

Cambridge University Press & Assessment 978-1-009-21541-1 — The Police and the State Brandon del Pozo Table of Contents <u>More Information</u>

## Contents

Introduction: Toward a Theory of the Police		page 1
I	The Role of the Police Shortcomings of "Law Enforcement" and "Investigatory" Conceptions	5 6
	Gaps in the "Moral Rights" and "Social Peacekeeping" Conceptions	7
	Backing into the Police Role by Examining Police Practices	10
	Properly Politicizing the Language of Police Practice	I 2
	Reconciling the Ideal Role of the Police with Policing's Unjust Practices	19
	The Police Role and Its Implications for Coercion	21
2	The First Power of the Police: Impartial Protection	
	and Rescue	26
	Minimalist States as Exemplars of the State's Duty to Protect	
	and Rescue	28
	Locke, Nozick, and Weber: From Nature to the State, from Prerogative	
	to Duty	31
	The Duty to Protect as Deontological, Rather than Contractual	
	or Utilitarian	33
	Active Shooters, Terrorism, and the Conflation of Police and	
	Military Duties	35
	The Duty to Retreat Further Distinguishes Citizens from the Police	39
	Undoing the Citizen Duty to Retreat as a Devolution to the State	
	of Nature	41
	Police Professionalism as the Means by which to Resolve the Tensions	
	of the State	43
	Protection and Rescue as the First Civil Right	46
3	The Second Power of the Police: Arrest for Adjudication	47
	The Police as the Court's Extension into the World	48
	The Role of the Court	52
	The Shifting Ends of Exercising the Second Power	55
	The Police as Epistemologists with Uncertain Ends	56
	The Second Power of the Police as an Imprimatur to Stav	57



Cambridge University Press & Assessment 978-1-009-21541-1 — The Police and the State Brandon del Pozo Table of Contents More Information

vi Contents

4	The Third Power of the Police: Brokering and Enforcing	
	Social Cooperation	61
	Cooperation and Public Spaces	63
	A Taxonomy of Cooperative Public Endeavors	65
	The Taxonomy's Implications for Contractualist Objections	67
	The Law as a Guide and a Framework for Social Cooperation A Pillow Fight as a Practical Example of the Value of	70
	Underdetermined Laws	72
	Brokerage versus Enforcement, and Honoring Democratic Pluralism	74
	Concerns of Class, Race, Access to Public Space, and Social Cooperation	75
	The Hazards of Informal Social Control as an Alternative to Policing Three Values Guiding Police Brokerage and Enforcement of	77
	Social Cooperation	79
	Fair Access to Public Spaces as a Social Condition of Freedom The Third Power as an Acknowledgment of a Hegelian Conception of	8c
	the Police	82
	Abolitionist Theory, or How to Back into Policing without Really Trying	87
5	Democratic Priorities, Relationships, and Tensions: Seven	
	Cases of Policing	89
	Not Arresting Black Lives Matter Protesters Who Block Traffic during Rush Hour	89
	Reducing the Car Stops a Police Department Makes as a Way to	
	Decrease the Negative Consequences of This Type of Enforcement	
	for a Community	91
	Sanctuary City Policies that Explicitly Limit Police Department	
	Cooperation with Federal Immigration Enforcement Officials	94
	A Decision Not to Voucher Condoms as Evidence When Making	
	Prostitution Arrests	96
	Not Arresting Suspects for Prostitution When There Is Cause to Believe	
	the Suspects Are Being Trafficked into Doing So	98
	Not Arresting Individuals in Possession of Personal-Use Quantities	
	of Unprescribed Addiction Treatment Medication	100
	Advocating for the Redesign of Smartphones to Deter Theft	101
6	The Bases of, and Reasons for Seeking, Police Legitimacy	106
	Legitimacy: Normative, Descriptive, Political, and Popular	108
	The Emotional and Democratic Bases of Descriptive Legitimacy	109
	Normative Legitimacy as the Natural Ground of Policing	113
	Legitimacy and the Independent Requirements of Natural Rights and Moral Duties	
	Legitimacy, and the Government as Complainant on Behalf of	114
	the People	119
	Coakley's Critique: Legitimacy Only Matters When You Have a Good	
	Reason to Disobey	119



