact of third party nuisance abatement programs on these important societal outcomes" (p. 205; cf. p. 100). Once again, it seems to me that causal analysis misses the point here. Suppose a proper counterfactual analysis found that, despite all appearances, every evicted tenant in Desmond and Valdez's study (or the same number and type of tenants) would have been evicted on other grounds, and therefore that the ordinance had no net impact on the rate or pattern of evictions in Milwaukee. It is at least logically possible that individuals within the system acted to soften its sharpest edges: Perhaps many landlords simply refused to evict women who faced this cruel choice, and perhaps many police officers humanely refused to apply

the ordinance as written; perhaps they encouraged eviction only in circumstances where it would have occurred even without the new ordinance. If so, the nuisance ordinance would have had no causal impact on the level and distribution of eviction. But even that unlikely finding would not vindicate the ordinance, for police and landlords arguably should not be put in this position to begin with—they should not be forced to defy a rule whose clear (though initially unrecognized) implication is that someone who repeatedly asks the police for protection from an abusive partner should be evicted. Desmond describes a landlord who tried to make room for an impoverished young mother who didn't "have a pot to piss in" or "a window to dash it out of" and then got shamed and pressured in to evicting her by the police because she had called 911 to report serious domestic violence next door (Desmond 2016: 188-9). We do not need to wait on the results of counterfactual analysis to know that something is seriously wrong here.¹⁸ This kind of ethnographic work is not just a description of the process by which policing strategies generate outcomes (p. 321). It is a tool for deepening our understanding of the moral values those strategies implicate (Thacher 2001c, 2006).¹⁹

Unfortunately, the concerns identified by Desmond and Valdez fail to register in *Proactive Policing's* summary of the evidence about problem-solving strategies (the broad category that includes third-party policing), which concludes that "the risk is low of harmful community effects from tactics typical of problem-solving strategies" (pp. 209, 314). As a result, the Committee misses an opportunity to highlight an important danger that deserves attention from those who design and implement these strategies. The report's broader message that

¹⁸ Indeed the city of Milwaukee did not. Presented with Desmond and Valdez's findings, the city council revised the ordinance to exclude domestic violence calls, though Desmond argued later that this change was too little, too late (Desmond 2016: 374-5).

¹⁹ Here I am making claims about the normative logic of Desmond and Valdez's study that they themselves do not make, but I think their approach fits the pattern I analyze in Thacher (2006); it may fit other patterns as well.

proactive policing is an effective tool for crime prevention that carries few risks to other values rests on the foundation of specific conclusions and omissions like this one.

Consequentialism and Its Discontents

The conclusion itself reveals an important feature of the consequentialist moral framework that *Proactive Policing* adopts from the evidence-based policing perspective.²⁰ The defining feature of consequentialism is not simply the idea that consequences matter—very few moral frameworks doubt that—but that consequences are *all* that matter. The distinction is important because it clarifies how extreme a purely consequentialist position is. It is perfectly coherent to believe that our moral evaluation of an action should take account of some of the action's consequences without believing that those consequences exhaust the relevant moral considerations (for example, we might think we cannot decide whether an action is appropriate without considering the motives that produced it, the attitudes it expresses, or the historical context in which it arose). And it is perfectly reasonable to believe that *some* of an action's consequences matter without believing that *all* of them do (for example, we might think that an action's foreseeable consequences are uniquely significant, or that we are not usually responsible for the way other people react to our otherwise-innocent actions). As a result, it is possible to conclude that an action is right or wrong without trying to itemize every consequence it has—or, more precisely, without trying to itemize every consequence that happens to be accessible to our current methodological and conceptual tools, which will only comprise a small and capricious subset of all consequences. It is possible, for example, to conclude that Milwaukee's third-party

²⁰ On the idea that scientific inquiry implicitly relies on and advances a particular moral framework, see e.g. Kitcher (2001), Thacher (2015).

policing program needs revision even without the results of a rigorous counterfactual analysis of the outcomes that would have occurred in its absence.

Those who fail to recognize these possibilities may find themselves drawn to elaborate investigations of cause-and-effect that other people find pointless. Ian Hacking detected this dynamic in social science research about child abuse, including studies that investigated the impact of child abuse on the risk of multiple personality disorder:

Many child abuse activists who ought (in my opinion) to be deontologists, attending to the absolute evil of child abuse, are in practice consequentialists, trying to discover bad results of such acts. The multiple personality movement has been helped by the ruthless utilitarian thrust of American sociology. Sociology is never content to say that something is just plain bad. To be bad, an act has to have bad consequences. If we had been content to intervene in child abuse just because it is bad, we would not have our present set of beliefs about the consequences of child abuse (Hacking 1995: 66).

