

# Insight Policing and the Role of the Civilian in Police Accountability

BY JAMIE PRICE AND MEGAN PRICE

## Foreword

Recent events in Baltimore (Maryland), Ferguson (Missouri), and elsewhere have brought national attention to the connections among police practices, violence, and community progress. Many people in low-income communities of color view the police as yet another barrier to upward mobility, as record numbers of their neighbors face the economic consequences of having a history of arrests or convictions. Sargent Shriver himself recognized that good relationships between the police and the communities they serve are essential to the very legitimacy of the legal system.

But how can police and communities stop entrenched patterns of conflict? In this article Jamie Price of the Sargent Shriver Peace Institute and Megan Price of the Insight Conflict Resolution Program share their work on “insight policing” and the positive changes it has brought in Memphis (Tennessee) and Lowell (Massachusetts). Jamie Price coauthored a [2010 Clearinghouse Review article](#) on the “insight approach” to conflict resolution, and now he and Megan Price bring this idea to the realm of police-community relations.

We present this article as a contribution to the thinking about police and the criminal justice system that many of our colleagues in the equal justice and legal aid community are undertaking. As several of our community-based allies enter into negotiations with police commanders and other officials, we offer this article—rooted in Shriver’s work—as food for thought and action.

—John Bouman, Shriver Center President

What is the role of civilians in establishing the legitimacy of the law and the accountability of police officers? This is a pressing question in the wake of events in Ferguson (Missouri), Staten Island (New York), Baltimore (Maryland), and elsewhere that highlight the contemporary crisis in police legitimacy. One response is “insight policing”; it takes its bearings from the vision of the mutual, person-to-person accountability of civilians and law enforcement officers—the vision articulated by Sargent Shriver as the architect of America’s War on Poverty some fifty years ago:

You know and I know that law enforcement isn’t enough. Law has to mean something more than “be good”, “behave yourself”, “wait patiently”, and above all

“cool it.” The law may be impartial—but it cannot be neutral. The law must either be a friend and a protector—or it will be perceived as the enemy.<sup>1</sup>

In a series of speeches that he delivered to the legal community against the backdrop of social conflict and race riots in the late 1960s—events sometimes triggered by community outrage at the actions of police officers—Shriver’s assessment of what he called “the crisis in the rule of law” seems eerily contemporary:

Nothing is more likely to stimulate rioting in the streets than the belief that the courts and the law and the police are unfair; nothing is more likely to kill the

desire to riot than the belief that the legal system is fair and just. The more confidence people have in the legal system, the less compulsion they feel to destroy the world around them.<sup>2</sup>

Scholars of police legitimacy affirm Shriver’s assessment: people tend to comply with the law and to cooperate with police officers if they perceive police officers to be exercising their policing authority fairly and responsibly.<sup>3</sup> Indeed, research shows that the positive correla-

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<sup>2</sup> [Sargent Shriver, Address to the Cincinnati Bar Association](#) (April 27, 1967).

<sup>3</sup> See [LORRAINE MAZEROLLE ET AL., LEGITIMACY IN POLICING: A SYSTEMATIC REVIEW](#) (2013); TOM R. TYLER, *WHY PEOPLE COOPERATE: THE ROLE OF SOCIAL MOTIVATIONS* (2011); TOM R. TYLER, *WHY PEOPLE OBEY THE LAW* (1990); TOM R. TYLER, *Enhancing Police Legitimacy*, 593 ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE 84, 87 (2004) (“When people feel that an authority is legitimate, they authorize that authority to determine what their behavior will be within a given set of situations.”).

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<sup>1</sup> [Sargent Shriver, Address to the National Bar Association](#) (Aug. 3, 1966).

tion between legitimacy and personal accountability holds both for individuals being subjected to the law and for those being served and protected by it.<sup>4</sup> For Shriver, the policy implications were clear:

We're working for the day when a policeman, an official, a representative of law and order is not perceived as the enemy—as the source of danger and symbol of oppression ... the day when no officer of the law—policeman or lawyer—is automatically perceived as the enemy, as the agent of a hostile, unjust society.<sup>5</sup>

This is a high calling for criminal justice, and the day for which Shriver was working has not yet come. But Shriver's analysis throws into clear relief the respective roles of civilians and police officers in the matter of police accountability—roles that need to be acknowledged and fostered by any approach to law enforcement policy that aspires to work for the day Shriver envisions.

