Egon Bittner defined the police as “nothing else than a mechanism for the distribution of situationally justified force in society”. This idea, while often quoted and widely accepted in society, captures only one aspect of the philosophy behind the institution of the police. According to G.W.F. Hegel, the police also assume the role of administrator of society where the civil society (Gesellschaft) has naturally reduced the interest of the individual to lie within one-self, after the strict boundaries of the private sphere have blurred and family ties have dissolved. Hegel could not foresee the various implications of modernity in the early nineteenth century; it is Max Weber who offers further philosophical background of the evolution of modern society and the development of bureaucracy, particularly in relation to policing. I will attempt to demonstrate how the evolution of the police – as part of modern society – followed economic laws, and why bureaucratization was a natural consequence of such evolution. In the end I will argue that this progress (i.e. bureaucracy) was – and is – the biggest impediment to Hegel’s vision of the police.

According to Weber, bureaucratization is a natural consequence of our civilized world; it “inevitably accompanies modern mass democracy…This results from its characteristic principle: the abstract regularity of the exercise of authority, which is a result of the demand for ‘equality before the law’ in the personal and functional sense”. The existence and endurance of bureaucratization can furthermore be explained with the “increasing demand for administration” due to the “increasing complexity of civilization” and its “technical superiority over any other form of organization”. The police as a government entity followed that course, although it

4 Id. at 972.
took American police departments until the late nineteenth, early twentieth century
to complete the transition to true “centralized public bureaucracies”\(^5\). The advances
in technology had by far the greatest influence on separating the police from the
communities they watched over. The first step occurred when car patrols replaced
“walking the beat”. Police officers became less approachable to the average citizen,
while at the same time losing their sense for the familiar and the out of place, as to
gain this knowledge is one of the main purposes for patrolling a small area by foot.
Car patrols also meant that fewer officers were needed for the same area or that a
department of a certain size could cover more area. Further, fewer police stations
were necessary, resulting in another step in the bureaucratization process – the
centralization of command and control.\(^6\) Equipping officers with two-way radios
and the establishment of 9-1-1 call centers are additional factors that encouraged
centralization. Citizens were now able to simply call “someone” 24 hours a day,
seven days a week with their concerns, though it was not the familiar voice of the
“neighborhood cop” anymore that answered but instead a stranger in an unknown
location who would take notice of the emergency and start the bureaucratic act of
a response.\(^7\) In that way the 9-1-1 call center aided in the separation of the police
from the citizen as well. The idea of the centralization of control and command
becomes clear in this context as some entity other than the police officer decides
how urgent a response is and who is going to respond. For such a decision the
dispatch utilizes yet another technological tool that furthers the bureaucratization
of the police – a central database. The collection, analysis, and evaluation of data
works to the advantage of bureaucracy, because as bureaucracy “develops the
more perfectly, the more it is ‘dehumanized,’ the more completely it succeeds in
eliminating from official business...all purely personal, irrational, and emotional
elements which escape calculation”.\(^8\) Databases are of course not only used by the
command and control center but also by the individual police officer, since he or
she will predominantly be the source that gathers the information about the incident
and the citizen. During the process of calling 9-1-1, entering information into the
database, and the dispatch of personnel, the dehumanization takes yet another step;
incidents become code numbers and so not only does the human tragedy that occurred
turn into a numerical value but the communication between officer and command
center is also kept as efficient as possible, stripping every redundancy integral to
a language from the conversation.\(^9\) The officer then is able to gain access to a pool
of information collected by colleagues or, in an advanced bureaucracy, by other

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\(^6\) See id. at 52.
\(^7\) See Jonathan M. Wender, Policing and The Poetics of Everyday Life (forthcoming Sept. 2008).
\(^8\) Weber, supra note 3, at 975.
\(^9\) See Reiss, supra note 5, at 85.
government agencies. In the course of the evolution of information technology, the notebook and pencil were relieved by a dashboard mounted keyboard and computer screen. The ultimate bureaucratic result is that the lives of citizens as data are neatly managed and readily available at the fingertip of law enforcement personnel, accessible from the comfort of the seat of a police cruiser, or as Reiss formulates: “As the twentieth century wanes, it has become clear that the transactions of police organizations with their environment are substantially determined by the goals and means of...bureaucracy”.

