

**POLICING AS POETRY:  
PHENOMENOLOGICAL AND AESTHETIC  
REFLECTIONS UPON  
THE BUREAUCRATIC APPROACH TO HUMAN  
PREDICAMENTS**

by

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B.A., University of Washington, 1989

DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE DEGREE OF

DOCTOR OF PHILOSOPHY

In the  
School of Criminology

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SIMON FRASER UNIVERSITY

May 2004

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**Degree:** Doctor of Philosophy

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Aesthetic Reflections Upon The Bureaucratic  
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## ABSTRACT

Police-citizen encounters in late modern society occur as the enactment of a bureaucratic approach to human predicaments. Police praxis depends upon the ability to translate these complex situations into bureaucratically resolvable “problems.” This process of translation is part of the overall interpretation of experience, whereby meanings are created and ascribed to a given moment.

The creation of meaning inherent to any kind of praxis is understandable as an elemental form of *poetry*. This poetic aspect of praxis represents the existential intersection of experience with the specific ontological first principles that provide the basis for its interpretation. In the case of bureaucratic praxis, such as policing, these principles enable the *problematization of human being*, whereby human presence becomes meaningful through its reification as abstract subjectivity.

The underlying ontology of bureaucratic problematization exists in parallel form in the approach of mainstream social scientific praxis. Hence, the two forms of praxis are essentially interrelated. While the dissertation’s immediate focus is upon the analysis of the ontological foundations of bureaucratic police praxis, it further represents a philosophical engagement with the disciplinary self-conception of criminology.

The dissertation pursues these intersecting goals using the approach of a *phenomenological aesthetics of encounter*. The guiding thesis of a phenomenological aesthetics of encounter holds that the ontological foundations of praxis may be disclosed using aesthetic forms to reveal aspects of human presence, which are otherwise overlooked in the self-interpretations of everyday action, and their second-order interpretations by mainstream social science. The dissertation presents narratives of police-citizen encounters, drawn from the

author's professional experiences in policing, and interprets them through the juxtaposition of aesthetic representations of encounter, which are chosen from several genres, and used to illuminate aspects of human presence that are effaced when it is approached as an abstract, reified "problem."

These reflections upon the ontological foundations of praxis and their enactment in policing lead to an explanation of the inherently self-subverting nature of the bureaucratic approach to human predicaments, and of allied approaches in mainstream criminology. If it is truly to progress, praxis must develop critical knowledge of its underlying first principles.

## **DEDICATION**

*In memory of my grandparents,*

*Paul and Ann Lit, Herbert and Sybyl Wender*

*Adulthood arrives with the epiphany that one has left behind another time,  
whose greatest blessings are realized only in their passing.*

## ACKNOWLEDGEMENTS

I am honored and delighted to acknowledge the many people whose counsel, support, and inspiration have contributed immeasurably to the successful completion of my doctorate.

The members of my supervisory committee, Rob Gordon, Bob Menzies, and Simon Verdun-Jones, have been a continuous source of intellectual and practical guidance. Some particulars cannot justly go unmentioned: Prof. Verdun-Jones offered suggestions that were decisive in helping me organize and structure the chapters in Division II. Many energetic conversations with Prof. Menzies, together with his detailed remarks on draft chapters, led to important refinements in my presentation of philosophical ideas to a social scientific audience. Very special thanks are due to my senior supervisor, Prof. Gordon, for his invaluable assistance in guiding me through the arduous process of extracting a workable dissertation from an unconventional doctoral project, and seeing it to fruition.

As internal examiner, Brian Burch provided editorial comments on the dissertation manuscript that were especially helpful in making final revisions. In his role as external examiner, Richard Quinney offered inspiring feedback that has already proved beneficial as I start to contemplate ways of improving and elaborating the ideas presented here.

Earlier in the writing of the dissertation, Patricia Brantingham's suggestions greatly enhanced the literature review and my analysis of bureaucracy. Jack Katz of UCLA gave me exhaustive comments on material that subsequently became a major part of Chapter 5.

Although I completed my PhD at Simon Fraser University, the first years of my doctoral studies took place under the auspices of the Individual Interdisciplinary Studies Graduate Program (IISGP) at the University of British Columbia. While at UBC, I had the good fortune to study with Steven Taubeneck, Thomas Kemple, Edward Hundert, and Stephen Wexler. Their contributions to the initial development of my doctoral project have evolved over time into lasting influences that are apparent throughout this dissertation. Among the faculty at UBC, I also owe thanks to former IISGP director Rhodri Windsor-Liscombe for his many gracious acts in support of my studies, and to Dennis Danielson for his assistance during the months when I was arranging my transfer to SFU.

The Society for Phenomenology and the Human Sciences (SPHS) – especially Phil Lewin and Mary Rogers – provided a welcoming venue that enabled me to submit key elements of the dissertation to candid and constructive review.

Ahmad Karimi-Hakkak's mentoring and friendship are truly appreciated. While our elevating dialogues are their own reward, they have also been of substantive benefit to the dissertation by leading me to clarify my understandings of poetry, aesthetic truth, and the nature of modernity.

No major academic undertaking can hope to succeed without administrative support. I am accordingly beholden to the entire staff of the SFU School of Criminology, and especially to Jane Roth, Rodrigo Raffi, and Christine Eastlick, whose professionalism has been equaled only by their generous forbearance in dealing with my endless questions and requests.

I offer particular appreciation to Sheri Fabian for her masterly job of formatting the dissertation manuscript. With crucial input from Penny Simpson, Sheri accomplished a task whose cost to me in time and fretfulness would have otherwise been far steeper than I would care to imagine.

Confidentiality precludes disclosing the name of my police department, so I am obligated to leave anonymous the many colleagues, supervisors, and command staff whose unselfish cooperation allowed me to continue working while I pursued my PhD. I cannot think of a single instance in which someone refused to trade a shift, grant a leave request, or otherwise accommodate my endlessly convoluted academic schedule.

The aesthetic examples that appear in the dissertation are wholly indispensable. I am therefore grateful to the following institutions and publishers for kindly permitting the use of these copyrighted works:

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My parents, Stephen and Harriet Wender, my sister Regina, and my brother Andrew deserve the closing words of these acknowledgements: their unconditional love is a sustaining force. I am uniquely grateful to my mother for struggling to keep my head on straight, and remind me that degrees and titles do not rank among life’s most noble accomplishments. Most of all, it is fitting for me to end by giving singular acknowledgement to my father. Whatever I have learned in classrooms does not begin to match even a portion of what I have gained from his patient tutoring and sagacious counsel. Any passion, originality, or creativity that might be apparent in these pages, I ultimately owe to him.



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## **DIVISION I**

# CHAPTER 1

## INTRODUCTION

*The world and reason are not problematical. We may say, if we wish, that they are mysterious, but their mystery defines them: there can be no question of dispelling it by some 'solution,' it is on the hither side of all solutions. (Maurice Merleau-Ponty, 1962:xx)*

### ***Moments from the Street***

- *Officers arrest two teenage brothers for breaking into a large number of cars. When an officer calls their mother to have her pick them up at the police station, she tells him, "I'll take the younger one, but I don't want the older one back."*
- *A domestic violence suspect, who has just severely beaten his girlfriend, exclaims to the arresting officer, "I don't understand, I just kept hitting the bitch, and hitting her, but she wouldn't die!"*
- *A deeply distraught war veteran arms himself with several knives and threatens suicide. He is taken into custody after a short standoff, and is transported to a hospital for psychiatric treatment.*
- *A woman calls 911 after her nine year-old son throws a tantrum and smashes several holes in her bedroom door with a hammer.*
- *At the scene of a sudden infant death, a man finally succeeds in convincing his grief-stricken wife to hand him the body of their son. He takes the baby and gives it to officers and an investigator from the medical examiner's office. "Take care of my son," says the man. At the same moment, an officer's radio broadcasts a call for an ambulance to respond to an imminent childbirth.*
- *After invoking his right to silence, and declining to be interviewed, a man arrested for selling cocaine has a casual conversation with an officer. "You're a cop, I'm a drug dealer," remarks the man. "You did your job better tonight than I did mine."*

### ***The Bureaucratic Paradox***

At its core, police work involves armed bureaucrats encountering their fellow human beings in various states of crisis and predicament. Those crises and predicaments may be as relatively inconsequential as a petty theft or minor traffic accident, or as profound as a violently disintegrating marriage, or the death of a loved one. Police officers frequently bear witness to life's transformative moments, as well as to its more mundane woes and plights, which

perennially irritate the spirit, and occasionally do so with such intensity that its passions unpredictably flare forth.

As a matter of daily routine, police officers encounter other human beings and talk with them about everything from whether or not they still love their spouses, to why they are contemplating suicide. Love, hate, redemption, betrayal, jealousy, revenge, forgiveness, greed, hope – all such defining aspects of the human condition – find expression in the remarkable sequence of events and episodes that constitute a police patrol shift. Accordingly, any police-citizen encounter, whatever its apparent bureaucratic significance, also occurs more elementally as a microcosmic creation of meaning – *a moment of lived poetry* – in which human beings struggle to make sense of the astonishing and vexing mystery of their own existence, and of the existence of others. The immediate aim of the present dissertation is to engage this underlying poetic aspect of police-citizen encounters by approaching *policing as poetry*. More broadly, and especially by virtue of its theoretical foundations and approach, the dissertation further constitutes the inaugural stage of a dialogue between philosophy and criminology.

Few other kinds of social interaction beside police-citizen encounters offer a more vivid illustration of the incalculable dissonance between the profundity of human predicaments and the shallowness of modern bureaucratic responses to them. Given the momentousness and intractability of the plights they face, the police are often ill equipped and ill suited to resolve or address them in any meaningful way. Rather, the police offer transient palliation, by way of bureaucratic resolutions imperfectly crafted through the reification of human beings and their predicaments into finite “problems.” To do more would ultimately demand a relinquishing of the bureaucratic mandate. Police officers thus constantly find themselves working within what may be called the “bureaucratic paradox” – while it is by virtue of their official role that they come into the presence of others, that role is precisely what often must be transcended, or set aside, in order truly to ameliorate the given predicaments at hand.

Police-citizen encounters, then, stand as stark testimony to the often-tragic consequences of the modern, bureaucratic “problematization of human being.” At the heart of these consequences lies the fact that to encounter someone as a “problem” entails a process of reification and abstraction that effaces and transforms human beings into an objectified entity amenable to scientific analysis and methodical control. So it is that modernity’s bold claim to have substituted axiological neutrality for avowedly moral praxis, withers before the gaze of the troubled faces encountered by the police.

### ***Locating the Horizon of Bureaucratic Praxis***

The preceding characterization of police work emerges in large part out of the author’s professional experience in policing, together with his philosophical reflections upon it. While this dissertation is written with the hope that it will achieve an intellectual relevance exceeding the level of poignant autobiography, it cannot be denied that it is, nonetheless, the product of the admittedly improbable situation of one whose interdisciplinary academic career, which more or less centers around philosophy, happens to coincide with a career in policing. It is fair to say, as well, that the writing of this dissertation under the auspices of a school of criminology has far more to do with the author’s present vocation, than with the general nature and orientation of his thought, which, as shall presently be made clear, tends to fall well outside the range of theoretical positions typically encountered in criminological inquiry.

This dissertation may best be regarded as an attempt to bring an explicitly philosophical voice to criminology, one that seeks to contribute to dialogue on the disciplinary self-conception of criminology itself, and to import novel approaches to topics of immediate interest to criminological research. While the specific focus of the dissertation is on police-citizen encounters, its approach is equally well suited to a wider array of other questions central to criminological inquiry. Given that the dissertation’s approach is generally unfamiliar to mainstream criminology, the relative receptiveness of criminology to what follows here will



depend substantially upon the extent to which its practitioners view themselves as occupying a broad field of intellectual inquiry, rather than a formal, social scientific discipline defined by a specific and limited set of methodic axioms.

The attempt consciously to bring together philosophy and criminology is not without precedent: Bianchi (1956), Jones (1986), Morrison (1995), Reiman (1997), and Quinney (2000) have each, in varying ways, addressed a range of criminological themes from a philosophical perspective.<sup>1</sup> Bianchi's work, in particular, bears a marked affinity to the analytic stance to be adopted here, both with respect to his general ambition of engaging in rigorous philosophical terms the theoretical foundations of criminology, and in his doing so from a position strongly influenced by phenomenology, existentialism, and their related currents in philosophical anthropology.

Although the passage of time and the evolution of his own career have earned Bianchi recognition primarily for his work on penal reform, criminology ignores to its grave detriment what is potentially Bianchi's most consequential contribution to the field, namely, his admonition that criminology's intellectual future would be cast into doubt by the failure to nurture and strengthen its philosophical roots:

If criminology were to dispense with philosophical foundations it would cause its own euthanasia. Building up the general theory of criminology implies the fundamental critique and accurate examination of its concepts. (1956:4)

Appealing to Bianchi's ideas as evidence of the immediate, present-day relevance of philosophy for criminological theory and research may seem hopelessly impractical or anachronistic, some fifty years on, at a time when criminology has unquestionably expanded into a massive and

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<sup>1</sup> Michael and Adler's *Crime, Law, and Social Science* (1933), although not itself an overt attempt to bring philosophical themes into criminology, nonetheless warrants mention here, if only because one of its authors (Adler) was a philosopher. Adler's role as one of the key voices in the tradition of logical positivism emerges as the guiding influence in the book and its blistering critique of the then-current state of criminological inquiry. In fact, Michael and Adler's dismal assessment of the analytic power of criminology was one of the key influences that led Sutherland to develop his theory of differential association.

powerful interdisciplinary enterprise that is intertwined with governance, social administration, and, indeed, with the everyday sociopolitical, moral, and psychological self-reflections of modernity itself.

Against criticism and misgivings of this kind, the response is offered here that the very act of dismissing philosophy's relevance for criminological theory bespeaks the prejudices that philosophical reflection seeks to reveal; and thus, the criticism unwittingly entails its own refutation. Beyond noting the existence of other historical analyses of criminology (esp. Foucault, 1980:47-48 and Garland, 1985, 2001) that have raised doubts about the depth and clarity of its predominant self-reflections, it is more germane to the present task of interpreting police-citizen encounters to note the parallel lack of insightful self-reflection in the realm of bureaucratic praxis.<sup>2</sup> Alasdair MacIntyre's description of the "unrecognized theoretical ghosts" (1977:217) that haunt modern bureaucracy offers an especially lucid analysis of the philosophically inauthentic self-conception of bureaucratic thinking, and finds related support in the work of Tribe (1972), Sagoff (1981, 1986), and Gillroy and Wade (1992).

Concurring with such analyses, and by way of their incorporation within the broader interpretive context of phenomenological philosophy and social theory, this dissertation uses reflections on police-citizen encounters as a way of illustrating how our deepest assumptions about the nature and meaning of human existence become enacted in everyday praxis. In consciously arraying itself against those standpoints from which theory and practice are regarded

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<sup>2</sup> In light of Foucault's views, the widespread admiration for his work in criminology (especially *Discipline and Punish*) seems rather ironic. More than this, the nature of the relationship between Foucault and mainstream criminology illustrates a wider tendency to use only those particular aspects of a theorist's work that seem most immediately pertinent for research and praxis, while setting aside or even overlooking altogether its more definitive qualities, which often have the potential to be far more invigorating and valuable to criminological inquiry, than does what may be regarded as the ephemeral "surface foam" that is too often skimmed off, only to dissipate rapidly once it has been removed from the underlying dynamic profundity of its foundations. This assessment bears a marked similarity to Foucault's own scathing criticism of criminology as a naively self-assured form of inquiry so deeply enmeshed in pragmatic utilitarianism, that it fails to take notice of its discursive and analytic weakness, which stems from a wholly inadequate disciplinary self-conception, and is made all the worse by criminology's thoroughgoing implication in the practical realization of modern penalty (see Foucault, 1980: 47-48).

as distinct, separate realms, the dissertation proceeds according to the firm conviction that even the most mundane forms of praxis occur as the actualization of ontological first principles. It necessarily follows from this claim that any kind of praxis, and not least of all bureaucratic administration and social scientific research, may be interpreted as the enactment of ontological first principles that define particular notions about the nature and meaning of human existence (see MacIntyre, 1977:217).

The aim of this dissertation is first, to ask, *what* those notions are; second, to illustrate *how* they become enacted in social praxis within the particular context of street-level policing (and mainstream criminology); and third, to show *why*, because of their inherent limitations, such forms of praxis inevitably subvert their own well-intentioned ends. Together, these three objectives orient the dissertation's task of approaching policing as poetry. To lay the groundwork for a consideration of how this task is to be accomplished, it will be helpful to begin by describing a generally analogous endeavor.

### ***The Zollikon Seminars: Phenomenology in Dialogue with Praxis***

When Bianchi undertook his philosophical analysis of criminology, the role that he accorded to phenomenology in general, and to the work of Martin Heidegger in specific, was noteworthy, if not decisive. Bianchi was especially interested in Heidegger's reflections upon philosophical anthropology, and the relation of these reflections to the self-conception of psychology and psychiatry (1956:62ff.). Two other philosophically inclined criminologists mentioned above, Morrison and Quinney, also draw upon Heidegger's work in ways that implicitly suggest its potential relevance for refining and deepening the self-reflective capacities of criminology (see Morrison, 1995:349-352 and Quinney, 2000:97, 102). These positive assessments of Heidegger's work are shared and extended here, particularly in light of his

sustained attempt in the Zollikon Seminars to engage scientific and clinical practitioners in a critical dialogue about the ultimate philosophical foundations of their work.<sup>3</sup>

Each year from 1959 to 1969, Martin Heidegger conducted a seminar with several dozen psychiatrists and psychotherapists in Zollikon, Switzerland at the home of his close friend and colleague, psychiatrist Medard Boss. The Zollikon Seminars, as they came to be called, had their genesis in correspondence between Boss and Heidegger, which Boss initiated in 1947 as he struggled from the standpoint of a scientific practitioner to make sense of Heidegger's *Being and Time* (see Heidegger, 2001:xv-xxi). Trained and educated as a clinical psychiatrist, Boss sought to understand Heidegger's radical critique of modern thinking about the nature of human being (*Da-sein*).<sup>4</sup> For Heidegger, once human being comes to be understood theoretically as an abstract *subject*, it is then possible for it to be engaged practically as an *object* amenable to the kind of scientific, diagnostic, and therapeutic processes enacted by forms of praxis such as psychiatry. Reading *Being and Time* and engaging Heidegger in dialogue forced Boss to reflect upon the grounding principles of modern scientific thinking and its allied forms of praxis, which together

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<sup>3</sup> Any post-War application of Heidegger's thought almost inevitably invites suspicion, first, because of his well-documented political and intellectual affiliations with Nazism, and second, because of what many critics find to be his persistent indifference to the ethical dimensions and implications of his own thought. The position taken in this dissertation falls within the "middle ground" of readings of Heidegger, which fully acknowledge the utter moral repugnance of his Nazism, yet do so without accepting the more radical position that his personal failings warrant the wholesale dismissal of his entire body of thought. Gadamer (1994) and Dallmayr (1993) represent two of the key works that articulate this approximate position. For a general reference book on Heidegger's Nazism, including relevant primary documents, see Wolin (1993). Rather than becoming enmeshed here in the specifics of this debate, it is more immediately important to locate the broader context within which it is framed. When Heidegger's critics and defenders argue over the relationship between his philosophy and his affiliation with Nazism, and consider, in particular, whether it is accidental, essential, or some admixture of the two, the debate is inseparably tied to conflicting interpretations of the historical evolution of modern totalitarianism, in particular whether it is rightly viewed either as the avatar of the Enlightenment, or as its antithesis. On this point, Ziarek (1994:208-209) convincingly argues that the debate over Heidegger and Nazism is at root framed by nothing less than contesting verdicts on the nature of the entire historical relationship between modernity and the Holocaust. On this point, see especially Bauman (1989), as well as Christie (2000).

<sup>4</sup> The term "*Dasein*" literally means "here-being," or "there-being" ("*Da*" + "*Sein*"). Although in normal German usage "*Dasein*" refers to existence in general, Heidegger uses the word specifically to refer to the kind of existence unique to human beings. For Heidegger, human being is the only kind of being whose very existence is intrinsically meaningful to itself. In this regard, he saw in the word "*Dasein*" a term that precisely expresses the condition of human being as a mode of existence that always already grasps the fact of its "being-here," or "being-there." More about the concept of *Dasein* will be said below in Chapter 2.

had long since assumed the status of commonsense truth, taken as requiring methodological refinement, but otherwise regarded without question as the unequivocally valid and objective basis for understanding human beings and their actions.

The Zollikon Seminars brought Heidegger together with Boss and his colleagues in a forum aimed at engaging in a systematic examination of the philosophical foundations of psychology and psychiatry. In his introduction to the compiled seminar protocols, Boss observes how, for doctors and scientists confronted with a way of thinking so radically different from their own, the challenge posed by Heidegger's questions and arguments was met by many participants with confusion, if not even shock and outrage (Heidegger, 2001:xviii). The conversations at the seminars were often punctuated with long silences, framed in a setting that Boss likens to the attempt by a Martian visiting Earth to communicate with human beings (Heidegger, 2001:xviii). For his part, Heidegger, too, at times grew frustrated – at one point, for instance, beginning a seminar session by declaring the previous day's meeting to have been “rather a failure” (2001:17).

The challenges of the Zollikon Seminars for all of their participants illustrate the extent to which the inseparable forms of practice and thought grounded in modern scientific method rest upon the unconsidered enactment in everyday circumstances of a vast and complex range of ontological first principles, the existence of which its orthodox practitioners remain unaware, and critical attentiveness to which is accompanied by the most strident forms of skepticism and resistance (Heidegger, 2001:94). In one of the seminars, Heidegger characterized this situation in unequivocal terms:

. . . science is dogmatic to an almost unbelievable degree everywhere, i.e., it operates with preconceptions and prejudices [which have] not been reflected upon. There is the highest need for doctors who *think* and who do not wish to leave the field entirely to scientific technicians. (2001:103, emphasis original)

It is with this description and admonition in mind that Heidegger, and with him Boss, sought to pursue the goal of challenging modern scientific thinking in the fields of psychiatry and psychotherapy to come to grips with its foundational ontology, and to show how that ontology antecedes and makes praxis possible by describing and determining beforehand in a very specific way what it means to exist as a human being (Heidegger, 2001:137 *et passim*). Whatever the immense intellectual and emotional frustrations occasioned by the Zollikon Seminars for their participants, the seminars' longevity, abbreviated only by Heidegger's failing health, and persistent striving for mutual understanding, testify to the fruitfulness of their underlying project (Heidegger, 2001:xviii-xix).

In keeping with the intellectual spirit and inherent hopefulness of the Zollikon Seminars, the present dissertation seeks to focus upon police-citizen encounters as an initial way of engaging bureaucratic practitioners and social science researchers in a broadly similar kind of dialogue, by inquiring into the most fundamental ontological foundations of their work. As is the case for psychiatry and psychotherapy – or, for that matter, any kind of praxis – bureaucratic administration and social scientific research likewise occur through the enactment of distinct notions of the nature and meaning of human existence.

### ***A Phenomenological Aesthetics of Encounter***

The underlying theory and approach of this dissertation together form the basis for a ***phenomenological aesthetics of encounter***, which incorporates the kind of critical philosophical reflection exemplified in the Zollikon Seminars within a different (though intrinsically related) analytic and interpretive context. The resulting interpretive standpoint enables the development of a contrastive phenomenological analysis that juxtaposes narrative accounts of police-citizen encounters, drawn from the author's professional experience as a police officer, with aesthetic representations of encounter taken from a variety of artistic and literary genres, including painting, novels, poetry, drama, and short stories. The intent of this juxtaposition is to develop a

phenomenologically grounded critique, which draws upon the unique cognitive and disclosive aspects of aesthetic experience to make manifest what is effaced when human encounter is reduced in praxis to the abstract, methodical encountering of a “problem.” This critique, in turn, aims at the creation of a “metacriminological” perspective, based upon a philosophically oriented analytic and interpretive structure, which diverges from the tenets of mainstream social scientific research.<sup>5</sup>

Considered in the aggregate, the aesthetic perspectives to be incorporated into the dissertation are presented as phenomenological insights into qualities and aspects of human encounter that elude the analytic logic common to bureaucratic praxis and mainstream social science. With its underlying theoretical orientation determined by phenomenological philosophy, a phenomenological aesthetics of encounter may thus be regarded as functioning as a kind of interpretive prism, by means of which everyday praxis in the form of police-citizen encounters is “refracted” in order to reveal its ontological “spectrum,” whose constitutive elements would otherwise remain unseen and transparent to view.<sup>6</sup> So understood, phenomenology offers the potential to restore to the understanding of everyday moments their “original transcendence and strangeness” (Merleau-Ponty, 1964b:97). Just as the prismatic refraction of daylight reveals its mysterious qualities of order, beauty, and harmony, correspondingly, what follows here is an

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<sup>5</sup> The idea of a “metacriminological” analysis may be compared usefully to Gabriel Marcel’s concept of the “metasociological” (2001:I.197). For Marcel, a metasociological interpretation would be one that takes the traditional inquiries of sociology, and attempts to situate them within the context of a metaphysical analysis of the nature of the human beings who are the *fons et origo* of the phenomena that sociology explores.

<sup>6</sup> The metaphor of the prism is decidedly complex, and open to varying interpretations, which generally correspond to competing theories of color. These theories are roughly distinguishable on the basis of their differing notions of the relation among color, light, and perception. The point of relevance for the present discussion is that the metaphor of the prism, as it is used above, should not be misconstrued as being beholden to a Newtonian concept of color, with which the modern idea of the spectrum is usually associated. Such a misreading would weaken the analogy for at least two reasons. First, Newton’s theory holds that color is essentially an objective phenomenon of light, explicable in terms of optics and physics. The dissertation’s phenomenological orientation is obviously far more consistent with the view exemplified by Goethe, whose theory of color refuted Newton’s. Goethe argues that the explanation of the phenomenon of color is inseparable from considerations of human perception, and the totality of the circumstances under which it occurs. Second, and more broadly, the metaphor of the prism is meant to appeal to the universal human fascination with color spectra, regardless of how they are produced (rainbows, prisms, etc.), or how the colors themselves are named and schematically classified. For a further consideration of these points, and an excellent overview of competing theories of color, see Gage (1999).

attempt to look anew at episodes from ordinary existence in a way that will invite similar astonishment.

As it pursues this kind of prismatic analysis of the ontological dimensions of police-citizen encounters, a phenomenological aesthetics of encounter will focus continually upon the theme of the *problematization of human being* as the guiding principle informing the underlying logic common to bureaucratic and social scientific praxis. In turn, it will be argued, the problematization of human being itself derives from the *ontological distinction between intersubjectivity and co-presence*, which amounts to nothing less than a distinction between two radically different notions of the nature of human being. At this point, the affinity between a phenomenological aesthetics of encounter and Heidegger's critique of clinical praxis in the Zollikon Seminars should begin to be clearly apparent: in both instances, *the argument is made that ordinary praxis enacts our most elemental notions of what it means to be human.*

What possible relevance can be ascribed to this seemingly abstruse ontological distinction between intersubjectivity and co-presence, for the purposes of analyzing the everyday realm of human encounter in the context of policing? Quite simply, these two terms mark the sharp divide between radically differing conceptions of human encounter, which unfold accordingly with proportionate implications. *Intersubjectivity*, as the idea is taken up in the dissertation, refers to the uniquely modern conception of human encounter as the meeting of atomistic "egos," or individual "subjects," who are understood to exist in a state of isolation from one another. The notion of *co-presence*, by contrast, recognizes the radically historical nature of the notion of the human being as "subject," and seeks accordingly to engage a more ontologically primordial conception of human existence, one that is attuned to its irreducible qualities of self-transcendence and self-conscious vitality. Co-presence proceeds from the idea that to be human



is to exist as that kind of being, who is perplexed by the mystery of its own existence, and is always already to find oneself in the presence of others who exist in the same way. From the standpoint of such a phenomenological description of human being, “intersubjectivity” comes to be seen not on its own terms, namely as the objective, scientific notion defining the “real” basis of encounter, but, more fundamentally, as the product of modernity’s particular notion of human existence as “subjectivity.” *This basic tension between conflicting conceptions of human encounter, as either intersubjectivity or co-presence, is the analytic focus of all that follows here.*

With this essential distinction in mind, the dissertation seeks to illustrate how the uniquely modern ontology of intersubjectivity plays out in police-citizen encounters, and to show as well how such moments bear an essential similarity to the processes of social scientific research, not least of all in mainstream criminology. In the final analysis, that similarity, it will be argued, makes manifest the fact that social scientific research and bureaucratic praxis generally share a common notion of human encounter as intersubjectivity, on the basis of which the problematization of human being becomes theoretically possible, and then actualized in everyday life.

From this critical standpoint, it becomes possible to see how, to the extent that criminologists and sociologists have posed the question, “what happens when the police encounter their fellow human beings?” they have engaged in a particular kind of social scientific inquiry, one that is framed within a distinct ontological horizon. That horizon, as shall be demonstrated throughout the dissertation, is largely identical to the one within which the police interpret the situations that they find themselves facing on the street each day. Just as the social scientist abstracts “facts” and “data” from circumstances conceived as “research problems,” the police officer similarly reduces encounters with other human beings to particular “problems,” which admit of bureaucratic resolutions. Moreover, the social scientist and police officer alike

typically undertake their respective work with little or no recognition of the ontological presuppositions grounding their praxis.

When it has thereby been posed in philosophical terms, the task of interpreting police-citizen encounters entails understanding the ways in which police officers comport themselves toward other human beings through the approach of bureaucratic praxis. It is necessary, then, to consider first and foremost with respect to the ontological conditions of human encounter how it is that police officers, as bureaucratic agents, actually ascribe the meanings that “create” the official moments of their being in the presence of others. The answer proposed in this dissertation is that, at its most elemental level, the ascription of meaning in any kind of encounter is phenomenologically understandable as a *poetic process*, insofar as it represents acts of linguistic creation (*poiesis*) that are inseparably related to the self-interpretations of human beings. Such an analysis of police-citizen encounters, from a philosophical perspective in general, and especially from a phenomenological standpoint, has yet to be developed by criminology.

For all of its many perceptive and valuable insights, the body of existing research does not address the actual ways in which police officers reductively interpret their encounters with the public according to the process of defining a discrete problem. Moreover, existing research also largely overlooks the resulting dissonance between the formal legal and administrative meanings ascribed by the police to their encounters with the public, and the more fundamental significance ascribed to those encounters prior to their being delimited in this manner. By developing and applying a phenomenological aesthetics of encounter, the present dissertation seeks to fill this void.

By “bracketing” the notion of method and suspending its commonsense self-conception, a phenomenological critique can effectively illuminate the fundamental relation of method to the

existential context of everyday life.<sup>7</sup> For this dissertation, this will be accomplished using a phenomenological description of the ontological contingency of method upon the concept of *approach*. From this standpoint, it will be argued that “method” in the human sciences and bureaucratic praxis alike essentially involves the *interpretation of human proximity*. Following the implications of this argument, the dissertation will explicitly articulate its own particular interpretive process in terms of the idea of “approach,” rather than “method.”

In the analytic structure of its approach, as well as in its theoretical orientation, a phenomenological aesthetics of encounter must undertake an interpretation of social praxis that is fundamentally distinct from what is broadly identified as “qualitative” social scientific research. Rather than following the particular tenets of such research, a phenomenological aesthetics of encounter seeks to bring a philosophical voice to criminological thought, and thereby show what such thought commonly takes for granted, even when it regards itself as proceeding in accordance with the highest possible standards of “rigor.”<sup>8</sup> As the experience of the Zollikon Seminars suggest, an endeavor of this kind, which sets out to question the most basic underpinnings of commonsense thought, will undoubtedly be seen as a potentially troubling, suspicious enterprise for many readers in criminology and other social sciences, who are accustomed to what the traditions of these disciplines typically regard as more straightforward and pragmatic treatments of “method” and its particular role in research. That is a good thing; and, indeed, perhaps the

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<sup>7</sup> This formulation is similar to Hans-Georg Gadamer’s characterization of philosophical hermeneutics in *Truth and Method*, namely, that it is not “a methodology of the human sciences, but an attempt to understand what the human sciences truly are, beyond their methodological self-consciousness, and what connects them with the totality of our experience of world” (Gadamer, 1989:xxiii).

<sup>8</sup> Here, it is worth considering Kenneth Stickers’ comments (1980:3) in his introduction to Max Scheler’s *Problems of a Sociology of Knowledge*. Stickers is critical of descriptive sociology that purports to be phenomenological when, in fact, it fails to engage phenomenology with rigor, and thereby results in a hodgepodge of “subjective biases and prejudices.” “In general,” remarks Stickers, “these misguided efforts lack any sort of reductive method – which is the heart of any genuine phenomenology – for leading to legitimate phenomenological insights into essences and separating these insights from unfounded assertions. All this has been to the dismay of the more empirical, scientific sociologists – and rightly so – and to the chagrin and detriment of legitimate and more rigorous phenomenology” (p. 3).

success of the dissertation's argument might be gauged in no small measure by the degree of discomfiture that it creates.

### ***Structure and Arrangement of the Dissertation***

The dissertation consists of two main divisions, and totals ten chapters. The first division comprises the introduction and the customary foundational chapters, including theory, literature review, and approach ("method"). The second division presents the actual application of a phenomenological aesthetics of encounter to representative episodes from each of five different types of police-citizen encounters. These include domestic violence incidents, contacts with juveniles, drug-related situations, instances of mental and emotional crisis, and death. Each type of encounter is discussed in a separate chapter, with a corresponding analysis grounded in one of five aesthetic genres, including painting, novels, poetry, drama, and short stories. The final chapter of the dissertation considers the results of the analysis in relation to its stated goals, and assesses its potential implications for research in criminology, as well as in phenomenological sociology and philosophy. Additionally, several implications of the dissertation's conclusions for police praxis are considered.

## CHAPTER 2

# THEORY: APPROACHING HUMAN BEINGS AS PROBLEMS

*You see a sad, hard but determined gaze, – an eye **peers out**, like a lone explorer at the North Pole (perhaps so as not to peer in? or peer back? . . .). Here there is snow, here life is silenced; the last crows heard here are called ‘what for?’, ‘in vain’, ‘nada’ – here nothing flourishes or grows any more. . . .* (Friedrich Nietzsche, 1994:123, emphasis in original)

### ***Introduction***

It is easy to imagine Nietzsche’s words as characterizing the everyday situation of so many disenchanted people in the late modern world, whose often-intractable predicaments occupy much of the time and attention of the police. In fact, Nietzsche is describing the nihilistic spirit of the modern “ascetic ideal,” which proudly renounces all talk of purpose and meaning in human existence, and then, having stripped life of any transcendent significance or inherent value, proceeds without a hint of irony or tragedy to locate human dignity precisely in “this laboriously won *self-contempt*” (1994:122, emphasis in original).

That his description resonates with such clarity is indicative of something more than emotional appeal or stylistic felicity. Indeed, Nietzsche’s words point to how the seemingly remote, speculative foundations of modernity exert a determinative influence upon the structure and meaning of everyday life, no less than they inform theoretical reflections on the structure and meaning of history.<sup>9</sup> Perhaps, then, in consideration of this idea – that modern man’s “*piercing* sensation of his nothingness” (Nietzsche, 1994:122, emphasis original) emanates ultimately from his own metaphysical self-conception – it will seem neither strange nor farfetched that an attempt would be made, as it will be in this dissertation, to seek to understand the everyday realm of

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<sup>9</sup> Compare Nietzsche’s remark in *Thus Spake Zarathustra* (and quoted in Heidegger, 2001:117-118): “Thoughts, which come on the feet of doves, guide the world.” (“*Gedanken, die mit Taubenfüssen kommen, lenken die Welt*” (Nietzsche, 1968:185).

police-citizen encounters in terms of its existence as a manifestation of the first principles shaping the foundations of late modern life.

In holding to the notion that this seamless interweaving of theory and praxis characterizes the ontological condition of all understanding and interpretation, modern or otherwise, the dissertation's guiding orientation comes to light. That orientation owes the core of its theoretical structure to phenomenology, and to its related currents in philosophical hermeneutics (especially the work of Hans-Georg Gadamer and Paul Ricoeur). As phenomenological investigations into the existential character and situation of human being reveal, every action or thought, no matter how seemingly simple, must occur on the basis of some theoretical standpoint or another. Likewise, such that even the most abstract theoretical speculation is necessarily grounded in the historical vicissitudes of everyday life – what phenomenology calls the “lifeworld” – theory itself is always interwoven within the fabric of mundane existence and praxis. Through constant and diligent critical attentiveness to this inextricable, ontological unity of theory and action, this dissertation will consider the unfolding and development of the bureaucratic imagination in the context of police-citizen encounters.

The task of the present chapter is to describe the theoretical foundations for the dissertation's approach of a phenomenological aesthetics of encounter. These foundations provide the basis for claiming that the way in which bureaucratic praxis approaches human beings as problems depends ultimately upon the radical, modern conceptualizing of human existence as *subjectivity*. The notion that the essential foundation of human identity lies in its existence as subjectivity leads, in turn, to the conceptualization of encounters as moments of *intersubjectivity*, as distinct from *co-presence*. That is to say, human encounters become significant insofar as they are interpreted as discrete events of intersection between atomistic, isolated “subjects,” rather than as moments in the lives of humans who, by virtue of the mode of their existence, are always already meaningfully in the presence of one another. To state in the most preliminary terms what

will be explained in detail below, it is the idea of human beings as abstract “subjects” that makes possible their reductive reification as “objects,” which may be approached, analyzed, controlled, and manipulated in certain ways deemed meaningful for attaining the intended purposes of modern praxis.

The sequence of this chapter is as follows: after a general introductory overview of phenomenology, the argument proceeds to a discussion of the nature of bureaucratic praxis, and then moves to consider how the ontological foundations of that praxis may be located in the notion of the *problematization of human being*. The problematization of human being, in turn, is shown to derive from the hallmark modern idea of human beings as “subjects.” Once the radical, historical contingency and other limitations of the idea of the human being as subject have been considered, it will become possible to understand the estranging thought to which it gives rise through the imagining of human encounters as moments of “intersubjectivity.” Contrasting the notion of intersubjectivity with the notion of human being as co-presence will then lead to an introductory consideration of the phenomenology of human encounter, by means of which the dissertation will undertake its interpretation of police-citizen encounters. Taken together, the various components of this chapter should provide the reader with a sufficient idea of the dissertation’s central theoretical claims, on the basis of which it will then be possible to consider first, the relation of a phenomenological aesthetics of encounter to existing research on police-citizen encounters, and second, the specific details of the dissertation’s own “method” or approach.

### ***A Brief Overview of Phenomenology***

It is necessary to consider very briefly, and in the broadest of terms, some of the central precepts of phenomenological philosophy. The overview that follows here should not be taken as an adequate account of phenomenological philosophy: it is only intended to provide readers who may have little or no familiarity with phenomenology with an introduction to those of its aspects

that bear most directly upon the development of a phenomenological aesthetics of encounter, which comprises the approach of this dissertation.<sup>10</sup> The overview should also be of interest to readers with a more firm grounding in phenomenology, who may find it of value in getting a clearer sense of where a phenomenological aesthetics of encounter locates itself with respect to the phenomenological tradition at large.

An initial step towards understanding phenomenology may be taken by regarding phenomenological philosophy as a radical way of thinking that seeks to restore to the mind the strangeness and mystery of its own endeavors (see Merleau-Ponty, 1964b:92-98). The word “radical” should be construed here with respect to its etymological derivation, and considered accordingly as a returning to the roots of thought. For phenomenology, these roots mark the ontological interpenetration of all human experience and the world in which it is situated. Phenomenology considers how any form of thought, prior to being consciously formalized into the particular tenets and axioms of a discipline or discourse, always already finds itself grounded meaningfully in what phenomenologists call the “lifeworld” (*Lebenswelt*).<sup>11</sup> Taking this condition of thought as its irreducible and determinant horizon, phenomenology thereby seeks to make explicit and thematic the constitutive principles of everyday life, principles that are ordinarily elided within experience and subsumed as unproblematic and pre-given. By disrupting our notion of the transparency of the ordinary, phenomenology effectively transforms unconsidered commonsense into critical awareness.

Phenomenology is therefore best regarded not as one more particular intellectual discipline or method among others, but as a far more elemental attempt to reflect radically upon

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<sup>10</sup> Readers interested in a more thorough overview of phenomenology may wish to begin with any one of several core works, including Edmund Husserl, *Cartesian Meditations* (1960) and *The Crisis of European Sciences and Transcendental Phenomenology* (1970); Richard Zaner and Don Ihde, *Phenomenology and Existentialism* (1973); Herbert Spiegelberg, *The Phenomenological Movement: A Historical Introduction* (3<sup>rd</sup> rev. ed., 1982); Dermot Moran, *Introduction to Phenomenology* (2000); and Robert Solomon, *Phenomenology and Existentialism* (2001).

<sup>11</sup> For a detailed, accessible explanation of the concept of “lifeworld,” see Husserl (1970:103-189).



the very possibility and origin of ideas such as “discipline” and “method.” This difference between phenomenology’s analytic focus and the analytic focus of many of the internal self-critiques of science and other forms of praxis is one that frequently leads to confusion and misunderstanding (see Heidegger, 1996:8-9 and Gadamer, 1989). As a way of thinking that seeks to understand human activity with constant reference to the ontological nexus uniting thought and human being with the world in which they are always already together situated, phenomenology seeks to render open to questioning what the internal reflections of all fields of inquiry already take for granted apodictically as the basis for their particular kinds of thought and action (see Heidegger, 1982a:3 and 2001:131-132). This does not mean, however, that phenomenology necessarily seeks to refute these apodictic assumptions and axioms; rather, phenomenological reflection aims at demonstrating the power and indispensability of such grounding principles by illuminating their role as the unconsidered foundations upon which any given form of interpretation or praxis is contingent.

This process of reflection begins by taking up the task of interpreting the stance of human beings in their everyday existence within the “natural attitude” (Husserl, 1982:53-55), which remains all but completely disengaged from conscious or critical attention to its foundations:

Daily practical living is naïve. It is immersion in the already-given world, whether it be experiencing, or thinking, or valuing, or acting. Meanwhile all those *productive intentional functions* of experiencing, because of which physical things are simply there, go on anonymously. (Husserl, 1960:152-3, emphasis added)

By “productive intentional functions,” Husserl means those processes of consciousness through which the world comes to be constituted as meaningful. The term “intentional” refers to how consciousness is always conscious *of* something. To think of or about a given entity, or to be conscious of or about someone or something marks the directing (intending) of the mind towards that which is present to it (Husserl, 1982:64ff.). Intentionality is the concept on the basis of which phenomenology understands how all thought is necessarily directed to or “intended”

towards a given entity.<sup>12</sup> For phenomenology, then, the simplest act of paying attention to something, or heeding it, is a process that makes experience meaningful within consciousness, and able to be construed symbolically and semiotically. This description will later prove to be decisive in understanding the poetic dimension of thought, inasmuch as poetry in its essential sense is a “making” or “creating.”

That experience attains any order, significance, and meaning whatsoever offers testimony to the intentional qualities of the mind. This is not at all to argue that no substantive reality exists apart from human consciousness. Rather, to say, as Husserl does, that “physical things are simply there” “because of” the experiencing mind, means that it is only the co-existence of world and consciousness that enables entities to exist *as things*, or even to be “there” at all.<sup>13</sup> Attentiveness to the ontological conditions of understanding is, to be sure, remote from the preoccupations of everyday life; yet precisely because they pass unnoticed, these conditions assert themselves all the more powerfully.

If this is the case for thought in everyday life, it is even more so for the positive sciences, which Husserl calls “naïvetés of a higher level” (1960:153, see, also, 1982:35). Once again, if we are to avoid the hasty rejection of a phenomenological critique of science as misinformed, it is necessary to recall that phenomenology and the methodological reflections and self-critiques of

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<sup>12</sup> The abbreviated discussion of intentionality presented here passes over longstanding debates in philosophy over the nature of this extremely complicated idea. The concept of intentionality dates back to medieval philosophy, though its incorporation into the phenomenological tradition is usually identified with the work of Brentano. For further general discussion of intentionality, see Heidegger (1982a), Spiegelberg (1982), and Moran (2000).

<sup>13</sup> Here, it is helpful to consider Husserl’s concept of the “horizon-structure” of experience and its relation to the potential knowledge (“*Mitwissen*”) and foreknowledge (“*Vorwissen*”) that shapes its meaning to consciousness: “For us the world is always a world in which cognition in the most diverse ways has already done its work. Thus it is not open to doubt that there is no experience, in the simple and primary sense of an experience of things, which, grasping a thing for the first time and bringing cognition to bear on it, does not already ‘know’ more about the thing than is in this cognition alone” (Husserl, 1973:32).

the sciences are functioning on distinctly different interpretive planes.<sup>14</sup> The sciences, argues Husserl,

are the products of an ingenious theoretical technique; but the *intentional performances* from which everything ultimately originates remain unexplicated. To be sure, science claims the ability to justify its critical steps and is based throughout on criticism. But its criticism is not ultimately criticism of knowledge. The latter criticism [i.e. phenomenology] is a study and criticism of the original productions, an uncovering of their *intentional horizons*; and thus alone can the 'range' of evidences be ultimately grasped and, correlatively, the existence-sense of objects, of theoretical formations, of goods and ends, be evaluated. (1960:153)

In other words, the internal self-reflections of scientific thought are undertaken to ensure the ability of science to proceed meaningfully and coherently, in accordance with its foundational ontology, but does *not* critically engage that ontology itself. The self-reflections of physics might ask, for example, how the dual wave-particle nature of quantum matter changes our prior understandings of causality, prediction, validity, observer status, experimental process, and so forth. A phenomenological inquiry into physics, on the other hand, will ask how it even comes about in the first place that we abstract from the lifeworld the notion of a mathematized, material "natural world" in such a way that presence, movement, time, and change attain their overarching significance in terms of an array of fields, forces, and wave-particulate matter.

As the all-encompassing experiential horizon within which human beings always already find themselves existing, the lifeworld comprises the intrinsically meaningful, pre-given totality of human experience. Contrary to the overwhelmingly predominant modern belief that the lifeworld is co-equal with abstract, scientifically grounded notions such as "universe" or "reality," the lifeworld is actually that which makes such notions possible in the first place, as the

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<sup>14</sup> On this point, see Heidegger (1996:24): "With this term the treatise [i.e. *Being and Time*] dictates for itself neither a 'standpoint' nor a 'direction,' because phenomenology is neither of these and can never be as long as it understands itself. The expression 'phenomenology' signifies primarily a *concept of method*. It does not characterize the 'what' of the objects of philosophical research in terms of their content but the 'how' of such research. The more genuinely effective a concept of method is and the more comprehensively it determines the fundamental conduct of a science, the more originally it is rooted in confrontation with the things themselves and the farther away it moves from what we call a technical device – of which there are many in the theoretical disciplines."

experiential and ontological origin for speculative thought that seeks to ground its own existential situation. It is in this critical sense that phenomenology returns continually to a consideration of how thought always derives from foreknowledge:

*The world as the existent world is the universal passive pregivenness of all judicative activity, of all engagement of theoretical interest. . . . The world as a whole is always already pre-given in passive certitude, and the orientation of cognition toward a particular existent is genetically more primordial than that toward the world as a whole. . . .* (Husserl, 1973:31, emphasis original)

Phenomenology will make this general claim in one form or another, whether in the context of metaphysics, history, or reflections upon evil.<sup>15</sup>

A phenomenological conception of crime, for example, illustrates how crime's analytic reduction to an isolable entity, amenable to measurement and calculation, rests upon the particular thematic treatment, historically, theoretically, and methodologically determined, of what is always already present as the universal social experience of a multiplicity of forms of evil, wrongdoing, illegality, and transgression. When criminological analysis quantifies a given species of human actions in order to make it amenable to experimental and empirical analysis, it is attempting to explain – in what it takes to be objective, testable, and refutable terms – the existence of an entity that was already present for human beings, before it came to be understood according to the particular terms of social science. It is not the case, to be sure, that any and all phenomenological critiques wish to dispense summarily with every experimentally grounded,

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<sup>15</sup>Given the range of theological, moral, and sociocultural meanings evoked by the term “evil,” its use here might well be viewed skeptically by some readers, who may, perhaps, find the word anachronistic, vague, or conceptually indefinable. Without purporting to account for all such objections, most of them, it might fairly be anticipated, will likely argue that the intrinsic ethical connotations of the concept of “evil” makes its inclusion in a work being written under the aegis of a social scientific discipline rather ill-suited. Setting aside a more ambitious refutation of this objection, which would be based upon an appeal to the notion that there is an inherent normative dimension in all language, the more limited point needs to be made that the use of the term “evil” is intended to evoke the universality of the human experience of those acts and events, which are judged, however varyingly, to be wicked, bad, tragic, depraved, terrible, or misfortunate. From a phenomenological standpoint, it is necessary to disclose the primordially of these occurrences, in order to demonstrate the ontological priority that transcends their particular conceptualization as “crimes” or “problems.” This matter will be treated further in the concluding chapter.

social scientific inquiry into the “factual” nature of crime. However, phenomenology will disagree with the claim that such investigations constitute an intrinsically higher apprehension of reality, one that is more authentic and veridical than the original experience of these actions, which endures as the primordial impetus for all interpretations of their presence, including those proffered by social science.

*From the standpoint of phenomenology, every kind of interpretation constitutes a mode of comportment towards what has always already been meaningfully experienced in the course of human existence.* Here, phenomenology makes a decisive connection between the nature of understanding and the nature of human being. For phenomenology, human being is, as such, significant to itself. Simply stated, we know we exist. We continually ponder our existence, its potentialities, contingencies, and what we discover fairly early on will be its inevitable terminus in death. Our own existence is also at the same time inextricably tied to that of others, whom we know intuitively and immediately to be in the same situation in which we ourselves exist.

All of this is by way of illustrating that the distinguishing uniqueness of human existence is that “in its being this being is concerned *about* its very being” (Heidegger, 1996:10, italics original). By this, Heidegger means that to exist as a human being is always already to be preoccupied with the indubitable fact of one’s own being. Human beings, as such, have a notion of being situated, of being “here and now.” The simple exclamation, “here I am!” gives expression to the self-consciousness of human being, as well as to the awareness this being has of its own place. This is expressed in Heidegger’s naming of human being as *Da-sein*: unlike the being of other entities, human existence is not merely being (*Sein*), but “there-being” – “*Da*” + “*Sein*” – being that always already finds itself meaningfully engaged with its own existence.

Understood as *Da-sein*, human being is that kind of being who lives in and through the interpretation of its own self-awareness:

Da-sein always understands itself in terms of its existence, in terms of its possibility to be itself or not be itself. Da-sein has either chosen these possibilities itself, stumbled upon them, or in each instance already grown up in them. (Heidegger, 1996:10)

The stance of human beings toward their own existence gives that existence a *momentous* quality, which comes about through the ascription of meaning and significance to the flow of time. To speak or reflect upon a “moment” is only possible for a kind of being that engages the mysterious and perplexing fact of its own existence, and locates that existence in time. This, more than anything else, is the condition that underlies human interaction as its irreducible substratum. Human being always has a sense of its “here and now,” and of the relation of that “here and now” to the past and to the future.

Given such a conception of the self-interpreting nature of human existence, it follows for all phenomenological investigations that any analysis of human activity necessarily occurs as the “interpretation of interpretations” (see Zaner, 1978). Human being therefore has a (self) defining *hermeneutic quality* – its mode of existence is one determined by its ontological stance of having always already *interpreted* itself and its world. For phenomenology, this hermeneutic quality of human being is its decisive characteristic; indeed, *the approach proper to the phenomenological investigation of human being is hermeneutics* (Heidegger, 1996:33).

The scientific “universe” represents for modern humanity collectively what the scientific “body” represents to each human being separately: any attempt to understand “objectively” the “scientific nature” of our existence begins from the ontological conditions within which such an inquiry first becomes possible. Thought and action respond to and create meaning in circular fashion, not as a vicious circle, but as a reflection of the existential conditions of human being (see Heidegger, 1996:142-143). This is known as the “hermeneutic circle.”

Heidegger’s phenomenological investigation of human being, which sought to describe its hermeneutic nature, served as the key point of departure for *Truth and Method* (1989), the

magnum opus of Heidegger's student, Hans-Georg Gadamer. In this work, undertaken as an extended critique on the possibility of valid interpretation in the human sciences (*Geisteswissenschaften*), Gadamer sought to understand how the scientific concept of objectivity became the basis for judging the validity of interpretations of human action, and how that concept is irremediably at odds with the ontological structure of understanding. In *Truth and Method*, he aimed to challenge the defining self-conception of the human sciences, and their presumed ability to posit objective laws about human beings. Such a hermeneutic inquiry is one that attempts

to seek the experience of truth that transcends the domain of scientific method wherever that experience is to be found, and to inquire into its legitimacy. Hence the human sciences are connected to modes of experience that lie outside science: with the experiences of philosophy, of art, and of history itself. These are all modes of experience in which a truth is communicated that cannot be verified by the methodological means proper to science. (1989:xxii, emphasis added)

In a concept that applies equally to concrete, fleeting encounters between individual human beings of the kind that will be taken up in this dissertation, or to the sustained, retrospective encounters between entire ages in history, Gadamer explains understanding as a "fusion of horizons" (*Horizonsverschmelzung*) – an event comprising the ontological confluence of the interpreter and interpreted (1989:302-307). Horizons exist neither distinctly nor in isolation; rather, the always-pre-existing movement of history and tradition continually shapes them. Here, history is not to be construed simply as a particular human science, but as the totality of the self-interpretations of human beings. Human being, given its hermeneutic character, is by its very nature *historical* being. For this reason, the effects of history and tradition cannot be methodologically excised or isolated, nor is history to be regarded as in some way subverting, subjecting, or relativizing truth. The ontological condition of human beings is such that we always already find ourselves existing in language, in history, in tradition, and in the presence of other human beings. "Naïve faith in scientific method" (Gadamer, 1989:301) fuels the desire to

apply the methodological structure of natural science to human beings in ways that are intended to find a ground of certainty beyond the effects of historical consciousness.

Against this misplaced faith, Gadamer posits the notion of *historically effected consciousness* (*wirkungsgeschichtliches Bewußtsein*), which characterizes the hermeneutic nature of understanding as a participatory event, in which consciousness and what it seeks to interpret are always already together beforehand (1989:301 *et passim*). This is how the fusion of horizons occurs. In characterizing consciousness as “historically effected,” Gadamer means to draw attention to the double relation of consciousness to history – the twofold way in which consciousness belongs to history, first in existing within the effects of history, and second, in knowing that this is indeed the case (Gadamer, 1989:xv and esp. 340ff.). We belong to history, and it belongs to us – we exist historically, and we can only understand in and through history, which is the ontological condition of human being.

Once again, for Gadamer, the word “history” means something much more fundamental than the formal study of the past: to speak of the historicity of human being is to understand human being as a kind of existence that stands forth in the face of its own past and its own future possibilities. *For any kind of interpretation, the whole may only be understood in relation to the part, and the part may only be interpreted in relation to the whole* (Gadamer, 1989:291). Here, Gadamer, like Heidegger, has shown that any epistemological investigation into the possibility of valid interpretation must begin with the more fundamental project of explicating the ontological conditions within which all human activity is grounded.

Whether those conditions are expressed in terms such as Heidegger’s notion of “being-in-the-world” (*in-der-Welt-sein*), Merleau-Ponty’s idea of “incarnated spirit” (*esprit incarné*), or in any other of the range of ways developed out of the phenomenological exposition of the existential foundations of interpretation, phenomenology as a whole challenges the modern, post-



Cartesian vision of the isolated ego or subject standing “over against” the world.<sup>16</sup>

Phenomenology generally accepts that we do not abstractly deduce or infer the existence of other human beings and other entities from a purportedly self-certain, self-subsistent standpoint, because such a standpoint is existentially impossible. Accordingly, one of phenomenology’s defining tasks is the illumination of the irreducible primacy of lived experience on the basis of an exposition of the “natural attitude,” as opposed to the formalized, self-reflective experiences of the “subject,” which, under phenomenological investigation, emerges in its historical nature as the uniquely modern hypostatization of human existence.

Here, and throughout the preceding discussion, attention has repeatedly been focused upon the idea of phenomenology as a radical retrieval and critique of the foundations of thought. In anticipation of the broader analysis that this dissertation will pursue, it remains to be considered how, precisely, phenomenology undertakes this task. In order to show what thought and action take for granted, phenomenology engages in a progressive process of “bracketing,” “parenthesizing,” or suspension, which Husserl called the phenomenological *epoché*.<sup>17</sup> The *epoché* serves as a critical device that makes it possible to acknowledge the indubitable reality of a given phenomenon, while simultaneously making explicit all that we take for granted in the act of being conscious of it. Husserl is adamant in arguing that this process is fundamentally different from the radical skepticism that provides the point of departure for Cartesian philosophy. To the contrary, the *epoché* is not a disaffirmation of reality, but what Husserl (1982:58-59) called a *change in value*, by means of which reality is wholly *affirmed* through the explicit and thematic treatment of what is ordinarily taken for granted, without reflective or critical attention. Husserl further cautions that the *epoché* is also not to be conflated with the kind

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<sup>16</sup> See Heidegger (1996, esp. pp. 107ff.) for a sustained discussion of his concept of being-in-the-world; and compare Merleau-Ponty (1948). Merleau-Ponty’s concept of “incarnated spirit” finds a lucid summation on p. 148: “. . . nous ne sommes pas esprit et corps, conscience *en face du monde*, mais esprit incarné, être-au-monde.” [“We are not spirit and body, conscience facing the world, but incarnated spirit, being-in-the-world,” emphasis original.]

<sup>17</sup> For an overview of the concept of the *epoché*, see Husserl (1982:xix, 5-7, 33-34, and esp. 51ff.). See, also, Husserl (1970:121-147). For further helpful comments, see Moran (2000:146-152).

of methodological demands often made by positivistic thought to rid itself of theoretical and metaphysical notions that compromise the interests of objective research (1982:62). The *epoché*, then, is “*a certain refraining from judgment which is compatible with the unshaken conviction of truth*” (Husserl, 1982:59-60, emphasis original).

What does the *epoché* offer in terms of an actual critical vantage point, which can be effectively deployed for the analysis of social action and social meaning? Applying the *epoché* in the context of reflecting upon a form of praxis, such as police-citizen encounters, involves suspending or “bracketing” the commonsense foundations of the bureaucratic comportment. Again, consistent with what has already been said about the *epoché*, this act of suspension does not inevitably entail the summary abandoning of all that bureaucratic praxis does or believes. At the same time, however, such a suspension reveals the contingency of bureaucratic praxis upon an ontological foundation that would otherwise remain hidden from view. Functioning as it does, the *epoché* thereby raises the possibility that a given form of praxis – here, policing – could be other than it is. Any phenomenologically oriented critique, including the present one, will argue that such reflection is a necessary prelude to practical reform and meaningful change.

A phenomenological critique of bureaucratic police praxis involves setting aside the “natural attitude” within which police-citizen encounters occur, such that this attitude and all that it entails are “*put out of action*” (Husserl, 1982:61, italics original). Following Husserl’s argument, this means we must now exclude from commonsense what has been “placed in brackets.” Thus, phenomenology will ask under these circumstances, “*what if we suspend and thereby no longer take for granted the possibility that human beings can be encountered meaningfully and authentically as problems?*” By submitting bureaucratic praxis to the phenomenological *epoché*, the entire question of its nature emerges in far more fundamental light, as one of articulating the nature and meaning of human presence.

## ***The Nature of Modern Bureaucratic Praxis***

Modern, Western bureaucracy represents the extension of the logic of instrumental rationality and science to the practical activities of social administration. Bureaucracy stands as the enactment in the social world of modernity's aspiration to place all of reality within the grasp of scientific reason and its allied forms of method, technology, and praxis. That aspiration emerges out of modernity's defining faith in the idea that everything that lies open to cognition and experience, to include cognition and experience themselves, is most completely, validly, and *usefully* comprehended through reductive reason and scientific method. For modernity, however human beings may "subjectively" interpret the meaning and significance of their own existence and that of the world, what is ultimately real is held to be that which is "objectively" established as such by science, and, accordingly, is thereby rendered "useful" or "practical," as opposed to purely speculative or conjectural. The truth and good of a given thing come to be regarded largely (if not wholly) as that wherein it may be understood in a way allowing for its utilization for the attainment of pre-determined ends. Neither bureaucracy nor science, though, can identify what those ends ought to be. This momentous transformative reduction of value to mere utility was recognized at least as early as Hegel (1977:342-363), and endures today as an abiding, elemental aspect of the logic of modernity.

Nowhere, perhaps, is this transformation manifest with greater force and portent than in the realm of bureaucratic praxis, which pursues the rational management of human predicaments on the basis of calculability, predictability, efficiency, and utility, enacted by technocratic experts (see Gadamer, 1981:69ff.). As the application of scientific knowledge and technique for the rational prediction, control, and management of society, bureaucracy evolved in close relation to social statistics and positivistic social science. It is through the work of Comte, Quetelet, and others that human beings came to be regarded as objects amenable to scientific analysis and technical manipulation, according to the same logic by which these processes are carried out on the mathematized natural world. Many streams of criminology exemplify this process, through

their interweaving of speculative reflections upon evil, transgression, and human nature with statistical analysis and bureaucratically enacted social control.<sup>18</sup>

Critical analysis of the nature of modernity has long recognized that there is an essential affinity between social scientific knowledge and bureaucratic praxis, which is traceable to their common ontology and its enactment in processes of rationalization, and in the attendant reification of the human being as abstract entity and calculable object.<sup>19</sup> Well before Foucault developed his genealogical analysis of the disciplinary production of various forms of the modern “individual,” Marx, Nietzsche, Weber, the Frankfurt School, and others had all, in varying ways, explored the epistemological nexus linking modern administration, social science, and the self-conception of modernity.<sup>20</sup> For the purposes of this dissertation, Weber’s model of bureaucracy (esp. 1978:956-1005) provides the necessary analytic framework for situating bureaucratic praxis with respect to broader social processes of rationalization and modernization.<sup>21</sup> In this respect, Weber serves a crucial role in articulating the relationship between everyday praxis and its ontological foundations.

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<sup>18</sup> With respect to the specific instance of criminology, Russell Hogg (1998:150-151) notes, “[t]he entire history of modern criminological knowledge is unthinkable outside the institutional configurations of modern government – the production of statistics on a massive scale, the knowledge of individuals, particular social strata, urban habitats, and so on. . . .” For further elaboration of the intersecting historical development of criminology and modern social administration, see Johnston and Shearing (2003), Garland (2001 & 1985), Duguid (2000), Nelken (1994), Rose (1990), Cohen (1985), and Foucault (1980).

<sup>19</sup> Some noteworthy examples include Horkheimer and Adorno (1994), Giddens (1990), Bauman (1989), Habermas (1984), and Marcuse (1964).

<sup>20</sup> Hegel’s *Philosophy of Right* (1820/1991) stands as the decisive, inaugural analysis of the relationship among the modern state, civil society, and civic/judicial administration. In his *Critique of Hegel’s Philosophy of Right* (1843/1970), Marx analyzed bureaucracy as the objectification of the spirit of the modern state, and considered how bureaucratic praxis becomes a “hierarchy of knowledge” (p. 47). Marx also lays a key part of the foundation for subsequent critiques of instrumental rationality by considering how bureaucracy’s formal ends are equivalent to its content (pp. 43-48). Nietzsche’s critiques of modernity in *Untimely Meditations* (1873-1876/1997), *Will to Power* (1901/1967), *Thus Spake Zarathustra* (1883-1885/1974), *The Gay Science* (1887/1974), and *Beyond Good and Evil* (1886/1989) touch varyingly upon the rationalization of sociopolitical and ethical life, and were especially important in the development of Weber’s theories of disenchantment, and the notion of the “iron cage.” Weber’s definitive analysis of bureaucracy in *Economy and Society* (1978) will be considered further below. For discussion of bureaucracy and the Frankfurt School, see Arato and Gebhardt (1982), and Marcuse (1964). See, also, Simmel (1990).

<sup>21</sup> On the general relation between modernization and bureaucratization, see Habermas (1987b). For further consideration of Weber’s analysis of bureaucracy, the reader may wish to consult Schluchter (1981), Scaff (1988), and Horowitz and Maley (1994).

According to Weber, it is through the interrelated theoretical reconceptualization and practical reconfiguration of the idea of the social that modern existence is rendered amenable both to scientific analysis and to bureaucratic control:

The development of modern forms of organization in all fields is nothing less than identical with the development and continual spread of bureaucratic administration. . . . *The whole pattern of everyday life is cut to fit this framework.* (Weber, 1978:223, emphasis added)

For Weber, bureaucracy represents the administrative incarnation of modernity's rationalization of society, which, in turn, he associates with disenchantment, depersonalization, and oppression through routinization (Weber, 1946:50). The rationality, calculability, and efficiency that distinguish modernity from other forms of society exist in dialectical relationship with the administrative and regulatory mechanisms of bureaucracy. That is to say, the enactment in praxis of the speculative principles of rationalization effectively vindicates its claims, and acts to transform society in ways that make it even more receptive to and meaningful as a domain for increasingly intricate and farther-reaching forms of control and manipulation (see, also, Berger and Luckmann, 1966; Habermas, 1984, 1987a, 1987b; and Giddens, 1990).

Weber understood clearly that the essential role of bureaucracy in this totalizing rationalization of society is accomplishable, because it succeeds in deploying the incomparable power of science in the ordering of human affairs:

Bureaucratic administration means fundamentally *domination through knowledge.* (1978:225, emphasis added)<sup>22</sup>

By means of this unconsidered transformation of scientific speculation into the grounds for social administration, bureaucracy thus effectively reifies normative questions as abstract "problems,"

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<sup>22</sup> The similarity here between Weber and Foucault is readily apparent. Where Weber recognized the nexus between epistemology and politics, Foucault saw the ontological dimensions of power: "Discipline 'makes' individuals; it is the specific technique of a power that regards individuals both as objects and as instruments of its exercise" (1977:170). For Foucault's own conception of his relation to Weber, see the interview reprinted in Baynes, *et al.* (1987:100-117). The original French text of the interview appears in Perrot (1980). For further analysis of Weber's relation to Foucault, see Hekman's essay in Horowitz and Maley (1994).

and reduces consciously ethical reasoning into scientific analysis that purports to evaluate social predicaments according to other than moral criteria.<sup>23</sup>

According to Weber's description, bureaucracy does this through the institutionalization of modes of praxis that strive to function in an objective and calculable way, "without regard for persons," and according to the principle of *sine ire ac studio* ("without anger or passion") (1978:975).<sup>24</sup> As such, says Weber,

[b]ureaucracy develops the more perfectly, the more it is "dehumanized," the more completely it succeeds in eliminating from official business love, hatred, and all purely personal, irrational, and emotional elements which escape calculation. (1978:975)

Just as efficient exchange relations work towards realizing the predetermined ends of a rational, money-based, market economy, it is likewise so with bureaucratic encounters, which serve a similar instrumental function in their reductionist circumscription of moral and ethico-political praxis as detached, calculable transactions aimed at the predictable enactment of administrative order. It is thus no coincidence that the dehumanization typifying the bureaucratic relationship essentially mirrors the abstract impersonality of the market relationship, which, as Weber describes it, is exclusively focused on the commodity, and assiduously maintains that focus through a calculated exclusion of all intimacy, spontaneity, or regard for the other (1954:192 & 1978:975; see, also, Simmel, 1990).

The role of policing in this equation is decisive, not only in its exemplification of Weber's model of bureaucracy, but, even more significantly, because policing represents a particularly acute instance of the supplantation of organic ethical life with administrative artifice.

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<sup>23</sup> On this point, see Bauman (1990) and MacIntyre (1977).

<sup>24</sup> Given Nietzsche's influence upon Weber, it is interesting to compare Nietzsche's use of the phrase "*sine ire ac studio*" (1994:86), within the context of his criticism of philosophical speculation as a potential manifestation of the ascetic ideal: "If we draw up a list of the particular drives and virtues of the philosopher – his drive to doubt, his drive to deny, his drive to prevaricate (his 'ephetic' drive), his drive to analyze, his drive to research, investigate, dare, his drive to compare and counter-balance, his will to neutrality and objectivity, his will to every *sine ac studio* – : surely we realize that all these ran counter to the primary demands of morality and conscience for the longest period of time?"

It must be noted explicitly that this observation is made with reference to the underlying structure and foundational logic of policing considered as an intrinsic element of the modern bureaucratic state (see Dandeker, 1990 and Garland, 2001:30ff.). This level of analysis, which emerges out of the precepts of political philosophy and social theory, attempts to interpret the “spirit of modernity” as it is manifest in any modern police force, and is therefore less concerned with differences among institutions which, within other analytic contexts (such as comparative criminology and the sociology of policing), are taken to be essential or decisive.

For example, Nelken’s comparison of British and Italian policing (1994:221-222) highlights crucial differences between their respective styles; yet, at the same time, does not contradict the guiding notion of a phenomenological critique, on the basis of which the “bracketing” of any form modern police praxis will reveal – with inevitable and profound variations – a nonetheless consistent manifestation of the logic of bureaucracy. Nelken himself lends unintended, indirect support to this argument by way of his own observation (1994:221) that, while historical and “policy-oriented” comparative research can lend valuable analytic perspective, it does not engage broader interactions of politics, praxis, and culture that govern the functioning of the criminal justice system. This line of thought may simply be extended for the present purposes, to say that such analyses reveal even less about the philosophical underpinnings of various criminal justice institutions, and their definitive forms of praxis.

Considered with respect to processes of modernization and a Weberian model of bureaucracy, policing represents the evolving bureaucratic reaction to social crises engendered and perpetuated by modernity, which demand resolution (or at least control) by means of the imposition of administrative regulation needed to fill the vacuum left by the disappearance of an organic normative order. With modernity’s claimed disavowal of reason from morality, society imagines that it has ceased to function according to an avowed moral imperative

(Bauman, 1990:29). Rather, orderliness and efficiency supplant ethical standards with what purport to be forms of objective, neutral praxis:

Modern society is a setting in which an orderly conduct of life is possible without recourse to the innate human capacity of moral regulation. (Bauman, 1990:29)

In actuality, this results in praxis that is not truly amoral, so much as it is cryptically moral, as well as all the more inauthentic for its lack of a conscious grasp of its actual nature.

To give a practical example, the police officer trying to resolve a dispute between feuding neighbors may not appeal to a sense of mutual ethical recognition, but rather to the hypothesized self-interest of the involved parties: “look, you need to turn down your stereo, because your neighbor is entitled to some peace and quiet.” The officer making this statement is not weighing competing moral claims; instead, he or she is merely regulating social relations between atomistic individuals, who may very well not share a moral consensus beyond their common faith in the pursuit of self-interest.<sup>25</sup> No one knows or cares if the aggrieved neighbor *deserves* peace and quiet: it is simply the furtherance of social efficiency and order that dictates an *entitlement* to them.

The officer responding to the loud stereo has effectively transformed an ethical dilemma into a bureaucratic problem, and thereby demonstrated an eminently practical knowledge of exactly what Habermas means in arguing that late modern society is devoid of binding normative structures intersubjectively communicated (1975:131). More precisely, the officer acts upon an intuitive understanding that the efficient fulfilment of the mandate of bureaucratic efficiency is an end sufficient in itself, which transcends any particular ethical claims of the two neighbors, by

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<sup>25</sup> There is a direct relation between this kind of social interaction and the types of self-interested interactions of atomistic individuals in the marketplace. This latter kind of interaction finds what is, perhaps, its most famous exposition, in Adam Smith’s words: “[i]t is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages. Nobody but a beggar chuses to depend chiefly upon the benevolence of his fellow-citizen” (1776/1976:18).



reducing the whole of their existence to the status of variables or fungible entities that becomes mere objects for the application of power. The preceding hypothetical episode further reveals the unacknowledged moral precepts of instrumental rational praxis, against the self-conceived notion that it does not have any: this is *the presumption of neutrality and objectivity* intrinsic to bureaucratic praxis and mainstream social science.

This is the civilizational milieu in which the police find themselves interacting with their fellow human beings. Much insight and critical attention has been directed at the relationship between processes of modernization and the role of the police: Shearing and Stenning (1987), Dandeker (1990), Ericson and Carriere (1994), Ericson and Haggerty (1997), Van Swaaningen (1997), and Garland (2001) are particularly noteworthy examples. Their reflections intersect closely with wider analyses of late modern social control, notably the work of Foucault (1977, 1980, 1991), Donzelot (1979), Cohen (1985), Davis (1990), Feely and Simon (1992), Garland (1990, 2001), and Giddens (1990).

As a pre-eminent instance of what Weber called the “transforming of social action into rationally organized action,” (1978:987) bureaucratic policing stands as a powerful means by which modernity’s logic is inscribed upon the administrative organization of everyday life (see Habermas, 1987b:305ff). The police officer envisaged today as a “community problem solver” (e.g. Goldstein, 1977; Skogan, 1990; Toch and Grant, 1991), exemplifies the ideal of the expert functionary, who acts solely on the basis of “objective considerations” in order to replace other forms of administrative authority dependent upon tradition, custom, and other “irrational presuppositions” (Weber, 1978:975).

Whether it is policing or other forms of administration, bureaucratic praxis ultimately derives from and continuously recreates anew the transmutation of organic ethical life into the social equivalent of a Cartesian grid – an abstract space in which individuals are located as present and significant strictly in a predictable, rational, mathematized way. If, then, the

mathematization of physical space made possible the rise of natural science, the same may be said to have occurred with “social space.” In both cases, what Husserl calls the “superficialization of meaning” (*Sinnesveräusserlichung*) occurs in an acute and monumentally powerful way.<sup>26</sup> Within this realm of neutral, abstract space, human being finds itself reconceptualized in an unprecedented fashion that seeks to dissever the moral from the social. Indeed, as Bauman sees it, the entire process of modernization may be summarized as the “growing separation between reason and morality” (1990:29). As a result,

. . . the norms of human action can be, and are, subordinated to other than ethical criteria, and evaluated by non-ethical standards. With the suppression or marginalization of such ethical relationships as only moral impulse may generate, the socially enforced law may usurp the supreme, and to a large extent uncontested, regulatory function. (Bauman, 1990:29-30)<sup>27</sup>

Closely following Weber, Bauman (1990:31) also recognizes the role of bureaucratization, technology, and instrumental rationality as the means driving the “self-perpetuating quality of modern social organization.”

The continuing erosion of the self-consciously moral dimension of social life under the forces of modernization occasions a parallel increase in the need for formal, administrative regulation in lieu of what modernity destroys, or at least enfeebles. This dialectic perpetuates and intensifies the conditions defining the operational milieu of contemporary policing. It is a realm of crisis, in which the modern human being has internalized as commonsense and thereby turned into a self-fulfilling prophecy, what historically began as the speculative disenchantment, reification, and self-alienation of cosmic, social, and individual order. This lacerated self-conception (see Hegel, 1807/1977) – expressed, to give two examples from the author’s police

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<sup>26</sup> As David Carr notes in his English translation of Husserl’s *Crisis*, *Sinnesveräusserlichung* literally means “externalization of meaning,” “but with the sense of rendering it superficial, separating it from its origin” (Husserl, 1970:44n). The mathematization of the lifeworld is a truly decisive moment, which revolutionizes thinking about the entirety of cosmic and natural order; however, this very quality originates out of an “emptying of meaning.”

<sup>27</sup> For a consideration of the relevance of this concept within the specific context of criminology, see Shearing and Stenning (1987), Duguid (2000) and Garland (2001).

experience, by the eight-year boy who told him, “I’m ADHD [attention deficit hyperactivity disorder],” or the seventeen year-old girl who fatalistically said of the beatings and emotional mistreatment suffered at her boyfriend’s hands, “there’s nothing I can do about it, I’m co-dependant” – shows vividly not only the intersection of bureaucratic praxis and social science, but its infiltration into everyday life, on the basis of which it becomes a self-fulfilling prophecy (see Lofland, 1976).

This “velvet repression,” as Bauman memorably calls it (2001:26-27), represents the encroachment of bureaucratic mechanisms into the very structures of consciousness, such that human beings have become “problems” not just to society, but to themselves as well (see Rieff, 1966). What remains most troubling about the process of “mathematization” and its logic of the “superficialization of meaning,” however, is the unacknowledged way in which it collapses the distinction between abstract speculation and the world from which it arises:

. . . the surreptitious substitution of the mathematically substructured world of idealities for the only real world, the one that is actually given through perception, that is ever experienced and experienceable of our everyday lifeworld. (Husserl, 1970:48-9)<sup>28</sup>

At the same time that social science “interprets interpretations,” not only do the human “subjects” of social scientific inquiry know that they are the “objects” of speculative inquiry, the conclusions of such inquiry are also themselves incorporated back into the interpretive processes of everyday life (Zaner, 1978:16). These new understandings, in turn, become new forms of social existence in their own right, which then themselves become the object of subsequent scientific consideration. This is the condition of the “double hermeneutic” with which all social scientific inquiry must come to grips (see Giddens, 1990:15).

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<sup>28</sup> Compare Luijpen and Koren (1969:66): “The sciences do not know of what they speak unless they accept the fact that ultimately they merely explicate an experience that is much more original than the world disclosed by the sciences.”

It is therefore not merely the case that scientific theorizing exerts a unidirectional influence upon society; rather, it is part of the “hermeneutic circle” itself.<sup>29</sup> As both the sociology of knowledge (*e.g.* Scheler, 1980) and philosophical hermeneutics (*e.g.* Gadamer, 1989) have shown, the metanarratives constructed by any given society form networks of meaning extending to and shaping the forms of theoretical reflection – society determines knowledge, and knowledge determines society.<sup>30</sup> The universality of this phenomenon notwithstanding, it assumes an unprecedented form with modernity, owing to the particular nature of the historical processes of rationalization and desacralization (see, for example, Bauman, 2001:163-172 and Habermas, 1987b:317-318).

In the immediate context of police-citizen encounters, officers instinctively and reflexively approach their interlocutors with a calculated objectivity as “individuals” or “subjects.” So it is, for example, that officers will advise a dispatcher, “I’m contacting a suspicious subject in the 2000 block of Main Street,” or “I’ll be out with three individuals at City Park.” Likewise, police reports are replete with references to “subjects” and “individuals.” Considered in light of the problematization of human being and its relation to bureaucratic praxis, and as later chapters will illustrate in detail, such forms of usage may be read accurately as more than mere stylistic convention. Rather, they quietly bespeak the grounding principles according to which the police must function if their actions are to unfold *sine ire ac studio*. Since police praxis rests upon a comportment not towards “men” or “women,” but towards abstract, reified “subjects,” policing’s claims of efficiency and success seem to ring hollow in the end.

Here, it is worthwhile to pause and consider an idea such as Braithwaite’s admonition (1989:88) that reducing crime depends upon the existence of a social context in which “offenders

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<sup>29</sup> The notion of the hermeneutic circle describes the ontological inseparability of understanding and the conditions within which it occurs. It will be explained in greater detail below, in Chapter 4.

<sup>30</sup> Scheler (1980:67) expresses this general idea as follows: “All knowledge, especially general knowledge about the *same* objects, *determines*, somehow, the *nature* of the society in all its possible aspects. Finally, all knowledge, conversely, is co-determined also by the society and *its* specific structure” (italics original).

are not confronted as criminals but as whole persons.” Whether or not one accepts Braithwaite’s theory of reintegrative shaming, he has expressed clearly the practical implications of differing approaches to human beings. To the extent that policing rests upon an approach that reifies human beings as “problems,” the possibility of its being an ameliorative social force remains structurally and ontologically compromised.

### ***The Problematization of Human Being***

To summarize the argument of the previous section, modern bureaucratic administration exists as the pre-eminent means of applying scientific technique in order to control the social setting and actions of human beings – this is succinctly expressed in Weber’s characterization of modern bureaucracy as “domination through knowledge” (1978:225). In order to realize its ends, bureaucratic praxis must function on the basis of a particular comportment towards human beings, one that is essentially consonant with the underlying ontology shared by the natural scientific approach to the physical world, and the social scientific approach to the human world. Therefore, in much the same way that scientific investigation demands the delimitation of reality in terms that render it comprehensible as a totality of analyzable objects, and hence operationally approachable through experimental method and manipulable by technology, the bureaucratic comportment likewise depends upon an implicit belief in the theoretical and practical *problematization of human being*.

Considered in historical, social, and philosophical context, this idea is extremely peculiar; for despite the assimilation of the problematization of human being into the unconsidered, commonsense thinking of the bureaucratic comportment, it is, of course, neither natural nor intuitive to look upon another person as “being a problem.” Actually doing so both arises out of and itself begets profound moral and ethical implications, which may be traced to the idea that encountering someone as a “problem” entails a process of reductive reification and abstraction that effaces personal identity and transforms human being into an objectified entity amenable to

bureaucratic and managerial manipulation and control. These claims remain to be illustrated and justified in later chapters; at the present juncture, it is first necessary to consider in itself the idea of the problematization of human being.

A phenomenological engagement of the topic of the problematization of human being will have to focus upon the following question: *what takes place in the moment of coming face to face with another human being and quite literally thinking of him or her as “being a problem?”* Answering this question requires considering from a phenomenological standpoint how bureaucratic praxis enacts a particular notion of what it means to exist in the presence of another human being. It is a notion, which, quite strangely and radically, accords determinative significance to the presence of the other, insofar as that presence may be bounded and reified as an isolable “problem.” Immediately, then, an implicit but essential distinction emerges between human presence regarded in its existential holism, and human presence engaged through a particular reduction or isolation for certain practical purposes. That we are able immediately and intuitively to make a distinction between the problematization of human being and the indubitable existential presence of which it is a mere reductive abstraction manifests a truth that phenomenology will regard as decisive. It is a truth traceable to what phenomenology takes to be the universal experience of human presence, on the basis of which we know with certitude that human presence is of such a nature that it always resists, eludes, and transcends attempts at reification and abstraction.

It is essential to clarify that abstraction and problematization are not always necessarily identical. Abstraction does not inevitably occur as an alienating or reductionist process. Abstraction exists as an essential and irreducible aspect of interpretation present within any form of encounter, insofar as the ontological totality of experience only becomes significant or meaningful when thought of *as* this or that. Thus, intentionality, understood as the directing of consciousness towards that in the presence of which it stands, functions in one essential respect as

a means of abstracting from the total flux of sensation and experience to create *significance*. The mind never takes in a pure stream of undifferentiated sensation; to the contrary, that anything “makes sense” at all reflects the perennial pre-existence of the interpretive stance towards the world that was characterized above in terms of the hermeneutic circle.

Any encounter, whatever its context, necessarily assumes coherence through the typification of what is already beforehand present to consciousness (Schutz, 1962, *passim*). Recalling the earlier discussion of the hermeneutic nature of understanding, it was shown that experience is coherent and meaningful, because thought has always already interpreted beforehand what it seeks to know. At the level of everyday thought and common experience, and far anterior to any formal, rational analysis, typification makes meaningful what Schutz calls our “prepredicative” thinking (Schutz, 1962:75,79 *et passim*). Language typifies the lifeworld, rendering the flow of experience meaningful through the naming of things, both in general and specific terms: this is a flower, that is a rose; that is a criminal, that is Joe Smith (Schutz, 1962:59-60 & 1970:116-122). Accordingly, with respect to human presence, there is no possible mode of existence that would place us in the pure, undifferentiated presence of another person, or even of our own self-presence. Thought has always already made significant that towards which consciousness intends. The task at hand here is to investigate the particular forms of abstraction and typification that operate with definitive and powerful effect to set the parameters of police-citizen encounters, and to suggest how those forms of interpretive praxis bear a marked ontological affinity to the praxis of social scientific inquiry.