A similar perspective seems to have guided some of the studies reviewed in *Proactive Policing*. Immediately before the discussion of Milwaukee's nuisance property ordinance, the Committee briefly considers "an emerging public health literature" suggesting that "involuntary police contact may threaten the health of individuals stopped by the police"—that it may raise the risk of physical injury, inflict "emotional trauma associated with unwarranted accusations of wrongdoing," reinforce the "stigma" of "contacts associated with racism", and heighten the long-term risk of stress and depression (p. 203). The section concludes with a call for further research on the "negative consequences of policing interventions on physical and mental health" (p. 206). The research agenda advocated here seems to resemble the body of psychology research the court relied on *Brown vs. Board of Education*, which investigated whether segregated schools damage the personal development and educational achievement of black children. Elizabeth Anderson explains why this kind of research may have less moral significance than it might appear:

Suppose the black students had had extraordinary spiritual strength, and bore the indignities of segregation without suffering psychological trauma, low self-esteem, or the like. It would still have been wrong to brand them as inferiors, as the system of racial segregation did. It is morally wrong to heap indignities even on those who can “take it.” Such action is wrong on account of the principles of contempt or inferiority that it expresses, whether or not it has a negative impact on others’ welfare (Anderson 1999).

Once again, the question of whether this practice has negative consequences may simply be beside the point. Either way, it puts the people affected by it in an unacceptable predicament, and the fact that they have the fortitude to endure that predicament would hardly vindicate it.

Many will be unmoved by this concern: If the worst we can say about a research agenda is that its findings may turn out to be superfluous, what really is there to lose? But there is a danger here that goes beyond squandered effort. I suspect that consequentialist analysis is attractive to many social scientists and policymakers because it seems to offer a way to bypass the moral complexity of police intervention—a way to avoid contentious normative questions about the purposes that police should legitimately pursue and the legitimate scope of individual freedom from coercive intervention by replacing them with questions about causal impact, which can then be resolved through objective methods. As we have seen, however, social science evidence about the impact of interventions often turns out to be more fragile than it initially seems. In the meantime—in the interval between provocative early findings and the accumulation of a more complex and equivocal body of evidence about the impact of police intervention—the terms of policy debate may begin to shift. The debaters may lose sight of the difficult moral questions that police intervention raises, and they may neglect the hard intellectual work of trying to answer them. The consequentialist rationale for their positions may dissolve while other considerations end up forgotten or de-legitimized.²¹

²¹ Martin Rein and Christopher Winship argue that this is exactly what happened in the desegregation case. Decades after the studies that had originally influenced the court in *Brown*, it has proven impossible to identify consistent effects of desegregation on student achievement (Rein and Winship 1999: 43). In the meantime, the

This pattern has played out over and over in policing, as scholars have increasingly replaced moral and legal questions about the intrinsic value and proper content of a particular form of policing practice with social scientific questions about its causal impact on some conceptually and temporally distinct “outcome” (e.g. Thacher 2004, 2015, 2016). Eventually the older questions seem strange, and police researchers cannot even recognize their importance.²² That is one danger of a research agenda that conceptualizes “involuntary police contact” as a value-neutral phenomenon that may or may not have consequences for physical and mental health. That agenda arose in response to the aggressive use of *Terry* stops as a crime prevention strategy, but there are more direct ways to evaluate that approach to policing. In city after city, critics have repeatedly shown that police managers have put intensive pressure on their officers to increase the number of pedestrian stops while failing to provide meaningful training about the nature of reasonable suspicion; the predictable result is an enormous volume of stops that fail to record any constitutionally adequate justification (e.g. ACLU 2015: 8; USDOJ 2014: 8-11). In that context, a focus on the potential long-term impact of stop and frisk on psychological and physical health risks diverting attention away from more immediate concerns.

Proactive Policing identifies a similar pattern in procedural justice research, and its insights should serve as a model and a challenge to other police researchers. As the Committee explains, procedural justice research has replaced an intrinsic concern for the moral character of

consequentialist argument for desegregation crowded out more principled justifications—arguments that integration is “an important societal value in and of itself and not merely a means to promote the education of children” (Rein and Winship 1999: 43-4).