First, Shriver accords to civilians the role of touchstone for police legitimacy and accountability. This role is double-edged. On the one hand, civilians tend to hold themselves accountable to the law when they perceive the decisions and actions of law enforcement officials to be fair and just.<sup>6</sup> On the other hand, civilians tend to view themselves as unaccountable to the law—and therefore inclined to take the law into their own hands—when they perceive

4 See Catherine Gallagher et al., *The Public Image of the Police: Final Report to the International Association of Chiefs of Police by the Administration of Justice Program George Mason University* (Oct. 2, 2001).

5 Sargent Shriver, *Address to the Illinois State Bar Association* (June 16, 1966).

6 See LORRAINE MAZEROLLE ET AL., *PROCEDURAL JUSTICE AND LEGITIMACY IN POLICING* (2014); TYLER, *WHY PEOPLE OBEY THE LAW*, *supra* note 3; Kristina Murphy, *Policing at the Margins: Fostering Trust and Cooperation Among Ethnic Minority Groups*, 8 *JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM* 184 (2013); Karl Roberts & Victoria Herrington, *Organisational and Procedural Justice: A Review of the Literature and Its Implications for Policing*, 8 *JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM* 115 (2013).



**“It’s like we see the thunderclouds over the city, but we just don’t know where the lightning is going to strike.”**

the law and the decisions of law enforcement officials to be illegitimate or unfair.<sup>7</sup>

Second, Shriver accords to law enforcement officials the role of the keeper of police legitimacy and accountability. If the role of the civilian is to be the touchstone of police legitimacy, then the role of the law enforcement officers is to inspire trust and respect for the law in the first place—and to bear the burden of restoring it when that trust is broken.

Both are weighty roles, especially in cases where community perceptions have hardened and police legitimacy is frankly

denied. In these situations—situations such as those Shriver addressed—a vicious circle in civilian-police relations is in play that can be very difficult to interrupt and reverse. When the rule of law is delegitimized, civilian cooperation with law enforcement officers declines, and criminal behavior may emerge as a seemingly legitimate option. Civilians then question police legitimacy and accountability. For example, one young man from a distressed area in Lowell (Massachusetts) observed, “The police just aren’t there for us. They’d rather see us shoot each other and then send the ambulance.”<sup>8</sup>

Shriver’s policy prescription is straightforward and consistent with his analysis of the respective roles of civilians and law enforcement:

We have to alter ... the perceptions of both children and adults [who perceive the law as an enemy rather than an

7 See Jeffrey Fagan & Tracey L. Meares, *Punishment, Deterrence and Social Control: The Paradox of Punishment in Minority Communities*, 6 *OHIO STATE JOURNAL OF CRIMINAL LAW* 173 (2008); Robert J. Kane, *Compromised Police Legitimacy as a Predictor of Violent Crime in Structurally Disadvantaged Communities*, 43 *CRIMINOLOGY* 469 (2005); Tracey Meares, *Walton Hale Hamilton Professor, Yale Law School, The Legitimacy of Police Among Young African-American Men*, Barrock Lecture on Criminal Law, Marquette University School of Law (Feb. 19, 2009), in 92 *MARQUETTE LAW REVIEW* 651 (2009); Laurie Samuel, *Retaliatory Homicide: The Impact of a Lack of Faith in the Police on Violence*, Presentation at the Annual Meeting of the American Sociological Association (Aug. 11, 2006).

8 Jamie Price & Megan Price, *The Retaliatory Violence Insight Project: A Final Report on Insight Policing 5* (2014).

ally]. But we cannot alter perceptions unless we alter people's experiences.... [T]he adult, or the teenager, ... will have to experience the law as a protector, a friend, an ally—[as] fair and equitable—... if we are to alter his [or her] perceptions.<sup>9</sup>

Shriver sought to alter people's experiences of the law by creating Legal Services for the Poor, a program offering legal advocacy and representation in civil matters to people living in poverty. His legacy lives on in the Sargent Shriver National Center on Poverty Law in Chicago and the Legal Services Corporation.<sup>10</sup>

But our question concerns the role of the civilian and the officer in police accountability. What could we do to provide civilians—especially adults and teenagers who already doubt the law's legitimacy—with an experience of the law and its officers that would incline civilians to apprehend the law's value, affirm its legitimacy, and decide to respond accountably? And what could we do to give law enforcement officers a way, in the course of their ordinary duties, to help restore the legitimacy of the law in the eyes of adults and teenagers who do not spontaneously perceive it to be legitimate? Insight policing, we suggest, is one promising answer.