This argument carries over from the technical execution of answering a call to the response of the officer at location. Depending on the incident, the officer has either significant discretion in how to react, which is in fact a bureaucracy limiting power of the police, or none whatsoever (e.g. when responding to a domestic violence call in the state of Washington). Very likely, however, the response and the way the police officer separates himself from the scene of human tragedy will again be of a bureaucratic nature. Indeed, if there is no set of rules provided by the legal administration that address clearly the circumstances, the involvement of the police officer will naturally be even shorter, since legally speaking there is no need for action, there is “no problem.” The officer will likely be left with no other choice but to get back into his car and to “clear the call.” When there are strict rules established by the higher administration, such as in the case of domestic violence in the state of Washington (which demands a mandatory arrest), the officer fulfills his duty and commits the bureaucratic acts of arrest and filing of a report. And that is exactly what a bureaucracy demands, as it is “grounded in rules and legitimate exercise of hierarchical power in their application. Employees are expected to make decisions by a universal application of the rules in their domain of power”.

In sum, the response of the police to an emergency – often a human tragedy – is a cacophony of bureaucratic applications from codifying the incident, including the language used to describe the event, to the point when the officer has to walk away to respond to the next call. It seems paradoxical that the only time the officer is permitted to use discretion in deciding his actions and responding in a socially sensible manner by taking the circumstances that led to the incident into account, is when he has freed himself from bureaucracy and its rules.

One would be mistaken, though, to assume that the majority of the public or the police are overly concerned with a socially sensible response to a tragedy.

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10 Id. at 83.
11 See id. at 74-5.
12 Id. at 73-4.
13 For a more in depth discussion on this phenomenon see Wender, supra note 7.
In fact, an international study using data from the United States, Western Europe, Australia and New Zealand, conducted by the National Police Research Unit, Marden, South Australia, has shown that: “[The] police agree with the public that the most important police function is to fight crime, with other aspects of their role considered to be less important. This apparent consensus seems to give tacit approval to the desire of police officers to spend more time and resources on crime fighting and law enforcement”.\textsuperscript{14} And yet, despite this apparent consensus, public administrators and bureaucratic institutions stand in low regard with the American public, as bureaucrats are widely perceived as being power hungry, corrupt, untrustworthy, wasteful, and lazy.\textsuperscript{15} Levine goes on to describe the two major issues with which the government must grapple:

Fiscal stress is an overlay on the anti-government/bureaucracy framework that conditions the relationship between citizenship and public administration. Combining the two sets of constraints highlights two persistent problems of public administration: (1) How can a government build support for taxation to finance public service when citizens do not trust government to produce appropriate services? (2) And, how can governments provide appropriate services if citizens are unwilling to pay for them through collective mechanisms like taxation?\textsuperscript{16}

And, by all accounts, the costs of law enforcement and providing security will only continue to rise. Viewed at from an economic point of view the price-per-person-per-hour will increase as salaries rise to at least maintain pace with inflation rates and increasing costs of living. At the same time, the productivity of the police is not likely to change significantly in the future\textsuperscript{17}, at least not without substantial investments in new technologies, which, in turn might easily consume any increased productivity. As a matter of fact, Manning argued “there is little evidence that thirty years of funding technological innovations has produced much change in police practice or effectiveness”.\textsuperscript{18} I see in this dilemma the basis for the emergence of private policing. Modern society with its “rapidly changing technology, slower or faster economic growth, the information explosion, political instability, and profound value changes” as well as the “growing disparities in income, the changing demographic structure of the population, the rapid growth of many major cities, gentrification of some areas of cities and continued deterioration of others,” forced


\textsuperscript{16} Id. at 179.

\textsuperscript{17} See P. van Reenen, The ‘Unpayable’ Police, 22 Policing: An International Journal of Police Strategies & Management 133, 133 (1999). This phenomenon is also known under the term “cost disease” or “Baumol disease.”