The idea that emerges here – and there is no denying its ultimately normative and moral foundations – is that forms of typification and abstraction vary both in their epistemological and practical effects. This becomes clearer in light of Schutz and Luckmann’s characterization of social action:

Acts are flows of experience that are seen not just in themselves but from my vantage point. They are motivated. The driving motive of an act is the attainment of a goal that it projected in advance by the one who acts. (1989:4)

Schutz and Luckmann provide a strong basis for claiming that the propensity to objectify human presence is inherently more powerful in certain kinds of praxis, not the least example of which is bureaucracy. Once again, the propensity to objectify bears an intrinsic logical and ontological relationship to the underlying intentions and presuppositions of a given form of praxis.

In the case of modern bureaucratic praxis, instrumental rational action occurs with maximum efficiency by means of typifying human beings in ways that reduce to the status of happenstance, extraneousness, or outright irrelevance any aspects of their presence that exceed or transcend those judged meaningful for the accomplishment of the given ends at hand. This suggests why Weber believed modern bureaucracy to be the most rational and predictable form of social administration, and hence the form of administration best suited for a capitalist civil society, and its foundations in abstract market relations. For Weber (1954:193), the logic of market relations depends upon a kind of “absolute depersonalization,” which ensures their continued rationality. The extension of this logic to the entire range of possible social action thus carries with it this same spirit of depersonalization, and all of its attendant consequences.

As a sociologist, Weber’s foremost task was not, of course, to determine the actual processes by means of which depersonalization occurs. For this, it is necessary to turn to philosophical reflection upon social praxis (Schutz, 1962). Applying Schutz’s thought, it becomes possible to identify the phenomenon of the problematization of human being as a specific instance of what he calls “typification” (1962, 1971). Experience is always given to us in terms of “types” – this is how the flow of consciousness is meaningfully interpreted. The police officer on patrol notices a human being, and further notices him to be a male, of a certain age and appearance. His attitude and demeanor can in some way be assessed, even without the officer’s



having to speak with him. In mere seconds, the presence of a human being has been typified with respect to the intended goals of the officer at that particular moment.

Whether it takes place as the bureaucratic problematization of human being by the police, or occurs in any other context, “typification is essentially an abstracting of meaning from the occasion of designation” (Natanson, 1986:45). That is, how the flux of experience comes to be delimited and interpreted is motivated by the way in which I construe the “problem at hand.” Given that processes of typification are always already *social* processes, they frequently assume a commonsense nature, and thereby generate knowledge that is intuitively and uncritically held to be objective and anonymous (Schutz, 1962:21 & 75). The ultimate moral and practical question that demands to be answered in evaluating acts of typification is how we can determine the extent to which a particular act constitutes a meaningful or authentic response.

In considering how police-citizen encounters actualize the problematization of human being, it is necessary to seek out a holistic understanding of the “occasions of designation” defining the field of police action, and then to use that understanding as a comparative basis for evaluating the typifications through which those occasions are transformed into bureaucratically significant moments. This interpretive process will make it possible to bring to critical attention what remains suppressed or otherwise left unconsidered in bureaucratic praxis.

Suppression refers to how any act of typifying functions by delimiting, concealing, ignoring, effacing, or otherwise “suppressing” some aspect of individual identity. The term “suppression” is intentionally chosen here in order to draw an explicit connection to Schutz’s model of the “suppression of primes,” by means of which Schutz explains the relation of typification to rational action (Schutz, 1962:20-21 and Natanson, 1986:52-54). “Suppression of primes” simply describes how a given action,  $A`$  (“A prime”), is performed under a unique set of circumstances,  $C`$ , in order to bring about a desired state of affairs,  $S`$ . Having previously performed the action, we recognize that the same action may be repeated, and will now occur as

A<sup>''</sup>, which will be performed under the circumstances C<sup>''</sup>, and will produce the state of affairs S<sup>''</sup>. The next instance would be represented by A<sup>'''</sup>, C<sup>'''</sup>, S<sup>'''</sup>, and so forth. Schutz explains (1962:21) how the analysis of rational action depends upon understanding typification as a figurative “suppression of the primes,” that is, as a process in which relevance is not attached to the uniqueness of each instance, but quite the contrary, to the “typical” situation described by A, C, and S, with their primes rendered irrelevant, or “suppressed.”

Considered in the abstract, this model merely characterizes how universal meaning is derived from particular circumstance, and in this respect, describes conditions of understanding that are inherently neither good nor bad (*cf.* Gadamer, 1989). Nonetheless, as Schutz notes with respect to analyzing “so-called rational action,” the suppression of primes through typification shows how

[e]ven in common-sense thinking we construct a world of supposedly interrelated facts containing exclusively elements deemed to be relevant for our purpose at hand. (1962:21)

In explicating Schutz’s concept of the suppression of primes, Natanson states its implications for rational praxis in straightforward terms: “the ‘purer’ the type, the greater the suppression” (1986:53).

Natanson goes on to conclude that

[a]bstraction is the instrument of suppression. The primes which are suppressed are, in effect, deemed superfluous or distractive to the type. (1986:55)

Natanson’s argument is particularly germane, because he directly engages the concept of typification with respect to its implications for bureaucratic praxis (1986:53). He notes, for example, how a petitioner in court loses his “ownness” through the process of having his name transformed into a variable that merely gets filled in on legal forms (1986:53). Natanson points as well to the similarity between the bureaucrat and social scientist as two kinds of “privileged

observers,” who both turn their fellow human beings into puppets or homunculi by substituting fictional constructs for human presence (1986:61-64, see, also, Schutz, 1962:42ff).

Natanson is appealing in particular here to Schutz’s use of the idea of the homunculus to describe the abstract model of the human actor that emerges out of the social sciences (Schutz, 1962:42ff.). The respective stances of the social scientist and the bureaucrat rest upon a certain pragmatic fiction, namely that one can become an ideal or privileged observer for the purposes of undertaking certain kinds of action. In their stances, the social scientist and bureaucrat both seek to engage their fellow human beings with a degree of abstraction and detachment that belies the more fundamental relationships defining the existential circumstances of encounter, which are anterior to the self-judged state of “being a privileged observer,” and define the unseen ontological horizon against which such a position is placed. The demands of being a privileged observer are at once social, ethical, and methodological, and can only be attained by excluding from relevance in the course of action one’s “personal inclinations, private interests, particular loyalties, and intimate involvements” (Natanson, 1986:62). When Natanson says of the privileged observer that a “special set of relevances governs his conduct” (1986:62), we may consider how aptly this describes what is imagined to be the stance of the bureaucrat-police officer, who is told “to be objective and dispassionate,” and “to leave his personal life at home” in order to function efficiently, *sine ire ac studio*.

At this juncture, it will be helpful to step back and situate the idea of the problematization of human being with respect to the broader themes of phenomenological critique. Having considered how the problematization of human being rests upon the particular engagement of human presence as an isolable, abstract entity, this hallmark aspect of bureaucratic praxis now shows itself to be fundamentally related to the same ontological precepts guiding the scientific delimitation of the lifeworld. Heidegger’s characterization of the underlying logic of modern science suggests what this entails:

Modern science's way of representing pursues and entraps nature as a calculable coherence of forces. Modern physics is not experimental physics because it applies apparatus to the questioning of nature. The reverse is true. Because physics, indeed already as pure theory, sets up nature to exhibit itself as a coherence of forces calculable in advance, it orders its experiments precisely for the purpose of asking whether and how nature reports itself when set up in this way. (1993:326)<sup>31</sup>

A parallel version of this same process is exactly what occurs in the bureaucratic problematization of human being, which adopts an instrumental rational comportment towards social predicaments, and is structured according to the kinds of resolutions that it has beforehand judged to be meaningful and possible.

In experimental physical science and bureaucratic policing alike, each form of praxis derives its operational possibility not from the intrinsic nature of the respective "objects" of its manipulations, namely the physical world or human predicaments, but from what that nature is presumed to be, in order for praxis to approach it in an efficient, valid, and replicable way. Heidegger's argument in the passage above compellingly explains how, in modern science, what "really matters" – in the fullest sense of this conflation of reality with mathematized *corporeality* – is only that which can be made available for being *put* or *placed* into *frameworks* amenable to scientific analysis. The essential manipulability and passivity of the world in the grasp of such praxis is powerfully reinforced by the fivefold repetition in the German text of differing forms of the verb "*stellen*," which means to put, arrange, position, or place.

While Heidegger makes his argument with particular reference to his critique of the technological "enframing" ("*Ge-stell*") of the world by modern science, the broader implications of his ideas within the context of the dissertation's analysis of bureaucratic and social scientific

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<sup>31</sup> The original German text of this crucial passage appears in *Vorträge und Aufsätze* (Heidegger, 2000:25), and reads as follows: "*Ihre Art des Vorstellens stellt der Natur als einem berechenbaren Kräftezusammenhang nach. Die neuzeitliche Physik ist nicht deshalb Experimentalphysik, weil sie Apparaturen zur Befragung der Natur ansetzt, sondern umgekehrt: weil die Physik, und zwar schon als reine Theorie, die Natur daraufhin stellt, sich als einem vorausberechenbaren Zusammenhang von Kräften darzustellen, deshalb wird das Experiment bestellt, nämlich zur Befragung, ob sich die so gestellte Natur und wie sie sich meldet.*" [emphasis added]

praxis are profound. In general, Heidegger's argument suggests the unacknowledged constitutive influence asserted by an ontology that accepts as meaningful a comportment towards human beings, which approaches them as problems, and then gauges its claimed success on the basis of having done so. It need also hardly be said that the social, ethical, and practical implications of approaching the physical world as a passive entity, amenable to the manipulations of scientific praxis, are far more profound in the context of human phenomena. If, for example, nature becomes "self-reporting" or "self-exhibiting" under the sway of science, the human analogue of such a situation, by obvious virtue of the existential character of human being, involves complex, hermeneutic dialectics of reflexivity. These dialectics will emerge in very practical, mundane situations throughout the dissertation.

Whether we are considering experimental physics or modern bureaucracy, among other forms of praxis, little doubt exists as to their respective monumental power and practical accomplishments. At the same time, it is largely by virtue of these unprecedented achievements that a fallacious notion has emerged, according to which technological accomplishment, efficiency, and predictability by themselves are regarded as a sufficient basis for absolutizing the primacy of the ontological presuppositions out of which they emerge (Heidegger, 2001:27). When such thinking remains unchallenged, it leads to the demand that other modes of thought cede to the claimed ultimacy of scientific descriptions of reality:

[w]hat the human being is, is determined by the methods sanctioned by natural science. (Heidegger, 2001:92)

Or, we might say here, the social and moral significance of human being is determined by the methods sanctioned by social science and its allied forms of bureaucratic administration.

If natural science only makes sense with respect to a particular conception of the ontological character of the physical world and the entities within it, social scientific and bureaucratic praxis strive for a similar epistemological legitimacy by extending the range of the

natural scientific ontology to the realm of human being. As a result, human being becomes meaningfully “available” as the object of investigation, prediction, analysis, and control:

Contemporary psychology, sociology, and the “behavioral sciences,” which manipulate man as if by remote control [*ferngesteuert*], belong to the Galilean-Newtonian conception of nature. The human being is also [understood as] a spatiotemporal point of mass in motion. (2001:154)

Thought of in this way, human being is reduced to a mere *object*, a notion that emerges in its full practical significance in light of the German term, “*Gegenstand*,” which also means “object” or “thing.” By expressing literally the relationship of “standing-against” (“*Gegen*” + “*stand*”), *Gegenstand* brings to light the claimed position of method with respect to its “object.” Method presupposes that it occupies an autonomous, secure ground from which it can array itself against that which it seeks to know, manipulate, and control.

For phenomenology, a critique of the idea of human being understood as an object or as a thing will regard as decisive the seemingly unproblematic process of “translation” upon which “seeing-this-as-that” depends. It is for this exact reason that, up to this point, much has been made of how science and its forms of praxis imagine, conceptualize, regard, encounter, treat, or approach human beings *as* this, or *as* that. Indeed, this pivotal term appears in the chapter title itself – “approaching human beings *as* problems.” This attentiveness to the word “*as*” owes much to Heidegger’s identification of its interrelated ontological and epistemological significance, on the basis of which he discusses the “*as-structure*” (*Als-Struktur*) of understanding (1996:139ff.).<sup>32</sup>

The “*as-structure*” particular to the problematization of human being reveals how it acts to *translate* that being into a form of understanding on the basis of which it becomes *approachable* in a certain manner. To use the word “*as*” is to predicate something of something

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<sup>32</sup> The core of Heidegger’s description is as follows: “Saying what it is for is not simply naming something, but what is named is understood *as* that *as* which what is in question is to be taken. What is disclosed in understanding, what is understood is always already accessible in such a way that in it its ‘*as* what’ can be explicitly delineated. The ‘*as*’ constitutes the structure of the explicitness of what is understood; it constitutes the interpretation” (Heidegger, 1996:139-140).

else: I see or understand this *as* that. But – and here is where phenomenology’s analysis of the ontological conditions of understanding proves decisive – the simplest act of “seeing-this-as-that” necessarily depends upon there being a prior interpretive relation to the existential whole (“this”), which I then interpret “as that.” *Thus, to understand my fellow human being as a problem, or as an object, is only possible on the basis of typifying a more elemental or essential truth about human presence.*

The “as-structure” of policing, then, represents the totality of the analytic and practical methods that purport to allow human beings to be engaged “as problems,” for which “solutions” may be enacted through appropriate bureaucratic action. This demands that human presence must be delimited and reduced to a fungible, manipulable object or thing. Drawing upon Berger and Luckmann’s well-known description of reification (*Verdinglichung*), it may be said that to reify human presence in such ways is to approach it *as if* it were something other than human (Berger and Luckmann, 1966:89-92). By causing human beings to stand over against what is, in actuality, their own world and the result of their conscious activity, reification has an alienating effect that transforms what is experienced into a “strange facticity” (Berger & Luckmann, 1966:89). This is why reification necessarily acts to dehumanize and objectify the focus of its attention.

Berger and Luckmann’s analysis considers reification primarily with respect to its existence as a “modality of man’s objectification of the human world” (1966:89). At its extreme, when reification is enacted upon human presence itself, the result is a transformation of identity. In this way, the other person merely becomes for me “*nothing but*” that into which he is typified (Berger & Luckmann, 1966:91, italics original). Even more than this, in a manifestation of what Natanson (1986:64-66) calls the “doubling effect” of typification, the act of constructing oneself as an “outside observer” effectively delimits one’s presence to the other person, thereby attenuating (or at least transforming) the nature of the encounter. This describes, of course, the

detached clinical or bureaucratic stance. Though such attitudes have doubtless existed in different forms from time immemorial, the modern, neutral observer, who is held to occupy an Archimedean point, is a driving force behind the logic of bureaucratization and its depersonalization of social interaction through its transformation into the anonymous control and mediation of the social realm (see Schutz and Luckmann, 1989:94-97).

We have arrived at the most elemental question underlying the exposition of the problematization of human being, namely, *what must we think human existence to be in order to believe it possible to reify it as a problem?* The answer to this question lies in the notion of the subject, which underlies modernity's predominating conception of human being.

### ***The Human Being as Subject***

As the discussion of the problematization of human being made clear, the abstraction, typification, or reification of a given entity are the necessary preconditions for its being brought within the purview of scientific analysis. Only by being conceived beforehand in terms that allow for measurement, calculation, prediction, and other experimental operations can something be regarded and approached *as* an object meaningful to scientific understanding. In the case of bureaucratic praxis, what Schutz calls a "system of relevances" (1962:41) will define very clearly what aspects of a given moment of human encounter or action are significant with respect to the accomplishment of a predetermined, instrumental rational goal. This much is already apparent. What demands careful consideration at this juncture is the actual conception of human being, on the basis of which it is assumed that operations such as its reduction to a "problem" are deemed to be real possibilities in the first place.

Consistent with analyses central to the phenomenological tradition, the argument to be presented here will propose that the ontological foundation of the scientific and bureaucratic comportment ultimately rests upon the conceptualization of human beings as *subjects*. Phenomenology and other philosophical perspectives have long attached enormous significance



to what they broadly consider to be the tandem evolution of scientific reason and the philosophical anthropology of the “subject” throughout the historical development of modernity.<sup>33</sup> According to one of the more influential versions of this analysis, which has gained particular force in phenomenological circles primarily by way of Heidegger’s work (esp. 1996), the radically historical character of the notion of the “subject” has long since passed into forgetfulness, so that, now, we are accustomed to thinking unconsciously and intuitively of human beings as “subjects,” without any critical attention to the contingent nature of the idea of human presence as subjectivity. The result is that, over a period of centuries, the notion of the “subject” has become absolutized as the taken-for-granted ontological basis defining the “true and objective reality” of human presence.

For modernity, the subject is regarded as the indubitable and absolute foundation (*fundamentum inconcussum*) of human existence (see Heidegger, 2001:117). That is, from the standpoint of modern thought, all of the particular qualities of human being – vitality, consciousness, rationality, and so forth – are held to be predicates of an abstract entity defined as the “subject.” The apparent complexity of this idea may be made much more simple by following Heidegger’s consideration (1982a:125-129) of the idea of the human being as subject in relation to the grammatical and logical notions of a subject. In a sentence, the “subject” is that to which the predicate refers; it is that “about which” the predicates speak. Phenomenology is troubled by how modernity has stripped human being of any essential content of its own, and merely made it the abstract, contentless substratum or “repository” of various predicates (Heidegger, 1982a:127 and 2001:117-118). So regarded, human being loses all inherent value or meaning.

The reification of human beings as “problems” is only one particular configuration of subjectivity; among its other particularly monumental instantiations are these: the *ego cogito* of

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<sup>33</sup> A lucid, concise analysis of this trend may be found in Habermas (1987a).

Cartesianism, the self-interested “individual” of liberalism and political economy, the *tabula rasa* of Locke’s empiricist epistemology, the Kantian subjectivization of reason and judgment, the Freudian ego, and so forth (*cf.* Heidegger, 1996:19). Together, these examples represent an interrelated set of configurations of subjectivity, all of them grounded alike in the concept of the subject.

In Heidegger’s words,

“[t]hat period we call modern. . . is defined by the fact that man becomes the center and measure of all beings. Man is the *subjectum*, that which lies at the bottom of all beings, that is, in modern terms, at the bottom of all objectification and representation.” (1982b:28)<sup>34</sup>

For Heidegger, the idea of human being as subjectivity reflects the fateful reification of consciousness as something objectively present to itself (1996, *passim*). To understand Heidegger’s point, it is necessary to note the traditional philosophical meaning of “subject” as “substratum.” As has already been noted, this meaning endures in the grammatical concept of the “subject,” as the topic of a sentence.

Descartes located the indubitable substratum of human being in its existence as *res cogitans* – a “thinking thing” – and thereby effectively established the presence of consciousness as the reified object of its own attention: “*cogito, ergo sum.*” By virtue of their self-conceptualization as “subjects,” modern human beings come to stand reflexively over against themselves and all else upon which thought reflects. In this way, human being’s consciousness of itself as subject becomes the object of its reflections. As Heidegger puts it, “[t]he subjectivity of the subject is therefore synonymous with self-consciousness” (1982a:152, see also p. 157). The ego as thinking thing stands over against itself as subject to object, and its subjectivity lies

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<sup>34</sup> Quoted in Habermas (1987a:133); the original passage appears in Heidegger (1982b:28). According to Habermas, “Heidegger’s originality consists in delineating the modern dominance of the subject in terms of a history of metaphysics. Descartes stands in the center, as it were, between Protagoras and Nietzsche. He conceives of the subjectivity of self-consciousness as the absolutely certain foundation of representation; being as a whole is thereby transformed into the subjective world of represented objects, and truth is transformed into subjective certitude” (Habermas, 1987a:134).

precisely in its ability rationally to grasp its own “contents.” *Thus, in the modern age, the human being as subject becomes the object of its own forms of praxis and speculation.*<sup>35</sup> This momentous transformation in human self-conception nonetheless remains detached from critical awareness:

Every idea of a “subject” – unless refined by a previous ontological determination of its basic character – still posits the *subjectum* (*hupokeimenon*) *ontologically* along with it, no matter how energetic one’s ontic protestations against the “substantial soul” or the “reification of consciousness.” Thingliness itself needs to be demonstrated in terms of its ontological source in order that we can ask what is now to be understood *positively* by the nonreified *being* of the subject, the soul, consciousness, the spirit, the person. (Heidegger, 1996:43, italics original)

What Heidegger’s critique and other arguments like it reveal is that human existence self-conceived as *subjectum* is not the specific historical effect of the rise of modernity, but the ontological basis that makes possible modes of self-experience and self-reflection that are distinctly modern (see Dreyfus and Rabinow, 1982:16-43, esp. pp. 26ff.).

Modernity’s absolute uniqueness lies in its reconfiguration of lived experience in all of its sociohistorical and existential modalities into “themes” and “problems” shaped by varying instantiations of subjectivity. The self-reflexive constitution of human existence as abstract subjectivity or “selfhood” thereby becomes dialectically interrelated to the rationalization and reification of the lifeworld into “worldviews,” “cultures,” “institutions,” and so forth (Habermas, 1984:157ff and 212ff). In other words, whether at the personal, interpersonal, or world-historical

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<sup>35</sup> This idea of speculation should be understood in a literal sense: on the basis of its supposed self-certainty, the subject becomes the mirror in which the world and self are reflected. This paradoxical relationship lies at the center of Foucault’s analysis of the modern subject, and is precisely what he sees illustrated in Diego Velázquez’s painting *Las Meninas*, a provocative reading of which opens *The Order of Things* (1970). Habermas sees a similar connection between Cartesian metaphysics and the speculative quality of knowledge: “In modernity, therefore, religious life, state, and society as well as science, morality, and art are transformed into just so many embodiments of the principle of subjectivity. Its structure is grasped as such in philosophy, namely, as abstract subjectivity in Descartes’ ‘*cogito ergo sum*’ and in the form of absolute self-consciousness in Kant. It is the structure of a self-relating, knowing subject, which bends back upon itself as object, in order to grasp itself as in a mirror image – literally in a speculative way” (Habermas, 1987a:18). Habermas goes on to note the significance of Foucault’s reading of *Las Meninas* (p. 259). For further discussion, see Dreyfus and Rabinow (1982:26ff).

level, the experience of modernity, or, more precisely, the consciousness of “being modern,” is grounded in the experience of one’s own existence and the existence of others as “subjectivity.”

For modernity, following its Cartesian legacy, the thinking ego is subjectively given to itself as the factual object of its own consciousness. However, this leads to an ontologically grounded self-alienation and self-estrangement, because human being self-conceived as “subject” has already lost sight of its own constant, vital self-transcendence. That is, human being is always more than it can say or predicate of itself, or than others can say predicate of it. Human being cannot be objectively present; its more authentic reality is its self-constancy (*Selbständigkeit*), on the basis of which it is reducible neither to substance nor to subject (Heidegger, 1996:281). It is nothing less than mystery (Marcel, 2001).

### ***Co-Presence Versus Intersubjectivity***

If we accept modernity’s ontological conception of individual human beings as “subjects,” then it logically follows that encounters between them must necessarily be interpreted and considered meaningful primarily as moments of *intersubjectivity*. The idea of intersubjectivity, as it is used in this dissertation, describes any one of a range of reductionist notions of human interaction, all of which ultimately regard encounters as the engagement between atomistic “egos” or “subjects.” Understood in this way, intersubjectivity contrasts radically with the notion of *co-presence*, which, proceeding from phenomenological descriptions of human encounter, aims at a more holistic representation of what phenomenology takes to be the irreducible existential foundations of interaction.

From this standpoint, the existential character of human presence sets it apart as absolutely distinct from the mode of presence of all other entities. The “here” or “there” of a human being is never equivalent to the “here” or “there” of a rock, a tree, or a chair. This is because human presence resists all reduction to what Heidegger calls “thingliness” (*Dinglichkeit*) or objectivity (1996:43). To be sure, the same may be said in certain respects of the rock, tree, or

chair; however, the case of human presence is absolutely unique (Marcel, 1951:15; Husserl, 1960:89ff.). This idea may be elucidated further if we think of human existence in literal terms, as “ex-istence,” that is, as being essentially a “*standing forth*” or “*standing out*” (Lat. *ex- + sistere*). Heidegger clarifies this concept further by speaking of human existence as “Ek-sistence” or “ek-stasis” – a standing out or standing forth (*Hinaus-stehen*) from stasis (1982a:169-170, see also 1996 and 2001, *passim*).<sup>36</sup>

This is no mere etymological nuance; quite the contrary, it marks the denotation in ontological terms of precisely what sets apart human being from the being of other entities: *things are, but it is only humans who truly exist*.<sup>37</sup> Heidegger summarizes this point in critiquing the unquestioned acceptance by modern psychiatry and psychology of the notion of human being as reducible to something “objectively present:”

Since ancient times, inanimate things have been represented as being in space and time. But the human being exists in an entirely different way in space and time than things insofar as he, as a human being, is spatial and temporal *himself*. When I translate “ek-sists” as “standing out into,” I say this in opposition to Descartes and against his idea of a *res cogitans* [thinking thing] in the sense of immanence. (2001:218)

Heidegger’s argument is of direct relevance for developing a phenomenological critique of bureaucratic praxis and its problematization of human being in police-citizen encounters. Accordingly, his admonition that his analysis is more than “superfluous philosophizing for doctors” (2001:218) demands to be considered as applying with equal forces to those engaged in

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<sup>36</sup> For an elaboration of this point, see Kockelmans (1972). See esp. pp. 9ff, where Kockelmans explains the concept of the “ecstatic” nature of human being: “[e]k-sistent man is essentially a worldly reality that ‘gives meaning.’ As *lumen naturale* man originates meaning in everything he does – in every act, in his concern for his fellow men and things, in his work, thought and games” (p. 9).

<sup>37</sup> It might be objected here that Heidegger’s distinction relegates non-human animals to the status of things. The context of the present dissertation cannot accommodate a just consideration of the status of animal being in relation to Heidegger’s phenomenology; nonetheless, a brief comment is in order. If we follow Heidegger’s argument, it seems impossible that any being, except one that exists as *Da-sein*, could even pose the question of the ontological status of other creatures. Taking this entire argument, and viewing it in phenomenological terms, it would appear that the process of wondering whether or not non-human creatures are conscious indicates what is, so far as we can indubitably tell, the uniqueness of the human self-conception.

the problematization of human being within the context of bureaucratic administration or social scientific research.

What might seem at first glance as being infinitely remote from the operational exigencies of ordinary praxis actually proves to be the fatefully unconsidered basis for everyday actions that unfold with the gravest consequences. Just as the presuppositional origins of the medical-scientific compartment criticized by Heidegger (2001) in the Zollikon Seminars derive from the transformation of human presence into abstract subjectivity, which enables it to become graspable as “symptoms,” “models,” or “pathologies,” bureaucratic praxis likewise structures its actions in a field such as policing according to the notion that it is both possible and desirable to engage human beings and their predicaments as objectified “problems.” In either case, praxis encounters human beings in terms of a “concerned handling of objects,” and expunging human presence from conscious view and authentic engagement, thereby effectively restricts the optimal results of action to the production of a “more polished object” (Heidegger, 2001:215; see, also, Schutz, 1962:21ff.).

By this point, it should at least be apparent preliminarily that the conflicting interpretations of human encounter as intersubjectivity or co-presence center upon a distinction that is no mere matter of intellectual curiosity or theoretical hair-splitting.<sup>38</sup> In actuality, the

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<sup>38</sup> The distinction between intersubjectivity and co-presence made in this dissertation is *not* consistent throughout phenomenology. In some instances, notably Zaner’s work (1981), the notion of co-presence is used to describe only those situations in which mutuality is marked by a degree of intimacy of one form or another. For the present purposes, however, such a limitation runs contrary to the task of demonstrating the existential foundations of human encounter, apart from the particular nature of the intentional circumstances within which it occurs. That being said, other phenomenologically oriented philosophers (*e.g.* Gabriel Marcel) have often used the concept of “intersubjectivity” in much the same way that “co-presence” is used here, namely to express the existential qualities of holism, self-transcendence, and mystery that characterize human encounter, and which constitute its intrinsic resistance to abstractive analysis or reification. On this point see Schilpp & Hahn, (1984). Nonetheless, despite the undeniable rigor and moral force underlying such articulations of “intersubjectivity,” exception to this usage must be still taken in the immediate context, primarily insofar as the concept of intersubjectivity remains (in however vestigial a fashion) tied to modernity’s fateful reduction of human beings to “subjects.” At all events, for the purposes of the present discussion, it is not necessary to treat these nuanced variations in terminology as other than a peripheral matter. It is far more crucial to bear in mind that, however much variation exists among the use by phenomenology of the terms “intersubjectivity” and “co-presence,” these

preconceived, unconsidered assumptions that a given form of praxis holds about the “object” of its actions will exercise a powerful effect over the way in which those actions are undertaken. Within the context of police-citizen encounters, the problematization of human being renders human presence available and decipherable on the basis of an operational comportment that enables officers to act from a standpoint that gives little heed to a notion of the relationship of human beings to one another and to the world at large, a relationship that what Luijpen (1963:178) calls “a unity of reciprocal implication.”

This means that, just as human presence differs absolutely from the presence of non-human entities, human encounters with their fellow human beings are absolutely different from encounters with non-human beings or things. No matter how formal or methodic processes of analysis and praxis may reify, objectify, typify, or otherwise abstract the presence of other human beings, I am always already with them beforehand, first, foremost, and irreducibly in terms of co-presence (Gurwitsch, 1979). This is because my own presence in the world is never that of an isolated, solitary ego that suddenly comes upon others like it; rather, it is always already a co-presence, understood in terms of my existential state of being-with (*co-esse*) others (Marcel, 1951:13-28; Ricoeur, in Schilpp & Hahn, 1984:484; see also Zaner, 1981:234.). Zaner expresses this ontological relation of the self to others in terms of the concept of *mutuality* (1981:199ff.), by means of which he illustrates how an awareness of the existence of the other is the necessary precondition for my having any meaningful sense of “myself.”

This seems obvious enough; yet, how might we frame these ideas in more concrete terms, in order to evaluate their relation to everyday experience and praxis? The first step is to understand how all action and thought occur within what may be called the “horizon of co-

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differences nonetheless remain situated with respect to the common intent of all phenomenological reflection to bring thought back to its roots in the constitutive conditions of understanding. Such that this is the case, even where clear terminological and interpretive differences and inconsistencies exist, phenomenology in general may be seen accurately as being in wide agreement that human existence is not meaningfully reducible to abstract, objective, or factual presence.

presence.” To assess, evaluate, doubt, judge, or otherwise interpret the manifestations of the presence of another human being has as its unshakable foundation an intuitive knowledge of that presence itself, which, of course, is never cast into doubt. Notions such as authenticity, accuracy, and responsiveness all proceed from the prior awareness that any form of praxis or judgment is subject to evaluation with respect to the extent to which it succeeds, or fails, at engaging the presence that transcends the limited grasp of analytic or methodic process.

Two examples related to police-citizen encounters will serve to illustrate this point. The first instance considers how the adoption of a stance of “clinical detachment” attempts to facilitate efficient, unemotional praxis by bringing about a conscious disengagement from co-presence. It is with this idea in mind that the author was taught in the police academy that the best way to encounter (or, more colloquially, “deal with”) dead human beings was to pretend that a body “is just like another piece of furniture in the room.” This attitude is presented as a necessary and intrinsic element of the matter-of-fact, bureaucratic, neutral frame of mind, on the basis of which a dead human being may be approached “objectively,” and thereby “subjected” to the various forms of analysis, measurement, and examination required for conducting a proper criminal investigation. The attitude is likewise encouraged as a means of developing appropriate “coping mechanisms,” which are deemed essential for maintaining emotional equilibrium and psychological stability in the face of tragedy, revulsion, and horror.<sup>39</sup>

The second instance is drawn from Gadamer’s distinction between a dialogue and an interrogation (1989:385 & 469). A dialogue (*Aussagen*) depends upon the mutual openness of the interlocutors to one another. In a genuine dialogue, the interlocutors strive to seek out the truth in each other’s words, and do not merely treat those utterances as a means of reducing the

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<sup>39</sup>Although police officers, like firefighters, emergency medical personnel, physicians, nurses, medical examiners, and others whose work brings them into contact with the dead, grow accustomed to being in the presence of dead bodies, bodies are never truly encountered as mere objects, despite the range of emotional and psychological machinations that would strive to make it otherwise. For an insightful consideration of several related points, focusing upon how medical students comport themselves towards cadavers, see Zaner (1981:27-31). The topic of encounters with death will be treated further in Chapter 9.



person who spoke them to a particular kind of objective understanding. An interrogation (*Verhör*), on the other hand, or a therapeutic conversation, depend upon the ability of the interrogator or analyst to approach the other person purely in terms of abstract, isolated individuality, such that his words are merely taken as evidence of a more fundamental truth, which may be found and laid bare through the application of appropriate methods and techniques.

In formal interrogations, or even in less structured investigative encounters, the police officer engages human beings as “suspects,” such that they become the isolable embodiment of certain facts, circumstances, and data, which are deemed wholly separable from their presence within a particular person, except insofar as that particularity serves as a locus for legal culpability. This is why, although the investigative objectification of one’s interlocutor may yield certain pragmatic or instrumental results, such instrumental forms of human engagement inevitably generate questions marked by inauthenticity (*Unechtheit*) (see Heidegger, 2001:210-211).

In both the case of the encounter with the dead body, and the encounter with the suspect to be interrogated, the underlying comportment towards one’s fellow human being is, upon closer consideration, quite uncanny. What is it, then, that is the focus of heedful attention in a conversation or dialogue, which remains ignored, or is even obliterated, in the interrogation? Similarly, what is consciously suppressed (yet, paradoxically, thereby heeded, however inadequately) when a police officer attempts to encounter the body of a dead, fellow human being as if it were merely an object? The distinction between intersubjectivity and co-presence offers a way of answering such questions. The fact of objective presence, and the awareness of the presence of things that accompanies it, has a transparent quality that makes it absolutely different from human presence. It is not merely that the living human face consciously returns my gaze; the example of the dead body assuredly makes this point.

When the expectations and preconceptions that one takes to an encounter are shattered, especially abruptly, the opportunity for the transcending of inauthenticity emerges as a more distinct practical possibility. Katz (1988:6-7) makes a similar point by way of describing the interrogation of a suspected Viet Cong prisoner by a US soldier. When the woman's absolute fear manifests itself in a complete loss of bodily self-control, which the interrogator cannot ignore, the absurdity and moral vacuity of his position emerge with such force and alacrity, that the interrogator's previously coherent sense of the moment is transformed in a way that forecloses any attempts at further effacement. In a much less extreme example, one of the author's preferred means of calming anti-police tirades is to hold out the keys to his patrol car and ask the angry citizen if *he* would like to finish the rest of the shift. More often than not, this gesture serves as a "discursive rupture," on the basis of which emotions subside rapidly, and a meaningful conversation about the underlying matter at hand ensues. Obviously, instances of torture and other war crimes, or the author's inability to succeed at calming every angry person whom he meets, point – with vastly differing moral force – to the impossibility of totally overcoming the logic of effacement, abstraction, and problematization. At the same time, however, the real possibility for "imagining otherwise" in the literal face of crisis and danger shows the illusory and morally feeble qualities of interpretations that reify the metaphysical foundations of praxis.

The kind of thinking that can transcend reification, and restore the keen attunement to what Zaner calls "vivid presence" (1981:229ff.), stands to benefit inestimably by engaging in the kind of phenomenological reflection that "brackets" the unquestioned foundations of praxis, and reveals what is taken for granted in the problematization of human being. As has been suggested here, at least part of what such reflection reveals is how the notion of intersubjectivity accepts *a priori* a conception of the subject or self as the definitive mode of human existence, such that the ego stands over against others, who exist as an "alter ego" (Natanson, 1970:31). By contrasting this attenuated conception of human encounter with the notion of co-presence, phenomenology

suggests, however, that my interlocutor is not foremost and primordially present to me as another “subject.”

### ***General Phenomenological Reflections on Human Encounter***

Having considered in general, theoretical terms the distinction between intersubjectivity and co-presence, it now remains to discuss how it is that phenomenology has actually attempted to explain human encounter. To “encounter” another human being has several nuanced definitions. The term varyingly means a face-to-face meeting, an unexpected or chance meeting, a meeting of momentary or fleeting duration, or an adversarial or hostile interaction. “Encounter” derives from the Latin *incontra*, a word combining the notions of “in” and “against.” “*Incontra*” provides a glimpse of the ontological foundation of human co-presence in the way that it unites grammatically and semantically what is united existentially in human encounters. Like the word *incontra* itself, being with another is always a unity of “in” and “against.” To know that I am with another human being always means I recognize that I am *in* the presence of another (“another”), over *against* whose existence I grasp my own. To describe the meeting of two human beings as an “encounter,” or to use the verb “encounter” thus brings to light the intuitive and fundamental understanding of co-presence as being in the presence of another, which is necessarily the *recognition* of the other as someone other than myself.

The concept of “recognition” gives a further indication of the ontological conditions of human encounter, and of their immediate relevance for ordinary praxis. “Recognition” is just that – a “re-cognizing” – a thinking through again or acknowledging of that in the presence of which (or whom) I find myself. For the police officer, social scientist, or anyone else, recognizing another human presence is thus a particular interpretation or thematizing of what occurs within the existential horizon of co-presence. That any such recognition is dual and reciprocal points, of course, to the boundlessly complex dialectical nature of human encounter.

Phenomenology has developed numerous, wide-ranging interpretations of human encounter, which suspend, bracket, or transcend the notion of human presence as the presence of an isolated “subject” or ego. In doing so, phenomenological thought exposes the radical historicity of the “subject,” and also brings to light dimensions of human presence that remain essentially obscured when it is merely conceptualized as “intersubjectivity.” While many of the specific means by which phenomenology challenges abstract notions of intersubjectivity will be left to later consideration in the chapters in Division II, it is necessary at this early juncture to consider preliminarily some phenomenological approaches to the interpretation of encounter.

With respect to the topic of this dissertation, especially relevant analyses of the nature encounter may be found in the writings of Bakhtin (1986, 1993), Buber (1958), Goffman (1961b, 1961c, 1967), Gurwitsch (1979), Heidegger (1996), Husserl (1960), Levinas (1979, 1998), Marcel (1951, 2001), Merleau-Ponty (1962), Natanson (1970, 1986), Sartre (1966), Scheler (1970, 1973), Schutz (1962, 1971, and 1997), Simmel (1971), Theunissen (1984), and Zaner (1981). Without denying the vast (and in some cases incommensurable) differences among the work of these various thinkers, it is nonetheless fair to say that they share a general regard for human encounter as having an irreducible, ineffaceable quality that transcends and eludes all attempts at definitive, categorical reduction.

Of all the names just mentioned, Schutz’s stands out, because it is by way of his thinking that phenomenological philosophy is most closely engaged with the theoretical and methodological reflections of sociology. This is not least of all because Schutz is largely responsible for the introduction of phenomenological thought to social scientific research in North America (see Spiegelberg, 1982). Given the subsequent intellectual result of this fact – namely, that no phenomenological inquiry into the social world can rightly ignore Schutz – what follows here is a brief, phenomenologically oriented consideration of human encounter that is strongly influenced by Schutz’s work, though draws freely as well upon other sources. To be

sure, Schutz's thought cannot be neatly reconciled or synthesized with every phenomenological study of human encounter. At the same time, it would needlessly distract from the broader task at hand to become waylaid by a sustained discussion of theoretical debates that fall far beyond the scope of the present inquiry.

The most fleeting encounter between two human beings unfolds and occurs with immeasurable complexity, which by its nature eludes totalizing knowledge, definitive description, or analytic containment. One human being stands before another, gazes meet, and voices are heard: most simply, a presence is felt and known. At its most essential level, then, any human encounter proceeds from the absolute awareness of an irreducible human presence (Schutz, 1971:24). Regardless of what I know or do not know in specific about this other person, and apart from our particular social relation, I am certain that what stands before me is another self, alive and conscious, a fellow human being with whom I am together present at a discrete point in time and space (Schutz, 1971:21-24).<sup>40</sup>

I know I am alive and self-aware, and know that the actuality of this situation is not identical to my consciousness of it: that is, as a human being, I have the uncanny ability to stand over against myself and the world, to make thematic and meaningful my own existence and the existence of other people and other things (see Schutz, 1962:152 & 1997:102ff.). More than this, whenever I find myself in the presence of other people, I take it for granted that they experience themselves and the world in exactly the same way. Whatever interpretation my interlocutor or I may ascribe to the moment, in the intertwining of our reciprocal self-awareness, each of us accepts without conscious reflection that the other exists as we do: it is the indubitable fact in which all human encounters are grounded.

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<sup>40</sup> Fully to understand Schutz' argument, it is essential to construe time and space in a primordial, existential sense, rather than in the abstract sense of mathematized space-time.

Schutz defines this awareness of another human presence as the “*Thou-orientation*” (*Du-Einstellung*) (1971:24, 1997:163). He is careful to note that the Thou-orientation does not result from a specific evaluative judgment; rather, it is what he calls the “prepredicative” awareness of another human being *as such* (Schutz, 1971:24 and 1997:164). All other acts of interpretation and interaction proceed from this ontological basis of existential communion. It follows that any formal interpretation or ascription of meaning to specific human actions occurs within the historical situation of everyday life that is our ineluctable existential condition. It is for this precise reason that the Thou-orientation is an ideal concept, which never actually occurs in “pure form,” since we can only experience another human being in the particularity of specific circumstances (Schutz, 1971:24). Rather, actual experience occurs only from specific intentional stances.

Within this lived reality of everyday experience, the participants are simultaneously both within and beyond the moment, speaking of it, and mindful of “being-here.” To exist as a human being means constantly to interpret the moments of that existence, both consciously and unconsciously. This may be thought of as the “*momentous quality of ordinary life*”: to divide the passage of time into “moments” suggests the dual character of each event as both “momentary” and “momentous” – transitory, yet consequential. We interpret an event’s significance, and in doing so, imbue it with ever-transforming meanings. This is the difference between mere sensation, which occurs in any sentient creature, and conscious experience:

no particular thought reaches through to the core of our thought in general, nor is any thought conceivable without another possible thought as a witness to it. (Merleau-Ponty, 1962:400).<sup>41</sup>

As we continuously bear witness in this way to our own lived experiences, and in so doing perpetually interpret their meaning, we judge what seems most meaningful and significant

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<sup>41</sup> Compare Aristotle’s distinction between experience and sensation in the *Metaphysics*, Book A, 980a25-981b1 (Aristotle, 1984:1552-1553).

within the immediacy of a particular moment, according to the intent we have in mind. It is our intended purpose that determines the way in which the flux of experience is made relevant (Schutz, 1970:111-112). Therefore, in experiencing the reality of the world, we grasp it in the ways we deem most conducive to realizing our chosen ends (Schutz, 1962:3-5). This seems clear enough; yet, it still fails to explain the matter in full.

Social scientific or bureaucratic praxis, which may both be regarded as the manipulation of “social objects,” depend, as has already been explained, upon the configuration of the world into an ensemble of such objects. Schutz calls this process of configuration the “construction of objects by thought” (Schutz and Luckmann, 1989:231), and describes how it is achieved by taking one’s existential “situation,” and transforming it into a “problem” through the radical exclusion of anything that is judged irrelevant for achieving the pre-chosen end. The resulting decision of relevancy

. . . determines the level of scientific research in the broadest sense, that is, the abstractions, generalizations, formalizations, idealizations, in short, the constructs required and admissible for solving the problem (*indeed even the conditions under which it can be considered solved*). Schutz and Luckmann, 1989:232, emphasis added)

The applicability of Schutz’s argument to interpreting police-citizen encounters should be self-evident. By clearly demonstrating how the determination of relevancy occurs on the basis of the hermeneutic-circular (*not* tautological) relationship between the interpreter and the interpreted (the “subject” or object”), Schutz points to the same conditions of understanding that prevail in the kinds of bureaucratic encounters constituting the realm of police praxis.

On the one hand, the “scientific attitude” of the researcher, and its analogue in the “neutral, impartial” bureaucratic stance, each operate by seeking to exclude or circumscribe the ineluctable fact of the interpreter’s own presence, except insofar as it is narrowly relevant in methodological or operational terms. On the other hand, however, that exclusion is possible, because an affirmation has been made that only certain elements of the encounter are practically

relevant. If, then, as Schutz argues, a specifically identified problem is “the ‘locus’ of all possible constructs relevant to its solution” (Schutz and Luckmann, 1989:232), and thereby becomes the sole basis for determining the structure of relevance (1989:233), it becomes very easy to become so fixated on “solving the problem” that the broader horizon framing such practical thinking recedes from view.

In a related observation that may be applied readily to the interpretation of policing praxis, Marcel (2001:127) notes that the decision to be a “mere spectator” depends upon recognizing a greater reality and higher level of engagement, which one then affirmatively ignores. That is, being a disengaged presence becomes possible only by having first been *engaged*. The police officer arriving at the scene of a call has made certain commitments, relating to the discharge of official duty, and also, perhaps, relating to “emotional self-preservation,” as that idea is conceived by the cultural traditions of policing. Sociological reflection turned back upon the social sciences themselves shows similar traditions to delimit one’s own presence in the constant admonition to researchers that they “distance” themselves in order to adopt a “neutral” or “objective” stance. In either form of praxis, bureaucracy or social science, cultural traditions promulgate the value of detachment and compassionate indifference, the oxymoronic sound of which betrays its existential tenuousness.

Whatever its good intentions, then, such thinking proceeds from the misguided assumption that human presence can be reduced to a manageable, instrumental capacity:

This is why the spectator, also, betrays his own nature when he chooses to regard himself as a mere recording apparatus; and it is enough, indeed, for him to reflect for a second on the emotion which a spectacle is capable of arousing in him, for the image of himself as a mere apparatus, with which he was satisfied at first, to be at once shattered. (Marcel, 2001:127)

Here, recalling Heidegger’s notion of human being as *Da-sein*, we solidify the basis for regarding method in phenomenological terms as a question of proximity: a human action has a creative,



interpretive dimension, which occurs fundamentally because human being is always “there” to itself in the way that it exists.

The meaningful self-presence of human beings to themselves, and the ways in which that self-presence manifests itself inwardly and reciprocally in encounters with others, define the ontological conditions within which interpretive praxis – be it social science or policing – is constrained to act. The police officer and the social science researcher are each engaged in a process of second-order interpretation – namely, trying to find and attach significance to the actions of fellow human beings. Given the extent to which bureaucracy and social science number among the most predominant influences upon the articulation of our individual self-conceptions, the “double hermeneutic” effect of bureaucratic and social scientific praxis upon everyday life recreates dialectically the conditions for reification and self-estrangement (see Marcel, 2001:183 and 1951:22-23). This characterization of the modern condition must be borne carefully in mind, as part of the critical stance that the reader is urged to adopt in moving on to the third chapter of the dissertation, which comprises a review of existing literature on police-citizen encounters.

## CHAPTER 3

# EXISTING APPROACHES TO THE INTERPRETATION OF POLICE-CITIZEN ENCOUNTERS

*“The supreme achievement would be: to grasp that everything factual is already theory.” (Goethe, 1986:116)<sup>42</sup>*

### ***Introduction: Horizons of the Question***

*What happens when police officers encounter citizens?* Criminology has sought to answer this question from a wide range of theoretical perspectives. These perspectives and the answers that they yield are summarized in this chapter. The literature review that follows here considers the various criminological and other social scientific contributions towards developing understandings of police-citizen encounters, and, most important, suggests what these answers leave unresolved, unconsidered, or taken for granted. At the same time, careful attention is given to the fruitful connections that potentially stand to be drawn between existing research on police-citizen encounters, and the kind of phenomenological analysis undertaken in this dissertation. Given this perspective, the proposed addition of a philosophical dimension to the already-rich body of research on police-citizen encounters seeks to contribute a novel approach to the field, while simultaneously engaging existing research perspectives in a critical dialogue aimed at making more explicit the presuppositional foundations upon which they depend.

With regard to the latter point, the argument will be made here that the social scientist and police officer alike largely undertake their respective work with little or no recognition of the ontological presuppositions upon which their praxis is grounded. However imperfectly, the vicissitudes of human interaction are held intuitively to be manageable in terms of methodological and practical refinement. Just as the social scientist must abstract “facts,” and

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<sup>42</sup> The German text reads, “*Das Höchste wäre: zu begreifen, daß alles Faktische schon Theorie ist.*” Part of this maxim is also quoted by Heidegger (2001:247).

“data” from lived circumstances to translate them into “research problems,” so the police officer must similarly reduce encounters with other human beings to particular “problems,” which admit of bureaucratic resolution. *In this respect, the comportment of police officers towards those whom they encounter in the course of their work bears an essential similarity to the commonplace comportment of social science researchers towards the “subjects” of their research. That is to say, bureaucratic and mainstream social scientific praxis exist within a common ontological horizon.*

Most literature on police-citizen interactions is based on field research, primarily conducted in the form of participant observation, either alone, or in conjunction with the administering of questionnaires and interviews. Results are interpreted and analyzed using a wide range of theoretical perspectives. Van Maanen (1978) offers a comprehensive (albeit now somewhat dated) review of key studies on policing, which includes useful comparative information on methodology. Other detailed summaries may be found in McCall (1978), Holdaway (1989), Reiner (1997), Mastrofski, *et al.* (1998), and Bowling and Foster (2002). Kavanagh (1994) provides a synopsis of literature dealing specifically with violence in police-citizen arrest encounters. In addition to these summaries, there is also a valuable body of critical analysis directed towards evaluating some of the methodological limitations of field research.<sup>43</sup>

It has long been noted that, from a methodological standpoint, participant observation and its concomitant supplementary research (interviews, questionnaires, and so forth) are fraught with the many difficulties attendant to the translation of field observations into purportedly “objective” data. A great deal has been said about these and other methodological questions (see footnote), and need not be recounted here. While not engaging methodological problems with respect to their pragmatic and technical significance, the present chapter does seek to consider how such questions of methodology may be read fruitfully as illustrating the extent to which, whatever their

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<sup>43</sup> For a general overview of this topic, see Skolnick (1966), Cicourel (1968), Reiss (1968 and 1971b), Van Maanen (1978), Grimshaw and Jefferson (1987), Holdaway (1989), and Wilson (2000).

vast differences (both obvious and not so obvious), mainstream criminology and bureaucratic policing share certain ontological presuppositions, thereby giving them a great deal of common ground in their respective interpretations of human interactions.

Observing, codifying, categorizing, and classifying the behavior and actions of the police by academics rest upon processes of judgment, translation, and interpretation fundamentally akin to those used by police officers in their interactions with the public. Consequently, a critical overview of criminological research on policing must begin by noting that the task of interpreting police-citizen encounters is quite explicitly a matter of undertaking a multidimensional hermeneutic process, one rooted in the act of formally interpreting other formal acts of interpretation. This situation is all the more complex in light of the dialectical interaction of academic social science and police praxis, on the basis of which the very conclusions that criminological research forms about policing frequently become the ground for institutional changes among the police themselves (see, for example, Wilson, 2000).

For the purpose of presenting a coherent summary, this chapter divides the existing literature on police-citizen encounters into the following general categories: ethnographic, sociological, ideological/pragmatic, psychological, postmodern, and phenomenological. This division is made with the clear recognition that the boundaries between and among the categories are neither fixed nor mutually exclusive.

### ***Ethnographic Studies***

Ethnographic and participant observation studies represent the most prevalent form of research on police-citizen encounters. The 1960s and 1970s saw an unusual proliferation of such studies. Prior to this time, there had been a general paucity of field research on policing, with the most notable exception of Westley's influential work in the 1950s (on this point, see Wilson, 2000; Reiner, 1997; and Bittner, 1973). While several key ethnographic studies focus specifically upon police-citizen encounters, others engage the topic within broader analyses of the

organizational culture of policing and the “police personality.” Both types of studies are considered here.

Perhaps more than any single work, Banton’s seminal comparative study (1964) of policing in the US and Scotland may be identified as the inaugural moment in the new “golden age” of police research. Unlike other studies focusing on police deviance and excess (*e.g.* Westley, 1970 and Skolnick, 1966), Banton directed his “occupational sociology” towards the working practices of the police operating under generally innocuous circumstances (1964:xii). Guided by a broadly Durkheimian perspective, Banton focuses his observations and analysis on what he takes to be the unprecedented range of social encounters in police work (1964:176ff, see, also, Westley, 1970:49).

Banton’s research presaged many subsequent studies in its characterization of the function of policing as one of peacekeeping, rather than law enforcement (1964:266). While acknowledging that police-citizen encounters always have a coercive dimension, Banton contends that the outcome of contacts is determined by both parties, and cannot be understood solely in terms of the exercise of power. His argument, in general terms, derives from a functionalist claim, informed by Durkheim, that formal social control depends upon informal mechanisms and customs: the greater the strength of the latter, the less coercive the former need be (see Reiner, 1997:1001).

Banton concludes that the relative demographic homogeneity of Scotland, as compared to the US, leads to a greater predictability of outcomes in police-citizen encounters in Scottish society, where deference to official authority is more assured, and need not frequently be augmented by personal authority, as is often the case in an American milieu (1964:168; *cf.* Cain, 1973). Banton illustrates his point by recounting an incident in which a Scottish couple in their thirties explains the woes of their tempestuous marriage to a twenty year-old constable, and give no demonstrable indication of finding it awkward to do so. As Banton reads the situation, the

couple accepts the constable's uniformed presence as the symbolic representation of a shared morality and law, which reduces the manifest youth of its bearer to an incidental factor of no real significance in arriving at a resolution (1964:229-231).

This example illustrates as well Banton's further argument that effective policing in the United States and Scotland alike depends upon an officer's ability to cope skilfully with a vast and unpredictable range of encounters, many of them highly charged. Banton observes significantly that officers' professional knowledge develops *unconsciously* on the basis of experience (1964:178). He juxtaposes the facility and adeptness with which experienced officers are able to engage a vast range of people and circumstances, yet are nonetheless at a loss to explain how they do so (1964:178; see, also, Skolnick, 1966:244).

The seemingly intuitive resourcefulness and practical creativity of the police officer is a central theme of Bittner's interpretations of police-citizen encounters (1967a, 1970, 1974), which he grounds in his conception of policing as a "mechanism for the distribution of non-negotiably coercive force" (1970, reprinted in 1990:131). Bittner pays close attention to what he interprets as being the ways in which police-citizen encounters are shaped by officers' attempts to seek and maintain dominance and control of situations (1990:26). He shows as well how the public draws upon this coercive power to its own benefit by enlisting the police in the resolution of troublesome predicaments and conflicts, in a move that he terms "calling the cops" (1990:36).

Following Banton, Bittner's poignant ethnography on the policing of skid row (1967a, reprinted 1990:30-62) describes how "keeping the peace" demands the pragmatic application of legal mandates, not with the overt goal of "enforcing the law," but rather as a means of dealing with the complex exigencies of particular situations. Although the coercive power of the officer is omnipresent, it is deployed selectively as warranted by specific circumstances. Indeed, while emphasizing the subtext of power beneath all transactions, Bittner articulates how these

transactions are nonetheless carried out with respect to intricate networks of personal acquaintance and a nuanced familiarity with the neighborhood.

Bittner's argument illustrates officers' awareness that effective interaction in an anomic social environment is determined by the ability to function across a broad "spectrum of affiliations" (1990:44). The nature of these affiliations shapes the nature of particular relationships: where officers perceive a common sociopolitical interest with their interlocutors, as they do in their affiliation with business owners, a formal, abstract relationship tends to prevail, while interactions with the marginalized denizens of a skid row neighborhood often have an element of familiarity and intimacy (1990:43-47). The suggestion emerges from Bittner's work that the more tenuous the social connection between officer and citizen, the more important it becomes to cultivate the interaction at a fundamental level of mutual recognition. Bittner's observation represents a preliminary foray into a realm of interaction key to modern sociality: literally faced with people with whom one has nothing in common, not even the most basic shared notions of tradition or custom, the alternatives that may remain are either the engagement of a more fundamental human commonality, or else a turn to an effacing abstraction, which can have cold and brutal consequences (see Bauman, 1990).

This point emerges in Black and Reiss' observational study of police behavior and its underlying formative attitudes (1967:13ff.). Taking a theoretical position similar to Bittner's notion of non-negotiably coercive force, Black and Reiss (1967) locate the substratum of police-public interactions in processes of "gaining control" and "ordering" social situations. On their understanding, the relative degree of control that people can exert in encounters with the police is primarily a function of status and the capability to subvert the means of police action. Status comprises social status (race, class, etc.) and situational status (neighbor, stranger, witness, suspect, victim, etc.) (1967:8-9).

In actual encounters, officers' behavior enacts the discharge of legal responsibility with respect to varying levels of responsiveness, a process which, for Black and Reiss, can formally recognize citizenship without acknowledging humanity (1967:26). Using detailed assessments of "transactions" between officers and the public, Black and Reiss tabulate the officers' methods and styles of interaction, and in particular, any signs of demonstrated "prejudice." One germane point emerging from this research is the "paradox of civility," namely that civility may be construed as disrespect (1967:57ff.). What an officer might intend as a professional, detached manner may be interpreted as cold indifference, while civility without deference on the part of a citizen can offend officers. Black and Reiss trace this paradox to social expectations existing prior to, and failed by, the operations of bureaucratic administration.

The exposure of this paradox reveals a methodological and ethical problem attendant to policing and criminological research alike. This paradox is related to the attempt on the part of speakers to find the "real" motive for contact and inquiry. People are often highly suspicious of officers who strike up conversations, which are frequently perceived (often rightly) as thinly veiled "fishing expeditions" for information or intelligence. Just as police officers' casual conversations with suspects frequently have an ulterior, investigative motive, the field researcher's similar conversations with police officers are likewise framed with respect to a predetermined, instrumental end, namely the acquisition of "valid data." In this regard, Black and Reiss note that idle conversation between observers and the police officers with whom they are working "easily translates into a somewhat unique research medium – 'conversational interviewing'" (1967:132). They go on to comment,

[s]ince often a good deal of camaraderie developed between the observers and the officers, such attitude data [i.e. personal sentiments revealed in casual conversation] often are particularly 'rich' in quality and content. (Black and Reiss, 1967:132)



Recalling Bittner's claim that legal coercion quietly hovers above even the most outwardly innocuous police-citizen transactions, one may conclude fairly in light of Black and Reiss' comment above that the interpretive powers of the social sciences are similarly deployed, constituting the police officer as an object for analysis.

In like manner, the rational circumscription of situations as "calls" or "runs" is analogously present in ethnographic interpretations of policing. A key example is Reiss (1971a:xi), who adopts an operational, positivistic definition of police-citizen encounters, defining an "encounter" as a quantitatively isolable interaction, which is subject to *systematic social observation*. He identifies roles, behavior, and decisions as the fundamental dimensions of each encounter.<sup>44</sup> Like the police officer who must thematically delimit the predicament of another human being according to the legal and administrative parameters of a bureaucratic organization, the social scientist operates under an analogous mandate.

If the actions of the police are observable as encounters, it is not least of all because of the presumed rationality attached by the police to their actions. In an earlier study with Bordua, Reiss identifies the essence of the modern police function as one of "managing relationships" (Reiss and Bordua, 1966:26). That is to say, the multitude of tasks for which the police are responsible – everything from traffic control to dealing with suspects, victims, and the general public – is, in the final analysis, a matter of creating, maintaining, and participating in external social transactions (Reiss and Bordua, 1966:25). Weiss makes a similar argument, identifying the role of the police officer as that of a mediator whose task it is

to accelerate the interchange, the dynamic movement, the interplay of individuals, and of course to stop those things that are blocking the actual vital living of a society. (1975:26-27)

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<sup>44</sup> It is interesting to note that Reiss' research was based upon intricately detailed observation forms (reproduced in Black, 1980 and McCall, 1978), which have classificatory schemata that bear more than a passing resemblance to police incident report forms.

Policing modern society places officers into a vast range of unpredictable social situations, which are played out on what Reiss and Bordua call a “social stage” (1966:47).

Functioning effectively under such widely varying circumstances demands “techniques for structuring these situations” (Reiss and Bordua, 1966:47). Police responses are interpreted implicitly here as rational action deployed in the uncontrolled, unstructured realm of life. For Reiss and Bordua, such action is, in its essence, “taking charge” by deploying authority as an “instrument,” one that is underwritten by the potential or actual use of force (1966:47).

When officers arrive at a call – “on scene” in the argot of policing – they must determine to the best of their ability “what’s going on.” In a later work (1971a:19 & 45), Reiss explains this process, again using the metaphor of stage drama (*cf.* Manning, 1977 and 2003). Each call exists as a “stage,” upon which various “actors” play out their “roles,” according to a “plot” that officers must identify and interpret in order to take appropriate action. The actions and responses of the “audience,” too, are relevant.

Reiss (1971a) explains these dramatic processes by focusing on the microcosmic “discretionary decision” taken by the police and public alike to initiate contact with one another. He seeks to understand why citizens request police intervention, and, conversely, why the police decide to become involved in certain situations. In all police-citizen interactions, there is a dissonance between citizens’ predicaments as they experience them, and the interpretation of those same predicaments by the police as unremarkable work or routine (Reiss, 1971a:xiv). The traditional conception of policing as a professional bureaucracy, guided by an instrumental rationality where efficiency and order are ends in themselves, transforms moral relationships into economic transactions.

Klockars (1980) finds that this results in a cold, indifferent attitude epitomized by the “professional model” of policing, and notes the failure of such bureaucracies (whatever their purpose) to create meaningful ethical connections between bureaucrat and citizen (see, also,

Bittner, 1990:97 and Monkkonen, 1981:160-161). Reiss (1971a:180ff.) comments on the public hostility that results when citizens perceive that they have been reduced to “cases.” Efforts to ameliorate this situation by adopting a “human relations approach” frequently backfire, because people continue to perceive, not incorrectly, that a more facile and amiable enactment of bureaucratic administration cannot conceal its unalloyed manipulative essence (Reiss, 1971a:182).

This point amplifies Reiss’ observation that, from the first moment, there are typically differing values and meanings attached to each police-citizen encounter by its respective participants. This tension is compounded by the inherently coercive nature of policing, which recedes or comes to the fore in substantial measure as a result of public willingness to submit to police authority (see Goldstein, 1977:160-162). In police-citizen contacts, then, the general unpredictability of human encounters, already amplified by dissonant formal and informal expectations, is inestimably complicated by the fact that the police do not have the luxury of dealing with “preprocessed clients” (Reiss, 1971a:xiv & 46ff.).

One of the best-known studies of this friction between the police and the public is Werthman and Piliavin’s (1966) analysis of the ways in which judgments of suspicion are read and interpreted according to mutual reactions in street encounters. Hostile, furtive, or deception looks or glances create suspicion, thus making the presence of the officers themselves a catalyst for developing suspicion to question someone (see, also, Piliavin and Briar, 1964; Skolnick, 1966:45-8; Matza, 1969:181ff, and Van Maanen, 1978:228ff.).

Werthman and Piliavin interpret the role played by cultural and social conditions in shaping face-to-face encounters between the police and gang members. They observe that from the perspective of the patrolling officer, ghetto life is “an uninterrupted sequence of suspicious scenes” (in Bordua 1966:56). In this environment, interactions between police and gang members are a contest for control of social space (*cf.* Herbert, 1997). They are also a contest over

conflicting values. With respect to this latter point, compliance with the law is ideally achieved by finding common cause between cop and gang member.

Werthman and Piliavin use ethnographic observations of police-gang member encounters to describe rituals of interrogation, deference, and defiance. The layered and double meanings of actions become clear: is kindness genuine, or a façade meant to elicit information (Werthman and Piliavin, 1966:71; *cf.* Black and Reiss, 1967:132)? What is the line between pragmatic deference and humiliation? In the encounters they analyzed, Werthman and Piliavin found the attitude of juveniles towards police to be a determining factor in the nature of officers' enforcement actions (1966:72-74 & 85ff.).

Policing gang turf requires a careful interpretation and understanding of the cultural mores of the neighborhood (1966:65-7). Legitimacy is earned by appealing to local values to win compliance, without resorting to legal action or the use of force (1966:67). "Good" cops are thus perceived as those who address situations with respect to the interests of the gang members, and do so in terms interpreted as meaningful and legitimate by the gang members themselves. While it does not please them, the gang members understand the rational basis for arrests for violations of the law, and are even less troubled by them when they are made fairly and politely (1966:86).

In a similar, earlier study, Piliavin and Briar (1964) observed officers in the juvenile crime unit of a large urban police department in order to identify and analyze the criteria affecting the exercise of officers' discretion to arrest. Piliavin and Briar concluded that a juvenile's demeanor (cooperative or uncooperative) was the most influential factor determining whether or not he was arrested, or released with a lesser sanction, such as a verbal reprimand. Boys who showed contrition and politeness in their dealings with officers were far more likely to receive less severe sanctions than those who were contentious or nonchalant (1964:210). Piliavin and Briar found that physical appearance, especially being black or "looking tough" contributed to

officers' decisions. They conclude that the "official" (legally defined) delinquent is the product of a social judgment:

he is a delinquent because someone in authority has defined him as one, often on the basis of the public face he has presented rather than of the kind of offense he has committed. (1964:214)

This argument has been pursued more recently by Miller (1995), who suggests that the interpretation of gang "style" forms the basis for interactions between juvenile parole officers and gang members in Los Angeles. Miller argues that law enforcement processes for the surveillance and taxonomical classification of gang members rests upon ritual performances between law enforcement officers and juveniles rooted in the interpretation of dress and style of appearance (1995:225-229). Clothing, tattoos, and other symbolic manifestations of gang affiliation are read by law enforcement officers as risk factors, not only in terms of their own safety, but also the safety of the gang members and the general public. Interactions with gang members by police and probation officers therefore become rituals of interpreting the meaning of personal appearance, and of controlling that appearance as a means of controlling broader behavior and social affiliation.

Miller's research, along with that of Werthman and Piliavin and Piliavin and Briar, raises obvious political and social questions regarding the extent to which police actions are influenced by the nature of the particular communities in which they are carried out. Brown (1981:55) suggests that while there is obviously a clear relation between the two, it should not be overstated, lest an inaccurately deterministic conception of police behavior emerge. He contends that the ways in which an officer "interprets his experiences on the street" is of far greater significance than the nature of the community itself (1981:55).

Although he does not use the term himself, Brown's argument implicitly recognizes the existence of a two-part, interrelated *hermeneutic process* occurring in police-citizen encounters. In this process, officers' interpretations of their experiences unfold in conjunction with a legal

hermeneutics that contextualizes these interpretations with respect to determining the appropriate course of action in a given situation. This interpretive process, in turn, is shaped to a large extent by the nature of the relationship of the police officer to the community, and how officers and citizens mutually and reciprocally interpret that relationship (Brown, 1981:56).

Rubinstein (1973) studies officers' interpretive praxis in a nuanced, detailed ethnography of urban policing, which is based upon his fieldwork as an armed, plainclothes observer, who had completed the Philadelphia Police Academy, with that agency's blessing. Rubinstein developed his study as a systematic description of police work with the intent of going beyond research on the administration of policing and the "feelings and values" of officers to consider more fundamentally what it is that the police actually *do* on the street (1973:x-xi). Comprising for the most part intricate accounts of the daily operations of patrol officers, Rubinstein's study has very little overtly stated theoretical or methodological apparatus, though it reflects quite strongly its acknowledged debt to Erving Goffman.

Rubinstein observes that a police officer's body is a tool; indeed, the police officer is alone in using his or her body as an instrument for controlling other people (1973:268).<sup>45</sup> Control may be obtained through the application of physical force, but most often, it is a simple function of mere presence. Just as the public is always attuned to officers' presence, officers, too, are constantly aware of the unique manner in which they draw the public gaze. Rubinstein describes the ineradicable tension underlying even the most innocuous encounters between citizen and police officer. Being contacted by the police is almost always disequilibrating, and even in contacts where the officer's presence has been invited by a call for service, this "consensus" nonetheless has tenuous "bonds of agreement" that are subject to unpredictable change (1973:270).

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<sup>45</sup> Rubinstein's claim is fundamentally weakened in light of the rapid expansion in recent years of private security forces.

Rubinstein characterizes the ways in which officers have particular knowledge of the people in their patrol areas, from the passing, anonymous social contacts to the “regulars” (1973:174ff.). Such knowledge is the result of well-developed, intricate processes for evaluating people according to “facts and impressions” (Rubinstein, 1973:184ff.). This knowledge, in turn, strongly influences the resolution of specific situations: legal authority is often secondary to informal actions. The vast repository of facts comprising legal, personal, and other forms of information becomes the basis for maintaining order in a given geographical district. Intimate familiarity with the “habits and manners” of the residents of the beat makes an officer less likely to become involved in hostility; paradoxically, personal familiarity can lead to laxness, corruption, and an unwillingness to take legal action (Rubinstein, 1973:216-17; *cf.* Bittner, 1967a). Though this dilemma may be less of a problem in the era of “community policing” than it was in 1969 Philadelphia, Rubinstein’s observation points to the fundamental tension between bureaucratic efficiency and the personal relationships that develop in the context of the discharge of duty.

In the complex process of gathering knowledge of people, no factor is more important to the police officer than suspicion. Suspicion is the filter for evaluating all interactions, the means by which an officer learns to “see what he is looking at” (1973:219). Rubinstein describes how officers stare intently at people to evaluate them: the police officer, in doing so, exercises an unofficial right to intrude (1973:221). By staring at people and observing them with an unwavering gaze, police officers are acting upon a general cultural assumption that assumes a fundamental relation between deviance and conspicuousness: character may be inferred from appearance.

Like Rubinstein, Punch (1979) undertook ethnographic research with a nod to Goffman (1967), seeking to work “where the action is.” Punch’s (1979) account of policing in inner city Amsterdam uses qualitative and impressionistic approaches that diverge from the statistical

analyses predominating much of the literature. His study is particularly useful for its detailed consideration of role of the police in the “micro-processes” of inner city life, which Punch analyzes from the perspective of confused, frustrated officers.

In this regard, he observes the underlying anonymity of modern social relations, and the police officer’s role in such a milieu:

The policeman has become a stranger policing strangers, a significant portion of whom are foreigners, and this accentuates his isolation and reinforces his reactive role. (1979:190)

This description could just as easily describe the typical North American suburb as much as a large inner city. Similar to Manning (see below under phenomenological interpretations) and Reiss, Punch also perceives the dramatic quality of police-citizen interactions, and appreciates with a keen awareness the profundity of ordinary encounters and events (1979:17-18).

### ***Sociological Studies***

The studies described in this section are closely related to a large portion of the ethnographic research, but are treated separately for two reasons. First, the research reviewed here as “sociological” is undertaken, for the most part, using methods other than classic ethnography. Second, these studies tend to be framed with respect to broader sociological inquiries, and hence have a scope extending beyond the specific analysis of police praxis. Foremost in this regard are studies of occupational culture and values (*e.g.* Westley, 1970), and the social nature of law (*e.g.* Black, 1980 and Skolnick, 1966).

Black (1980) uses a positivistic sociology of law to develop a quantitative analysis of police behavior. He argues that the key to interpreting police interactions with the public lies in understanding the legal role of the police as agents of social control. To the extent that Black argues for the possibility of treating the law as a quantifiable variable, the discharge of legal actions by the police is an observable phenomenon that admits of predictability through scientific



analysis (see, esp., 1980:209ff.). He broadly conceives of all official police acts of social control as law, and thereby postulates the existence of different “styles” of law, including penal, conciliatory, compensatory, and therapeutic approaches (1980:2-3).

Black combines his positivistic legal sociology with a conception of “social space” developed in his earlier work (1976). He defines the following five dimensions of social space, in relation to which police actions may be predicted and explained: “vertical” (uneven wealth distribution); “horizontal” (demographic distribution); “cultural” (social symbolic structures); “corporate” (capacity for collective action); and “normative” (structures of power and authority) (1980:3-5). This conception of social space is then applied to interpret a range of police actions, including face-to-face encounters with the public in various contexts.

Black concludes that police intervention in most situations tends to leave the public feeling dissatisfied, the police resentful and frustrated, and the underlying predicaments unresolved (see esp. 1980:109ff.). He ascribes the rise in sweeping police intervention in ordinary modern life to the reconceptualizing of personal conflict into legal dispute, the resolution of which demands state intervention. Against this trend, Black calls for various self-help strategies, accompanied by a “depolicing” of society (1980:180ff.).

Black’s theory finds continued application in contemporary research, most recently by Mastrofski, *et al.* (2002). This study focuses on acts of disrespect, rather than the overt use of force, in order to consider how suspect behavior combines with various demographic factors to influence the relative level of hostility in police-citizen encounters. Despite the role played by social class, age, and other factors, suspects’ individual actions proved most decisive in determining how officers responded to them (2002:540).

Another noteworthy study influenced by Black’s work is Klinger’s analysis (1996) of police-citizen encounters in Florida. Klinger follows Black in quantifying law as an analytic variable, and thereby applies quantitative legal theory to field observations using the “Formal

Authority Scale,” which claims to measure officers’ applications of the law with greater nuance than models limited to considerations of an arrest/no-arrest decision. Research such as Klinger’s and Black’s shares with many other studies the key notion that whatever their outward appearance, police-citizen contacts by their nature nearly always have a coercive or adversarial dimension (Goldstein, 1977:160-161; see, also, see Bittner, 1970 and Rubinstein, 1973.).

Westley’s ethnographic analysis of police-citizen encounters (1970) remains one of the classic treatments of this problem.<sup>46</sup> His study is based on research conducted at a small police department in the Midwestern United States, and combines observations with intensive interviews. Westley considers how police conduct norms develop, how those norms “distort and diminish the force of law enforcement,” and how, in turn, norms become the internalized morality of a police department (1970:2).

Westley paints an image of the police as embattled, isolated cynics, hungry for approval, who lash out violently at a public, whom officers believe holds them in contempt. Since the occupational nature of police work continuously places officers into situations marked by crisis and friction, their conception of the public is perpetually reinforced by their daily negative experiences. What emerges is a vicious cycle of mutual hostility and suspicion, in which police-citizen encounters are unavoidably shaped by conflict (see esp. 1970:48-108, and *cf.* Banton, 1964:215). This cycle defines the working environment of the police officer, who must “routinize miracles, passions, and even violence” (1970:192).

Westley’s work strongly influenced Skolnick (1966), who considers the “working personality” and behavior of police officers as part of an empirical analysis of the conflict in the United States between the ordered efficiency that is the desideratum of police bureaucracy, and the legal rights of citizens in a democratic polity. Skolnick sees encounters between the police

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<sup>46</sup> Westley’s research was originally undertaken for his 1951 doctoral dissertation, but remained unpublished until 1970.

and public as circumscribed by a strained and unfortunate confluence of danger, authority, and efficiency (1966:42-90). Such that this is the case, police interactions with the public are most always shaped by officers' essentially suspicious comportment, which Skolnick defines (1966:45-48) as the essence of police culture (see, also, Niederhoffer, 1969; Rubinstein, 1973; Reiner, 1978; and Van Maanen, 1978).

Skolnick uses the notion of the "symbolic assailant" to explain how police officers interpret gestures, speech, dress, and a multitude of other factors in order to develop a "perceptual shorthand" for sensing danger (1966:45-48). When constant suspicion informs one's view of human interactions, even friendliness or respectability may be read as a deceit or façade concealing an inner criminality (see, also, Sayles, 1999:156, and Sacks, 1972.). An officer's interactions with the public are therefore carefully conducted with a view towards avoiding danger.

Taking prostitutes as an example of the "symbolic assailant," Skolnick identifies three "postures" that officers may adopt when making arrests (1966:105-111). He emphasizes officers' reflexive knowledge that their specific comportment towards a prostitute strongly influences the process of the arrest. Statements of moral condemnation or gratuitous acts of humiliation are most likely to provoke a confrontation, while matter-of-fact bureaucratic detachment tends to diminish the affront of being arrested by reducing the officer to a cog in the wheel. In the latter instance, the officer depends upon the ability to create a meaningful distinction, recognizable to the prostitute, between his bureaucratically determined actions and his personal moral and practical judgment of their futility or inadequacy. Finally, "mild solicitude" actively recognizes the prostitute's essential humanity and character, and in so doing establishes the accidental nature of the particular offense precipitating the arrest (1966:106-107). Whatever the particular nature of an officer's comportment, argues Skolnick, the actions taken in arrest situations are guided less

by principle or prejudice than by an imperative to demonstrate competence, which is rooted in the culture of policing (1966:111).

Sykes and Clark (1975) adopt a different approach from Westley, Skolnick, and other researchers who emphasize the broad role of occupational culture in shaping and determining the outcome of police-citizen encounters. Sykes and Clark argue that focusing on shared traits fails to interpret adequately the qualities of individual “actors.” They claim further that reflections upon the general characteristics of “police personality” reveal little about the outcome of specific encounters. According to their hypothesis, officers’ actions are shaped by processes of “deference exchange,” which are best understood with respect to the normative principles reciprocally shaping interpersonal encounters.

Sykes and Clark thus accord primacy to interpersonal dynamics over legal status and group solidarity. They draw upon Goffman’s work (1956, 1961c) in claiming that general norms of deference and demeanor substantially determine the outcome of police-citizen encounters (*cf.* Werthman & Piliavin, 1966 and Worden & Shepard, 1996). Their quantification and analysis of deference exchange lead to the unremarkable conclusion that such exchange is asymmetrical, with officers typically expecting deference from citizens, particularly those in a “lower” or “damaged” status. Citizens of lower status are shown to give and receive less deference from the police, whereas the opposite is true of encounters between officers and “higher status” citizens.

Sykes and Clark’s theory is elaborated in great detail by Sykes and Brent (1983), who argue for the need to examine and analyze the “micro processes” constituting the actual, specific transactions between officers and citizens. They claim, contrary to what they call the “orthodox view” exemplified by Bittner, Skolnick, and others (*e.g.* Piliavin and Briar, 1964; Westley, 1970; Black, 1971; Reiss, 1971a; Van Maanen, 1978), that the defining characteristic of policing is not coercive force, but the application of legitimate power. The application of power is a process realized dynamically in a complex cycle of action and reaction, and is best analyzed at the level

of interpersonal transaction (1983:1ff.). Though they do not deny the role of coercion in policing, Sykes and Brent contend that it has long been misidentified as its defining characteristic when, in fact, statistical analysis shows that police use of violence is the exception, rather than the rule. Moreover, they argue, police officers' typical use of coercive force does not fundamentally differ in form from the application of coercion in other social relationships, such as teacher/student, employer/employee, and so forth (1983:11-25).

Sykes and Brent locate the operative essence of police work in verbal and non-verbal communication, which they break down into three, progressively smaller analytic units: encounters, "strings" (sets of utterances), and individual utterances. They locate themselves in a social behaviorist tradition (esp. G.H. Mead, 1934), which they find to lend a propitious vantage point for considering how police work involves talking more than it involves anything else. Talking is interactive, and cannot be analyzed adequately by considering moments such as police-citizen encounters as static engagements between alien groups. In taking this position, Sykes and Brent fault much of the research on policing for what they regard as an erroneous conceptualization of "the police" or "the criminals" as fixed, homogeneous groups.

Sykes and Brent claim that their intricate mathematical method for modeling and analyzing police-citizen interactions constructs a nuanced and detailed portrayal of specific incidents, analogous to the textual richness produced by a good novelist (1983:231). This analogy, however, belies Sykes and Brent's further contention that the argument between qualitative and quantitative methodology is "wasted effort," and their strong appeal for mathematical and statistical analysis to "verify personal insight" (1983:232).

Sykes and Brent propose a "science of human transactions," which is grounded in the mathematical modeling of encounters. That such an approach to language, human being, social existence, and so forth, is freighted inestimably with immense and unconsidered ontological presuppositions can only be stated here in passing. Sykes and Brent argue that police-citizen

encounters are far better understood in interactive terms, rather than on grounds of inner emotion. At the same time, however, the mathematical complexity with which this hypothesis is advanced seems an unnecessarily circuitous route to the widely apparent notion that the police “should be taught to be, above all, persuasive, and sensitive to the meanings others are communicating” (1983:254). This assessment is followed by the prescriptive suggestion that the police would be better off looking at people as being incompetent, rather than recalcitrant (1983:255).

Despite the reservations expressed here about work such as Sykes and Brent’s, other assessments of this kind of research are more favorable. Kavanagh’s review of the literature on violence in arrest situations (1994) recommends the use of complex, interactive models of encounter that draw from economic theories of decision-making. Other recent transactional models of police-citizen encounters include Terrill’s study (2001) of the application of the use of force continuum in the context of perceived levels of citizen resistance, and Ma’s study (1990) of police discretion, which regards police-citizen encounters in terms of the exercise of power and control. Along similar lines, Lundman (1994) attempts to determine how police discretion in public encounters is influenced by demeanor and “other extralegal variables” (1994:650). Worden and Shepard (1996) are also interested in the role of demeanor, and give particular attention to the enormous complexities involved in attempting to treat demeanor as a theoretical construct amenable to measurement and quantitative analysis. In an observation of direct relevance for the present study, they note how recent years have seen the increasingly widespread replacement of heavy-handed, belligerent cops by “the snappy, legalistic bureaucrat who adopts a more impersonal posture vis-à-vis citizens” (1996:101). Finally, Teplin and Pruett (1992) present a combined quantitative and qualitative analysis that seeks to show how police discretion, rather than a pre-given legal structure, determines the outcome of police encounters with the “mentally ill.”

Encounters with the “mentally ill” often mark the intersection of conflicting (if not even paradoxical) police roles. The dual role of the police as a source of power and palliation receives one of its best-known treatments in Cumming *et al.* (1965), who examine the relationship between support and control mechanisms in the work of police officers, emphasizing their role as “philosopher and friend.” Their research assumes that most social agents dealing with deviant behavior cannot simultaneously be supportive and controlling; hence most agents tend to work in ways emphasizing one or the other. At the same time, however, support and control are not mutually exclusive: though one will be predominant, the other is not totally absent (1965:277).

Proceeding from these assumptions, research is presented on the type and resolution of police calls for service received at the complaint desk in Syracuse, New York. Cumming *et al.* show that the Syracuse police spend about half their time dealing with non-criminal human predicaments. Resolving these predicaments demands skills that fall beyond the ambit of officers’ formal training. Instead, they must allow the role of “philosopher and friend” to transcend the role of law enforcer. The conclusion that the police spend the majority of their time on non-criminal matters has been reached so often in subsequent research in a wide range of settings, that it is now all but axiomatic.

This ambiguity of the police function creates unclear, vague expectations for police-citizen encounters. Price and Price (1975) take up this theme, tracing much of the problematic nature of police-citizen encounters to the fact that, in addition to being unscripted, the actors in such moments frequently do not even know their “proper roles” (1975:170). They observe by comparison that if we are perturbed by the high price of groceries, we might complain or engage the checkout clerk in sardonic banter, but we do not expect that he or she will take steps to address our concerns. There is an unspoken assumption about the respective roles of clerk and shopper, on the basis of which the human predicaments of the shopper are presumed to be irrelevant to the clerk, and are therefore not even broached (Price and Price, 1975:169; *cf.*

Garfinkel, 1967). The clerks are understood as being ontologically distinct from the supermarket *qua* business or institution – they are “just doing their jobs.”

This scenario is radically different for the police officer, who is regarded as the incarnation of the entire criminal justice system (*cf.* Banton, 1964). The system’s failings are thus often attributed personally to the officer, as in the case of the “little old lady” who berates the officer for the system’s inability to help her recover money stolen from her handbag (Price and Price, 1975:170). According to Price and Price, the old woman does not know her proper role as victim, and thereby forces the officer to come face to face with her humanity and the particularity of her predicaments. Price and Price explain this as the transformation of a “role-structured encounter” (such as that between the supermarket clerk and shopper) into a “human, not specific encounter.” In the latter type of situation, the officer must step outside his or her official role and respond as a human being, or else withdraw into the penumbra of “official duty” – “sorry, there’s nothing I can do” (1975:170-171).