²² Responding to my own call for normatively engaged ethnographic studies of order maintenance policing that investigate its intrinsic value and proper limits, criminologist Ralph Taylor insisted that “it would seem more useful to find the police strategies that are the most effective for the long-term outcomes envisioned, and use those impact assessments to guide strategy selection, rather than to invest energy in describing strategies that may be less than optimal” (Taylor 2006: 101). The assumption that the “optimal” strategy can be identified exclusively through “impact assessments” of “long-term outcomes” is precisely what my argument meant to challenge, and it reflects remarkable optimism about social science’s ability to identify stable “impacts” of complex policing strategies.

police intervention with an extrinsic concern for its causal impact on empirically observable community attitudes. Because procedural justice scholars emphasize “the importance of community satisfaction with the police and the benefits that may accrue from the perception that the police are trustworthy and legitimate”, they “define terms such as legitimacy and fairness differently than legal and political philosophers do”. Procedural fairness itself ceases to be “a virtue of the decision making process” and becomes “a quality of how that process is perceived”; legitimacy ceases to be “a quality of political institutions” and becomes a matter of “perceptions of those institutions” (p. 114). That important observation deserves more attention than most scholars have given it. Police researchers sometimes trivialize the idea that policing practices have intrinsic value. They concede that it may be appropriate to treat procedural fairness as an end in itself—that police should treat people fairly even if fair treatment does not have much impact on law-abiding behavior and deference to police authority (Nagin and Telep 2017: 1.2)²³—but they do not subject the complex notion of “fair treatment” to sophisticated moral scrutiny; they do not try to clarify what it would mean to treat people fairly in particular circumstances. As a result, the claim that procedurally fair policing is intrinsically valuable is empty, and the claim that it is instrumentally valuable is dangerous. As *Proactive Policing* observes, the conceptual framework used in contemporary procedural justice research lacks the tools to distinguish genuinely voluntary compliance from manipulation (pp. 113-4). At best, its empirical findings provide the basis for a guidebook of tactics that produce compliance with no reason to believe those tactics are actually fair (Sarat 1993; Thacher 2015; Miller 2016).

²³ *Proactive Policing* itself seems to endorse this view (p. 325). Although the report incisively analyzes the moral lacunae of procedural justice scholarship, it does not draw out the full implications of its own analysis.

Although *Proactive Policing* insightfully diagnoses an important blind spot in contemporary research about procedural justice, in other places it adopts the same hyperopic perspective as the research it reviews, portraying police strategies as generators of causal impact rather than intrinsically meaningful practices. That perspective does not do justice to the logic of many proactive policing strategies. Community policing, for example, is not well-understood as a clearly-defined “program” that may or may not have impacts on community attitudes towards police. At its best, one of its central aims has been to reconceive the nature of democratic accountability in policing, and so to reconceive the reasons for action and interaction that police and their stakeholders have (e.g. Moore 1992; Thacher 2001a, 2001b; Forman 2004; Fung 2006; Sklansky 2008). To evaluate how well any particular approach to community policing realizes or clarifies that ideal requires something more than an analysis of its impact on community attitudes; it requires normative analysis of concrete policing practices described in the context where they operate (Thacher 2001c).²⁴ Put differently, it requires the internal perspective on complex policing practices that sporadically appears throughout *Proactive Policing*, as opposed to the birds-eye view that tries to define those practices objectively and trace their consequences for a menu of predefined “outcomes”.

The goal of this kind of internal analysis would not be to identify the causal impact of abstractly defined policing practices; that enterprise is probably a dead end. Instead the goal would be to refine the framework of values that police and those who hold them accountable rely on to guide their own practices. That, I take it, is what researchers like Desmond and Valdez are

²⁴ The chapter on law briefly considers how community policing reshapes police accountability (pp. 111-3), but it overlooks the extensive body of philosophically informed work on democratic accountability in community policing cited in the text. As a result, it revisits longstanding questions about decentralized accountability structures (such as the potential for corruption and the difficulty of interpreting community input in the absence of well-established formal structures for aggregating it) without engaging with the detailed analyses of these complex questions that already exist.

doing when they draw attention to a previously unrecognized moral concern that third-party policing sometimes implicates, even if they cannot determine its causal impact on long-run outcomes (Desmond and Valdez 2012). It is what the Committee itself is doing when it scrutinizes the limits of existing fourth amendment doctrine as a tool for evaluating the propriety of proactive practices, even if it cannot determine the causal impact of proactive strategies on the rate of constitutional violations (pp. 90 ff.). And it is what the scholars who study practices like community policing, procedural justice, and problem-oriented policing are doing when they try to clarify the meaning of concepts like democracy, resistance, and the rule of law in the context of policing practice, even if the long-run causal impact of those strategies remains uncertain (e.g. Fung 2006; Miller 2016; Thacher 2016).