\textsuperscript{18} Peter K. Manning, Policing contingencies 136 (2003).
the “public sector organizations...to rethink the kinds of businesses they are in, the kinds of services they need to deliver”. It is in the void of providing public safety and security that private policing found its main demand. Fiscal stress, as Levine described, forces the police to handle the provision of security and safety as a commodity and to fully partake in the market economy of modern society: police departments charge fees to provide cover for rock concerts, sports events, or private festivals; false alarms by private burglar-alarm systems causing a police response will be charged with a fee; business owners pay extra for additional patrols, and police officers work extra shifts for private companies in their function as law enforcement officers with all their legal authority, aside from their public duty. “[The] police are themselves helping to blur the line between government and nongovernment policing”. What was once considered a public good, free for every citizen, is now to a large extent made available to the highest bidder. Public law enforcement agencies become more and more professional and the institution of the police more and more bureaucratized in this process. Private companies offering security services follow the laws of bureaucracy naturally as a result of their corporate form. The general separation in the areas of service i.e. law enforcement and fighting crime as the more specialized domain of the public police, and the private police providing largely safety and security is reflected to some extent in the recruiting requirements and the differences in wages between those types of organizations. While more and more law enforcement agencies demand at least some college course work and salaries bring the employees well within the middle class, private police corporations set the expectations for their staff significantly lower, which of course is reflected in the compensation. In any case those who cannot afford either service can only wait for something to happen and rely on the crime solving domain of the public police; safety and security cannot be his or her concern. This possible outcome of the commodification of security for certain members in society was foreseen by Hegel. Stating that one result of civil society is the creation of poverty among groups of individuals, he goes on to argue that “since society has...taken from them the natural means of acquisition...and also dissolves [aufhebt] the bond of the family in its wider sense as a kinship group... they are more or less deprived of... the administration of justice”. That the economy of safety and security is a widely accepted development in civil society as well as a lucrative endeavor is confirmed by the fact that the private police exceed the public police in strength by far; there are more than three times as many police officers

21 Hegel, supra note 2, at § 241.
employed by the private sector as have sworn to serve the public.\textsuperscript{22} The society that was supposed to protect its members turned into a market place that deals with the feelings of safety and security as commodities.

The turn towards private policing is only one possible way that society has chosen to deal with the staggering costs of law enforcement. Another alternative, and one that addresses the social aspects of policing, is the implementation of community policing. This model of policing is aimed at facing potential legal issues at the root, preferably before they become established. There are several \emph{modi operandi} combined in this concept but the main premise is to create a joint venture between citizens and police who react fast and with a large margin of discretion to clear disturbances within the community and to established order before such disturbances get out of hand (“broken window” policing falls under such school of thought). The goal is to create a safer living environment and to save money in the long run by avoiding the decline of the neighborhood. It has to be stressed again that to endow the police officer with a large margin of discretion limits the bureaucratization of the police power.\textsuperscript{23} Or in the words of Charles Levine, who argues that the integration of civilians and the resulting \textit{deprofessionalization} of public bureaucracies is being caused by the need to reduce the high cost of personnel. Examples include…the use of volunteer, part-time, reserve, and auxiliary employees. These tactics contribute to saving money on salaries, fringe benefits, and pension costs”.\textsuperscript{24} Indeed the Department of Justice (DOJ) encourages the establishment of police departments following the concept of community-oriented policing services and has created an office group with the very same name (abbreviated COPS) that aids in the reformation of police departments to utilize the described benefits. The reasons the DOJ sees for the creation of such a department become clear when one reads the material published by COPS for the purpose of determining the interest and necessity of a community in establishing its own law enforcement agency:

\begin{itemize}
  \item Dissatisfaction with Current Services or Costs
  \begin{itemize}
    \item Slow response times to calls for service
    \item Unsatisfactory quality of personnel or services
    \item Frequent rotation of different sworn personnel in and out of the community
    \item Lack of police visibility (e.g., seldom seen on patrol, don’t walk a beat)
    \item Unacceptable style of policing (e.g., impersonal, bureaucratic)
  \end{itemize}
\end{itemize}

\textsuperscript{22} See Elizabeth E. Joh, \textit{The Paradox of Private Policing}, 95 \textit{The Journal of Criminal Law and Criminology} 49 (2004). See Bayley & Shearing, \emph{supra} note 20.
\textsuperscript{23} See Reiss \emph{supra} note 5.
\textsuperscript{24} See Levine & Fisher, \emph{supra} note 15, at 180.
• Dissatisfaction with increasing costs of services (e.g., sheriff has raised fees). 25

The theme of programs such as COPS is to create stability in the community and to save money. However, research shows there is one major flaw in the concept of community policing as the ultimate solution to the crisis in policing created by financial stress in society and general distrust towards the bureaucratic administration by the public:

Despite the benefits claimed for community policing, programmatic implementation of it has been very uneven. Although widely, almost universally, said to be important, it means different things to different people – public relations campaigns (...) Community policing on the ground often seems less a program than a set of aspirations wrapped in a slogan. 26