Cain (1973) engages the entire matter of police and public expectations in a study that challenges what she regards, like Sykes and Brent, as the limited conception of policing as coercive power. She applies role theory to the police as a means of analyzing community-police relations. Cain is specifically concerned with the power that respective communities have, or do not have, over their police officers. In order to consider the balance of power between the police and the community, Cain directs her attention towards the “social constructs” that shape the outcome of particular encounters between the police and the public by setting identifiable limits and expectations.

Within a rural setting (in Cain’s study, the British countryside), police-community relations are founded upon a substantial degree of intimacy and familiarity. The police and the community are interdependent, and there is a large coincidence of social and cultural factors between the two. In such a context, the community has a substantial say in determining what



counts as “real” police work; and the police are expected to act accordingly. Hence, the rural officer gives a much greater degree of attention to minor problems, which in a poor, inner city neighborhood would receive little or no consideration.

The urban area is policed with a different focus: officers pay attention to problems such as conspicuous drunks, and do so according to the belief that this is what “the public” expects. The public in an urban environment is understood as being equivalent to the “respectable” segment of the population, as distinguished from the “rough” category. The latter, of course, are the overwhelming focus of police action; moreover, since contacts with “respectable” people are minimal, they come to be an ideological abstraction, deployed as a construct by officers to legitimate their actions against “rough” people.

Following a line of thought similar to Cain, Fielding (1989) suggests that the attempt to understand police-citizen encounters from a standpoint that primarily regards officers as members of an organizational culture fails to ascertain the complex and unpredictable interplay of legal and organizational precepts with personal values, situational exigencies, and other factors. Further, Fielding argues that officers must be understood as constantly interpreting the organizational culture in which they find themselves, and enacting these interpretations within the vicissitudes of particular circumstances (1989:80-81).

Along with the work of Sykes and Brent, the relevance of studies such as Cain’s and Fielding’s is their common claim that the idea of a fixed (and often pathological) police personality lead to a deterministic model of police-citizen encounters that fails to account for the interpretive processes occurring within actual interactions. Norris (1989) takes an opposite stance, arguing that the outcome of police-citizen encounters cannot be read merely as the result of neutrally considered criteria such as social class and race; rather, officers’ actions are inexorably shaped by powerful institutional and occupational considerations. Generally consistent with this view is Gabaldon’s (1993) study of police violence in Latin America, which

combines empirical data with historical and cultural factors to present an analysis of police praxis focusing upon the idea of “situational uncertainty.”

Finally, an additional category of sociological research on police-citizen encounters worth mentioning comprises works that may be described as autobiographical, “stream of consciousness,” or “confessional” studies, which compile personal testimony, much of it in the form of “war stories.” The most widely known (and probably best regarded) of these studies are Niederhoffer (1969) and Kirkham (1977). Other works include Baker (1985), Bouza (1990), and Terkel (1972).

### ***Ideological and Pragmatic Research***

The research summarized in this category analyzes police-citizen encounters in relation to the theoretical, normative, and practical dimensions of sociopolitical institutions, ideology, and administrative praxis. As such, this body of work ranges widely, from research that critiques police praxis in terms of hypothesized conflicts between law and ethics, to studies that engage the topic of police-citizen interactions on highly specific practical grounds, with a view towards making prescriptive recommendations for operational procedures and organizational management. As might be expected, the literature in this category extends across the political spectrum, from conservative perspectives, exemplified by Wilson (1968) and Skogan (1990), to more liberal positions, such as Ericson (1982).

The analysis of varying institutional “styles” of policing developed in Wilson’s seminal study (1968), *Varieties of Police Behavior: The Management of Law and Order in Eight Communities*, endures as a classic study of police praxis. A single word in the book’s title, “management,” tellingly indicates Wilson’s theoretical perspective: he proceeds according to the assumption that police work is directed towards the effective and efficient solving of “problems at hand” (1968:2). From this standpoint, Wilson analyzes police-citizen encounters as specific instances of the discretionary discharge of legal authority aimed at the maintenance of order. For

Wilson, the maintenance of order largely occurs through the exercise of police discretion in situations such as disorderly conduct, simple (misdemeanor) assault, vandalism, and public drinking, which occupy a substantial part of police officers' time, and represent the vast majority of the arrests that they make (1968:5-7 and 17-20). Officers dealing with these and related predicaments find themselves working in an environment marked by turmoil, passion, and antagonism, none of which is helped by the fact that the best the police can usually do is to document information, or offer temporary palliation of the most fleeting kind.

Wilson observes the emotional dissonance between the impassioned state of those involved in a given situation, and the detached indifference of the officers who respond to resolve it. This dissonance creates a perpetual and irresolvable dilemma: displaying an attitude of detachment and suspicion born of routinizing crisis and constantly being lied to invites public anger and resentment, while dropping the impersonal façade of bureaucracy acknowledges, if even implicitly, that legal authority hardly suffices to resolve many situations (1968:24ff; see, also, Banton, 1964). All of this is incalculably complicated by the violence and hostility inherent to the enforcement of social order, not the least source of which is the friction occurring in the tense interactions between the police and the kinds of people whom they target for attention.

Wilson posits the existence of three general "styles" ("watchman," "legalistic" and "service"), representing the different ways in which various police agencies handle the task of law enforcement and order maintenance. At the operational level of police-citizen encounters, officers' actions in all three styles are directed by considerations of utility and cost-benefit analysis, rather than by legal or moral factors (Wilson, 1968:83ff.). Wilson goes on to explain this discretionary process by classifying incidents first, as matters of law or order, and second, as police-invoked or citizen-invoked.

Bringing an agency's organizational "style" to fruition through the actions of officers on the street demands the proper "managing" of officers in ways that ensure efficient performance

consistent with predetermined goals, so that the officers, in turn, can go forth and predictably “manage” public problems, disorder, and social conflict. In this respect, Wilson’s work exemplifies the close interrelation between sociological research on policing and normative recommendations for policing praxis. By problematizing police-citizen interactions in terms of institutional concerns about liability, ethics, and public image, social science becomes a key factor in shaping organizational self-conceptions and the forms of administrative action ensuing from them.

This phenomenon finds another powerful example in the work of Goldstein (1977), who reviews ways of “controlling and reviewing” interactions between the police and the public. Goldstein’s work has long been viewed as *de rigueur* for advocates of community policing, “problem oriented policing,” and other allied administrative theories, which typically share a conception of the police as “delivering a product” (safety, law and order, and so forth) to the “public,” and imagine further that they do so in a rational, bureaucratic fashion (see Manning, 1977:208ff.).

For theorists of police management such as Goldstein, police-citizen interactions are seen as unstructured moments requiring close administrative supervision to minimize risk (1977:167ff.). According to this line of thought, police conduct requires managerial “control,” “identification,” and “correction” – all words from a lexicon used elsewhere to characterize ways in which people on the street are handled and disciplined by the police. Goldstein’s remedy for abusive conduct by police towards the public is a projection of authority that is “calm, unemotional, and somewhat detached” (1977:172). Goldstein argues that the optimal organizational structure for effectuating this kind of stance is the “professional model,” (*e.g.* Vollmer) which epitomizes central, apolitical control aimed at bringing about efficient, predetermined ends (1977:2).

Goldstein recognizes, however, that the nature of police-citizen contacts militates against their uniform administration: although police authority loudly pronounces its neutrality and objectivity, the nature of its operational milieu makes the goals of the professional model all but unattainable (1977:9). Hence, despite his own recommendations for improving training, accountability, and oversight, Goldstein acknowledges that such reform will never control or eradicate the discretionary, improvisational, and extra-legal actions that constitute an ineradicable dimension of police-citizen interactions (1977:10-11).

The moral and legal tensions of police-citizen encounters highlighted by Goldstein find one resolution in the consequentialist ethic of Wilson and Kelling (1982), whose famous essay on the theme of “broken windows” seeks to justify broad officer discretion directed towards attaining the argued greater good of order preservation. Wilson and Kelling describe the work of the “beat cop,” whose interactions with the public are divided into two, general types: first, the friendly, “community-oriented” interactions with “citizens,” and second, the admonishment of law-breakers or order disrupters.

For Wilson and Kelling, the interaction between police officers and the public demands to be understood on ideological grounds as the state’s intercession on behalf of community principles held in common by those who have given the police their authority and legitimacy. Recounting the interactions between a patrol officer and the residents of the Newark, New Jersey neighborhood where he walks a beat, Wilson and Kelling focus on his presence as an authority figure, who enforces the neighborhood’s unofficial “rules.” His interactions are described as thinly-veiled coercive moments, some of which Wilson and Kelling admit would not withstand legal scrutiny. Nonetheless, they argue, a desired end is achieved.

For Skogan (1990), interactions between police officers and the public are moments that can be managed for the attainment of predetermined objectives. Such a view transforms human interaction from an ethical moment into a pragmatic transaction. The police officer as

disinterested agent of the state is called upon to interact in the rituals of everyday life in a community, and to become a vicarious part of them. Considered in this light, the presence of the police officer at community events and public gatherings is assessed in terms of its facilitation of administrative goals, rather than its actual social, ethical, or political legitimacy (Skogan, 1990:91-93). Furthermore, moral dimensions of interaction and notions such as trust become secondary to the more fundamental imperative of the bureaucratic and administrative control of ordinary life.

The general political conservatism of the analyses of policing praxis of the kind thus far considered in this section contrast sharply with research such as Ericson's study of patrol work (1982), which interprets police-citizen encounters as transactions in an economy of power. Situating himself with respect to a constellation of theorists whose key points include (among others) Durkheim, Foucault, and Giddens, Ericson uses empirical analysis of police decision-making processes to consider the forms of social meaning that shape patrol work (see, also, Ericson, 1981; and Ericson and Haggerty, 1997). In analyzing his understanding of police interactions with the public, Ericson looks primarily to the exercise of discretion in the handling of people and situations. According to Ericson, police exercise of discretion has much less to do with enforcing the law than it does with keeping "marginals" in their place. Thus, for Ericson, the core meaning of police-citizen encounters is one defined in terms of the exercise of power aimed at preserving "order" and exercising social control (1982:199ff.). Following a generally similar line of thought, Lanza-Kaduce and Greenleaf (1994, 1995) apply Turk's norm resistance theory to their analysis of police-citizen encounters.

Muir (1977) explores this legal and moral tension underlying police-citizen encounters in careful philosophical terms. Focusing on what he regards as being the delicate and tragic exercise of power by the police, Muir studied twenty-eight officers in a large US city in order to consider the effects of coercive power on personality. Muir understands police-citizen encounters as

“extortionate transactions,” not in a strict legal sense, but rather as inherently antagonistic moments in which threat and counter-threat form a vicious cycle of coercion. Extortionate transactions are shaped by four paradoxes: “dispossession,” “detachment,” “face,” and “irrationality.”<sup>47</sup>

Though it might well be imagined that police officers have the upper hand in transactions with the public, Muir says the contrary is true: the police officer is the one on the defensive, forced to react in a constrained way under circumstances chosen largely by the citizen. Legal, moral, social and other constraints radically limit officers’ options in extortionate transactions; and how they react to this inherent dilemma of police work determines their relative success or failure. Drawing from Max Weber’s essay, “Politics as a Vocation” (Weber, 1946:77-128), Muir’s study concludes that a good police officer must have a “tragic sense of human suffering,” together with a moral resolution of “the contradiction of achieving just ends with coercive means” (1977:3-4). This, he argues, is the police officer’s only refuge from the corrupting influence of power, power which is exercised amidst loneliness, danger, and human suffering (1977:263).

Berkley (1969) explores the political dimensions of police-citizen encounters in a study that focuses on the anomalous role of the police in a democratic state. According to Berkley, police officer and citizen do not have equal power in their encounters (1969:3). Berkley regards the growing complexity of modern society as a source of growing friction between the police and the public, to the extent that the range of police-citizen contacts expands apace with the interdependency of the contemporary state (1969:18). Trojanowicz and Dixon (1974:104) argue similarly that the “power relationship” between the police and the public leads to near-inevitable

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<sup>47</sup> Paradox of dispossession: “the less one has, the less one has to lose.” Paradox of detachment: “the less the victim cares about something, the less the victimizer cares about taking it hostage.” Paradox of face: “the nastier one’s reputation, the less nasty one has to be.” Paradox of rationality: “the crazier the threatener, the more serious the threat; the crazier the victim, the less serious the threat.” See Muir, pp. 37-46.

friction between the two, summed up in the claim that the police are always the “buffer” between the status quo and marginalized social groups seeking a greater stake.

This conclusion has largely endured in one form or another in subsequent analyses, a fact reflected in the continuing centrality of violence as a theme in research on police-citizen encounters. Holmes, *et al.* (1998) evaluate dimensions of threat assessment in order to consider how officers’ perceptions of danger in police-citizen encounters influences the decision to use force. This study proposes a predictive model based upon the integration of multiple factors, which together allow for an analysis that attends to the “totality of the circumstances.” Babcock (1998) combines an analysis of police reports with questionnaires administered to police officers to gain insights into the dynamics of violent police-citizen encounters. This study attempts to consider attitudinal factors determined by individual officers’ perceptions, together with broader, situational variables. McCluskey, *et al.* (1999) consider various predictors of citizen compliance, and situates them in relation to officers’ actions. Like many others, and to little surprise, this study concludes that, all other things being equal, respectful officers win compliance more frequently than their more abrasive counterparts. At the same time, however, McCluskey, *et al.* note that factors such that citizens’ age, state of rationality, and other factors weigh heavily in determining whether or not citizens will submit to police authority.

While most researchers tend to focus on officers’ perceptions, others, such as Reisig and Chandek (2001) direct their attention to citizens’ sense of satisfaction following contact with the police. Using an expectancy disconfirmation model, this study attempts to consider how correlations between citizen expectations of police service and their reactions to actual “services rendered” generate positive or negative opinions of the police. Mastrofski (1996) goes a step further, proposing evaluative criteria for the quantitative analysis of police performance in officers’ encounters with the public. Mastrofski’s research comprises a range of data, drawn from officers’ self-reports, citizen feedback, and various kinds of direct observation.



Other studies attempt to gauge the relative success of various police reforms that have dominated the field since the late twentieth century, notably the advent of community and problem-oriented policing. Novak (1999) undertook an analysis comparing the police-citizen encounters of community police officers with those of “traditional” patrol officers. Parks, *et al.* (1999) produced a similar study, which is noteworthy for its classification of encounters into “brief,” “casual,” and “full.” Departing from the usual methods of this kind of field observation research, an extensive study conducted for the British Home Office by Singer (2001) analyzes patrol operations largely by reviewing several hundred officers’ narrative diaries of their daily activity, together with interviews of a smaller pool of subjects. Another Home Office study, undertaken by Southgate (1986), was conducted with a particular view towards developing a basis for training officers in human relations. With meticulous attention to the various stages of an encounter, Southgate suggests that much of the tension in police-citizen contacts may result far more from the inherent nature of official police procedures, than from inadequate training. In this crucial respect, his argument lends support to the dissertation’s claim that bureaucratic praxis is fundamentally limited in its approach to human beings.

### ***Psychological Studies***

Psychological studies of police-citizen encounters analyze behavior, personality, and cognitive processes (both conscious and unconscious) to explain the dynamics of social interaction. These studies include research on individual, group, and social psychology undertaken in the context of policing. Like much of the research conducted from the pragmatic perspective, psychological studies typically seek to influence and reform police praxis by developing scientific bases for what has been aptly summarized as “behavioral self-management” (Wilson and Braithwaite, 1995:22).

Wilson and Braithwaite (1995) observe the prevalence of authoritarianism among police behavioral traits (see, also, Skolnick 1966, Wilson 1968, Westley 1970, Sykes and Brent 1983,

Bittner 1990, and Waddington, 1999). Their study analyzes how police behavior during interactions with the public may be predicted on the basis of officers' personality traits, considered together with training, background, socialization, and other variables (1995:18-23). Wilson and Braithwaite argue for the application of research psychology to explain the behavior of police and citizens during their interactions, and present evidence indicating that officers with strong communications skills can usually keep hostility to a minimum (see, also, Sykes and Brent, 1983).

Using a behavioral model to analyze police-citizen interactions, Wilson and Braithwaite focus on encounters involving citizen resistance to the police. The model identifies four underlying variables that influence the outcome of observable police-citizen interactions, including social psychological factors, situational factors, personality influences, and interaction skills (1995:6). They pay close attention to the phenomenon of "de-individuation," defined by Prentice-Dunn and Rogers (1980:104) and quoted by Wilson and Braithwaite as a situation in which

"antecedent social conditions lessen self-awareness and reduce concern with evaluation by others, thereby weakening restraint against the expression of undesirable behavior." (1995:8)

De-individuation can be caused or exacerbated by factors such as "group cohesion" and "arousal." Hence, the outcome of interactions is influenced by the dynamics of human interaction, particularly the presence or absence of restraints against conflict (Wilson and Braithwaite, 1995:10). Insofar as they bring together two groups of young people, usually males, who have little in common socially, and both of who are in the presence of their peers during a tense situation, it is not difficult to understand the hostile, violent outcome of many police-citizen interactions.

According to Wilson and Braithwaite, once police officers have a purportedly scientific, objective basis for understanding their own behavior, as well as that of the public whom they

encounter, they gain a predictable means of “managing” encounters in order to minimize risk. Wilson and Braithwaite conclude that shaping and controlling officers’ behavior is a “critical tool in effective risk management” (1995:22). Among other measures, they recommend training programs to heighten officers’ critical awareness of their own behavioral traits, in particular the way in which they are shaped by environmental pressures born of the group dynamics of police culture. Herz (2001) evaluated one such program, a curriculum intended to give officers de-escalation skills to improve the outcome of their encounters with juveniles. Such thinking exemplifies the calculated development and application of a sense of reflexivity mediated through the interpretive perspectives of psychological and social scientific analysis.

Much earlier than Wilson and Braithwaite, but from a similar perspective, Wiley and Hudik (1974:119-127) used a social psychological theory of exchange to develop a model for interpreting police-citizen encounters in the specific context of field interrogations.<sup>48</sup> They draw upon the metaphor of “cost” to explain the level of cooperation given to police officers who stop and interview people suspected of involvement in criminal activity. Wiley and Hudik found, to no surprise, that when officers were polite and told citizens why they were being stopped and questioned, the citizens tended to be more cooperative and supportive (1974:125-6). The programmatic implications of this research are self-evident.

Bonifacio (1991) interprets police-citizen encounters by considering the individual psychological factors antecedent to the moment of interaction. He uses a psychodynamic approach, which assumes that human behavior is shaped by unconscious forces creating motives for action (1991:1-21). With Freudian analysis as his predominant theoretical underpinning, Bonifacio explains the phenomenon of detached indifference to the public as a function of emotional withdrawal in the face of anxiety (1991:93ff.). This anxiety primarily originates in

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<sup>48</sup> These are also known as “field interviews,” “stop and frisks,” “shakes,” and – in the United States only – as *Terry* stops, after the US Supreme Court decision in *Terry v. Ohio*, 392 U.S. 1 (1968).

anger and frustration: the former is a response to public hostility, and the latter is a response to the belief that one's actions are pointless and ineffective.

Bonifacio develops an analogy between the police-citizen relationship and that between a parent and child (1991:25ff.). Again, drawing heavily upon Freud, Bonifacio claims that in their interactions with the police, citizens unconsciously regard officers as omnipotent parent figures, with whom they have love-hate relationships. Following this argument, the officers are viewed simultaneously as both a source of security and punishment. Officers, in turn, unconsciously see themselves as benevolent parents, who must nonetheless sometimes mete out pain.

Winkel *et al.* (1988) and Vrij and Winkel (1991) are more directly attentive to the psychophysical dynamics of police-citizen encounters, as they are manifest in the negotiation and control of interpersonal space. Winkel *et al.* (1988) analyze their observation that under experimental conditions similar to the circumstances of a routine conversation, police officers tend to maintain a proximity to their interlocutors that is closer than the distance usually taken by civilians to one another. Insofar as this is the case, they hypothesize that citizens speaking with police officers will often shrink back or retreat, an intuitive, defensive move, which the police can nonetheless construe as furtive or suspicious, thereby escalating to the level of confrontation what might otherwise have been an innocuous contact. Vrij and Winkel (1991) pursue a broadly similar theme in their comparative study of cultural patterns of non-verbal behavior in police-citizen encounters in the Netherlands and Surinam.

Finally, although not written as a psychological study *per se*, Kinnane's (1979) participant-observation study of policing is the work of a doctoral student in clinical psychology turned police officer – albeit only for a brief time. Kinnane only deals peripherally with police-citizen encounters; however, his study is noteworthy for his methodological and political analysis of the promises and pitfalls of psychological research on policing (1979:121-133).

## *Postmodern Studies*

Postmodern studies of police-citizen encounters encompass a broad range of theoretical perspectives emerging out of criminology's engagement with sociological and philosophical movements centering on critical analysis of the nature of modernity and its institutions, and what is held to be its replacement by "postmodernity."<sup>49</sup> Research in this category frequently has a close alliance with various elements of critical criminology.

Grimshaw and Jefferson (1987) draw from Althusser, Gramsci, and Foucault to develop a neo-Marxist, structuralist account of policing, which they hold up as a needed alternative to the "twin inadequacies" of empiricism and idealism. They argue that most sociological inquiry has hitherto tended to produce pragmatic, operational notions of the police, yet has done so in relation to idealistic conceptions of law and society that have remained unjustifiably immune to critical analysis (1987:11). With respect to the particular issue of police-citizen encounters, Grimshaw and Jefferson echo the widely held contention that whatever innocuous social services may be performed by the police, both their own self-conception and their conception in the public mind center upon the notion of crime fighting (1987:23).

In their case study analysis of patrol work in an unnamed British city, Grimshaw and Jefferson divide police-citizen contacts into those that are "elective" (made at the behest of the public), and "non-elective" (undertaken at officers' initiative). During elective contacts, the power to call upon the police matters little compared to the actual outcome of encounters, which tends to be shaped by complex patterns of legal categorization and officer discretion. People are made meaningful according to their actual or potential roles in an economy of power, and become

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<sup>49</sup> The use here of the category of "postmodern" analyses should not be misconstrued as indicating an assent to or agreement with the prevailing self-conceptions of the idea of postmodernity, especially those self-conceptions according to which postmodernity believes that it has overcome metaphysics or foundationalism. While the immensely complex and equally controversial question about the nature of "postmodernity" cannot be addressed in the present context, it is important to remark that self-described "postmodernity" may arguably be regarded more accurately as "hyper" or "ultra" modernity, inasmuch as postmodernity, despite many of its claims to the contrary, retains – often cryptically – the very modern foundationalism that it purports to have overcome. See Foster (1983), Giddens (1990), Turner (1990), Latour (1993), and O'Neill (1995).

“objects of procedure” (1987:75). It is the same with “non-elective” contacts. For Grimshaw and Jefferson, there is an underlying paradoxical and ironic quality to non-elective contacts, in that they are initiated according to discretionary judgments of legitimacy, which both derive from and reinforce public perceptions of the police (1987:76).

Chan (1997) uses Bourdieu’s concepts (1990) of “habitus” and “field” as the theoretical foundations for her study of police racism in New South Wales, Australia. Chan’s study was conducted using questionnaires, interviews, and content analysis, and attempts to create an understanding of police culture grounded in an interactive model that accounts for the interrelation of structural conditions (field) and cultural knowledge (habitus) in the “production” of police practice (1997:70-80). Chan criticizes analytic models that ascribe an underlying, predetermined rationality to police practice, or that see officers as mere passive carriers of police culture (*cf.* Fielding, 1989; Sykes and Brent, 1983; and Cain, 1973). In reality, she argues, police culture and practice derive from complex relations and negotiations in which officers themselves play a conscious, ongoing role, one that therefore demands to be interpreted as more than simple, rational calculations (1997:70ff.). Indeed, for Chan, the attribution of rationality to police decisions says more about the processes through which such a claim is made than it says about the real nature of the phenomena they purport to describe. All of this leads Chan to conclude that police racism directed against the conspicuous poor can only be understood adequately by considering it in the context of the structural and cultural organization of policing (1997:224).

Like Chan, Herbert (1997) develops an interpretation of policing that accounts for the operational enactment of cultural precepts. Herbert’s self-described “analytic ethnography” of the Los Angeles Police Department focuses on the concept of territoriality, and how it is structured through the enactment of six interrelated “normative orders.” His research is based upon field observation and limited interviews. Herbert identifies police power as a function of political geography: the police fulfil the task of creating and enforcing order by setting

boundaries and restricting movement (1997:10-11). His theoretical orientation derives largely from neo-Weberian and Foucauldian analysis, combined with social geography (1997:13-21). Much as Chan analyzes the interaction of field and habitus, Herbert considers how the objective formalization of social space through the normative orders of law and bureaucracy become “infused” in praxis with the subjectively determined normative orders of adventure/machismo, safety, competence, and morality, which emerge from police culture (1997:22-23).

Phillips and Smith (2000) base their analysis of violent police-citizen encounters upon the work of Giddens. They draw upon Giddens’ structuration theory to explain time-space dynamics, in what is presented as an explicit effort to “reintegrate quantitative criminological and policing research with mainstream social theory” (Phillips and Smith, 2000:492). As Phillips and Smith note, this line of thought is closely allied with the work of Hallett and Powell (1995), whose study of the television show “Cops” analyzes media reifications of police subculture by examining the self-portrayals of actors/officers. Another similar study may be found in the postmodernist critique that Barak (1994) deploys in explicating mass-media images of police-citizen encounters. More recently, Shon (2002) draws from Foucault and various strands of critical criminology to present a discourse analysis of police-citizen encounters depicted on “Cops.” Shon argues that his approach focuses attention on the largely neglected role of language in the exercise of police power.

### ***Existing Phenomenological Research***

The voice of phenomenology, let alone phenomenological philosophy, is now, and has been historically a faint one in interpretations of policing. Despite the occasional mention of its potential insightfulness for criminological inquiry (*e.g.* Downes and Rock, 1982:163-184 and Holdaway, 1989:60-61) and its broader integration into the social sciences, there has been little conscious application of phenomenology to criminology in general, and to the study of police-citizen interactions in particular.

There are some fairly clear reasons for the relative paucity of phenomenological criminology. Often regarded as a form of radical subjectivism that either relativizes or completely abandons all claims to truth (Taylor, Walton and Young, 1973; Gellner, 1975; Quinney, 1975; Downes and Rock, 1982), phenomenology has traditionally been looked upon with more suspicion than favor in a field that traces its roots to positivistic social science and empiricism, and frequently has little patience for theorizing (Downes and Rock, 1982:179-184; Holdaway, 1989:60-61). In an extension of these criticisms, phenomenology has also been faulted by some voices in radical criminology for what is taken to be the abandonment of normative questions through an ostensible isolation of meaning from its sociopolitical context (Taylor, Walton and Young, 1973:279-280).

To the extent that phenomenology manifests a presence in criminological research, it is primarily in the form of ethnomethodology (esp. Garfinkel) and the sociology of deviancy (notably Matza, 1969; Sudnow, 1972; Rock, 1973; and Cicourel, 1968). According to the basic precepts of ethnomethodology (Garfinkel, 1967) the ordinary activities of life are inseparable from the prescriptive principles on the basis of which those who perform them understand them to exist as meaningful praxis. From this interpretive standpoint, ethnomethodology strives to understand the unity of purposive social activity and the “indexical expressions” (contextual or situational articulations) of the practitioners of that activity, whereby they hold themselves accountable.

The original situation out of which the term “ethnomethodology” arose was Garfinkel’s analysis of the behavior of deliberating jurors, whose activity depended upon complex articulations of adequacy, which together formed a methodological substratum for their task (see Garfinkel, 1968:5-11). Although Garfinkel himself did not apply ethnomethodology to the analysis of policing, this project was subsequently pursued – with enduring results – by his student, Egon Bittner (see, especially, 1967a, 1967b).



With strong influence from Goffman, Sacks (1972) examines the processes by which the police formalize inferences about criminality on the basis of physical appearance. While it is understood at the level of naïve commonsense that appearance sets the stage for social judgments and interactions, the police officer employs what Sacks (1972:283-289) describes as an “incongruity procedure,” which does not accept appearances at face value.<sup>50</sup> Using Garfinkel’s notion of background expectancy, Sacks explains how officers’ determinations of what is normal determines how they *see* their environments (1972:284-285).

In any given situation, people are “tainted” by their mere presence, and remain so until officers’ suspicions are allayed. For the police officer, nothing is as innocuous as it seems: the pretty girl getting out of a cab might be a prostitute; the man in a schoolyard is a potential child molester, and so forth (1972:284-5; see, also, Werthman and Piliavin, 1966). Suspicion is judged further by a person’s reaction to the officer, who must then judge if indifference is a feigned attempt at appearing inconspicuous, or if a second glance in the officer’s direction is motivated by more than curiosity. In all this, the police come to treat a given geographic area as an “expressive unit,” (1972:291) and patrolling it from day to day is done in the hope that an officer’s efforts will yield more quanta of information that will have made his or her efforts “count” (1972:292). Sacks notes, too, that officers see their encounters with real and potential criminals as business transactions, which are ideally carried out with reason and calm on both sides (293, *cf.* Skolnick, 1966:110-111).

Cicourel (1968) uses ethnomethodology to study the organizational practices of the juvenile justice system in order to understand how encounters between the police or social workers and juveniles becomes the basis for activities that “label and produce” juvenile delinquents. This involves considering the processes whereby lived experience becomes transformed into formal evidence of crime, delinquency, suspicion, and other categories that

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<sup>50</sup> Sacks assumes here that even avoidance and retreat constitute interactions, albeit not verbal ones.

constitute bases for various forms of control and intervention. For Cicourel, these processes “create” an “object of interest” – a “juvenile delinquent” – out of a child encountered by the juvenile justice system (1968:1-8, 331ff.). Cicourel’s predominant area of interest lies in the processes of formally interviewing and interrogating children, rather than in the initial encounters between juveniles and patrol officers on the street (1968:112ff.). Following one of ethnomethodology’s guiding themes, that objective accounts of indexical expressions are inadequate (Garfinkel, 1967), Cicourel highlights the inability of official documentation to mirror accurately what truly occurs in actual dialogue (1968:166-169).

Cicourel’s work on the construction of delinquency bears a marked affinity to Matza’s study of deviance (1969). Although he does not proceed from an explicitly phenomenological perspective, Matza grounds his analysis in a self-described “naturalist” theory, which draws strongly from phenomenology and seems, at points, to be nearly synonymous with it (1969:3-10 & 165-180). Matza’s concern with questions of reflexivity and the dialectical development of self-conception within a regime of analytic and administrative objectification has a direct pertinence for considering the underlying ontology of police-citizen encounters. Similarly, his work occasions reflection upon fundamental existential questions of personal identity and authenticity (*cf.* Morrison, 1995).

There are a few studies in the sociology of deviance that explicitly use phenomenological concepts to explain police behavior. Most noteworthy here is Rock (1973:75ff.), who draws from Schutz’s (and Husserl’s) conception of the suspension (*epoché*) of the “natural attitude” to explain the “systematic distrust,” which both police officers and criminals use to interpret their everyday surroundings. This “existential commitment to deviancy” (1973:76) explains the suspicious comportment of officers discussed in police ethnographies, and takes a major step towards treating such practical activity as a question of the enactment of modernity’s defining ontology.

Holdaway's research on British policing (1989:63-65, 1980) uses participant observation, and claims a debt to Schutz, and to Berger and Luckmann, although his predominant interest is the occupational cultural of policing, rather than police-citizen interactions. Holdaway (1989:69-71) criticizes the "Flatland" description of policing, which he finds exemplified in Westley (1970), and contrasts with Rubinstein's work (1973). In general, Holdaway points to Schutz's phenomenology as offering a point of departure for even more fruitful and nuanced interpretations of policing.

From a phenomenological perspective independent of ethnomethodology and the sociology of deviancy, Manning (1977) uses a dramaturgical metaphor to explain the processes of symbolization occurring in the interactions between the police and public. Manning regards the police first and foremost as "dramatic actors," (1977:17) whose "grammar of social interaction" provides them with the means of interpreting the situations in which they find themselves. Placing himself in the tradition of Burke (1935 and 1945) and Goffman, Manning seeks to read the social control activities of the police as symbolic rituals, given meaning and significance according to the interpretive practices of the actors.

In a later study (1988), Manning explores symbolic communication in an analysis of telephone calls received at police dispatch centers. Manning shows how symbolic processes for interpreting and encoding calls for police response determines their meaning and relevance. His study examines the institutional practices according to which the complex nuances of communication become "mere organizational products" (1988:6). Manning's book ends with a statement on the limits of the language of social science, which, he says,

. . . is not poetic or aesthetic but merely a language for expressing and elevating contradictions. In the end, when the sun shifts, splays against the carpet, and radiates in the room, words fail to capture its warmth and logic cannot 'restore' human attachment, which, like the sun, regularly fades, dips, and perhaps rises again. (1988:266-7)

Manning's words express well phenomenology's critique of reductionist analyses and processes that unquestioningly transform subtly nuanced human experiences into administratively meaningful data. In his most recent work to date (2003), Manning expands upon his previous applications of dramaturgy and semiotics to the analysis of changes in policing over the past thirty years.

Another phenomenological critique of the limits of positivistic criminology may be found in the work of Katz (1988). Though his topic is not policing, Katz's phenomenology of crime has direct relevance for understanding police-citizen interactions. Katz argues that whatever background factors and events precede a crime, none of them explains completely or adequately that discrete moment when a human being commits a criminal act (1988:4). Seduction, compulsion – the indeterminate “push and pull” of human existence – constitute a foreground for action that defies the kind of rational reduction and circumscription attempted by much criminological research (Katz, 1988:4ff & *passim*). By turning to this phenomenological foreground of human action, and the “ontological validity of passion,” (1988:8), Katz points the way to an experiential conceptualization of crime, which can preserve (and indeed amplify!) moral revulsion, while nonetheless gaining a more fundamental understanding of crime's “authentic attractions” (1988:8). Such inquiry into the “what and how” of an event, rather than the “why,” offers the possibility of revealing layers of significance in an actor's self-experience that become muted when questions are directed towards a justification for actions that make sense to the inquirer (1988:7-8).

The pertinence of Katz' argument hardly remains confined to the actions of criminals. His suggestion that criminal acts be interpreted in terms of the practical exigencies of committing the crime; actors' conception of how both they and their crimes will be understood by others; and the emotional dynamic of seduction and compulsion, is a framework that readily invites broader application in interpreting encounters between police and the public (1988:9). Equally important,

Katz introduces key names from phenomenological philosophy, such as Ricoeur and Merleau-Ponty, into the discussion of crime. In doing so, he takes a major step beyond the predominant ethnomethodological form of phenomenology in North American social scientific inquiry, thereby bringing criminology that much closer to a more direct engagement with the phenomenological tradition (*cf.* Taylor, Walton and Young, 1973:193ff.).

### ***What Remains Unconsidered***

Van Maanen's thorough, critical survey (1978) of some of the key methodological problems attendant to field research on policing raises a number of issues that point to the need for a more fundamental analysis of the actual processes of such research, and remains pertinent even after the passage of more than a quarter century. Van Maanen expresses a general dissatisfaction with the formal methodological explanations typical of ethnographic studies of the police. He notes in particular that most researchers, while acknowledging some of the problems attendant to observing the police *in situ*, nonetheless give the impression of engaging in a process in which the field worker

. . . simply vanished for a period of time into an obscure and often-unnamed police world; became involved in the activities that took place there; attained something akin to a state of grace with the observed; and then, presto, emerged with the data in hand. (1978:310)

Van Maanen analyzes some of the personal and social dimensions defining the interpretive horizon of police ethnography, and argues that the explanations given for undertaking such research are no less immune from deeper analysis than the actions of the police themselves. More specifically, Van Maanen's line of thought leads to the conclusion that the lived actuality of observing police work must receive scrutiny that goes beyond its simple treatment as a methodological factor potentially affecting the validity of data. This involves engaging the subjective intentions of the researcher, as well as the underlying hermeneutic dynamics forming the ineluctable interpretive conditions structure of the "research environment."

Van Maanen contends that it is no more possible to delimit artificially the relationship between the researcher and the researched, than it is to do so with the relationship between the police and the public. His account of his own research with the pseudonymous “Union City PD” illustrates insightfully the complex role of the participant-observer. Van Maanen (1978:345-6) argues that until researchers engage more directly the actual process of research itself, and stop taking it for granted as something that happens as if by magic, it will be weakened by an opacity and self-ignorance (*cf.* Spano, 2003).

More recently, and from the perspective of an interdisciplinary, historical analysis of the cultural representation of policing in twentieth century America, Wilson (2000) suggests that the hallmark ethnographic studies of the police are more accurately regarded as political rhetoric or storytelling, rather than as objective empirical research. According to Wilson, academic criminology’s predominant focus since the 1960s on police-citizen encounters as the defining aspect of policing accepts and reinforces as a *fait accompli* a particular sociopolitical conception of civic order. Wilson argues that a symbiotic relationship developed between the “blue knights” of policing and the “brown jackets” of academia, which over time yielded a wealth of criminological analysis that re-shaped the very subject of its attention:

Police science had yoked itself to the language of human relations, and imagined that routinized, bureaucratic work was the best way to anticipate public disorder. Under the progressive-sounding banner of efficiency and actuarialism, the procedural approach aspired to make policing into a predictive, rather than merely reactive enterprise. (Wilson, 2000:94)

Even more so than Van Maanen’s critical appraisal, Wilson offers an invaluable insight by showing how the academic analysis of policing is inseparable from the sociopolitical and cultural context within which it is undertaken. Most important, the ideas expressed by Wilson and Van Maanen lend clear support to the central argument advanced here, namely that the dominant forms of mainstream criminological analysis and policing enact a common ontology,

one dependent upon the ability to encounter other human beings as “subjects” or “problems” amenable to reductive circumscription and analysis.

To be sure, researchers have occasionally commented upon the practical similarities between social science and policing. Matza argues that in applying classificatory schemata to observed phenomena, the police officer confronts a methodological problem that “is similar in almost every respect to that faced by sociologists.”<sup>51</sup> Bittner (1980:91) notes similarly that the methodical development of “area knowledge” by patrol officers is based upon a “good ethnographic grasp” developed through modes of inquiry fundamentally similar to those used in social scientific research (1990:174-177).

The most common recognition of the affinity between policing and social science comes, however, in the form of programmatic and operational recommendations that law enforcement adopt both the methods and the conclusions of social scientific research in order to become more “modern,” “professional,” “scientific,” “rational,” or “efficient.” Trojanowicz and Dixon (1974:xi), for example, forthrightly argue that the successful, modern police officer “must become a social scientist.” Bittner likewise calls for policing to adopt academic methods of study and research in order to raise its occupational status to that of a true profession (1990:311-321). From the standpoint of psychology, Brewer and Wilson (1995) recommend the thorough integration of behavioral research into police training and operations.

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<sup>51</sup> Quoted in Werthman and Piliavin (1966:75). The original source is David Matza, “The Selection of Deviants,” unpublished MS, no date, p. 32. Werthman and Piliavin continue: “both [the police officer and sociologist] must classify individuals by searching for the particular actors that best fit a set of social or legal categories, and both are typically forced to use indicators of the categories of persons they are looking for since true referents rarely exist. In brief, then, patrolmen are forced to operate like social scientists. In order to locate ‘suspicious persons’ they must use indicators, each with a specific but by no means perfect probability of leading them either to the discovery or prevention of a crime” (p. 75). It is further worth noting the presence of the phenomenon of “profiling” in sociological field research on policing. For example, Ericson’s work on patrol operations (1982) classified victim complainants according to a variety of criteria, including “socio-economic standing,” which, according to Ericson, was determined by researchers’ judgments, and made on the basis of factors such as dress, speech, type of car driven, and/or place of residence. Here, with no apparent awareness of its underlying irony, social scientific research enacts the same logic as the putative object of its critical attention! See Ericson (1982:102).

In all arguments such as the ones just described, the analytic and practical focus remains on reforming policing and improving its level of technical efficiency and predictability, by grounding police praxis in what Bittner terms a “resolutely calculating approach” (1990:179). The quandary here, however, is that policing, in ways and under circumstances wholly unique to it and similar forms of social and administrative praxis, involves the routinizing and rational control of dynamic encounters between bureaucrats and their fellow human beings, who are in the throes of crises of innumerable sorts. To the extent that this phenomenon is only treated in pragmatic or sociological terms, its more fundamental dimensions remain unconsidered, and thus beyond critical engagement.

Paradoxically, a call such as Bittner’s for emotional calm and rational efficiency in the discharge of police duties is thus at odds with poignant ethnographic descriptions that express shock and dismay at the apparent indifference, or even dark humor, with which officers go about their work. Descriptions like these highlight the intractable dilemmas and underlying moral dissonance attendant to balancing professional distance and clinical detachment with compassion and the entire range of emotional, intellectual, and spiritual response. Here, Herbert’s account (1997:84-85) of responding with a Los Angeles PD sergeant to a gunshot suicide provides a useful example.

Herbert is left feeling aghast at what he perceives to be the officers’ apparent indifference to a violent, tragic situation, a sentiment only further amplified by their laughing at his manifest queasiness and discomfiture. He reads this moment as an example of police culture’s sense of adventure and machismo, one of the six normative orders guiding his analysis of the LAPD. In an attempt to illustrate the empirical validity of his analysis, however, Herbert remains disengaged from the subtler, phenomenological nuances of the encounter, not least of all, in fact, those influenced by his own role. A more careful reading of this incident might have considered the extent to which the officers’ responses were shaped by Herbert’s presence (*cf.* Spano, 2003),



might have reported on a subsequent conversation aimed at gaining further insight into the officers' thoughts and perceptions, and might have reflected upon the extent to which the outward display by cops of macho, "steel gut" attitudes emerges from a cultural expectation of blasé indifference that is not quite as unproblematic as Herbert presents it as being.

Herbert's observation, made with a seeming critical perplexity, that the officers appeared unaffected by the scene, also fails to consider the public expectation that they be detached and composed, not merely with respect to the immediate situation at hand, but even more so for the next call to which they respond. A demonstrably traumatized or emotionally distraught officer will not inspire public confidence, which suggests that "laughing at death" is more than a manifestation of machismo. In sum, we are left to wonder: to what extent does the experience of investigating a situation like the suicide demand a suspension of one's human presence out of a perceived need to be "detached"; and, furthermore, how does the act of detachment itself proceed from a moral recognition of the very tragedy of the incident, which the act of suspension really cannot efface?

Such a question suggests that in advance of any such pragmatic considerations, a phenomenological analysis of the encounters between police and citizen is necessary to illuminate the tension between "intersubjectivity" as bureaucracy's mode of comportment, and co-presence, as a more holistic conception of human encounter. Bittner rightly notes that society pays for and expects the officer's actions, not those of the human being through which they occur (1990:179). What comes to the fore in this comment is precisely the entire question of the ontology of the human being as isolable "subject" or "problem," and the role that this ontology plays as the *sine qua non* for both social scientific and bureaucratic praxis. In each case, the "subject" stands forth

as the *manipulandum* of rational action, whether on the part of the police officer or the researcher.<sup>52</sup>

Weiss (1975) points to this duality or bifurcation between professional and personal presence, which is hardly unique to police officers (see, also, Goffman, 1961b). Its acuteness and poignancy, however, are arguably more pronounced in the context of a vocational milieu such as policing, engaging as it does so many of the abiding predicaments of the human condition. Even while discharging their duties behind the partial anonymity of the uniform, officers must

be sensitive to *what other beings are* and make a kind of sympathetic *reaching to the presence of other individuals*. [The police officer] functions therefore as a being who takes a kind of *distance* at the same time that he has some kind of *grasp*. *He must understand what it is for another being to be over against him*. Now this is ultimately a question of human sensitivity. There are people who have no or very little understanding of what the feelings of others are. They are intelligent, they are fair-minded, they are industrious, they believe in the right, but what they cannot sense is how others feel. The first function then of a policeman as an individual is to quicken the sense of what others are feeling. (1975:28, emphasis added)

With this claim, Weiss takes an important step beyond much of the other literature that has been surveyed here. He does more than suggest the appending or grafting of ethics, patience, or politeness onto what is, in the end, still a bureaucratic, instrumental-rational process. In the final analysis, the ontological foundation of that process must be revealed with respect to its manifestation in ordinary praxis. Such a task demands nothing less than a rigorous articulation of the notion of co-presence as the irreducible foundation of police-citizen encounters.

Bittner describes the “crudeness” of police work, which he says stems from the pragmatic, bureaucratic handling of “subtle human conflicts and profound legal and moral questions, without being allowed to give the subtleties and profundities anywhere near the consideration they deserve” (1990:97). This statement contains the kernel of a fundamental

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<sup>52</sup> Holdaway (1989:55-56) goes so far as to argue that intense sociological scrutiny of the police has often used them as a “testing ground,” less out of concern for the police themselves than for their pragmatic, readily available presence as a site for study. This is yet another example of the irony of Foucauldian analysis being conducted on those who staff the proverbial Panopticon.

phenomenological truth. This truth, quite simply, consists in the fact that the mere ability to judge the inadequacy of forms of social praxis, such as the bureaucratic or criminological problematization of human beings derives from a more elemental comportment towards others antecedent to such praxis, and constituting its unconsidered horizon. By understanding first and foremost the irreducible co-presence of human beings to one another, which is the ontological foundation of any encounter, that horizon may be brought to light.

## CHAPTER 4

# THE APPROACH OF A PHENOMENOLOGICAL AESTHETICS OF ENCOUNTER

*Any genuine method is grounded in the appropriate preview of the fundamental constitution of the 'object' or area of objects to be disclosed. Any genuine reflection on method, which is to be distinguished from empty discussions of technology, thus at the same time tells us something about the kind of being of the being in question. (Heidegger, 1996:280)*

*Art, then, is an increase of life, a sort of competition of surprises that stimulates our consciousness and keeps it from becoming somnolent. (Bachelard, 1994:xxxiii)*

### ***Contextualizing and Transcending the Question of Method***

The discussion of “method” is an unusually complicated one for this dissertation, most of all because one of the tasks intrinsic to its underlying argument is a phenomenological exposition of the very notion of “method” itself. This task is occasioned by the need to justify the claim that the putatively self-transparent methods and operational stance of modern bureaucratic and social scientific praxis emerge out of a far more elemental mode of comportment, the underlying ontology of which all but totally eludes critical awareness and engagement. In the instance of police-citizen encounters, occasioned and contextualized as they largely are by an inestimable multiplicity of kinds and degrees of human predicament, this translates into an especially consequential enactment of the problematization of human being.

In order to get beyond the philosophical horizon of the notion of method, it is necessary to consider fundamentally what method essentially is, beyond its predominant self-conception.<sup>53</sup>

Stated in preliminary terms, this involves considering from a phenomenological perspective the

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<sup>53</sup> This formulation deliberately echoes Gadamer’s description of the task of philosophical hermeneutics, as he explains it in *Truth and Method* (1989). For Gadamer, hermeneutics is not “a methodology of the human sciences, but an attempt to understand what the human sciences truly are, beyond their methodological self-consciousness, and what connects them with the totality of our experience of world” (Gadamer, 1989:xxiii).

interrelation among the ideas of method, approach, response, and comportment. The basis for such a claimed interrelation rests upon the argument that each of the preceding ideas essentially involves the *interpretation of human proximity*.

In most social scientific research, and in the official documentation and self-critique of its processes, the discussion of method endeavors to present in operational or procedural terms how a given topic is to be approached and considered. This simple description identifies immediately what phenomenology takes to be the inadequate self-conception of most reflections upon “method.” According to this self-conception, reflection upon method is typically confined to the pragmatic analysis of specific problems related to the task of engaging the “subject” or “object” of research. Once a given subject, object, or area of interest has been identified as a problem or topic for investigation, the ways and means of pursuing the investigation must then be enumerated and explained. This usually involves detailed attention to the structuring of actual research practices – the identification, collection, and classification of data, the development and performance of experiments, the analysis of results, and the validation or refutation of hypotheses. Seen wholly in these terms as a pragmatic or operational matter – albeit one often regarded as having ethical dimensions – such reflection upon method essentially has little notion of how it occurs on the basis of a particular, unacknowledged, and hence unquestioned ontological and epistemological comportment toward the subject or object of its attention.

From a phenomenological perspective, the comportment that underlies method, both in everyday bureaucratic praxis, and in the kind of social scientific thinking with which it is allied, may be revealed by engaging the idea of method in terms of a *phenomenology of approach*. The notion of approach is already implicit within all commonsense thinking about method. This is why the question, “what is your method?” may also be formulated as, “what is your method for approaching this problem?” or, “in what way do you approach this subject?” The preceding questions suggest how, at a level of thought preceding conscious analytic reflection, we seem to

have an intuitive idea that “method” involves coming near to someone or something. To find the “best method” for pursuing a given task or inquiry is thus understood as determining how one ought to approach it; hence when we speak of the “best method,” we often refer metaphorically to the best or easiest “way” to arrive at a given end. Literally speaking, of course, to approach something is to draw near to it, or to come into proximity with it. The idea of approach need not be confined to physical proximity: in a more abstract or metaphorical sense, to approach something is to be concerned with it or to engage it from a certain intentional stance. *At all events, the question of method may therefore be understood in terms of how the condition or existential state of proximity is interpreted.*

From the standpoint of a phenomenological analysis of encounter, what is most significant in relating method to the notion of approach is the fact that approach is always already oriented by a pre-existing intentional stance towards that with which we come into proximity. As soon as I decide to approach a person or thing, whether in response to an immediate, physical presence, or at a remove through theoretical reflection, my decision and its accompanying processes of cognition orient me towards a particular comportment. Approaching is a coming near *to* someone or something: this is evident in the etymological derivation of the word “approach” from the Latin *adpropiāre*, which combines “*ad*” (to) and “*prope*” (near). This intentional quality of approach thus reveals as well its existential relation to the hermeneutic phenomenon: the act of drawing near is possible only on the basis of foreknowledge and anticipation. In this way, method regarded phenomenologically as approach has always known its “subject” or “object” beforehand at a more fundamental level than the formal precepts of method will usually ever acknowledge.

Consistent with this argument, Heidegger (2001:101) notes how the word “method” (“*Methode*”) carries the meaning of being a “way towards” something. As he points out (2001:101), the word “method” derives from the Greek “*methodos*,” which combines “*meta*”

(“among,” “with,” “beside,” “after,” “from here to there,” “towards something”) with “*hodos*” (“way”). In order first, to focus conscious, critical attention upon a phenomenological analysis of method that rethinks it in terms of approach; and second, to focus upon such an analysis as it applies reflexively to this dissertation itself, as well as to the bureaucratic and academic praxis that it interprets, the term “method” will be largely avoided here, with the term “approach” taking its place.

The distinction between “method” and “approach” is particularly significant for understanding the conception of method that is common to both bureaucratic and social scientific praxis. The police officer, in determining how to “manage” human encounters as problems, is continually dealing with intuitively held, preconceived notions of space and proximity, not only in a legal and administrative sense, but also in tactical terms, with respect to assessing and reacting to the potential physical threats posed by the close presence of another human being.<sup>54</sup> To inquire phenomenologically into the bureaucratic approach, and to do so in the particular context of understanding police-citizen encounters, is to ask this: how does a police officer, as such, approach another human being, in the most essential sense of establishing a state of proximity, and then interpret as meaningful that other human being’s presence? This inquiry is essentially identical to that which could be posed in order to understand how the social scientist likewise “approaches” human beings as the “subject” of research or the “object” of analysis. As the police officer reads human presence for manifestations of crime, disorder, and transgression,

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<sup>54</sup> The management of physical proximity is a frequent topic in police training, where it is often discussed in terms of “proxemics,” which attempts to analyze the various range of distances at which people place themselves from one another, and how those distances may be used to advantage in resolving confrontations. Here, policing is only doing in a limited, corporeal sense what bureaucratic praxis demands in a broader sense, namely transforming human presence into a “problem” or “object.” For discussion of the concept of proxemics by its originator, see Hall (1981). For a recent example of a police training text that discusses proxemics and other related concepts, see Geerinck and Stark (2003). Another dimension of the management of proximity that is not usually addressed in training on proxemics is the question of “controlling distance” as it relates to standoffs with armed subjects not immediately in the line of sight. In particular, the tactical response to situations involving barricaded, armed people is usually formulated in terms of “containment and isolation,” the specific elements of which are based upon a “threat assessment.”

so the researcher approaches human presence as an abstract repository or substratum of data or “observable behavior and phenomena.”

What has thus far been suggested here is that method and approach are existentially interrelated in so essential a way, that it is now possible to see why the analysis of encounter in the everyday setting of police work is inextricably related to the entire question of method in the social sciences. Approach, whether literally or figuratively considered, depends upon always already being engaged with that towards which we draw near. *Method demands (and enacts) the reductive resolution of the existential state of proximity into a question of strict technique by abstracting from presence one highly limited aspect, which it then treats as having a singular significance representative of the encounter as a whole.* By measuring its apparent success or effectiveness in operational terms, method merely affirms its consequent, failing to ascertain how the result by which it measures its worth is guaranteed by a prior, unacknowledged commitment to a very strange way of thinking, whose validity is beyond question or reproach.

A preliminary conclusion has therefore been reached: a phenomenological interpretation of police-citizen encounters, which through aesthetic representation demonstrates the operational logic and implications of the problematization of human being, does so in a manner that is equally applicable not only to other kinds of bureaucratic praxis, but more generally to the various forms of social scientific method, to which such praxis bears an essential affinity.

### ***The Hermeneutic Phenomenon and Its Relation to Approach***

As has already been explained in Chapter 2, phenomenology has a natural connection to hermeneutics (see, also, Ricoeur, 1981:101-128). As a branch of philosophical inquiry, hermeneutics directs itself towards analyzing the conditions and possibility of true understanding and valid interpretation.<sup>55</sup> Its inquiries center upon the explication and analysis of the

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<sup>55</sup> Readers interested in a general introduction and overview of philosophical hermeneutics are directed to Gadamer (1976), Hoy (1978), Shapiro and Sica (1984), Bruns (1992), and Grondin (1994).



“hermeneutic phenomenon,” which is regarded as describing the definitive ontological condition of understanding, namely, that no form of knowledge can occur except on the basis of some prior relation to that of which knowledge is sought. To the extent that phenomenology reveals the hermeneutic phenomenon as an essential characteristic of human being, and, furthermore, such that the hermeneutic phenomenon establishes the ground for the “hermeneutic circle” as the model for understanding, no act of interpretation can remain the limited, technical concern of “neutral” analysis or methodological refinement. Rather, the ability to arrive at valid understanding has a universal relevance for all forms of communicative praxis.

Perhaps more than any other philosopher, Gadamer (1979, 1989) brought to light the universality of the hermeneutic phenomenon, and especially its relevance for the methodological self-conception of the human sciences. As shall be argued here, that relevance may be extended as well to bureaucratic praxis, such as policing. For Gadamer (1976, 1989), the *universality of the hermeneutic phenomenon* shows hermeneutics not to be a set of methodological principles, but rather a characterization of the conditions within which all interpretive and methodological practices are realized. *Hermeneutics thus attains its full significance as an inquiry into the ontological conditions of understanding.* Gadamer cautions that hermeneutics should not be regarded as a “method” or “technique” in the conventional social scientific sense. Refusing to be implicated in what he regards as the erroneous self-conception of the entire modern notion of “method,” Gadamer seeks to understand in the most radical way possible what is presumed in the very notion of method itself (1989:xxiii, 3-9, and esp. 511ff.). His argument strongly influences the approach to the question of method taken in this dissertation.

Following Gadamer’s line of thought, a phenomenological critique of bureaucratic or other forms of praxis rooted in a logic of “pure method” must pay diligent attention to the hermeneutic phenomenon in order to understand how praxis lays claim to a purportedly valid, univocal interpretation of moments such as police-citizen encounters. Through this consideration

of the hermeneutic phenomenon, it becomes possible to reveal the ontological structure of human encounter, in relation to which the reductive interpretation of co-presence into “problems” or “objects” occurs (see Gurwitsch, 1979:35ff.).

The hermeneutic circle characterizes how thought remains historically grounded as a function of the ontological condition of understanding. Reflections on history cannot occupy a neutral, analytic standpoint that is itself beyond history – this is the aporia of historicism that plagues the human sciences, and constitutes the core problematic of historical objectivism. Likewise, all scientific knowledge presupposes an understanding of that which it pursues as the object of its research (see Heidegger, 1996:143). Heidegger, and Gadamer after him, both sought to show that the desire to find such a neutral standpoint is itself the product of an attenuated self-reflection upon the nature of understanding, which no methodological prescriptions or techniques can transcend. Valid interpretation is not a matter of overcoming prejudice, tradition, history, and foreknowledge, but lies in recognizing that they each constitute essential ontological dimensions inherent to all interpretive praxis (see esp. Gadamer, 1989:265ff and *cf.* Ricoeur, 1981:64ff.). Thus, the inquiry central to hermeneutics is not one of methodology, but of ontology.

When hermeneutics turns its attention to articulating the nature of the hermeneutic circle, it becomes apparent that the circular structure of understanding is not something to be overcome through “appropriate” method. Rather, the hermeneutic circle characterizes the “ontological structure of understanding;” and in this sense, it is impossible to distinguish between how the circle shapes our understanding, and how our understanding shapes the circle (Gadamer, 1989:293ff; *cf.* Heidegger, 1996:141-144 and Ricoeur, 1981:57-62). The human sciences (and with them, bureaucratic praxis), in aspiring to achieve the kind of objectivity claimed by the natural sciences, miss the point: mathematics is not “more exact” than a field like history; rather, the kind of ontological reflections demanded in history are far more complex than those demanded by mathematical research (Heidegger, 1996:143).

## *Towards a Phenomenological Aesthetics of Encounter*

The error of the thinking particular to “pure” method – whether undertaken as social scientific or bureaucratic praxis – lies in the assumption that what the hermeneutic phenomenon describes, namely the ontological inevitability of prejudgment as a condition of all understanding and interpretation, can in some manner be methodically excised, or at least limited. This conception of method arises from the demand that the world be made amenable to modes of analysis regarded as yielding a univocal, “objective” significance, qualitatively distinct from and superior to all others, which are held to be the less rigorous result of inferior modes of knowing. This demand, inexorably present but unspoken, informs the enactment of the problematization of human being in praxis. A concrete example will help to illustrate this process.

Coming face to face with another human being and bearing witness to the expression of emotion that betokens both self-awareness and the intuition of its mutuality is certainly among the most elemental aspects of encounter. Even at this level, the experience of co-presence, as it is manifest in the phenomena of a returned gaze, and the subtle movements and nuances of posture, always retains an ineffability when confronted with rational cognition’s limited grasp. From a practical standpoint, however, such as that of a police officer encountering a citizen, emotional response must be objectified as factual data indicative of a particular state of affairs. How, then, do we literally face this mystery? How, following the notion of method as approach, do we interpret human proximity in the form of cries, laughter – the entire range of expression – and render it into “facts and circumstances?”

Heidegger (2001:81ff) considers some of the processes by means of which this occurs in clinical and therapeutic praxis, and reveals their ontologically rooted limitations. These limitations closely parallel the inherent inability of bureaucratic policing or mainstream social scientific research to engage human presence in authentic ways. Upon reflection, the clinician or therapist realizes that corporeal phenomena such as tears, blushing, and other such manifestations

of emotion cannot be interpreted “objectively” except in the most superficial manner, which necessarily abstract them from their existential locus in the presence of the other human being, to whom we bear witness. Thus, to measure the tears of a crying person, or to quantify the blood flow in the face of someone who is blushing is to reify the complexity of grief, shame, or other emotions into “facts,” which are meaningless precisely because of their “objectivity” (see Heidegger, 2001:81-82).

Moving from the clinical context to the realm of bureaucratic praxis such as policing, the objective representation of emotional phenomena in police reports has an underlying logic fundamentally similar to the clinical attempt to objectify bodily manifestations of emotion. Are downcast eyes a sign of guilt, fear, resignation, acquiescence, timidity, or coyness? And if such eyes are seen, and a decision about their “meaning” has been rendered and that decision has been recorded as a legally or administratively significant “fact,” what has occurred? To continue with this example, it is certainly true that on countless occasions in the realm of everyday life, eyes are seen and decisions are made about their significance.

The question at hand is what distinguishes the intuitive response to emotion from its methodic rationalization. The latter form of encounter, as it occurs in bureaucratic or scientific praxis, “works” as it does by reducing human presence to a *manipulandum*. As a result of its apparent operational, predictive, and technological successes, such forms of praxis claim an epistemological validity, on the basis of which the theoretical understandings that they advance eventually come to be conflated with the actual nature of reality.

There can clearly be no denying the fact that every kind of purposive social action requires one kind of comportment or another. Even more than this, as has been argued, human beings always already occupy a unique mode of comportment at each moment. What may be challenged, however, is the notion that the particular understanding generated from a given standpoint can or ought to be conflated with complete and absolute understanding of the actual

nature of the entity in question. If this is a quandary for the natural sciences, it need hardly be said that its social and moral implications are inestimably greater when the claim to certain and objective knowledge is asserted in the context of social scientific or bureaucratic praxis.

When human beings are abstractly regarded and methodically engaged as problems, or, at the very least, when their existential predicaments are administratively delimited in order to make them “solvable problems,” bureaucratic policing has revealed its ontological grounding to be essentially the same as that which Heidegger described for natural science and clinical praxis. Science, by its very nature, demands the kind of univocal answers that ground the possibility of calculability and prediction (Heidegger, 2001:137), and it is no less the case for social scientific analysis or the administrative operations of bureaucracy. For the clinical practitioners with whom Heidegger conducted the Zollikon Seminars, therapeutic diagnosis and treatment depend upon psychiatrists’ abilities to adopt a certain comportment towards their patients, on the basis of which behavior and statements are regarded as being the symptoms of mental disease, defect, or disorder. For the police officer responding to or “handling” calls for service, the same is true: immensely complex human predicaments must be pared down to administratively treatable “problems” or judicially remediable crimes or violations of law.

This “paring down” is more accurately understood as a process of abstraction. Abstraction is a drawing away or separation (Lat. *abs + trahere*). In scientific terms, it is the drawing away from a thing of that aspect deemed to represent its true nature. This abstraction then becomes the singular significance (*Eindeutigkeit*), on the basis of which praxis judges the entity in question to be knowable and meaningful (see Heidegger, 2001:137). Modern science is possible only through the abstract representation of nature as an object, as a mathematically calculable array of spatiotemporal processes knowable through experimental method, and

manipulable through the application of technology.<sup>56</sup> The belief of science in univocal meaning (*Eindeutigkeit*) grounds the logic of its method:

But this belief is justified only if one believes in the dogma that [everything in] the world is completely calculable and that the calculable world is the [only] true reality. This conception is pushing us toward uncanny developments – already looming now – in which one no longer asks who and how the human being is. Instead he [the human being] is conceived of beforehand from the background of the technical manipulability of the world. (Heidegger, 2001:141)

Disclosing the inadequacy of this comportment defines the present task at hand. This task will be accomplished by juxtaposing aesthetic representations of human encounter with narrative representations of police-citizen encounters.

At this point, it will be helpful to use an aesthetic representation of encounter to expand the prior discussion of witnessing the expression of emotion. Heidegger's phenomenological critique of clinical method may in this way be extended to the kind of encounter that a police officer might have on the street, perhaps with a teenage girl like "Lise," whose story is as follows:

Lise is fourteen years old, and is confined to a wheelchair because her legs are paralyzed. She lives alone with her mother. In conversation, Lise often reveals a dark and violent personality. She speaks of having a passionate desire to burn down her house, and imagines aloud the pleasure she would take in watching futile efforts to extinguish the flames. She talks of wanting to torture young children, and of "loving evil." Her words often bespeak an horrific indifference towards other people: Lise can talk in the same breath about torture and her favorite snack foods, eliding one topic into the other with a bored, matter-of-fact attitude.

Lise's anger also manifests itself in the kind of self-destructive behavior common among deeply anguished teenagers. On one occasion, she intentionally crushed one of her fingers in her bedroom door with such force that the tip turned black, and bled from beneath the nail. An account of this incident notes how Lise stared at the blood in fixated fury and muttered to herself.

Yet, despite her outward displays of nihilism and cynicism, Lise often demonstrates with equal force an affectionate side, and expresses a yearning for unconditional love. Her mother is at a loss at how to deal with her, and has turned

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<sup>56</sup> On this point, it is essential to consider Husserl's analysis (1970) of the Galilean "mathematization of nature" (pp. 23ff). Husserl argues that despite all that technology and science claim to have accomplished, the world itself remains what is always has been; and the manipulation of that world ultimately amounts to "[n]othing but *prediction* extended to infinity" (1970:51, italics original).

for help both to a physician, and to a family friend, who knew Lise when she was a little girl, and is now a member of a religious order.

Lise is like many of the teenagers with whom police officers have encounters every day. Her seemingly nihilistic outlook, vituperative expressions of hatred, and acts of self-mutilation represent the kinds of phenomena that are read as “warning signs” or “risk factors” by teachers, parents, police officers, social workers, and school counselors in the struggle to prevent school violence, teenage suicide, and other such tragedies. Lise, however, is not someone whom the author encountered on the street. In fact, readers of Dostoyevsky may recognize her as a character from *The Brothers Karamazov*.<sup>57</sup>

In an obvious sense, Lise is a “fictional” character; thus, it might be said that her story is not literally or historically “true.” In another sense, however, Lise’s story is much more than a fictional characterization. Dostoevsky’s account of Lise opens a window onto the real, giving voice to an essential truth that remains muffled, if not wholly muted, within many of the reductionist analyses that dominate social scientific and bureaucratic praxis. Dostoevsky’s description of Lise and her own words illuminate the despair, existential anguish and loneliness of a teenage girl, and express the essence of her personality with a force and poignancy that remain fundamentally beyond the reach of the analytic limits of the *Diagnostic and Statistical Manual* (1994 & 2000), or similar clinical “instruments” that might serve as bases for “diagnosing” a girl like Lise and categorizing her behavior according to one pathology or another (*cf.* Heidegger, 2001:136-143). Even more than this, the evocative description of Lise is *true* less because of what it says about her in particular, as for the way in which her character assumes a universal significance, a significance made all the greater not only for disclosing the essence of a certain kind of character or personality, but for revealing how such a human being knows herself through encounters with others, and vice versa (*cf.* Dufrenne, 1973:527).

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<sup>57</sup> See Dostoyevsky (1880/1958). The description of Lise above is a composite of material from Book 2, Chapter 3, “Devout Peasant Women” (1958:49-57); Book 2, Chapter 4, “A Lady of Little Faith” (1958:57-65); and especially from Book 11, Chapter 3, “The Little She-Devil” (1958:680-687).

Alyosha Karamazov tells Lise, “there’s something spiteful and at the same time innocent about you” (Dostoevsky, 1958:681). In these words, the moral tension of social interaction begins to emerge in its ontological “thickness” and “primitive density” (Marcel, 2001:45). The negotiation of proximity becomes here a dynamic of approach and retreat, a movement inwardly and outwardly within the liminal space created by the meeting of two human beings. For the nature of Lise’s personality is not comprehensible merely by objectively noting her grinding teeth, her “flashing eyes,” the nature of her dreams, or her histrionics. In each of these instances, the significance of what might otherwise be reducible to clinical symptoms or transgressive behavior of one kind or another emerges instead as a poetic struggle to create meaning.

### ***The Poetic Aspect of Ordinary Life***

Many readers will doubtless have been struck by the odd and seemingly incongruous juxtaposition in this dissertation’s title of poetry and policing. What can the one possibly have to do with the other? In order to begin shedding light on this question, and to take the next step on the way towards outlining the approach of a phenomenological aesthetics of encounter, it will be instructive to begin by considering philosopher Gaston Bachelard’s brief remark (1990:283) that “every human activity wishes to speak.”<sup>58</sup> To understand the significance of Bachelard’s words, it is necessary to know that he regards poetry as having an essential, primordial place in the human imagination, which transcends its ordinary, literary meaning.

Poetry for Bachelard demands to be understood phenomenologically, on its own, essential terms, as the creation of meaning that is intrinsic to human imagination, and to its linguistic self-expression. To say, then, that “every human activity wishes to speak” refers to the idea that poetry does not *represent* so much as it *creates*. Poetry in this sense occurs as the perpetual reaching forth of imagination, and the enactment in language of the “spiritual mobility” (*mobilité spirituelle*) that interweaves mundane human existence with transcendence (1990:8-13).

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<sup>58</sup> “*Toute activité humaine désire parler.*” For an insightful analysis of Bachelard’s conception of poetry that focuses especially upon its phenomenological roots, see Kearney (1998).



Thus, all thought and action, however ordinary, never merely “happens” passively, but occurs instead as vital “moments” and “events,” which are experienced as such by human beings, for whom all such occurrences are inherently significant. This process necessarily occurs in and through language, an idea expressed in Merleau-Ponty’s characterization of speech as “the surplus of our existence over natural being” (1962:197).

Far from being some abstruse rumination devoid of relevance for understanding ordinary praxis, reflections upon the poetic nature of human self-expression allow for the adoption of an interpretive stance that is open to the astonishment and mystery of the simplest utterances. It is in these very moments that “the surplus of our existence over natural being” stands forth with the greatest power. An example will illustrate the immediate pertinence of this idea for taking a phenomenological approach to “policing as poetry.” Consider the question, “What should I do?” This question is one heard many times a day by police officers in a variety of situations.

Upon careful phenomenological reflection, this apparently simple expression tellingly reveals more than its outward, pragmatic meaning suggests. Viewed as the search for the right word, thought, or action, the question is indubitably *poetic*. It manifests the human desire to create meaning in the face of the condition of always already existing ahead of oneself. This utterance, then, once restored to its “original strangeness” (Merleau-Ponty, 1964b:97), comes to be seen as a fulfillment of the desire to give coherence to the present moment. Coherence might be quite easy to attain, when the question, “what should I do?” is asked in relation to an innocuous matter, such as the theft of non-essential item with no sentimental value. When, on the other hand, it is asked by someone in a moment of utter despair, torment or crisis, as when the author was asked, “what should I do?” by a man, who had just found his son-in-law after he had blown apart his head with a shotgun, the question is astonishingly forceful in its instantaneous disruption of the bureaucratic interpretation of the moment (*cf.* Marcel, 2001:45ff).

If poetry forms an inseparable thread in what Bachelard (1990:8) calls the “temporal fabric of spirituality,” (“*le tissu temporel de la spiritualité*”), it is starkly clear at such a point, when the fabric is violently rent, that human being urgently seeks “new images,” and does so in fulfilment of its existential nature. This, then, is the arena within which a phenomenological aesthetics of encounter will seek to understand the poetic aspects of what otherwise often passes for “problems” or “data.”

In thinking about such a moment in relation to Bachelard’s ideas, it becomes clear that a phenomenological exposition of human encounter, such as the present project, must succeed in disclosing what may be termed the “poetic aspect of ordinary life.” To understand what this means, it is helpful to continue following Bachelard and others in searching out a more fundamental notion of the poetic. Nowhere, perhaps, has such a notion been more succinctly achieved than in a line from one of Friedrich Hölderlin’s late poems, “In Lovely Blueness” (“*In lieblicher Bläue*”):

. . . *poetically man dwells*. . .<sup>59</sup>

Less known in their own right than as the title and subject of Heidegger’s essay, these three words point to the origins of poetry in the existential constitution of human being. To exist as a human being is perpetually to struggle to seek, find, and *create* meaning in response to the mysterious fact of one’s own existence. Of course, the “fact” of my existence is never merely that: the singular realization of my own existence forever eludes its own grasp (*cf.* Marcel, 2001:167-168). This struggle is the existential horizon against and within which every human encounter occurs.

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<sup>59</sup> This line is also used by Martin Heidegger as the title for his essay, “. . . Poetically Man Dwells. . .” (1971b:213-229). The German text is entitled “. . . *Dichterisch wohnt der Mensch*,” and appears in *Vorträge und Aufsätze* (Heidegger, 2000). The full text of the poem may be found in Hölderlin’s *Sämtliche Gedichte*, Bd. 1 (Hamburg: Athenäum Verlag, 1970), pp. 462-464. For a dual English-German text, see *Hölderlin: Selected Verse*, ed. Michael Hamburger (London: Anvil Press, 1986) pp. 245-248.

In the word “create,” we arrive at the etymological origins of the word “poetry” in the Greek *poiesis*, meaning “creation,” which, in turn, derives from *poiein*, to make, do, or create. Poetry taken in its strictly literary sense is thus only a particular cultural manifestation of a much more fundamental sense of the poetic, which is rooted in the very existential nature of human being itself (see Bachelard, 1990). That more fundamental sense defines the “constitutive role” of the poetic as the most basic means by which we take the measure of the world, not mathematically, but in terms of meaningfully responding to the awareness of our own existence that makes us what we are (Heidegger, 1971a:xiv-xvii). It is in this existential character of human being, as a kind of being that is defined by the perennial search for meaning, that we see the central place of the poetic in shaping the comportment of ordinary life. Furthermore, to speak of a poetic quality of human being is to recognize it as a universally shared and essential aspect of personal existence that antecedes any kind of particular poetic “skill,” which might be more accidental. Understood in this way, the idea of the poetic assumes a crucial role in any kind of phenomenological inquiry into human action, the present one included. In more specific terms, *attempting to disclose the ontological foundations of ordinary moments such as police-citizen encounters requires the ability to reveal their poetic dimension.*

Phenomenology takes as its point of departure this “momentousness” of human experience, where the term is understood in the dual sense of both temporality and significance. Formal, technical observation will reveal the “fact of the matter,” but not much else. Let us suppose, for example, that a police officer or researcher who has come to a house walks inside and notices someone drinking tea and eating a cookie. How little will be noticed about this fact in a way that discloses the “surplus of existence!” Phenomenology, on the other hand, seeks to understand the inner truth expressed in an event such as Proust’s smelling the aroma of the

*madeleine*.<sup>60</sup> How are we to understand the co-mingling of time, memory, love, and smell, brought forth by the “objective fact” that the heated molecules of a biscuit dipped into lime tea create a certain aroma that stimulates the olfactory sense and conjures up a recollection of a lost moment from childhood? The heart of phenomenology lies in exploring the profundity of the ordinary. For a phenomenological aesthetics of encounter, the episode of the *madeleine* is by no means one limited to the experiences of poets and writers; indeed, in one way or another, it reflects the kinds of moments that occur in any life.

While Proust’s story gives one account of the mnemonic quality of smell, the lyrics of a rap song reflect wistfully from a similar perspective upon *les temps perdu* of an inner-city childhood, and appeal likewise to the same mysterious relationship between aroma and memory:

And as I think back makes me wonder how/ the smell from a grill could spark up nostalgia.<sup>61</sup>

These words disclose the poetic aspect of human self-identity, and cross the threshold from the rarefied, literary world of Proust to the realm of the ordinary.

### ***Development and Application of a Phenomenological Aesthetics of Encounter***

To review: this chapter began by critically analyzing the limited self-conception of “method,” and followed this critique with the introduction of a radical, phenomenological understanding of method, which related the notion of method to the existential conditions of approach and proximity. Then, the discussion moved to an elaboration of certain key aspects of

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<sup>60</sup> See Proust (1981:50-51). The passage reads in part: “But when from a long-distant past nothing subsists, after the people are dead, after the things are broken and scattered, taste and smell alone, more fragile but more enduring, more unsubstantial, more persistent, more faithful, remain poised a long time, like souls, remembering, waiting, hoping, amid the ruins of all the rest; and bear unflinchingly, in the tiny and almost impalpable drop of their essence, the vast structure of recollection [*l’edifice immense du souvenir*].” In describing memory using the metaphor of a building, Proust evokes the same theme of dwelling that Bachelard, Heidegger, and Hölderlin invoke in their work. Original French text published as *A la recherche du temps perdu*, Vol. 1, *Du cote de chez Swann* (Paris: Gallimard, 1954), pp. 68-69.

<sup>61</sup> DJ Jazzy Jeff and the Fresh Prince, “Summertime,” from the album *Homebase*, BMG/Jive Records/Silvertone Records, 1991.

the phenomenology of encounter, on the basis of which it was demonstrated that insofar as approach depends upon a prior intentional relation to that towards which we draw near, the hermeneutic phenomenon bears a fundamental relation to the question of proximity, and its particular interpretation by “method.” Once the question of method had been considered in relation to the hermeneutic phenomenon, it then became possible to pursue a more detailed discussion of the forms of praxis emerging out of “method.”

This discussion next turned to the encountering of emotion, juxtaposing its abstract interpretation with its irreducible disclosure of human presence, and showed how a literary description amplifies and discloses what pure method effaces. From this standpoint, it became possible to characterize the poetic aspect of ordinary life, and to demonstrate its relation to the ontological conditions of human existence.

Having shown phenomenologically how the creation of meaning is intrinsic to the existential nature of human being, and how that creation manifests itself as the poetic aspect of ordinary life, it is now necessary to take up the challenge of articulating how this ontological interplay of poetry and praxis is to be brought to light in an analytically significant way. Most of all, this articulation must explain how a phenomenological aesthetics of encounter will engage the notions of encounter and approach in a “transmethodological” manner, and must show how that engagement will reveal the ontological foundations common to bureaucratic and social scientific praxis.

In practical terms, a phenomenological aesthetics of encounter, as it is to be applied in the analytic chapters of the dissertation, consists of the integration of three core components:

- *A general phenomenological critique of the problematization of human being that occurs under the regime of the late modern conception of “method” and its allied forms of bureaucratic praxis.*
- *The phenomenological analysis of police-citizen encounters drawn from the author’s professional experience in policing.*

- *The phenomenological interpretation of aesthetic representations of human encounter drawn from five genres, including painting, novels, poetry, drama, and short stories.*

It should already be fairly apparent from the earlier parts of this chapter, and especially from Chapter 1, that the general phenomenological critique forming the theoretical foundation for the analysis will draw upon the line of argument presented in Heidegger's Zollikon Seminars, as well as from a range of related works in phenomenological philosophy and sociology. The theoretical orientation provided by phenomenological thought thereby constitutes the dissertation's interpretive horizon, and, likewise, lends direction to the contrastive analysis of the police-citizen encounters and aesthetic representations presented in the core of the dissertation. *For a phenomenological aesthetics of encounter, the question "what happens when a police officer encounters a citizen?" becomes an ontological inquiry into the interpretation of human proximity as it occurs in bureaucratic praxis.*

Method and technique (*technē*), rather than being accepted on their own terms, are regarded phenomenologically as the articulation of a particular comportment that makes possible the realization of the instrumental-rational goals determined beforehand as the defining tasks of the bureaucratically situated police function. Once method has been restated as a phenomenologically accessible question of proximity, it becomes possible to see police-citizen encounters in a new light, which illuminates what was defined in the previous section as "the poetic aspect of ordinary life." Such a critical perspective, in turn, enables the general distinction between intersubjectivity and co-presence (see above, Chapter 2) to be taken up with respect to actual instances of the problematization of human being as it occurs in everyday praxis.

This process of synthesizing general critique with the analysis of specific, everyday moments is accomplished by way of the phenomenological analysis of police-citizen encounters. This component of the approach of a phenomenological aesthetics of encounter is based upon the

exposition of individual case studies. The case studies, which are presented in first-person narrative form, provide accounts that document specific encounters drawn from the author's professional experience in policing in a working-class suburb of Seattle, Washington.<sup>62</sup> The case studies are based upon encounters between the author and members of the public occurring in a wide variety of contexts, which, in the aggregate, represent some of the kinds of interactions experienced in the daily realm of police patrol work. The encounters range from casual social contacts, in which no crime occurred, to high-risk, emergency situations involving dangerous felonies or violent crises.

The case studies were compiled and documented using narrative and expository approaches that seek to present the general "facts and circumstances" of each incident, as they were deemed relevant or significant for the official, bureaucratic interpretation of the encounter. Simultaneously, these official, bureaucratic interpretations are subjected to a phenomenological analysis that seeks to understand police methods for "managing encounters" in terms of officers' enactment in daily praxis of the problematization of human being. In terms of their general style, the case study narratives bear certain similarities to various styles of ethnographic writing. At the same time, the methodological precepts of ethnography have been less influential in structuring the content and presentation of the narratives, than have the analytic precepts of phenomenology, both in its philosophical and sociological currents. This is particularly the case with respect to the analysis of the underlying ontological significance of events surrounding the encounters.

Notwithstanding its heretofore-limited role in criminological research (see Chapter 3), phenomenology has had a comparatively stronger presence in other social scientific fields, a fact

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<sup>62</sup> Some readers may question why the narratives are the only part of this dissertation that are written in the first person; and some might even object to any use at all here of the third person as being fundamentally inconsistent with the project's approach and theoretical premises. The author does not disagree with this latter point; however, he was constrained to use the third person, in accordance with disciplinary conventions. If nothing else, however, the occasional awkwardness and infelicity of the third person voice in the body of the text, especially when juxtaposed with the first person narratives, offers a fortuitous (albeit somewhat ironic) exemplification of some of the notions that are criticized in these pages.

that lends support to the argued merits and validity of the approach to be taken in this dissertation, and likewise provides ample instances of case study research. In developing its case study narratives, a phenomenological aesthetics of encounter does, indeed, draw upon this existing research and its well-established means of interpreting actions in the everyday lifeworld. Accordingly, readers from a criminological background may conveniently note that what may seem from mainstream criminology's point of view to be a radically novel, unproven approach, appears much less so when placed within the broader context of phenomenological and hermeneutical social scientific research as a whole.

Research by Charlesworth (2000), Ihde (1976, 1986), Kersten (1997), Psathas (1995) and Zaner (1981, 1988) represents the kinds of fruitful inquiry in general consonance with which the dissertation's task of interpreting the problematization of human being in police-citizen encounters will proceed. In addition to such studies, the approach of a phenomenological aesthetics of encounter further draws upon the strong tradition within anthropology and ethnography of research and theoretical perspectives that acknowledge a substantial influence by phenomenology and hermeneutics, notably the work of Clifford (1986, 1988), Crapanzano (1992), Denzin (1997, 2001), Douglas (1985), Dwyer (1982), Geertz (1980, 1983), Marcus and Fischer (1986), Rabinowitz (1977), Tedlock and Mannheim (1995), Van Maanen (1988), and Webster (1982). Much of this analysis undertakes carefully consideration of the philosophical dimensions of fieldwork, and in so doing, represents attentively detailed methodological self-reflections of a kind that has yet to develop a sustained presence in mainstream criminology.

The structure and analysis of the present dissertation's case study narratives has paid especially diligent attention to the interdisciplinary conversations long ago inaugurated among ethnography, literary criticism, aesthetics, and philosophy. Perhaps best known and quite aptly summarized in terms of Geertz's notion (1980) of "blurred genres," these conversations have contributed to the radical re-thinking of social scientific orthodoxy and orthopraxy. Of crucial



significance for a phenomenological aesthetics of encounter is the critical space that has been opened for the interspersed of literary/artistic and social scientific analysis, in particular through the challenges that have been presented to traditional notions of “objectivity,” “fiction,” and conceptions of truth wedded to Cartesian and other epistemological paradigms beholden to the ideals of “accurate representation” or “correspondence” (see, for example, Webster, 1982 and Crapanzano, 1992). It is particularly worth noting here how Geertz’s description of fieldwork as “fiction” (1980) bears immediately upon this dissertation’s use of the idea of the poetic, insofar as Geertz invokes a sense of fiction not as lies or falsehood, but as “*fictio*,” that is, “something made” (Webster, 1982:102 & Geertz, 1980). In any event, the affinity between these perspectives and the approach taken here should give the reader a clearer sense of the logic and presuppositions that inform the presentation of the dissertation’s case studies.