Conclusion

For more than three decades, policing scholars have invested heavily in the program evaluation model of research associated with evidence-based policing. *Proactive Policing* provides an ambitious and thorough attempt to take stock of what that agenda has taught us. The Committee is clearly sympathetic to the program evaluation model, but its report does not flinch from inconvenient conclusions about the limitations of the research it has produced, and it sometimes displays an admirable willingness (albeit qualified and reluctant) to turn to other approaches when necessary. As a result, *Proactive Policing* provides a rich account of what evidence-based policing has become, and even glimpses of some of its alternatives. It is precisely because it does those things so well that the report makes it possible to raise critical questions about the limits of this influential approach to policing scholarship.

The report gives us a less satisfactory account of proactive policing itself—less ability to engage with what is both most troubling and most attractive about the transformation of

American policing over the past three decades—because of the nature of the scholarship it relies on. The approach to social inquiry that dominates contemporary police research makes its most distinctive contribution when it identifies the consequences of well-defined police intervention that were not already obvious; it generally has little to say about the intervention’s intrinsic features or its immediate impact on the people it is applied to. *Proactive Policing* notes with some alarm how little programmatic detail most evaluation research provides; strategies are “black-boxed” in a manner that “fails to provide readers with a good grasp of the character of the intervention as the community experienced it” (p. 187). The picture of the world that emerges from this kind of research is ethically and practically incomplete. There is no reason to care about the final state of affairs brought about by a complex policing strategy but not to care about its intrinsic character, the processes it sets in motion, or the immediate effects that social science finds it uninteresting to document. To do so would be to embrace a hollow consequentialism—a moral framework that considers only the ring of consequences that surround a strategy, not the intrinsic features of the strategy itself. That perspective becomes even less attractive once we recognize that the scope of the consequences social science can illuminate is limited and somewhat arbitrary, determined by the state of our methodological and conceptual tools instead of principled judgments about which consequences are morally significant, and when we recognize how complex and variable these policing interventions are—how strained it is to think of them as well-defined programs that either “work” or “don’t work”.

This systematically partial viewpoint gives us a distorted picture of proactive policing’s strengths and weaknesses. The main conclusion the report draws from contemporary police research is that a specific list of proactive strategies are effective tools for crime reduction that, as far as we know, carry few if any risks to other values. That message is flawed and potentially

dangerous, and the flaws are not just the inevitable result of trying to briefly summarize a complex topic. The moral framework of evidence-based policing has no place for many of the most important legal and moral implications of contemporary policing strategies, and its descriptive framework classifies diverse and idiosyncratic practices under standardized categories that do not quite capture them.

There are alternative ways to think about the nature of policing practice and about what it might be useful to learn about it. Strategies like broken windows, stop and frisk, focused deterrence, third party policing, community policing, and procedural justice pioneer complex new forms of influence and authority over people and communities, and police officers use those forms of influence and authority in a wide variety of ways. They are not generic interventions with a fixed and knowable potential to generate costs and benefits. They are complex strategies that must be put into practice in unique and uncertain circumstances, and the police managers, officers, and outside stakeholders who oversee, resist, and collaborate with them must invariably make many important discretionary decisions about how to do that responsibly. Their task is not to decide whether proactive policing “works”. It is to decide how to carry it out in their own environment, and how to monitor and evaluate whether *their* efforts (not a generic representation of those efforts) have been successful and appropriate (Thacher 2008; Sparrow 2016: ch. 4).

How well can the moral commitments and legal standards we have traditionally relied on to evaluate police practices guide them? How might those commitments and standards be revised? Social science researchers are taught to be uncomfortable with normative questions like these, but when they take an internal perspective on policing practice they can shed considerable light on them, providing a deeper understanding of what our abstract moral ideals mean in particular circumstances (Thacher 2006). This agenda may or may not be an appropriate agenda

for the National Academy of Sciences; that depends on one's conception of "social science".²⁵
But it is certainly an appropriate agenda for those who hope to strengthen and refine one of our most delicate social institutions.

²⁵ Although they do not specifically mention the kind of case-based normative analysis I am describing here, Lum and Koper's capacious definition of "evidence-based policing" (2017: 21-2) may be broad enough to encompass it.

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