What Ponsaers is suggesting is that community policing became a container notion over time. The concept was implemented successfully in various police departments as early as the mid-1980s, among them in such agencies as the Madison Police Department in Wisconsin and the Houston Police Department in Texas. Yet fifteen years later researchers find no evidence that the concept could be established as a policy in a significant number of public law enforcement agencies despite the existence of numerous studies, research papers and praise for the model by sociologists. Max Weber offers an explanation for this puzzlement and once more it rests within the nature of bureaucracy itself, which “once fully established…is among those social structures which are the hardest to destroy. Bureaucracy is the means of transforming social action into rationally organized action….Where administration has been completely bureaucratized, the resulting system of domination is practically indestructible”. 27 Community policing, however, requires this transformation not to happen, and to essentially defy one of the main attributes of bureaucratization, in the end to defy Western civil society and market economy itself. Bayley and Shearing suggest a narrower rationalization for the failure of community policing. They argue that it is not within the nature of the citizens in Western countries to “respond to the demand for order by spontaneous crime-preventive activities undertaken by communities,” that the people value their individual freedom highly and are not susceptible to the informal discipline of groups required to conduct

25 Deborah Spence, Barbara Webster & Edward Connors, Guidelines for Starting and Operating a New Police Department 2. The exact date of the publication is unknown. The most recent reference used in the material is dated 2006.
27 Weber supra note 3, at 987.
community policing successfully.28 Bayley and Shearing go on to suggest that in our “individualistic democratic society” the commodification of security and the reliance on the market economy to “compensate for the deficiencies of governmental control” is the natural response.29 Ponsaers seems to agree in this argument in so far as he accepts the division of private policing and public law enforcement as the “first real globalization police model” and that the emergence and manifestation of this economic model resulted as a “reaction against too narrow and too traditional conception of police and the neglect of new categories of police and policing”30 – essentially calling it the next step in the evolution of policing.

Hegel envisioned at least segments of the police being an administrative component of society that is also largely concerned with the social aspects of its citizens. While he accurately predicted the developing economic market society and its implications on the people, he could not fathom the full extent of the evolution of bureaucracy as part of our democratic civil society. It is Max Weber who extends Hegel’s philosophy and who offers with his theories an explanation for the present crisis in policing – responding to human tragedies in a mostly rational and normative manner (Jonathan Wender analyzes this “bureaucratic paradox”31 in his forthcoming work), and the failure to establish a policing model that could break (or at least bend) this cycle. Yet research shows that some of Hegel’s suggestions were of significance despite having been made more than 150 years ago. Maguire and King32 argue that the police are largely and increasingly successful in their role as risk educators and counselors with various programs aimed at preventing drug abuse and educating children about gangs and violence. It is this type of societal duty that Hegel demands in Philosophy of Rights33, therefore, on a larger scale, it appears that Weber is proven right in his theories on bureaucracy and our society. In terms of policing, society faces the dilemma of either following the rational, bureaucratic administration of law enforcement, or alternatively, overcoming the strict bureaucratic system in some areas to address human crises in a more social way. If Weber should be proven correct in his prediction of the “indestructibility” of the bureaucratic system, society does not seem to have a choice short of living through a fundamentally reshaping event. Further, if Weber is correct, security will become even more “commodified” over time as the developments in the economic

28 See Bayley & Shearing, supra note 20, at 600.
29 See id. at 601.
30 Ponsaers supra note 26, at 487.
31 Wender, supra note 7.
33 See Hegel supra note 2, at §239.
market point towards globalization. Should he however be wrong, we might see a change in policing as Beck, Boni, and Packer\textsuperscript{34} envision it:

That there should be two distinct agencies responsible for policing; one agency that provides community style policing, characterized as an interaction with an open consultative purpose (e.g. providing advice dealing with family issues, providing non-emergency responses, and providing security) and one that provides investigative policing, characterized as ‘hard-nosed investigation’ (e.g. criminal investigation).\textsuperscript{35}

While I would like to believe that our civil society (\textit{Gesellschaft}), consisting of members who have their self-interest as the highest priority, can evolve into a more socially aware community (\textit{Gemeinschaft}), it would also mean that Hegel’s and Weber’s, both more than leading experts in their field, assessments of the nature of modern society were wrong – an assumption I do not dare to make.

\textsuperscript{34} See Beck et al., \textit{supra} note 14, at 208.

\textsuperscript{35} See Keith Bryett & Arch Harrison, \textit{Policing in the Community, in 3 An Introduction to Policing} (1994).