All of the information contained in the case study narratives was derived from encounters between the author and members of the public that occurred in the context of carrying out official police duties. The structure and setting of these encounters vary widely, ranging from intimate, personal conversations in a living room to police station interrogations and violent confrontations on the street. None of the other participants in the encounters (some of the author’s colleagues notwithstanding) were aware of his formal academic interest in his work experiences. The entirety of the “field research” undertaken as part of the dissertation project comprises the phenomenologically oriented documentation of actual incidents. The confidentiality of all people who were involved in the various encounters has been strictly protected, even when a particular incident has otherwise become a matter of freely accessible, official public record, or has been the subject of media attention. The names used in the case study narratives are pseudonyms; however, in every other respect, no other details of the incidents have been changed. All of the incidents recounted in the dissertation are documented and compiled in confidential field notes, which are secured in the author’s personal office in locked cabinets, to which he alone has access.

Due to the nature of this project as an interdisciplinary philosophical treatise supported by autobiographical recollections, it was deemed by the Simon Fraser University Office of Research Ethics to be exempt from ethics approval.

The people involved in the episodes recounted in the dissertation represent a broad demographic spectrum in terms of race, ethnicity, gender, age, social class, religion, and other categories. From the author's standpoint, however, specific affiliations of this kind are of little relevance for a study that is more interested in considering aspects of encounter that are universal to all human beings.<sup>63</sup> For precisely this reason, there is no discussion here of a "population" or "sample," both of which are notions exemplifying the kind of methodological thinking posterior to the more elemental analysis being attempted in this dissertation. To the extent that phenomenology depends upon the ability to suspend the "natural attitude" in order to disclose its influence upon the processes of consciousness and interpretation, a potentially valid phenomenological critique must refrain from using the same analytic categories that it calls into question.

More generally, the suggestion is offered here that readers attempt continuously to bear in mind that this dissertation is fundamentally philosophical in nature. It is an attempt to show the practical, technical thinkers of bureaucratic administration and social scientific research how their approaches give expression to complex, largely unconsidered ontological principles. It is an attempt, as well, to illustrate for philosophical thinking the everyday significance and effect of theoretical structures of understanding, which are often regarded as being distantly remote from the vicissitudes of daily existence. What is being presented in this dissertation is intended to be an "illustrated" philosophical argument, in which the source of the illustrations is merely a

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<sup>63</sup> Compare the similar argument made by Tellenbach (in Straus and Griffith, 1970:261) in the opening words of his phenomenological interpretation of Dostoevsky's portrayal of epilepsy in the character of Prince Myshkin in *The Idiot*: ". . . in the great novels of Dostoyevsky the phenomenon of the human is so fundamentally open to contemplation that the differences of race, religion, nationality and language moves into the realm of chance."

question of happenstance that has no essential bearing upon the argument itself. For that reason, it is, in the final analysis, largely irrelevant that the author happens to have engaged the philosophical question of the problematization of human being in the particular context of police work in a working-class suburb of Seattle, Washington. The question could just as well have been undertaken elsewhere, and with respect to any form of praxis grounded in the peculiar, modern notion of “method.”

The author’s police service began in 1990, and continued for the duration of the writing of this dissertation. He has spent virtually his entire career “on the street,” assigned primarily to uniformed patrol duty, first as an officer, and later as a sergeant. In the early and mid 1990s, the author was assigned to a gang intelligence and enforcement detail. Given the duration of the author’s tenure in policing, the case study narratives often reflect the fortuitous advantage of a “longitudinal” perspective. Thus, the author is sometimes in a position to comment on multiple encounters with the same person that are separated by up to a decade, or even longer. The longitudinal dimension of this study is also doubtless a factor in autobiographical terms, with respect to the author’s own interpretive stance. His professional evolution from wide-eyed rookie to staid, veteran sergeant is doubtless not without influence on the structure of the case study narratives.

With the preceding points in mind, as well as on the basis of all that has thus far been said, it should be self-evident that the author makes no claim to be “neutral” or “disinterested,” regarding such judgments to be aspects of the attenuated self-conception or chimerical aspirations of praxis undertaken with a dogmatic adherence to “method as technique.” To this extent, the author’s own position with respect to the incidents recounted in the dissertation is rather unconventional. For the entirety of his police career, the author has been consciously aware that he simultaneously occupies two roles, fulfilling an official capacity as armed bureaucrat, but perpetually one from which he pulls back analytically, in order to reflect upon the strangeness of

his own position. Given the personal and intellectual predilections with which he came to police work, the author has always tried to maintain and refine a phenomenological basis for insight into his work as a police officer. In many ways, the author has thus seen his professional environment as an *in vivo* setting within which to bear witness to the ontological wellsprings of modernity as they percolate to the surface and become manifest in everyday life.

The question will almost inevitably arise here of how the reader may know with any degree of reasonable certainty that the case studies in the dissertation are neither embellished, nor wholly fabricated. As in any narrative accounts “from the field,” there is, of course, no ultimate reassurance that the incidents described “really” occurred. Beyond whatever value the reader is willing to attach to the formal promise of authenticity, enshrined in the ethical precepts of academic honesty, it might be noted to those who remain skeptical that, as a simple matter of fact, in light of the intensity and complexity of the human predicaments encountered daily in police work, fabrication of “data” is simply unnecessary. To the contrary, given the length of the author’s police career, his predicament has not been one of concocting stories or manipulating them for good effect, but of deciding which from among so many to choose for inclusion in the dissertation. Even if, however, the author were revealed to be a charlatan (or if he were found guilty of exaggeration), his personal dishonor and disrepute would in no way compromise the philosophical integrity of the argument, which could just as easily be illustrated with narratives gathered elsewhere. Furthermore, given the hoped-for goal of this dissertation to provide an interpretive approach to human encounters of relevance beyond police-citizen interactions, readers in any one of a variety of fields of praxis could expunge the narratives included here, and substitute their own, to no ill effect or intrinsic detriment.

The analytic chapters of the dissertation bring together the case study narratives of individual police-citizen encounters in juxtaposition with aesthetic representations of encounter. There are a total of five analytic chapters, each one structured around a different type of police-

citizen encounter. Each chapter uses aesthetic representations of human encounters from a specific genre as contrastive focal points that center the phenomenological analysis of the encounters documented in the case study narratives.<sup>64</sup> The aesthetic representations presented in the dissertation have been chosen for their disclosive and cognitive value as illustrations of the ontological foundations of human encounter.

It needs to be stated in no uncertain terms that the author makes no claim to expertise as an art or literary critic. Given that this is the case, all of the aesthetic works used in this dissertation have been carefully chosen on the basis of well-established critical interpretation from a range of disciplinary perspectives, and not merely the author's limited judgment that they offer apposite phenomenological insight into the existential foundations of human encounter. Relevant critical interpretation is therefore included as an integral element of each of the analytic chapters. In many instances, the critical evaluations of the creators and authors of the works themselves provide a key source of the assessment that their works are appropriately included here.

To the extent that aesthetic works of the kind that have been chosen here admit by their nature of a wide, rich, and divergent range of critical interpretations, there is good reason to anticipate that on any one of numerous grounds, objections will be raised to the inclusion of a particular work, or at least to the way in which it is interpreted. Whatever the variance of critical opinion, which will undoubtedly reveal presently unseen inadequacies and errors, the validity of the general argument of the dissertation does not depend upon whether or not one agrees with the specific interpretation of a given work. Far more fundamentally, the argument hinges upon

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<sup>64</sup> It will doubtless be observed that music is conspicuously absent from the list of aesthetic genres. There are two reasons for this. First, the author simply does not have a sufficient scholarly grounding in music and music theory to treat musical pieces with the appropriate degree of critical rigor necessary to warrant their inclusion in this project. Second, by their nature, musical pieces cannot, of course, be presented in the textual confines of a dissertation, other than in notational form. This would severely hamper their demonstrative value. These points notwithstanding, there is every reason to argue that musical form comprises a unique disclosure of the real, and as such, could be fertile ground for an expanded application of a phenomenological aesthetics. Such an assessment finds ready support in Dufrenne's phenomenological analysis of music (1973:516 *et passim*).

accepting the notion that aesthetic experience reveals something real and true. This notion, then, bears careful justification.

### ***The Cognitive and Disclosive Dimensions of Aesthetic Experience***

If a phenomenological aesthetics of encounter is to claim any interpretive validity, it must be shown that its core demonstrative component, aesthetic experience, involves cognitive and disclosive dimensions that are able to illuminate or reveal something *true* and *real*. Further still, it must be shown that the truth made manifest through aesthetic experience establishes such experience as a *unique mode of knowing*. What does it mean, then, to speak of the “truth of aesthetic experience,” such that we might say of a given work that it discloses something essential about the real, which makes it truly known in a certain way?

Recalling the earlier example of the description of Lise, what aspects of the form and content of this narrative elicit interrelated affective and intellectual responses that become the basis for judging that we have experienced the truth in reading Dostoevsky’s words? The following brief discussion, while undeniably engaging themes and ideas largely beyond the mainstream concerns of criminological research, will serve to introduce the salience and veridicality of aesthetic experience as an element of phenomenological interpretations of social praxis. While some readers may remain partially or even wholly unconvinced of the applicability of aesthetic experience to criminology, they should nonetheless attain an initial familiarity with the essential role that aesthetic inquiry already occupies in long-standing traditions of phenomenological research.

The historical fact that phenomenology and hermeneutics have long considered themselves to have an essential affinity with aesthetics begins to suggest something of the nature of the mode of knowing particular to aesthetic experience. Bachelard, Bakhtin, Gadamer, Heidegger, Ingarden, Jauss, Natanson, Merleau-Ponty, Sartre, and many others have made sustained forays into the exploration of aesthetic experience as a way to truth (see Ihde,

1977:147-152; see, also, Kaelin, 1970). In varying ways, for each of these phenomenologically oriented thinkers, aesthetic experience provides an opening upon the real by creating a space in which consciousness recognizes its own essential nature by coming face to face with the inner nature of the world it inhabits.

Functioning in this way, and with a marked similarity to the kind of reflection undertaken more formally by phenomenology, aesthetic experience brings about what Natanson calls “an epiphany of the familiar” (1977:169). More precisely, art and phenomenology find common ground in their respective explorations into the origins of experience by transforming the “natural attitude” into transcendental reflection (Kaufmann, 1966:146). Elevated to a critical task conjoined with phenomenological insight, as it is in the present dissertation, aesthetic experience can therefore effectively challenge the naïveté of modern scientific and technical understanding by showing that what pure method takes for granted as “real” is, in actuality, an abstraction from a more fundamental reality that aesthetic experience can effectively disclose, and make available to reflective and critical attention.

The contemplation of and insight into ordinary existence that result from aesthetic experience do not, however, occur as a formal act of representation:

A work of art does not substitute, but institutes an original awareness of existence on the whole; it does not so much reproduce and represent as produce and present a total experience. (Kaufmann, 1966:147)

The truth unique to aesthetic experience, then, transcends and differs absolutely from mere verisimilitude or the “accuracy of correspondence,” because aesthetic works exist as ontological events, in which the intersection between work and world discloses the reality of the latter through the former (Gadamer, 1989:134ff and Heidegger, 1971a:44ff.). This can be seen even in the most “accurate” or “realistic” depictions occurring in a medium such as photography, which is appreciated at the highest level not for its technical ability to produce faithful representations,

but for its uncanny bringing to light of what lies behind the “factual presence” of the subject of the photograph. We need only think of photojournalistic works or documentary photography, which often attain a moral, aesthetic, and spiritual significance far beyond that which the photographer imagined in the technical process of taking the picture. Although we speak of the ability of photography to “capture” a moment, the more sublime quality of the best photographs is that while they are meaningful at one level as “objective representations,” they may be more fundamentally understood as forms of aesthetic creation that disclose truth by way of a solicitude that lets things be.<sup>65</sup>

Here, to be sure, we may appreciate as well how the form of aesthetic experience exists in essential relation to the nature of a given medium – painting, poetry, and so forth – and thus fundamentally determines the particular kind of truth that it discloses. Rilke’s poem “The Bowl of Roses,” (1907) for example, reveals something different about the experience of looking at flowers than does a Manet still life. In this respect, aesthetic experience at first does not seem to be so different from other modes of knowing. Forms of scientific knowledge – for instance, a taxonomical classification and a chemical analysis of pigments – may likewise yield two varying representations of the roses, and also do so in ways that necessarily vary according to their respective form of understanding.

Tentatively, however, it may be claimed that the aesthetic mode of knowing diverges from technical and scientific knowledge in the dependence of the former upon a comportment towards its subject that demands a kind of *solicitude*. This distinction is one that Heidegger considers in great detail in order to establish the radical difference between the self-disclosure of being and its “enframing” through reductive forms of understanding and praxis (see Heidegger, 1971a and 1993).

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<sup>65</sup> This point draws upon Heidegger’s concept of *Gelassenheit* (“letting be”). See Heidegger (1966).



Thinking such as Heidegger's recognizes that the aesthetic act, whatever its particular medium, both emerges out of and engages the realm of material and substance in order to show in form and content alike its existence as an ephemeral manifestation of the immaterial. Aesthetic interest therefore gives its attention to a specific "object" in a way that always knows the impossibility of reducing that object to mere factual presence. Moreover, the truth or meaning of an accurate depiction does not lie in its realistic quality, but in its illumination of what lies behind the apparently simple presence of things (see Dufrenne, 1973:527). This formulation closely mirrors Paul Klee's characterization of his painting as "a striving to emphasize the essential character of the accidental" (1968:185), or Cézanne's notion of his task as an artist:

What I am trying to translate to you is more mysterious; it is entwined in the very roots of being, in the impalpable sources of sensations.<sup>66</sup>

Such conceptions of aesthetic truth manifestly conflict with the deeply ingrained, largely unconsidered habit of our modern kind of thinking, according to which we reflect upon knowledge and its potential validity with respect to the idea of "accurate representation." We need not venture into a protracted philosophical history of modernity to realize, at least in general terms, that the abiding standard for the evaluation of the truth of something is the degree to which it is held to correspond accurately to what is "out there" in the "external world." Phenomenology has tried to show that this entire epistemological preoccupation is misplaced, and is ignorant of its underlying irony, namely that only a human being already living in the world and concerned with it prior to any formal reflection could imagine, as modern (roughly, post-Cartesian) minds do, that there is an ontological chasm between the thinking subject and the world. Nonetheless, the particular critical arguments of phenomenology have done little to unseat what remains, in large measure, the dominant, commonsense, modern view of the nature of reality and knowledge. It is

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<sup>66</sup> J. Gasquet, *Cézanne*, quoted by Merleau-Ponty (1964a:159). Compare Jauss' comments (1989:217-218): "The poetic word distinguishes itself from merely informative or goal-oriented utterance to the degree that it can free itself from the intention of its producer, and, at the same time, *from the pragmatic limits of the specific speech context*" (emphasis added).

a view that similarly holds sway largely unchallenged in the modern understanding of aesthetic experience.

Since the eighteenth century, when Enlightenment philosophy removed the beautiful from its metaphysical station alongside the good and the true, aesthetic experience and judgment have been largely reduced to questions of subjective taste.<sup>67</sup> What is pleasing to one eye or ear need not be so to another. Furthermore, to speak of aesthetic experience as embodying or disclosing truth seems altogether inconsistent with what the modern mind commonly takes to be the experience of beauty. The ability of art to please is often held to inhere in its affective quality. It is commonly held along the lines of this argument that the affective power of aesthetic experience merely reconfirms the notion that it is wholly grounded in a subjective response, which bears no relation to the real.

Contrary to such thinking, Mikel Dufrenne presents a radically different idea of the relation between aesthetic experience and subjectivity in his magnum opus, *The Phenomenology of Aesthetic Experience*:

The subjectivity of the aesthetic world is not a defect, because the singular (insofar as it is the human) is here universal. (1973:507)

Yet, does this really get us beyond the emotive? It might still be objected, in response to Dufrenne, that the move from singularity to universality ever remains the province of individual judgment, and in no way bears a meaningful relation to the “real,” whatever might be meant by this term. From Dufrenne’s perspective, this objection itself has already ceded to scientific understanding a monopoly on intelligible understanding of the real (Dufrenne, 1973:508). Here, then, commonplace criticism against the notion of aesthetic truth unwittingly shows once more the need for a phenomenological retrieval of the foundations of experience and praxis. The truth

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<sup>67</sup> For further analysis of the historical, philosophical, and cultural development of modern aesthetics, see Croce (1922), Kant (1931), Cassirer (1951, esp. pp. 297ff.; and 1961), Gadamer (1986), Bernstein (1992), and Mattick (1993).

of art does not consist in its constituting an adequate representation of a world already given. Such a claim effectively reduces aesthetic production to a kind of narrow, technical skill aimed wholly at “realism” – a *method*, in fact, which abdicates its theoretical stance vis-à-vis the real (see Dufrenne, 1973:516ff.).

Dufrenne’s perspective shows, then, how aesthetic experience contextualizes our notion of the real by transcending its conflation with modern notions of “objectivity” (1973:529). When it is conflated with the “objective” world that is already the product of modern cognition and its various forms of praxis, which has projected upon the real a certain ontological schema, our notion of the real becomes attenuated and artificially circumscribed. Once more, the task of a phenomenological aesthetics comes into view: the implications of this kind of reduction are of inestimable significance in the arena of human praxis. If, as Dufrenne remarks (1973:528ff.), “the reality of the real is a presence which I encounter and to which I submit,” aesthetic experience can open possibilities for thought and reflection by making presence meaningful in ways that evoke the fullness of its existential significance, a fullness that is lost under the regime of pure method. This formulation is similarly conceived by Gabriel Marcel as the ability of aesthetic truth to make explicit the human relation to transcendence (2001:45).

This point may be understood more clearly by recalling again the earlier discussion of the poetic aspect of ordinary existence. Poetic thinking appeals to a reality beyond its self-consciously known expressive limits, strains to give that reality meaning, and yet, does not purport to capture it as an abstract entity. Art retains a reverence for the order it depicts and discloses. Aesthetic creation remains ever aware of the fallibility of its own gesture, not as a failure or imperfection of method to be resolved at some future date, but as an existential reality.<sup>68</sup>

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<sup>68</sup> In his lengthy critique of modern aesthetic experience, which bears directly upon the present discussion, Gadamer presents an analysis of aesthetic experience in relation to art criticism. Gadamer notes that art history and art criticism never claim to duplicate in analysis the aesthetic experience of the work of art itself, which is recognized as unique unto itself. Rather, the work of art “. . . asserts itself against all attempts to rationalize it away” (1989:xxiii). The same, argues Gadamer, is the case of understanding in

In this realization of its fallibility, aesthetic creation reveals its sense of the tragic: in its greatest moments of exaltation and exhilaration, there is always a presence of finitude and melancholy, which carries over to aesthetic experience, imparting to it that strange affective quality united with an intuition of wholeness.

Lest we think once more that our reflections have left behind the vicissitudes of praxis, of the gravity of the exigencies of everyday life, nothing could be farther from the truth. For the power of aesthetic experience produces a recognition and recollection – a re-thinking that gathers up (“*recolligere*”) the familiar world in a new way. If this simultaneous sense of awe and finitude, of immensity and tragedy, resonates within the mind, it is precisely because the horizon revealed through aesthetic experience is instantly recognizable as the horizon of everyday life – of “raw, familiar reality” – where imagination, possibility, transcendence and finitude coalesce (Marcel, 2001:45).

### ***Limitations of the Approach***

It is appropriate to end here, before turning to the actual application of a phenomenological aesthetics of encounter, by acknowledging once more the difficulties inherent to the task of trying to bring a philosophical voice to the dialogue of criminology. It will doubtless be objected by some that philosophical rumination of the kind proposed here hardly recommends itself for the practical resolution of pressing issues that demand quick action. To this argument, the response is offered first, that such an evaluation has given in to the seductive thinking so characteristic of modern method, by which it regards its incredible technical achievements as indicating the attainment of a true and proper understanding of the ultimate

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the human sciences. Here, Gadamer sees a fateful moment in the history of the human sciences, and relates it directly to the subjectivization of aesthetic judgment. Art “cannot be defined as an object of an aesthetic consciousness because, on the contrary, the aesthetic attitude is more than it knows of itself” (1989:116). For Gadamer, the broader relevance of aesthetic experience is the way in which it depends upon more than mere passive response to perception.

nature of the objects of its various operations.<sup>69</sup> Second, in anticipation of a more detailed discussion, which follows below in Chapter 10, it may be noted that the results to be gleaned from a phenomenological aesthetics of encounter have an immediate pertinence for criminological theory, as well as for policing praxis. Broadly speaking, by bringing to light what is otherwise ignored by mainstream social scientific analysis and its allied forms of praxis, such as bureaucracy, entire new avenues for theoretical investigation and operational action become genuine possibilities, at least in principle.

So it is, then, that describing this situation in a philosophical voice seems imperative, in order to remind the most mundane forms of praxis that, however it may pass unheeded, even a fleeting encounter always has at its heart an ineffaceable mystery. If any meaningful aspect of that mystery is to be illuminated with clarity, the process or “method” for doing so must strive to move ahead in a way that heeds the following words from Heidegger, written in a letter to a student:

Everything here is the path of a responding that examines as it listens. Any path always risks going astray, leading astray. To follow such paths takes practice in going. Practice needs craft. Stay on the path, in genuine need, and learn the craft of thinking, unswerving, yet erring. (1971a:186)

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<sup>69</sup> Compare here Medard Boss’s comments in a letter that he wrote to Heidegger: “I could no longer consider as valid the absolute claim made for science and for its finding of truth which the scientific method of research had imposed ever more authoritatively, even in relation to sick people. It [the scientific method] did not know any other way to justify it [absolute claim] than through its certainly admirable, practical success in dealing with the human body. *Yet even such an astonishing capacity to manipulate things does not in itself guarantee an appropriate insight into the essence and meaning of what is to be manipulated*” (Heidegger, 2001:294, emphasis added).

## **DIVISION II**

## CHAPTER 5

# DOMESTIC VIOLENCE ENCOUNTERS: THE EYE OF THE PAINTER AND THE EYE OF THE POLICE

### *Introduction*

Instances of domestic violence, or, as they are often called colloquially in the jargon of policing, “domestics,” and “DVs,” provide an especially vivid illustration of how bureaucratic problematization resolves face to face encounters into manageable, official incidents. The analytic pertinence of domestic violence for a phenomenological aesthetics of encounter rests upon the fact that, conceivably more than any other common type of call for police service, domestic violence situations exemplify the incongruous interposition of armed bureaucrats into the realm of intimate relationships.<sup>70</sup> The intrinsic emotionality, discomfiture, awkwardness, and outright hostility of domestic conflicts assume manifestly greater ramifications when the police become involved. However one might venture to explain this dynamic – psychologically, sociologically, anthropologically, or otherwise – the introduction of an outsider into these situations, especially one who is an armed government official, obviously alters the way in which a domestic dispute unfolds, often *unpredictably* and *uncontrollably*. This is a fact that officers are universally taught very early in their careers, when they are cautioned about the emotional intensity of domestic violence situations, and the unique set of tactical dangers, investigative challenges, and socio-ethical conundrums presented by responding to them.

To speak from the perspective of the police officer of the “unpredictable” or “uncontrollable” aspects of domestic violence situations is tellingly to reveal two of the grounding concepts of bureaucratic problematization, which a phenomenological analysis will need to explicate carefully, and trace to their roots. Within the context of street-level policing,

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<sup>70</sup> Intimate relationships, as the term is meant in this chapter, refer to any kind of association that is held by social convention to center ideally upon a bond of love. This definition includes the relationships between spouses, parents/children, grandparents/grandchildren, siblings, unmarried couples, and so on.

the notions of “unpredictability” and “uncontrollability” at one level express officers’ interpretations of actual or potential resistance to the exercise of their legal mandate, while at another, more abstract level, these notions may be seen as describing the elusiveness and indecipherability of human presence in the face of problematization. As further discussion will suggest, unpredictability and uncontrollability go beyond simple, overt attempts at resisting the outwardly visible forces of bureaucratic praxis, such as the refusal to answer investigative questions, or physically resisting arrest.

Prior to beginning the actual analysis of specific police-citizen encounters involving domestic violence situations, it will be helpful to recollect and elaborate the claim made in Chapter 2, that it is neither natural nor instinctive to stand face to face with a fellow human being, and quite literally to *look* upon him or her as being a “problem,” for which one must then find a “solution.” A response of this kind to the presence of another human being is no more inevitable than experiencing the natural world according to its scientific reification into an isotropic ensemble of “objects” or “events.” Both instances, on the contrary, occur as processes of abstraction and typification that enable what is manifestly always already present to be circumscribed with respect to a given set of predetermined goals, the attainment of which is reflexively assumed to provide the basis for delineating the predominant significance of the encounter.

What is manifestly present in most police-citizen encounters, regardless of their specific occasion, is the *gaze of the other person*. The gaze stands as the indubitable grounding precondition for any further action and interpretation. Given that this is the case, a phenomenological aesthetics of encounter must account for how the gaze of a fellow human being is recast through policing praxis as the “facing of a problem.” This will be accomplished by presenting two narratives of domestic violence incidents, and explicating each of them using a painted representation of the human gaze. The first narrative recounts an incident in which the



author contacted the victim of a domestic violence assault under relatively stable circumstances, after her assailant had left the scene. This encounter is explicated using Edouard Manet's *A Bar at the Folies-Bergère* (Fig. 5-1). The second narrative in the chapter describes a far more volatile situation, involving the police response to a fight between a father and his adult son. An interpretation of this incident is developed using Paul Klee's *Senecio* (Fig. 5-2). In both instances, a phenomenologically oriented attentiveness to what these paintings reveal about the nature of encounter, and especially to the role that the gaze plays in it, will allow the notions of controllability and predictability to be examined as aspects of a discordant response to the co-presence of the other person.

### **Encounter #5-1: Melissa**

On a busy Saturday night, two other officers and I responded to a report of a domestic violence assault. The dispatcher advised us that the female victim called 911 after having been choked by her ex-boyfriend, who has since fled. When I arrived at the scene, the woman, "Melissa," was standing in the driveway in bare feet, crying, and holding her three year-old son. Melissa is twenty-two years old. She told me that she and her ex-boyfriend, "Richard," the father of her son, dated for the past seven years, and had broken up several months earlier.

Richard had spent the day with the little boy, who lives with Melissa most of the time. When Richard brought him home to Melissa, a heated argument ensued. Melissa said that she and Richard "got into it." As she tried to explain what happened, she repeatedly interjected the unsolicited comment, "it's my fault; I hit him first." After evading my investigative questions about the incident and protesting several times that she didn't want to file a report and see Richard go to jail, Melissa disclosed that he had thrown her to the floor and choked her so hard that she had momentarily lost consciousness. "I thought I was going to die," she told me.

Melissa had red marks on her neck and throat, and fresh bruises on her arms, all of which are consistent with her story. She said her neck was numb on one side, but she refused to let me call an ambulance to evaluate her injuries. I suggested to Melissa that she really ought to be seen by a doctor. I also told her that information from a medical examination could help prosecute Richard. Melissa finally agreed to allow her grandmother, who lived nearby, to give her a ride to the emergency room. I drove Melissa to her grandmother's house.

While we waited for her grandmother, I began completing my department's standard domestic violence report. This entailed interviewing Melissa, obtaining a written statement from her, photographing her injuries, and documenting them on a schematic diagram. I also asked Melissa to sign a release that would allow the

police department to obtain copies of medical records related to the treatment of her injuries. When I finished, I gave her a “victim information sheet.” This form lists the case number for incident, provides information on community resources for victims of domestic violence, and explains the process for obtaining a protection order, which would prohibit Richard from contacting her, either directly or indirectly. I explained to Melissa that a domestic violence investigator would contact her for further follow-up, as well as to assist her with court paper work, child custody arrangements, and other matters that might arise.

I asked Melissa where she thought Richard might have gone. She was very reluctant to tell me anything. Melissa’s grandmother arrived to pick her up, and our encounter came to an end. I told the dispatcher to broadcast information notifying other officers in the area that there was probable cause to arrest Richard for domestic violence assault. I then advised that I was clear of the call, and went back into service.

### ***Facing A Problem***

As bureaucratically situated “expert observers,” police officers are taught to process and record *what they see* with a view towards satisfying the predetermined objectives that define the purpose of law enforcement. The police are, to put it in Weberian terms, engaged in an instrumental-rational (*zweckrational*) task, one that is

determined by expectations as to the behavior of objects in the environment and of other human beings; these expectations are used as “conditions” or “means” for the attainment of the actor’s own rationally pursued and calculated ends. (Weber, 1978:24)

Applying this description to the encounter with Melissa, the author and his colleagues discharged their bureaucratic and legal duties by acting upon a set of presuppositions that enabled them to make sense of her situation with respect to the achievement of the objective of finding and solving an identified problem, and then “clearing the call.” This depended upon reading the encounter in terms of a set of legal and procedural notions about “domestic violence.” Such a reading, in turn, was itself made possible by adopting a specific practical *stance* towards Melissa, with respect to which her presence could be viewed and approached as something meaningfully subject to problematization.

“Stance” refers literally to how one stands before, or faces, another human being. For the police officer to encounter another human being as a problem, or to encounter the particular

predicament of another human being as a “call,” “scene,” or “situation” demands beforehand a stance determined by specific presuppositions, which allow for the reductive circumscription of meaning with respect to the predetermined task of law enforcement. Stance, then, constitutes the basis for one’s approach to the perceived awareness of another presence. Stance and gaze are fundamentally interrelated aspects of most face-to-face encounters. This interrelation exhibits forms unique to the types of encounters that occur between the police and the public.

Police officers not only deploy a constant, passive eye for suspicion, but, even more essentially, through the effective managing and training of their gazes, they actively seek out and detect suspicion on the basis of interpreting encounters with others (see above, Chapter 3, especially comments on Rubinstein, 1973:220-223 and Sacks, 1972).<sup>71</sup> Officers learn to study people, and to do so with a conscious awareness of the fact that their doing so arouses disruption, fear, consternation, and curiosity. The simple fact of an officer’s passively “being there” can evoke a powerful response. More than a means of surveillance, the officer’s gaze serves as a key element in the dialectic of encounter, through which response and counter response create and justify opportunities for formal intervention of various kinds.

One common example of this phenomenon is observable in the responses of drivers sitting next to a police car at a traffic light. The law-abiding citizen, experienced officers know, will often cast a fleeting, curious, or even friendly glance at the officer, however briefly or surreptitiously. On the other hand, a criminal, it is held, will frequently try to “make himself invisible,” taking almost too much trouble to “look innocent” by gazing intently forward with a practiced indifference that conveys precisely the opposite meaning of its superficial appearance.<sup>72</sup>

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<sup>71</sup> In developing the analysis of the gaze that follows here, and in using it to interpret the encounter with Melissa, the author benefitted substantially from suggestions and comments offered by Prof. Jack Katz at UCLA.

<sup>72</sup> Officers in many agencies refer to this phenomenon as “giving the look,” or simply, “the look.” If an officer stops someone who manifests this gaze, and ends up making an arrest, the vindicated judgment of suspicion is often reported to a colleague as follows: “I just *had* to stop him; he gave me the look.”

This kind of process can occur with equal intensity in contacts with victims of crimes, such as Melissa.

However it manifests itself, the gaze of the officer examines, scrutinizes, and judges, looking evidence, truth, and falsehood. The police officer is a watchful stranger, who by legal and social mandate enters into the lives of other strangers, often in moments of profound crisis.<sup>73</sup> The mere presence of a police officer necessarily changes the dynamics of an encounter, a reality that finds practical acknowledgment in the designation of “officer presence” as the beginning point for most police agencies’ use of force continua.<sup>74</sup> Police officers learn to develop and carefully project their “presence,” a key aspect of which is the gaze. The old adage, or variations of it, that the “eyes are the windows to the soul” has been repeated many times over to rookie officers, as they are taught the importance of watching people’s eyes for signs of danger and deceit. As those who enact and enforce order within a given social space, police officers learn to become a highly specialized version of what Michel de Certeau (1984:93) calls “practitioners of the city,” and “*Wandersmänner*” – the people who attribute to the urban environment those characteristics and predicates enabling administration action through the creation and ascription of certain meanings. The stance of the practitioner directs action towards the “imaginary totalizations produced by the eye” (Certeau, 1984:93).

### ***The Eye of the Painter and the Eye of the Police***

Edouard Manet’s painting, *A Bar at the Folies-Bergère* (1882), has been widely recognized for its striking treatment of the gaze. It thus offers an especially apposite interpretive

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<sup>73</sup> Obviously, this description does not apply to cases in which police officers have a prior substantial familiarity with someone as the result of previous encounters. Interactions with such “regulars” can assume a personal dimension, which, however insignificantly, begins to dissolve the anonymity of the encounter. On this point see Natanson (1986) and Bittner (1990:30-62).

<sup>74</sup> The policy manuals for most North American police departments usually include a continuum that dictates standards for the use of force according to a progressive scale of proportionate escalation and de-escalation. Although their intermediary steps vary substantially, virtually all continua begin with “officer presence” or “verbal persuasion” and end with deadly force.

focal point on which to center an explication of the role of the gaze in the encounter with Melissa, and for considering the gaze more broadly, as a manifestation of and a response to co-presence. *A Bar at the Folies-Bergère* disrupts the taken-for-granted relationship of the eye to the world, over against which it imagines itself as standing. The nature of the painting's composition draws viewers into the scene it depicts, demanding that they consider their own relationship to the image on the canvas. In this crucial respect, *A Bar at the Folies-Bergère* directly engages the event of representation by making thematic the relation of the "subject" of the work of art to the eye and presence of the viewer.

The aesthetic, moral, and philosophical significance of *A Bar at the Folies-Bergère* therefore consists in its revealing and questioning what underlies the everyday act of standing over against another human being, as "subject" to "object," as outsider to spectacle. Manet's painting offers a phenomenological view upon the nature of social interaction that illustrates the moral and existential polysemy of invocation and response. Interpreted in this way, *A Bar at the Folies-Bergère* lends considerable insight towards achieving a fundamental understanding of the grounding concepts and dynamics of the problematization of human being in police-citizen encounters.<sup>75</sup> That insight derives largely from Manet's masterful depiction of the irreducible experience of human co-presence, which always resists effacement and abstract reduction to mere intersubjectivity.

*A Bar at the Folies-Bergère*, painted during 1881 and 1882, was Manet's last major piece.<sup>76</sup> The barmaid in the painting was modeled by "Suzon," a woman who actually worked at

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<sup>75</sup> The term "grounding concepts" as it is used here is essentially identical to Heidegger's notion of *Grundbegriffe*, which Stambaugh translates as "fundamental concepts." According to Heidegger (1996:8), "[f]undamental concepts [*Grundbegriffe*] are determinations in which the area of knowledge underlying all the thematic objects of a science attain an understanding that precedes and guides all positive investigation."

<sup>76</sup> For a bibliographic summary of reviews contemporary with the painting's completion, see Clark (1984:310-311).

the Folies-Bergère.<sup>77</sup> She stands facing the viewer, her palms pressed against a marble countertop spread with a wealth of offerings – liqueurs, champagne, beer, oranges, and flowers – all of which are painted with the sublime beauty of a Manet still life. Everything that we know of the broader context of the picture comes in the form of a mirror image, reflected in the huge mirror behind the bar and the barmaid. Looking at the mirror’s reflection, the viewer indirectly sees the bustling activity of the Folies-Bergère, which the barmaid sees directly from her vantage point.

What is most conspicuously visible in the mirror, however, is not the crowd in the Folies-Bergère, but the reflection of the barmaid’s back, and the reflection of a man, who, according to the placement of his image, should be standing at the bar facing her. But, he is not. He should, it seems, be precisely where the viewer of the painter is standing, although the configuration of the mirror image simultaneously suggests that the viewer of the scene must be standing off to the right. This apparent incongruity is one of the most commented upon features of the painting, and has been the subject of extensive debate and painstaking analysis.<sup>78</sup>

While the reflection in the mirror and the woman standing at the bar are clearly meant to be the same person, differences between the “real” woman and her mirror image suggest an intended symbolic dissonance between the two (see Clark, 1984; Düchting, 1995; Brombert, 1996; and Collins, 1996). The woman in the image leans forward, as if engaging in conversation with her interlocutor. However, the “actual” woman, whose gaze meets the viewer of the painting, appears detached, aloof, and even wistful or melancholic. Rubin (1999:89) suggests that Manet intended for the technically incorrect physics of the mirror image to symbolize the ambiguity of modern life. This ambiguity is literally reflected and made visible in the mirror, by

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<sup>77</sup> See Flam (1996:178). Flam makes a convincing case that historical knowledge of “Suzon” (her surname remains unknown) should not lead viewers to conflate her with the woman in the painting. According to this argument, the fact that “Suzon” modeled for the painting does not mean that it is she who is depicted, beyond a certain literal sense. Indeed, Flam (1996:178ff.) finds it “trivializing” to look at the painting in this way.

<sup>78</sup> For two intricately detailed (and opposing) analyses of the problem of the mirror, see the exchange between de Duve and Elkins (1998).

leaving the position of the spectator unclear (Armstrong, 1996:58). Indeed, many critics suggest that the man in the mirror is meant to be the observer or viewer of the painting (see, for example, Hanson, 1977; Boime, 1996; Herbert, 1996; and compare Clark, 1984 and de Duve, 1998).

Perhaps the only aspect of *A Bar at the Folies-Bergère* to receive the same critical scrutiny as the mirror reflection is the barmaid's gaze. Her gaze is read as "both weary and absent" (Cachin, 1995:124); "distant and melancholy" (Flam, 1996:164); beautiful, but "strangely lusterless, her eyes clouded with fatigue or boredom" (Bataille, 1955:99); "detached" (Clark, 1984:254 and Boime, 1996:56); and a "blank stare" (Armstrong, 1996:26). The viewer could well imagine that Manet had in mind the words of his close friend Baudelaire when he painted the barmaid's face:

"Dullness is frequently an ornament of beauty. It is to this that we owe it if eyes are sad and translucent like blackish swamps or if their gaze has the oily inertness of tropical seas." (quoted in Benjamin, 1968:190)

Whatever the range of their descriptions, most analyses of the painting comment upon the inexpressive and indecipherable look on the barmaid's face, summarized aptly by Ross in her characterization of the barmaid as "the psychological and compositional focus of a scene in which she is not wholly a participant" (1982:9).<sup>79</sup>

Such a reading accords closely with the experience of the crime victim, who merely becomes the pliant "object" of bureaucratic operations. Manet's painting shows the tensions and forms of resistance inherent to this kind of modern social interaction, in which, as Bauman (1990:24-25) puts it, people are "morally distant yet physically close." Yet, as Manet shows, the nature of human presence always resists this kind of transformation of proximity into abstraction. Mauner (1975:161) notes in a similar vein how "we *submit* to the strangeness of the gaze of the central and static barmaid" (emphasis added). This submission is instinctive, reciprocal, and

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<sup>79</sup> To be sure, more positive characterizations have also been offered: one contemporary critic, Paul Alexis, described the barmaid as "a beautiful girl, truly alive, truly modern, truly 'Folies-Bergère. . .'" (Quoted in Clark, 1984:239)

instantaneous: the barmaid's gaze almost involuntarily engages that of the viewer.<sup>80</sup> Literally standing out in front of the ephemeral reality reflected in the mirror, the barmaid's presence seems to demand a response. To look at the barmaid's face is thus to intuit immediately articulations of human encounter such as the "face-to-face" (Levinas, 1979), the "I-Thou relation" (Buber, 1958), or "answerability" (Bakhtin, 1990). Each of these ideas expresses what was previously characterized (Chapter 2) as the ecstatic nature of human being – the way how human beings "stands forth" into the world, absolutely otherwise than as mere objectively present things, such as bottles or fruit sitting on a bar.

It is no far reach to say that the bureaucrat, exemplified by the detached, efficient police officer, and the blasé urban denizen, exemplified by the *flâneur* depicted in *A Bar at the Folies-Bergère*, act out common variations of the same distinctly modern notion of encounter, in which the fullness of the face-to-face moment becomes transmuted into abstract "intersubjectivity." The *flâneur*, who refined to an art the ability to gaze upon the human spectacle of modern life in a meticulously enacted regime of self-isolation and self-management, thus bears a close affinity to the police officer. The police officer's presence symbolizes the need for formal administrative control of the anonymous social relations constituting the everyday environment of a world in which the basis for human interaction flows from demands for ordered efficiency and rationality, rather than self-avowedly moral premises (see Bauman 1990:28-30). The present topic of domestic violence shows how this thinking intrudes even into the realm of human intimacy.

When the author arrived at the "scene of the call" involving the assault against Melissa, he quickly set about the task of *typifying* her and other "relevant parties" (her son and Richard) in accordance with the need to determine "what happened" (*cf.* Schutz, 1971). As this process unfolds, the situation itself effectively becomes reified as a *possession* that "belongs" to the primary investigating officer. So it is that officers will say of a call, "I've got this one," or "this

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<sup>80</sup> On this point, compare Heidegger's concept of *Gelassenheit* (1966); and see, also, note 65 in Chapter 3.



one's yours." Officers assisting at a scene will frequently relay information to the primary investigating officer using similar possessive terms. Pointing out the various people present, or handing over a slip of paper with names written on it, officers will tell their partners, "O.K., that's your victim over there, there's your suspect," and so forth.

Placed quickly into the role of being "his victim," Melissa's presence immediately assumed practical significance as an evidentiary object, as the author sought marks, words, impressions, and images, which could be transformed into the "facts and circumstances" of a police report. The gaze of the police officer must remain focused but detached, so that the investigation can progress unimpeded by the "imponderability of personal relationships" (Simmel, 1971:327). The eye of the officer seeks confirmation of its suspicions through the victim's utterances: what is "the story?" The "story," at least initially, is one that officers in the present incident tried to elicit very quickly, in order to see if they had probable cause to make an arrest. The rapidity of this process is often determined by tactical considerations more so than by legal ones. Knowing that Richard had fled from the scene in his car, the officer who had responded to assist the author was now driving around looking for him. He needed information about Richard's appearance, whether or not he was armed, if there was a legal basis for detaining or arresting him, and so forth.

Quickly eliciting legal and tactical information from a victim is a very delicate process. The exigencies of bureaucratic operations can rapidly envelop the situation, redefining and subsuming the entire occasion for the summoning of police assistance within the operational needs of the officers. Emotionally and spiritually drained victims, to say nothing of those who are physically injured, must be pressed persistently but gently (at least one hopes) for "the story." This process occasions a very basic question, which does not lend itself to an easy response, and will recur throughout the dissertation: how can one listen effectively and patiently, in a way that

does not reduce compassion to a superficial anodyne? The wider relevance for social scientific research of this question, and, indeed, of the entire preceding discussion, can hardly be ignored.

As the author interviewed Melissa, he had to watch her consciously, looking and listening for information that would fit logically into the categories on the officer observation sheet, which he would complete as part of an official domestic violence report. The dynamic here bears a marked similarity to the kinds of structured interviews often undertaken by researchers. Amidst reassuring glances and expressions of understanding and patience, the author sought the elements of probable cause, which would build the legal case against Richard: “OK, Melissa, can you tell me what happened tonight?” She hesitates. I take a different approach. “How long had you guys been going out?” “More than seven years, he was my first boyfriend.” Melissa goes on to provide a lengthy, emotional account of her involvement with Richard. She chokes back tears several times. “How many times has he hit you before?” I ask, hoping to elicit information about a history of domestic violence. “Nothing like tonight,” she replies, “we just used to get into it a lot.” “Get into it?” “You know, a lot of yelling and stuff, maybe some grabbing and shoving, but it was never like tonight.” As I speak with Melissa, I sense that her mind is shifting back and forth between engaging my questions and the questions she seems to be asking herself internally in an effort to comprehend Robert’s actions. As she answers my questions, she pauses occasionally, as if an answer she gave me might have a bearing on her internal dialogue.

As the author’s encounter with Melissa illustrates, the police officer’s “natural attitude” (Husserl, 1970) accepts *a priori* the possibility for the meaningful interpretation and representation of human predicaments on the basis of their problematization in administrative and juridical terms. This is the horizon framing interactions in which officers “deal with” or “respond to” these predicaments, both as lived moments bringing human beings face to face with each other, and as “matters of fact,” in the form of encounters between an agent of the state and a citizen.

Like the calculatedly detached and nonchalant *flâneur* in Manet's painting, the police officer as bureaucrat presumes an ability to stand over against another human being as a disinterested or neutral observer, look at him or her as "being there" in the form of one problem or another, and then walk away, both literally and figuratively. It is the moral and ontological basis of this presumption that is so forcefully challenged by *A Bar at the Folies-Bergère*. To be sure, the police officer is potentially capable of genuine sympathy and compassion no less than the *flâneur* was potentially capable of kindness and gentility. However, such responses can only emerge as the reply to an awareness of human presence that exceeds its conceptualization for the instrumental rational ends of bureaucratic praxis. It is this same irreducible awareness that makes it possible for the viewer of *A Bar at the Folies-Bergère* to identify the barmaid as the compositional and existential center of the painting.

### ***Invocation and Response***

Art historians and critics have speculated widely on the notion of "response" in *A Bar at the Folies-Bergère*, offering a range of ideas as to what is being said (or not said) in the encounter between the barmaid and *flâneur*. To respond to someone in a conversation means, of course, to offer an answer or reply; however, in police work, its connotation is radically different. This difference may be brought to light by considering how the everyday discourse of policing speaks of "responding" to calls, problems, or situations, though not of "responding to people." Another common variation is "answering" calls for service. In the case of both words, "respond" and "answer" lose the ethical significance assumed in face-to-face conversation, creating an absence that signifies the resolution of existential complexity into a bureaucratic problem or object. As has already been suggested, under the sway of such thinking, the administrative interpretation and resolution of an event become conflated with the event itself.

When, to use a colloquialism from police culture, the author "responded to a domestic" and identified Melissa as the victim of an assault, her role in an administratively delimited

encounter was *to be* the victim of a crime. Face to face with her, the author followed legally and socially sanctioned rituals that permitted him to enter suddenly into the life of a complete stranger. He would ask her personal questions, sit in her living room, photograph her, walk through her house, and so on, all with a view towards constructing an officially meaningful account of a particular moment in her life, to the practical exclusion of that life's more elemental context and meaning. From the standpoint of the criminal justice system, presumably in concert with society at large, the ideal result of this account would be the amelioration of Melissa's suffering, and the imposition of legal sanctions against her ex-boyfriend, Richard, in the hope that such punishment might deter him from committing future assaults, or, if nothing else, at least visit upon him consequences for his actions. Considered in terms of a socially recognized need to aid crime victims, there is nothing inherently wrong with this. However, what *is* both wrong and avoidable is to fail to recognize the fatal inadequacy of the official compartment on the basis of which such aid is rendered.

One manifestation of this inadequacy is observable in the phenomenon known in policing as the "uncooperative victim." These are instances in which the victim of a crime resists participating in the rituals necessary for the documentation and prosecution of an incident. Melissa was, at least initially, an "uncooperative victim" to the extent that for some time she persistently hesitated to provide a complete account of the incident, and would not disclose her assailant's possible whereabouts. The immense range of motives for this response (for Melissa, perhaps fear of Richard, or lingering affection for him) is not of immediate relevance here; rather, the more pressing point is to illustrate how the "objective reality" or factual understanding officially assigned to the predicament of another human being becomes its sovereign truth, eclipsing the person's own lived experience. The person involved in a domestic violence incident, who does not act according to a bureaucratically expected role, becomes a force that militates against efforts by the police at control and prediction. As this process unfolds, the

encounter becomes for the officer a process of overcoming resistance in order to contain and problematize the situation.

This is not simply a question of unsympathetic attitudes or ideologically motivated disinterest. Indeed, to officers' great frustration and dismay, "uncooperative" victims are often present when there is the sincerest desire to help someone who is regarded as truly deserving of assistance. It is not uncommon under such circumstances for compassion to turn quickly into impatience, annoyance, or outright disgust, as a result of which the victim of the crime, on whose behalf the investigation is presumably conducted, comes to be experienced as stupid, selfish, and wasting the valuable time of the police.<sup>81</sup> Indeed, being "uncooperative" during a given encounter will often be judged by officers to lower one's potential moral legitimacy as a victim in subsequent contacts. In more extreme instances, victims who are obviously lying, and especially those who have been previously arrested or contacted by the police as suspects in other crimes, may, for example, be labeled privately as "vuspets" – people whose perceived lack of virtue means that their standing as "real" victims is effectively nil.<sup>82</sup> This phenomenon is an example of what Tiryakian (1973:200-205) identifies as the shift in consciousness that accompanies a change in moral value. Some of the tensions intrinsic to such a shift are evident in the next encounter to be considered.

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<sup>81</sup> However politically desirable or socially or morally necessary it might be to assist the victim of a crime, this is not the actual, primary concern of the modern state's criminal justice system, inasmuch as the "real" victim of crime is regarded as the state itself, rather than the individual person. In light of this point, it might therefore be argued that subsuming the significance of the victim's predicament, both practically and symbolically, within the legal and administrative needs of the state, is altogether logical, and explains in substantial measure why a bureaucratic institution such as the police acts as it does at the operational level. Following this line of thought, it is helpful to compare Foucault's analysis (1977:13) of the logic of modern executions, which are intended to punish not the body, but an abstract "juridical subject."

<sup>82</sup> In a similar vein, people with extensive criminal histories may view their own victimization with greater equanimity than the average citizen. To give an example, the author recalls one young man who had spent much of his time as a teenager breaking into cars and stealing them. When the man filed a police report to document an incident in which someone had broken into *his* car, he volunteered with a smile, "oh well, I deserve it; I guess it's bad karma."

## **Encounter #5-2: Isaac and Henry**

While working as a shift supervisor on a New Year's Eve, I heard two of the officers on my squad get dispatched to a report of a disturbance at an address well known for the chronically violent behavior of the family who lived there. The dispatcher said that the 9-1-1 operator who took the call could hear loud yelling in the background, and believed there to be some kind of fight occurring. The dispatcher also advised that the address was flagged as an "officer safety" hazard, because one of the residents, "Isaac," had a history of violent assaults against police officers. An "officer safety" flag usually mandates that at least three officers respond to the call, so I told the dispatcher that I would be heading there, in addition to my two colleagues who were already en route.

By the time I arrived, the other two officers had preceded me into the house. I heard one of them ask the dispatcher to "close the air," that is, restrict radio traffic in order to ensure unimpeded communication until the situation was safely under control. I knew that the officer's request meant that he and the second officer were probably involved in some kind of physical altercation. As I quickly approached the house, Isaac's girlfriend, Bonny, beckoned from just inside the open front door, and hurriedly ushered me past a rather unfriendly dog, along a path of overturned furniture and large blood spatters. Bonny directed me to the second floor of a detached, two-story garage, located behind the house, and said, "they're upstairs."

I went upstairs and found the other two officers handcuffing a prone Isaac. They told me they had found Isaac and his father, Henry, lying on the floor, locked together in a spastic, emotional embrace that seemed to be hovering indiscernibly between combat and affection. Knowing Isaac's propensity for unpredictable violence, the officers had separated him from his father. Isaac was not struggling with the officers; however, he was extremely agitated. As the other two officers turned Isaac onto his back in order to stand him up, I spoke to him, reminding him that we knew each other, and asking for his cooperation in trying to calm down. Isaac acknowledged me by name, and seemed surprised that I had perhaps doubted for a moment that he knew who I was. Isaac and Henry had both obviously been severely beaten. Blood poured uncontrollably from Henry's nose and mouth as he held his hands to his face. Isaac complained of broken ribs. His face and shirtless torso were covered with cuts and abrasions. Henry and Isaac denied they had been fighting with each other, and blamed a third party, "Frank," who was now gone. "He's driving a black Toyota truck," shouted Isaac, "look what he did to my father! Go get him!" Isaac's angry yelling dissolved into hysterical sobs.

Henry was incoherent, his drunken stupor made all the worse by the punishing assault he had sustained. He could barely stand up, and had difficulty telling the difference between the police officers and the fire department personnel, whom I had called to evaluate his injuries. Henry's eyes moved about slowly and warily. He refused to be treated by the aid crew, and refused to talk about the events that had caused his injuries. Even in his intoxicated, wounded state, I treated him cautiously, knowing he could lash out with little warning. As I helped him to his feet, he gripped my hand powerfully, and an unfriendly smile momentarily replaced the look of confused delirium, drunkenness, and pain.

What little information we could gather strongly indicated to my colleagues and me that Isaac had obviously assaulted his father. However, our “gut feelings” and intuitions did not equate to the legal standard of probable cause; and thus, we had no grounds on which to make an arrest. Frustrated by the unwillingness of Henry and Bonny to give an accurate account of the assault, I told the other officers at the scene that I “really wanted PC” [probable cause] to arrest Isaac for felony domestic violence assault. All of us were aware that Isaac had recently been released from prison, and had just been involved in another violent assault at a nearby nightclub several weeks earlier, in which he had hurled cue balls across a crowded room, striking and injuring several people. We shared the strong opinion that he needed to be “taken off the street” sooner rather than later.

As matters stood, this was not to happen, at least not immediately. After pleading and cajoling for several minutes, I finally convinced Henry to go to the emergency room for treatment and x-rays. Not least of all was my persistence motivated by the hope that the discovery of fractures might provide evidence for the subsequent filing of felony domestic violence assault charges against Isaac. As Henry stumbled towards the front door escorted by the fire department aid crew, he abruptly threw himself at Isaac, who was sitting handcuffed in a large armchair, and began sobbing. Isaac also started to cry. Isaac again protested that the police should “get Frank” for assaulting his father. Henry fell conspicuously silent, and followed the firefighters and Bonny outside to the waiting ambulance. I spoke with Bonny, and asked her if she thought she would be safe with Isaac at the house. She expressed no concerns. Isaac was released from his handcuffs. My colleagues and I left, knowing well that upon his father’s return, the situation would almost surely rekindle. At the end of my shift, when I briefed the sergeant who was relieving me, I told him to expect further problems from Isaac.

Several hours later, Henry returned home after being discharged from the emergency room, and a still-drunk Isaac assaulted him again. Isaac then stole Henry’s pick-up truck, and wrecked it a short distance from home. He was arrested and booked into jail.

### *The Appearance of Turmoil*

As a call for police service requiring determinate resolution into a finite problem, the incident between Isaac and Henry was obviously far less “manageable” than the assault against Melissa. Both in tactical and investigative terms, it epitomized the phenomena of uncontrollability and unpredictability that characterize many domestic violence incidents. From the standpoint of the exercise of bureaucratic problematization, Melissa’s case had been fairly unambiguous – the nuances and complexities of her predicament were efficiently stripped of what was deemed officially to have been extraneous detail, allowing for her ready objectification as a

victim. In the case of Isaac and Henry, a host of factors militated against a similarly decisive conclusion.

From the outset of the incident, the course of problematization was unyieldingly impeded by the hostile refusal of the involved parties to have anything to do with the police. Years of mutual mistrust and animosity between Isaac's family and the police doubtless contributed to this tense state of affairs. Even in their state of extreme intoxication, physical pain, and emotional duress, Isaac and Henry demonstrated a self-discipline that restrained them from disclosing the actual chain of events that had preceded the police response. Bonny, Isaac's girlfriend, had placed the telephone call for police assistance; however, once her initial, frantic fear had subsided, she probably concluded that implicating Isaac in the attack on Henry would only result in Isaac's turning on her. It may also be surmised with a reasonable degree of certainty that Bonny felt a certain moral and personal obligation not to cooperate with officers, because Isaac (and, perhaps, Henry) would most likely have perceived this as an act of disloyalty or betrayal. Finally, tactical exigencies and Isaac and Henry's state of heavy intoxication also plainly acted to hamper the efficient resolution of the call.

Despite this confusion and chaos, the author and his colleagues quickly determined that the resolution of the incident hinged upon interpreting what Isaac had, or had not done. The author has known Isaac for most of his career, and has had numerous encounters with him. Even in his calmer moments, Isaac projects a sense of pent-up rage set on a hair-trigger. Isaac's life has been marked by a repeated, cyclical pattern of violent offenses, incarceration, release, and re-offense. As a teenager, Isaac was closely involved in criminal gang activity. By his early twenties, he had accumulated numerous felony convictions for crimes including sex offenses, burglary, and assault. He had also been involuntarily committed for psychiatric observation following bouts of manic violence and threats of suicide.



During the brief periods in his adolescence and adult life when Isaac has not been incarcerated, his legal status as a convicted sex offender, a parolee, a respondent in several restraining orders, and so forth, has ensured that he has remained with near constancy an object of attention under the gaze of the criminal justice system. In all, he has been arrested over forty times. At the time of this writing, Isaac is in his late twenties, and epitomizes society's unsympathetic stereotype of the incorrigibly violent "career criminal" or "dangerous offender" – a muscular, enraged young man, with an unhandsome countenance scarred by innumerable fights, and a body tattooed with images of what he takes to be some of the decisive events and driving forces in his troubled life.

Relative to this broader biographical and sociohistorical context, the judgment might well be offered that the bureaucratic problematization of Isaac's predicaments, up to and including the encounter narrated here, has thus far succeeded only in generating a series of conspicuously ineffective responses addressed to an objectified human being, whose identity, for all practical purposes, comprises the reified totality of his transgressive, dangerous actions, past and future. Bureaucratic praxis, in its encounters with Isaac, has read the outward signs of human discontentment and disharmony, and rendered them into a practical unity, an "object" amenable to the kinds of "solutions" that the forces of problematization can apply. The anguish, hopelessness, and bellicosity that play across Isaac's face, and emerge in his words and actions, thus translate for the bureaucratically oriented police officer as "resistance to control," "intractability," "unpredictability," and "danger."

From the standpoint of a phenomenological aesthetics of encounter, this process of translation is decisive, because it marks the concrete dynamic through which the lived moment of face-to-face interaction assumes its practical significance as a problem. Using Paul Klee's *Senecio* (1922), this dynamic will be explored, as it occurred in the encounter between the author

and Isaac and Henry.<sup>83</sup> *Senecio* offers an extraordinary image of the tensions intrinsic to the process of typifying and reifying human presence, and occasions a discernment of the strains, dangers, and enigmas that lie behind the act of coming before the face of an anguished human being. In the analysis that follows here, the painting will be specifically regarded as a depiction of Klee's notion of "unstable equilibrium" ("*schwankendes Gleichgewicht*").<sup>84</sup> This concept opens a view upon the nature of human presence that allows for a discernment of some of the ways in which it resists problematization.

The principle of unstable equilibrium expresses Klee's attempt "to reconcile the frictions and dissonances within an enveloping tension" (Kudielka, 2002:83). For Klee, unstable equilibrium defines an entire range of relationships between competing or opposing forces, from the physical tension between momentum and gravity at work in a swinging pendulum, to the innermost tensions inherent to the human condition (see Kudielka, 2002:83-85 and Klee, 1961:389ff.). Within the context of explicating the encounter with Isaac and Henry, *Senecio* provides an illustration of unstable equilibrium that reveals demonstrable parallels to the form of human presence that is often encountered when the police respond "on the spur of the moment" to volatile crises, and find themselves struggling to impose order and control through the containment of situations as discrete problems, definable in terms of a "totality of facts and circumstances."

### ***Making Problematization Visible***

*Senecio* epitomizes Klee's project of depicting the world from a perspective that goes beyond the accurate representation of an optically "correct" image, and thereby succeeds at

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<sup>83</sup> *Senecio* is part of the permanent collection at the Kunstmuseum in Basel.

<sup>84</sup> The term "*schwankendes*" also connotes the idea of wavering, oscillation, or indecision. *Gleichgewicht* literally means "same weight." It can be used to express either physical or mental balance, as well as concepts such as a strategic or political balance of power. In his translation of Klee's *Notebooks* (1961), Manheim renders "*schwankendes Gleichgewicht*" as "oscillating balance." It is of further interest to note that "Unstable Equilibrium" is also the title of one of Klee's watercolors. Like *Senecio*, it was painted in 1922. For further discussion, see Klee (1961:389-391), Jaffé (1972:25), and Kudielka (2002:82-85).

making visible what Grohmann (1967:31) calls the “point of view of totality.” The painting conveys Klee’s conception of the vision of wholeness, which simultaneously reveals its own tensions, and even its potential disunity or disintegration. It is here that the concept of unstable equilibrium emerges, and suggests its immediate applicability as a notion relevant for the interpretation of police-citizen encounters. Prior to an explicit consideration of *Senecio* in relation to the episode with Isaac and Henry, some general comments on the nature of Klee’s painting will help establish its appositeness for a phenomenological aesthetics of encounter.

The spirit shaping Klee’s approach to art has an explicitly phenomenological quality, which is expressed succinctly in his *Creative Credo*:

Art does not reproduce the visible but makes visible. (Klee, 1961:76)<sup>85</sup>

This statement expresses Klee’s conscious, definitive break with traditional artistic conventions of representation and depiction – what he termed (1961:63) the “optical-physical” [*optisch-physicher*] relation of artist and object – and reveals his radical sense of the *poetic* spirit of art

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<sup>85</sup> Together with the vast body of artwork that he created, Klee’s prolific intellectual reflections upon the nature of art form a legacy that has found enormous appeal and interest in phenomenological circles. On this point, see, especially, Merleau-Ponty’s essay “Eye and Mind” (1964a), Grohmann (1967), Young (2001), Pöggeler (2002), and Kudielka and Riley (2002). The interest that phenomenology takes in his work is in one key respect informed by the self-conscious, intellectually refined approach that Klee took towards the act of painting. For Klee, the medium becomes the source of its own significance (see Greenberg, 1961:7). The pertinence of this approach for phenomenologically informed aesthetics in general, and, by extension, for the specific application of a phenomenological aesthetics of encounter, is that for Klee, the canvas on which he composes is not merely a passive, inert object that receives paint, but a “responsive” surface (Greenberg, 1961:195). This idea becomes clearer in light of the essential role of color in Klee’s conception of art. In an oft-quoted passage from his *Diaries*, Klee proclaims during a 1914 trip to Tunisia, “[c]olor and I are one. I am a painter” (1964:297 [926o]). Klee’s fascination with color was paralleled by a phenomenological inquiry into its essential nature (see Salley, 2001:13). Strongly influenced by Goethe’s theory of color, along with the work of Runge, Delacroix, Delaunay and Kandinsky, Klee transcended notions of color wedded to optics and physics, and sought instead to engage color in relation to its unfolding and genesis in form itself (see Grohmann, 1967:31; Walterskirchen, 1975:7, and Gage, 1999; and see above, Chapter 1, n6). For Klee, all things and all being are interconnected. His art, therefore, evokes the cosmic and the universal by way of the momentary and fragmentary (*cf.* Grohmann, 1967:31.) He “lets things come into being” (Grohmann, 1967:118). Even if only unconsciously, Klee’s focus on “becoming” reflects the existential currents of the time in which he worked (Hulton, 1956:9).

(see, also, Merleau-Ponty, 1964a:181).<sup>86</sup> This spirit guides the eye of the artist in such a manner that the artist achieves the ability to see through and beyond the “relativity of visible things,” grasping them merely as accidental forms, and with the knowledge that what is visible is “only an isolated case” (Klee, 1961:78-79). Art understood in this way must therefore strive to function as a form of creation, through which the artist makes visible signs that point to a reality beyond outward appearance, a reality, which, for Klee, is characterized by the fact that “there are more truths unseen than seen”(1961:79).

Accordingly, Klee made a crucial distinction between a *creative* comportment towards the world that approaches it as a unity of *forms* or *signs* manifesting an intrinsic truth, and a *representational* comportment that reductively encounters reality as mere objectified “things,” the decisive meaning and value of which are wholly contingent upon extrinsic factors (see Giedion-Welcker, 1952 and Jaffé, 1972:45). Klee was deeply committed to ways of studying the world that would attend to this essential contrast. Foremost among these was his belief in the absolute necessity for the artist to engage in a “dialogue with nature” (Klee, 1961:63). A dialogue of this kind strives to go beyond a “painfully precise investigation of appearance,” which is limited by the presence of an “invisible barrier” between the artist and the world, and seeks instead to situate the artist as “a creature within the whole” (Klee, 1961:63).

As a result, says Klee,

[t]he object grows beyond its appearance through our knowledge of its inner being, through the knowledge that the thing is more than its outward aspect suggests. (1961:66)

When a dialogical comportment informs the act of artistic creation, it sets the artist upon a “metaphysical way” [*metaphysischer Weg*], which leads to the possibility of expressing the essential unity between the eye and the world:

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<sup>86</sup> The poetic quality of Klee’s work is no accident. His own accomplishments as a poet are well respected; furthermore, his close friendship with Rilke is also widely reckoned to have had a manifest influence upon his art.

All ways meet in the eye and there, turned into form, lead to a synthesis of outward sight and inward vision. It is here that constructions are formed which, although deviating totally from the optical image of an object yet, from an overall point of view, do not contradict it. (Klee, 1961:67)

The preceding discussion should help the reader to appreciate some of the principles that informed Klee's creation of *Senecio*.

*Senecio*'s compositional structure consists of a complex juxtaposition of disparate colors, together with a contrasting geometry that combines straight lines with circles and curves. The resulting image presents as a whole what might in the abstract seem contradictory and irreconcilable: childhood and old age; humor and anger; movement and stasis; resoluteness and urgency. Taking these interrelated compositional and thematic tensions together with the absence of an immediately self-evident "subject," viewers of *Senecio* find themselves facing the stare of an enigmatic presence. Projecting what Hall (1992:48) evocatively characterizes as an "almost hypnotic power," *Senecio* causes the viewer to meditate upon the significance of its mysterious and vaguely discomfiting image.

For some viewers, upon first impression, the bright colors and outward simplicity of *Senecio* may elicit a feeling of whimsy, or child-like fantasy or imagination. However, a more sustained consideration quickly finds these reactions tempered and eclipsed by an intense, unsettling realization that the painting actually projects a sense of profound tension (Jordan, 1984; cf. Doschka, 2001:20). This tension has been characterized thematically in a number of different ways. Jordan (1984:184) approaches *Senecio* as a study in facial structure and the psychology of expression. Verdi (1984:138-142), about whose interpretation more will be said below, reads the painting as a representation of the transience of childhood, based upon a poignant analogy between the human face and a flower. For Plant (1978), *Senecio* projects a tragicomic spirit, which consciously draws upon theatrical notions of the masked face to express the dramatic

quality of the human condition, where “roles” are played out either to reveal or conceal hidden aspects of inner nature and character.

These various interpretations help to orient further consideration of the painting with respect to the principle of unstable equilibrium. The sharply demarcated circle of the head is softened by the contrasting grid pattern of *Senecio*'s face, neck, and upper torso (Jordan, 1984:184). The entire background of the canvas is a field of orange and orange-red tones. Is this fire, sunlight, autumn color, or a symbolic representation of emotion? Where they meet the top of the head, these background colors blend into a range of yellow, orange, and light brown, forming a crown of hair, which seems all the more child-like when regarded together with the two pink cheeks. The mouth, comprising two, dark violet, diagonally offset squares (the upper of the two is actually slightly rectangular) sits on opposite sides of a horizontal line, which separates the pink field at the center of the face from the much more subdued white and gray coloring of the lower face and “jaw line.” Focusing upon the mouth, one is unsure if it conveys impishness or anger.

The most conspicuous feature of the painting is undoubtedly *Senecio*'s offset eyes, which are darkly outlined by a sharp “figure eight” or “infinity sign” (Jordan, 1984:185), and contrasted further by the white, triangular “brow” above the right eye, and the curving brownish-green one above the left.<sup>87</sup> Each eye is painted with a deep red iris, imparting to *Senecio* the central attribute of its remarkable psychological impact (Jordan, 1984:185). Within the iris of the left eye, it is possible to discern two, dark, fine lines. These are absent in the right eye. The overall effect of the painting is one of “somberness” (Jordan, 1984:184) and “solemnity” (Verdi, 1984:142). The image conspicuously lacks a sense of repose or quietude. Burnett (1977:16) takes a similar position, affirming an idea close to Klee's notion of unstable equilibrium in describing the image in *Senecio* as a “dynamic resolution of contrasts.”

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<sup>87</sup> Compare Klee's use elsewhere of an “infinity sign” in *Small Room in Venice* (1933, cat. no. 447).

Along these lines, Burnett shows how *Senecio* may be viewed as a split image. The most obvious way to regard the painting is to interpret *Senecio*'s face as staring directly outward, looking with both eyes at the observer. However, it is also possible to see in *Senecio*'s face a left-facing profile view, which is discernible by focusing on the left side of the painting. Covering the right side of the canvas heightens this effect; covering the left side, by contrast, shows clearly that the phenomenon is not bilaterally symmetrical. Burnett finds further evidence of the "dynamic resolution of contrasts" in the manner in which *Senecio*'s head is set upon a "base" of the three primary colors (red, yellow, and blue), together with white and a rich, earth-like brown (Burnett, 1977:17). He reads this as an intentional symbolic allusion by Klee to the unity between earth and cosmos, which is of vital significance to Klee's theory of art (see, for example, Klee, 1961:63-67). The depiction of competing tensions in *Senecio*'s contrasts between left/right, dynamism/stasis, interior/exterior, self/other, and earth/cosmos takes on temporal dimension in light of how the painting evokes a simultaneous sense of youth and old age. In particular, the dual perspectives of the face lend the painting something of a "Janus-like" aspect.

Verdi (1984:138-142) suggests that one way of understanding the theme of temporality in *Senecio* is to read the painting as a conscious attempt by Klee to draw a series of parallels between the human face and a flower. As with many of Klee's works, the title serves as a valuable interpretive guidepost. The title "*Senecio*" comes from *Senecio jacobaea*, the Latin name for the common ragwort, a flower in the Aster family (Plant, 1978:97; Verdi, 1984:138-139). For Verdi (1984:138), the flower is the "face" of the plant, and the face of a human being may be regarded similarly as the "flower" of human being. The flower and face

[b]oth tend to be the most colourful, animated and decorated parts of their respective organisms; to be the seat of their feelings and emotions; and, most importantly of all, to be their initial object of attraction or repulsion. (Verdi, 1984:38)

The flower epitomizes unstable equilibrium, existing as it does with a transient beauty that tragically announces its own demise. Verdi's interpretation of *Senecio* draws upon the flower-face analogy to read the painting as depiction of a "woeful countenance, which already appears old before its time" (1984:142).

Placing Verdi's claim into wider context, the argument may be made that Klee succeeds in taking the complexity of the abstract idea of unstable equilibrium, and disclosing its manifestation in the flesh of a human face. The resulting image that appears in *Senecio* thereby holds forth the possibility of granting access to the existential foundations of an encounter with human beings in crisis, such as Isaac and Henry. The painting accomplishes this by going far beyond the level of affect or empathy to create what Bachelard calls a "poetic image," through which "we learn to know, in one of its tiny fibres, a becoming of being that is an awareness of the *being's inner disturbance*" (Bachelard, 1994:220, emphasis original). It is this ability to depict the "tiniest impulse of the psyche" (Jardí, 1990:27) that constitutes the disclosive capacity of *Senecio*, and its relevance for a phenomenological exposition of the encounter with Isaac and Henry.

### ***The Face of Unstable Equilibrium***

In order to develop a phenomenologically grounded answer to the question "what happens when the police respond to a domestic violence call?" one might well begin by studying an image such as *Senecio*, and pondering what it reveals about the experience of an officer's coming face to face with a fellow human being in crisis. Were someone to ask the author, "from a cop's perspective, what is it really like when someone first opens the door at a domestic violence call?" one response could be, "it is closely akin to the experience looking at this painting." In quite astonishing fashion, beyond what a mainstream social scientific description or practical police training course might convey, *Senecio's* depiction of unstable equilibrium makes



genuinely palpable something of the experience of standing before the visage of enigmatic anger and disharmony.

To meditate upon the image in *Senecio* is truly to discern something of the inner nature of that moment of initial encounter on a domestic violence call, or other such instance of human crisis. As a means of interpreting the events of the author's encounter with Isaac and Henry, the deliberative process of studying *Senecio* allows for a disclosure of subtle conditions of interaction, which are commonly overlooked both in the exigencies and routinization of police praxis, and in the analysis of that praxis by mainstream criminology. Most of all, the painting contributes to an understanding of some of the ontological conditions that make it so intractably difficult to walk into the middle of human crises and impose bureaucratically dictated resolutions upon them.

Attentiveness to *Senecio* finds an insurmountable resistance in the image to any attempts neatly to discern and categorize an objective "matter at hand." Is the face in the painting looking at the observer, or not? Is the person genuinely attentive to the observer? What happened to this person? What is "really going on" with this person? What is the person "really" thinking? Are those thoughts rational? Are the person's answers to the observer's questions genuine? Are the person's emotional reactions to the interlocutor genuine, deceptive, or even delusional? Is this person mentally disordered, or under the influence of alcohol or other drugs? How should the viewer reconcile the appearance of the eyes with the face's other features? The act of focusing on the child-like features of the pink "cheeks" and blond hair cannot avoid being struck by the haunting, discomfiting sadness, pain, and anger of the red eyes. Is the mouth projecting a smirk, frown, or genuine smile? Perhaps the person is trying to suppress the desire to cry, or to conceal the effect of red eyes that are the aftermath of crying? Is the person potentially violent? What emotions predominate in this person's mind? Which aspects of the gaze in this face are based

upon events and sentiments wholly prior to the observer's arrival, and which of its aspects are influenced, or even caused by the presence of the observer?

Each of these questions denotes an element of the experience of translating human presence during the opening moments of a police-citizen encounter, in which officers can never know with absolute certainty what they are truly *facing*. These junctures mark the occasion for some of the most immediately tangible realizations of bureaucratic predictability and controllability. This is especially the case in potentially hazardous and rapidly fluctuating situations, such as the encounter with Isaac and Henry. Gazes in encounters of this kind meet suddenly, with a reciprocal tautness, energy, suspicion, and confusion that cannot be wholly concealed or inwardly suppressed. *Senecio* asserts the same kind of foreboding and unsettled presence that was instantly apparent to the author and his fellow police officers in their encounter with Isaac and Henry. The unstable equilibrium that the painting discloses thus parallels the sense of conflicting emotions, tensions, and ambiguities, which the police officer literally faces upon entering the scene of a call.

*Senecio* offers no immediately self-evident context within which the viewer is able to place the painting's largely abstract, symbolic use of forms and colors to create a human presence. This powerful sense of ambiguity and confusion recreates the fear and mystery that accompany the experience of coming face to face with an unknown situation that is occasioned by human turmoil. The face in *Senecio* projects a sense of reacting to the intrusion of another presence, as if posing the challenge, "what do *you* want?" This was the reaction to the author and his colleagues given by both Isaac and Henry; and it was, indeed, altogether an expected one.

Even though the author and his colleagues were familiar with Isaac and Henry from previous encounters, each new incident always unfolds with its own uncertainties. From the outset, the officers arriving at a domestic violence incident find themselves suddenly walking "right into the middle of things." On some occasions, such as the encounter with Melissa, one of

the two disputing parties (most likely the primary aggressor, who wants to avoid going to jail) is already gone. This can obviously impart a relative calm to the situation. On other occasions, the disputants are still both together at the scene, and their emotions have subsided to a sufficient degree that police intervention occurs quite uneventfully. Finally, in situations such as the encounter with Isaac and Henry, the disputants remain volatile, if not even actively combative. Officers know that each of the preceding possibilities remains highly mutable and unpredictable. For instance, an armed, drunken, assault suspect can unexpectedly return to the scene while the officers are interviewing the victim. Likewise, the entrance of police can itself re-ignite a situation that had otherwise calmed down. This frequently occurs when the arrival of police comes as a surprise, as is often the case, for example, when a neighbor or stranger places the call for officers to respond.

In the case of Isaac and Henry, it remains unclear whether either or both of them actually knew that Bonny had called police. It was she who let officers into the house, thereby precluding what would doubtless have proven to be a confrontation had either Isaac or Henry answered the door. Once they were inside, the officers' immediate, overriding concern was to make a rapid tactical evaluation of the scene. As the narrative recounts, this first entailed the author's two colleagues reacting to their discovery of Isaac and Henry grappling on the floor. The officers were unable to make a clear determination about the nature and intent of Isaac and Henry's actions. At this early point in the encounter, such ambiguity was predominantly regarded as a tactical concern, rather than a legal or investigative one: Isaac was handcuffed not because he was legally under arrest, but because he was judged to have posed a threat to Henry and to the officers. Establishing this kind of physical control, on the basis of which officers could then advise the radio dispatcher that "the scene is secure" marked the transition to the next stages of the encounter, in which, among other things, fire department personnel could safely attend to

Isaac and Henry's injuries, and formal, investigative processes and other elements of problematization could commence.

"Securing the scene" is exactly what the phrase suggests: an operational establishment of physical control over an officially identified space. However, the ability to secure a scene by no means equates to assessing, let alone comprehending the actual, more elemental nature of the situation. To continue the thought experiment of regarding the image in *Senecio* as analogous to the human presence encountered at a domestic violence scene, it is unmistakably clear that any imagined act of physically "controlling" the person depicted in the painting bears no intrinsic or necessary relation to the interpretation of the events that gave rise to the gaze that meets the observer. Thus, while securing a scene is a tactical necessity for protecting the immediate safety of the involved parties, both officers and citizens, the very means by which this is accomplished can exercise a powerful, and often negative impact, upon the entire dynamic of the encounter. This is one of the reasons why the shift from tactical control to formal problematization is among the most difficult stages in any police-citizen encounter. The transition demands that officers adjust their interpretive frame of reference by taking the now-secure scene, and objectively regarding each of the people within it from a bureaucratic standpoint, in order to identify, approach, and solve an underlying problem. This process inevitably entails quandaries that further consideration of *Senecio* helps to illustrate.

The intensity of the presence radiating from Klee's painting suggests the overwhelmingness of what a police officer faces, even after the encounter is tactically "under control." What was previously attended to largely as a potential or actual threat of violence must now also be heeded with a broader end in mind, namely, that of identifying and solving a problem. Although tactical threats never completely disappear until a suspect has been remanded to the custody of jail personnel, they do, of course, diminish substantially once a person is in handcuffs, and has been thoroughly searched. It is at this moment of initial security that a new

kind control must be established that goes beyond tactical domination. With this in mind, the transition from tactical control to bureaucratic control must attend to the reality that, the more coercion or physical force was initially required to secure the scene and the disputants, the more difficult becomes the subsequent task of moving to the next stage of the encounter, which necessarily demands establishing some kind of rapport with the involved parties.

Experienced police officers, even when they have no consciously intended purpose beyond the imposition of bureaucratic order, are mindful of this tension, and will therefore often accompany tactical actions (such as pointing guns, using physical control techniques, applying handcuffs, and so forth) with gestures and language that recognize the human presence of those at whom these actions are directed. This is why, for example, the author acknowledged Isaac by name, and attempted to win his cooperation by appealing to the existence of a personal relationship, established over the course of numerous prior contacts. The viewer of *Senecio* can likewise easily imagine how a dialogue with the person behind the cryptic presence of this otherwise de-contextualized face might be safer and simpler if one knew the person's name, or had some other basis for familiarity. This technique is by no means used only by officers. Suspects, too, will often initiate actions in their dealings with officers aimed at winning preferential treatment, or getting officers to "drop their guard." As a result, both parties in a police-citizen encounter must contend with the evaluation of mutual suspicion, and the attempt to distinguish between genuine gestures, as opposed to those that are merely undertaken with an ulterior motive in mind.

This interpretive ambiguity is captured in *Senecio's* gaze, and once again helps to illustrate the dynamic at work in the contact with Isaac and Henry. Isaac apparently saw in the author's attempt at familiarity an opportunity to present the false claim that it was "Frank" who had actually assaulted his father. Isaac related this story with the clear subtextual message that if the author were really his friend, or genuinely cared about him, he would believe his story. The

author's failure to accept his account of the incident would cast doubt upon his legitimacy as a true ally.

The fact that Isaac's story was not true is beside the point. Beyond the obvious idea that he was trying to avoid getting into trouble with the police, he also seemed to be acting upon a desire to convince himself of his own innocence, or at least to rationalize in his own mind what he had done. Isaac projected a sense of being torn between the role of an angry, vengeful son, who since his teenage years has repeatedly assaulted his father, and the role of a contrite son, who perhaps really wanted to believe that "Frank" was his father's true assailant, rather than he himself. During the span of the author's encounter with Isaac and Henry, Isaac repeatedly vacillated between seeming to regard his father with remorseful affection, and glaring at him hatefully. In any event, the vociferousness of Isaac's claims about Frank did not overcome the author's sense that he was lying. Isaac's story was full of inconsistencies, and could not withstand any scrutiny that sought to get behind his hysterical ranting and ostensible indignant rage over what Frank had purportedly wrought. Indeed, subsequent investigation would confirm that the story about Frank was a fabrication.

This moment in the encounter, when Isaac protested his innocence, and surged from one emotional extreme to another, represents a powerful manifestation of unstable equilibrium. Stated otherwise, the most indubitable aspect of Isaac's presence was the depth of his instability. The crucial distinction that emerges here is between a reading of Isaac's instability in existential terms, and its abstract objectification as a "problem." The former attends to the fullness of human presence, recognizing some of the same qualities that Klee depicts in *Senecio*. The latter approach, by contrast, seeks to contain that presence, and to encounter it as an entity that is literally *subject* to practical manipulation. Here, the interpretation of instability and its translation into an object for praxis is decisive, because it establishes a radical divide between the significance that Isaac and Henry attached to the moment, and its significance for the police

officers acting in their capacity as bureaucratic agents. The inner laceration and self-alienation that appeared in Isaac's gaze, and which find an exceptional analogue in *Senecio*, were translated otherwise for the attainment of bureaucratic ends.

The same state of unstable equilibrium marks Henry's presence. Henry, despite his evident anger at Isaac, could not bring himself to tell officers what had actually happened. These emotional convolutions were perhaps most poignantly evident when Henry threw himself at Isaac before walking outside the house to the ambulance. This moment seemed to bring together the unstable equilibrium of father and son, and represents the stark limitations of bureaucratic praxis. Henry and Isaac acted consciously to preclude the officers from developing probable cause for assault, which would have made Isaac subject to arrest.

The meaning of being "subject to arrest" is clear enough in a legal sense; however, what remains less readily apparent is the latent ontological foundation of this notion, and of its relation to bureaucratic problematization. Recalling the theoretical discussion of the notion of the human being as "subject" (see Chapter 2) will further clarify this matter. As Heidegger argues (2001:214-215), human being regarded in terms of subjectivity is effectively reduced to the status of an abstract substratum that merely becomes the repository for various predicates. In the present instance of the encounter between the police and Isaac, the human being as subject is considered to be subject to arrest. Of course, human beings have been placed under arrest for millennia in one legal sense or another. Nonetheless, this historical fact should not confuse or distract from consideration of how bureaucratic police praxis accomplishes a task such as making arrests on the basis of an instrumental rational approach to human beings. It is this peculiar approach and its ontological foundations that stand to be revealed through a phenomenological interpretation of the idea of "making someone subject to arrest."

Phenomenologically regarded, the incident with Isaac and Henry involved adopting an approach towards the precipitating events in such a way that Isaac could be identified legally and

practically as their cause. Given the intuitive assessment of the responding police officers that Isaac had assaulted Henry, Isaac should ideally have been made “subject to arrest” through the establishing of probable cause. As the narrative relates, this did not happen until after Isaac had assaulted Henry a second time.