Cambridge University Press & Assessment 978-1-009-21541-1 — The Police and the State Brandon del Pozo Table of Contents More Information

	Contents	vii
	Descriptive Legitimacy in Tension with the Need for Civil Disobedience and a Duty to Resist	120
	Descriptive Legitimacy as a Moot Point: Errors in Ontology and International Experiments	122
	Distinguishing a Willingness to Obey the Law from the Authority	
	to Enforce It	123
	The Value of Legitimacy in Times of Uncertainty	124
	The Value of Legitimacy in Securing Cooperation	125
	Legitimacy and Support for the Overall Project of Policing	126
	Popular Legitimacy Depends on Substantive Justice Returning to the Need for a Political Philosophy of Policing	127 127
7	Procedural Justice in Policing Revisited	129
	Clarity about the Goals of Procedural Justice in Policing	130
	The Four Precepts of Tylerian Justice	132
	Waldron's Conception of Procedural Justice as the Foundation of the	
	Rule of Law Procedural Justice in the Courtroom in Tension with the Tylerian	133
	Conception	138
	Tylerian Justice's Tension with Advice to Remain Silent The Law's Recognition of the Limits of Procedure in Matters of	140
	Public Safety	141
	Procedural Justice as Qualitatively Indistinguishable from	
	Charismatic Appeal	143
	Sometimes, Tylerian Justice Does Not Affirm a Person's Dignity Procedural Justice and Other Languages of Policing: An	146
	Incommensurability Problem	151
	Tylerian Travails into the Realm of Normative Legitimacy	152
	Returning to the Pursuit of Legitimacy through Substantive Justice Conclusion: Policing as Substantive Justice that Yields Normative	154
	Legitimacy	158
8	Policing with Public Reason	162
	The Inherent Roots of Public Reason in Policing	164
	The Idea of Public Reason as a Justificatory Method	165
	Justification through Truth or Consent, and the Alternative of	
	Public Reason	170
	Returning to the Suitability of Public Reason in Police Transactions	174
	Civility as a Moral Duty of Public Reason	175
	Civility as a Cudgel to Suppress Dissent and Prolong Oppression Public Reason as the Best Natural Grounds for Policing, amidst	179
	Various Objections	180
	Cultivating Legitimacy by Providing the Right Reasons	185
	Public Spaces, Public Reasons, and the Limits of Statute	186
	The Limits of Public Reason	187



Cambridge University Press & Assessment 978-1-009-21541-1 — The Police and the State Brandon del Pozo Table of Contents More Information

viii	Contents	
	Conflicts between Public Reason and Democratic Process	187
	Backing Away from Procedure and into Public Reason	189
9	Policing Populism, Protecting Pluralism	192
	Special Interests	192
	Majoritarianism	194
	Democratic Policing and the Threat of Populism	196
	Conclusion: Discretion and the Ultraminimal State	200
10	Primary Goods, Policing States in Transition, and	
	Natural Experiments	203
	Protection, Rescue, and Primary Goods	204
	States in Transition as Natural Experiments in the Delivery of	
	Protection and Rescue	206
	Criminal Justice as Secondary to Protection, Rescue, and	
	Brokering Cooperation	208
	Health Care, Medicine, and Policing as Intuitively Comparable Goods	209
	Rescue, Treatment, and Policing as Conceptually Intertwined	211
	Primary Goods in the Minarchist State	212
	Policing the Least Well-off: A Reconsideration of the Difference Principle	213
	Policing as a Positive Intervention with Iatrogenic Effects	215
	Building a Police Capacity for Public Reason	216
	Conclusion: Policing, Public Health, and Justice	217
Refe	rences	222
Inde		239