As a consideration of *Senecio* suggests, the question that remains unanswered is the relation between being subject to arrest and the unstable equilibrium manifest in Isaac’s gaze. The author and his colleagues attempted to interpret their encounter with Isaac and Henry in such a way that all of “the relevant facts and circumstances” would “make the case,” and point to a criminal assault by Isaac against Henry, for which Isaac would be subject to arrest, and removed from the scene. The underlying reality of unstable equilibrium had to be objectified as an abstract entity neutralized to meet the ends of police bureaucracy. Henry’s emotions and pain were read as a threat, and his injuries were transformed into potential evidence that might result in Isaac’s arrest for domestic violence assault. The father’s injuries became a means whereby the son might be able to be punished. On a busy night, this would expediently “solve the problem.” *Senecio* reveals the ultimate irreconcilability of this kind of praxis with human presence upon which it is enacted.

Therefore, the inherent nature of the struggle between Isaac and Henry never comes under direct consideration. From an immediately practical standpoint, their respective states of intoxication and injury would have made this a difficult objective to attain, even had the will to do so been present. In the end, when officers left the scene of the call, they had no clearer understanding of the underlying nature of the situation than they did upon their initial arrival. Neither Isaac’s nor Henry’s state of unstable equilibrium was acknowledged, except only insofar as it comprised an impediment to resolving the situation. In this respect, the comportment that was taken towards the disputants in this incident may be said to have remained trapped at the level of instrumental praxis. Any aspect of human presence that defied or resisted ready



problematization was confined to a peripheral significance. The image in *Senecio* thus represents the face of human presence that precedes and resists its reduction to abstract intersubjectivity.

### ***Summary and Conclusion***

The analysis of the two domestic violence incidents in this chapter has yielded an initial application of a phenomenological aesthetics of encounter, on the basis of which the distinction between co-presence and intersubjectivity has now assumed greater tangibility. An interpretation of the author's respective encounters with Melissa and Isaac and Henry showed concretely how the process of bureaucratic problematization occurs as a translation of human presence into an abstract entity available to the operations of policing praxis. In order to make that presence visible, and therefore open to empirical analysis, two paintings were used to illuminate some of its elemental aspects, which are essentially lost to the bureaucratic eye. The examples of *A Bar at the Folies-Bergères* and *Senecio* each yielded particular phenomenological insights into the nature of the gaze, and especially how the gaze manifests human presence.

Both of these paintings reveal what the encounters with Melissa and Isaac and Henry similarly disclose – that the ability to discern the meaning of face-to-face encounters in terms of a particular set of bureaucratically significant “facts and circumstances” is possible only by reifying the whole of human presence, the intrinsic reality and value of which exceeds the significance ascribed to it through reductive praxis. This attempt to regain awareness of the underlying existential situatedness of the human condition and its predicaments lies at the heart of Merleau-Ponty's critique of naïve empiricism for excluding from perception “the anger or pain which I nevertheless read in a face. . .” (1962:23-24, *cf.* Heidegger, 2001). To “read in a face” demands the absolute, intuitive knowledge beforehand that the assemblage of flesh at which one looks, and which mysteriously returns the gaze, is indeed a face, and even more than this, that this face belongs to a being who exists in the same way as the beholder.

Figure 5-1



Edouard Manet (1832-1883): *A Bar at the Folies-Bergère*, 1882  
Oil on canvas, 96 x 130 cm  
The Samuel Courtauld Trust, Courtauld Institute of Art Gallery, London

Figure 5-2



Paul Klee, *Senecio (Baldgreis)*. 1922, 181 (accession nr. 1569)  
Oil on canvas, mounted on cardboard, original yellow-edged frame, 40.5 x 38 cm  
Oeffentliche Kunstsammlung Basel, Kunstmuseum  
(Photo: Oeffentliche Kunstsammlung, Martin Bühler)

## CHAPTER 6

# THE POLICING OF CHILDHOOD: ENCOUNTERS WITH JUVENILES

*Who can say nowadays that his anger is really his own anger when so many people talk about it and claim to know more about it than he does? A world of qualities without a man has arisen, of experiences without the person who experiences them, and it almost looks as though ideally private experience is a thing of the past, and that the friendly burden of personal responsibility is to dissolve into a system of formulas of possible meanings. (Robert Musil, I.39, 1995:158-159)*

### ***Introduction***

On a typical patrol shift in most police jurisdictions, encounters with juveniles occupy a large segment of officers' time. Given the disproportionate involvement of juveniles in behavior that society generally tends to regard in one way or another as criminal, disorderly, disruptive, threatening, or suspicious, this is to be expected. The close involvement of the police with juveniles is hardly a new phenomenon; however, the end of the twentieth century and the beginning of the twenty-first have witnessed police encounters with children transforming and expanding, apace with sea changes in the social structure of late modern society.

A key consequence of the intensified involvement of the police in the daily lives of children is that, at the most practical and intimate level, officers bear witness more than ever before to children's struggles for meaning, security, and self-identity, often in moments when those struggles unfold violently. Whether it is during encounters with children or adults, the more closely police officers become involved in the everyday existence of the public, the more delicately attuned they must become to predicaments and circumstances that fall far outside their traditional mandates of crime-fighting and order maintenance. It need hardly be said that such an attunement is not actively cultivated through existing forms of police training and indoctrination.

In taking stock of the growing involvement of the police in the lives of children, and considering the inherent limitations of the bureaucratic response to their predicaments, this chapter applies a phenomenological aesthetics of encounter to police contacts with juveniles. The chapter focuses on the genre of the novel, juxtaposing narratives of several police-juvenile encounters with passages from Fyodor Dostoevsky's *Crime and Punishment* and Robert Musil's *The Man Without Qualities*. The resulting analysis builds upon the arguments and conclusions presented in Chapter 5.

To review those points briefly, Chapter 5 examined the role of the human gaze in police-citizen encounters, and from that analytic perspective, focused upon establishing the contrast between co-presence and intersubjectivity, as it actually occurs in concrete situations. The first half of the chapter showed how the gaze becomes a "matter of fact," and how it is transformed into an ensemble of data. The latter half of the chapter considered the gaze in relation to the topic of "unpredictability," and suggested how this intrinsic aspect of police-citizen encounters may be described using Klee's notion of *unstable equilibrium*. The analysis developed in Chapter 5 makes it possible to embark upon the next stage in the phenomenological aesthetics of encounter, which is that of attending to the analysis of the *specific interactive dynamics* by means of which bureaucratic problematization tangibly takes place. Although the present chapter concentrates upon these dynamics in police contacts with children, the general interpretation of these encounters is applicable with little or no modification to a much wider range of police-citizen encounters with adults.

The first half of this chapter explores an encounter between the author and "Laura," a runaway girl, in order to illustrate and analyze the phenomenon of *the violence of abstraction*. The violence of abstraction refers to the entire spectrum of dehumanizing effects potentially

resulting from instrumental rational social praxis.<sup>88</sup> Within the context of the policing of juveniles, the violence of abstraction describes the reification and problematization of childhood into an ensemble of pathologies and risks. A short passage from Dostoevsky's *Crime and Punishment* will be used to illustrate how the violence of abstraction occurs in the concrete dynamics of human encounter, and traces its roots to the logic of problematization. The passage explores the nature of social interactions that are founded upon the reduction of human beings to objects or ciphers. Dostoevsky succeeds remarkably in illustrating the nexus between face-to-face action and its underlying premises, an accomplishment that marks the relevance of his work for a phenomenological aesthetics of encounter.

The second half of the chapter explicates a series of several police encounters with children, each of which involves a different form of resistance to the presence of the police. Using Musil's idea of "an impassioned struggle for self-assertion," these encounters are interpreted in a way that attempts to show how the dynamics of resistance manifest complex predicaments that remain out of the view of the bureaucratic gaze. This analysis will suggest how the problematization of children's predicaments can lead to outward acts of rebellion, which, if misconstrued, leave the broader precipitating causes of juvenile violence ignored.

### **Encounter #6-1: Laura**

It is 1:00 AM on a warm July night. I am driving up and down side streets in a residential neighborhood looking for suspicious activity. After a short while, I happen upon three young teenagers standing around a car, which they have somehow managed to drive up onto a large rock. None of the teenagers, a boy and two girls, looks old enough to drive. I stop to investigate the situation.

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<sup>88</sup> "Abstraction" is an act of drawing or taking away, or separation. The word derives from the Latin *abstrahere* – "to draw away or withdraw." As was previously discussed in Chapter 2, abstraction is an intrinsic aspect of thought and interpretation. What it draws, separates, or takes away from the ontological totality of experience depends upon the approach or intentional stance that informs a given act of abstraction. Abstraction becomes essentially violent in nature when it results in the effacement or obliteration of the being that it represents. The idea of "the violence of abstraction" finds a general approximation in Hegel's concept of laceration (*Zerrissenheit*), which describes the tearing or uprooting of human beings from the actuality of their individual, cultural, and historical nature. See Hegel, (1807/1977:294ff.); and compare Marcuse's concepts of "the mutilated whole" and "*déchirement ontologique*" ("ontological laceration") (1960:xi).

It turns out that the car belongs to the boy's father. The boy explains to me that he is trying to take the car so he and the two girls can run away. He goes on to explain that one of the girls, "Laura," is scheduled to be placed in a state foster home the next day. She and her two friends are determined to keep this from happening. They plan to drive to California. The boy's woeful driving skills keep the teens from making it out of his back yard, where the car had been parked. At my request, the boy goes inside his house and returns with his father. I explain to the boy's father what has happened to his car. He gives his son a look of annoyed exasperation, and tells me he will have the car towed off of the rock later in the morning.

With the boy back home, and the matter of the car resolved, I next turn my attention to determining where the two girls belong. Laura's friend gives me her name, date of birth, a local address, and other information for which I ask. The experience of being questioned by the police seems new to her. By now, another officer has stopped by to check on me. I ask him to give the girl a ride home.

When I ask Laura for her name and date of birth, she gives me her name without hesitation, but pauses nervously before reciting a date of birth. I immediately suspect that she has lied to me, probably because she has an arrest warrant, or has run away. I ask Laura if she wouldn't like to give me her real date of birth. She lowers her eyes to the ground, smiles sheepishly, and gives me the correct information.

I check Laura's name using the computer in my car, and find that she has indeed been reported as a runaway. In Washington State, it is not a crime for a child to run away; however, when police officers find runaway children, they are legally obligated to take them into protective custody, and then return them to their families, take them to a shelter, to a facility known as a "crisis residential center"(CRC), or else turn them over to a state social worker for placement in a foster home. I explain all of this to Laura, and tell her that although she is not under arrest, she will have to come with me. She is very cooperative and polite, and agrees without hesitation.

I put Laura in the back of my patrol car, tune to the radio station that she requests, and begin filling out an incident report. Sitting in the car, looking at my computer screen, my back is literally turned to Laura as I undertake the official process of documenting the event of my having found her. Her presence barely registers at a practical level, other than as a source of a fact here and there for my report, and as a potential threat and liability to be monitored with an occasional glance in the rear-view mirror. Almost all the information I need to include in my report is available to me using the patrol car computer, listed in a format that has neatly fragmented and objectified a teenage girl's existence into so many pieces of data, categorized and arranged on the screen according to "fields," each one marked by a standardized, three letter abbreviation. The "SMT" field, for example, lists scars, marks and tattoos. Any information beyond that fitting in the pre-given fields is placed in the "MIS," or "miscellaneous" field. Here, one might find a statement such as "suicidal hx," meaning a history of suicide attempts.

According to standard protocol, the police department to which Laura had been originally reported as a runaway would be responsible for meeting with me to pick

her up. This is called a “field transfer,” or “meet.” An officer from that department would then take her home. My dispatcher calls the other agency to make the necessary arrangements. The other agency, however, declines to meet, telling my dispatcher that Laura is a ward of the state, who has run away from a foster home. The foster home should send someone out to get her, advises the other agency. My dispatcher calls the foster home. “We’re not responsible for Laura anymore,” they say; “she runs away all the time, and we don’t want her back here.” Laura confirms this with me. “They put me on thirty days’ notice to stop running away, or else leave the foster home. I kept running away, and that’s why I’m supposed to go into a new home tomorrow.”

Since running away from her foster home, Laura has been living with her adult half-sister and father. Even so, she is still listed as a runaway, because in the eyes of the state, her family no longer has legal custody of her. So, the agency that reported Laura as a runaway won’t take custody of her, and neither will the foster home where she had been living. I really can’t take her back home, either. I’d like to talk with Laura’s caseworker, but she can’t be reached at this late hour.

I take Laura back to the police station until I can figure out where she can safely spend the night. It is not lost on her that the bureaucracy is failing miserably in its attempts to deal with her. I apologize to Laura for the delays and confusion. She acts nonchalant, and seems quite accustomed to being in this situation. She seems amused that someone, especially a cop, is trying to be nice to her. I offer Laura something to eat or drink. She refuses politely, and looks at me quizzically, as if I am naïve to the ways of the world.

I have had previous encounters with Laura’s family. Her mother and several other relatives are addicted to heroin. State social workers removed Laura from her family home for her own welfare, due to what they deemed to be an unsafe environment caused by her mother’s behavior. I’m wondering if her mother is still living at home: if she is not, I might be able to take Laura there, since this is where she’d like to go anyway. “How’s your mother?” I ask Laura. “Oh, she died in April.” I hadn’t heard this, and tell Laura I’m sorry. “That’s ok,” she says. It turns out Laura’s mother had died from hepatitis, which she had apparently contracted from using unsterilized hypodermic needles. She was forty-one.

Laura reiterates that she really wants to go home, and, although I’m not hopeful that this will be possible, I promise to call her family to see if the environment might be stable enough for her to stay there. No such luck: Laura’s father is dying of complications related to chronic alcoholism, and cannot care for himself, let alone a teenage girl. Laura’s adult half-sister, who has severe medical problems of her own, tells me candidly that she simply cannot cope with Laura, as all her attention is devoted to tending to her father.

Having learned these facts, I tell Laura I can’t let her go back home, and advise her that, regrettably, she would be taken by child protective services and placed in another foster home. “I’ll just run away again,” she tells me. I tell her I know she will, and try to change the topic of conversation.

I ask her the same general questions that I typically ask other kids: what makes her happy, what she hopes for, what she likes, what she dreams about, where she sees



herself being in a few more years. Like so many hopeless children, she has no answers, and little sense of the future. She tells me flatly that she neither likes anything, nor does anything make her happy. Her reply seems matter-of-fact, rather than gratuitously rebellious. Sensing that my questions seem mostly meaningless to her, I turn to more mundane topics, such as a favorite food or favorite color. Here, too, Laura shrugs and replies with languid and dispassionate indifference. She seems confused and a bit wary, as if she can't quite tell whether my questions are genuine, or whether they are a deceptively innocuous prelude to a more formal interrogation. I offer some reassurance. "You think I'm crazy, don't you?" I ask her. "Yeah," she laughs.

"It gets better than this, I promise it does," I tell her. Laura's eyes begin to well up. She averts her gaze from mine, smiles feebly, and then assumes a look of stoic resignation. I wish Laura good luck before closing the door to the holding cell where she sits alone, and then walk down the hallway to the locker room. I take off my uniform, tell my dispatcher I am "out of service," and go home. I learn the next day that Laura was finally picked up at 4:00 AM by a social worker and placed in a foster home. She ran away again the following day.

After my encounter with Laura, she continued to run away over and over again. Her troubles with the legal system escalated as well, leading to three arrests within a span of only several months. The first arrest was for burglary, after Laura and another girl broke into a house. Her second and third arrests were for joyriding with friends in stolen cars.

Among the more remarkable moments in this encounter is the exchange with the author in which Laura had difficulty naming her favorite color. Her silent hesitation was finally broken by a quietly spoken response: "blue." The author was left to wonder if this answer was genuine, or just a polite attempt to offer a reply to a question that was apparently regarded as largely irrelevant. He persisted: "what kind of blue?" Laura seemed unsure. "How about blue like the sky?" She shook her head, and said she didn't know.

At thirteen, Laura is world-weary, distant, and detached. Sitting quietly in a police station holding cell, she seemed to be the living embodiment of Nietzsche's characterization of the modern condition as a world in which "everything is so wild, so disordered, so colorless, so hopeless" (Nietzsche, 1964:136-1370).<sup>89</sup> Laura has little sense of wonder or enchantment; such

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<sup>89</sup> Friedrich Nietzsche, *Complete Works* (18 vols.), ed. Oscar Levy, vol. 5, *Thoughts Out of Season*, trans. Adrian Collins (New York: Russell & Russell, 1964), pp. 136-137, translation modified. The original German text reads, "so wild, so verschlossen, so farblos, so hoffnungslos ist alles. . . ." It appears in Friedrich Nietzsche, *Unzeitgemäße Betrachtungen*, in *Werke*, Bd. I (Darmstadt: Wissenschaftliche Buchgesellschaft, 1966), p. 312.

things must strike her as utterly useless. Laura, too, it seems, is apparently useless. She is “nothing but trouble:” so she has heard from the society that regularly confers these sorts of descriptions upon her.

Laura epitomizes the kind of child frequently characterized, experienced, and understood by late modern society as being “useless,” or a “problem.” Agents of the criminal justice system and other bureaucracies, and members of society at large encounter a girl like Laura and wonder, “what are we going to do with her?” She constantly runs away, rarely attends school, and commits crimes. She loiters in public, spending aimless hours “hanging out” with friends and strangers. She smokes, drinks, and uses illegal drugs. In all likelihood, she is sexually active, and hence at risk of becoming pregnant or contracting sexually-transmitted diseases. Taking all of this in the aggregate, Laura’s visible presence is effectively reduced in significance to the status of being a disruption of society’s self-imagined order and stability; and, in being so regarded, she comes to be experienced by police officers and other bureaucratic agents as a “problem,” if not even less charitably as “useless.”

The encounter with Laura encapsulates at a microcosmic level one particular instance of this broader dynamic of problematization. The reality of the event of coming face to face with her assumed its factual significance according to the dictates of bureaucratic praxis, the guiding imperative of which is to identify and solve a “problem.” Whatever elements of empathy, compassion, or general curiosity might have led the author to regard Laura otherwise – perhaps with an eye towards determining her “real story” – are accidental aspects of the encounter, insofar as it is regarded as an instance of bureaucratic policing. The essential nature of the encounter, construed with respect to the self-conception of bureaucracy, inheres entirely within the typification of Laura as a determinate kind of problem.

The encounter demonstrates an instance of praxis in which instrumental rational action drives the process of typification, and effectively suppresses as marginal or extraneous whatever

is deemed irrelevant in formulating an “appropriate” response. Insofar as this is the case, an attitude of compassion and empathy, or whatever else might be seen in policing as contributing towards a positive “bedside manner,” does not by itself disprove or undo the logic of problematization. Moreover, the grounding principles of problematization remain constant across the range of varying models of efficiency and operational success in policing, some of which (for example, problem oriented policing and community oriented policing) strive to encourage what they imagine to be a more thoughtful and sustained exploration of the causal factors that ostensibly precipitated a police response or call for service.

In the episode with Laura, it is clear that the operational expectations and objectives of the police bureaucracy would have been successfully met, as long as the appropriate processes of problematization formed the basis for rational action. Hence, to the extent that the author or any other police officer succeeded in recognizing that, with respect to the instrumental rational interpretive stance of policing, the objective significance of Laura’s presence was her legal status as a runaway, the “correct” response would predictably ensue, and the incident would therefore be properly handled. This notion is captured in the moment when the author first placed Laura in his patrol car, and was writing his report by gathering information from the computer screen. At this point in the encounter, Laura’s human presence in the back seat had quite literally become “incidental,” in the sense of being subordinate or parenthetical, because her being there was of significance only insofar as she was the “subject” of an official police incident. To put this in terms of the guiding thesis of the phenomenological aesthetics of encounter, the existential state of her *co-presence* with the author was effectively subsumed by bureaucratically determined *intersubjectivity*.

Her objective presence in the patrol car merely constituted the physical locus of the data describing her on the computer screen. In a distinctly ontological sense, she had truly become the *subject* of an investigation, of which various categories and facts were then predicated. This

effect was amplified by the circumstance that, given the interior configuration of the patrol car and the location of the computer, Laura could read the computer screen from the back seat, yet could not see the author's face, other than by looking at its reflection in the rear-view mirror. As a practical result, this aspect of the encounter between Laura and the author was "triangulated" by the intermediary presence of the computer, at which both of them stared, rather than looking at each other.<sup>90</sup> Her physical containment in the back seat of a police car was echoed and reiterated by her factual containment in a police database. For the duration of the encounter, as her own actions demonstrated, she became increasingly aware of her objectification. This was apparent in Laura's nonchalance (and even her utter resignation) in the face of bureaucratic manipulation, and in her remarkable conversancy with the law enforcement and child welfare systems.

Turning now to a passage from Dostoevsky, it will be possible to identify some powerful analogies in his text to the encounter with Laura, and thereby reveal some of the presuppositions that form the implicit basis for bureaucratic action. This analysis will thus help to clarify the ontological dynamic of problematization, and the ways in which it brings about the practical enciphering of human presence.

### ***Dostoevsky: The Reassurance of "Nice Little Words"***

Dostoevsky's work has attained such wide recognition for the discernment and profundity of its insights into human nature and the human condition, that a sustained justification of its relevance for a phenomenological aesthetics of encounter is largely superfluous (see Berdiaev, 1957 and Wellek, 1962). All that need be noted here about Dostoevsky is that his remarkable ability to describe the smallest nuances of interaction, and to frame them against the broader horizon of universal human experience, recommends his writings as nearly indispensable for a phenomenological investigation into the speculative foundations of everyday praxis.

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<sup>90</sup> The advent of patrol car computers has led to the development of the practice among arrestees of craning their necks from the back seat to glean information about themselves from the screen. People who are frequently contacted by the police have learned that what appears on the screen often shapes the outcome of their contacts with officers.

Mikhail Bakhtin, in his classic study of Dostoevsky's novels, quotes critic Valery Kirpotin at length on "Dostoevsky's special ability to *see* precisely the *soul* of others" (Bakhtin, 1984:36). Bakhtin concurs with Kirpotin that Dostoevsky's insights into the psyche of his characters attain nothing less than an "objective significance" (Kirpotin, 1947:63-64, quoted in Bakhtin, 1984:37), which surpasses the bounds of evocative, empathic description to express something inherently true:

"His psychologism is a special artistic method for penetrating the objective essence of the *contradictory human collective*, for penetrating into the very heart of the *social relationships* which so agitated him, and a special artistic method for reproducing them in the art of the word. . ." (Kirpotin, 1947:64-65, quoted in Bakhtin, 1984:37, emphasis mine)

This kind of analysis lends support to the argument that Dostoevsky's project may be seen fruitfully in phenomenological terms, in specific, as an artistic investigation devoted to disclosing the most elemental aspects of the human condition, as they are manifest in the circumstances of ordinary life.<sup>91</sup> As a part of that investigation, Dostoevsky is able to show how what initially appears as a seemingly remote, abstract idea becomes enacted as a "live event" (Bakhtin, 1984:88).

The particular passage from *Crime and Punishment* (1866/1991:80-85) to be considered with respect to the encounter with Laura offers a vivid example of this nexus between speculative principles and ordinary action. The passage describes an encounter between Raskolnikov, an anonymous teenage girl, her would-be attacker, and a police officer. As Raskolnikov walks along a deserted St. Petersburg street on a hot afternoon, he comes upon a drunken, teenage girl being followed at a distance by a "man-about-town" with evident designs upon her. It is obvious that the girl has already been sexually assaulted. When the bedraggled girl sits down on a bench, the "man-about-town" impatiently lingers in the background, waiting for Raskolnikov to leave.

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<sup>91</sup> For two examples of phenomenological readings of Dostoevsky's work, see Silverman (1985) and Tellenbach (1970).

Outraged at what, but for his presence, would happen again, Raskolnikov angrily confronts the man, nearly coming to blows with him before a police officer intervenes.

Raskolnikov explains the situation to the officer, who quickly surmises that Raskolnikov has accurately read the man's intentions. The officer attempts to learn the girl's address so he can summon a cab to take her home; however, she is altogether belligerent and uncooperative. As the officer tries to find a way to get the girl to safety, he feels a keen sense of embarrassment, compassion, and indignation (1991:83). He continues his efforts to assist her, but she gets up from the bench and walks away. As Raskolnikov watches the girl stumble off, followed by the police officer and the would-be rapist, his sentiments suddenly reverse, turning from mercy and outrage to cold cynicism. He shouts out to the bewildered officer: "What's it to you? Forget about it! Let him have his bit of fun!" (1991:84). While the officer tries to catch up to the girl and the man-about-town, Raskolnikov settles down on a bench, and mutters angrily to himself over the loss of twenty kopecks, which he had given to the officer to cover the girl's cab fare.

As Raskolnikov's thoughts wander uncontrollably, his anger dissipates. He reflects further on the plight of the girl, and what her lamentable future likely holds. His mind grapples with the brutal misery, which he surmises will consume her remaining few years, as she is cast adrift, floating between brothels and venereal wards. Raskolnikov pauses to find some underlying cause of such human sadness, and sees in the girl's story a near-inevitable fate, foreordained by her luckless circumstances. He becomes repulsed by the convenience with which her suffering could be neatly dismissed:

Pah! So be it! It has to be like that, they say. They say that each year a certain percentage has to go off down that road . . . to the devil, I suppose, in order to give the others fresh hope and not get in their way. A percentage! Nice little words they use, to be sure: they're so reassuring, so scientific. Just say: "percentage," and all your troubles are over. Now if one were to choose another word, well, then . . . then things might look a little less reassuring. . . (Dostoevsky, 1991:85)

Dostoevsky's use of the term a "certain percentage" is an intentional allusion to Quetelet's social statistics, and their promulgation in mid-nineteenth century Russia through the writings of A. Wagner (see Dostoevsky, 1991:636n; and Murav, 1992:55-59). The passage may therefore be read as a conscious attempt by Dostoevsky to articulate two conflicting interpretive registers for analyzing social conditions, which, considered with respect to the present dissertation, closely approximate the distinction between co-presence and intersubjectivity (*cf.* Jackson, 1974 and Murav, 1992:55-59).

Dostoevsky's argument raises at least two notions of immediate relevance for interpreting the encounter with Laura. First, it reveals the stark implications of the violence of abstraction, showing how the reduction of a human being to a statistical cipher expedites forms of praxis in which moral effacement is normalized and passed over in silence. The ease with which Laura is "handled" by bureaucratic agents reflects the normalization into unreflected commonsense of a mode of comportment that dehumanizes official transactions. This points to the second notion arising from the passage in *Crime and Punishment*: within the limited context of Raskolnikov's encounter with the drunken girl, as well as with respect to his arguments for rationalizing the murder of Alyona, the pawnbroker, which preceded her death, Dostoevsky reveals a causal nexus between metaphysical first principles and ordinary action. The illustration of this nexus contributes decisively to the attempt to provide a phenomenological description of the relationship between speculative theory and social praxis.

In the immediate context of the encounter between Raskolnikov and the drunken girl, Dostoevsky tells the reader that when Raskolnikov first saw her, he regarded her no differently from "any of the other objects that had flitted before his gaze" (1991:80). Yet, aware that something was very strange about her, and despite his own sense of reluctance, which bordered on annoyance, Raskolnikov was drawn to the girl (1991:80). His sense of justice wavers in precise coincidence with his reduction of the girl to an object. Throughout the encounter, the

girl's name and address remain a mystery, reinforcing the logic that she is nothing more than a social atom – an anonymous quantum of the “certain percentage.” However, while this logic can efface human presence, it cannot actually obliterate it; thus, once that presence is *recognized*, the dynamic of the encounter is altered.

The theme of “recognition” comes through in the dialogical structure of Dostoevsky's work, and thereby points to the inherent hermeneutic structure of human interaction, according to which recognition needs to be understood as a “re-cognition,” – a literal “re-thinking” of one's perspective, which emerges out of changing interpretations in response to the presence of the other. Viewed with respect to the novel as a whole, Raskolnikov's encounter with the girl illustrates the tension between purely amoral calculative rationality, and an absolute moral responsibility towards the other person. Revealingly, the encounter with the drunken girl parallels in reverse the conflicting moral tensions framing Raskolnikov's argument for killing Alyona, the pawnbroker:

One death to a hundred lives – I mean, there's arithmetic for you! And anyway, what does the life of that horrible, stupid, consumptive old woman count for when weighed in the common balance? No more than the life of a louse, a cockroach, and it's not even worth that, because the old woman is harmful. (1991:102)

This comparison of Alyona to an insect, on the basis of which Raskolnikov argues for the justifiability of her murder, inexorably follows the same logic that enables the nameless girl on the boardwalk to be reduced to an abstract quantum of the “certain percentage,” whose potential demise, however regrettable, nonetheless “gives fresh hope to the others” (*cf.* Offord, 1983). The reduction of Laura to the status of a “useless problem child” reflects an identical line of thought.

In the events narrated by Dostoevsky and the encounter with Laura alike, the abiding question remains this: how do the speculative ideas that make possible the effacement of one's interlocutor actually get translated into praxis? Dostoevsky answers this question by focusing on what, from a phenomenological perspective, would be technically understood as the “intentional



object” of an encounter. When Raskolnikov tries to ignore the girl, and rationalizes her misfortune, her suffering nonetheless continues to plague him. *Clearly, something about her presence cannot be reduced to mere abstract subjectivity.* Raskolnikov’s reflections upon the girl’s situation show the other face of her objectification: she is an object for the man who initially raped her, and for the predatory dandy, whose evil designs Raskolnikov thwarts.

For Dostoevsky, breaching the walls behind which objectification immures and conceals the other person demands forms of engagement that center upon dialogue. As Bakhtin argues (1984, *passim*), Dostoevsky points to the initiation of dialogue as a morally profound moment, one that indicates an acknowledgement of another human presence. Hence, Dostoevsky tells the reader that when the police officer first encounters the girl, “a sincere compassion showed itself in his features” (1991:82). At one level, the officer has an immediate, duty-bound interest in establishing the girl’s identity, in order safely to return her home. More than this, Dostoevsky makes it unambiguously clear that, beyond the police officer’s attempt to identify the girl, his actions bespeak the recognition of a human presence, which eludes reduction to a nameless atom of that “certain percentage.”

How does this act of recognition relate to the police officer’s function *qua* bureaucrat? Dostoevsky’s narrative seems to suggest that, by themselves, good intentions are insufficient when they merely place a veneer of civility or compassion over forms of action that are otherwise beholden to principles that commit an outrage on human dignity. Without necessarily claiming their moral equivalency, Dostoevsky demonstrates how the same ontological principles that enable the bureaucratic and scientific transformation of human suffering into a comforting abstraction justify the rape of the drunken girl or the murder of Alyona.

It demands little imagination to see the parallel between the world depicted in *Crime and Punishment* and the streets on which the author encountered Laura. In her being encountered and “found” through the matching of her name with a database entry, Laura’s legal and bureaucratic

classification changed from “missing juvenile” to “located runaway.” The author had first found her physically, in the most literal sense of meeting her, but this experience assumed administrative and legal relevance in the subsequent process of his locating her *as a runaway*, named in a database entry. This was effectively accomplished wholly by means of asking Laura her name, which (at least from a strict bureaucratic standpoint) was not done out of any ethical recognition, but rather to use it as one piece of data that would serve an instrumental function in gathering additional information. Like so many other people who learn to conceal their true identities from questioning authorities, Laura initially lied about her name, because she knew it was listed in police databases. This moment in the encounter alone suffices to demonstrate how self-conception can be altered through bureaucratic interactions. Laura’s knowledge of police procedures, and of their prior effects on her, led her to conceal the truth. Unlike the girl in Dostoevsky’s story, Laura quickly acquiesced – perhaps out of resignation, fear, or both – and provided her name.

Once Laura’s “real” identity had been appropriated as a bureaucratically meaningful fact, her inner nature as conceived by a vast nexus of official organizations emerged unmistakably: she is a runaway, a clearly defined problem admitting of various solutions. Functioning as an agent of the state, the author had therefore located a problem and, however temporarily and imperfectly, solved it, or at least identified and contained it. As a result of this effort, the author was also able to count Laura’s “pickup” from the street as a statistic, or “stat.” She had become a symbolic quantum of his efforts for the night, quantifiable evidence that he had “done something.” In the eyes of the police department and the community, an officer had “made himself useful:” he had removed a runaway child the street, and also thwarted another child’s attempt to steal his father’s car. This is, at least to some extent, a positive outcome. Yet, as the narrative of the encounter with Laura suggests, her “problem” was not really “solved” in any meaningful way: the fact that she ran away again the next day is amply illustrative of this claim.

This much cannot be denied; nevertheless, what remains more difficult to evaluate is the extent to which this failure may be attributed to the phenomenon of problematization.

The ethical quandary arising out of the functional typification of human beings becomes apparent when people come to be approached and experienced as essentially synonymous with their identified transgressions or pathologies. Human presence thereby recedes from view, and is overwhelmed by the force of abstraction. Schutz points to the interactive relation between such a form of typification and the abstract objectification of personal identity:

This typification is progressive in the same proportion as the personality of the fellow-man disappears beyond the undisclosed anonymity of his function.  
(1971:71)

Schutz's comments apply with equal force to Laura and to the nameless girl on the St. Petersburg street, and point to the logic at work in the process of literally "moving" someone through a bureaucratic system. The challenge for the author, as for the fictional police officer in *Crime and Punishment*, was how and where to "place" a troubled girl.<sup>92</sup> Dostoevsky succeeds in showing how so apparently simple a moment may be shown in its full existential complexity, as a manifestation of competing ways of approaching another human being.

### ***Musil: "An Impassioned Struggle for Self-Assertion"***

Enacting the ontological notion that a human being can be approached and contained as an abstract problem made it possible for the author to reify Laura in accordance with the objectives of the police bureaucracy. However, as the narrative of the encounter illustrates, this effectively diminished her status to that of a passive instrumentality, which became the means, rather than the end, of the efficient attainment of pre-determined goals. Praxis of this kind

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<sup>92</sup> The social worker who eventually came to the police station to pick up Laura told the author that, because of Laura's history, "she'll be difficult to place." The verb "place" was used here in a very peculiar way, which is powerfully imbued with a sense of moving around a passive thing – the child is "placed" as one places an object. This notion is reinforced with the completion of an official "Transfer of Custody" form. Completing the "Transfer of Custody" form legally shifts responsibility for the child from a law enforcement officer to a state social worker. Officers dealing with runaway children eagerly await this moment, which allows them to say, "the kid's not my problem anymore."

constitutes a form of what Heidegger describes (2001:215) as a “concerned handling of objects.” One of the more far-reaching practical implications of such praxis, especially in the context of encounters with children, is the way in which it transforms the self-conception of those who become its “objects.”

In the case of Laura, her awareness of being cast adrift in a bureaucratic archipelago clearly influenced her sense of self; and this, in turn, reciprocally contributed to the dynamic of her encounter with the author. From lying about her name, to her expressed resignation at being entangled in a bureaucratic web, and her apparent disengagement from much of life beyond the daily routines of surviving, Laura seemed alienated, both inwardly and outwardly. The cycle of running away and getting picked up had become an intrinsic part of her *modus vivendi*. Beyond their concatenation into a string of bureaucratic incidents, designated by police report case numbers, each of Laura’s instances of running away constitutes a moment in the struggle of a child to seek a sense of purpose and place. The analysis of this struggle, and its relationship to bureaucratic problematization, shape the focus of the second half of the chapter.

The analysis draws from Musil’s *The Man Without Qualities* to interpret several encounters between the author and teenagers, which together represent a spectrum of responses that may be understood in terms of what Musil terms as “an impassioned struggle for self-assertion” (1995:166). *The Man Without Qualities* will provide illustrations in support of a phenomenological interpretation that critically engages mainstream sociological and bureaucratic conceptions of criminal acts of resistance in terms of their existential foundations. This interpretation will show that common points of friction between the police and juveniles may well demand to be explained in terms beyond those typically developed in mainstream criminological analyses. Moreover, the analysis will further support the argument that the problematization of human predicaments leaves many of their most basic causes unconsidered, and thereby offers one suggestion why bureaucratic responses to children’s crises can be so manifestly ineffective. Even

when they are ultimately able to effect the tactical, legal, or administrative stabilization of a given circumstance (if only, sometimes, by sheer force), police officers are nonetheless often at a loss to understand the fundamental motives and reasons behind the actions to which they bear witness.

### **Encounter #6-2: Colette**

Towards the end of a busy, late summer night shift, several officers and I were dispatched to investigate a rape. We arrived at the run-down house, and were met by Cynthia, a woman in her mid-thirties. Cynthia called 911 after her nine year-old son reported finding his thirteen-year old sister, Colette, in bed with the babysitter. The babysitter, it turned out, was a nineteen year-old man, whom Cynthia had hired to watch Colette and her two younger siblings. Cynthia admitted that she barely knew the man: she had recently met him at a neighborhood convenience store, and thought he seemed “nice enough.” Colette arranged to have the man move into her house.

Like most people questioned by the police, the man quickly waived his right to remain silent, and soon thereafter, admitted to one of the responding officers at the scene that he and Colette had engaged in sexual intercourse. He was placed under arrest for investigation of rape of a child (statutory rape), and driven back to the police station for further interviews and processing. Several other officers and I remained at the scene to gather evidence and speak with Colette.

Colette was extremely defiant and uncooperative. Even though my colleagues and I are well accustomed to such reactions, Colette’s combination of vulgarity, anger, and nonchalance led us to exchange discreet glances of disbelief. She lashed out furiously at her mother, and at my fellow officers and me, displaying a demeanor more commonly witnessed in someone twice her age. She refused to answer any questions, offering no replies other than a stream of obscenities. I told Colette that I was only trying to determine the truth of what had happened to her. “You can’t handle the f-cking truth,” she said in a flat, dismissive tone. Despite sustained attempts by each of the officers present to establish a rapport with her, and to win her trust, Colette remained resolutely sullen and hostile. Every approach and form of entreaty was rebuffed with sarcasm and vitriol. Standing amidst the piles of clothing, personal belongings, and trash that covered her bedroom floor, Colette glared with cold defiance at anyone who tried to speak with her.

Here, my fellow officers and I faced a deeply uncomfortable quandary. Colette needed to go to the hospital for a sexual assault examination; and due to her status as a minor, she did not have the final word in the matter. A colleague and I looked at each other, silently sharing our mutual dread at the prospect of having physically to restrain Colette and take her into protective custody. Fortunately, she eventually relented, and agreed to go to the hospital. Once at the hospital, however, she again changed her mind, and refused to cooperate with medical staff or a sexual assault counselor. She was then taken back to the police station, where investigators interviewed her. Colette said everything that had happened between her and the babysitter was consensual. She gave no indication of having been coerced or tricked, and seemed utterly indifferent to the entire situation. Later in the day, one

of the investigators convinced Colette to return to the hospital, and she finally agreed to medical treatment and evaluation. The babysitter admitted that he had known Colette was only thirteen years old. He subsequently pled guilty to rape, and was sent to prison. Several months later, Colette was raped again, this time by one of her mother's boyfriends.

### **Encounter #6-3: Anthony**

One Saturday afternoon, a sergeant and I responded to a semi-secure, in-patient mental health facility that houses children who have been diagnosed with serious behavioral disorders. Many of the children also have extensive criminal records. Staff members at the facility frequently call for police assistance to deal with escaped or "out of control" children. Such was the case on this day.

When we arrived at the facility, we were informed by a staff member that fourteen year-old Anthony had assaulted her and crudely propositioned her, and was now refusing to return to his room. According to Anthony's records, his mother had sent him to the facility because of a severe "anger management problem." She had "run out of options" for dealing with him, a staff member told me. His father was dead, the staff member continued, and no other relatives would take Anthony into their homes, fearing his violent behavior. Unable to keep him under control and afraid for her own safety, Anthony's mother had him committed to the facility.

The staff member said that Anthony has frequent violent outbursts, but today's had been extreme. She explained to me that she and several of her co-workers had succeeded in containing Anthony in a lounge area, the doors to which had been locked, pending the arrival of police. The staff member escorted the sergeant and me to the lounge and opened the door. Anthony was standing in a corner, fists clenched at his sides, crying and nearly hyperventilating. He was quite large for his age – I estimated that he was nearly six feet tall, and weighed at least two hundred pounds.

Anthony's arms bore numerous scars, where he had intentionally cut himself with sharp objects. Blood streamed from his nose, the apparent result of bashing his head against his bed frame. I tried to initiate a conversation with Anthony. After a few, tense moments, he agreed to sit down in a large armchair. I initially approached him cautiously, both to gauge his response, and to reassure him of my own peaceful intentions. He gradually grew calmer. "What do you want?" I asked him; "what's going to make you happy and solve this situation?" "I want to go home," he replied. "Yeah, I can understand that," I told him, "but I'm not sure that's possible." I tried to change the subject in order to keep Anthony from getting angry again. "Why are you here?" I asked Anthony. "I have an anger problem," he said. He described his furious outbursts, and confided in me that although his mother didn't know it, he used drugs extensively.

Once Anthony had calmed down, fire department personnel treated his injured nose. It was then decided that Anthony was too much of a safety risk to remain at the facility, and arrangements were made to transport him via private ambulance to a more secure institution. By now, Anthony seemed too tired and resigned to react violently to a decision he obviously did not like. The staff member whom Anthony hit declined to press any charges against him.

## **Encounter #6-4: Thomas**

Shortly before 4:00 AM on a busy night shift, several officers and I were dispatched to a report of a group of gang members displaying a gun. The call came from a large apartment complex to which officers regularly responded to fights, disturbances, and other such incidents. As one of the officers arrived in the area, he saw a car leaving the apartment complex. The occupants fit the description of the group with the gun. Other officers and I assisted the first officer in conducting a “felony stop,” or “high-risk stop” of the car, in which the occupants are methodically ordered out at gunpoint, after which they are handcuffed from a prone position, and their car is “cleared,” or checked for remaining, hidden passengers and weapons.

For gang members and other groups of people who are accustomed to frequent encounters with the police, the procedures for a felony stop are quite familiar, and to be involved in one is commonly accepted with a degree of equanimity, if not even nonchalance. There are mutual, unspoken expectations on both sides. Gang members and other potential suspects know how to “play the game” by following the rules that shape these expectations: listen to the cops, keep your hands up, no sudden movements, and so on, and you will probably be on your way, unless you have weapons or warrants for your arrest. For their part, police officers learn from experience that rigorous attention to safe tactics and an assertive presence, tempered with a bit a humor and a willingness to overlook minor offenses, such as possession of alcohol and marijuana, can build the kind of positive rapport and trust that help to keep unexpected surprises and violent confrontations to a minimum.

In the present case, all of the five, young, male occupants were cooperative, except for one. Sitting in the back seat, he deliberately ignored commands to remain still and keep his hands in view. He repeatedly slumped down in his seat until he nearly vanished from sight, and appeared to be digging about in the interior of the car. When his hands were visible, they were either flashing gang signs, or else his middle fingers were extended in an obscene gesture. All of this was accompanied by raucous, profane taunts directed at my colleagues and me. As might be expected, the passenger’s actions raised our stress level. We could not tell if he had any actual hostile intent; and we already knew that the incident to which we were responding supposedly involved a gun.

When the unruly passenger finally decided to emerge from the car, he refused to keep his hands aloft and would not lie down on the pavement. Instead, he began dancing in the middle of the street, cursing at officers, and flashing more hand signs that proclaimed his gang affiliation. The passenger’s defiance seemed to be a calculated dare: like most people with a close familiarity with police tactics, he knew that despite being challenged at gunpoint, officers could not, in fact, actually shoot him without a life-threatening provocation. Rather, they would have to fulfill his challenge to “come and get me!” In a move that officers do not like, because it forces them to leave cover and thereby compromise their safety, two colleagues ran from behind their patrol cars, and forced the passenger to the ground, where he was handcuffed.

Once the unruly passenger was in custody, and before anyone had even questioned him, he volunteered, "the gun is mine, it's under the front seat; I put it there." "It's my baby, my .45 [caliber pistol]." An officer retrieved a stolen .45 caliber handgun from the car. Despite his proud, defiant admission that the gun in the car was his, the uncooperative passenger would say nothing else, and refused to identify himself. He was eventually identified as "Thomas," a seventeen year-old member of a local gang. While my colleagues and I were dealing with Thomas and his friends, another officer went to the scene of the original call, and contacted a man who said Thomas had shown him the gun, and had threatened to shoot him. Thomas was booked into juvenile detention for felony assault and possession of a stolen handgun.

### **Encounter #6-5: George**

On an unseasonably cold, snowy November afternoon, another officer and I responded to a disturbance at a house known to be an active location for the sale of "crack" cocaine. Mark and his girlfriend, Annette, rented the house. Both of them sold and used crack. Mark's seventeen year-old nephew, George, had been arrested for assaulting him the previous day, and had immediately returned to the house upon his release from jail. When George showed up, Annette called the police. George worked for Mark selling crack. I had previously dealt with George and Mark, and knew them to be hostile and uncooperative towards police. I had taken a concealed handgun from Mark on a previous contact, and one of my colleagues had recently found a handgun in Mark's car.

My partner and I arrived at the call and immediately observed George and Mark standing face-to-face on the front porch of the house, engaged in a heated confrontation. As soon as George saw us, he turned away from Mark, who retreated to a position just inside the front doorway of the house. When we came closer, George tensed up and assumed a fighting stance, and cocked back his fist as if preparing to throw a punch. He screamed obscenities and threatened us. At 6'4" and 190 pounds, George was a fast, wiry kid. We knew he would be a handful in a fight, especially if he was sober, as he appeared to be. We tried to calm him, but he completely ignored us, and quickly turned back towards Mark, who was standing in the front doorway of the house, yelling at him. George shoved Mark hard, knocking him back through the doorway.

Among other things, I had visions of Mark taking out a gun and shooting George. To keep the situation from deteriorating further, I discharged a large burst of pepper spray in George's face. My partner and I then quickly grabbed his arms, swept his feet out from under him, and took him down onto the floor of the front porch. George continued to struggle and attempted to turn onto his back, a position from which it is easier to fight. We eventually subdued and handcuffed him. Once the adrenaline of the fight had worn off, the pain of the pepper spray hit George. He began to scream and cry. Despite the cold weather, George gasped with relief when I used a garden hose to rinse the pepper spray from his face.

My partner and I took George back to the police station. He was eventually booked into juvenile detention for assault and resisting arrest. When I searched George, I found over three thousand dollars in cash in the front pocket of his jeans, which he claimed was from "selling a truck."



## ***How Human Presence Becomes A Problem***

The preceding incidents represent episodic glimpses into the lives of several profoundly troubled children. Although the exercise of bureaucratic authority ultimately “resolved” each encounter in terms of what officers had deemed to be the “problem at hand,” it is apparent that these outcomes left unconsidered the more essential nature of these children’s predicaments. In each instance, childhood rebellion assumed a different face: Colette, the sullen, withdrawn rape victim, who gave the impression of not having been victimized at all; Anthony, the “uncontrollable” boy confined to a mental institution; Thomas, the defiant gang member; and George, the violently belligerent crack dealer. Each child’s manifestations of a “passionate struggle for self-assertion” were read by officers as signs of problems that could either be controlled or resolved through bureaucratic means available to the police. Of course, venturing to categorize these children in such a manner points intentionally to the limits of bureaucratic problematization. Those limits become more apparent in light of the fact that each child had extensive previous encounters with police. Each encounter grew out of ramified circumstances that were entirely consonant with each child’s disharmonious existence. Collectively, these encounters reflect manifestations of turmoil that are neither accurately nor justly reducible to abstract problems.

Taking this broader context into consideration, each episode reflects the common presence of “an impassioned struggle for self-assertion” (“*ein leidenschaftlicher Kampf um Geltung*”) (Musil, 1952:157, English passage at 1995:166). “Self-assertion” is the translation of the German “*Geltung*,” which literally means “value,” “validity,” or “worth.” The key to understanding the significance of the term lies in the phrase that follows it in the text of *The Man Without Qualities*, where Musil characterizes the struggle for self-assertion in terms of the inward contest between a “heightened sense of self” (“*Ein höheres Gefühl von seinem Ich*”) and the “uncanny feeling” (“*unheimlichen Gefühl*”) of self-estrangement, which he describes as the sense that one is not “settled inside his own skin” (“*nicht fest in seiner Haut*”) (Musil, I.40

1995:166/1952:157). The “impassioned struggle for self-assertion” is present at each stage of life. Its manifestation in childhood, however, and especially adolescence, has a special intensity and energy, which can play out in circumstances that, for one reason or another, occasion the involvement of the police.

Despite its relative unfamiliarity in the Anglophone world, Robert Musil’s magnum opus, *The Man Without Qualities*, is widely reckoned to be perhaps the greatest German language novel of the twentieth century, and is frequently ranked along with the work of Proust, Joyce, and Mann in the canon of modern European literature. Although it was never completed, the published portions of the novel exceed 1600 pages in the original German text. By virtue of its thematic content and narrative structure, both of which bear the mark of Musil’s improbably wide-ranging intellectual perspective, *The Man Without Qualities* stands out as a monumental exploration of the conditions of the “impassioned struggle for self-assertion” as it unfolds in the modern world.<sup>93</sup> For a phenomenological aesthetics of encounter, *The Man Without Qualities* offers an exceptionally pertinent set of insights upon the deeper foundations of human encounter, which are as astute as they are detailed. Musil elaborately ties together the states of mind of his characters with their outward actions, so as to show the relation between praxis and speculation. It is with good reason, indeed, that Peter Berger (1970:215) describes Musil’s presentation of his characters as having an “almost ethnographic exactitude.”

*The Man Without Qualities* describes a year (1913-1914) in the life of “Ulrich” (whose surname the reader never learns), and uses the tale of his intellectual, political, emotional, and spiritual peregrinations as the center of an elaborately complicated and often biting clever narrative that frames his own “impassioned struggle for self-assertion” against the backdrop of the broader struggle of the waning Austro-Hungarian Empire to find and affirm its own identity

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<sup>93</sup> Musil began his training as an engineer and military officer. He abandoned both of these paths to devote himself to writing. His rigorous background in philosophy (notably phenomenology, and especially the work of Husserl) and physical science gave him the wherewithal to unite philosophical and literary description in ways of that are often seen as impossible or contradictory (Luft, 1980:2).

in the face of pandemic banality and a growingly acute civilizational shallowness. A more detailed consideration of the plot and structure of the novel vastly exceeds what is possible here.<sup>94</sup>

What is most immediately relevant in the context of the present discussion is the specific notion of a “man without qualities.” Musil’s Ulrich is a “man without qualities” precisely because he exists merely as “qualities without a man” (I.39, 1995:156-159). He is the modern “subject” *par excellence*, who exists only as an agglomeration of possibilities, with no intrinsic nature or essence of its own. This paradox of modern life, that personal identity is reduced to an identity-free state of abstract potentiality, is the everyday social form of personal existence born of the ontological reduction of human being to pure subjectivity. The implications of this paradox, as they cut across the entire swath of modern society, play out in the pages of *The Man Without Qualities*. It is also these same implications that manifest themselves in the existential undercurrents at work in the moments of human crisis that occasion police-citizen encounters.

In terms closely paralleling each of the encounters above, Musil describes how life’s circumstances can sometimes trap people in the same way that a fly gets stuck on flypaper – gradually, and at first imperceptibly, but then, once noticed, acknowledged with a panicked struggle to escape that only hastens what is perceived too late as an inevitable demise. For Musil, life’s struggles can transform and obscure human self-identity, just as the frenzied thrashing of the fly continues “until it is covered by a thick coating [of glue] that only remotely suggests its original shape” (I.34, 1995:137). Musil writes of this diminishing, forgetting, and loss of self-identity as it often occurs in youth:

. . . [t]he mockery of the young, their revolt against institutions, their readiness for anything that is heroic, for martyrdom or crime, their fiery earnestness, their instability – all this means nothing more than their struggle to escape. (I.34, 1995:137)

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<sup>94</sup> There are several definitive English-language studies of Musil’s work in general, and of *The Man Without Qualities* in particular. Readers interested in this body of research are directed especially to Peters (1978), Luft (1980), Hickman (1984), Payne (1988), and Rogowski (1994).

In the process of this struggle, even fatuity and ridiculousness can seem to hold forth the promise of meaning and security, and offer a way to shake off the weight of the “heavy world” (“*schwere Welt*”), or to break through the “unstable, shifting mist” (“*haltlos beweglicher Nebel*”) that clouds the human spirit (I.34, 1995:137/1952:131-132). Like sparrows pouncing on crumbs for sustenance (I.34, 1995:137), the human soul hungers for anything that presents itself as a potential source of authenticity, anything that

. . . offers that moment of self-realization, of balance [*Spanungsgleich-gewichtes*] between inner and outer, between being crushed and exploding (I.34, 1995:138).<sup>95</sup>

This quintessentially modern experience describes one of the basic forms of the “impassioned struggle for self-assertion,” and opens a view upon dimensions of the encounters above that might otherwise remain unnoticed, either by bureaucratic or social scientific analysis.

The phrase “an impassioned struggle for self-assertion” appears in *The Man Without Qualities* within the context of an episode involving a drunken, disorderly man yelling in the street and taunting the police (I.40, 1995:165-167). Seeing that he has drawn the attention of the police, “an impassioned struggle for self-assertion began” (I.40, 1995:165). When an officer attempts to arrest the man, a fight ensues, and the officer is punched in the face. Other officers arrive to assist their colleague, and the man is eventually subdued and taken into custody. Ulrich witnesses the fracas, and remarks aloud that, owing to his state of extreme intoxication, the drunken man should not be held responsible for his actions. The already-upset officers become even angrier when Ulrich’s comments re-agitate the man, whereupon Ulrich is then himself arrested.

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<sup>95</sup> The complete German sentence reads, “*Sie schenkt ihm den Augenblick des Seins, des Spannungsgleichgewichtes zwischen innen und außen, zwischen Zerpreßtwerden und Zerfliegen.*” There is a marked similarity between Musil’s idea of a tense or suspended balance (*Spannungsgleichgewichtes*) and Klee’s concept of “unstable equilibrium,” (*schwankendes Gleichgewicht*) which was discussed in the second half of Chapter 5.

Musil presents the clash between the loutish drunk and the police officers with a subtlety that indicates a significance beyond its obvious interpretation as a simple criminal act of disorderly conduct. The drunken man, albeit without the same finesse, intelligence, or aplomb, is doing precisely what Ulrich does throughout the book: engaging in “an impassioned struggle for self-assertion.” In the face of what, however? Musil precedes his narrative of the drunken man’s actions with an observation about the “spooky” or “ghostly” (“*Gespenstisches*”) quality of “living constantly in a well-ordered state,” with its omnipresent forms of bureaucratic surveillance and order maintenance that reach so deeply and totally into every aspect of existence as to be like air, which is so indubitably present that it is paid no heed on account of its ubiquity (I.40 1995:165).

Musil remarks,

But all these things that one denied, these colorless, odorless, tasteless, weightless, and morally indefinable things such as water, air, space, money, and the passing of time, turn out in truth to be the most important things of all, and this gives life a certain spooky quality. (I.40, 1995:166)

In the face of that “spooky quality,” people sometimes react in a violent panic, as does the drunken man in Musil’s narrative.

Taken into custody, Ulrich is transported to the police station, where the arresting officer presents him to the duty sergeant for processing. When Ulrich tries to explain the circumstances of his arrest, the sergeant responds with a silent and dismissive stare, which leaves Ulrich with “a sense of infinity” (I.40, 1995:167). It is obvious that Ulrich is now in the clutches of a Kafkaesque bureaucracy. As Musil’s narrative makes clear, what is most discomfiting about the police bureaucracy is not its power of physical coercion, but the way in which it enciphers human presence into an abstract assemblage of data. As Ulrich stands before the sergeant, supposing that his presence has not yet even been noted, he is suddenly shocked to learn that the matter of his arrest has, in fact, already become reified as the subject of meticulous documentation. Now, all that remains is to fill in the happenstance data, which will come to constitute the entirety of

Ulrich's being, insofar as it is deemed to be bureaucratically significant. As the sergeant questions him, as his name becomes a datum, and as his face becomes "an aggregate of officially describable features" (I.40, 1995:168), Ulrich reflects on the logic that makes this possible:

So he could, even at such a moment as this, himself appreciate this statistical demystification [*statistische Entzauberung*] of his person and feel inspired by the quantitative and descriptive procedures applied to him by the police apparatus as if it were a love lyric invented by Satan. (I.40, 1995:169)<sup>96</sup>

That Ulrich can perceive what is being done to him by the police bureaucracy reflects his awareness of the irony that, his complaints notwithstanding, the Vienna police are only doing to him from without what he inwardly does to himself. In following Ulrich's thoughts during his encounter with the police bureaucracy, Musil illustrates this complex, dialectical relationship between social praxis and self-conception.

Applying Musil's insights to the series of encounters above reveals the same dynamic. Like Ulrich or the drunken man on the street, each of the children in these encounters is asserting a claim for recognition, manifest in acts and words that essentially transmits the message, "Here I am! You ignore me at your own peril!" The forms of resistance demonstrated by Musil's characters and the children reveal how everyday life becomes the arena for a struggle in which alienation and estrangement are contested most aggressively when they are enacted upon people whose lives are already in a state of crisis or chaos. In the episodes above, the author and his colleagues, seeking to fulfil their bureaucratic mandate, interpreted the manifestation of this struggle *as if* it were something else; that is, the struggle in each episode was engaged so as to render human actions soluble through the overcoming of a "problem of resistance." As the narrative suggest, however, the attempt at problematization either aggravated, or at the very least left unconsidered, the underlying sources of friction.

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<sup>96</sup> The word "*Entzauberung*," which Wilkins and Pike render as "demystification," is the same term used by Max Weber, and translated by Parsons as "disenchantment," to describe the desacralization of the world and cosmos under the influence of modernity. The importance of the use of the term by Musil to characterize Ulrich's encounter with the police cannot be underestimated in light of the echoes of Weber's critique of bureaucracy that resonate through the passage.

Similar to the intuitive judgment, made without the benefit of a clinical diagnosis, that someone is mortally wounded, the author and his colleagues knew right away that Colette was a deeply troubled girl. Everything about her, from her facial expressions, body language, and speech patterns to her interactions with her mother and officers, suggested she was a girl whose life was so manifestly disordered, that any action on the part of the police would barely lift the crushing burdens from atop her shoulders. Out of the overwhelming totality of Colette's predicaments, the bureaucratic operations of policing abstracted an objective presence, which was constituted as a potential repository of forensic evidence and social risks. That presence consisted of a reified body, which was officially regarded as the site (*lieu*) of a crime, the victim of which was Colette, primarily insofar as she represented the embodied legal interests of the state (*cf.* Foucault, 1977). Those interests encompassed the criminal investigation of a sexual assault, and the assessment of various social risks that Colette would run away from home, refuse treatment (expressed existentially as "*be* an uncooperative victim"), and otherwise create liabilities for the law enforcement and social services bureaucracy that it would not willingly accept.

At one point in the author's conversation with Colette, after attempts at empathetic engagement had seemed to fail, he tried to raise some of these bureaucratic concerns with her in a personal way: "Look, I need you to help me out and please do me a huge favor. I know you don't want to go to the hospital, but if you don't, I'll get into a lot of trouble." This line of argument was aimed at giving Colette a sense of power over her destiny; yet, conversely, it may only have served to reinforce the ultimate nature of the bureaucracy's real interest in her situation, and inflamed her will to resist. Her "impassioned struggle for self-assertion" thus continued: "Why should I give a shit if you get fired?!" she snapped. She dismissed further entreaties with a terse request for a cigarette.

Regarded in terms of “an impassioned struggle for self-assertion, Anthony’s actions closely mirrored the inner contest that Musil describes between intensified self-awareness and self-estrangement. Anthony’s initial state of frenzied anger seemed to mark a loss of self-control that he did not like. Once settled down, he spoke with precision about his institutionalization, but then lapsed again into despair when he learned that he could not return home.

Despite its initial moments of tension, and its violent prelude, the encounter with Anthony proved to be far less contentious than the one with Colette. It is impossible to know with certainty why Anthony chose to calm down and cooperate, though some possible reasons come to mind: utter fatigue from his earlier outburst; distracting pain from his injured nose; reactions to the presence of officers ranging from reassurance to fear; a sense of remorse; and so forth. The police response to this incident did not entail a criminal investigation, but only a rendering of assistance to institutional staff members in dealing with a terribly frustrated and violent teenager. Information about Anthony’s background provided useful data, insofar as it helped officers gain a clinical perspective on his behavior, and therefore decide what might be effective in getting him to calm down.

The encounter with Anthony also revealed his facile awareness of the clinical perspective from which he was viewed within an institutional setting. He had assimilated this into his own confused self-conception, presumably together with the understanding that his own family feared him. Interestingly, despite her having sent him to the institution, Anthony did not express any feelings of hostility towards his mother; to the contrary, he seemed more downcast than angry when he kept telling the author that he wanted to return home to be with her.

The initial stages of the encounter with Thomas viewed him almost exclusively in tactical terms as a potential threat to officers, especially because the incident reportedly involved a gun. Secondly, the author and his colleagues read Thomas’s taunting actions and uncooperative demeanor as signs of disrespect for police. In custody, Thomas steadfastly refused to engage in



any kind of dialogue with officers. As the author and his colleagues contended with Thomas's tirade of obscenities and threats, his friends, who stood nearby watching, began to snicker and joke among themselves, which suggested that as much as they probably admired Thomas for his tenacity, they knew that his actions were unfolding pointlessly to his own detriment.

Prior to releasing Thomas's friends, all of them were photographed in accordance with policies for gathering gang intelligence. As in the case of the high-risk car stop, they were accustomed to this ritual, and stood cooperatively in the kind of confrontational, but dignified poses that gang members overwhelmingly choose to adopt, knowing that their photographs are going to circulate among police departments and in police "gang albums" or displayed on squad room bulletin boards. Thomas, on the other hand, used the process of being photographed as an opportunity for conspicuous rebellion, making a scowling, angry face from the back seat of the patrol car into which he had been placed. The effect was preposterous, and doubtless hardly what Thomas had intended to convey.

Yet, interpreted in terms of "an impassioned struggle for self-assertion," the key moment in the encounter with Thomas came with his boastful pronouncement that the stolen handgun in the car belonged to him. If his pre-arrest theatrics constituted a "devil-may-care" display of defiant pride, admitting ownership of the gun elevated the gravity of these sentiments to a higher level, by attaching to them the price of a felony conviction. A street-savvy gang member like Thomas would certainly have known that, although the gun was found in the immediate area where he had been sitting, the prosecution of the case would be difficult, absent further evidence (such as fingerprints or witness statements) proving the legal standard of his "constructive possession" of the gun. While a utilitarian calculus might view Thomas's unsolicited admission as irrational or unconsidered self-defeating behavior, this ignores the alternative possibility that it was a gesture of self-affirmation, one rendered all the more authentic by its attendant sacrifice of personal liberty. In this respect, Thomas acted much like the drunken man in *The Man Without*

*Qualities*, whose aggression escalated to the point of assaulting a police officer. As a form of a passionate struggle for self-assertion, Thomas's actions would seem to have been intended less to exculpate himself, than to demonstrate the bona fide nature of his gang affiliation, and its place as the symbolic center of his rejection of social and legal conventions.

The most conspicuous difference between the episode involving George and the rest of the encounters is that George was the only one of the juveniles to have actually been physically violent towards officers. By assaulting Mark in their presence, George also powerfully rejected the officers' authority. With the act of returning to Mark's house after his release from jail, George had made a willing decision to confront Mark. George needed to retrieve some personal property; however, he certainly knew from the judge who released him from juvenile detention that the proper way to go about this would have been to have police accompany him to Mark's house. In point of fact, George's overarching concern appeared to have been to confront Mark to rectify what he interpreted as an act of disrespect, dishonor, or betrayal: in the vernacular of the street, Mark had "dissed" George.

There are few catalysts for violence more powerful than a sense of humiliation; for a person already in the throes of crisis, this is even more so the case. When the author and his partner arrived at Mark's house, they had entered just such a situation. As the officers closed the physical distance with George, he instantly perceived a threat, and probably sensed that he would soon be headed right back to jail. Whether he felt outraged, panicked, or both, George found himself in the untenable position of being challenged physically and psychologically. George stood his ground and reacted to the officers' physical encroachment upon his space, which he also seems to have construed as a symbolic encroachment upon his honor and self-respect. George could not afford to retreat in obedience to the police, and thereby lose face to them in the presence of his uncle. Indeed, to have acquiesced to police authority would not only have destroyed his credibility with Mark, but would also have foreclosed the immediately present

opportunity to avenge the previous day's act of abasement. To turn and flee both from the officers and from Mark would have been the worst option, inasmuch as it would have left him appearing weak in the eyes of both opponents.

From a phenomenological perspective, the mere possibility that such an interpretive process could even have occurred illustrates the remarkable aspect of encounter, whereby interlocutors seek reciprocally to manipulate the ways that they imagine their presence will be construed by each other. The encounter with George further suggests something about the unpredictable nature of violence that emanates from alienation and a diminishment of self. In a passage that foreshadows the drunken man's "impassioned struggle for self-assertion," Musil points out early in *The Man Without Qualities* (I.3 1995:7-8) how Ulrich, in a moment of apparent weakness and fatalistic resignation in the face of the perceived futility of action, suddenly and violently lashes out at a punching bag that hangs in his room. The connection between the ontological and the concrete cannot be expressed with sharper clarity.

### ***Language and the Interpretation of Presence***

By heeding the presence of "an impassioned struggle for self-assertion," the preceding elaborations, juxtaposed with Musil's story, bring to the fore an aspect of each encounter that remains unconsidered in the original narratives. The narrative records of the encounters generally adhere to a style that combines various conventions of ethnographic writing with those of bureaucratic discourse. Some parts of the narratives approximate the language of police reports: "he was placed under arrest for investigation of rape of a child;" "according to Anthony's records, his mother had sent him to the facility because of a severe anger management problem;" "a search of the car located a stolen .45 caliber handgun." At other points, the narratives adopt an ethnographic tone: "Even though my colleagues and I are well accustomed to such reactions, Colette's combination of vulgarity, anger, and nonchalance led us to exchange discreet glances of disbelief;" or "there are mutual tacit expectations on both sides." These examples reflect a

variety of shifts in the author's interpretive stance, from that of an active participant, to that of a *post facto*, bureaucratic narrator, or retrospective "meta-analytic" philosophical and sociological commentator.

This seeming digression into stylistic self-reflection actually relates to a quality of Musil's work that is immediately relevant for considering how the fullness of human presence becomes reified through problematization. *The Man Without Qualities* opens quite oddly, with language that shifts between traditional literary prose, and a narrative form more common to scientific writing. The resulting tensions establish a polarity between "objective knowledge" and "experiential knowing," (Jonsson, 2000:100-108) which was a key distinction for Musil, one rooted not least of all in his own previously noted familiarity with phenomenology (see, also, Stern, 1982:80-82).

From the first words of the book, Musil plays upon his readers' expectations of how a novel should be written:

A barometric low hung over the Atlantic. It moved eastward toward a high-pressure area over Russia without as yet showing any inclination to bypass this high in a northerly direction. (I.1 1995:3)

After outlining more meteorological and astronomical details, Musil abruptly shifts his language, and reports that, "It was a fine day in August 1913" (I.1 1995:3). However, at this very moment, when Musil finally seems to strike a familiar, literary tone, he continues to tease the reader, at first providing additional facts, as if truly to set the scene, only to qualify or withdraw the proffered information a moment later. Yes, we are on a busy street in Vienna, but does it really matter? We might just as soon be in any modern city. And, as for those two, well-heeled people walking down the street, could they be Ermelinda Tuzzi and Arnheim? Well, perhaps, "but then, they couldn't be, because in August Frau Tuzzi was still in Bad Aussee with her husband and Dr. Arnheim was still in Constantinople; so we are left to wonder who they were" (I.1 1995:4).

Musil next takes his disequibrated reader to the scene of a traffic accident between a truck and a pedestrian, where the nameless couple is standing among the crowd of onlookers. The woman looks at the injured victim, who is lying in the street, and is momentarily overcome by a wave of nausea, “which she credited to compassion” (I.1 1995:5). Her male companion ventures a factual explanation of the frantic scene: “The brakes on these heavy trucks take too long to come to a full stop,” he opines (I.1 1995:5). The German text uses the technical term “*Bremsweg*” (“braking distance”), which the woman finds confusing, yet also reassuring:

She did not really understand, or care to understand, the technology involved [literally “what a braking distance is”], as long as his explanation helped put this ghastly incident into perspective by **reducing it to a technicality** [*einem technischen Problem*] of no direct personal concern to her. (I.1 1995:5, emphasis added)

As the woman watches the accident victim being loaded into an ambulance, the man recites some statistics on the injuries and fatalities caused by traffic collisions. However, her momentary detachment from the reality of accident passes quickly; and she is unable to suppress her lingering sense that all is not well.

This passage demonstrates how the language of problematization allowed the woman briefly to ignore her feelings of compassion, and to regard the accident more or less abstractly, as a regrettable event, but, nonetheless, as one that was rationally explicable in terms of a “technical problem” related to the braking capacity of trucks. Musil’s narrative suggests how this kind of shift in meaning, attitude, and emotion does not occur by happenstance, but coincides with transformations in the most elemental interpretive premises with which a situation is approached. Intentional shifts are never a simple progression, in which one interpretive stance exists to the mutual exclusion of all others. Rather, every encounter incorporates a range of shifting interpretive stances and forms of typification. At a technical level, it is valuable to know that the underlying cause of an accident may be related to braking distance. Such knowledge facilitates

developments that might prevent future collisions. However, as the woman's reaction to the injured pedestrian demonstrates, this kind of interpretation only goes so far.

The preceding discussion of *The Man Without Qualities* and *Crime and Punishment* has highlighted the relationship between language and praxis, as it is manifest in the dynamics of police-citizen encounters. The illumination of this relationship reconfirmed the definitive role of the poetic aspect of human existence in shaping interpretive and self-interpretive actions, even in ordinary settings. This begins to suggest how problematization unfolds in bureaucratic and social scientific praxis, and how it results in the reduction of human presence to abstract subjectivity. When they are approached in this way, profound existential predicaments, such as the struggle for self-assertion, become reified as "manageable problems." To anticipate one of the major implications of this dynamic for praxis, if street-level policing is truly to be able to contribute to the meaningful amelioration of human predicaments, its present bureaucratic approach will have to yield to forms of praxis grounded in more authentic and holistic compartments. This question will arise again in Chapter 7, where a phenomenological aesthetics of encounter will use poetry to explicate episodes from the "war on drugs."

## **CHAPTER 7**

### **THE POETRY OF POLICING: ENCOUNTERS FROM THE DRUG WAR**

*All other creatures look into the Open/with their whole eyes. But our eyes,  
turned inward, are set all around it like snares, trapping its way out to freedom.*  
(Rainer Maria Rilke, 1975:55)

#### ***A Phenomenological Reframing of the “War on Drugs”***

The author and his colleagues frequently spend a majority of their time on patrol attending to circumstances related either directly or indirectly to the pervasive phenomenon of illegal drug use. These circumstances range from situations occurring within the immediate context of the production, distribution, and consumption of illegal drugs, to crimes that are tangentially correlated with drug use, such as offenses committed to support a drug habit. In keeping with trends widely prevalent in law enforcement praxis around the globe, when the author and his colleagues are not handling dispatched calls for service, their self-initiated patrol activities, such as traffic stops and “subject” stops (field interviews), are overwhelmingly directed towards prosecuting what the law enforcement bureaucracy, especially in the United States, widely regards as the “war” on drugs.

The bureaucratic problematization of the drug crisis effectively reduces an immensely complex social predicament into an endless concatenation of street-level incidents, which are individually “resolved” through the application of instrumental rational action. From this stance, which has virtually no intrinsic ability to reflect critically upon the broader nature of the underlying crises it is facing, success is measured officially (by the police bureaucracy) and casually (among one’s fellow officers) in terms of the results of actions taken in response to this translation of drug-related phenomena into manageable “problems,” the resolution of which

yields tangible enforcement “stats.” In a professional milieu driven by this logic, officers win organizational and peer approbation for “good pops” – arrests that lead to the confiscation of narcotics, and to the seizure and forfeiture of weapons, cash, and property. Lost to the view afforded by this operational approach is the human presence of the drug user, which becomes effaced through its reduction to the incidental locus of variables within a complex bureaucratic equation.

This mathematical metaphor finds itself enacted in the organizational use of the term “problem” to describe and name people, houses, or even entire apartment complexes and neighborhoods. At shift briefings, for instance, sergeants might tell their officers, “we need to deal with Joe Smith; he’s becoming a real problem;” or, “I want you guys to work on that problem dope house at 729 Main Street.” These examples point revealingly to the promulgation of an approach that breeds a methodical numbness and clinical disconnect among the police, and a reciprocal futility and resentment among drug users. It is with good reason, then, that patrol officers often compare their response to drug-related calls to shoveling sand off a beach: the patterns of late modern drug addiction and its correlational forms of crime occur in an unrelentingly tide-like fashion, which endures independent of all efforts aimed at stemming its effects.

At the same time, there often seems to be a strong spirit of fatalism animating the ways in which many of the people who use illegal drugs expose themselves so incautiously to police intervention. Police officers, for their part, find it difficult to tell if this kind of behavior is a reflection of hopelessness, or a devil-may-care attitude that seeks openly to flout the authority of the criminal justice system. Either way, the interactions between police officers and people who use and sell drugs are far too often marked by an uneasiness born of mutual mistrust and mutual contempt.



Taking the preceding description of the operational environment of the policing of drug-related incidents as its point of departure, this chapter uses poetry to apply a phenomenological aesthetics of encounter to the interpretation of episodes from the “drug war.” The first half of the chapter uses Rainer Maria Rilke’s poem, “The Panther,” to analyze an encounter with “Michael,” a homeless man in his late forties, who lives in the area that the author patrols. The intent of this analysis is to develop a phenomenologically informed sense of the tension between the existential wholeness of Michael’s presence, and its fragmentation by bureaucratic praxis into a series of problems and incidents.

Such fragmentation effectively translates human being from one form of presence into another, and may be viewed as a poetic process, insofar as it occurs through the dynamic creation of meaning (see Chapter 2). This notion also underlies the second half of the chapter, which uses several poems by Wallace Stevens to discuss two additional encounters from the “drug war.” This discussion centers on Stevens’ poetic explorations of the nature of metaphor, and uses them to analyze the interpretive processes that enable police officers to approach human presence in ways that render it amenable to bureaucratic problematization.

### **Encounter #7-1: Michael**

I was on patrol on a summer afternoon when I saw Michael standing in the parking lot of a convenience store. Michael stood out conspicuously in his brightly colored, but filthy winter jacket, which was far too warm for the weather. I had not seen him for quite a while – several months, at least. Michael was chatting amiably with David, a young man of about nineteen, who was deeply involved in using and selling crack cocaine, and was well on his way to ending up like Michael, albeit at a far younger age. I turned into the parking lot and stopped to speak with Michael. Neither he nor David seemed especially disturbed by my presence, so I concluded that they were not likely up to anything untoward or illegal. I parked a short distance from Michael, rather than pulling up closer to him, and angling my patrol car in a way that would block his path or “box him in,” which would likely have conveyed to him that I was initiating an enforcement-related contact.

I got out of my patrol car and began to walk towards Michael. He closed the distance, meeting me halfway from the point where he had first been standing. I extended my hand and casually greeted him: “Michael, how the hell are you? It’s been a while; when’s the last time I saw you?” Michael offered a friendly reply,

though one that was sufficiently gruff and boisterously voiced, so as to make it immediately clear to David, or to anyone else who might be watching that he was not merely currying the favor of the police: “hey, Wender, what’s going on?” His bloodshot, deep-set eyes lit up a bit, as their aimlessness momentarily abated and returned my gaze. The lines on Michael’s leathery face lifted into a semblance of a smile as he took my hand and gripped it strongly. He pumped my hand for a second or two longer than a customary handshake, and gave me a look that seemed unable to connect wholly with one emotion or another. It was hard to know how much this had to do with his degree of intoxication. Michael is never in a state of complete sobriety, and the odor of cheap beer and malt liquor always hangs heavily in the air around him.

I asked him if he was still working as a short order cook at a nearby bar and grill. His eyes dropped and he shook his head. Michael looked exhausted and beleaguered. He told me he was back to drinking heavily again, and had lost his job. I knew from several colleagues that Michael was also regularly smoking crack, but I did not have the heart to ask him about it, especially in front of David. Furthermore, I did not want to give the appearance of being on a “fishing expedition” for information. I therefore took a more casual approach, which I felt would respect Michael’s sensibilities, while also conveying to him and to David that I was well aware of the illegal aspects of their situation. “Are you keeping this young guy out of trouble?” I asked in a half-humorous, half-serious tone, nodding towards David. Michael seemed to take my point, and added to it a further gravity of his own, looking at David and leaving unspoken what Michael and I both seemed to have in mind: that neither of us wanted David to end up in Michael’s situation.

As I made my comment, I recalled to myself how, on previous occasions during his periods of sobriety, Michael and I had talked about the rising prevalence in the area of drug use, of drug related violence, and especially of the conspicuous involvement of teens and young adults in all of this. Michael offered some boisterous, joking comments about how he would try to “keep David in line.” At the same time, a vague awkwardness and discomfiture seemed to cross Michael’s face. Perhaps what I had intended as a genuine appeal to Michael to exercise influence over a younger man inadvertently gave him a heightened sense of his own accreting weakness, both inwardly, and with respect to his credibility on the street. Either way, I sensed that my continued presence would be to no good end. I wished Michael well, admonished David to heed his advice to stay out of trouble, got back into my car, and drove off.

The preceding encounter with Michael is an example of what police officers generally call a “social contact.” Social contacts are understood by the police bureaucracy to be encounters in which citizens have no legal obligation to participate, and from which they therefore have the

right to disengage at will, without official sanction.<sup>97</sup> Officers in most police agencies are encouraged to initiate social contacts with the general public, as well as with the population of known or potential offenders. The former type of contact is usually undertaken with a view towards winning support for the police department, and to solicit information from “respectable” citizens about community problems and concerns. The latter kind of contact, by contrast, is motivated by the bureaucratically identified need to build and maintain a positive rapport with those people who are regularly encountered in enforcement-related situations, because of their past, present, or predicted future involvement in criminal activity. The overall objective of social contacts is to assist in investigations, intelligence gathering, informal social control, and the fostering of positive “police-community relations.” Social contacts are an especially important means of prosecuting the “drug war,” because they present a relatively unobtrusive and innocuous means of developing relationships with drug users and dealers, which facilitate (or, in some cases, help obviate) subsequent investigative and enforcement action.<sup>98</sup>

While many of the social contacts that inevitably occur during an officer’s shift pass unrecorded, and hence never become “official incidents,” others are deemed worthy of documentation, either for intelligence or investigative purposes, or simply to produce a “stat,” to be counted among the other tangible pieces of work that an officer performs. Following his contact with Michael, and with both of these goals in mind, the author filled out an index-card

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<sup>97</sup> The qualification is significant. In strict legal terms, the police officer who initiates a social contact has no more authority than the average citizen to control the encounter. Hence, on a social contact, if a person expresses disinterest or outright anger and chooses to walk away, the officer is legally powerless to sustain the encounter. Nonetheless, it is equally true that most any initiation of contact by a police officer involves an unspoken degree of coercion or intimidation, even if its wholly unintended. When new officers learn how to conduct social contacts, they are taught to manage their presence in a way that conveys the voluntary nature of the encounter. This is usually presented less as an ethical concern than as a practical matter of learning to avoid taking actions that the courts will rule as “unlawful seizures.” Indeed, it is strongly impressed upon officers that detaining people on social contacts is illegal, and can have consequences ranging from the suppression of evidence and dismissal of criminal charges to lawsuits and disciplinary action.

<sup>98</sup> Of course, police officers also make social contacts for purely personal reasons having nothing at all to do with the discharge of bureaucratically mandated duties. Social contacts of this kind are not immediately relevant for the present discussion, because they are not undertaken with the intended goal of fulfilling officially recognized legal or organizational objectives.

sized document called a “field interview report,” more commonly known among officers as a “FIR card,” (pronounced “fur”) or simply, “FIR.” FIR cards record the identity and a detailed description of the person interviewed, or “FIRed,” and also include a short narrative that provides a legal justification for the contact, along with a summary of what the officer deemed significant about the person. On the back of the FIR card that he completed to document his encounter with Michael, the author wrote in block letters, “SOCIAL CONTACT. VERY DRUNK. NOT LOOKING GOOD AT ALL.” The information on FIR cards is entered into records databases, and serves as a tool for criminal intelligence and investigations, by contributing additional “facts” to the official, bureaucratic biographies of people contacted by the police.

The author’s initial encounters with Michael occurred in the early 1990s, when Michael was still working full time, and was residing with his girlfriend and her son in a small house that belonged to Michael’s father. Over a relatively short period of time, heavy drinking, drug use, and domestic violence combined with other influences to shatter Michael’s social and psychological stability. For the past several years, Michael has been homeless, and living on the street. The author and his colleagues regularly contact him, usually for relatively innocuous matters, such as loitering, trespassing, public intoxication, property damage, or shoplifting. All of this is to little avail: in varying ways, Michael is either unable or unwilling to ameliorate his situation. He spends his days with people in like circumstances. Much in the way that Laura (Chapter 6) represents a paradigmatic “problem child,” Michael exemplifies modern society’s widely prevalent, suspicious, and unsympathetic vision of the homeless “street person,” whom it reifies as a discomfiting object of human detritus.

Reified also as an object that is bureaucratically manipulable, Michael’s presence is meaningful insofar as it asserts itself as a vexing impediment to predictable order and efficiency. At the same time, however, the ways in which his predicaments resist control and resolution may be read phenomenologically, as manifestations of aspects of human presence beyond those visible

to the limited perception of the bureaucratic eye. It is this fundamental tension that stands to be revealed through a consideration of “The Panther.” Rilke’s poetic vision, which discloses the actualization of the innermost dimensions of the existence of a caged panther in the phenomena of its gaze and taut pacings, invites a ready analogy to Michael’s actions, and demonstrates how Michael’s presence, like the panther’s, is approachable other than merely as observable “facts” or “data.” Consistent with the dissertation’s central distinction between intersubjectivity and co-presence, the application of “The Panther” to the analysis of the encounter with Michael will aid in revealing how any such “facts” or “data” may be read as abstractions and typifications ascribed to a more fundamental presence. To the extent that this analysis succeeds, it will open a view upon the ontological foundations of the predicament of drug use, and will, as a result, suggest how the ignoring or obscuring of these foundations that occurs through bureaucratic problematization may help to explain the inefficacy of current police praxis in drug-related situations.

### ***Rilke and the Phenomenology of Presence: Person or Subject, Thing or Object?***

Phenomenology and existentialism have a long-standing affinity for the work of Rilke.<sup>99</sup>

Without explicitly relating it to phenomenology, Shaw (1964:vii-viii) describes what is, in essence, the phenomenological character of Rilke’s poetry:

It makes us look at our own looking. It obtrudes thought into that which is ordinarily taken for granted, and in so doing, forces us to consider in a more general way how lines can be drawn between the inside and the outside, between self and the world.

For a phenomenological aesthetics of encounter and its application to the analysis of police-citizen encounters, the central relevance of Rilke’s work lies in how his poems reveal the

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<sup>99</sup> For a general overview of Rilke’s relation to phenomenology, see Kaufmann (1980) and Holthusen (1980). Heidegger’s essay “*What Are Poets For?*” (1971a:89-142) probably remains the most influential phenomenologically oriented reading of Rilke. See, also, Heidegger’s use of Rilke to illuminate the limitations of modern epistemological presuppositions (1982a).

ontological unity between world and consciousness (see Rilke, 1984:xi and 2001:5). Within this context, poetry like Rilke's grants access to the most elemental aspects of human presence, which antecede and perdure its practical reification or thematization in such forms as "research data" or "problems."

Rilke expresses in poetic language one of the central claims of phenomenological philosophy, that to be human is to exist meaningfully or, more precisely, *poetically* (see Heidegger, 1982a:171-172; cf. Young, 2001:32-34). In this sense, Rilke's work is "metapoetry," – a "poetry of the poetic." To be human is always already to have a "here and now;" it is always already to have created meaning out of the existentially inherent awareness of one's presence:

Not for a single day, no, never have we had  
that pure space ahead of us, in which flowers  
endlessly open. It is always World  
and never Nowhere without No:  
that pure, unguarded space we breath,  
always know, and never crave. (Rilke, 1975:55)<sup>100</sup>

This passage points to what is so intractably complex about the dynamics of human encounter, and why they ultimately resist problematization. To come into the presence of another human being is to come before someone whose existence stands forth as a meaningful presence in the world – what Heidegger (1996) called "*In-der-Welt-sein*" ("Being-in-the-World). Every moment of conscious human life is marked by its ontological character as the kind of existence that finds and creates meaning in the mere awareness of its own presence. Hence, even the notion of "pure open space" is an abstraction from the condition of meaningful (poetic) self-presence – an imagined "Nowhere without No."

Recalling what was previously discussed (see esp. Chapter 4) about the existential significance of the term "poetry," this creation of meaning expresses the mode of comportment of

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<sup>100</sup> The German text (Rilke, 1975:54) is as follows: *Wir haben nie, nicht einen einzigen Tag,/den reinen Raum vor uns, in den die Blumen/unendlich aufgehn. Immer ist es Welt/und niemals Nirgends ohne Nicht: das Reine,/Unüberwachte, das man atmet und unendlich weiß und nicht begehrt.*

human beings in their interactions with themselves and with others. This mode of comportment is what ultimately presents itself in any everyday encounter between police officers and citizens. Moreover, it assumes a special intensity when the element of drug use is involved. However else one may analyze the causes and correlates of drug use, it is, at some level, a response by poetically existing human beings to the awareness of their own presence. Such a philosophical approach to the phenomenon of drug use does not preclude other explanations (*e.g.* biological, socioeconomic, psychological, and so forth); rather, it provides a context for grounding them in the irreducible conditions of human existence.

Rilke wrote “The Panther” towards the end of 1902. It became among the earliest of his “New Poems” (*Neue Gedichte*), and was published in 1907 in the first of the two volumes comprising the collection. “The Panther” exemplifies Rilke’s use of poetry to reverse the ordinary experience of things in the world. This reversal may best be understood as the creation of a poetic vision that allows for the experiencing of a thing “from the inside out” (Strauss, 1980:67; Schwarz, 1984:xi). For Rilke, everyday consciousness and perception yield an attenuated conception of reality. His poetry strove to overcome these limitations, and arrive at an elemental knowledge of the essence of things by “actualizing the real” (Woods, 1996:35; see, also, pp. 30-34). By breaking expectations and conventions of the experience of encountering things in the world, Rilke’s poetry reveals the distinction between “things” and “objects,” which bears an essential affinity to the dissertation’s distinction between co-presence and intersubjectivity.

To fully appreciate the explanatory power of “The Panther,” it is crucial to note its place as the first among Rilke’s “thing poems” (“*Dinggedichte*”). With the *Dinggedichte*, Rilke sought to go beyond then-prevailing poetic perspectives, which focused on the expression of subjective, emotional responses to the world (Brodsky, 1988:84), and write prose that would be the poetic analogue of the forms created in painting or sculpture. Such poetry, as Rilke imagined it, would create form out of words, instead of paint or bronze. Rilke’s predominant inspirations in this

endeavor were Cézanne and Rodin.<sup>101</sup> The influence of Rodin and Cézanne is apparent in the way that the *Dinggedichte* go beyond the commonsense understanding of things as mere reified objects of perception (Ryan, 2001:129). The *Dinggedichte* thereby transcend the supposed divide between “subject” and “object,” and disclose things in the fullness of their being, as the inseparable unity of inner essence and “accumulated subjective experience” (Ryan, 2001:135).

Early in his career, as he tried to bring the approach of artistic creation to his poetry, Rilke went to Paris to seek Rodin’s counsel. Rilke wanted to follow Rodin in letting form reveal itself in *sui generis* motions and gestures (Jayne, 1972:65-66; Strauss, 1980:64-68, and Rilke, 1984:ix). Rodin told Rilke that to succeed in his endeavor, he would have to *learn to see*; and to achieve that, Rodin advised Rilke, he ought to go to the zoo in Paris (Jardin des Plantes), and watch the animals (Leppmann, 1984:214). It is there that Rilke meticulously studied a caged panther, which became the inspiration for the poem.

“The Panther” and the other *Dinggedichte* do nothing less than challenge the reader to become open to a different way of seeing. This challenge is decisive for a phenomenological aesthetics of encounter. Most important, Rilke’s disciplined rejection of emotionalism points to the metaphysical profundity in his work, and questions any notion that the new way of seeing he creates is merely a species of empathy (see Ryan, 1999:50). Applied within the context of bureaucratic praxis and police-citizen encounters, this suggests why the programmatic outcome of the critique offered in this dissertation cannot merely be a variation on pre-existing, commonsense appeals to develop empathetic listening skills or and other such tactics. As further discussion of the encounter with Michael will show, Rilke’s new way of seeing effectively creates the possibility of a radically reconfigured comportment towards one’s interlocutor.

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<sup>101</sup> It is impossible to exceed Rilke’s own characterization of these influences, which is discussed at length in his *Letters on Cézanne* (1985).



### **The Panther**

*In the Jardin des Plantes, Paris*

His gaze has from the passing of the bars  
grown so tired, that it holds nothing anymore.  
It seems to him there are a thousand bars  
and behind a thousand bars no world.

The supple pace of powerful soft strides,  
turning in the very smallest circle,  
is like a dance of strength around a center  
in which a great will stands numbed.

Only sometimes the curtain of the pupils  
soundlessly slides up – . Then an image enters,  
glides through the limbs' taut stillness,  
dives into the heart – and dies.

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### **Der Panther**

*Im Jardin des Plantes, Paris*

Sein Blick ist vom Vorübergehn der Stäbe  
so müd geworden, daß er nichts mehr hält.  
Ihm ist, als ob es tausend Stäbe gäbe  
und hinter tausend Stäben keine Welt.

Der weiche Gang geschmeidig starker Schritte,  
der sich im allerkleinsten Kreise dreht,  
ist wie ein Tanz von Kraft um eine Mitte,  
in der betäubt ein großer Wille steht.

Nur manchmal schiebt der Vorhang der Pupille  
sich lautlos auf – . Dann geht ein Bild hinein,  
geht durch der Glieder angespannte Stille –  
und hört im Herzen auf zu sein.

(Rilke, 1907/2001:62-63)

Standing before someone like Michael, one knows immediately what Rilke meant when he wrote in “The Panther” of the tired gaze (*Blick*) that “holds nothing anymore” (*nichts mehr hält*). Insofar as this is true, it illustrates how Rilke’s poetry is able to attend to and bring into language some of what is most enduring, yet elusive, in the encountering of human presence. It is equally clear that, at least from a phenomenological standpoint, this accomplishment rests upon much more than the evocation of a sense of pathos or empathy. Rather, Rilke takes the “observable facts” of the panther’s presence, and elevates them to the level of metaphysical insight (Mandel, 1965:65).

In doing this, “The Panther” exemplifies what Mandel (1965:67) sees in all of Rilke’s “thing poems” as a “search for the essence-characteristic of the object and its inner rhythm.” “The Panther” epitomizes the structure of the *Dinggedichte* in the way that its organization and composition effectively create the very thing that the poem names. As Brodsky points out (1988:87), the panther himself is never named in the poem, other than in the title. Likewise, there is no explicit mention of the cage in which the reader immediately realizes the panther is kept. Instead of merely naming and describing the panther and its cage, the poem’s language “creates” them both, in the same way that a Cézanne still life or Rodin sculpture creates a form. In this way, the form and content of the poem are fundamentally interrelated. For example, the panther’s “dance of strength around a center” (line 7) is also the center of the poem; likewise, the poem ends with a conspicuous break in its iambic meter (Brodsky, 1988:88).

The poetic stance that Rilke adopts in the *Dinggedichte* and especially in “The Panther,” creates an openness in which the object of perception is experienced anew from the inside out. The object is allowed to speak for itself, and thus to reveal its innermost nature, rather than being “captured” from without and made literally into the “subject” of a particular interpretation. This notion of the subject is especially decisive for understanding the metaphysical foundations of the kind of praxis that occurs in police-citizen encounters. To say that someone or something has

been “subjected to” or “made the subject of” a specific form of analysis immediately recalls the differentiation between intersubjectivity and co-presence. Rilke’s “reversal” of inside/out, and its fundamental relation to a “new way of seeing” thus parallel the dissertation’s theoretical claim that ontological principles inform practical comportment, and vice versa.

The reversal in “The Panther” occurs in Rilke’s description of the movement of the bars across the panther’s gaze, rather than the other way around (Leppmann, 1984:214). In this manner, the external reality of the bars effectively becomes a part of the panther’s inner existence. The bars of the cage move past the panther’s numbed, tired gaze. This is a reversal of the usual understanding of perception (Wood, 1970:71). The monotony is reinforced by the rhythm of the prose (“*Stäbe gäbe*”) (Wood, 1970:71). The panther lives in a state of near-total enervation and emptiness. Its physical power comes to naught, for its heart has been inwardly stilled. The reader of the poem surmises that the panther has not always been like this; one imagines, rather, that years of confinement have exacted a devastating toll. To the extent that this reversal is applicable to a police-citizen encounter, it holds the same possibility of re-creating the stance of praxis, and hence of imagining different approaches to human presence.

Despite its lingering vestiges of proud rage, Michael’s gaze has, like the panther’s, grown tired. Beyond what the single encounter above can wholly convey, the author has been able to witness a similar transformation in Michael. In an earlier episode, some ten years prior to the one recounted here, the author arrested Michael for domestic violence assault after he returned home from work, got drunk, and hit his girlfriend. Michael was belligerent and defiant; and although he did not resist arrest, he certainly knew how to project an intimidating and uncooperative presence to the police. His hard, animated stare has since become an empty gaze, not least of all, it may be surmised, because of the ravages of alcohol and drugs, and the self-fulfilling state of disharmony that they perpetuate. Michael lives with a disconnect between his body and will that parallels the tragic situation of the panther. Just as the panther’s might and strength are turned

inward, to no purpose other than an endless pacing, Michael's existence is reduced to the perpetuation of a stupor from which he no longer knows how to extricate himself.

Unlike the panther, whose physical boundaries are wholly determined by a cage imposed from without, Michael seems to have confined himself to a small geographical area in which he spends nearly all of his time. Rarely do the author and his colleagues encounter Michael beyond a radius of several blocks, the hub of which is an intersection with a busy convenience store on one corner, and an automotive repair shop on another. Michael spends most of his time traveling back and forth between the two locations, where he is a well-known presence. The convenience store is the source of most of Michael's alcohol, and its parking lot and several nearby houses offer ready access to illegal drugs. He has at times functioned as an unofficial watchman and caretaker for the automotive repair shop, living behind it on and off in a small trailer or wrecked car. When the weather is mild, he sleeps in a nearby park frequented by other homeless men, or in the backyards of friends, whose tumbledown rental houses are all within a short walk of Michael's corner.

For a period of time several years ago, Michael used to walk about a half mile to a strip mall for his cook's job, but this now must seem to be in another world. Before he lapsed into heavy drinking and drug use, Michael had also been an avid outdoorsman, and spoke with the author several times of the delight that he took in escaping the drabness of his surroundings to go hunting and fishing. Gradually, however, the range of his travels has grown smaller. This self-restriction seems to parallel an inner sense of resignation, and shows itself in his gaze. In this essential respect, a phenomenological reading informed by "The Panther" suggests how Michael's actions and presence may be read as a projection of the state of being in which he finds himself.

Rilke shows explicitly in the opening line of the poem that the panther's will has weakened to the point that its everyday experience of the world is now all but completely

determined and controlled from without, by “the passing of the bars.” The panther appears to have lost any sense that its own movement and gaze affect the phenomenon of the passing of the bars. It has so internalized the presence of the bars that their “external reality seems to converge upon the existence or inner self of the panther” (Jayne, 1972:68). The panther’s existence has devolved into a state of passivity and monotony, which are inwardly experienced as a dulled reflex. Michael’s mundane existence centers on passing the time of day, and finding the substances that make this condition somewhat more tolerable. As Michael himself knows and forthrightly admits, the former and the latter are effectively one and the same, giving his *modus vivendi* a circularity that endlessly turns upon itself, while constantly threatening to spiral further downward.

Michael might say in a moment of self-reflection that, like the bars before the panther, “life is passing him by,” or that in fact, it has already effectively done so. In this sentiment, one finds a human version of the relationship between the panther’s gaze and spirit. From a rational, everyday standpoint that structures the normal comportment towards the givenness of reality, and informs the parameters for the precepts of mainstream social conduct, Michael’s actions cannot but strike most people as utterly aimless. To some, his actions might be regarded even more critically as lazy, stupid, or self-defeating. Others may take a different view and attribute them to biological, psychological, or social factors, over which Michael might be seen to have no ultimate control. All of these assessments, whatever their practical value or analytic relevance, have nonetheless prematurely reified human presence in an effort to make sense of its obtuseness upon what is generally regarded as normalcy and order. Against such a hasty reification, a phenomenological reading of the encounter with Michael based upon “The Panther” suggests that the dull and directionless quality of Michael’s gaze must first be understood on its own terms, from within, as it reveals itself, rather than from without, as a “problem” or “datum.”

To say, as Michael might, that “life is passing me by” may be paraphrased in this way: “as I am here, experiencing the fact of my own existence, I feel empty and powerless in the face of all that occurs before me.” “I merely bear witness to a world in which my participation is utterly pointless, and without real consequence.” With these words, and with the gaze that matches them, Michael and others of like spirit emerge as a presence that evades the grasp and ken of instrumental rational praxis. In encountering Michael, whatever the outside police observer *qua* bureaucrat may think, and however these thoughts are transformed into practical action, for Michael, as for the panther,

It seems to him there are a thousand bars/and behind a thousand bars no world.  
[*Ihm ist, als ob es tausend Stäbe gebe/und hinter tausend Stäbe keine Welt.*]

“*Ihm ist*” literally means, “to him it is:” to him, as he sees it and lives it, from the inside looking out, it is “as if” (“*als ob*”) there are a thousand bars, and beyond the bars, an empty void – “no world.” Rilke’s language thus establishes in the first stanza of the poem a clear link between the panther’s tired gaze and the innermost aspects of its being. By doing so, Rilke takes what might otherwise be abstracted as a “fact,” and amplifies its significance with respect to an unseen center. When the author, as police officer, approached Michael in the parking lot of the convenience store, was he able to attend to the analogous aspect of Michael’s presence, which is ultimately more real and irreducible than whatever judgments bureaucratic praxis might venture? Problematization does not entertain these broader possibilities and farther horizons. Yet, this interpretive economy comes at the price of an incomplete vision, with a resulting attenuation of practical action. Rilke, on the other hand, reverses the subject/object relationship, and starkly brings forth the heart of the panther’s existence with a forceful proclamation: *to him* it is this way; and because this is so, his gaze can hold no more. For Michael, moving from point to point in his constellation of disharmony, these peregrinations must create for him what the passing of the bars creates for the panther. Viewed in this light, his paces to and fro, his loitering, all

emerge with a *newly seen* profundity. Spatiality in the encounter assumes an existential significance (cf. Bachelard, 1994).

As the author approached Michael in the convenience store parking lot, Michael closed the distance, not shrinking or shying from the contact, but acting so as to cement its inevitability. An announcement of presence, a gesture of free will – all of these may be found convincingly in Michael’s apparently simple act of approach. The “dance” that ensued between Michael and the author – the exchange of handshakes and greetings, the initial flurry of rough jocularity, gave expression to a presence that used to assert itself with far greater force. These actions are the analogue of the panther’s “dance of strength” (“*Tanz von Kraft*”). There is also for Michael, as for the panther, a center around which the dance occurs, a center “in which a great will stands numbed” (“*in der betäubt ein großer Wille steht*”).

The verb “*betäuben*” carries a special relevance for understanding Michael’s situation, given its varying connotations of intoxication, deadening, or anaesthesia. In German, one of the terms for a narcotic is “*Betäubungsmittel*,” literally, a “means of deadening.” For Michael, everyday life consists largely of wandering within the confines of his foreshortened horizons, and seeking the means to deaden himself against the effects of his own actions. The endless circling continually unfolds around a center, which perpetually seeks to escape the knowledge and awareness of its predicament. The will is thus not so completely numbed as to have forgotten its own existence. To the contrary, it is the void and pain between states of numbness that gives impetus to the search for escape, which for Michael can be held in his hand, in the form of a crack pipe or an oversized bottle of cheap malt liquor.

“*Nur manchmal*” – “only sometimes:” once in a while, there comes a moment when the “great will” gains a degree of energy or self-confidence, by means of which it imagines fleetingly that it might regain what it has lost. The narrative above describes how the encounter seemed to arrive at a crucial point when the author suggested to Michael that he take some steps to “keep

David in line.” Momentarily, perhaps, at the sound of this suggestion, Michael might have realized a notion of his own erstwhile power and reputation. The author knew that as a longstanding presence on the neighborhood streets, Michael had a degree of credibility, albeit one that had diminished in recent years. In any event, Michael found himself presented with an acknowledgement of his credibility, or a certain recognition of his authority. At the same time, however, this recognition conveyed the acknowledgement that this was largely attributable to Michael’s own transgressions.

Perhaps, as with the panther, an image entered Michael’s mind, as he looked at David and the author. The image expanded as the mind reflected upon its possibilities – here was the moment when Michael turned to David, and offered an impromptu bit of avuncular advice. Michael might have recalled within himself for an instant another time, when he had been genuinely jocular and sociable. He used to seek out the author, waving to him as he drove by, and engage him in conversation from time to time. Now, it appeared almost as if Michael sought to erase these memories; or, perhaps he had just grown more wary of the author, or was even embarrassed to talk with him. The encounter above was one of the more amiable contacts between the author and Michael for some time; yet, it still had a marked quality of strained artificiality. Did Michael, for a fleeting moment, envision a way out of his captivity, and sense the possibility of a restoration of self and dignity? Perhaps; although it seems, as with the panther, when it entered his heart, that vision ceased to exist.

Michael’s gaze is the panther’s: the alienation and fatalism with which the panther looks out, *as if* (“*als ob*”) there were no world “out there,” corresponds to the modern, urban landscape, where the foreshortened horizon of a disenchanting world blends imperceptibly with the bars of a Weberian “iron cage.” Michael’s inner laceration, instantly palpable in the dissonance between his aggressive, proud handshake and the feebleness of his watery gaze, is matched to no small



degree by the paradox embodied in the armed, uniformed bureaucrat, whose outward trappings of power hold forth a promise of solace, which is never delivered.

What, then, does one “truly see” in standing before Michael, and how does the police officer translate that vision into “facing the facts” of a social crisis? One answer might be found in the circular structure of “The Panther” (see Brodsky, 1988:88). The German text begins and ends with a pair of homonyms: respectively, “*sein*” (his) and “*sein*” (to be). The reader is thus brought back to the same point of departure, following the paces of the panther. In the encounter between Michael and the author, the final moment is one of mutual dissatisfaction and vague melancholy. Here, the experiences of the author and Michael elide into something that cannot be explained by empathy alone. As “The Panther” shows, what is seen determines the possible range of responses to the presence to which one bears witness. The amazing power of Rilke’s way of seeing lies in its disclosure of the ontological qualities of ordinary action. From this, it is possible to gain a perspective from which complacency, indifference, and routinization might be overcome, or at least contextualized. “You see how difficult it becomes,” wrote Rilke, “when one tries to get very close to the facts” (1985:82).

Having gotten “close to the facts” of Michael’s situation, many of the author’s colleagues view him with a pathos that makes them decline to take all but the most necessary enforcement action against him, and to chide their peers who do. With the same view in mind that would regard the “hunting” of a caged panther as intrinsically unjust, and devoid of challenge for the hunter, most of the author’s colleagues have in recent years intentionally passed up opportunities to arrest Michael. The author himself thinks along these lines, which has led him on more than one occasion to drive right past Michael with the knowledge that he had an outstanding arrest warrant. On other occasions, he has merely reminded Michael casually that he needs to remember to show up for his court dates.

One afternoon approximately a year after the author's encounter with Michael and David, two of the author's colleagues arrested Michael for a misdemeanor warrant, apparently because they needed an "easy stat." They were later chided by one of their peers, who demanded to know why they were "messing with Michael," and wasting their time arresting him for a "chippy, bullshit warrant." They also inveighed against the officer who had issued the original citation for property damage that resulted in the warrant. From a supervisory and personal standpoint, the author voiced his agreement with the position that Michael ought to be left alone, unless he did something violent. This episode suggests how a practical instance of everyday police discretion, when viewed from a phenomenological standpoint, reveals varying forms of attentiveness to the nuances of human presence. These forms, as will now be shown, vary according to the creation of meaning, by means of which the presence of other human beings assumes significance.

### **Encounter #7-2, Sunday Morning at a Crack Motel**

On an uncharacteristically busy Sunday morning, I responded to assist several colleagues at a residential motel with a reputation for chronic drug dealing, prostitution, and other criminal activity. My fellow officers had responded to the motel after a woman called 9-1-1 to report that her adult granddaughter, Jennifer, was at the motel, and was suicidal. The woman told the 9-1-1 operator that Jennifer was addicted to crack cocaine, and was depressed, apparently because she had run out of drugs and money. The woman was concerned for Jennifer's welfare, and asked that officers find her. Unfortunately, the woman did not know Jennifer's room number, which left the responding officers to figure out in which of the dozens of rooms at the motel she might actually be staying.

One officer who responded to the call had received information that a wanted fugitive was dealing crack cocaine out of one of the rooms. While keeping the room under surveillance in hopes of catching him, the officer had noticed several people milling about inside it. He thought it would be worthwhile seeing if Jennifer was in the room. With assistance from another officer, my colleague checked the room and did, indeed, find Jennifer, along with two other young women. The wanted fugitive was not there, although his wallet and driver's license were lying on the counter in the kitchenette.

By the time I arrived at the motel, two officers were leading one of the women away in handcuffs. They had arrested her for an outstanding warrant, which had been issued after she failed to appear in court on a prostitution charge. I walked upstairs to the room, where two other officers were waiting, along with Jennifer and the other remaining woman, Paulette. The room was strewn with clothing and assorted personal belongings. Crack pipes, syringes, and condom wrappers were

everywhere. A cabinet in the kitchenette contained baking soda, a scale, butane torches, and other paraphernalia used to make and smoke crack cocaine. A walkie-talkie sat on the dresser by the front door: it was probably used by a lookout to report the comings and goings of customers, and, more important, police cars.

Jennifer lay silently on one of the beds, curled up in a fetal position. She was semiconscious, and could barely speak. It was obvious that she desperately needed to get high. Paulette scratched feverishly at the scabs that covered her entire body. According to her driver's license, she was twenty-four years old, although she looked closer to forty. I asked her how long she had been using drugs. "Forever," she deadpanned. I told Paulette what she already knew: that hanging out with a violent felon who was selling crack and prostituting her was a sure path to disaster. "Look," she snapped angrily, "I know I have a problem, ok?" I told her that I wasn't trying to lecture her, but was only attempting to understand her situation. "How can you understand me?" she asked, "I don't even understand myself."

Paulette was utterly annoyed by the police presence in the room. She tried to climb into one of the beds, but I would not let her, for fear that a weapon might be hidden beneath the blankets and clutter. "One of the other cops already looked, ok?" she said in an annoyed, impatient tone. After confirming this with one of my colleagues, I told Paulette that she could get into the bed. She dismissed me with a vexed glare, and protested that she had to check out of the room within an hour. As my colleagues finished searching the room for evidence, drugs, and weapons, I stood by, watching Paulette, who in turn watched me, all the while sitting in a chair and nervously scratching herself. My colleagues eventually amassed a large quantity of paraphernalia. We later disposed of it without filing criminal charges, which we knew would consume time and paperwork, and accomplish absolutely nothing.

Since Jennifer had made threats to kill herself, one of the officers drove her to the hospital for a psychiatric screening. All three of us knew that she would be right back on the street within a few hours. Paulette remained alone in the room. She sat forlornly on the bed, staring at the heaps of clothing strewn all around her, and reflected upon the impending arrival of the motel's checkout time. "I've got an hour to pack up all this shit and check out," she said in exasperation. It was obvious that the fugitive crack dealer had left it to Paulette to gather up all of his belongings for a later rendezvous.

I tried to end the encounter on a note of optimism, however farfetched. "You're not fooling me, I know you're really a nice girl," I said to Paulette with a smile as I walked out the door. Paulette chuckled gently. Once out of her earshot, I turned to one of my colleagues and said to her, "gee, I bet now she's going to quit smoking crack." "Well," I added, trying to refute my own sardonic statement, and before she had a chance to answer me, "all we can do is try."

Later that afternoon, officers found Paulette and the woman with the warrant sleeping in the fugitive crack dealer's car on a side street behind the motel. Paulette had checked out of the room, and the arresting officers had released the other woman after the agency that had issued her arrest warrant declined to pick her up, probably due to a lack of jail space. A short while later, the fugitive and another man showed up. A high-speed pursuit ensued, during which the fugitive

drove the wrong way up an interstate freeway. He was eventually captured and returned to prison. The women were interviewed, and once again released. They had been “handled” by the system one more time, yet again with no attention to the underlying causes of their situation.

### **Encounter #7-3, Cecilia & Albert – “Crossing the Threshold”**

Early one weekend morning, a colleague and I responded to an assault at an apartment complex. A maintenance worker told me he had heard sounds of fighting from inside one of the units. He entered the apartment, and saw a man striking “Cecilia,” the tenant who lived there. The worker pulled the man from the apartment and chased him off. I found the man sitting on the curb at the entrance to the complex. I recognized him from a couple of recent contacts as “Albert.”

I recalled that Albert suffered from a heroin addiction and a host of mental disorders. Among other things, he experienced hallucinations. Albert also had an odd penchant for collecting women’s cosmetics. Beside him on the curb where I had found him sitting was a large, plastic garbage bag, which overflowed with clothing and other belongings. When I tried to speak with Albert and pat search for weapons, he became agitated and tried to pull away from me. My colleague and I took him into custody after a brief scuffle.

Once we had safely secured Albert in the back seat of a patrol car, I went to contact Cecilia at her apartment. She opened the door cautiously. The apartment was filthy, with the floor barely visible beneath the clutter. Cecilia looked pale and horribly sick. Like Albert, she was addicted to heroin. She also told me that she had severe, chronic medical problems, for which she was taking numerous prescription drugs. Cecilia said that she was not romantically involved with Albert, and characterized him as being “just a friend.” She told me Albert had been visiting her, and had tried to steal her cash and pain medications. Cecilia said he assaulted her when she tried to stop him. Cecilia did not complain of any injuries. She said she felt sorry for Albert, and did not want to press charges; she just wanted me to retrieve her money and medications.

Cecilia cried as we spoke. I explained to her that Albert was in custody, and that she had nothing to fear. I asked her what was upsetting her so much. Cecilia shook her head for a moment and then replied, “Nothing, I’m just so sick.” I went outside to retrieve her cash and medications, which my partner had found in Albert’s coat pockets. I returned to Cecilia’s apartment and gave her the money and pills. She set them aside and thanked me. Cecilia was still crying. I asked her if she would be all right after I left. She looked at me silently, and then reached out, took one of my hands with both of hers, held it to her cheek, and closed her eyes. I did not say anything. After a few moments, she released my hand. I asked Cecilia if she wanted me to stay for a while. She shook her head, and I left. Given his apparent lack of mental competence, and Cecilia’s refusal to press any criminal charges, Albert was taken to the hospital for a psychiatric evaluation instead of being booked into jail.

To the extent that Cecilia, Albert, and the women in the motel room were subjected to a bureaucratic process of typification, which allowed them to be approached as “addicts,”

“criminals,” or “dopers,” the whole of their presence was reduced to a manipulable abstraction, one that was engaged specifically in terms of its presumed relation to the larger phenomenon of the “drug problem.” These individual human beings came to be viewed as the *incidental embodiment*, or abstract “subjects,” of which the various properties of the “drug problem” are predicated. The term “incidental” demands special attention because of its dual significance in the context of police-citizen encounters: first, it signifies the happenstance quality attributed to human presence, and second, it alludes to the mode in which that presence is encountered, namely, in the context of bureaucratically defined “incidents.” Human presence engaged “incidentally” thus finds itself diminished in the face of instrumental rational action, which is interested only its manifestation of certain properties deemed significant for resolving the assessed matter at hand.

Recalling Schutz’s analysis of “typification” and the “suppression of primes,” (Schutz, 1962:59-60; 1970:116-122; and see above, Chapter 2), it is important to emphasize the occurrence of these processes in and through language. Given the linguistic nature of typification, it is possible to elaborate upon Schutz’s idea by showing how typification is intrinsically a *poetic process*, insofar as it involves the creation of meaning (*poiesis*). This elaboration will use the interpretive lens of Wallace Stevens’ poetry to identify and explain poetic aspects of typification in the encounters with Cecilia and Albert and the women in the motel room. The analysis will focus upon the *role of metaphor* in the translation of human presence into a bureaucratic problem.

Bureaucratic police praxis in drug-related encounters reflexively acts to typify and encipher human presence into the abstract entity of “the dooper.” “Dopers” are merely the incidental human vessels within which the various forms of drug-related behavior are contained. Unlike other terms, such as “junkie” or “pusher,” which distinguish between users and dealers, the term “doper” is a generic category that encompasses the entire realm of people involved with

illegal drugs, whether as producers, distributors, consumers, or any combination of the three. This creation of official meaning in drug-related encounters rests upon the unexamined conflation of rhetorical tropes with the reality that they purport to represent. Following the dissertation's central claim, it will be argued here that this creation of meaning is an inherently poetic process: it is the essence of "policing as poetry."

Physically isolated in bleak spaces epitomizing the social atomism of modern urban life, the trio of women in the motel room and Cecilia and Albert were already, by virtue of their unitized *modus vivendi*, that much more amenable to being approached by the police as objects conveniently arrayed before the apparatus of bureaucratic praxis. In the episode at the motel room, officers encountered Jennifer, Paulette, and the third woman as the objectified embodiment of the phenomena of drug use and prostitution.<sup>102</sup> The three women were, for all intents and purposes, one more set of unpleasant objects that needed to be picked up and removed, like the crack pipes and used syringes that littered their motel room.

The contact with Albert unfolded in similar fashion. The way in which officers found him, sitting silently on the curb next to the trash bag full of his belongings, unsettlingly suggests how, for practical bureaucratic purposes, the man and the bag were similarly regarded as potentially dangerous social detritus – unhygienic and unpredictably harmful. In searching Albert's property and in searching him, the same clinical approach was taken: rubber gloves were worn to avoid possible contagion, and all due caution was exercised to avoid being stuck by hidden syringes, a good many of which were found. Similar procedures had been used in dealing with the women in the motel room. The question at issue here is not one of challenging the incontestable need for these types of safe tactics and operational procedures, so much as it is one

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<sup>102</sup> The author has intentionally left the third woman unnamed, even by a pseudonym, to highlight the ultimate bureaucratic insignificance of her identity, other than as an official means of facilitating problematization.

of understanding the comportment towards human presence that makes such practice unfold with apparent logic and precision.

Police officers' abilities to manage human presence, physically and emotionally, in calculative and predictable ways, helps to ensure the efficient attainment of what bureaucracy regards as order and control. Therefore, officers are constantly on guard against various attempts, either intentional or unintentional, to subvert their efforts at problematization. However, the author was caught completely "off guard" by Cecilia when she took his hand. The ensuing silence was stark and awkward. With her simple gesture, Cecilia transcended the logic of problematization, and made manifest a sign of the wholeness of her human presence. Her action of "reaching across" instantly nullified her bureaucratic translation into a "subject," and retranslated it back into the form of co-presence. As the encounter with Cecilia so powerfully illustrates, the human presence of the person addicted to drugs, which is efficiently eclipsed by the overshadowing effects of bureaucratic problematization, can nonetheless still assert itself in the most unpredictable of ways. Cecilia's gesture shows how the simplest gesture can call into question the entire ontological foundation of bureaucratic praxis, and unconsciously unravel the metaphors that it uses to problematize those whom it encounters.

### ***Wallace Stevens and the Limits of Metaphor***

The work of Wallace Stevens offers a means of gaining a deeper understanding of the ultimate ineffability of human presence, and of relating that ineffability to the intrinsic limitations and disjunctive qualities of metaphor, of which bureaucratic problematization represents a particular instance. Stevens' poetry has been widely acclaimed for its meditative explorations of the relations between world and consciousness, self and other, and fiction/imagination and reality (see, for example, Baird, 1968; Hines, 1975; and Leonard and Wharton, 1988). This points directly to its potential for shedding light upon the kinds of "ruptures in the ordinary," which are

manifest within the encounters that the author had with Albert, Cecilia, and the three women in the motel room.

Stevens' poetry questions categorical notions such as objectivity, subjectivity, and intersubjectivity (Leonard and Wharton, 1988:12). This deconstructive (or, to use Stevens' terminology, which he drew from Simone Weil, "de-creative") perspective offers crucial insights into the relationship between language and the continuous creation of meaning that defines the poetic aspect of the human comportment towards the world (Stevens, 1997:750). Following a brief overview of the phenomenological perspective that a number of critics have identified as a key aspect of Stevens' work, passages from one of his major poems, "Notes Toward a Supreme Fiction," together with several of his shorter works, will be used to consider how the encounters with the Albert and Cecilia and the three women may be understood as representations of the "poetry of policing."

The potential interpretive value of Stevens' poetry for a phenomenological aesthetics of encounter finds strong evidence in his own words, which he inscribed in a copy of his collected works that he gave as a gift:

"When I speak of the poem, or often when I speak of the poem, in this book, I mean not merely a literary form, but the brightest and most harmonious concept, or order of life; and the references should be read with that in mind." (Vendler, 1984:5, quoting from Brazeau, 1983:290)

As these lines suggest, Stevens' work is especially germane for a phenomenological exposition of everyday praxis, because of his fundamental commitment to the idea that poetry occupies a central role in the disclosure of truth. Moreover, Stevens remains constantly attuned to the relation of his poetry to the world it seeks to depict, a stance that suffuses his prose with a sublime, metapoetic quality (see Bloom, 1977). This is all the more reason why Stevens' translation into poetry of what he saw in "watching the shining of the commonplace" (Kermode, 1980:273) incorporates reflections on the gesture of translation itself – on its power, as well as its



limitations. Beyond his poems themselves, Stevens also wrote extensively on the nature of poetry and poetic truth, and did so, moreover, from a standpoint that bears marked affinities to phenomenological thought.<sup>103</sup>

The philosophical dimensions of Stevens' poetry are a long-standing topic of critical discussion (*e.g.* Riddel, 1965; and Doggett, 1966). Within that context, substantial attention has been paid to the affinities that many commentators find between his work and phenomenology (*e.g.* Cambon, 1963; Macksey, 1965; Bové, 1980; Leonard and Wharton, 1988; Naylor, 1988; and McMahon, 1990). The relation between phenomenology and Stevens has also been reciprocal: phenomenological approaches have been used to explicate his work (*e.g.* Riddel, 1965; and Hines, 1975), and Stevens' work has been used to illustrate phenomenological arguments (*e.g.* Ziarek, 1994, and Natanson, 1998).<sup>104</sup> Vendler (1984), Filreis (1991), and Rader (1997) each read in Stevens' poetry a conscious attempt to engage the realm of everyday existence. Stevens' poetry draws many of its insights from a suspension of the everyday comportment towards the world, as a result of which the deeper reality of ordinary existence becomes visible (Murphy, 1997:4-5).

"Notes Toward a Supreme Fiction" represents the apogee of Stevens' metapoetic works, and also ranks among his most philosophically rich poems.<sup>105</sup> The "supreme fiction" is nothing other than poetry itself.<sup>106</sup> In characterizing poetry as the "supreme fiction," Stevens does not mean to suggest that it is false, or the mere product of imagination (Naylor, 1988:47-53). Rather, this characterization acknowledges Stevens' own awareness of the imperfections of poetry, or any

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<sup>103</sup> See, especially, *Adagia* (1997:900-915), *Materia Poetica* (1997:916-920), and *The Necessary Angel: Essays on Reality and the Imagination* (1997:639-751).

<sup>104</sup> Perhaps the strongest concrete tie between Stevens and phenomenology lay in his friendship with the French phenomenologist Jean Wahl (see Jarraway, 1993:175). See, also, Kermode (1980:256-273) for a discussion of Stevens' commonalities with Hölderlin and Heidegger.

<sup>105</sup> For critical analysis of the poem, see Baird (1968), Hines (1975:138-212) and Bloom (1977:167-218).

<sup>106</sup> See Steven's earlier work, "A High-Toned Old Christian Woman," in which he wrote, "Poetry is the supreme fiction, madame" (Stevens, 1997:47).

other attempt to grasp the ultimate nature of the world.<sup>107</sup> This metapoetic awareness, viewed phenomenologically, suggests that the mere awareness of this imperfection points, however obliquely, to an intuitive sense of the wholeness of being that eludes total circumscription.

By extending these thoughts on the limits of poetic language to the notion of “policing as poetry,” what has until now unquestioningly regarded itself as an objective and neutral approach to human predicaments emerges in a new light, as a kind of practical “fiction” that creates bureaucratically significant meanings out of the existential totality of encounters. Those meanings are created by way of a metaphoric transformation of human presence, which renders it approachable as an object or problem. The idea of “policing as poetry” makes it possible to understand the interpretive dynamics of bureaucratic problematization as a kind of *metaphoric approach to human presence*. There is, then, a hidden metaphorical quality that inheres in bureaucratic praxis. In view of philosophical analyses of metaphor (see, especially, Lakoff and Johnson, 1980 and Ricoeur, 1977), this conclusion is not as radical as it might seem.

As a poet, Stevens consciously attends to the nature and complexities of metaphor in his work. Stevens’ poetry stands as a meditation on its own inherent limitations, especially as they unfold with respect to the disjunctive qualities of metaphoric language, which can violate the ontological integrity of that which it seeks to describe when it fails to grasp the limitations of its own gesture. Unlike philosophical and poetic thought, fields of praxis such as mainstream social science and modern bureaucracy proceed according to the naïve assumption that their enterprises are self-transparent and self-correcting (see above, Chapter 2). Poetic language such as Stevens’ consciously reflects upon its own ultimate epistemological, metaphysical, and linguistic horizons. This represents the heart of its critical value towards the development a phenomenological critique of bureaucratic praxis. While it hardly need be said that formal poetry differs

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<sup>107</sup> One of the best summations of Stevens’ view of the limitations of poetry may be found in the final lines of “The Poems of Our Climate:” “The imperfect is our paradise./Note that, in this bitterness, delight,/Since the imperfect is so hot in us,/Lies in flawed words and stubborn sounds” (1997:178-179).

fundamentally from the language of bureaucratic policing, the magnitude of the difference between them affords an opportunity for a radical kind of thinking, which challenges the presumption of neutrality and objectivity that is absolutely central to the enterprises of mainstream social science and its allied forms of social praxis.

To consider policing as poetry is consciously to reflect upon the remarkable power of bureaucratic praxis to accomplish in the arena of everyday life what formal poetry brings about through the use of metaphor, namely, *the transference of the name of one thing to another that is altogether different from it* (see Aristotle, *Poetics*, 1457b7-25). Classical rhetoric distinguishes metaphor from simile, in that a metaphoric comparison does not use the terms “like” or “as.” Rather, the comparison is one that has an explicitly ontological character. The nature of metaphor is such that its figurative power can transform unnoticed into a means of displacement. The functioning of metaphor becomes clearer by noting that the Greek term “*metaphorā*” is rendered into Latin as “*translatio*.” This sense of metaphor as translation – literally, a moving or carrying across – has been taken up by Derrida (1975), who is especially interested in the unspoken role of metaphor in philosophical language. Brogan (1986) and Parker (1983), in turn, have specifically applied Derrida’s analysis of metaphor to Stevens’ poetry.

### ***Apartments of Misery***

On the basis of the preceding discussion, we may consider in concrete terms how a metaphoric translation of human presence occurred in the police encounters with Albert and Cecilia, and the women in the motel room. The logic according to which each of these people came to be identified as the “subject” of an investigation located them within an interpretive context that served as the basis for deciding how they would be “handled.” This was achieved by substituting for the identity of each person an objectified presence, determined by interpretive schemes of the “drug war,” and suited to its various options for bureaucratic action. The various forms of resistance by the people upon whom this process is enacted, such as Paulette’s acerbic,

disdainful manner, are rarely taken as signs of any limitations inherent within the metaphoric transformations of problematization: quite the contrary, resistance reconfirms their validity – “they’re just a bunch of dopers, what do you expect?” The efficient, metaphoric transportation of human presence over to the classificatory schema of the “drug war” proceeds unfazed when literally faced with such opposition. As this process unfolds at the scene of an incident, officers decide who among the “subjects contacted” will be kept, and which of them will be “kicked loose.”

Albert was initially judged to have committed a crime; however, because of officers’ interpretations of his mental state and Cecilia’s express unwillingness to pursue charges, he could not be taken to jail. Nevertheless, his behavior (physical resistance to officers, delusional actions) defined him to the officers as a threat; and simply releasing him also would have posed an unacceptable liability. In the end, they took him to the area hospital, where he was screened in the emergency room for psychiatric problems and a drug overdose. The officers knew from experience that Albert would be right back on the street within a few hours; however, the decision to “hand him over” to the health care bureaucracy had at least left them “covered.” Officers had no probable cause to charge Jennifer with a crime. Since she was under the influence of cocaine, and had threatened to kill herself, she went to the hospital. The unnamed woman from the motel room was taken to jail for her warrant. Paulette and Cecilia were left to their own devices.

The manifest futility of the police action taken in these two “drug war” skirmishes is apparent in the fact that two of the three women from the motel room were re-contacted by officers within a few hours. Beyond engaging such obvious issues of bureaucratic efficiency at the operational or political level, the question that really remains to be answered is this: what truly was known about the individual situation and predicament of each of the persons in these two encounters?

To see what lies behind the seemingly commonsense approach of bureaucratic praxis, as it unfolded in the event in the motel room and Cecilia's apartment, we may adopt the stance urged by Stevens in the opening canto of "Notes Toward a Supreme Fiction:"

You must become an ignorant man again  
And see the sun again with an ignorant eye  
And see it clearly in the idea of it. (Stevens, 1997:329)

Stevens' use of the term "ignorant eye" is deliberately ironic: the "ignorance" of which he speaks is the result of attaining a vision of reality that sees through and beyond the ideas that the mind has used imperfectly to describe it, by attempting to name what is ultimately ineffable. What Stevens is prescribing here corresponds closely to the phenomenological *epoché* and its process of bracketing or suspension (see Hines, 1975:145-146; cf. Baird, 1968:279-280).

Once the eye sees the sun "with an ignorant eye," the wholeness of the sun's presence overwhelms the names with which its existence had hitherto been conflated. Reality eclipses metaphor:

How clean the sun when seen in its idea,  
Washed in the remotest cleanliness of a heaven  
That has expelled us and our images. . . (Stevens, 1997:329)

The myths and metaphors that previously attempted to capture the sun thus wither in the face of its light:

Phoebus is dead, ephebe. But Phoebus was  
A name for something that never could be named.  
There was a project for the sun and is.  
There is a project for the sun. The sun  
Must bear no name, gold flourisher, but be  
In the difficulty of what it is to be. (Stevens, 1997:329-330)

To name the sun is to delimit what ultimately defies being bounded, for its "project" exceeds what can ever be said of it. To call the sun "Phoebus" (or, for that matter, to call it "a body of superheated gases") is to try to make reality conform to the limits of the mind's ability to name it. In the end, however, truth evades containment in names or myths. The duty of the mind, then, is

not to bend the world to its will, but to know it through an openness that allows it to be “In the difficulty of what it is to be” (see Hines, 1975:148-149).

Stevens recognizes, of course, that all language uses names and metaphors – witness the ironic insertion of the metaphor “gold flourisher” into his admonition against naming the unnamable (see Hines, 1975:148). His words do not repudiate the poetic gesture, but in their metapoetic stance of metaphoric language reflecting upon its own limits, provide a description of the posture of solicitude that should be poetry’s approach, if it is harmoniously to elicit from the world something of its truth. Elsewhere, in “The Poems of Our Climate,” Stevens characterizes the nature of the milieu that is the “climate” in which human beings find themselves existing:

The imperfect is our paradise.  
Note that, in this bitterness, delight,  
Since the imperfect is so hot in us,  
Lies in flawed words and stubborn sounds. (Stevens, 1997:178)

The modern logic of controlling and dominating the whole of reality, and the application of that logic in the social world, clashes headlong with the kind of thinking expressed in Stevens’ words.

His reflections upon the imperfections of metaphor obviously bear directly upon the bureaucratic approach to human predicaments, and its practical application through the “poetry of policing.” Suppose now that the police officers who encountered Albert and Cecilia, or the three women in the motel room, were to assume the stance of Stevens’ “ignorant man,” in order to reveal the metaphoric processes informing their approach. From this new vantage point, which is essentially phenomenological in its orientation, it becomes possible to suspend the interpretations ordinarily attached to the most mundane aspects of these encounters. Suddenly, something as naturally taken for granted as the physical setting of the encounters discloses its ontological foundations, and leaves us astonished:

It is the celestial ennui of apartments/That sends us back to the first idea  
(Stevens, 1997:330)

To perceive the blandness and isolating vacuity of drab human dwellings as “the celestial ennui of apartments” is to discern something far more elemental about the state of existence in which Cecilia, Albert, and the three women in the motel room live out their days, than can ever be said in the matter-of-fact language of bureaucracy. It is, in the most radical way, “to approach the scenes” of the two encounters, other than with respect to their precise location in the abstract, rationalized, Cartesian space of computerized police dispatch grids.

“The celestial ennui of apartments” evokes the isolation of modern, urban life, marked as it is by a stark *apartness*, whose architectural embodiment is the apartment. The regulation of social order in this eerie configuration of human beings, each one existing in a “world apart” from the others, falls disproportionately to the police, who are called upon to handle the “ennui of apartments” and all that it engenders. Applying this kind of attentiveness to the phenomenological interpretation of the outwardly unproblematic “scene” of police-citizen encounters demonstrates what may be accomplished in following Stevens’ use of poetry to solicit meanings out of space that might otherwise remain occluded.<sup>108</sup>

In the present context of the encounters with Cecilia and Albert and the women in the motel room, the physical setting of each episode manifests an innate ontological relation to the forms of praxis carried out within it. The anonymity and isolation of modern social space shape the practical nature of the police response, right down to the need to determine in an orderly

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<sup>108</sup> Stevens’ idea of the “celestial ennui of apartments” invites a close comparison with Rilke’s description of a house in *The Notebooks of Malte Laurids Brigge*, which Heidegger quotes at length in *The Basic Problems of Phenomenology* (1982:171-173) as an example of a poetic disclosure of being-in-the-world. Stevens had a keen interest in the relation between spatiality and modernity, and its manifestation in the nature of modern dwellings. The significance for Stevens of the “celestial ennui of apartments” becomes even clearer in light of his comments upon the alienating quality of urban life: “The way we live and the way we work alike cast us out on reality. If fifty private homes were to be built in New York this year, it would be a phenomenon. We no longer live in homes but in housing projects and this is so whether the project is literally a project or a club, a dormitory, a camp or an apartment in River House” (Stevens, 1997:652). See Bloom (1976:178-179) for further discussion of Stevens’ remarks. It is also worth noting here the connection between Stevens’ interest in the poetic quality of space and his reflections upon art. Most important in the context of the dissertation is Stevens’ fascination with the work of Paul Klee (see Vendler, 1984:3-4). For a discussion of the similarities between the work and thought of Stevens and Klee, see Feinstein (1992:64-81).

manner in which lonely motel room a lonely woman could be found. Yet, the success of the response, as measured by Jennifer's being located, and then relocated, did not attend to her presence in other than in an objective manner. The "problem" of Jennifer's crack cocaine addiction, brought to the attention of the police via a cellular telephone call from her grandmother, received secondhand the panicked anguish of a young woman, entrusted to perhaps the one person in the world whom she knew loved her, and translated it for rebroadcast as a problem: "go find the suicidal drug addict in the motel room." In the encounter with Cecilia, her gesture of reaching beyond her doorway turned it into a threshold that she could only dream of crossing. Although it was true that Albert was gone, and that she had gotten back her stolen medications, the moment of calm that marked the author's initial attempt at ending the encounter turned quickly to despair: as if animated by the crushing realization of still "being here," Cecilia reached out to seek from human presence what bureaucratic presence had failed to give.

One way to summarize the shortcomings of bureaucratic praxis in its encounters with Cecilia, Albert and the trio in the motel room is to say that, in their capacity as bureaucrats, the responding officers did not *realize* the nature of the predicaments before them. Within this context, "realizing" is not the act of making real, in terms of actually creating an entity itself, but is the act of creating meanings commensurate with the nature of the approach being taken towards the presence one encounters. To reiterate what has already been said, the creation of meaning is, in a strict sense, a form of poetry; and what it produces exists largely as metaphors. Policing as poetry creates meaning, albeit of a kind oriented toward fulfilling the bureaucratic mandate of making decisions *sine ira ac studio* (Weber, 1978:975). Thus, in the poetic processes that shape its approach, bureaucracy in effect *realizes* very little of the existential complexity of the quandaries it encounters, because its ontological stance precludes it from doing so.



The ensuing situation, which characterizes the self-fulfilling inefficacy of a bureaucratic approach to an intricately complex, multifaceted social predicament such as drug addiction, finds apt expression in “Notes Toward a Supreme Fiction”:

Not to be realized because not to  
Be seen, not to be loved nor hated because  
Not to be realized. (Stevens, 1997:333)

Stevens points here to a hollow inattentiveness to the presence of the other person. The presence we fail to realize is the presence that our approach has precluded us from seeing; and what we fail to realize is neither loved nor hated, but is simply ignored and passed over in silence. In the end, for Stevens – and here his argument bears a clear relation to the idea of the hermeneutic circle – inattentiveness to the world traces itself back to the metaphors that are used to describe it: we do not name what we do not see, and vice versa.

Ultimately, then, the creation of meaning is inseparable from the self-interpretation that it confers upon its own approach. This is the metapoetic narrative either overtly or cryptically contained in any body of discourse. In Stevens’ metapoetics, language heeds its own limitations:

But to impose is not/To discover. (Stevens, 1997:349)

Such a sentiment is the antithesis of the bureaucratic approach, and its intertwined dynamics of knowledge and control. Steven’s dictum is exemplified in the remarkable quality of police bureaucracy to control so much while knowing so little.

As a political or sociological argument, the preceding point may suffice to explain the limitations of police praxis in situations such as drug-related encounters. However, for the purposes of a phenomenological aesthetics of encounter, it still remains to consider how these limitations are themselves an indication of the existential nature of human presence, on the basis of which it resists reification. Stevens’ “Study of Two Pears” (1942/1997:180-181) offers a phenomenologically oriented meditation on the intrinsic resistance of presence to containment

through metaphor, analogy, or classification (see Baird, 1968:189; Hines, 1975:99; and Eeckhout, 1999):

*Study of Two Pears*

I

Opusculum paedagogum.  
The pears are not viols,  
Nudes or bottles.  
They resemble nothing else.

II

They are yellow forms  
Composed of curves  
Bulging toward the base.  
They are touched red.

III

They are not flat surfaces  
Having curved outlines.  
They are round  
Tapering toward the top.

IV

In the way they are modelled  
There are bits of blue.  
A hard dry leaf hangs  
From the stem.

V

The yellow glistens.  
It glistens with various yellows,  
Citrons, oranges and greens  
Flowering over the skin.

VI

The shadows of the pears  
Are blobs on the green cloth.  
The pears are not seen  
As the observer wills.

(© 1954 Alfred A. Knopf, reprinted by permission)

The pears may be described in a multitude of ways; however, they ultimately exceed all of the terms and means that might be used to capture their appearance: “They resemble nothing else.” The poem thus offers us a methodological meditation on artistic representation. The reader can discern that the pears appear in a painting. Even in their painted form, they still exceed the boundaries of aesthetic representation: “The pears are not seen/As the observer wills.” The pears emerge in the wholeness of their being, against all efforts to render them less than what they are.<sup>109</sup> As Eeckhout remarks in his analysis of the poem, “. . . a pear is a pear is a pear – and not a metaphor” (1999:7).

The further relevance of the poem lies in its metapoetic quality. It is written as a self-conscious poetic attempt to engage the presence of two pears – a presence that is already itself the “object” of aesthetic representation. As an interpretation of an interpretation, “Study of Two Pears” thus engages a range of hermeneutic questions that may obviously be extended to the analogous dynamic that occurs in social scientific or bureaucratic praxis, or, for that matter, in any forms of human interpretation.

Of course, as soon as one begins to speak of human beings, and not pears, an immeasurably more complex set of existential conditions obtains, which are grounded in the reflexive, reciprocal, and dialectical qualities of the poetic process. It is impossible to overstate the psychological, moral, and social intricacy of a moment such as the one that occurred when the author tried to speak with Paulette about her drug use, and was met with the response, “How can you understand me? I don’t even understand myself.” Like Cecilia’s reaching across the doorway, this astonishing utterance disrupted the logic of instrumental rational praxis by calling into question its approach, and thus, by extension, its entire foundational ontology. Paulette’s poetically structured self-interpretation became the object of the poetry of policing. In turn, the

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<sup>109</sup> For another phenomenologically oriented treatment of this theme, compare Stevens’ poem, “Thirteen Ways of Looking at a Blackbird” (1997:74-76).

resulting hermeneutic process becomes subsumed within another poetic creation of meaning, when it is approached as an object of intellectual attention, as it is in the pages of this dissertation.

A phenomenological aesthetics of encounter demonstrates how the “natural attitude” of bureaucratic praxis and its subsequent analysis by mainstream social science both remain effectively disengaged from such critical awareness. As the juxtaposition of Stevens’ poems with the encounters with Cecilia, Albert, and the three women in the motel room has shown, what passes as the bureaucratic or scientific objectification of the “drug problem,” or worse, as the “drug war,” is imbued with an essential poetic significance. To overlook this self-defining creation of meaning that is intrinsic to every form of action and expression is to foreclose the possibility of engaging precisely what must be engaged if praxis is to have any meaningful ameliorative effects. This argument obtains with equal force in encounters involving people in states of mental or emotional disharmony, which will be taken up in the next chapter.

## CHAPTER 8

# ENCOUNTERING THE DRAMA OF MENTAL AND EMOTIONAL DISORDER

*That instant traumatized my whole existence. Since. . . since then, I am no longer myself. . . I don't even know who I am.*  
(*"The Broken World," Gabriel Marcel, 1998:62*)

### ***Introduction***

Encounters with human beings in states of mental and emotional disorder are a ubiquitous aspect of the police officer's operational milieu (see, for example, Bittner, 1967b; Menzies, 1987; Teplin and Pruett, 1992; Webb and Harris, 1999; and Hendricks and Byers, 2002). These encounters range from relatively innocuous incidents, such as assisting a lost, senile person, who has wandered away from home, or reassuring someone suffering from moderate delusions, to violent situations involving suicide attempts with weapons, hallucinatory rampages, and the like. From a phenomenological perspective, which regards the ontological nature of human existence as a *standing out* ("ek-stasis," see above, Chapter 2), the urgency and intensity with which persons in a state of mental disharmony "stand out" from the rest of the everyday world define the conspicuousness that makes them the focus of police attention. Especially in modern society's environment of anonymity, a person whose comportment seems to indicate mental abnormality or disorder is often quickly "made the object" of bureaucratic intervention by the police.

The resolution of police encounters with people in states of mental and emotional disorder centers upon the task of working through intricate, and often conflicting interpretations, in order to arrive at a conclusion as to what is "really" going on, and of determining to the satisfaction of official standards what another person is "really" thinking. These encounters

therefore demand a dynamic comportment towards uniquely enigmatic kinds of human presence, whose actual, inner nature is particularly resistant to ready interpretation. Accordingly, across the entire spectrum of such encounters, the crucial demand facing the responding officers is that of establishing a meaningful rapport with a fellow human being, whose relation toward reality is, in one way or another, held to be at variance with the “natural attitude.” At the same time, officers must attempt to meet this demand with a view towards adhering to the instrumental rational processes of bureaucratic problematization, which ultimately ground the communicative process within the practical context of determining the underlying “fact of the matter.” The resulting untenable conflict pits the existential profundity of psychological disharmony against its abstract reduction to an objectified form that is expressed in official designations such as “emotionally disturbed persons” (“EDP’s”), “mentals,” or the radio code “220.”<sup>110</sup>

Seen critically from a phenomenological standpoint, such abstractions belie the monumental challenge for the police officer of facing one’s fellow human beings, whose engagement with reality manifestly differs from the commonsense, intuitive comportment that is normally taken for granted in the shared experience of everyday life (see Bittner, 1990:63-88). Obviously, when an encounter is characterized by the participants’ radically dissonant comportments towards ordinary reality, the potential for confusion, misunderstanding, and violence can be very high. This circumstance defines the operational parameters of many police encounters with people who are in a state of mental or emotional disharmony, and suggests why the outcome of these encounters can at times even be fatal.

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<sup>110</sup> Emergency services personnel in many jurisdictions in the United States use the code “220” to refer to people who are judged to be insane or mentally disturbed. The term may be used to provide information about the actual nature of a call, for example, “there’s a 220 male out of control at City Park.” The term is also used to contextualize the ostensible nature of a call, in order to give a responding officer the interpretive means to reassess the complaint as unfounded or suspicious. For instance, an officer dispatched to “check for sounds of a prowler in an attic” might be told by a dispatcher or a fellow officer, “the complainant is a 220, who’s already called six times this month.” Finally, people who are deemed to be “on the borderline” of mental competence may be referred to using the unofficial radio code “219½.”

Drawing upon representations of emotional and mental disharmony taken from the dramas of Luigi Pirandello and Gabriel Marcel, this chapter develops some phenomenological insights into the nature of police encounters with people who are in the midst of psychological crisis. These insights will illustrate how police officers' attempts at bureaucratically resolving situations involving mental and emotional disorder reveal intrinsic tensions between the delimited conception of the human "subject" upon which the imposition of such resolutions depends, and the ineffaceable wholeness of human presence, which ultimately transcends all attempts at reification. Focusing on an encounter with a man having a flashback to an episode of wartime combat, the first half of this chapter takes up the topic of mediating between conflicting compartments towards human presence using Luigi Pirandello's play, "*Così è (si vi pare)*" ["Right You Are (If You Think You Are)]." The second half of the chapter develops this theme in further detail, by using dialogue from two of Gabriel Marcel's plays, "The Broken World," and "The Votive Candle," to interpret some concrete aspects of the objectification of human presence that occurred in an encounter with a man who had escaped from a psychiatric hospital.

Diverging from analyses that take for granted much of the descriptive and normative content of social scientific and clinical articulations of mental disorder, the phenomenological analysis presented here views such articulations as posterior to a more elemental (and often unacknowledged) engagement with human presence. The analysis in this chapter therefore purposely refrains from using, on their own epistemological terms, classifications such as "mental illness," "mental pathology," "insanity," "psychiatric disease," and categorical systems that are inconsistent with the theoretical notions central to a phenomenological aesthetics of human encounter. Rather than taking these categories for granted, the very bureaucratic process itself of purporting accurately to represent the "actual state" of human being comes under consideration,

within the context of encounters between the police and people in the throes of mental or emotional disorder.<sup>111</sup>

### **Encounter #8-1, Philip**

On a summer morning, I responded to the area high school with two of the officers on my squad for a report of a Vietnam War veteran having a combat flashback. I suspected that the person in question was Philip, who worked at the school as a janitor. Philip was widely regarded by teachers and students as a kind man with a troubled soul. Officers who had been assigned to duty at the high school all got along well with him, and knew he was someone whom they could rely upon for support and assistance. I had also spoken with Philip on several prior occasions, though not in recent years. I did recollect that he always kept a loaded pistol in his car. This was an obvious cause of immediate concern, which I shared via radio with the other two responding officers.

When my colleagues and I arrived at the school, staff members said that Philip had telephoned the school district's head office to report to his senior supervisor that he was experiencing a flashback, and asked to have a friend, who was also a co-worker, drive him home. The supervisor declined his request, apparently because it violated school liability procedures. Instead, she told Philip to stay on the phone, and said that she would call an ambulance. Philip panicked, and drove away on his own. School staff members reported that he had not made any threats to harm himself or anyone else; however, standard police protocols for "community caretaking" dictated that my colleagues and I make a reasonable effort to locate Philip and ensure that he was all right. One of my colleagues requested that an officer from a neighboring agency attempt to contact Philip at his house. He also began to gather the necessary information to have the communications center broadcast an "attempt to locate" for Philip, directing any officer who found him to stop him and check his welfare.

I left the school, and was driving back to the police station with the hope of taking a lunch break when I saw a car parked on the side of a main street, with its hazard lights flashing. Thinking that it was probably just a disabled motorist, I pulled directly alongside it to see if I could be of assistance. Doing this was an unsafe, tactical error, and I knew it, chiding myself in my mind: officers are taught never to pull abreast of another car, but always to park behind it, so it can be approached safely. I instantly realized that the driver of the car was Philip, and quickly backed up, placing my patrol car in a tactically advantageous position, about ten feet behind Philip's car. I told my dispatcher that I had located Philip.

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<sup>111</sup> General phenomenological critiques of clinical psychology and psychiatry (*e.g.* Heidegger, 2001; and Hersch, 2003) show how diagnostic praxis implicitly rests upon a notion of human presence that makes it available in the form of abstract or reified "subjectivity." In its cautionary rebuttal of the idea that the classification of mental disorders equates to the classification of people, the DSM-IV unwittingly reveals these metaphysical preconceptions in action, stating that, "what are being classified are disorders that people *have*" (1994:xxii, emphasis added). The DSM editors rightly note as well that diagnostic praxis depends upon "various levels of abstraction" (1994:xxi). To restate and summarize both of these claims in phenomenological terms, disorders are conceptualized as predicates inhering in the human subject, which is itself the unquestioned existential repository of symptoms and problems.



I used my patrol car's public address system to call out to Philip. At the same time as I was trying to initiate a dialogue, I drew my pistol and kept it at my side. I asked Philip if he was all right. "Hell no, I'm not all right!" he shouted. "I'm f-cked up, man!" I told him to put his hands out of the window of his car. He complied. I calmly told Philip that I just wanted to check on him, and assured him that he was not in any kind of trouble. I tried to overcome the impersonal nature of our incipient contact by appealing to our past encounters at the school. "It's Wender," I said, "you remember me, right?" Philip seemed unsure and became increasingly agitated. I asked him if he had his gun. "Yeah, it's right here, cocked and locked," he yelled.<sup>112</sup> This obviously did not bode well for the situation. I now trained my gun on Philip as he sat in his car. I requested back up, and asked the dispatcher to restrict radio traffic.

I told Philip to keep his hands extended out of the driver's door window, and asked him where in the car his pistol was located. "It's on the seat, next to me," he shouted back. Despite my orders, he then withdrew his hands into the car and said, "here it is." A moment later, he extended his left hand back out the window. A semiautomatic pistol was dangling from his index finger by the trigger guard. I could see that the hammer was back. Aside from the obvious concern that Philip might intentionally fire the pistol, I was equally worried that he might simply drop it, thereby possibly causing an accidental discharge. I ordered Philip to slowly place the gun on the roof of his car. Much to my relief, he complied. As all of this was occurring, another officer arrived to assist me.

As we held Philip at gunpoint, and ordered him to stay inside the car, the other officer and I began discussing how we could safely retrieve the gun from the roof without allowing Philip to get to it first. We decided that with help from other officers, we would have to approach the car from behind a ballistic shield, and take the gun, after which we planned to secure Philip. While we waited for more help to arrive, Philip opened the driver's door of the car, and got out. "Shit!" I muttered to the other officer, as we glanced quickly at each other, silently sharing the realization that we might end up having to shoot Philip. Philip stood between the open door and the car, within easy reach of the gun on the roof. The other officer and I trained our own guns on him, and told him not to move for the pistol. "Don't do it!" I loudly implored, "don't do it!" Philip stood there for a moment, looking very tense and bewildered. He then backed away from the open door, around the front of the car, and up onto the sidewalk. I immediately moved forward and took the gun from the roof of Philip's car. I unloaded it and locked it in an equipment vault in the trunk of my patrol car. Meanwhile, other officers had begun to arrive, and were trying to keep Philip contained on the sidewalk, in order to prevent him from "going mobile" – walking down the street uncontained.

Philip seemed utterly terrified. He looked rapidly and warily all around him, and moved tactically, like a soldier in battle. "Don't come near me! Stay back!" he yelled. He acted as if he feared being ambushed or attacked. He tracked every car that drove past him, and nervously watched officers' every move. My colleagues and I kept our distance, as we tried to find a way to contain Philip in a small area without provoking a fight. Not least of all were we concerned that he might have

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<sup>112</sup> "Cocked and locked" means that the pistol has a round in the chamber, and that the hammer is locked back, ready to fire.

another gun, or other weapon. Armed or not, Philip posed a serious threat in his own right: he was a large, burly man, and especially in his state of mind, would be extremely difficult to subdue physically. I finally succeeded in convincing Philip to sit down on the sidewalk, with his back up against a chain-link fence. Once Philip was seated safely, one of the officers, who knew him well from high school, established a rapport with him. The officer convinced Philip to surrender a knife that was in his pocket.

Philip then began to recount in intricate, vivid detail the incident in Vietnam that is the recurrent focus of his flashbacks. The helicopter on which he served as a door gunner was shot down over North Vietnam. When the helicopter was struck, one of his fellow crewmembers had been killed, and another had been gravely injured. Philip sobbed as he told the story. He recounted how he tried to hold in his friend's disemboweled intestines. "Guys," he said, looking at me and my colleagues, "there's twenty-five feet of intestines inside a man, and once they come out, you can't get them back in." After the helicopter crashed, Viet Cong soldiers began to close in on Philip and his injured friend. Philip hyperventilated and looked around as he continued his narrative. Philip's friend knew that he was going to die, and asked Philip to shoot him. Philip refused. His friend finally put his pistol to his temple, and asked Philip to help him pull the trigger. Philip ultimately relented. As Philip recounted this moment, he dissolved into sobs and told my colleagues and me, "guys, I helped my friend kill himself. I shot my friend."

As he concluded his horrific story, his attention seemed to move back and forth from what was obviously to him the palpable reality of "being in hostile territory," to recognizing the nature of his immediate physical surroundings. For several minutes, it seemed unclear whether Philip would focus on the immediacy of his presence with my colleagues and me, or remain within his state of terrified recollection. Just when he seemed to begin to calm down, an officer in an unmarked car came driving up the street, and turned his vehicle sideways to block traffic. This instantly provoked a reaction from Philip, who yelled at us, "get him out of here!" I told the officer to move further up the street, out of Philip's line of sight. He was obviously terrified of being cornered or ambushed, which is what had happened to him following the crash of his helicopter.

Philip was eventually able to tell my colleagues and me that he had medication in the car to control his flashbacks. An officer retrieved the pills, and gave them to Philip along with a bottle of water. Philip took several pills, and continued talking with us. Gradually, he began to calm down, as the flashback seemed to recede from his mind. He grew more and more directly attentive to his situation vis-à-vis the officers who were present, and began to apologize profusely as he realized what had transpired. "Guys, I'm so sorry, I'm so embarrassed," he said. We reassured him that no apologies were necessary. Philip requested that a co-worker from the school drive him home. One of my colleagues called her, and she arrived at the scene shortly thereafter. She said she had helped Philip before during other flashbacks, and expressed no concerns about being with him under the present circumstances.

At the conclusion of this encounter, after Philip was more or less "himself" again, I included him in an impromptu sidewalk debriefing of the incident. I asked Philip

how, in the event of future contacts with him of this nature, my partners and I could ensure a peaceful resolution of the kind reached in the present instance. Philip said, “well, you guys did the right thing; you gave me my space, and you stayed back behind cover.” I then asked Philip a pointed question, which I prefaced with the comment that I was not trying to offend him: “Philip, do you think that when you’re having a flashback like the one you had today, that you might be capable of shooting at us?” “Oh yeah, definitely,” he replied, without hesitation. “If you’d have come up to my car before, I’d say there’s a ninety-five percent chance I would have shot at you.” I told Philip that I appreciated his candor. As my partners and I had arranged, Philip’s co-worker took him home.

Later in the day, I completed the necessary paperwork to have Philip entered in an officer safety file, which would caution anyone who checked his name that he carries a gun, and has the potential to use it when he is experiencing a severe flashback. His comment haunted me for several days. There was an aspect of this man’s mind that could so overwhelm him as to lead him to violence, seemingly beyond all his volitional power. Several hours after the encounter, I telephoned Philip to see how he was doing. During the short conversation, he repeatedly apologized for having inconvenienced my colleagues and me, and expressed his embarrassment at his earlier conduct. I protested that apologies and embarrassment were not in order. A week later, Philip brought a bouquet of flowers and a card to the police station for my squad. The card thanked us for saving his life.

Viewed in the practical, operational terms of a police response, the key issues in the encounter with Philip demanding resolution were as follows: first, he had to be physically located after having driven away from the school; second, for reasons of community safety, it was necessary for officers to interpret his mental state and accompanying intentions, with a view towards evaluating his potential harm to himself and others; and third, the ensuing evaluation had to be translated into police action that would impose a bureaucratic solution. Together, these steps constituted the bureaucratic “approach” to the situation. The first step, of course, was serendipitously resolved when the author happened upon Philip while driving back to the police station. The second and third steps were unpredictable and dynamic, to a large degree because they were inseparable from the tactical exigencies of keeping Philip physically contained and communicating effectively with him. This “real-time” interweaving of operational tactics, dialogue, investigative analysis, and bureaucratic resolution may be viewed from a phenomenological standpoint as a dramatic process of *street-level hermeneutics*, in which an

interpretive sequence of remarkable complexity had to be undertaken rapidly in order to determine and implement a particular course of action.

The encounter between Philip and the officers represents a living, dynamic instance of the “hermeneutic circle” (see above, Chapter 2). The hermeneutic circle occurs as a function of the existential structure of human being, and demonstrates why human presence is always already meaningful to itself and to others (see Heidegger, 1996:141-144). This is not a recondite philosophical claim of marginal relevance for so palpably real a moment as a police-citizen encounter, but a description of the ontological conditions of understanding, which necessarily shape the episode with Philip, or any human interaction. Within the immediate context of analyzing the encounter between Philip and the police officers, this appeal to the relation between the construction of meaning and the existential nature of human presence explains what is at stake in the practical reduction of that presence (whether enacted on bureaucratic, social scientific, or other terms) to reified, abstract “subjectivity.” As the encounter with Philip illustrates, the potential implications of such a misconception can be nothing less than fatal.

The officers’ central, bureaucratically mandated interpretive task in their encounter with Philip was primarily one of accurately reading his “true state of mind.” This task was profoundly complicated by the polarities and shifts in Philip’s actions, which made him vacillate unpredictably between states of apparent rationality and irrationality. However, the officers were also able to maintain an openness towards him, which furthered their efforts to engage his dynamically transmuting forms of self-presence. At some points during the contact (and increasingly towards its conclusion), Philip was eminently logical and composed, and acted in concert with communicative precepts that were meaningful with respect to the officers’ practical objectives. During these moments, he was able to discuss his situation from a clinical standpoint, and was, to at least a substantial degree, able to stand over against himself and his actions.

However, at other moments in the encounter (especially upon initial contact), Philip acted in a way that suggested a near-total loss of self-awareness and self-control.

In some instances, the hermeneutic task of reading intentions and states of mind is rendered far less complicated, or even moot, if other facts provide a basis for action independent of a person's statements and observable actions. On the other hand, a situation such as the encounter with Philip presents police officers with a state of ambiguity that they do not like, because it complicates the objective of finding a fixed, underlying problem, which is readily available for bureaucratic remedy. This is not only the case in encounters involving mental disorder. In resolving any police-citizen encounter, officers hope that the persons they are contacting will "give them something," that is, provide in word or deed (intentionally or unintentionally) some piece of information that fits within the range of what is meaningful with respect to officers' fulfilling their task of problematizing human predicaments. In the encounter with Philip, the process of problematization would have been most efficient if he had "given" the officers "something" that they could have used as the basis for an unambiguous decision, such as a clear statement of suicidal intentions, or threats against the officers or others. That Philip did not do so presented the officers with a quandary.

Instead of merely having to formulate a tactical response to an obvious and clearly defined problem, the author and his colleagues had to divide their attention between the dual processes of first, keeping watch over Philip and maintaining a dialogue with him, and second, simultaneously trying to decide "what to do with him." Although Philip was physically contained on the street, so that his movement was restricted to a small radius beyond which officers would not let him move, he still had to be contained in a way that would coincide with the objectives of bureaucratic police praxis. He had not made any suicidal statements, nor had he threatened anyone else. He had not committed a crime of any kind. He also refused to go to the hospital for a voluntary psychiatric evaluation when this option was presented to him. As they discussed their

various options for resolving the situation, the author and his colleagues discussed the stark fact, abundantly clear to everyone present, that to compel Philip to go to the hospital for a psychiatric evaluation would inevitably entail a violent confrontation, and would only result in a clinical reconfirmation of what everyone already knew, namely, that Philip suffers from flashbacks related to his experiences in Vietnam. The officers at the scene, and the author, as their supervisor, saw little point in provoking a knockdown, drag-out fight that would merely result in delaying Philip's release by another couple of hours.<sup>113</sup> In the end, the officers opted to retain Philip's pistol for safekeeping, and sent him home with a co-worker.

Should this resolution not be seen as a triumph of bureaucratic policing, not least of all because it was achieved without the use of force, and without resorting to incarceration or institutionalization? Peaceably containing Philip on the sidewalk and developing a dialogue that helped get him to the point where he was able to take his anti-anxiety medication did, in a certain sense, momentarily "solve his problem." Moreover, after his medication had taken effect, the officers' giving him an active role in deciding how the situation would be resolved recognized the legitimacy of his concerns in an ethically and practically significant way.

Upon further reflection, however, it might well be argued that the truly decisive contingency in resolving this crisis was the fortuitous fact that Philip personally knew several of the officers at the scene, thus lending a dimension to the encounter that would have otherwise been missing, had the incident occurred with different officers. The added dimension of personal acquaintance might literally have saved Philip's life; at the very least, it almost certainly contributed to a safer, more peaceful resolution of a dangerous situation. If this argument is correct, it suggests the crucial role played by the officers' ability to approach Philip in a way that responded to a nuanced sense of the whole of his presence, even as he moved between the two

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<sup>113</sup> Here the process of bureaucratic problematization combined with officers' self-interest in avoiding what they perceive as needless injury. It is interesting to note that all of the officers involved in the encounter with Philip were seasoned veterans, a fact doubtless reflected in their disinclination to provoke a hostile confrontation.

poles of anguished fury and tentative calm (see Bittner, 1990:81-82). Reading the officers' actions through the lens of Pirandello's work will offer some reasons to accept the validity of this position, and show how those actions may be read in terms of the dynamic, practical complexities of knowing the nature of human presence.

### ***Pirandello and the Intrinsic Ambiguities of Reading Human Presence***

Luigi Pirandello (1867-1936) is generally reckoned to be the greatest Italian language playwright of the twentieth century. His influence extended far beyond his native Sicilian shores, across Europe, and to North America.<sup>114</sup> Pirandello's dramas explore the ambiguities of human identity and social roles, the nature of truth and illusion, and the crises of isolation that he viewed as endemic to the modern condition (see Krysiniski, 1989).<sup>115</sup> His work engages these themes with substantial intellectual sophistication, yet does so in relation to the concrete circumstances of ordinary people, as they struggle to cope in a world that is rapidly transforming the most basic aspects of everyday existence (Bassanese, 1997:1).

Pirandello's dramatic writings reflect his extensive knowledge of philosophy, especially the work of Nietzsche and Bergson (see Krysiniski, 1989; and Costa, 1991:3-16). He had been drawn to their ideas fairly early in life, because he thought it offered possible ways to explain the existential crises born of modernity, and the failure of ideology to respond meaningfully to them (see Matthaei, 1973:10-11). Pirandello's philosophical reflections were reciprocally informed by his own deep, personal sense of displacement and isolation, reflected not least of all in the

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<sup>114</sup> Most significant within the present context is Pirandello's formative influence upon the development of French existential drama, for which Sartre gave him direct credit (see Bishop, 1960). In recognition of this role, the French government awarded Pirandello the Legion of Honor in 1925; and in 1934, he received the Nobel Prize. It should be noted as well here that there is a direct connection between Pirandello and Gabriel Marcel, in the form of commentaries that Marcel wrote on Pirandello's plays. See Marcel (1984).

<sup>115</sup> Krysiniski (1989) draws some important parallels between Pirandello and the work of Musil, Bakhtin, and Dostoevsky.

profound transformative effects of modernization upon his native Sicily.<sup>116</sup> His depiction of the insular quality of traditional Sicilian life reveals sharp parallels to the isolated existence of people cast adrift in modern society (see Bernstein, 1991:95-107, and Bassanese, 1997). On a more intimate level, his interest in crises of isolation and insanity was strongly influenced by his tragic experiences of dealing with his wife's violent mental breakdown.<sup>117</sup>

The aptness of Pirandello's work for a phenomenological aesthetics of encounter rests upon several points. To begin with, his characters exhibit a palpable reality that readily lends their words and actions to application in an extra-literary context. Rather than merely treating them as the happenstance embodiment of his intellectual positions, Pirandello instilled them with a convincing vitality (Pirandello, 2000:vii-viii), and presented them in a manner that Bassanese (1997:10) describes as a "case study" form.<sup>118</sup> It should therefore come as no surprise that Pirandello's drama has attracted the attention of phenomenologically oriented social science, most significantly in Baumann's comparative analysis (1967) of G.H. Mead and Pirandello. Goffman (1974) also draws widely upon Pirandello's plays (see Bassnett-McGuire, 1983:33). In light of this kind of social scientific interest in Pirandello's work, along with the interest he has generated as a philosophically astute observer of the crises of modernity, especially the nature of modern personal identity (see, for example, Caputi, 1988 and Krysiniski, 1989), his relevance for a phenomenological aesthetics of encounter is convincing.

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<sup>116</sup> Bassanese remarks, "Having personally experienced the displacements caused by the technological shift from oil to electricity, the cultural shift from romanticism to surrealism, and the psychological shift from ontological certainty to the Freudian subconscious, the author [Pirandello] reveals their impact on the heart and mind in the questioning, reflective, tragicomic, and enlightening creations born of his vigorous imagination" (1997:1). See, also, pp. 4ff; and compare Eagleton's brief comments on Pirandello (2003:238-239).

<sup>117</sup> Pirandello's biographers make much of the fact that he did not have his wife institutionalized, but instead, kept her at home. See Cambon (1967:2), Oliver (1979:40), and Esslin (1991:263-264).

<sup>118</sup> In the words of Carl Mueller, whose English translation of Pirandello is used here: "Never the abstract, ivory-tower intellectual, Pirandello's work spills over with human warmth and sympathy for the individual whose life has been disrupted – shifted out of a quiet, ordinary daily routine, whether by accident or design, and made to suffer that expulsion because life has suddenly been rendered impossible" (Pirandello, 2000:ix).



The particular play to be applied in explicating the encounter with Philip is “*Così è (se vi pare)*” [“Right You Are (If You Think You Are)】 (1917/2000), which ranks among Pirandello’s best-known works. The Italian title of the play, “*Così è (se vi pare)*,” literally translates into English as “thus it is (if it seems so to you).”<sup>119</sup> This translation more closely reflects the play’s exploration of the ontological nexus linking epistemology and ethics. A phenomenologically oriented elaboration of the play’s title might read, “the reality of the world is unquestioningly taken to be of a certain nature, according to the stance that you take towards it,” or, more freely, “your approach to the world has a reciprocal influence upon how you experience it.” In the Italian title, the word “*vi*” means “to you,” and incorporates an intentional quality that cannot be captured in English pronouns, which lack declinable case forms. “*Vi pare*” – “to you it appears,” suggests an intentional relationship between the self-disclosure of the lifeworld in the presence of the conscious mind to which it reveals itself. It points to the ontological reality of that which exists apart from the mind, yet, at the same time, establishes an unbreakable existential unity (co-presence) with it. In order to keep these nuances in the forefront of attention, the Italian title will be used in the present discussion.

The action of “*Così è (se vi pare)*” pursues the question of what truly can be known about another person, and how what is known about other human beings bears a direct relation to the ways in which they are regarded and approached.<sup>120</sup> Bassanese’s description of the play’s

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<sup>119</sup> Other English renditions of the title include, “Right You Are (If You Think So),” (DiGaetani, 1991); “It Is So (If You Think So)” (Paolucci, 1974); “That’s the Way Things Are – If They Seem That Way to You” (Oliver, 1979); “Right You Are If You Think You Are” and “Thus It Is (If It Seems So to You)” (Matthaei, 1973). Bassanese (1997:46) offers some salient points about the meaning of the play’s title, noting that the first part suggests a firm sense of truth, which the second part immediately places in doubt or contingency by establishing the contingency of this “truth” upon the mind that holds it do be so. In its apparent intentions and its obvious effect, Pirandello’s use of parentheses to set off the second half of the title is strongly suggestive of the phenomenological notion of bracketing.

<sup>120</sup> The relativism that is seemingly evident in *Così è (se vi pare)* opened Pirandello to strong criticism, most notably from his famous contemporary, Benedetto Croce (Matthaei, 1973:45). Nonetheless, a number of critics caution against taking Pirandello’s relativism too literally. This perspective is summarized in the words of Glauco Cambon (1967:9): “If Pirandello does explode the notion of a fixed personal identity, this by no means implies the moral annihilation of the individual self; on the contrary, the effect may be to dissuade human beings from taking themselves and one another for granted. In Pirandello’s fictional world, the elusive reality of personal existence impinges on our awareness precisely because it is felt to be

central theme points directly to its aptness for a phenomenological aesthetics of encounter (see, also, Paolucci, 1974:83). "*Così è (se vi pare)*," she says,

[p]arodies the possibility of documenting anything human. The heated search for proof, evidence, and logic in this grotesque opus challenges the positivist view that objective knowledge can provide answers, as the title immediately implies. (Bassanese, 1997:46)

This "heated search," as it unfolds in the play, points directly to the powerful moral and social implications of the reduction of human presence to an abstract ensemble of "facts," which is ultimately devoid of a real nexus to the people whom it purports to represent. It is especially significant to note with respect to the analysis of police-citizen encounters the prominent role that Pirandello attaches to bureaucracy in this process.

The action of the play follows the unrelenting attempts by a group of residents in an Italian provincial capital to find out the "real truth" behind what they regard as the scandalous living arrangements of their new neighbors.<sup>121</sup> The neighbors, Signor and Signora Ponza, occupy one apartment. Signor Ponza's mother-in-law, Signora Frola, also lives in the same building. However, rather than sharing the same apartment with her daughter and son-in-law, Signora Frola lives by herself in a ground floor apartment. It appears, moreover, that Signor Ponza forbids his wife and mother-in-law to see one another directly. Instead, they communicate by means of exchanging notes that are passed back and forth in a small basket, which is lowered from the Ponza's apartment to the courtyard below, adjacent to Signora Frola's apartment. The curiosity that all of this generates comes to an angry head, when, in what is construed as a gesture of inhospitality, Signora Frola refuses to receive a visit from her neighbor, Signora Agazzi, whose husband is Signor Ponza's superior officer at the prefecture.

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inaccessible to ready-made definitions." The relativistic message of the play must be regarded with a certain irony. The central thematic point of "*Così è (se vi pare)*" is an affirmation of the imperative to recognize that uncertainty about the other is itself a sign of an aspect of human presence that defies reduction (see Oliver, 1979:28; Ragusa, 1980:101-102; and Bentley, 1986:4).

<sup>121</sup> For further details, as well as for an especially detailed and helpful synopsis of the play, see Oliver (1979:22-46).

In the first act of the play, the neighbors, annoyed and curious in equal measure, proclaim their desire to know the real truth behind the newcomers' living arrangements. The underlying philosophical issues at stake emerge in the following exchange between one of the neighbors, Signora Cini, and Lamberto Laudisi, the play's *raisonneur*, who serves as the voice of philosophical reason and skepticism:

Signora Cini: But all we want is to know!

Laudisi: Know what, Signora? What can we know about anyone? Who they are? What they are? What they do? Why they do it?

Signora Sirelli: By picking up bits and pieces. By gathering information.  
(Pirandello, 2000:6/1953:74)

In the Italian text, Laudisi's question conveys a much stronger sense of the disparity between true knowledge of another person, and what is knowable through "bits and pieces" of news ("*notizie*") or factual data ("*informazioni*"): "*Che possiamo noi realmente sapere degli altri?*" (1953:74). "*Altri*" evokes an existential notion of difference and otherness that is similarly suggested by the English term "alterity." This is amplified by the word "*realmente*" ("actually," "really"), which is dropped in Mueller's translation. In the original text, the word helps further to convey a sense that what we can know of other human beings never encompasses the whole of what they are. Pirandello's characters are grappling with the difference between the existential co-presence of other human beings, and what actually becomes known of it under certain conditions of interpretation. To phrase this in terms of the dissertation's central argument, Laudisi's words effectively mark out the distinction between co-presence and intersubjectivity.

Pirandello shows throughout the play that the obsessive desire of the townspeople to define the situation of their new neighbors in actuality has little or nothing to do with knowing who they truly are. This point is emphasized by the "thick, black, impenetrable veil" ("*un fitto velo nero*") that Signora Ponza is wearing when she finally appears at the end of the play (Pirandello, 2000:52/1953:136): she remains an enigma, despite all the probing and questioning, because no effort truly to know her and her family has been made. On the contrary, the entire

motive for the inquiry centers upon the prying curiosity of the neighbors, which they have sought to satisfy through all means, except genuine dialogue. This stance embodies and reinforces a kind of reductionist absolutism that Pirandello lambastes as fundamentally dehumanizing (Bassanese, 1997:48 and Bassnett-McGuire, 1983:77). For Pirandello, the mystery of the other person, and of what that person knows or feels, creates a moral imperative to approach one's interlocutor with openness and solicitude (see Moestrup, 1972:149-151). In weaving this argument into the play's dialogue, Pirandello shows the decisive relation between epistemology and ethics.

With respect to the immediate task at hand of interpreting the encounter between Philip and the police, it is especially worthwhile noting how Pirandello treats this relation within the context of mental and emotional disorder. As the action in the play unfolds, Signora Frola implies that Signor Ponza might be mentally ill (2000:14). One way or the other, the neighbors have already decided for themselves that he is a "monster" ("*mostro*") (2000:6, 16). When he speaks, Signor Ponza's eyes appear "hard, fixed, and sinister" ("*duri, fissi, tetri*") (2000:16). Later, in Act II, he is described as "quivering with near-animal fury" ("*tremito quasi animalesco*") (2000:35).<sup>122</sup>

Contrary to his mother-in-law's suggestion that he might be mentally disturbed, Signor Ponza, in turn, proclaims to the prying neighbors that it is actually *she* who is insane, gripped by the delusional belief that the woman with whom he lives is her daughter, when, in truth, her own daughter has died four years earlier in an earthquake. Signor Ponza explains that the woman whom Signora Frola believes to be her daughter is actually his second wife. No sooner than Signor Ponza leaves after offering this explanation to the neighbors, Signora Frola returns, only to

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<sup>122</sup> It is worth noting the marked similarities between Pirandello's complete description of Signor Ponza and Lombrosian characterizations of atavistic criminals: Signor Ponza "is a short, dark, thickset man of almost threatening appearance, dressed all in black. He has black, thick hair on a low forehead, and a black moustache. He continually makes fists of his hands and speaks with a force that borders on violence. From time to time he wipes the sweat from his face with a black-edged handkerchief. When he speaks, his eyes are hard, fixed, and sinister" (Pirandello, 2000:16).

protest and reiterate that it is Signor Ponza who is deranged. She explains that his wife had to be committed to a sanatorium, which led Signor Ponza to start believing that she had died. Even when she returned after a year, he refused to believe that the woman was truly his wife. This flurry of claims and counterclaims by Signora Frola and Signor Ponza leaves the inquisitive neighbors even more confused, and even more driven than before to discover the “real truth.”

This constant vacillation, only heightened by the animated actions of Signor Ponza in his interactions with his neighbors, parallels the kind of shifting self-presentation that marked Philip’s encounter with the police. The hermeneutic process of encountering disequibrated emotions must seek to gauge their relation to the human presence of which they are a manifestation. The characters in Pirandello’s play failed to do this; and therein lies the practical and ethical failure of their approach. Instead, as Pirandello illustrates, Ponza’s inquisitors are utterly fixated on solving the problem of determining the truth of his family situation. As a result, Ponza’s identity is effaced.

In the case of Philip, this kind of distorted interpretation did not occur. However, the officers’ treatment of Philip’s situation appears to have been influenced significantly by accidental considerations of personal familiarity, which were extrinsic to the underlying logic of bureaucratic action. There is, as the encounter suggests, no mechanism inherent to instrumental rational praxis, which could have ensured that the outcome of the author’s encounter with Philip would be replicable under other circumstances. Rather, anonymous officers would have had to rely on whatever data they might have gathered from Philip and from other people in the immediacy of an encounter, and would then have had to combine it with data culled from police records systems.

In “*Così è (se vi pare)*,” a similar effort at gathering facts occurs when an official inquiry is made to the police commissioner in the town from which Signora Frola and the Ponzas have moved. However, the inquiry proves fruitless, because the earthquake that supposedly killed

Signora Frola's daughter has also destroyed all public records. But, even had the search been fruitful, Laudisi argues, relying on documentary evidence misses the entire point, which is that the reality of the situation cannot be considered apart from the actual thoughts and sentiments of the people involved:

Reality, for me, is not to be found in pieces of paper, but in the minds of *those two!* *Those two* into whose minds I have no possible entry, except for the little they choose to tell me! (Pirandello, 2000:25)<sup>123</sup>

Of course, for a police officer facing someone who is incoherent, even this may be impossible.

Further still, the police officer faces the interpretive task of discerning between delusional and factual claims. Such confusion abounds in the final act of the play, when Signora Ponza finally appears. Although she is the only person who can truly say whose version of events is correct, Signor Ponza's, or Signora Frola's, her actual statements dash everyone's hopes and expectations, compounding the mystery that she had been expected to solve. Signora Ponza announces that *both* stories that the neighbors have heard are correct: yes, she declares, she is Signora Ponza's daughter; and yes, she is also Signor Ponza's second wife. When the others protest that this is impossible, and demand that she proclaim herself to be one or the other, she replies,

No. Not at all. I am the one you believe me to be. (Pirandello, 2000:53)

Laudisi declares that this is the way the matter truly is, and here the play ends. This closing scene, where Signora Ponza affirms the ambiguous nature of her true identity, leaves the reader in the same situation as the police officer, who faces a human presence that will not (or cannot) reveal itself. Such a reading finds support in Bassnett-McGuire's observation (1983:74-75) that the closing scene of the play is an ironic commentary on the resistance of the social world to the

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<sup>123</sup> “[P]er me la realtà non consiste in essi, ma nell’animo di quei due, in cui non posso figurarmi d’entrare, se non per quel tanto ch’essi me ne dicono.” (1953:98).

kind of logical neatness voiced by the bourgeois characters in the play, not least of all as they conceive of its relation to bureaucracy (see, also, Sinicropi, 1977:365-367).

At this point, the previous discussion in Chapter 7 of “the poetry of policing” and of the related metaphoric quality of bureaucratic language may be conjoined with analysis of the hermeneutics of encounter as they have just been presented here, thereby allowing for the insight to be drawn from “*Così è (se vi pare)*,” that the vital dynamics of human encounter continually gives rise to its own meaning. The play shows exactly what also occurred in the encounter with Philip: it was a moment of co-presence, which unfolded poetically, through the spontaneous creation of meaning, and not as a static encounter between subject and object. Thus, a decisive connection has been established between hermeneutics and the poetics of policing. In a remark that helps to clarify this point, Baumann observes (1967:596):

The real meaning of the drama *Così è (se vi pare)* is not an illustration of appearance as a mere sham, but of appearance as a **form of existence** (*Erscheinungsweise eines Seins*). [emphasis added]

Baumann further explains the relational (hermeneutic) character of self-conception, an argument that is similar to Bassnett-McGuire’s claim (1983:77) about the underlying message that the reader should take from Signora Ponza’s fateful appearance at the end of the play:

She (Signora Ponza) has accepted that the self cannot see itself and can only know itself through its reflection via perceptions of another.

Taking what has thus far been said about the play, and applying it to the encounter with Philip, there is a clear thematic resonance.

The reality in Philip’s mind, born of his life-like memories of combat in Vietnam, was not an immediate part of physical reality for the police officers; however, this hardly diminished the urgency and tangibility of the reaction that Philip had in response to his state of mind. To focus on external, objective evidence is to miss the broader point. Whether it is the case of Philip, or someone else in a state of emotional turmoil, police officers learn from experience that

dismissing the perceptions, thoughts, and emotions of the people whom they encounter does little to resolve the predicament at hand, except in the most superficial or fleeting of ways.

The intrinsic ambiguity of social encounter that is revealed by Pirandello summarizes the situation of the encounter between Philip and the author. What ultimately proved to be decisive in the episode was not the power of law or clinical diagnosis. There is, it must be noted, a risk that this analysis might sound self-congratulatory, by suggesting implicitly that the possession of some kind of insight into Philip's situation led to a resolution that might have otherwise been impossible. In fact, as was suggested above, whatever particular combination of knowledge, skill, and experience may have been brought to bear by the author and his colleagues, the decisive factor in safely resolving this situation was the fortuitous condition of a pre-existing personal familiarity between Philip and the officers. Part of what facilitated the peaceful resolution of the encounter with Philip was the officers' practical acknowledgment of the truth for Philip of the reality of his perceptions. To Philip, at the moment of his flashback, all other aspects of reality receded from the foreground. Once Philip realized that the officers respected the truth of his perceptions, and were, in essence, "covering his back" until he had reoriented himself, the possibility of violence was markedly reduced.

This is precisely what did not happen with Pirandello's characters. Rather than seeing the underlying humanity of the Ponza family and of Signora Frola, the residents reduced their presence to one of the happenstance embodiment of aberration. The greater meaning of human presence attaches to the ultimacy of its existence, not to the happenstance of specific characteristics by which it is transitorily judged (*cf.* Ragusa, 1980:99). This is Pirandello's message, and it is one that mirrors the experience of the author and his colleagues in their encounter with Philip.

The further message of the play – again, one that finds a parallel in Philip's situation – is that self-knowledge is inextricably dependent upon meanings created through social interaction.



Philip's reaction to his flashback was shaped by the presence of the officers, and vice versa. Indeed, one of the most remarkable moments in the encounter came at its conclusion, when Philip was included in the officers' post-incident debriefing. Perhaps most significantly, and in a way rarely considered in existing analyses of police-citizen encounters, the inclusion of Philip in the officers' post-incident debriefing represented an unusual "metabureaucratic" moment for all parties involved. Once the incident had reached its conclusion, the significance of the encounter began to shift, and the moment thus became instantly amenable to a new set of retrospective reflections. This is the hermeneutic circle at work in the most mundane but powerful way.

### ***The Everyday Effects of Abstraction***

Bentley (1986:27) argues that Pirandello's real message is a recognition that

to realize how far truth is subjective is to realize that one must respect the subject. Pirandello is defending the person against the dehumanizing influence of society.

This view finds support in Oliver's assessment (1979:33) that the "detectives" who are driven to determine the "real truth" of their neighbors' situation,

have so intellectualized the problem, so abstracted it from the reality of the people involved, that the individuals no longer exist as human beings.

Putting this argument in phenomenological terms, it may be said that Pirandello illustrates in "*Così è (si vi pare)*" how the existential nature of human presence undoes the possibility of taking the purported lesson of relativism to its logical conclusion, and instead reverses this thinking, leading the reader to affirm the absolute moral inviolability of one's fellow human being.

As in Pirandello's plays, the tragic implications that can ensue from the reduction of human presence to an abstraction stand prominently among the abiding themes in the thought of Gabriel Marcel. In turning to Marcel's interrelated dramatic and philosophical writings, and their mutual emphasis upon his crucial distinction between "mystery" and "problem," some further insights into the nature and effects of bureaucratic problematization will emerge. These will be

taken up in order to interpret an encounter between the author and Robert, a man who escaped from a psychiatric hospital.

### ***Gabriel Marcel: Living as a Problem in a “Broken World”***

While Marcel (1889-1973) remains best known for his philosophical writings, which occupy an undisputed formative role in the development of phenomenological and existential thought, he was also a prolific playwright, with over two dozen dramas to his credit.<sup>124</sup> Marcel’s plays complement and vivify the theoretical positions articulated in his philosophical work, and lend to his overall thought an “empirical” quality that defies the traditional conventions of social science and literature alike.<sup>125</sup> Most of all, rather than seeking to illustrate abstract ideas, Marcel *begins* his search for metaphysical principles in the moments of everyday existence. In doing so, his thought “spontaneously adopts the phenomenological method” (Belay, 1980:3).<sup>126</sup> Given his concerted effort to engage the most fundamental metaphysical questions in direct relation to the concrete situations of ordinary life, Marcel’s work is of singular pertinence for the project of a phenomenological aesthetics of encounter, and its application within the context of police-citizen encounters.

In evaluating the significance of Marcel’s work, it would be a mistake to relegate his drama to a secondary status with respect to his philosophical writings. Marcel actually regarded his plays as taking precedence over his philosophy, primarily on account of what he held to be their more authentic and realistic portrayal of the concreteness of the human condition (see, for

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<sup>124</sup> For detailed historical and biographical information on Marcel, see his autobiographical essay in Schilpp and Hahn (1984), as well as his complete, booklength autobiography, which was recently translated into English by Peter Rogers (2002a).

<sup>125</sup> Marcel (1965:15) remarks of his orientation towards his characters: “But the real reason why I have always taken such pains to make my characters as like as possible to ourselves, to make them live in the same world and share the same experiences, is because by so doing what may be called the metaphysical design became more clear to me, and because I felt that by substituting symbols or intellectual puppets or even legendary figures for the creatures of flesh and blood whose fate I was trying to determine, I would weaken or betray that design.”

<sup>126</sup> “*Elle [sa pensée] vise à dégager des essences, à retrouver l’universel dans le singulier. Elle adopte spontanément le méthode phénoménologique.*”

example, Schilpp and Hahn, 1984:xv, and MacKinnon, in Schilpp and Hahn, 1984:573-580). He claimed further (e.g. 1973b:230ff.) that his philosophical work could not be understood properly apart from his dramatic writing. Indeed, Marcel remarked that his philosophy had an existential character insofar as it engaged the drama of the human condition (1973b:231; see, also, Chenu, 1948, esp. pp. 169-178).

Marcel believed that his plays shed a unique light upon human predicaments, which, once illuminated by means of dramatic presentation, could be further discussed from a philosophical perspective. Thus, for Marcel, drama and metaphysics are two complementary aspects within a common interpretation of existence (Chenu, 1948:178).<sup>127</sup> Nowhere is this entwining of drama and metaphysics more clearly evident than in Marcel's decision to publish jointly in the same volume his play "The Broken World" (1933), with a philosophical essay, "Concrete Approaches to Investigating the Ontological Mystery" (cf. Davignon, 1985:147). In his preface to the resulting book (1933:7-9), Marcel cautions against prematurely judging the play and essay to be incompatible, and calls instead for the reader to see them as the components of a unified attempt to explore the space in which life and metaphysics are intrinsically conjoined. Even more so, Marcel accords priority to the play, stating that it is not so much an illustration of a philosophical thesis, as the essay is an explication of a human situation, which the play presents in its "raw complexity," and in a way that ultimately defies reduction from a *mystery* to a *problem*.<sup>128</sup>

This distinction between mystery and problem plays a crucial role throughout Marcel's thought (see Marcel, 1998:178-182/1933:267-274). As Marcel explains it,

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<sup>127</sup> "*Drame et métaphysique sont deux formes d'une même activité, deux moments de la même élucidation de l'existence.*"

<sup>128</sup> "Mieux vaudrait encore voir dans la Méditation un effort pour élucider une certaine situation fondamentale qui dans le drame et présentée dans sa complexité brute et en dernière analyse inextricable. Le Monde cassé n'est pas non plus une 'pièce à problème'; ce serait bien plutôt un mystère" (Marcel, 1933:8-9). Also note here Paul Ricoeur's remarks, made during a conversation with Marcel: "Everything in your work comes from drama and everything leads to it as well, especially the analysis of those experiences you have called 'ontological,' insofar as these experiences have a dramatic character (Marcel, 1973b:230).

A mystery is a problem that encroaches upon its own data, that invades the data and thereby transcends itself as a simple problem. (Marcel, 1998:178)<sup>129</sup>

It must be emphasized strongly here that the way in which Marcel differentiates between the notions of problem and mystery corresponds almost directly to the dissertation's contrastive analysis between intersubjectivity and co-presence. The intellectualization of a mystery always runs the risk of "degrading" it to the level of a problem (Marcel, 1998:178). Within the context of reflecting upon police-citizen encounters, it is especially instructive to note how Marcel considers the implications of this process as it applies to the experience of evil (see Davignon, 1985). "Evil" must be construed here in the widest possible sense, as any form of profound human misfortune or suffering. The ontological totality of any such human experience, once it has been rendered abstractly into stated or observed facts, ceases to be known in terms of its mysteriousness (*cf.* Prini, 1984, esp. pp. 225ff.).

By relating this phenomenon to the inexorable modern predilection for adopting a technical approach to every aspect of the human predicament, Marcel challenges what he regards as the tragic reduction of human existence, in violation of "the sacral dignity of being" (Marcel, 1973b:247). He explains in his philosophical writings, and shows concretely in his plays, how human presence ultimately resists all such attempts at reifying it into the presence of an abstract subject or object (see, for example, 1973b:225ff.). Marcel's project is thus informed throughout by a commitment to the notion that human existence is ultimately an irreducible mystery, which can only be treated as a "problem" at the cost of destroying and effacing its intrinsic, sacred dignity. Marcel decried the "broken world" ("*le monde cassé*") wrought by modernity, which begets the civilizational legacy of "*l'homme problématique*" – the "problematic man," who is but a desacralized shadow of a real human being – human existence reduced to an ensemble of

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<sup>129</sup> "[U]n mystère c'est un problème qui empiète sur ses propres données, qui les envahit et se dépasse par la même comme simple problème" (Marcel, 1933:267).

functions, and experienced as a state of disquietude (Marcel, 1955; see, also, Marcel, 2002b:xxviii-xxxi).

In Marcel's plays, the failures and suffering of his characters are often traceable to circumstances and actions that reduce the human situation from a mystery to a problem (see Hayes, in Marcel, 1965:8; Lazaron, 1978; and Marcel, 1998). As a source of interpretive insights for a phenomenological aesthetics of encounter, his dramas are especially valuable for the tangible realness of their characters. This reflects a deliberate effort by Marcel to present his characters from a perspective that knows them from within, and is therefore able to situate their mundane predicaments in relation to the innermost aspects of human existence, which might otherwise remain obscured, and hence pass unnoticed (see Hanley, 1987 and Lazaron, 1978:151-152). His concern with placing his characters in everyday situations (see Marcel, 1967:95-96) serves further to strengthen his claim that metaphysical principles quietly but powerfully shape ordinary life.

Marcel's drama deals with human beings in crises of various kinds, all of which, as he sees it, ultimately trace their roots back to the spiritual state of the modern condition, and its defining characteristics of overwhelming alienation, self-estrangement, and anguish. Marcel succeeds remarkably at portraying the crises of his characters with a vitality and realism that forecloses any possible notion of their being circumscribed meaningfully and authentically as clinical conditions or otherwise technically manageable problems. Throughout his plays, illness, distress, and anxiety are all shown in the fullness of their relation to the total circumstances of human existence (*cf.* Lazaron, 1978:172). Moreover, a number of his characters exist in psychological states that today might well be viewed as indicative of various formal clinical pathologies, such as manic depression. In the analysis below, passages from two of Marcel's plays, "The Votive Candle," ("*La Chapelle ardente*," 1925) and "The Broken World," ("*Le*

*Monde cassé*," 1932) will be used to explicate an encounter between the author and "Robert," a man who escaped from a mental institution.

### **Encounter #8-2, Robert**

Early one evening, I was dispatched to contact a woman who wanted to report that her thirty-four year-old son, Robert Brown, had escaped from a secure mental hospital, where he had been placed by court order. She was concerned that Robert, who had a long history of violent, delusional behavior, would show up at her house. The 9-1-1 operator who took the call from Mrs. Brown apparently did not realize that Robert had already arrived. As a result of this misunderstanding, I merely thought that I was going to allay Mrs. Brown's concerns, and tell her to call back if Robert actually came home.

My partner and I arrived at the Brown residence, and Mrs. Brown showed us to her dining room. She explained that Robert had telephoned and told her that he had left the mental institution. She did not know what to make of the call. The institution was a secure facility, and was over fifty miles away; however, Mrs. Brown felt that if Robert had, in fact, left the grounds, he was sufficiently resourceful to make the trip home. As she continued to elaborate upon her concerns, my partner suddenly interrupted me and said, "hey, is that him?" I looked up and saw Robert peering around the corner from inside the kitchen.

He stood there impassively, blankly gazing at us. My first thought was that Robert's position gave him ready access to kitchen knives. The kitchen lights were off, which made it difficult to see exactly what he was doing. My partner quickly shined his flashlight in Robert's face to constrict his pupils and disorient him. Robert winced, and then stared at me and quietly asked in a monotone voice, "why did he shine a light in my face?" Sidestepping the question, I explained reassuringly to Robert that my partner was a "nice guy." Robert nodded slowly, as if to show that he was willing to grant me the benefit of the doubt. I convinced Robert to come out of the kitchen and sit down in a dining room chair. At this point, my partner casually but quickly moved off to Robert's side, blocking his path back to the kitchen. I tried to keep Robert's attention focused on me, in order to keep him calm and distracted from my partner. Given his large physical stature and history of violence, I discretely asked my dispatcher to send two more cars to the call. As I awaited their arrival, I asked Robert how he had gotten out of the hospital. He calmly explained that he decided he did not want to be there anymore, and claimed that he had simply signed himself out at the reception desk. When the other officers arrived, I instructed them to remain with Robert while I made some telephone calls in order to determine his legal status.

I telephoned the mental hospital, and confirmed that Robert was a patient there. I then asked the staff member to whom I was speaking if he knew Robert's current whereabouts. He told me that Robert was in the hospital. When I replied that Robert was actually sitting at his mother's dining room table, the staff member grew chagrined, and quickly transferred me to a senior supervisor, to whom I explained my quandary. I told the supervisor that I needed to verify Robert's legal

and mental status, in order to be able to decide what to do with him. I explained that I would not risk a violent confrontation by taking Robert into custody unless I had clear evidence that he was a danger to the community or to himself. The supervisor confirmed that Robert was officially considered an escapee from the hospital, inasmuch as he was being held there under a valid court order. I told him that he would have to fax a copy of the order to the police department, so that I would have documented proof of Robert's standing. He agreed to provide the documentation, and further agreed to take custody of Robert at the local hospital emergency room, and transport him back to the mental institution.

Now, my colleagues and I faced the delicate task of trying to win Robert's compliance and take him into custody without a fight. Police officers quickly learn that of all physical confrontations, those with people in a state of mental disorder or emotional crisis can be among the most violent and unpredictable. An appropriate balance therefore had to be struck between asserting authority without provoking an assault. This was especially difficult given Robert's state of mind: here was a man who had been confined by a judge to a psychiatric hospital, yet who had demonstrated a set of faculties that allowed him to reflect upon his situation, and willfully extricate himself from it. Had Robert been completely delusional, catatonic, or otherwise completely incommunicative, my task would have been different.

I spoke quietly and calmly with Robert, discussing his predicament and his claim to have checked himself out of the hospital. I explained that I did not have the authority to tell him that he did not have to return there, and told him he would have to plead his case with the hospital staff. He said that he had no intention of going back to the mental hospital. I saw little point in arguing with him, and told him that he would have to discuss his concerns with the staff members from the institution who were going to meet him at the nearby emergency room. As we spoke, I watched him cautiously, but tried not to stare at him or challenge him. A challenging, fixed gaze meant to assert control can trigger immediate and unpredictable violence, particularly when it is directed at someone who is mentally unstable, or in a state of emotional crisis. I tried to be accommodating, but not acquiescent. My partners and I eventually succeeded in talking Robert into coming outside the house with us. As soon as we reached the patrol car parked closest to the house, I signaled another officer to help me handcuff Robert, and we quickly took hold of his arms. Robert turned his head, and gave me look of anger and betrayal. "Am I in trouble?" he asked. I assured Robert that he was not, and that the handcuffs were strictly a matter of safety and department policy. Thankfully, he did not become violent, and my colleagues and I secured him without incident in the back seat of a patrol car.

He obviously felt that he had been deceived. The officer in whose car we had placed Robert quickly drove away, before Robert had a chance to reflect upon his situation and possibly become violent. The remaining officers and I stood around and chatted for a few minutes, and expressed our satisfaction that we had not had to fight with Robert. However, the ambiguous nature of our "victory" did not go unmentioned. One of my colleagues downplayed these concerns, and remarked, "Hey, what else could we do? No one got hurt – screw it." I later learned that Robert was furious that he had been handcuffed, and had vowed to "take out a cop" the next time he was contacted.

In contrast to the encounter with Philip, the author's encounter with Robert was more immediately resolvable as a bureaucratic matter, because of the greater ease with which, from the outset of the episode, Robert was approachable as an abstract problem. Unlike Philip, whom the author and his colleagues had to engage in a prolonged manner, and at a fairly intimate level, in order to see if he could be placed into one bureaucratic category or another, Robert's presence had already been effectively reified and categorized: he was an "escapee from a psychiatric hospital," which also meant that he was more generally viewable as "a risk," or "a harm to himself and others." The officers' comportment towards Robert was therefore one of approaching a ready-made problem, whose defining parameters had been bureaucratically predetermined. Philip, on the other hand, presented a challenge to the logic of problematization, because the circumstances surrounding the contact with him were intrinsically ambiguous. They exemplified what police officers know as "the gray area" – that nebulous space in which the hoped-for possibility of finding readily available bureaucratic solutions diffuses under the force of the manifest complexities of human presence.

The greater the extent to which the logic of problematization is able to marginalize or overlook these complexities, the more quickly they recede from view. During the encounter with Robert, little had to be accomplished other than determining how most safely to take him into custody, and then actually doing so: once the author confirmed as a matter of "official fact" that Robert had escaped from a secure mental institution, the bureaucratically intended outcome of the encounter was a *fait accompli*. The objectification and problematization of Robert's presence occurred with a clinical and tactical precision – he was quickly rendered into a "problematic man."

This translation of Robert's presence subsequently facilitated his physical and legal transferal through the criminal justice and mental health systems. As he was physically handed from one institution to another, the constancy of his presence as a problem endured. This



coordinated functioning of three bureaucratic institutions – the police, a general hospital, and a state psychiatric hospital – reflects the shared ontological presuppositions shaping their respective forms of technical praxis. Whatever the vast differences and conflicts among their operational stances, each institution assumes a similar orientation towards human presence.

Considered in relation to Marcel's plays, the encounter with Robert, which might otherwise be unquestioningly viewed via intersecting forms of bureaucratic and social scientific discourse as an abstract "problem," becomes meaningful instead on the basis of a radically different orientation towards human presence that acknowledges its resistance to objectification. Through the application of a phenomenological aesthetics of encounter, it thus becomes possible to approach Robert and his situation from a difference stance. In particular, the dialectical relation between Robert's self-expression and the way in which the police handled him finds some insightful parallels in dialogue from Marcel's dramas. These passages reveal how self-conception is determined through dialogical interaction with others. Hence, they offer phenomenological evidence that helps to refute the notion that it is possible truly to experience the presence of another human being merely as the presence of an object or problem.

When the officers first saw Robert standing in the kitchen entryway, he gave an initial, outward appearance of being eminently calm; yet, he did so in a way that was perceptibly unsettling. Even a person lacking extensive experience dealing with intense emotional disorder would probably have intuited that Robert "wasn't all there." Something about his comportment suggested a detachment from the shared reality of the everyday lifeworld. Most notably, the flatness of his voice and his emotionless gaze seemed to indicate an inner state of disequilibrium.<sup>130</sup> This kind of behavior by itself hardly suffices to demonstrate that the person

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<sup>130</sup> These phenomena are also common effects of psychotropic medications. In the encounter with Robert, however, part of the bureaucratically defined "problem" is that in leaving the hospital, he had stopped receiving and taking his prescribed medications. This is a frequent situation in police encounters with people diagnosed with psychiatric disorders, who are often described by officers or medical personnel as "being off their meds."

who acts in such a way is in a state of mental breakdown or crisis. However, combining their observations with what they instinctively accepted as objective facts, existing independent of the matter at hand in the form of psychiatric records, diagnostic processes, and legal orders, the police officers who encountered Robert judged it necessary to approach him with a tactical wariness and suspicion that effectively presumed him to be “insane.” This presumption then largely shaped the communicative process of negotiating Robert’s surrender, and the ensuing tactical procedures of effecting his physical detention.

Among the most noteworthy elements of the communicative process was the use of deception. Intentional deception plays a widespread role in police praxis (see, for example, Kleinig, 1996), and is also an integral element in other forms of social praxis. In the present instance, the decision to deceive Robert, or at least to conceal from him the inevitability of his final destination, rested upon two assumptions. The first was that he lacked the rational faculties to accept the inevitability of the resolution that the officers had decided to impose. The second assumption was that, even if one presumed that Robert did have the mental stability to understand what was going to happen to him, the potential violence of his reaction militated against presenting the totality of the facts to him, lest a physical confrontation ensue. Although the argument can well be made that these two assumptions are perhaps contradictory, the officers’ approach reconciled them within a broader interpretive schema. From this standpoint, in his conversation with officers, Robert’s protestations and denials of his clinical condition (schizophrenic, bi-polar, manic) were read as validation of its accuracy.

This kind of situation is quite common in police encounters with people who have been diagnosed with various mental disorders, especially schizophrenia. The person encountered will often take great offense at being regarded as mentally ill, and will often deny his or her diagnosed condition with eloquent and indignant protestations that can be strikingly compelling. The immediate issue here is not one of assessing the intrinsic validity of a given diagnosis, but, rather,

of assessing its relative power in shaping the approach taken towards the person to whom the diagnosis has been applied (*cf.* Heidegger, 2001).

The preceding discussion demonstrates how, in the encounters with Robert and Philip alike, there is key element that may be described as a *bifurcated stance* towards human presence. In each encounter, at the same moment that officers were attempting to sustain a dialogue, an interpretive process was also underway to translate their interlocutors' presence into something objectively available for bureaucratic action. What distinguishes the two encounters is the way in which the dialogue with Philip actually played a determinative role in deciding the outcome of the situation, whereas in the episode involving Robert, the purpose of keeping him engaged in conversation was purely tactical. Whatever he said would have no manifest influence upon the outcome of the bureaucratic process.

In "*The Votive Candle*," Marcel reveals how actions undertaken with an intent driven overwhelmingly by ulterior motives or predetermined ends can effectively reduce human presence to the status of a passive instrumentality. The play follows the moral and emotional crises of Octave and Aline Fortier, whose son, Raymond, has been killed in combat in World War I. Raymond's mother, Aline, is completely consumed with keeping his memory alive, to the point that it determines her approach to everyone around her. As part of this obsessive project, she manipulates his fiancée, Mireille Pradol, by feeding her grief in the hope of keeping her faithful to Raymond. Aline cannot abide the notion that Mireille might ever fall in love with someone else, and has manipulated Mireille into sharing her sentiments.

Even when she has the very best intentions in mind, Aline has effectively lost any possibility of comporting herself towards Mireille with genuineness or authenticity. In some of his own remarks on the play, Marcel notes (1967:109) that Mireille's presence in itself gives Aline no comfort; rather, it is only Aline's perception of her ostensible continued faithfulness to Raymond that transforms Mireille into a living incarnation of Raymond's love. Aline thus

experiences Mireille as a memorial object, not as a full human presence, with whom she authentically shares the tragedy of Raymond's death. Mireille is reduced to a fixture in the house – something to be kept on display, in the same manner as the collection of Raymond's childhood toys, which Aline refuses to give to her grandson, choosing instead to enshrine them in a specially made cabinet.

Suffering in this attenuated existence, Mireille loses her inner freedom, and her entire self-conception becomes warped. When Mireille begins to fall for Robert Chanteuil, a handsome, wealthy bachelor, Aline acts quickly to turn her heart elsewhere, towards the Fortier's own, gravely ill nephew, André Verdet, for whom Mireille obviously feels no love. Octave is enraged that his wife would so callously attempt to arrange a marriage between Mireille, whose entire life remains ahead of her, and a terminally ill young man. However, Aline is absolutely convinced that she is acting in Mireille's best interest. Aline prevails over Mireille, and the marriage takes place. Octave is so angered that he leaves Aline. As the play unfolds and reaches its *dénouement*, it becomes ever more apparent that Aline's actions, whatever their good intentions may be, will lead to a tragic end (see Lazaron, 1978:25-26).<sup>131</sup>

Mireille's transmutation under the sway of Aline's suffocating, selfish influence manifests itself as a psychological and emotional crisis of the utmost depth and complexity. Aline, however, responds to Mireille in a manner that is as malapropos as it is imperceptive:

MIREILLE: . . . But I want to be *free*, don't you understand, or I should despise myself. And I shouldn't *be* anything. And then I would hate you. . . . Oh, when I feel like this I want to move right away and never, never come back. [*ALINE moves uneasily. There is silence*]

ALINE: I noticed you seemed rather depressed [*"un peut sombre"*] lately.

MIREILLE: You're always watching us. [*"Tu nous observes tellement!"*]  
(Marcel, 1965:259/1950:83-84)

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<sup>131</sup> Compare Marcel's comments (1965:21), written in the context of explaining the meaning of "The Votive Candle": "We are infinitely more than we are aware of wishing to be and sometimes, strange to say, the apparently most conscious and clear-headed are, in fact, most ignorant of their inner selves."

Mireille's words show the transformative ill effects of Aline's manipulations upon her self-conception and self-consciousness. Mireille draws an explicit connection between her desire for freedom and her sense of self worth: without the former, her very existence would be called into question. Mireille then makes it clear to Aline that this inner laceration and its accompanying sense of weakness and powerlessness would manifest itself in the form of a poisonous *ressentiment* (see Scheler, 1994).

Aline's response to Mireille is startling in its utter flatness, which strikes a decidedly "clinical" tone that is analogous to encounters in a bureaucratic setting. Rather than engaging the substance of what Mireille has said, Aline effectively dismisses the significance of her words and thoughts by essentially reducing them to the passing effects of a bad mood or state of depression. This off-hand, matter-of-fact containment of her existential torment as a simple problem is not lost on Mireille, as evidenced by her sarcastic rejoinder to Aline. It is especially telling to note how Mireille's response seems to highlight the manipulative stance that Aline has taken towards her, in its implicit criticism that Aline observes and watches her *as if she were an object*, and thus fails to see her as she actually is. Here is a vivid example of the enactment of an ill-conceived and powerful metaphor in the setting of everyday life (see above, Chapter 7). Mireille eventually rebels against Aline's control, and strives to regain her freedom. By the final act of the play, Mireille states the full extent of her feelings against Aline in even sharper terms:

But she swamps everyone. No one can *exist* when she's about" (Marcel, 1965:279/1950:128, italics original).<sup>132</sup>

The conflict expressed in the encounter between Aline and Mireille highlights the essential interrelation connecting volition and personal freedom with responses to intervention in moments of psychological crisis. Aline does nothing intentionally malevolent; the wrongness of her actions derives instead from an exaggerated sense of her own self-possession and clear-

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<sup>132</sup> "Mais c'est quelqu'un qui ne s'efface jamais. . . quis vous empêche d'exister."

headedness, which lead her to believe unquestioningly in the reasons and intentions behind her decisions, and to dismiss as irrational those who would criticize her (see Lazon, 1978:25-26, and Belay, 1980:78-79). Does Aline know what is best for Mireille? Indeed, how can she know what is best for Mireille, when she really does not truly understand her, let alone understand herself?

Questions such as these apply with equal force and urgency in considering the dynamics of police praxis, for they lie at the heart of police “intervention” in moments of emotional and psychological crisis, such as the encounter with Robert. Even to presume the mere possibility of “crisis intervention” is to take a stance towards human being that makes psychological predicaments objectively accessible for the incidental operations of policing. That stance itself, insofar as it may induce or exacerbate feelings of alienation, shame, disgrace, or humiliation, can have explosive consequences. For the police officer, this poses an obvious physical hazard, to say nothing of an ethical quandary.

A further aspect of the objectification of emotional crisis may be seen in the phenomenon of speaking of other persons as if they were not present, and in the closely related practice of concealing an uncomfortable truth from someone for fear of bringing about an undesirable reaction. Both of these phenomena occurred during the author’s encounter with Robert, and find parallel examples in the text of “*The Votive Candle*.” In the play and in the police encounter with Robert, it quickly becomes apparent that a person who is made the object of either form of treatment experiences a keen sense of effacement, rage, and loss of volition.

One of the key elements in the plot of “*The Votive Candle*” involves the implications of André’s terminal heart condition, especially how his ignorance of its fatal nature affects his relationship with Mireille. Even André’s own doctor does not reveal the condition to him, for fear that doing so would induce a dangerous level of stress. This “expert” decision to avoid telling the patient the extent of his own condition, while largely anachronistic with respect to

current medical practice, nonetheless offers an instructive analogy to the logic of the bureaucratic decision to keep Robert from developing a clear sense of his impending detention and return to the psychiatric hospital.

The underlying issues at play in this kind of thinking are revealed in the following dialogue:

OCTAVE: It's very lucky that so far we've been able to keep him [André] in the dark. . . If he felt that knife hanging over his head. . .

MIREILLE: Yes, yes. But it's so humiliating to be made a fool of like that. It's degrading. . . I know that in his place I. . .

OCTAVE: I don't know if Andre's strong enough to face the truth. . . I doubt it, to be honest.

ALINE: [*sharply*] Do you think it's very generous to disparage him at a time like this?

OCTAVE: I'm not disparaging him, I'm merely seeing him as he is (Marcel 1965:257/1950:79).<sup>133</sup>

Among the possible reactions to being treated as an incidental element or abstract substratum (subject) of one's own deepest predicaments (predicates), humiliation stands out as the one that is probably the most potentially violent and degrading (see Katz, 1988). Mireille certainly understands this in voicing her opposition to keeping André in a state of ignorance. Yet, Octave's point is hardly without merit, and is no less well intentioned than Mireille's. Octave protests that he is treating André in a manner consistent with what he *is*. His words bring the immediate relation between ontology and praxis into sharp relief: what André is understood to be as a person determines how best to approach him. In the concerns that it raises, this exchange closely parallels the kinds of factors surrounding the police officers' deciding how most appropriately to "handle" Robert. It is further relevant in both cases to note that the officers and Octave share the conviction that their actions are taken in the best interests of another person, whom they purport to be protecting from himself.

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<sup>133</sup> This dialogue is especially interesting in light of Marcel's discussion elsewhere of the moral quandaries facing a doctor faced with telling a patient that he is mortally ill. See Marcel (1973b:91-93).

These parallel dynamics, as well as their similar ontological foundations, may be more closely discerned in some passages from “*The Broken World*.” The title of the play comes from the words of its heroine, Christiane Chesnay, which she speaks as she decries the anomic state of her life:

Don't you have the impression that we are living. . . if we can call that living. . . in a broken world? Yes, broken like a watch that has stopped. Its mainspring no longer works. To all appearances nothing has changed. Everything is in place. But if you put the watch to your ear. . . you hear nothing. (Marcel, 1998:48/1973a:121)

Faced with this vacuous existence, Christiane struggles to escape by engrossing herself in endless superficiality, which allows her to be, as she calls herself, a “busy woman” (“*femme occupée*”) (Marcel, 1998:48/1973:121-122).

The action of the play centers upon the deep state of crisis that marks Christiane's desperate situation in the hedonistic “broken world” of inter-War Paris. Her frenetically paced life as a socialite distracts her from her deep sense of alienation, and conceals it from the retinue with whom she surrounds herself. Most of all, it helps her cope with her loveless marriage to Lawrence, a high-level bureaucrat. Christiane's intimate social circle is characterized by self-absorbed nihilism and hopelessness, and is populated by people whose crises and actions read like reports from a police blotter: suicide, drug addiction, pedophilia, mental breakdown, and psychologically manipulative domestic violence. In its concrete depiction of Christiane's innermost anguish, “*The Broken World*” reveals what is at stake in the profound dissonance in modern society between the depth of human predicaments, and their objectification as “manageable problems” (see Marcel, 2001).

As she flits from one event and project to another, Christiane's state of perpetual turmoil becomes so disequilibrating and enervating that her friends fear she will suffer a nervous breakdown (“*la dépression nerveuse*”) (Marcel, 1998:91/1973a:164). Her closest friend, Denise Furstlin, tells Lawrence in Christiane's presence that Christiane probably needs to spend several



months in a Swiss sanatorium. Christiane listens silently; and in the midst of the conversation, she “sits down with the dejected, ironic air of a person who is being treated as an object” (“*réduite à l'état d'objet*”) (Marcel, 1998:91). Christiane’s feeling of being objectified is only reconfirmed when one of her young admirers, Henry, adds to Denise’s comments, which he also directs to Lawrence, as if Christiane were not even present in the room.

What might make for rudeness in this kind of intimate discussion among close friends can unfold with far graver consequence in a situation such as a police encounter with a person in a state of emotional crisis or mental disharmony. The bizarre circumstances of the encounter with Robert illustrate this with particular clarity. What began as a conversation with Robert’s mother, in which it was presumed that Robert was not even present, quickly transformed into a potential critical incident as soon as he appeared. Prior to that point, Robert was only “present” for the officers and for Mrs. Brown as an abstract concern. Once he appeared in the kitchen doorway, it was obviously necessary to shift the entire dynamic of the contact. However, this shift still effectively treated Robert as an objective presence. In the encounter with Robert, his state of confusion and torment put him in a situation basically akin to Christiane’s, or André’s, in the earlier dialogue from “*The Votive Candle*.” Like both of these characters, who already have a sense of being alienated, Robert had to sit passively as his fate was discussed.

In an ironic inversion of the objectifying dynamic that prevails when Denise confronts Lawrence about her perception of Christiane’s mental state, Christiane takes a radically different approach towards Denise when, two weeks later, she shows up at the Chesnay residence, deeply melancholic, and in a drug-induced stupor. Faced with the double crisis of her recently failed marriage to Max, who has a history of pedophilia and drug addiction, and the news that she now has been betrayed by her lover, Bertrand, Denise has turned to heroin, which she injects with the general intent of slowly killing herself. Christiane realizes what is occurring, and confronts Denise:

Christiane: (Going to greet her.) You look awful.  
Denise: (In a somber tone.) It doesn't matter.  
Lawrence: I believe you want to speak with Christiane. I'll leave you two together. (He goes out.)  
Christiane: Have you seen a doctor?  
Denise: It's not a medical problem. Your prediction was wrong. Bertrand is going to marry that de Brucourt girl. And that's not all . . .  
Christiane: (Looking at her.) Why, Denise, your pupils are dilated. . . you haven't . . . ?  
Denise: Yes, I tried to, but failed as in everything else. (She looks around her.)  
(Marcel, 1998:112-113/1973a:183)

The context of the dialogue makes it obvious to the reader that Christiane's approach to Denise is one rooted in a deep mutual understanding. Explained in Marcel's own terms, it may be said that Christiane regards Denise as a mystery, rather than a problem. To use the closely related distinction at the heart of the present dissertation, the encounter between Christiane and Denise is one of consciously embraced co-presence, rather than intersubjectivity. This is most clearly apparent in Christiane's authentic openness, on the basis of which she not only realizes the tragedy of Denise's situation, but is also shaken by its uncomfortable parallels to her own life.

Looking strictly at the outward content of the dialogue between Christiane and Denise, it is easy to imagine a similar kind of exchange taking place during an encounter between police officers and a person in a state of emotional or mental crisis. Everything that Christiane says to Denise generally approximates the type of statements that police officers frequently make to people who are reportedly suicidal, or otherwise in a state of profound psychological disharmony. Commenting upon outward physical signs of distress, offering medical assistance, and adopting a "low-key" approach that seeks to elicit critical information, all represent elements of the kind of approach that most police departments would encourage their officers to use. Despite this apparent similarity, it is evident that the two dialogues proceed in terms of radically different approaches of the interlocutors to one another. For a phenomenological interpretation of encounter, the essential distinction rests upon the contrasting ways in which Christiane and the police officer experience the presence of the other person before whom each of them stands.

Applying this distinction to the encounter with Robert, it is clear that the reification of his presence reduced the conversation with him to a kind of pragmatic stalling, aimed at keeping him engaged while tactical arrangements were being made to take him into custody. Drawing from Heidegger (1996:157-159), such dialogue may be viewed as mere “*Gerede*” – “idle talk” – the purpose of which is to fill time, rather than truly to engage the other person. Tellingly, the first words spoken upon the officers’ becoming aware of Robert’s presence were directed by one officer to another, but not to Robert himself: “hey, isn’t that him,” rather than, “hey, aren’t you Robert?” Everything that followed from this moment treated Robert as the incarnation of an irrational threat.

Such points notwithstanding, it must be noted with equal force that, however much the procedural and dialogical nuances of this encounter might have varied, a decision other than the one to return Robert to the hospital would have been negligent and derelict. It is equally apparent that coming to the aid of a longtime friend, who is in a state of deep crisis, is radically different from the situation facing a police officer who is trying to take a man like Robert into custody. The fundamental conflict identified at the opening of this chapter thus remains unresolved; and the bifurcated stance endures between bureaucrats and their fellow human beings in crisis. As the next chapter will illustrate this tension endures even in encounters with death.

## CHAPTER 9 POLICING DEATH: THE BUREAUCRATIC PROBLEMATIZATION OF MORTALITY

*In all this the thing was to exclude everything fresh and vital, which always disturbs the regular course of official business, and to admit only official relations with people, and then only on official grounds. (Leo Tolstoy, 1991:139)*

### ***Introduction: Death as an Official Problem***

Police officers are among the very few members of modern society who regularly encounter death. They do so, moreover, outside of a clinical setting, which has become modernity's customary site for the occurrence of dying (see Walter, 1996). Beside the obvious circumstances that come to mind in thinking about police responses to deaths, such as murders, suicides, or traffic collisions, the police also investigate any death that is not attended by a physician or other legally recognized medical authority. Such an incident is commonly referred to in some policing circles, including the author's, as an "unattended death," or simply an "unattended." This phrase tellingly indicates yet another aspect of modernity's bureaucratization of the lifeworld, whereby even death itself has become an official event that is reckoned accountable to the secular state (see Eliade, 1959:185-187; Sudnow, 1967; Giddens, 1991:161-162; and Walter, 1996).

An attended death is one that has been witnessed by a medical professional, who can certify its scientific cause, and thereby demystify it and classify the death for official purposes as a distinct clinical, legal, and administrative occurrence.<sup>134</sup> An unattended death, on the other

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<sup>134</sup> Sudnow's research on death in hospitals makes a very similar point. Sudnow, working under the supervision of Erving Goffman, defined his ethnographic work as follows: "My central effort has been to locate 'death' and 'dying' as organizationally relevant events, conceive of their handling as governed by the practically organized work considerations of hospital personnel and ward social organization, and

hand, is one that occurs beyond the gaze of state-sanctioned medical expertise; and hence, is approached by late modern society as a *problem*, insofar as the state must fulfill legal and social mandates to provide a rational account of the death of each person. Death in the present age, then, aside from all of the other forms of significance that are varyingly attached to it, is bureaucratically encountered as a discrete, official *event*, which must be ascribed to a demonstrable *manner* (either natural, accidental, homicidal, suicidal, or undetermined), *cause* (e.g. cardiac arrest, asphyxia, pneumothorax, etc.), and *mechanism* (e.g. gunshot, fall, electrocution, etc.). In order for death to be interpreted in this way, it must be regarded beforehand as the kind of “event” that is deemed rationally explicable in terms of such a juridical and medical taxonomy. The initial role of the police as first responders to death investigations frequently represents the initial step in this process of problematization.

Death scenes are rarely the solemn, controlled situations often portrayed in popular culture, in which police officers hang up cordons of yellow crime scene tape, and then conduct an investigation that proceeds in a systematic, orderly manner.<sup>135</sup> The actual reality for police officers and other first responders at the scene of a death is far more unpredictably dynamic, and suffused with an emotional, psychological, and spiritual rawness. To respond officially to a death, as an agent of the state, often means having to encounter hysterical, angry, and shock-stricken survivors, and of consciously feeling the awkwardness of one’s own presence, as an outside intruder, at one of life’s two most sacred moments.

How does a police officer explain to a man that he should not go into his elderly father’s house, because the stench of decomposition is so overwhelming? What does one say to the young woman who returns home to find her boyfriend’s body, after he has blown his head apart

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sketch out certain themes which appear to bring together a set of observable facts about social practices related to ‘dying’ and ‘death’” (Sudnow, 1967:3).

<sup>135</sup> Crime scene tape asserts a profound practical and symbolic power, isolating the event of death and reducing its mystery and ultimacy to a forensic problem. It is as if the tape itself could hold the outside world at bay, and capture death, so that its objective analysis through the systematic operations of bureaucratic praxis can occur unimpeded.

with a high-powered rifle? How does one physically restrain an anguished father who tries to shove his way past officers to get to the body of his dead son? These are examples of the kinds of situations that the author has encountered at death scenes, and will strike a familiar note to any experienced police officer, or, for that matter, to anyone who has had in any way to deal “officially” with death. Although most police officers eventually grow somewhat accustomed to facing the physical gruesomeness of death, there is no growing accustomed to the deeply unsettling discomfiture that comes from being in the position of a bureaucrat, whose official concern with the worldly end of a human life is but a shadow of its meaning for the family members and others who are present. It is, perhaps, more for this latter reason, than out of the unpleasantness of physical revulsion, that many police officers dread responding to death scenes.

Approached as an event or situation that must be contained within the interpretive bounds of bureaucratic problematization, death represents what is arguably the greatest possible contrast between the ineffability of human presence, and the bureaucratic attempt at its delimitation through instrumental rational praxis. The absolute finality of death inevitably transcends whatever means are taken to desacralize it, and to treat it in a routinized, factual way (see Eliade, 1959:186). Feifel (1959:xvii) suggests some of the implications of this modern approach to death:

It is conceivable that our science-conscious culture, which tends to measure all experience within the bounds of space and time, does not furnish us with all the necessary parameters for *investigating and understanding death*. [emphasis added]

This divide between the mystery of death, as the ultimate existential fact, and its containment in the form of a bureaucratic, matter-of-fact “subject” of a police investigation, parallels the profound disparity between police officers’ presence at death scenes as bureaucrats, and their presence as human beings (see Heidegger, 1996:246-249).

Considered in phenomenological terms, the discomfiture, dread, and awkwardness that officers experience when they encounter death may be read as a sign of an intuitive awareness of human presence that overwhelms its engagement in terms of bureaucratic problematization. This disparity offers a salient point of analysis for a phenomenological aesthetics of encounter. Indeed, episodes of death are an especially fitting topic with which to end the application of a phenomenological aesthetics of encounter, because they illuminate the difference between co-presence and intersubjectivity in a way that no other kind of encounter can.

As the last of the dissertation's five chapters that apply a phenomenological aesthetics of encounter to the analysis of police-citizen interactions, this chapter interprets representative police encounters with death by considering them as instances of bureaucratic problematization and juxtaposing them with passages from short stories. To elaborate upon what has already been suggested, the problematization of death delimits it for official purposes as an "incidental matter," with all that this phrase connotes. Reduced to an "incidental matter," death is made available as one more set of material facts and circumstances amenable to bureaucratic praxis and interpretation. At its most basic level, this availability is initially engaged by literally *approaching death* in a certain way.

In this chapter, passages from Leo Tolstoy's novella, "*The Death of Ivan Ilych*" (1886), and from Anton Chekhov's short story, "*Sorrow*" (1885), will be used to illustrate the tension between the bureaucratic comportment towards death, which experiences it as a problem, and the ineluctable experience of death, in terms of its mystery and ultimacy. These contrasting approaches to death will show how the ability to problematize death enacts a notion of human presence that is anything but inevitable or innate. Accordingly, as in the previous chapters in this division, and consistent with the dissertation's key distinction between co-presence and intersubjectivity, the analysis that follows here will consider how, even in death, human being defies objectification and reification.

## **Encounter #9-1, Vanessa**

On a November night, shortly before 1:00 AM, a colleague and I were dispatched along with paramedics to a report of an “unresponsive female” in an apartment. “Unresponsive” usually means “dead.” The dispatcher advised that the caller had returned home to find the woman unconscious, blue, and not breathing. I immediately remembered the address as one to which other officers and I had been responding often in recent months, mostly for drug-related incidents and domestic violence situations.

As the paramedics, my fellow officer, and I quickly made our way towards the apartment from the parking lot, we could hear the panicked yelling of a male voice: “Mom, wake up, wake up! Start breathing!” We entered through the wide-open front door, and saw a couple in their late teens standing over a woman, who was lying on a thin mattress in the middle of the living room floor. I recognized the couple from several recent contacts as Rick and Theresa, and quickly realized that the woman on the floor was Rick’s mother, Vanessa. It was instantly apparent that Vanessa had been dead for a number of hours, so the paramedics made no attempt to resuscitate her.

She was lying on her left side, curled up in a semi-fetal position, with her hands clasped together in front of her face. Her body was cold and blue, with clear signs of rigor mortis and livor mortis (post-mortem, gravitational pooling of blood in the lowest points of the body). Near Vanessa’s head, there were two pillows stained with bodily fluids, which appeared to have seeped from her nose and mouth. She was clothed in a t-shirt and underwear, and was partially covered with a blanket.

The paramedics quickly gathered up their equipment and left, doubtless relieved that they would not have to remain at the scene. Surreptitious looks of humor-tinged jealousy were exchanged between the paramedic crew and my partner and me. We escorted Rick and Theresa outside the apartment, which would now officially be considered a crime scene until an investigation was completed. I requested additional assistance from other officers. I assigned one officer to secure the front door, and had another officer ensure that Rick and Theresa remained apart from each other. One of the officers called for a chaplain to help comfort Rick and Theresa, and to assist them in contacting family members. Rick sobbed loudly, his crying interspersed with profanity-laced incantations of anger and disbelief: “God damn it, mom, I can’t f-ckin’ believe it!” “I can’t f-ckin’ believe it!” Theresa, too, was in a state of near-hysteria.

My partner and I tried to elicit some general information about the circumstances of Vanessa’s death from Rick and Theresa while we waited for detectives to arrive. Their versions of the incident were inconsistent on some points, and outright contradictory on others. There were no signs of a struggle in the apartment, nor did Vanessa’s body show any obvious signs of trauma. Theresa claimed that she had found Vanessa after returning from a brief trip to a nearby convenience store, and says Vanessa started having difficulty breathing. Theresa said she panicked, and called Rick, who came over right away to see what was wrong with his mother.



Theresa's calling Rick would be unremarkable, but for the fact that a judge had recently placed a domestic violence no-contact order against Rick, which legally barred him from being at Theresa's apartment, or from even communicating with her at all. Theresa and Rick had been dating since their early teens, and had a two and a half year-old child together. His drinking and use of methamphetamine did not help Rick's extremely volatile temper. A judge had issued the no-contact order against Rick after repeated incidents of domestic violence between him and Theresa. Child Protective Services took custody of the couple's child, due to concerns about Rick's behavior. Normally, Rick's being in the presence of Theresa, or even his attempting to contact her, would have led to his arrest. However, I told my colleagues that we would overlook the technical violation of the court order, and ventured my opinion that, under the circumstances, to do otherwise would be blatantly cruel.

Rick's anger and violent temper were not directed only at Theresa: on numerous occasions, Vanessa had herself experienced his wrath, verbally and physically. Theresa and Vanessa had developed a very close relationship over the years that Theresa was dating Rick. Like Theresa's mother, Vanessa had severe addictions to heroin and other drugs. Theresa was renting the apartment in which Vanessa died. Vanessa had been staying with Theresa since her release from prison several months earlier, where she had served a sentence for drug-related forgery convictions. With nowhere else to live but the street, Vanessa ended up living with Theresa.

Vanessa's death was devastating for Theresa, whose mother had died about two years earlier of a heroin overdose. She had only been in her early thirties. Theresa told me that Vanessa had basically become her mother since her own mother had died. Theresa's stepfather had recently been convicted of selling heroin, and was sent to prison. Theresa's biological father was also in prison, having been convicted of child molestation. Rick had apparently been present when Theresa's mother had died: now the horrific cycle was repeating itself. Theresa stood in the cold hallway outside of the apartment sobbing. "I can't take it any more, I can't f-cking take it!" she cried. "It's all because of drugs, I hate drugs!"

After about an hour and a half, two detectives and an investigator from the medical examiner's office arrived at the scene. Vanessa's relatives also began to show up at the apartment. Several of them quickly became angry with Rick and Theresa, blaming them for what they already knew had been Vanessa's relapse to heavy heroin use following her release from prison. Theresa was too upset to remain at the scene. I escorted her away from the knot of angry relatives, and had her sit in my patrol car. Tempers flared further, and a fistfight nearly broke out between Rick and his uncle. This tense situation lasted for several minutes, until I told everyone present that this was not the time to lay blame for Vanessa's death. At the family's request, they were subsequently allowed to view Vanessa and say their farewells before the medical examiner removed her body from the apartment for transportation to the morgue.

Detectives later took Rick and Theresa to the police station and questioned them about the events surrounding Vanessa's death. They remained vague and uncooperative, as they had at the scene. The medical examiner subsequently ruled

that Vanessa had died of bronchopneumonia, caused by an accidental overdose of opiates and cocaine. She was thirty-nine years old.

### ***Approaching Death***

The episode of Vanessa's death vividly illustrates the point made above, that the more unsettling aspect for police officers in their encounters with death is often dealing with the survivors, rather than with the deceased. Had Vanessa been found not by Rick and Theresa, but instead, by an unrelated third party, such as a landlord or maintenance worker, the bureaucratic task of problematizing her death would doubtless have occurred more efficiently and quickly. As it happened, of course, officers found themselves having to contend with the initial shock and grief that accompanied Rick and Theresa's unexpected discovery of Vanessa's body, and their futile attempts to resuscitate her.

In this critical respect, officers' approach to Vanessa was operationally inseparable from their approach to Rick and Theresa. Problematizing Vanessa's death necessarily involved a physical and figurative crossing of thresholds, between a neatly contained crime scene, and the world beyond it, with the two separated only by the front door of an apartment. Like the crossing of thresholds that occurred during the author's encounter with Cecilia (Chapter 7), in which she reached out across her doorway, and took the author's hand, what occurred inside Vanessa's apartment – the routine transformation of her death into a bureaucratic problem – similarly had its ontological presuppositions powerfully challenged by what was happening just on the other side of the door, where Rick and Theresa stood in the cold night air, and tried to come to grips with their shock, loss, bereavement, and anger. This created an interpretive dynamic in which the physical act of passing back and forth through the apartment door effectively moved the author and his colleagues between two radically different experiences of and approaches to Vanessa's death.

The police response quickly “contained and stabilized” the situation until it arrived at the following decisive point: for Rick, Vanessa was, as he put it while pointing at the front door of

the apartment, “my mother, who’s lying dead *in there*.” For Theresa, Vanessa was also present in her sudden absence as a “lost mother,” not only for what she had been to Theresa in life, but also for how she had apparently died. For the author and his colleagues, acting in their official capacity, Vanessa was “the body.” Alone in the apartment with what was now approachable simply as the focal object of attention, the author and his colleagues created a sanctuary for bureaucratic efficiency, where nothing could physically impinge upon the rational process of investigation.

For Rick and Theresa, standing outside, the fact that Vanessa was only a few feet away from them, inside the apartment, must have been eclipsed by the sense that she was actually at an infinite remove, a feeling that was strengthened by the physical barrier of the door, guarded by a police officer. This moment vividly exemplifies Bachelard’s observation of the phenomenological significance of interiority and exteriority (1994:211-231). Bachelard grasps the profundity of the threshold, where the passage from inside to outside always has a poetic meaning that transcends the deceptively simple geometry of here and there:

How concrete everything becomes in the world of the spirit when an object, a mere door, can give images of hesitation, temptation, desire, security, welcome and respect. If one were to give an account of all the doors one has closed and opened, of all the doors one would like to re-open, one would have to tell the story of one’s entire life. (Bachelard, 1994:224)

This remarkable insight leads to the realization that the interactions among Rick, Theresa, and the police officers are apprehensible as microcosmic moments of exactly what Bachelard describes – a “telling of the story of one’s entire life” – in which the competing poetics of bureaucracy and existential self-interpretation clash headlong. Rick and Theresa’s state of perpetual crisis and violent turmoil, lived out with the near-constant presence of the police, is thus encapsulated in this encounter, in ways that exceed what is “factually” or “objectively” significant about its character as a bureaucratic “event.” At so many defining junctures in Rick and Theresa’s lives, the police have been there, “in the moment.”

The resulting dynamics of encounter can generate an abiding tension and sense of tragedy, which is realized in the poetic creation of meaning that accompanies the smallest steps and gestures. To give one, brief example, the mere act of Theresa's asking for a coat to stay warm necessitated the translation of her simple request into a variable in a bureaucratic equation: does she really want the coat to stay warm, or might the coat be a potential piece of evidence? Might it contain a weapon, to be used against officers? After a careful search of its pockets that turned up nothing, the coat was handed out the door, passed by a detective to a patrol officer, who then gave it to Theresa out in the dark, exterior stairway, where she and Rick sat.

For investigative reasons, the author and his colleagues had to isolate Vanessa's body and control the crime scene, which necessitated compelling Rick and Theresa to leave the apartment. They did not balk at having to go outside, in large part, perhaps, because of their extensive, personal familiarity with police procedures. Once they were outside the apartment, Rick and Theresa also had to be isolated from one another, a standard police procedure used to prevent witnesses from influencing each other's statements or memories, and to prevent suspects in a crime from formulating consistent alibis. Recognizing the manifestly tragic nature of the situation, the author, as the supervisor at the scene, decided to maintain a more limited degree of isolation between Rick and Theresa, which allowed them to interact, as long as an officer remained with them and monitored their conversation. These, then, are the uncanny circumstances within which the author and his colleagues began an intricately complex dialogue that sought to engage Rick and Theresa in a way that would struggle to mediate between the interpretation of Vanessa's death as a bureaucratic problem, and its interpretation as a moment of inexplicable finality. Grief and ultimate loss literally came face to face with the bureaucratic imperative efficiently to garner the facts and circumstances behind Vanessa's death.

One of the first questions that immediately arises in further consideration of this dynamic is the extent to which gestures of compassion and sympathy are authentic, or whether they are

merely a pragmatic attempt to instill composure, in the hope of gaining valuable facts and data about the case. The answer to this question – at least from a phenomenological standpoint – is that it is neither one, nor the other exclusively; rather, officers' comportment towards Rick and Theresa was one shaped by complicated, interrelated shifts of intentionality. To say, for example, that police officers tried to gather information from Rick and Theresa while “allowing” them to grieve, suggests an intentional stance altogether different from one that would question them, while acknowledging or recognizing their grief more authentically. Further still, the skepticism and suspicion that are intrinsic elements of the police officer's interpretive gaze would almost inevitably, if only for a moment, have reflected upon the possibility that Rick or Theresa's expressions of grief might have been inauthentic emotional displays, put on for the benefit of the police, in order to conceal a crime or other suspicious circumstances.

What of the encounter with Vanessa herself? The initial response to the scene of Vanessa's death was treated as an emergency involving a potential lifesaving situation. This is because considerations of liability, to say nothing of fundamental ethical principles, mandate the operational assumption that people are still living, until definitive proof to the contrary is found. Once the determination had been made that Vanessa was obviously dead, emergency medical personnel left the scene, and with them departed any official interest in Vanessa's existence as a living human being, except insofar as the final hours or days of her life might be viewed as a potential source of clues to the chain of events that led up to her death.<sup>136</sup> In this way, Vanessa instantly became the literal “object” of a formal police investigation, and became approachable as such.

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<sup>136</sup> It is interesting to note the tensions that can occur between emergency medical personnel and police officers, which arise out of their diverging official interests at crime scenes. Police officers often voice frustration that paramedics have “contaminated” or “screwed up” a crime scene in the frenzied activity of trying to save a life. As a practical matter, of course, there is often little that be done to avoid the disturbing or loss of forensic evidence on people themselves, or in the immediate area around them, which is often trampled and upset.

Almost simultaneously, the entire domestic space in which Vanessa had lived out her final months was declared to be a crime scene, and Vanessa's body was designated the central object of interest within it. At the conclusion of the investigation, the door to the apartment opened again, and the police literally stepped back, momentarily ceding at least some control to the ultimate fact of life's finality, and allowing the family to say goodbye to Vanessa. After this ritual had concluded, bureaucracy re-asserted itself: Vanessa was neatly wrapped in a body bag, and loaded into the back of the medical examiner's truck.

As the analysis of the episode with Vanessa is pursued further through a consideration of Tolstoy's "*The Death of Ivan Ilych*," it will be possible to engage in greater detail the contradictory and dissonant levels of significance marking police encounters with death. In his engagement in the story with conflicting approaches to death, Tolstoy shows its ultimately mysterious nature. For a phenomenological aesthetics of encounter, this amounts to a disclosure of the comportment towards death as an expression of conflicting notions of co-presence and intersubjectivity.

### ***Tolstoy: Being in the Presence of Death***

Harold Bloom characterizes Tolstoy's work in a way that fittingly introduces its value for a phenomenological aesthetics of encounter:

. . . Tolstoy is above all an artist of the normal – the normal, however, so intensified that it acquires a poetical truth and an emotional fullness which we are astounded to discover in the ordinary situations of life. (Bloom, 1986:58)

Echoing this opinion, Simmons remarks (1968:2):

No novelist was more acutely aware of the reality around him than Tolstoy or more exhaustively absorbed, through the intellect and senses, in all its manifestations.

This discerning attentiveness to the nuances of the human condition in the setting of its everyday existence is well in evidence in "*The Death of Ivan Ilych*." Written and first published in 1886,

“*The Death of Ivan Ilych*” numbers among the greatest explorations of death in Western literature (Cain, 1977:164 and Steiner, 1959:283).

For the specific purposes of its application within a phenomenological aesthetics of encounter, the story holds potential analytic value for at least three notable reasons. First, the significance of Tolstoy’s account of impending death is acknowledged in fields ranging from psychology, clinical medicine, and sociology, to philosophy and theology (see Wasiolek, 1978:168). This wide acclaim stems largely from the recognition that “*The Death of Ivan Ilych*” engages the theme of human mortality in a manner that transcends the level of evocative fiction and emotional affect, to reveal abiding and essential aspects of the experience of death. Second, the influence that “The Death of Ivan Ilych” had upon Heidegger’s explorations of death in *Being and Time* (1996:236-267, esp. p.254n12) offers a notable illustration of the story’s relevance for phenomenological and existential thought.<sup>137</sup> Third, “The Death of Ivan Ilych” presents the unfolding of the mystery and finality of death in the context of the everyday life of a conspicuously ordinary man, and does so with a narrative structure that contains a prominent phenomenological dimension (see Natanson, 1998).

In “The Death of Ivan Ilych,” Tolstoy pursues what he views as essential truths of the human condition, which transcend circumstantial particularity (see Wasiolek, 1978:166 and Christian, 1969:236). In doing so, Wasiolek explains, Tolstoy focused upon writing narratives in which “[t]he details point to things beyond themselves” (1978:166). The precision and detail of Tolstoy’s narrative imparts to the story a quality that Steiner calls a “terrible intensity” (1959:283). Adding further to its relevance for a phenomenological exposition of human encounters, “The Death of Ivan Ilych” was written at a time in Tolstoy’s career when he was

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<sup>137</sup> Kaufmann (1959:46-47) reads Heidegger’s analysis as essentially being an extended commentary upon “The Death of Ivan Ilych.” See, also, Shibbes (1974:81-146) and Natanson (1962:212-220).

consciously exploring the nexus between the world of his fiction and the actuality of the social arena in which he lived (Wasiolek, 1978:166).<sup>138</sup>

While “The Death of Ivan Ilych” is most often acclaimed for its meditations upon mortality from the standpoint of its dying protagonist, the story also gives notable attention to the reactions of Ilych’s family and colleagues to his imminent and actual demise. Tolstoy’s treatment of encounters with death from the standpoint of survivors will be the primary focus of the discussion here. There are several key passages in the story centering upon encounters with Ilych’s dead body, and with the reactions of Ilych’s colleagues to his death. These passages offer some consequential insights for a phenomenological investigation of encounters with death, and are directly applicable to analyzing the kind of police encounter that occurred in the episode of Vanessa’s death. In particular, the matter-of-fact “business” of dealing with death receives careful attention in Tolstoy’s narrative, and reveals, in what effectively amounts to a phenomenological manner, how the actuality of death is circumscribed in ways that make it literally *approachable* as a certain kind of rational event (see Simmons, 1968:149 and Christian, 1969:238).

Early in the story, Tolstoy marks out the divide between what may be thought of as the existential and social compartments towards death. The former occurs as the response to death that brings about an immediate and intuitive reflection upon one’s own mortality, the fact that one is still alive, and the fact that it is someone else who has died (Tolstoy, 1991:124). The latter is the mundane realization, accompanied by dread and discomfiture, that one must attend to “the very tiresome demands of propriety” – funerals, condolence calls, and the like (Tolstoy, 1991:124). Intermingled with all of this is the awkward awareness that death can create opportunities for the survivors, in the form of promotions, inheritances, and other worldly

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<sup>138</sup> In this context, it is especially worthwhile noting that “The Death of Ivan Ilych” reflects the transformation of Tolstoy’s writing that followed his well-documented spiritual crisis and conversion. See Speirs (1971:141), Cain (1977:137-138), and Wasiolek (1978:166-167).



advantage (see Greenwood, 1975:122). This awareness can engender a powerful sense of guilt, though not as strong as the sense of guilt felt by survivors, who, like Ivan Ilych's widow, cannot help but acknowledge that death can also lift a crushing burden from the shoulders of the living.

The story opens with the reaction among Ivan Ilych's friends to the news of his death. His closest colleague, Peter Ivanovich, goes to view the body, and to offer his condolences to Ilych's widow, Praskovya Fedorovna. As soon as Peter Ivanovich arrives at Ivan Ilych's house, he is struck by the discomfiture of the moment: "Peter Ivanovich, like everyone else on such occasions, entered feeling uncertain what he would have to do" (Tolstoy, 1991:125). He opts for the safe and solemn ritual gesture of crossing himself. This initial, overwhelming gravity, which accompanies the arrival at the scene of death, is akin to the police officer's first moments at a death-related incident. Especially if an officer must first encounter surviving family members, there are usually delicate, painful rituals of stating condolences, and of trying to explain the role of the police at the scene. Then, having dispensed with these social obligations, the actual encounter with the body may take place.

At the scene of Vanessa's death, once the paramedics had left, the author and his colleagues quickly escorted Rick and Theresa outside, reassuring them with statements of condolence, but being mindful of the need "to get them out of here" before they had a chance to assimilate the full significance of what had occurred. Paradoxically, of course, the act of being taken outside by the police has this effect anyway: the utterance "I'm sorry, there's nothing we could do" begins to communicate the truth of death's finality, of which the mind has already begun to take notice, at least unconsciously. The departure of the paramedics almost immediately after their arrival occasioned statements of condolence from them and from the police officers to

Rick and Theresa, which acted to reiterate the factual circumstances behind their decision not to make resuscitation efforts.<sup>139</sup>

Once the outside world begins to impinge upon the mind and distract its attention, the distraction itself can shock consciousness into the sudden and uncanny knowledge of irreversible loss. It is precisely at this moment that officers must guard against uncontrollable and unpredictable responses, which can at times be physically violent. Simultaneous with all of their efforts to “control the scene” and begin the process of problematizing death, officers, too, find themselves struggling to contain their own greater awareness of what has transpired. However, despite the attempt to formalize and limit their role to that officially prescribed by the occasion for being present, death is such that it overwhelms the mind and the senses.

This is exactly what happened to Peter Ivanovich. As soon as he stepped inside Ivan Ilych’s house, he “was immediately aware of a faint odor of a decomposing body” (Tolstoy, 1991:125). Even in a case such as Vanessa’s death, when putrefaction has not yet begun, the primordial nature of death seems to exert an almost instinctive effect upon the senses, and upon smell more than the others.<sup>140</sup> The mind imagines that the nose smells death, even when, “factually” it probably does not. Other smells become amplified, too: bodily excretions, fresh blood, the mustiness of a room, lingering odors of cooking and smoking, and medicinal aromas.

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<sup>139</sup> In other instances, where death has just occurred (for example, in “CPR in progress” calls) the author has frequently seen paramedics prolong lifesaving efforts beyond what may be clinically warranted, in order to give watching loved ones a feeling that “something is being done” to save a life that is already gone. This practice is especially common when the death is wholly unexpected, or virtually any time when it involves a baby or child. Beyond the comfort that it offers to family members, medically superfluous resuscitation efforts also provide an unofficially recognized, though invaluable opportunity for emergency medical crews to gain “real life” practice in skills such as airway intubation, defibrillation, and intravenous drug administration. Considerations that are far less pragmatic also arise: in some situations, which a phenomenological interpretation would attribute to a profound awareness of human presence, lifesavers become emotionally invested in their actions, which can cause arguments in the field about when to terminate resuscitation efforts.

<sup>140</sup> Officers’ first question to their colleagues upon entering a death scene is rarely, “does it look bad?” but, “does it stink?” Relief will often be expressed that a body has been found shortly after death, before it has had time to decompose and thus emit the horrific odor of putrefaction.

Walking into Vanessa's apartment, the sight of her body triggered a hyperawareness of every aroma in the room. In this onrush of smell, the nose transports the mind "to the things themselves" – to the utmost, inescapable palpability of death. It is something of which Tolstoy also seems to be acutely aware, and which he insightfully situates with respect to the struggles of the mind to engage and cognize the event of death. In the opening scenes of the story, Tolstoy describes (1991:129) the co-mingled odors of incense, the decaying body, and carbolic acid (a disinfectant used on corpses) that linger oppressively in Peter Ivanovich's brain until he is able to go outside, and breathe fresh air. Ivanovich's experience shows how the mind's willful efforts to compartmentalize death through rational reflection clash with a more elemental and involuntary awareness that death resists all such containment. It marks, as such, a clear analogue with the quandary of the police officer, whose stance towards a dead body constantly shifts among a range of ultimately inseparable interpretive postures.

Besides his attentiveness to smell as a key aspect of the intersecting existential and sensory experiences of death, Tolstoy treats the "heavy" presence of death with remarkable attunement to what this means in terms of the physical nature of a corpse, as well as what it signifies for those in its presence. This likewise bears directly upon police encounters with the dead, and has immediate pertinence for understanding the encounter with Vanessa. For new police officers, the absolute stillness of death leaves a lasting impression: it is impossible to realize how much a living human being moves until one has stared at a corpse, and marveled at its fixed eyes, whose gaze is haunting, precisely because there is no present intention behind it.

The absolute stillness of death becomes a sign for officers, which they learn to read quickly and translate into an awareness of mortality. Unless death has been very recent, the visible perceptibility of stillness and heaviness is sharpened even more by the tactile sensation of dead human flesh. Officers are taught that absent decomposition or decapitation, motionlessness alone cannot be used to confirm death: thus, the living hand must approach dead flesh, and feel

for (even if it already knows it likely will not find) a carotid or femoral pulse, or check for reactive pupils. The coldest flesh of a living person resists when pressed, and seems always to radiate faint warmth from within: the coldness of dead flesh, by contrast, shocks the unaccustomed hand with its unrelenting chill and lack of resilience, and seems to urge the living hand to pull back. The mind that processes what the hand feels in searching for signs of life thus struggles to bracket out its own sadness, horror, revulsion, and fear, as the official judgment is made whether life remains, or not. To phrase this in terms of the distinction between co-presence and intersubjectivity, what the police officer attempts to encounter strictly in objective terms, in the official act of probing for vitality, persists in revealing its existential wholeness, even in death. Here, in the tactile encounter with death, the notion that a human body can be experienced abstractly, as an objective presence, seems utterly impossible (see Heidegger, 2001:80-89 and 184).

In the case of Ivan Ilych, the absolute stillness and heaviness of death transformed his body into a presence that draws the eye with wonder and trepidation, and undoes any intention to see it as a mere thing. As Peter Ivanovich approaches the body, he notices how

The dead man lay, as dead men always lie, in a specially heavy way, his rigid limbs sunk in the soft cushions of the coffin, with the head forever bowed on the pillow. His yellow waxen brow with bald patches over his sunken temples was thrust up in the way peculiar to the dead, the protruding nose seeming to press on the upper lip. (Tolstoy, 1991:125)

Gazing at Ivan Ilych's face, Peter Ivanovich reads in its expression "a reproach and a warning to the living," though feels they do not apply to him (Tolstoy, 1991:125). Nonetheless, his attempt to detach himself from the implications of what he sees before him fail; and he quickly becomes unsettled, and hurries from the room. A short while later, during the funeral, Peter Ivanovich again tries to remain passive and detached:

The service began: candles, groans, incense, tears, and sobs. Peter Ivanovich stood looking gloomily down at his feet. He did not look at the dead man once, did not yield to any depressing influence, and was one of the first to leave the

room. There was no one in the anteroom, but Gerasim darted out of the dead man's room, rummaged with his strong hands among the fur coats to find Peter Ivanovich's, and helped him on with it. "Well, friend Gerasim," said Peter Ivanovich, so as to say something. "It's a sad affair, isn't it?" (Tolstoy, 1991:129)

His perfunctory comment uttered, Peter Ivanovich leaves. The night is still young; and he heads to the house of a friend, where he joins a card game that has just gotten under way (see Gustafson, in Tolstoy, 1991:461-2).<sup>141</sup>

Of course, the police officer investigating a death is in a fundamentally different situation from that of the mourning friend. This is because official duty mandates a comportment that transcends such awkwardness by subsuming it within the dynamics of problematization. Bearing this point in mind, and all other things being equal, the "easiest" death investigations are usually those in which no one is present except for the responding officers and the body of the deceased. In this type of situation, officers are free to relax a bit, and to engage in the irreverent forms of humor that they share with other professions that encounter death. Tolstoy also shows the strange conjunction of death and humor, which ranks among police officers' foremost defense mechanisms for grappling with the tragedy of death.<sup>142</sup> This kind of humor is especially prone to arise in the context of the boring and time-consuming nature of rituals associated with death, which are the common province of police investigations and events such as Ivan Ilych's funeral. These situations involving death also become occasions for the incongruous intrusion of life's

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<sup>141</sup> The symbolic significance and ironic value of the card game take on added meaning when the reader learns later in the text that Ivan Ilych himself had a fondness for playing cards.

<sup>142</sup> This humor has its unwritten limits, which are rarely transgressed. Nowhere is this more apparent than at scenes involving the death of an infant or pre-adolescent child, or what officers regard as the "death of an innocent." For example, the death of a sixteen year-old girl, who had been a passenger in a car that collided head-on with another vehicle, was viewed as an unmitigated tragedy that was clearly not to be made the object of off-color jokes. On the other hand, a separate incident, involving the death of an adult male, who was driving alone, and was killed when he sped out of control and demolished his sports car when it left the roadway, was not similarly immune from humor. Unlike the girl, the man was seen by some as a "smart ass," who had paid the ultimate price for his arrogance and poor judgment. Another example of this sentiment, which also shows that youth alone does not necessarily suffice as a guarantee of immunity from jokes, was the death of a fourteen year-old boy, who was shot while trying to break into a drug dealer's house. Some officers regarded this incident as worthy of wry comments and ironic humor, because the boy, who had been heavily involved in gang activity, was seen in some circles as having gotten his just deserts.

unavoidable needs. Experienced police officers know, for example, that whenever it is logistically feasible, a bathroom break and snack should precede the response to a death scene.

*“The Death of Ivan Ilych”* compellingly depicts this kind of experience and attitude, which marks the competing demands of death, and the flow of ordinary existence that it interrupts. Even before Peter Ivanovich left Ivan Ilych’s funeral, he had surreptitiously chatted with his friend and fellow mourner, Schwartz, in order to decide where they would be playing their bridge game that night. Similarly, at the scene of Vanessa’s death, while Rick and Theresa faced an overwhelming loss, the author and his colleagues mixed official matters related to the investigation with small talk about mundane concerns: who was going on vacation for the holidays, annoyance that the death investigation consumed time that could have been used to catch up on accumulated paperwork or take a coffee break, and so forth. When the investigator from the medical examiner’s arrived at the scene, he and the author chatted for a few minutes in the parking lot, well out of view and earshot of Rick and Theresa. Not having seen each other for some time, they remarked how the occasion of death provided an opportunity to “catch up.”

Regarded more broadly, through a phenomenological lens, such attempts at normalcy cannot help but keep being pulled back to the presence of death as the context that occasions an ostensibly casual encounter. The case of Vanessa suggests why encountering a colleague at a death investigation is not the same as a chance meeting at the supermarket. It was very much the same for Peter Ivanovich, as he arrived at Ivan Ilych’s house. Expressed in phenomenological terms, the power of death asserts itself against all efforts at suspending or bracketing it from consideration. Hence, whether for police officers or for Peter Ivanovich, adopting a posture of forced nonchalance that seeks “to go about one’s business as if there weren’t a death here” only makes the death that much more palpable.

In a passage from *“The Death of Ivan Ilych”* that has been the focus of extensive commentary (e.g. Bloom, 1986), Tolstoy shows how, as Peter Ivanovich struggles to console

Ivan's widow, he is aware of the smallest things around him, such as the way he sinks into the thickly cushioned hassock upon which he is sitting (Tolstoy, 1991:126-127):

When they reached the drawing-room, upholstered in pink cretonne and lighted by a dim lamp, they sat down at a table – she on a sofa and Peter Ivanovich on a low pouffe, the springs of which yielded spasmodically under his weight. Praskovya Fedorovna had been on the point of warning him to take another seat, but felt that such a warning was out of keeping with her present condition and so she changed her mind. As he sat down on the pouffe Peter Ivanovich recalled how Ivan Ilych had arranged this room and had consulted him regarding this pink cretonne with green leaves. The whole room was full of furniture and knick-knacks, and on her way to the sofa the lace of the widow's black shawl caught on the carved edge of the table. Peter Ivanovich rose to detach it, and the springs of the pouffe, relieved of his weight, rose also and gave him a push. The widow began detaching her shawl by herself, and Peter Ivanovich again sat down, suppressing the rebellious springs of the pouffe under him. But the widow had not quite freed herself and Peter Ivanovich got upon again, and the pouffe rebelled and even creaked. When this was all over she took out a clean cambric shawl and began to weep. The episode with the shawl and struggle with the pouffe had cooled Peter Ivanovich's emotions and he sat there with a sullen look on his face.

The passage captures the struggle between sensory hyperawareness and the background events that precipitate the mind's seeming desire to focus anywhere but upon death itself. Hence, Tolstoy's narrative account of the apparently simple act of Peter Ivanovich's struggling to sit down emerges as phenomenologically profound, in its attentiveness to the existential dimensions of ordinary experience, according to which intentionality shifts to and fro, as the mind poetically attends to the ineluctable fact of its own presence.

Yet, the attempted suspension of death does not succeed, as Tolstoy's narrative makes starkly apparent. Suddenly, despite his attempts at busying himself with consoling Ivan Ilych's widow, and fixing his attention upon sinking cushions and creaking furniture, Peter Ivanovich is carried back to the enormity of the moment: as Praskovya Fedorovna relates the days of horrific pain and suffering that preceded Ivan Ilych's death, Ivanovich grapples with the obvious fact that this, too, might well be his fate when he dies. His mind moves from one state of consciousness to another, from one form of rationalization to another. In revealing these shifts, Tolstoy brilliantly

lays out the circumstances of encounter that show why it is impossible to approach death with a clinical matter-of-factness. Rather, the detachment from death is an unwitting suspension or bracketing, which a phenomenological investigation can reveal.

Recalling the passage discussed earlier, in which Tolstoy describes Peter Ivanovich's hasty departure from Ivan Ilych's funeral, it is instructive to note how Tolstoy establishes a sharp contrast between Ivanovich's detached attitude, which leads him to make a quick escape for a card game, and the patient, compassionate attentiveness of Ivan Ilych's personal servant, Gerasim. One of the central thematic threads in the story contrasts Gerasim's attitude towards the dead and dying Ivan Ilych with that of Ilych's friends (see, for example, Gustafson, in Tolstoy, 1991:464). Gerasim, even in performing mundane and distasteful tasks, recognizes their deeper implications, especially in terms of his awareness of his own inevitable death. Thus, Gerasim attaches a greater significance to his everyday duties that elevates them beyond their immediately apparent status as the official obligations of his job (see Tolstoy, 1991:152-160). This distinction obviously raises some points of direct and profound relevance for considering the problematization of human presence in death-related police encounters.

As the story makes perfectly clear, Ivan Ilych does not realize until his death is imminent that the comfort he took from Gerasim's presence was the result of qualities in Gerasim that Ivan Ilych himself utterly lacked. As Ivan Ilych comes closer and closer to the moment of his death, he reflects upon the polarized self-consciousness that has become his inescapable state of mind: one moment, he is overtaken by desperate thoughts of death – the next, by seemingly rational ruminations upon his medical condition, which he continues, at turns, to think he can surmount (Tolstoy, 1991:162). With his health deteriorating daily, Ivan Ilych eventually comes to the understanding that what he had thought most real was, in fact, false, and had obscured from view what he truly ought to have seen in his work, in his family, and in all other aspects of his fading life (Tolstoy, 1991:164-165).



Tolstoy makes this lesson even clearer by contrasting Gerasim with Ivan Ilych, and by showing how Gerasim's selfless attitude towards Ilych's suffering so markedly differs from what he, himself, might have done for someone else. There is bitter irony in the matter-of-fact, detached treatment that Ivan Ilych receives at the hands of his doctor when he first falls ill: suddenly, what Ilych has done as a judge is now visited back upon him with a vengeance (see Tolstoy, 1991:142; and see, also, Christian, 1969:237). What is especially unsettling in Tolstoy's account is the fact that Ivan Ilych was neither corrupt nor cruel. To the contrary, he acted with unassailable scrupulousness, and was in every respect a dutiful, Weberian bureaucrat:

In his work itself, especially in his examinations, he soon acquired a method of eliminating all considerations irrelevant to the legal aspect of the case, and reducing even the most complicated case to a form in which it could be presented on paper only in its externals, completely excluding his personal opinion of the matter, while above all observing every prescribed formality (Tolstoy, 1991:132, see, also, p. 139).

In commenting upon this passage, Ovsyaniko-Kulivosky notes (in Knowles, 1978:421) how this same bureaucratic attitude – the stance of the detached civil servant – became Ivan Ilych's *modus vivendi* in his personal life. As the story makes apparent, the implications of this prove to be emotionally and spiritually devastating.

The implications here for the dissertation's argument are obvious, all the more so because Ivan Ilych was a bureaucrat in the judicial system. Tolstoy did not want the message to be lost upon his readers that the way in which Ivan Ilych approached his life "bureaucratically" unravels with ironic consequence as his death draws near (Ovsyaniko-Kulivosky, in Knowles, 1978:421). As Tolstoy makes apparent, Ivan Ilych's moral flaws are not the result of malevolent intentions, but of a detachment from life that marks his existence with a matter-of-fact indifference that treats work and family alike utterly without feeling or compassion (Ovsyaniko-Kulivosky, in Knowles, 1978:422). Everything about Ivan Ilych's life, from his decision to marry, to his

decisions on the bench, to his calculative approach to playing cards, reveals a man wholly devoid of other-regarding faculties (Tolstoy, 1991:131-141).

In his depictions of Ivan Ilych's attitude towards his own impending death, and of the cultivated detachment of Ilych's friends after his dies, Tolstoy shows in an essentially phenomenological way how such stances are actually inauthentic acknowledgements of a more fundamental reality, of which the mind is always already aware. Thus, Tolstoy's narrative makes evident in aesthetic form what bureaucratic praxis, and its customary, mainstream social scientific explication, might otherwise leave unconsidered. More precisely, regarded in phenomenological terms, an action such as chatting about a card game in the face of death, is essentially similar to police officers' bracketing out the presence of death as they blithely discuss where to go for lunch once the body is gone (see Cain, 1977:160-161). As Tolstoy narrates Ivan Ilych's last days, he deals explicitly with this ultimate contest between the practice of "bracketing out" death, and death's triumph over all attempts to do so: as Ilych's death draws nearer, he can no longer deny its reality (Tolstoy, 1991:160-165; see, also, Cain, 1977:162).

The entire matter of varying comportments towards death is a focal point of Tolstoy's narrative, and represents the central locus of the story's twofold irony. First, there is the irony that Ivan's friends act in the same manner in which he would have acted, had one of them preceded him in death; second, there is the more subtle irony, with a decidedly phenomenological character, that reveals how the attempt to flee from death is, in its very act of evasion, a facing of death in a certain inauthentic way (see Natanson, 1998:14). Natanson's reading of "*The Death of Ivan Ilych*" (1998:14) notes how Tolstoy's narrative creates a breach in "the 'current' of existence," which otherwise occurs as the unnoticed flow of life in its everyday stance. This comment effectively points to what is accomplished by applying the story to an interpretation of the encounter with Vanessa: "*The Death of Ivan Ilych*" discloses why it is impossible to analyze the entire range of meanings inherent to the situation strictly in terms of problematization,

without ignoring tensions that exist between the varying compartments out of which these meanings originate.

These tensions will emerge in sharper detail in the next narrative, which considers an encounter where the author took the opportunity of a death to teach a new officer how to “face death” and engage it as a “matter of fact.” If the encounter with Vanessa’s death was shaped more by the presence of Rick and Theresa, than by Vanessa herself, the episode to be considered now is one in which the officers were alone with the deceased until the very end of the encounter, thus creating a dynamic of an entirely different kind.

### **Encounter #9-2, Leonard**

Late one Friday afternoon towards the end of my shift, I was dispatched to check the welfare of fifty-four year old Leonard, who lived alone in an apartment, and had not been seen or heard from in several days. Leonard’s ex-girlfriend had called 9-1-1 to report that he was gravely ill, and feared that he had died. She had also contacted the manager of his apartment complex.

I arrived at the apartment complex accompanied by the young, rookie officer whom I was training. Like so many apartment complexes, this one had one of those bucolic names that belied its utter drabness. We met with the property manager, who appeared nervous and distraught, and already knew the reason for our visit. She confirmed that no one had seen Leonard for several days. He was not answering his door, nor had he returned phone calls from relatives about an important family matter. She handed me a passkey, and led my partner and me to Leonard’s building.

We walked towards the building across a small, narrow lawn, which had just received its first mowing of the spring. I looked down at the wet grass clippings adhering to the toe of my boot, and hoped to myself that Leonard would not be dead. I instantly felt guilty as I reflected upon the motive for my thoughts: my sentiment, I realized, had more to do with my desire to go home on time (the end of my shift was less than an hour away), than it did with my regret at the idea that another human being might have died. The incongruity of these simultaneous thoughts was striking: in my professional capacity, another person’s death occurs for me in no small measure as an inconvenience, a disruption of my plans.

We arrived at Leonard’s building. The manager pointed to an apartment on the second of the three stories – “he lives up there,” she said. I could see the glow of a television screen through the partially open blinds. “Why don’t you wait down here,” I told the manager, as my partner and I began to climb the wooden staircase. My intuition and experience told me that I was about to find myself having to investigate a death.

As I reached the front door to the apartment, I inhaled sharply, searching for the odor of putrefaction, and hoped to myself that the body would not be badly decomposed. I knocked on the door, and loudly announced, "Hello! Police Department!" "Leonard, are you in there?" I neither expected a response, nor did I receive one. After knocking several more times, I radioed the dispatcher that my fellow officer and I would be entering the apartment. I placed the key in the lock, opened the dead bolt, stepped back, and looked over at my partner – "Okay, you're on," I said to him, directing him to make entry. We drew our guns, standard procedure every time officers enter and search a building under suspicious circumstances.

My young partner opened the door and walked inside. Almost immediately, I heard him shout, "sir, wake up!" He yelled nervously at me, and started to reach for his portable radio. "I'm going to call for aid [an ambulance]," he said. I entered the apartment right behind the rookie officer, and immediately saw Leonard lying on the floor. "Forget it," I replied, shaking my head "he's gone." Leonard's body was frozen in full rigor mortis. His eyes and mouth were open, and his face was a dark, purplish-blue color. His fingernails were nearly black. I estimated he'd been dead for close to twenty-four hours.

When he died, Leonard had been sitting in a large lounge chair in the corner of his living room, watching television and drinking beer. The television screen cast a flickering glow upon his death-stilled face. There was a small, glass-topped table next to the left arm of the lounge chair. The remote controls for the television and VCR sat on the table, neatly placed alongside several empty beer bottles, another partially full bottle, and several bottles of prescription medication. The bottles of beer had been removed from a half-case carton that sat on the floor at the foot of the lounge chair. Leonard had fallen from the chair right next to the box, knocking over several of the bottles, though not breaking any of them.

Leonard was lying on his right side, with his head tilted back slightly. As he fell, one of his bare feet caught the edge of a bowl, which was sitting atop a stack of plates on the floor, not far from the lounge chair. The plates and bowl were decorated with an attractive Asian motif, and seemed to have been placed on the floor with some care. Leonard's foot had struck the edge of the bowl in such a way that it was now tilted forward towards him, as if pouring out its contents, and was held absolute still in this position by his perfectly arched toes, which were frozen by rigor mortis. The scene projected a sad kind of beauty. I imagined that if someone had painted it, many a viewer would judge the arrangement to be rather improbable. I thought too, how Leonard had died a paradigmatically modern, urban death: alone, in front of a television, in the isolated anonymity of an apartment. These reflections, however, quickly yielded to the official task at hand.

My young trainee had never been to a death scene before, so Leonard became a practical lesson for him in the forensic skills that he would need to investigate "routine" deaths, which are not handled by detectives. These scenes can actually be more technically and emotionally difficult for patrol officers than situations such as homicides or suicides, in which all that they need to do is secure and preserve the scene for detectives. However, in the majority of death investigations, which typically involve elderly or terminally ill people who die at home, officers

must handle the situation themselves, which means they must literally handle the body.

First, I talked my trainee through his instinctive reluctance to touch a dead human being: "Let's glove up," I said, directing him to put on surgical gloves. Go on, touch him. . . there you go. . . see what a cold body feels like?" I tried to channel his reactions to the uncanny nature of death in a rational direction, dictated by the needs of the training curriculum: "try to move him; see, that's rigor mortis." "Do you remember from the academy when rigor sets, and when it breaks?" Our lesson continued: I showed my trainee the marks on the body from lividity, and showed him how to check the body for signs of trauma, injection sites, and other noteworthy indications of how the death might have had occurred.

As my trainee moved Leonard's body, accumulated stomach gases distended in a noxious, post-mortem belch. I chuckled at my trainee's surprised and disgusted reaction, and thereby spontaneously initiated him into the dark humor that allows police officers "to laugh at death." "You've got to be careful to stay away from dead peoples' mouths when you move them," I said. "Even though they're dead, they can still puke on you."

I paused and we chatted for a minute about the odd juxtaposition of laughter and death. I told the young officer that joking about death had its rightful place, as long as one remembered the ultimate solemnity of the moment. His comfort level somewhat raised, I directed him to look at Leonard's eyes. We talked about fixed pupils, and how to check for petichial hemorrhaging – the rupturing of blood vessels on the inside of the eyelids caused by asphyxia, and thus often seen in cases of hanging or strangulation.

I remember having been taught in the police academy to approach a dead body as if they were just another piece of furniture in the room. "Try to forget that it's a person," the instructor had said. I never agreed with this; and when training new officers, I always made a point at death scenes of explaining that a police officer should not and really could not forget that a dead human being was never just an object, and that a body's dignity and sanctity should always be borne in mind. Standing in Leonard's living room, I looked at my trainee and told him that one day, he or I might well be the ones dead on the floor.

I was able to reach Leonard's physician, and verified that he had been suffering from generalized scleroderma, a progressive hardening of the skin and connective tissue, which eventually leads to systemic organ failure and death. The doctor agreed to sign Leonard's death certificate, which meant that an autopsy would not need to be performed. I relayed this information to the medical examiner's office. An investigator conferred with Leonard's physician, and then called me back with what is called an "NJA" number ("no jurisdiction accepted") and authorized release of the body to a funeral home. By relinquishing jurisdiction, the medical

examiner's office communicated its confidence that there was no mystery to the death: the "problem" had, in effect, already been solved.

A woman soon arrived at the scene, and identified herself as Leonard's ex-girlfriend. She said she had been the person who had called for us to check on Leonard. She immediately began to explain to me that there were numerous things inside the apartment that belonged to her, and she demanded to have them. The woman was not happy when I told her that since her name was not on the lease, she would not be allowed into the apartment. I told her that the apartment would be turned over to the family, and that any claims of ownership to property would have to be passed along to Leonard's next-of-kin. The woman grew more annoyed. A chaplain soon showed up, as did Leonard's sister-in-law, and some other family members. The chaplain agreed to assist in resolving the argument over Leonard's property. My partner and I were thankful for this, and left the scene, our official duty having been fulfilled.

Later, after returning to the police station to write my incident report, I checked Leonard's name in a records database, and realized that I had previously encountered him several years earlier. According to the record of the incident, which I had long since forgotten, I had found Leonard late one night, passed out drunk, lying in the grass at the front entrance to the same apartment complex where he would eventually die. The record noted that, at the time, Leonard was belligerent, and had almost gotten into a fight with me. The entry jogged my memory; and I started to recollect some of the details of my previous encounter with Leonard. I remembered that he had, indeed, been rude and aggressive. I further remembered how, when I roused him from his drunken stupor, he cursed me for bothering him. I checked his identification, and verified that he lived only yards from where I had found him passed out. Stirred back to consciousness, Leonard ambled unsteadily towards his building. Satisfied that he had made it back home, I left.

### ***Getting A Body***

The existential fact of Leonard's death was approached in a range of interrelated ways: as an annoyance, as an investigative problem, as a learning opportunity, and as an unavoidable reminder to the author and his colleague of their own mortality. The official encounter with Leonard's death – its meaning as a bureaucratic problem and training opportunity – will be the center of the discussion here. Death investigations are understandably a crucial element in the training curriculum for new officers; hence, training officers need to make sure that they "get a body" for their rookies. This often redounds to the benefit of the other officers on the squad, who

are only too happy when they are dispatched to investigate a death to have a rookie officer “jump” the call, and respond to it in lieu of the officer to whom it was initially assigned.<sup>143</sup>

The bureaucratic problematization of Leonard’s death began with the telephone call by his ex-girlfriend to police. She explained her concerns to a 9-1-1 operator, who then reified them into an official police incident, which was classified for dispatch purposes as a “welfare check.” As they drove towards the call, the author explained to his trainee the initial considerations that would need to dictate the nature of their response. Were the caller’s concerns legitimate; and, if so, what would it take for the officers to decide that the totality of the circumstances made entering the apartment legally justifiable? In this respect, the call was first problematized *legally*: the solution to the problem consisted of weighing the information provided by the property manager and Leonard’s ex-girlfriend to see whether or not there were “exigent circumstances,” which would allow the responding officers to enter private property without a warrant or consent. Faced with situations of this kind, officers typically weigh liability against privacy, and decide in deference to which one they should act.

Once the decision to enter the apartment had been made, the situation next became problematized *tactically*, as a building entry and search. The procedural discipline intrinsic to bureaucratic policing dictated that Leonard’s apartment be entered and searched in a predetermined way. Even after the author and his trainee came upon Leonard’s body in the living room, the rest of the apartment still remained to be searched, or “cleared,” to use the common tactical term. Once the situation had been tactically resolved by completing the search, the author declared over his radio to the dispatch center, “the apartment checks clear; this will be an unattended [death].” With this pronouncement, the situation moved on to become problematized as an *investigative* matter.

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<sup>143</sup> The phenomenon of “jumping” death investigations also sometimes occurs when an officer volunteers to respond in place of a colleague who has recently experienced the death of a loved one. Such offers may or may not be accepted; either way, however, they indicate some of what is entailed in maintaining a “bifurcated presence” at death scenes.

Through all of this, it was Leonard himself who was the center of the incident. At first, the question of the state of his welfare had to be answered officially: once it was, through the discovery of his body, his bodily presence then became problematized in a new form, as the object of an investigation. Instantly, the ontological tension between encounter as co-presence versus intersubjectivity came to the fore. In death, Leonard would have to be objectified for the purpose of deciding what had happened to him. At the same time, Leonard's *presence*, which in one respect seemed so unproblematically available for manipulation and analysis, defied that same sense of availability, because of the *absence* that it signified. As Landsberg (1966:199-200) explains this general phenomenon, "[i]f death were the absent presence, then the dead man is now present absence." This notion of absence finds one of its most common responses in the interpretation of a corpse as a person's *remains* – as that which is left after an undeniable and irreversible transformation of human existence (Landsberg, 1966:200).

The attempt by officers rationally to approach the existential fact of death as "present absence" is reflected in their shifting comportments towards the presence of the body – the "remains." This is reflected, for example, in police report narratives, which often vary on the same page among differing forms of references to the person who has died: "Mr. Smith," "Smith's body," or, simply, "the deceased," or "the body." Changes in the term of reference often seem to coincide precisely with the shift in the officer's comportment towards the person that occurs once death has been confirmed. For instance, an officer might write, "I responded to a welfare check of Robert Smith," and then, after verifying Smith's death, will abstractly refer to him in the next paragraph as "the body." Regarded in terms of a phenomenology of approach and encounter, this progressive abstraction is doubtless indicative of variations in second-order interpretations of the experience of comporting oneself towards death. The extent to which such forms of officially imposed problematization succeed in effacing the wholeness of human



presence remains to be considered further now, using the example of Anton Chekhov's short story, "*Sorrow*."

### ***Chekhov's Poetic Realism***

Chekhov's voluminous collected short stories offer a wealth of material that is potentially applicable within a phenomenological aesthetics of encounter. Chekhov wrote from a perspective that maintained a keen and compassionate attentiveness to the smallest details of the human condition in its most mundane circumstances (see Welty, 1984:104-5). The realism of his narratives, and their uncompromising goal of giving a clear, convincing voice to his characters' perceptions of their own experiences, have powerfully influenced the entire literary genre of the modern short story (May, 1985).<sup>144</sup>

With a style driven by a compelling realism, Chekhov leaves it up to his characters to create the meanings that frame the experiences recounted in his stories. Like Gabriel Marcel (Chapter 8), Chekhov does not provide detail from "on high;" instead, he abandons authorial omniscience for a more passive stance that allows the experiences and encounters of his characters to reveal their own posture towards the world in which they find themselves (see Chudakov, 1983:25 and 2000:7-9; and May, 1985). As Eudora Welty remarks (1984:111), Chekhov is "the least self-obtrusive of story writers." Chekhov's narrative stance therefore lends itself readily to the interpretive posture of a phenomenological aesthetics of encounter, and especially to its crucial claim that human beings exist poetically. In particular, Chekhov's characters manifest a self-conscious presence that may be read as a poetic mode of existence.

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<sup>144</sup> In his introduction to a collection of Chekhov's short stories, Ford (in Chekhov, 1998:xviii) remarks: "his presence has affected all of our assumptions about what's a fit subject for imaginative writing; about which moments in life are too crucial or precious to relegate to conventional language; about how stories should begin, and the variety of ways a writer may choose to end them; and importantly about how final life is, and therefore how tenacious must be our representations of it." In considering the deepest implications of the bureaucratic approach to death, and how they translate mortality into a manageable problem, Ford's words resonate beyond their intended context.

Finally, beyond the particular qualities of its literary style, the realism of Chekhov's work takes on added significance for the phenomenological analysis of police-citizen encounters (or, indeed, for any phenomenological inquiry into ordinary praxis) by virtue of his professional experiences in medicine as a practicing physician (see Percy, 1984:71-91; Clyman, 1985:19; and Chudakov, 2000:6).

Combining the insights developed from his clinical encounters with his broader roles as a social observer and writer, Chekhov was keenly interested in reflecting upon the relation between the peculiar, alienating qualities of modern life and the predicaments of ordinary human beings (Chudakov, 2000:5; see, also, Eagleton, 2003:236-7). Hahn observes (1977:59) how Chekhov attends to the clash between the struggle to find meaning in a world that is disenchanted at the most elemental levels of experience:

there seems to have been no precedent in Russian literature for Chekhov's compassionate presentation of human suffering which recognizes and captures also the surrounding *impersonality of time and space*. [emphasis added]

This description fittingly expresses the narrative position that Chekhov adopted in writing "*Sorrow*." First published in 1885, "*Sorrow*" numbers among Chekhov's earlier short stories. In a letter to Chekhov, his friend and fellow writer Iliodor Palmin had high praise for the story, exclaiming,

"This is the best you have written so far. One gets a strange impression from this sketch, so full of true life; one feels amused and sad" (quoted in Rayfield, 1999:28).

Hahn characterizes "*Sorrow*" as being less a traditional short story than a "kind of poem in prose form" (1977:47). Yermilov (quoted in Johnson, 1993:40) finds that "*Sorrow*" offers a confluence of philosophical, psychological, and artistic themes unprecedented in the genre of the short story. Consistent with the characterization of Chekhov's narrative noted above, Winner (1966:32)

remarks that "*Sorrow*" consists mostly of its protagonist's internal dialogue, interspersed with authorial remarks and descriptions of the landscape.

"*Sorrow*" (1885) tells the story of Grigory Petrov, a peasant wood turner who is driving his sick, elderly wife, Matryona, to the hospital through a blinding snowstorm, along a rough road. He talks to himself and to her as they ride along, not realizing that somewhere along the journey, she has already died. His comportment towards her thus remains for some time one that presumes her presence as a living interlocutor. The result for the reader is a deep feeling of tragic irony, coupled with a heightened awareness of how an encounter with death reveals something quite remarkable about the nature of human presence. The reader at first shares Grigory's ignorance of his wife's death, presuming, along with him, that Matryona is seated beside him, listening silently. The realization that she is dead, however, dawns upon the reader before it occurs to Grigory.

Early in the story, Chekhov explains how it was Matryona's gaze that first gives Grigory impetus to seek medical attention for her (see Hahn, 1977:49). A heavy drinker with an ugly penchant for domestic violence, Grigory is shocked out of his ordinarily impetuous attitude when he returns home one night, and encounters a gaze from his wife that is nothing like the pained, martyred look to which he is accustomed:

this time she had looked at him sternly and immovably, as saints in the holy pictures or dying people look. From that strange, evil look in her eyes the trouble had begun. The turner, stupefied with amazement, borrowed a horse from a neighbor, and now was taking his old woman to the hospital in the hope that, by means of powders and ointments, [Dr.] Pavel Ivanitch would bring back his old woman's habitual expression. (Chekhov, 1999b:95)

Hahn remarks (1977:49) that Matryona's preternatural gaze of impending death begins to bring Grigory to the realization that he has wrongly mistreated his wife for all of the years of their marriage. Her gaze suddenly reveals to him how he has seen his wife up to this moment, and also

presages what is later to occur, as the couple makes their way to the hospital through the snowstorm.

As their journey continues, and Grigory rambles on, he begins to notice that his wife has stopped replying to him:

Does your side ache, Matryona, that you don't speak? I ask you, does your side ache? (Chekhov, 1999b:96)

Then, Grigory realizes that Matryona's countenance has changed:

It struck him as strange that the snow on this old woman's face was not melting; it was queer that the face itself looked somehow drawn and had turned a pale gray, dingy waxen hue and had grown grave and solemn. (Chekhov, 199b:96)

At this point in the narrative, Grigory still comportS himself towards Matryona as if she were alive. He finds her appearance unusual, but does not yet seem to grasp what has occurred.

Indeed, Grigory's initial reaction is to yell at Matryona, until it begins to dawn upon him what he is truly facing:

The turner let the reins go and began thinking. He could not bring himself to look round at his old woman: he was frightened. He was afraid, too, of asking her a question and not getting an answer. At last, to make an end of uncertainty, without looking round he felt his old woman's cold hand. The lifted hand fell like a log. "She is dead, then! What a business!" (Chekhov, 1999b:96)

The gaze that first led Grigory to realize that his wife was ill has become frozen by death, and he finds himself unable to meet it. After the fact of Matryona's death becomes inescapable, Grigory nonetheless continues on his way, driving into the storm, and barely able to see the road ahead of

him. The reader clearly discerns that this journey through the falling darkness and swirling snow becomes a metaphor for Grigory's life, which he laments having wasted.<sup>145</sup>

Grigory's experience recalls elements of the approach of the rookie officer, when he first saw Leonard's body as it lay on the apartment floor. As the narrative of the encounter with Leonard makes apparent, the author, as an experienced police officer, had largely surmised even before entering the apartment that Leonard was probably dead. This presupposition, combined with his numerous previous encounters with dead human bodies, gave him the ability to assume a particular kind of quasi-detached, analytic stance towards the incident, an ability that the rookie officer had not yet developed. Explained from a phenomenological standpoint, the author's actual approach to the incident, beginning especially from the ascent of the exterior staircase, was already shaped by the clear expectation that Leonard's body would be found inside the apartment.<sup>146</sup> The rookie officer, on the other hand, had never encountered a corpse, and necessarily comported himself towards the situation in a much different way. He could not imagine, as a "matter of fact," that he would enter the apartment, and find a dead human being. Beyond the obvious elements of surprise and shock, the presence of death seems initially to have

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<sup>145</sup> There is, of course, nothing inevitable about such a realization. Equally, if not, perhaps, more often, people faced with the death of a fellow human being fail to attain the critical posture that might allow them to reflect upon the fact that they are in danger of meeting a similar fate. This was the case with Ivan Ilych's friends. It is a phenomenon that the author also saw exemplified with particular sadness in the case of a man whose close friend died of alcohol-related medical conditions. The man called police early in the morning after he discovered his friend's body, and then stood in the parking lot of their apartment complex, drinking, wailing, and yelling, while officers tried to calm him down and conduct their investigation.

<sup>146</sup> This attitude can prove extremely dangerous. In another situation, the author responded to a suicide by gunshot, in which a woman called for police after her husband shot himself in the head with a pistol. After clearing the house, as was done in the case of Leonard, the author and two colleagues found the man lying on a sofa with a large pool of blood beneath his head. More blood, along with fragments of scalp and hair, were spattered on the wall behind him. The man still had the pistol in his hand. Presuming the man to be dead, the author drew near for a closer look, and was startled when the man let out a loud, guttural snort. The author glanced back and forth for a moment between the man's face and the gun, and then quickly snatched the gun from his hand. The subsequent investigation determined that the man had flinched at the moment he pulled the trigger, which caused the bullet to enter between his scalp and cranium, where it followed a trajectory across the top of his head that cut through numerous blood vessels, but never actually penetrated his skull. The man suffered a major scalp laceration, though was otherwise uninjured. The author often recounts this incident to new officers as a cautionary tale about the potentially fatal danger of prejudging situations, and of taking appearances at face value.

overwhelmed the young officer's ability to contain it within the bounds of rational, bureaucratic analysis. This was evident in his visibly emotional response, and in his initial decision, frantically voiced to the author, to summon an ambulance.

Reading the description of Leonard's body, and especially the conspicuous signs of death – rigor mortis, lividity, and so forth – one might say skeptically of the young officer, “well, he *had* to know right away that Leonard was dead.” Yet, such a judgment wrongly presupposes about the rookie officer what the reader of Chekhov's story could also say of Grigory, in presuming that he was knowingly deceiving himself about what the outside observer might easily imagine was the undeniable reality of Matryona's death. The experiences of Grigory and of the rookie officer disclose how, even when death is present as an “objective fact,” it is not necessarily approached in this way. A *post facto* narrative description, which is already framed in the context of an academic analysis of encounters with death, simply cannot begin to replicate the experience of a walking into a room and seeing a dead human being for the first time.

Chekhov's language discloses the same kind of experience as that of the police officer, who struggles to delimit the significance of the presence of a dead human being, in order to demystify it as a mere inanimate object. Despite the enormous emotional gap between Grigory's experience of finding himself in the presence of his just-deceased wife, and a police officer's finding the body of a stranger, the “factual” approach to death is nonetheless still transcended by its ultimate existential significance. This interpretive process of working “to make sense of death” in a bureaucratic encounter is partially explicable as a contest between interpretations rooted in intersubjectivity, and those rooted in co-presence.

In the same way that Grigory could not bear at first to turn around to see his dead wife's face, the author gradually allowed the rookie officer to grow accustomed to Leonard's presence

before talking with him about the intimate and unsettling gaze of death.<sup>147</sup> Both cases show that death can be factually or rationally acknowledged, in a way that falls short of facing the full enormity of the moment. In the encounter with Leonard, the author's practical decision to proceed gradually in teaching the young officer how to approach the body intuitively accepted that looking at a dead face is more profound than blindly touching dead flesh. This judgment finds expression in Landsberg's description of the gaze of death:

In the open eyes of the corpse we perceive not only the end of life but also the disappearance of the person as spirit. (1966:200)

After Grigory acknowledges that his wife is dead, and continues along through the snowstorm, he eventually passes out from exhaustion. When he next awakens, he finds himself in the same hospital to which he had been traveling with Matryona. To his unimaginable horror, Grigory discovers that his limbs have all been amputated due to extreme frostbite:

He wanted to leap up and fall on his knees before the doctor, but felt that his arms and legs would not obey him. "Your honor, where are my legs, where are my arms!" Say good-bye to your arms and legs. . . . They've been frozen off. Come, come! . . . What are you crying for? You've lived your life, and thank God for it! I suppose you have had sixty years of it – that's enough for you! . . ." "I am grieving. . . . Graciously forgive me! If I could have another five or six years! . . ." "What for?" "The horse isn't mine, I must give it back. . . . I must bury my old woman. . . . How quickly it is all ended in this world! Your honor, Pavel Ivanitch! A cigarette-case of birchwood of the best! I'll turn you croquet balls. . . ." The doctor went out of the ward with a wave of his hand. It was all over with the turner. (Chekhov, 1999b:98)

Grigory's rescue from the storm thus comes to naught: the cold that claimed his limbs now combines with its even more devastating emotional equivalent in the doctor's cold indifference, which effectively dashes what small reserve of hope and vitality Grigory has left. In a reversal of the irony that was occasioned by Grigory's talking to his wife without realizing she was dead, the

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<sup>147</sup> The practice of covering dead bodies to avoid looking at them or to avoid their unsettling "gaze" is often portrayed in culture representations of policing. However, in operational reality, covering bodies has become increasingly discouraged in recent years, because sheets or blankets can contaminate a body with fibers, and otherwise destroy delicate forensic evidence. Emergency medical crews, who used to cover people after declaring them dead, have now been widely trained not to do so.

doctor's comportment towards Grigory so utterly rejects his humanity that it effectively kills him. The irony goes even further: the doctor approaches Grigory fatalistically, as if he were effectively already dead. Grigory, on the other hand, in speaking to his wife before he knew she had died, addressed her with a tenderness that had previously eluded him, until she had fallen gravely ill.<sup>148</sup>

This multifaceted consideration of the comportment towards death that Chekhov presents in "*Sorrow*" may be applied directly to a phenomenological analysis of the role of comportment and expectation in the encounter with Leonard's body. Chekhov's narrative highlights the immediate relation between the presuppositional basis for encountering a fellow human being, and how that basis poetically creates the meaning that becomes attached to that presence. After realizing she was actually dead, Matryona's presence became for Grigory something utterly different from what it had been while she was alive. Even after "facing the fact" of her death, and feeling it in the coldness of her dead hand, Matryona's presence in the sleigh became the embodiment of all that transcended her physical being. Only in death did Grigory come to know who his wife truly had been for him: death became the catalyst for authentic interpretation. If this argument is accepted as valid, it points clearly to the phenomenological idea that the human presence, whose absence is experienced in death, transcends the "objective" or "factual" presence of a body, as bureaucratic or mainstream social scientific praxis would ideally have it.

"*Sorrow*" offers striking insights into how this phenomenon can occur, even at the elemental level of sense perception. The story discloses how, even when death is "factually" acknowledged, the presence of a human body cannot truly be experienced in objective terms. In some police encounters with death, although a fellow human being is obviously dead, officers' comportment towards a body retains aspects that suggest an inability to disengage from the

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<sup>148</sup> For a discussion of Chekhov's use of irony, see Hahn (1977:59). Hahn observes how Chekhov combines irony and compassion to great effect. Despite these observations, it is interesting to note that Hahn does not like the ending of "*Sorrow*," judging it to be gratuitously cruel, and non-ironic. Cf. Johnson (1993:40).



fullness of human presence. The “anti-gaze” of dead eyes, the tactile sensation and color of dead flesh, and the kinds of sounds and smells experienced in Leonard’s post-mortem belch, all illustrate how sensory experience is inseparable from intentional reflections upon its sources.

In “*Sorrow*,” the most vivid example of this phenomenon occurs when Grigory realizes that the banging sound he hears behind him as his horse rushes clumsily along the rough roadway “was the dead woman’s head knocking against the sledge” (Chekhov, 1999b:97). The ultimate reality of the sound is clearly of inestimably greater significance than anything that might be said of its “objective” occurrence as an empirical phenomenon. Had it been generated by a shifting piece of cargo, the noise would have been little more than an annoying distraction. But, because it is his dead wife’s head dashing back and forth that generates the sound, the reader is led immediately to imagine how Grigory is painfully reminded of the physical abuse that he meted out to Matryona for so many years. Viewed from a phenomenological perspective, this remarkable moment shows that sense perception is never interpreted merely as “objective facts.”

### ***Conclusion: The Poetics of Facing Death***

Just as Matryona silently froze while riding along in the sleigh, her death unnoticed until after it had already occurred, Leonard’s life vanished in a moment unseen by anyone else, and left him frozen in rigor mortis on the floor of his apartment, not to be found until he was encountered by two police officers. The irony of “*Sorrow*” centers upon the fact that Grigory treats his wife as if she were still alive, not knowing she is actually dead. The further irony of the story is that Grigory has more respect and love for his wife after her death, than during her life. A similar double irony shows itself in Leonard’s story.

The official stance towards Leonard that was taken in investigating his death was essentially a continuation of the approach that the police bureaucracy took towards him when he was alive. Several years earlier, when he had been found passed out drunk, he was awakened, and returned to his apartment, in which he would eventually die. Yet, the event of his death

instantly suggested that Leonard's isolation as an object of investigation was merely one more objectification of a human presence that had already been otherwise isolated in a far more elemental way, in the conditions of his life as a social atom living alone in an apartment (see, also, the latter half of Chapter 7). Here, in this moment, the greater social logic of problematization elides seamlessly with its particular form in the practices of the police bureaucracy, and suggests precisely why to reflect upon the encounter with Leonard is ultimately to engage nothing less than the ontological foundations of modernity.

On the basis of its normative and operational self-conceptions, the technical procedures of bureaucratic praxis, such as those that were followed in the investigation of Leonard's death, had to be carried out from an "objective and neutral" detached stance. This assuming of an "official stance" required that bureaucratic agents undertake a suspension of their other possible approaches to what lay before them, so that human presence could be experienced solely as the "subject" of attention. The official duty of photographing Leonard's body offers an especially significant example of this process, because of its subtle aesthetic and poetic elements. The act of approaching a human body, in order to produce evidentiary images of it that will have symbolic and interpretive value, entails already having created the general meanings that attach to those images. To take photographs of a dead body, as the rookie officer did at the scene of Leonard's death, involves bracketing one's presence in a way that enables the process of investigative photography to occur unhampered by the astonishing realization that occurs in the form of the conscious awareness "that I am here, taking pictures of a dead human being." Seeking to assume an ideal bureaucratic stance of "being a disinterested professional, who must gather evidence and determine the truth," the young officer followed the author's instructions for taking photographs. Starting at the doorway, and employing "methodical procedures," which he had learned in the police academy for getting a "complete picture" of what happened, the officer collected images that captured the truth of Leonard's death. Or did they?

Imagining for the moment that Matryona's death had been investigated officially by the police, and approached as Leonard's death had been, what would have been known, and what would have remained unconsidered? As a bureaucratically conceived fact, Leonard's death was officially explained to the satisfaction of the institutions that saw in this explanation "the solution to a problem." What remained unseen in the transparency of the self-certain bureaucratic image of death was a spectrum of far more elemental truths – truths about the ultimate sacredness and mystery of human presence, and about the existential struggles of that presence with itself. Chekhov's story only begins to suggest how, in Leonard's death, the haunting beauty of the scene created by the unintended final movements of a dying man offered a path towards understanding something that bureaucracy cannot ever know.

## CHAPTER 10

### CONCLUSION: POLICING AS POETRY

*Only a philosophical doubt cast upon the implicit presuppositions of all our habitual thinking – scientific or not – can guarantee the “exactitude” not only of such a philosophical attempt itself but of all the sciences dealing directly or indirectly with our experiences of the world. (Alfred Schutz, 1962:100-101)*

#### ***Revisiting the Bureaucratic Paradox***

Beyond its more limited purpose of contributing to existing research on police-citizen encounters, this dissertation represents an initial step within the wider project of bringing an explicitly philosophical voice to criminology. With a view towards its place in this more far-reaching endeavor, and in order to present an actual example of philosophically oriented criminology, the dissertation has developed and applied a phenomenological aesthetics of encounter, which has been used to analyze police-citizen encounters by way of an interpretive approach that has previously been largely absent from criminological research. This analytic standpoint, as should now be apparent, interprets everyday forms of praxis in bureaucratic policing and mainstream criminological research in terms of their respective occurrence as the enactment of grounding ontological principles. In taking this approach, the dissertation set out to accomplish three goals: first, to identify what these grounding ontological principles are; second, to show how they actually become realized in praxis; and third, to show why, because of the nature of these principles, the forms of praxis that they engender subvert their own ends.

The dissertation’s development and application of a phenomenological aesthetics of encounter has resulted in the successful attainment of each of these three goals. With respect to the **first goal**, the dissertation has focused throughout upon what has been identified as the crucial distinction between the ontological notions of *co-presence* and *intersubjectivity*, and upon the

derivation from this distinction of *the problematization of human being*. With respect to the **second goal**, the problematization of human being has been explained and illustrated as the interpretive principle that orients the approach and ensuing actions of bureaucratic police praxis, as well as the kinds of social scientific praxis exemplified by mainstream criminology.

Taken together, the dissertation's first two goals have been met through the illumination of the inseparable nexus that unites ontological first principles and their enactment in bureaucratic praxis. This disclosure of the hermeneutically structured unity of theory and praxis laid the groundwork for explaining the origins of the intrinsic limitations of the bureaucratic approach to human predicaments. By way of illustrating this explanation, and in fulfilment of the dissertation's **third goal**, the interpretations of the police-citizen encounters in each of the analytic chapters traced the fateful inability of bureaucratic policing to engage human presence other than as the abstract "subject" of problems to the ontological presuppositions that inform the bureaucratic approach.

Most important, these interpretations established a contrastive standpoint, from which it became possible to understand each encounter as an instance of *the poetic aspect of ordinary life* (see Chapter 4), rather than merely on the highly limited terms dictated by the interrelated self-conceptions of bureaucratic and mainstream social scientific discourse. This bracketing of the encounters enabled their phenomenological analysis in a way that revealed their intrinsically poetic quality, and thereby made visible some of the elemental aspects of human presence that are otherwise effaced through problematization. Hence, a phenomenological aesthetics of encounter, by approaching *policing as poetry*, has opened a view upon "moments from the street" that brings to our understanding of them a sense of astonishment, wonder, and mystery, which would otherwise have remained unconsidered.

Interpreting the dissertation's narratives using the notion of "policing as poetry" has made it possible to focus upon how, as instances of the presence of human beings to one another,

police-citizen encounters necessarily involve the simultaneous interpretation of that presence in two, dissonant ways. On the one hand, officers are present in these encounters as bureaucrats. From this standpoint, the “poetry of policing” is strictly confined to officers’ creation of meanings through a bureaucratic approach that engages human presence as little more than the abstract *subject*, of which bureaucratically relevant problems are *predicated*.<sup>149</sup> On the other hand, as the dissertation’s narratives further reveal, especially through their juxtaposition with contrastive aesthetic examples, the more elemental co-presence of police officers with those whom they encounter ultimately subverts and transcends this logic of problematization.

To summarize and restate this point in phenomenological terms, in any police-citizen encounter, bureaucratic problematization occurs through typifying processes and an attendant suppression of co-presence that have the combined, practical effect of reducing human beings to abstract subjects. As a result, what most pressingly demands engagement is instead effaced, or, at the very least, is passed over in silence. The only way to mitigate or overcome this process is for individual police officers within the dynamics of a given encounter to realize what is occurring, and to reverse the dialectic, by suspending or transcending the logic of problematization with an authentically responsive form of engagement. What this means, in effect, is that in order to rupture the logic of the bureaucratic approach, its ontological presuppositions must be changed.

This situation describes *the bureaucratic paradox*, which was first presented at the opening of the dissertation as an exemplification of how the ontological foundations of bureaucratic praxis preclude it from holistically engaging human beings and their predicaments. The bureaucratic paradox was considered in general terms, as follows: although it is their official role as police officers that first brings them face to face with their fellow human beings, the

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<sup>149</sup> Recalling what was previously discussed in Chapter 2, this grammatical analogy, which is drawn from Heidegger’s critique of the modern notion of the human being as “subject,” is a decisive point. As Heidegger notes (1982a), the human being regarded as subject is effectively transformed into an abstract substratum (*hypokeimenon*) of which various qualities are predicated. The result is that its own existential nature is thereby effaced.

ability to engage those human beings in meaningful ways, and thus truly to ameliorate their predicaments, frequently depends upon being able to transcend the bureaucratic role, or, at the very least, to make it subordinate. Now, considered in light of its detailed analysis by way of a phenomenological aesthetics of encounter, the nature of the bureaucratic paradox has emerged more clearly, as an instance of the clash between dissonant approaches to human presence.

Beginning with the opening discussion of the bureaucratic paradox, everything that has thus far been presented in the dissertation may be regarded as a series of interrelated illustrations in support of the following two, fundamental claims: the first claim is that *praxis is poetry*; the second claim is that *metaphysics matters*. To say that praxis is poetry is to understand social action as the intentional creation (*poiesis*) of human beings, whose very mode of existence is by its nature intrinsically meaningful. Correlatively, to argue that metaphysics matters is to hold that the ontological first principles informing praxis are inseparable from it. By viewing street-level policing as an instance of “praxis as poetry,” a phenomenological aesthetics of encounter has been able to develop an interpretation of police-citizen encounters that demonstrates how “metaphysics matters,” through a disclosure of the presuppositional notions that make possible the bureaucratic approach to human predicaments, and the poetic creation of meaning that this approach enacts.

With the preceding comments in mind, which have offered a general sketch of the approach that a phenomenological aesthetics of encounter has taken in explicating police-citizen contacts in the preceding five chapters of Division II, it is now possible to reappraise each of the dissertation’s three, original goals in greater detail, and to evaluate some of their major implications. This summarizes the objective of the present chapter. The conclusion will take a retrospective and integrative view of the project of a phenomenological aesthetics of encounter, in order to argue that its application to the analysis of police-citizen encounters has produced insights of notable importance for phenomenologically oriented human science, for the self-

reflections of criminology and bureaucracy, for criminological research on policing, and finally, for policing praxis itself. These insights are fundamentally interrelated; and, viewed in the aggregate, point to the long-term potential for a sustained dialogue between criminology and philosophy.

### ***Situating the Dissertation's Contributions to Existing Research***

Now that the initial project of a phenomenological aesthetics of encounter is complete, its place in the constellation of existing research may be assessed with greater precision. This will provide a general overview of the specific contributions that the dissertation makes to each of the several fields from which its theory and approach have been drawn. Furthermore, the overall concluding task of evaluating the dissertation's wider implications will be aided by first re-examining what it adds to current literature.

The application of a phenomenological aesthetics of encounter to the analysis of street-level police praxis has yielded a novel, philosophically oriented answer to the question, "*what happens when police officers encounter citizens?*" Consistent with the overall project of a phenomenological aesthetics of encounter, this answer has been structured and oriented in such a way that its relevance clearly extends well beyond the immediate contribution that it makes to the basic understanding of police-citizen encounters themselves. The dissertation thus represents an addition to existing research in at least three general areas, including police studies, criminological theory and methodology, and phenomenological human sciences and aesthetics.

Simply viewed as a study of police-citizen encounters, the dissertation has obvious relevance for criminological and sociological research on policing. Although it clearly adds to qualitative research on policing praxis, the dissertation also offers a contrasting perspective that may prove to be of value in the development of future quantitative studies. More immediately, given the current, marginal role of phenomenological perspectives in the existing research, a phenomenological aesthetics of encounter brings a much under-represented analytic standpoint to



the field. In the first place, the dissertation's approach situates it in close relation to existing phenomenological studies (*e.g.* Rock, 1973; Downes and Rock, 1982; Holdaway, 1989; and Katz, 1988), as well as to research with wider intellectual connections to phenomenology, such as Manning's dramaturgical and semiotic studies of policing (1977, 1988, and esp. 2003). Second, the dissertation constitutes a new addition to criminological and sociological literature on policing by reaffirming and updating some of the insights previously developed by other "working cops" (*e.g.* Niederhoffer, 1969; Rubinstein, 1973; and Kirkham, 1977). At the same time, because of its largely unprecedented approach and its philosophical perspective, the dissertation offers a firsthand analysis of street-level policing that is altogether different from its counterparts.

To engage this point in further detail, the project of a phenomenological aesthetics of encounter, and especially its rethinking of method as "approach," contributes substantively to critiques of the degree and quality of self-understanding in existing field research on policing. Furthermore, the dissertation's own unique approach actually offers a corrective to some of the weaknesses that various critics (*e.g.* Van Maanen, 1978; Holdaway, 1989; and Wilson, 2000) have identified in many existing studies. This is especially so because the dissertation conjoins research on policing with philosophical reflections upon the ontological foundations of the interpretive processes by which that research actually occurs.

The dissertation not only considered its hermeneutic stance in the initial chapters of Division I, but has also sustained a dialectic of self-critique that has been continuously refined in light of the interpretation of the encounters presented in Division II. In this way, the dissertation has sought to keep in the fore of attention the phenomenological principles and other presuppositions informing its approach. For example, the end of Chapter 6 and the first half of Chapter 7 considered the role of language and metaphor in police praxis, and extended those observations to the dissertation's own interpretations of that same praxis. These are only two instances that suggest how, by explicitly considering the relation between bureaucratic and social

scientific praxis, and its own role in interpreting that relation, a phenomenological aesthetics of encounter has effectively inaugurated a new kind of metacriminological dialogue.

Such a dialogue has immediate pertinence for recent research in cultural and critical criminology, especially insofar as this research and the dissertation alike may be seen as examining the entire disciplinary self-conception of criminological inquiry, and how that self-conception relates to a range of epistemological and sociopolitical concerns (see, for example, Walton and Young, 1998; Presdee, 2000; Garland, 2001; Hogg and Carrington, 2002; and Ferrell, Morrison, and Hayward, 2004). Within and beyond its relation to cultural and critical criminology, the dissertation also engages issues of central and abiding importance to criminological theory and methodology. Indeed, by raising anew and elaborating Bianchi's challenge to criminology to engage its philosophical roots (1956), a phenomenological aesthetics of encounter has raised a number of key issues that stand to contribute to future dialogue on the continuing development of research methods, and especially metatheory. Two notable points of intersection with the dissertation's concerns may be found in work by Quinney (2000) and Morrison (1995), who both undertake philosophical meditations on changes in criminological theory and method.

Finally, the dissertation adds to existing research in phenomenology in several significant respects. The dissertation's attempt to follow the general path set forth by Heidegger in the Zollikon Seminars (see Chapter 1) clearly establishes its place as a contribution to phenomenologically oriented dialogue between philosophers and practitioners, especially to dialogue rooted in critical analyses of the relation among ontology, praxis, and disciplinary self-conceptions. The kinds of innovative work being done recently along these lines, especially in medical science (see, for example, Hersch, 2003 and Zaner, 2004), now stand to be extended to the field of police praxis, and potentially to other forms of social praxis, as well.

By virtue of its particular approach, the dissertation also constitutes an addition to research on phenomenological aesthetics, by offering a concrete example of how phenomenological conceptions of aesthetics, aesthetic truth, and the nature of aesthetic form can actually be applied to the empirical analysis of the everyday lifeworld. Hence, the substantial body of phenomenological and hermeneutic reflections upon aesthetics (*e.g.* Ziarek, 1994; Kearney, 1998; Natanson, 1998; and Chrétien, 2004), which remain predominantly focused upon philosophical inquiries, now have in the dissertation a complementary work that applies similar insights to the analysis of the most pressing kinds of sociopolitical phenomena in ways that have not previously been attempted.

### ***Implications of Goal 1 – Engaging the Ontological Foundations of Praxis***

Having demonstrated the commonality of the ontological foundations of bureaucratic police praxis and mainstream criminological inquiry, the dissertation effectively points to the need for a metacriminological discourse, the aim of which would be to inaugurate and sustain critical reflection upon these foundations, and their practical implications. In a vital sense, phenomenology and criminology share congruent mandates to interpret and understand with greater nuance and clarity the particular conditions of human existence in its everyday circumstances. Although criminology is obviously oriented towards conditions of human existence as they relate to the specific context of the origins and effects of acts of crime, evil, or transgression, its general disciplinary structure as a social scientific field of inquiry, wherein human beings reflect secondarily upon the world in which they find themselves already situated, points to the aptness, if not even the necessity, of its developing a consciously phenomenological dimension.

In light of everything that has emerged out of the application of a phenomenological aesthetics of encounter in the preceding five analytic chapters, it has become possible to consider in explicitly ontological terms how criminology and criminal justice praxis alike *approach*

events, such as those presented in the dissertation's narratives, and *translate* them into objects, incidents, or data amenable to certain kinds of control and interpretation. This allows phenomenologically oriented answers to be offered in response to an urgent inquiry suggested by the dissertation's encounters. The inquiry may be expressed as follows: how are utterly astonishing acts and moments such as Isaac's brutal assault against his father (Encounter #5-2), the travails of the three women in the motel room (Encounter #7-2), and Leonard's death (Encounter #9-2), made meaningful by intersecting forms of bureaucratic and social scientific interpretive praxis?

Owing to the manner in which criminology typically comports itself towards what it takes to be the phenomenon of crime, crime's astonishing reality often recedes from view, as it becomes translated into and enciphered as an object or problem for social scientific analysis. A phenomenological aesthetics of encounter has shown how this same process occurs in bureaucratic praxis. In either case, there is rarely any ill intention behind such thought; to the contrary, their customarily good intentions allow both forms of praxis blithely to go about their business with an unflinching attitude that the rest of the world might find odd. Nonetheless, it is usually the more conspicuous presence of policing that tends to draw notice and receive scrutiny. If, however, some in the criminological world puzzle over news footage of smiling police officers standing around at homicide scenes, such a phenomenon is hardly without parallel in the academic world of criminology, or other fields.

To mention one fascinating instance that the author witnessed at a large criminology conference, hundreds of people gathered amiably in a convention hall room, sipping wine and eating snacks, surrounded by posters colorfully displaying statistics about topics such as serial murder, rape, child molestation, drug addiction, and domestic violence. The interspersing of formal academic conversation with idle chatter, gossip, flirtation, and "networking" was very much like a crime scene, where the official "matter at hand" can quickly recede into the

background and become mere happenstance – something manageable with a detached and reflexive ease. Even more discomfiting was the result of a casual sampling of people, whose work was being displayed, which suggested that a majority of them were unable to explain the human implications or social significance of their research. This is assuredly no less a form of the violence of abstraction, than is the case of a police officer, who loses all touch with the palpability of human suffering through an unreflective acceptance of its efficient attenuation under the sway of bureaucratic problematization.

The point of this discussion is not to make an imperfect comparison between bureaucratic and criminological praxis, and less so is it an attempt summarily to impugn the efforts of either enterprise. Rather, its intent is to show, by phenomenologically suspending the everyday stance of bureaucratic and academic practitioners, how the respective “natural attitudes” embodied in both forms of praxis share common ontological roots, among the most important manifestations of which is a penchant for normalizing and rationalizing what is, when otherwise regarded in the wholeness of its reality, utterly mysterious and astonishing. In the case of bureaucratic and academic praxis alike, this phenomenological exercise makes it apparent how the universal experiences of evil, wrongdoing, and transgression come to be objectified and abstracted through modern modes of knowing.

These modes of knowing have altered the pre-modern, mythic conception of evil through an unprecedented transformation of its symbolic meaning: so argues philosopher Paul Ricoeur in calling for a return to language that restores a sense of *astonishment* to the understanding of evil:

It is in the age when our language has become more precise, more univocal, more technical in a word, more suited to those integral formalizations which are called precisely symbolic logic, it is in this very age of discourse that we want to recharge our language, that we want to start again from the fullness of language. (1967:349)

For Ricoeur, modernity has largely reduced the experience of evil to a pure abstraction, such that its intricate forms of social, moral, and sacred meaning have become wholly reconceived in terms

of secular, reductionist interpretations that obscure this plurivocal complexity behind a univocal character. This new character, in turn, takes itself to represent the vindication of thinking that has transcended and overcome the limitations of mythical understanding. Amélie Rorty (2001:xi-xvii) offers a similar view, in her account of modernity's attempted transformation of the metaphysics of evil into a scientific question of criminality and psychopathology. It is, in fact, precisely the interpretation of the universal experience of transgression and evil *as crime* under the regime of modernity that leads historically to the rise of the science of "criminology" and its allied forms of bureaucratic praxis, such as policing (see Garland and Sparks, 2000).

Reinterpreted as a rationally apprehensible social problem, and translated accordingly into an object for scientific analysis and bureaucratic control, the experience of evil quickly loses its power of primal astonishment and becomes a *cipher* – a contentless abstraction or nonentity. This general phenomenon, which has assumed different forms coincident with wider socio-historical changes, was already recognized as momentous in its nascent stages, during the rise of the Enlightenment and its political incarnation in the French Revolution (see Hegel, 1977). Under the sway of the abstraction and absolute negation of symbolic meaning, something so utterly horrific as a brutal death becomes a contentless event, which has, in Hegel's memorable words,

no more significance than cutting off a head of cabbage or swallowing a mouthful of water. (1807/1977:360)

Simultaneously, however, despite its claim decisively to have rationalized and surpassed a mythic conception of evil and transgression, the common language of criminology and bureaucracy indirectly causes a harkening back to the astonishing nature of evil. Might this be attributed to the mind's own uncomfortable realization of the inadequacy of its attempts to translate the ultimate profundity of evil into an abstract problem? Is this not, in fact, an example of the kind of metapoetic awareness that Stevens' prose revealed in his meditations on the

relation between the language of poetry and its self-interpretations (see above, Chapter 7)?

Undoubtedly, these are the kinds of answers that a phenomenological inquiry would suggest in further exploring the poetics of praxis.

This begins to suggest the deeper implications of what has been revealed by the explorations of a phenomenological aesthetics of encounter, and raises additional questions that would need to be posed in order to understand more fully how it is that bureaucratic praxis and criminology go about the process of translating the elemental experiences of transgression and evil into “data” and “problems.” The contrasting interpretive register that has been developed in this dissertation by using aesthetic forms in juxtaposition with bureaucratic interpretations, and the discussions of gaze and metaphor that emerged out of these analyses, together show how, despite their professed self-transparency, social scientific and bureaucratic praxis nonetheless remain grounded in the same problematics of meaning that they erroneously credit themselves with having superseded.

Taking the instance of Melissa’s being choked unconscious by her boyfriend (Encounter #5-1), is it not the palpable revulsion of such an act and the primal awareness of its transgressive nature that first give rise to social scientific and juridical inquiries into its meaning, origin, and significance? Yet, to the extent that such inquiries regard themselves as having attained an analytic self-subsistence that transforms the mythical and the symbolic into something putatively rational and scientific, there is an abdication of that most basic and astonishing of questions – “whence come evils?” (Ricoeur, 1967:8):

Pure reflection makes no appeal to any myth or symbol; in this sense it is a direct exercise of rationality. But comprehension of evil is a sealed book for it; the reflection is pure, but it leaves everyday reality outside, insofar as men’s everyday reality is “enslavement to the passions.” (Ricoeur, 1967:347)

Is the comprehension of evil, though, truly a “sealed book?” The answer proposed here, following Ricoeur’s argument, is a resounding “no”; for through the demythologizing of evil and

its attendant rendering into a field for scientific analysis, therapeutic treatment, and bureaucratic administration, we are effectively called back to and reminded of a symbolism of evil attuned to the mysterious and the sacred, aspects of an ontological order whose abiding presence emerges indirectly, yet indubitably, from the realization of the inadequacy of that which purports to have supplanted it (see Ricoeur, 1967:348ff.).

The preceding discussion has already allowed the future role of phenomenology in criminological discourse implicitly to suggest itself: it is, in short, to restore to and sustain in consciousness the wonder and astonishment that impelled its initial curiosity and moral reflections. Such a phenomenologically inspired exercise might help to bring the mind back “to the things themselves,” and to shatter abstractions beneath the force of the realization that what formal scientific inquiry calls most real, and what praxis approaches as most real, are most often the least real things of all. If, to appeal once more to Ricoeur’s words (1967:347), a given comprehension of evil “leaves everyday reality outside,” what can be its actual value as a means of understanding and ameliorating human suffering?

This question applies with equal force and urgency to bureaucratic and social scientific praxis. As long as bureaucratic praxis confines itself to an engagement of human presence that merely enciphers it in order to bring about the efficient attainment of instrumental rational goals, it remains trapped at a level of abstraction far removed from the actual vicissitudes of human predicaments. Likewise, most of the mainstream criminological analyses that observe and interpret all of this are themselves implicated in a similar process of effacement and abstraction. As the dissertation considered at several points (see esp. Chapter 3), it is ironic how the social scientific analysis of the police frequently occurs as the “problematization of problematization.” In other words, the mainstream criminological interpretations of policing, of which numerous examples were considered in the literature review (Chapter 3), are essentially enacting upon the police an analogous form of the same reductive ontology that the police themselves are enacting



upon the public, as they are being watched by researchers. This phenomenon is profoundly consequential, especially as the expansion and intensification of the symbiotic relationship between policing and academia continue to result in an ever closer and more totalizing reflexive dialectic between bureaucratic praxis and social scientific research.

### ***Implications of Goal 2 – Further Reflections Upon Policing As Poetry***

The predominant implication of the dissertation's first goal was argued to be the need for bureaucratic and social scientific praxis alike to engage in a fundamental critique of their common foundational ontology. There is a clear ethical imperative behind this argument, an imperative that largely rests, of course, upon the dissertation's claim that ontological principles, far from being remotely isolated from everyday praxis, are actually the ideas that inform and orient what passes unconsidered as its "natural attitude." The dissertation has revealed this inseparable unity of praxis and its ontological presuppositions by demonstrating how the creation of meaning that is intrinsic to any conscious human action may be seen as a manifestation of the poetic aspect of ordinary life. Insofar as the creation of meaning represents an irreducible aspect of the existential stance of human being, it follows that all praxis has an inherently poetic dimension, which is inseparable from the linguistic self-expression of human being, yet completely anterior to any specific literary conceptions of "poetry" (see Chapter 4).

With this idea in mind, the dissertation's analytic chapters revealed several exemplary forms of the enactment of the ontological principles that direct the bureaucratic approach to human predicaments, and considered them as instances of "policing as poetry." In so doing, a phenomenological aesthetics of encounter showed how the bureaucratic or scientific "fact" of being in the presence of other people is poetically created by translating elemental human existence, so that it is experienced as something else. The specific interpretations created within a given encounter and judged as its underlying meaning are only typifications or other subordinate responses to the existential co-presence of human beings. When, however, these

subordinate interpretations believe that their particular descriptions and ensuing actions represent and engage “the totality of the circumstances,” and thereby believe, too, that they take ethical, practical, ontological and epistemological precedence over that of which they are merely unconsidered abstractions, the implications for the outcome of encounters are inestimably serious, especially in the kinds of momentous circumstances intrinsically common to policing.

The overriding implication of the dissertation’s second goal, then, is that “metaphysics matters.” Metaphysics matters in the most literal way, because, as the encounters considered in the preceding chapters have shown, it is ontological first principles that act as the basis for the interpretation of the flow of existence, through which it is poetically translated into experiences, moments, and “matters of fact,” of one kind or another. Interpreting what the given “matter of fact” is in a particular situation thus depends upon the approach and comportment towards the greater presence out of which such a set of meanings is abstracted. This ontological contingency, however, remains overlooked in the everyday attitude of praxis: the approach that practitioners take, whether they are conducting social scientific research or resolving a dynamic, emergency situation on the street, is usually experienced as routine, intuitive, or natural. By disclosing the poetic enactment of ontological first principles, a phenomenological aesthetics of encounter has shown that approach is, quite the contrary, their determinate effect.

The encounters discussed in Chapter 5, for example, indicated how the bureaucratic approach takes as foundational an aspect of human presence as the gaze, and translates it into a reified “matter of fact” deemed relevant strictly as a variable or datum within bureaucratic processes of prediction and control. It is noteworthy that this logic prevailed in each of the chapter’s encounters, even though one of them took place with a victim (Melissa, Encounter #5-1), while the other occurred with a suspect (Isaac, Encounter #5-2).<sup>150</sup> In both cases, anterior to

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<sup>150</sup> In the case of Henry, Isaac’s father, his nominal presence as a victim was circumscribed by broader tactical concerns of risk related to his belligerent, uncooperative stance towards officers. See above, Encounter #5-2.

the formal process of legal interpretation, each person was encountered as an abstract subject. Further to the point, the subsequent assigning of particular roles such as “victim” or “suspect” was only a subordinate possibility that has its ontological basis in the bureaucratic approach. Either way, the ineffable mystery of the gaze became reduced to a manipulable object, rather than being engaged otherwise, as it potentially could have been, by taking a different approach to human presence. This possibility is exactly what comes into view through the juxtaposition of the dissertation’s aesthetic examples.

To remain focused on the examples from Chapter 5, the juxtaposition of *A Bar at the Folies-Bergère* and *Senecio* with interpretations of human encounter developed through the gaze of the “bureaucratic eye” disclosed the ontological contingency of police praxis by showing how its results reveal far more about its underlying approach than they reveal about the actual nature of the people and predicaments that it seeks to know and control. The two paintings succeed in eliciting from human presence those very aspects that are missed by the bureaucratic gaze, which is cast forth not to engage the co-presence of a fellow human being, but to scrutinize the reciprocal gaze of “the subject” of an investigation, with the intention of achieving what Weber (1978:225) called “domination through knowledge.”

The reciprocity of the gaze is crucial: as the dissertation’s encounters have consistently revealed, co-presence does not permit the kind of passive observation that is possible in the experiencing of inanimate objects or things. The encounters with death considered in Chapter 9 demonstrated that, even with corpses, the gaze endures as a sign of present absence, and thereby subverts the possibility of objectifying human remains. Obviously, in encounters with living people, the “subjects” of investigations usually know that they are the “objects” of an official gaze; hence, the totality of the circumstances becomes radically different simply by virtue of the dialectic of reciprocity inherent to moments of conscious co-presence.

This phenomenon was explored in the series of encounters with teenagers analyzed in the second half of Chapter 6, which used Musil's notion of "an impassioned struggle for self-assertion" (I.39 1995:166) to suggest how the teens' responses to bureaucratic actions might be understood in terms of existential dynamics of resistance. As a result, these moments became meaningful in terms of their poetic aspect, rather than as the remotely conceived actions of abstract subjects. This interpretive process was demonstrably more complicated in situations such as those involving emotional and mental crisis (Chapter 8). For instance, the encounter with Philip (#8-2), through its juxtaposition with Pirandello's *Così è (si vi pare)*, revealed how the inherent resistance of human presence to control and classification involves the fusion of dialectics of self-interpretation, which mental disharmony renders utterly unpredictable and uncontrollable by bureaucratic means (*cf.* Heidegger, 1989). Not least of all, this is why the peaceful resolution of the potentially deadly encounter with Philip was brought about by factors largely extrinsic to the logic of bureaucratic praxis and its approach.

In this episode, as in each of the dissertation's narratives, a phenomenological aesthetics of encounter has illustrated the constancy of the "bureaucratic paradox" by showing how the bifurcated nature of human presence is manifest to at least some degree in virtually any encounter between police officers and citizens. This widespread prevalence of the bureaucratic paradox compellingly suggests the need for further research into its role in police-citizen encounters. Subsequent studies might do well to begin by focusing on the topic of how frequently, under what circumstances, and with what kinds and degrees of critical self-awareness officers find themselves setting aside their official roles in order to provide more authentic or more meaningful resolutions to predicaments. Conversely, it would also be worth considering how the bureaucratic paradox can provide a refuge from the morally profound task of authentically engaging human presence, by giving officers an "easy out," in the form of "withdrawing behind

the badge,” and saying, in one way or another, “sorry, there’s nothing I can do about it” (*cf.* Price and Price, 1975)

Viewed in the context of existing literature on police discretion (*e.g.* Skolnick, 1966 and Wilson, 1968), insofar as a practitioner apprehends a more elemental human presence, of which praxis engages only an inferior or inauthentic aspect, the volitional potential to take a different approach remains intact. Part of the bureaucratic paradox, of course, is that this kind of critical awareness is essentially extrinsic to the ontological foundations and approaches of bureaucratic praxis. With this observation in mind, the implications of the dissertation’s third goal may be considered.

### ***Implications of Goal 3 – Reform or Transformation?***

Throughout the preceding chapters, several recurrent themes have emerged that point to the relation between the ontological foundations of police praxis and the failure of its approach truly to ameliorate the predicaments that it faces. Indeed, each of the encounters considered in the dissertation manifests in one way or another the innate self-contradictions of the bureaucratic approach. Inevitably and inexorably, bureaucratic problematization engages human presence according to ontological principles that efface its authenticity.

For instance, the analysis of drug-related encounters in Chapter 7 considered how bureaucratic problematization fragments human presence through the use of particular kinds of metaphors and translations. It may be noted that each encounter in Chapter 7 concluded with the departure of the police following the imposition of a “solution” that remained unresponsive, precisely because problematization does not approach human beings *per se*, but only the fragmented, objectified presence to which they have been effectively reduced. These encounters thus manifested some of the ways in which bureaucratic praxis reifies and problematizes as “crimes” actions and situations that are more holistically viewed as intricately complex forms of poetic self-presentation.

In light of these illustrations, a phenomenological aesthetics of encounter clearly points to a range of complex, unavoidable questions relevant for the near-term reform of policing praxis. Even more important, the dissertation indicates the need for dialogue that would take up the topic of a long-term re-thinking of the entire field of policing, and its role in late modern society. Hence, the central implications for police praxis of a phenomenological aesthetics of encounter may be framed in terms of two overriding questions that correspond, respectively, to the notions of reform and transformation. These questions, in turn, bear a fundamental relation to the social scientific inquiries that might be used to address them. Further still, considering the genealogical and sociohistorical inseparability of modernity and social scientific inquiry (see, for example, Foucault, 1977; Bauman, 1990; Giddens, 1991 and Latour, 1993), the futures of bureaucratic policing and mainstream criminology are effectively intertwined, and are hence mutually affected by changes in modernity itself. Braithwaite (2000) and Garland and Sparks (2000) note with particular portent some of what is at stake in the growingly complex and inseparable nexus between academic criminology, and state and corporate institutions of governance. Recently, this matter has also begun to be considered in the specific context of policing praxis (see, esp. Johnston and Shearing, 2003).

Concerning *reform*, if policing's bureaucratic approach has been demonstrated to be intrinsically unresponsive to the fullness of human presence, this leads to the question, "what would constitute a more responsive approach in police-citizen encounters, and what could be done to institutionalize it?" As for *transformation*, the abiding question that emerges out of the illustrations of police praxis generated by a phenomenological aesthetics of encounter is nothing less than this: what ought to be the role of the police, and to what extent is that role congruent with their actual, present function in contemporary society? Both of these questions recall once more the "bureaucratic paradox" – that while it is their official capacity that brings the police face to face with fellow human beings in crisis, the actual amelioration or resolution of those crises

often depends upon suspending the bureaucratic role, and *taking a different approach* to the encounter.

By now, at this concluding stage of the dissertation, the phrase “taking a different approach” should mean something quite specific to the reader, in terms of its phenomenological relevance. Bureaucratic policing’s approach to human predicaments has been shown to be the result of a particular comportment towards human presence, which reflexively engages it as abstract intersubjectivity. The manifest disharmony between the bureaucratic approach to human predicaments, and the approach necessary in order meaningfully to engage them, has emerged in light of the dissertation’s analysis as an *aporia* – an impasse or point of crisis that is irresolvable within the existing terms of discourse.

On the basis of a detailed review of the insights developed through the dissertation’s application of a phenomenological aesthetics of encounter, along with a review of the results of other of its potential applications that could also be undertaken, policing praxis may consider a number of avenues for reform. These might be realized in a range of different areas, including hiring, training, supervision, street-level operations, and organizational development. Detailing the precise nature of such reforms is a task that will have to be pursued elsewhere. Nonetheless, it may be noted here, ahead of such future analysis, that the focus of energy would likely fall upon recommending the development of formal institutional awareness of the limits of bureaucracy, coupled with practices aimed at blunting the effects of problematization.<sup>151</sup> To this

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<sup>151</sup> Whatever the dynamics of officers’ encounters with familiar people, bureaucratic policing must be able to rely upon approaches intended for that most paradigmatic of modern encounters – the meeting of total strangers. These situations usually present the greatest challenge for the respective interlocutors, given the total absence of any prior familiarity. In an anonymous police-citizen encounter, for the police officer and citizen alike, the encounter will commence in large part on the basis of interpretive actions taken by way of typifications drawn from respective life experience (see Schutz, 1962). These are the encounters for which the police must train and prepare, for they demand a much higher level of communicative skill than encounters between mutually acquainted parties. Along these lines, the author has developed and taught a curriculum for police officers in “tactical communication,” in which they learn how to reflect more consciously upon the fullness of human presence, in order better to approach those whom they encounter. “Tactical communication” grows out of a phenomenologically informed analysis of human presence; and, from that standpoint, develops street-level skills in “critical social hermeneutics” – the interpretation of

it must be added emphatically that, in order to have any meaningful credibility, proposed reforms would have to go beyond the kinds of bromidic entreaties that are too often appended to research on policing, which call for officers to be more compassionate, more patient, and more attentive.

At this point, it will doubtless strike many readers that the prospects for police reform clash headlong with sociopolitical, legal, and cultural realities, which combine to oppose and weaken any radical or systemic reorientation of the status quo. To put this more unambiguously, the potential benefits of any police reforms aside, the claim cannot realistically be made that it is possible truly to change the definitive logical and ontological foundations of bureaucratic policing without radically transforming the entire police function, to say nothing of the late modern society of which it is an integral part (*cf.* Robinson, *et al.*, 1983:149-168).

A thoroughgoing, multidisciplinary analysis of the entire institution of policing, centered upon a phenomenological sociology, and buttressed by (at a minimum) philosophical and historical critiques of modernity and political economy, would enable an elaboration of this idea – that the very existence of bureaucratic policing is a manifestation of the same sociohistorical conditions that are elsewhere present in the form of the “problems” that officers are dispatched to “solve.” This project would challenge the predominating tendency in mainstream criminological analysis (and reflected in the self-conceptions of policing) to view society and the police as if they were mutually isolable entities, and would seek to show instead how the premises that shape and direct the bureaucratic approach to human predicaments are essentially the same premises as those that give rise to the circumstances that the police are called upon to address. In this way, the task of understanding police-citizen encounters would largely be recast as part of a general inquiry directly relevant to broader critiques of modernity, and would thus consider how these

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encounters in a way that continually attends to one’s interlocutor in conjunction with a heightened self-awareness. Among other things, tactical communication teaches how traditional police practices of judging danger and suspicion can be combined within a framework that seeks more broadly to engage on their own terms the meanings that structure human self-presentation.



encounters are instances of a social hermeneutics that occurs as the actualization of the metaphysics of modernity in everyday life.

A critical approach that regards policing and the problems to which it attends as kindred phenomena, traceable to a common epistemic heritage, would help to explain and support the far-reaching conclusion that a radical transformation of bureaucratic policing would be all but impossible, absent a broader civilizational transformation of modernity itself. To use metaphors that intentionally appeal to the operational realities of street-level policing, if the aspects of human predicaments that most demand engagement in order truly to effect meaningful resolutions are ones that *resist, elude, and escape the grasp of bureaucratic praxis*, it cannot be denied that, at best, such praxis remains superficially engaged with phenomena that originate out of far more intractable predicaments (*cf.* Heidegger, 1993). It must be emphasized that this argument does not seek to reject out of hand the need for bureaucratic policing, nor does it dismiss its demonstrable successes and benefits. However, the argument does suggest that contemporary society will need to take up with honesty and intelligence the growingly urgent task of reflecting upon the idea that *post facto* bureaucratic responses to human predicaments by armed agents of the state may not, in the end, serve the furtherance of justice.

Such reflection ought to be guided by a genuine hopefulness that its efforts would be more than an abstract intellectual exercise. Following a line of analysis indebted to Berger and Luckmann (1966:89-92), any attempt at finding ways to reform or transform a given kind of praxis must begin by overcoming the fallacy of reification, according to which the erroneous belief is held that the structure and underlying orientation of social action are somehow irrevocably cast in stone, ostensibly because they lie beyond the ability of human beings to change them. As Berger and Luckmann have compellingly argued, and as has been shown in the preceding chapters to be the case in the specific arena of bureaucratic policing, the most elemental forms of social praxis always already embody an intentional logic that is neither innate,

nor inevitable. To the extent, then, that intentional stances may change, so, too, can the forms of praxis emerging from them.

What does this argument imply for bureaucratic policing? A phenomenological aesthetics of encounter, in its analysis of the contrastive approaches to human presence born, respectively, of co-presence and intersubjectivity, leads to this practical conclusion: in order meaningfully to change the approach of policing, what ultimately demands to be changed is the intentional structure and orientation of police-citizen encounters. Among other things, this would require a restructuring of policing praxis, in order to “normalize” approaches that are presently little more than functions of happenstance, contingent for the most part upon the personal practices of individual officers, rather than upon any enduring institutional mandates. Of course, bringing about such reforms is only possible if one thinks that the essential interpretive and institutional framework of bureaucracy can significantly change, through the grafting on or addition of operational compartments that may prove to be incompatible with the central tenets of instrumental rational action. The practical realities of reforming policing, or any other form of bureaucratic praxis, thus hinge in the end upon assessing the actual extent to which the bureaucratic approach to human predicaments can assume a subordinate role in the operational dynamics of police-citizen encounters. This is a topic that will have to await future research.

For the moment, an ethical imperative has emerged here, one that deserves a prominent place in any theoretical or empirical investigations into the potential reconciliation or coalescence of bureaucratic and holistic compartments towards human presence. That imperative is one that arguably attaches to every police officer, and mandates a constant heeding of the fact that, however little bureaucratic institutions might change, this nonetheless does not absolve police officers of a higher duty to attend more meaningfully to the human beings whom they encounter. A phenomenologically informed ethics could well explore this idea further, and perhaps find ways to apply it within training curricula and operational procedures aimed at heightening and

formalizing officers' senses of their "trans-bureaucratic" role. Additionally, as the encounters in this dissertation have shown at several points, police officers can and do try to adopt stances towards human beings that seek genuine dialogical engagement with their interlocutors. Yet, given the operational realities of policing, it remains to be seen to what extent such variations of police praxis might actually be normalized on a large scale.

One operational reality of policing that will endure is its poetic nature. Moreover, if policing is poetry, then police officers are poets. While the dissertation has argued that all praxis is poetry, the kind of poetry created by the police officer demands a unique heedfulness in its composition to the inherent fallibility of its efforts, and more important, to the ineffable dignity and sacredness of that towards which it addresses itself.

## POSTSCRIPT

### *Imagining Otherwise*

On a December morning, I responded to an elementary school to deal with what the dispatcher described as an “out of control” eight year-old girl. The school called police because “Rose” had become physically violent. Among other things, Rose had reportedly removed her jeans and tried to choke herself with them. When I arrived at the school, the principal was waiting outside, and accompanied me across the campus to Rose’s classroom. As we walked to the classroom, the principal explained that Rose was in a class for children diagnosed with severe behavioral and mental disorders. I asked the principal if a parent had been called and notified of Rose’s current situation. The principal explained that Rose’s mother had, in fact, been called, and had reluctantly agreed to come to the school, although only after being told that the police had also been summoned.

When we arrived at the classroom, the principal and I paused at the door. I explained to her that, before I actually contacted Rose, I wanted to know more about her. “Do you have her packet?” I asked, seeking to understand bureaucratically what I would be facing in this encounter. The principal handed me a detailed report, which summarized Rose’s diagnosed problems, followed by an intricate plan for “managing” her behavior. The report noted that Rose was unfocused, distracted, and given to extreme outbursts of anger. Although she was only eight years old, she was already taking a prescription anti-depressant, instructions for the daily administration of which were also listed in the report. Rose’s entire existence had effectively been distilled down to a neat grid and summary of risks, to be treated with correspondingly meticulous attention to minimizing liabilities and harms. As if to forestall my inquiring into why I had been called, the principal pointed out to me that one of the stipulations in the official “response plan” for Rose dictated that police be called if she became physically violent.

Upon entering the classroom, the principal, now accompanied by two teachers, led me to a secure “time-out” room, into which Rose had been locked. The room was essentially a small, padded cell, with cushioned walls and a carpeted floor, and inner dimensions of perhaps no more than eight by six feet. It was lit by recessed fluorescent fixtures, whose muted light only served further to flatten the already-drab colors of the walls and carpet. The room had no windows, except for a small view port in the heavy, metal door. The door itself was secured with an electric lock, which was operated by a switch on the outside wall. I was struck by how little the room differed from a police station holding cell or other such place.

One of the teachers opened the door to the room, and let me in. Rose was sitting on the floor, with her back pressed up against the farthest wall. She was completely silent, with a gaze that seemed more lost and sad than angry. I sat down cross-legged on the floor next beside her, and introduced myself. One of the teachers stood in the doorway of the room, likely, I imagined, to serve as an

official witness in fulfillment of the school's liability regulations. I asked Rose why she was so upset. She explained to me that one of the teachers had tried to take away her necklace. I told Rose that the teacher said she took away the necklace only after Rose had become violent. I explained that the teacher was concerned that she would hurt herself. Rose looked at me placidly, but was obviously dissatisfied with my answer. I asked Rose if she wanted to hurt herself. She shook her head slowly, indicating that she did not.

As we spoke, another teacher appeared at the door of the "time-out" room, and came inside. She was carrying a small, paper pill cup and a foil packet of juice, of the kind that children carry in their school lunches. The teacher leaned over and held out the pill cup and juice. "Here, honey," she said to Rose, "take your pill." In silence, Rose dutifully took the pill cup and juice. She pierced the juice packet with its accompanying little straw, and swallowed the pill. I found this ritual utterly amazing.

As I sat watching Rose, I noticed how chilly the room was. Rose was not wearing her pants, which one of the teacher had taken from her after she had tried to wrap them around her neck. "Aren't you cold?" I asked Rose. She said that she was. I had the teacher retrieve Rose's jeans. She put them back on, and promised me that she would be a "good girl." "I think she'll be fine now," said the principal. "She was much worse before you showed up," added one of the teachers. I stood up, and exited the "time-out" room. I stopped to chat with the principal. We discussed Rose's home life. The principal said that there was no evidence of anything that would meet legal standards of child abuse or neglect. "Her mother just doesn't want to deal with her," explained the principal. There was no problem. I walked back to my patrol car, and drove away.

Of the many striking aspects of this encounter, three bear particular mention: first, all of the people whom the author encountered at the school seemed to care very deeply about Rose, and obviously felt bad for her. Their compassion and professionalism are indubitable; yet, in the end, they accomplished little. This is because, to note the second striking aspect, all of the efforts ostensibly intended to assist Rose became utterly consumed in the process of their own rituals of self-perpetuation and self-legitimation. Nowhere is this better exemplified than in "the surveillance of surveillance," in which the bureaucratic agent of the school watched over the bureaucratic agent of the criminal justice system, who, ironically, was summoned precisely because the school could not touch Rose. Not trusting its own agents, or, at the very least, wishing to place the liability for "handling" Rose on other shoulders, the school followed the protocol expressed in Bittner's idea of "calling the cops" (1990).

In the third striking aspect of this encounter, once the author arrived at the school and approached Rose, he found that there was, in fact, “no problem,” at least insofar as the police bureaucracy was concerned. She was made the subject of problematization; and no problem was found: she had not committed a crime; and she was too young to be held culpable, even if she had. She was not suicidal. Finally, the indifference of Rose’s mother was contemptible, but not criminal.

At the age of eight, Rose has already begun to undergo an ontological transformation, and has already been approached many times as an “object” that the criminal justice system and other bureaucratic networks will increasingly subject to processes of surveillance, measurement, prediction, and control. The effects and results of these various operations will be gauged, in turn, by academic research. Moreover, the practitioners and their academic interpreters will never, for the most part, question the ontological presuppositions that they unknowingly share. As this hermeneutical dialectic advances, the practical objectifications of Rose will attain a level of further abstraction by becoming research data. This “objectification of objectification” will eventually be reinscribed in subsequent social praxis, in the form of new policies and procedures that the research will recommend for “handling” or “managing” Rose. All of the people who encounter Rose – police officers, social workers, teachers, mental health professionals, and others – for whom she is an object to be approached deftly with their confident, technical expertise, will interpret her presence in terms of what they *know* she *really* is. And so on. . . .

All the while, Rose will keep growing older. Barring an essential transformation of her circumstances, it seems all but inevitable that she will have more encounters with the police; and, it may fairly be surmised, a “problem” will eventually be found. The challenge facing all who would be a part of this process is to imagine otherwise.

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