### Insight Policing

Insight policing is a community-oriented, problem-solving approach to policing. It was developed in collaboration with the police departments in Memphis (Tennessee) and Lowell by a team of “insight conflict resolution” scholars and practitioners who are connected to the School for Conflict Analysis and Resolution at George Mason

University.<sup>11</sup> Insight policing was developed as a component of the Retaliatory Violence Insight Project, a demonstration project funded by the Bureau of Justice Assistance and designed to tackle one of the more deep-rooted challenges to police legitimacy and accountability: the problem of retaliatory violence and homicide.

Retaliatory violence is conflict behavior that becomes a crime when individuals or groups decide that the best way to defend themselves from a perceived threat—or to right a perceived wrong—is to take the law into their own hands by resorting to violence. Insight policing was designed to curb retaliatory violence by augmenting a

police officer's law enforcement training with analytical and practical skills drawn from the insight approach to conflict analysis but with a skill set specifically adapted to police-civilian encounters.

Patterns of retaliatory violence are extraordinarily difficult to disrupt, both for the individuals who find themselves caught in cycles of retaliatory decision and action and for the police officers who try to stop those cycles. Since acts of retaliatory violence explicitly short-circuit the rule of law, they typically place police officers in a reactive mode, leaving them to manage the after-effects of violent crime and wondering when and where the next shoe will drop.

As one police captain instrumental in the development of insight policing remarked, “[i]t's like we see the thunderclouds over the city, but we just don't know where the lightning is going to strike.”<sup>12</sup>

Patterns of retaliatory violence signal broader social conflicts between civilians and police officers over the legitimacy of police authority and the accountability of police power.<sup>13</sup> The principal manifestation of this conflict is civilians not cooperating with the police and instead seeking justice on their own terms. From 2006 to 2010, of violent crimes 52 percent went unreported to the police; 34 percent of those cases went unreported because

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victims decided to deal with the problem themselves, and another 16 percent went unreported because victims felt police either could not or would not help them.<sup>14</sup> Citizens in communities with high levels of retaliatory homicide often feel that they cannot trust the police to protect them or to help them resolve the arguments and conflicts that lead to violent retaliation.<sup>15</sup>

Insight policing combines traditional law enforcement skills with a targeted set of insight conflict resolution skills. Identifying the fundamental connection between policing and conflict resolution is not new, of course, not in the literature and certainly not in the experience of

9 Shriver, *supra* note 5.

10 See SCOTT STOSSEL, *SARGE: THE LIFE AND TIMES OF SARGENT SHRIVER* (2004).

11 For an explanation of insight conflict resolution, see Jamie Price, *Explaining Human Conflict: Human Needs Theory and the Insight Approach*, in *CONFLICT RESOLUTION AND HUMAN NEEDS: LINKING THEORY AND PRACTICE* 108 (Kevin Avruch & Christopher Mitchell eds., 2013); Jamie Price & Kenneth R. Melchin, *Recovering Sargent Shriver's Vision for Poverty Law: The Illinois FamilyCare Campaign and the Insight Approach to Conflict Resolution and Collaboration*, 43 *CLEARINGHOUSE REVIEW* 468, 473–75 (Jan.–Feb. 2010).

12 Interview by Megan Price with Captain, Lowell Police Department, in Lowell, Mass. (Sept. 10, 2012).

13 See Fagan & Meares, *supra* note 7; Kane, *supra* note 7.

14 Marcus Berzofsky et al., *U.S. Bureau of Justice Statistics, Victimization Not Reported to the Police, 2006–2010*, at 1 (Aug. 2012).

15 See Samuel, *supra* note 7.

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police officers.<sup>16</sup> What is new about insight policing is that our demonstration projects in Memphis and Lowell enabled us to test the complementarity of policing and conflict resolution by employing insight policing as a working hypothesis.

The relevance of insight policing to the linked problems of police legitimacy and retaliatory violence is illustrated by an incident that took place in Lowell in the summer of 2012. During a spate of retaliatory drive-by house shootings, five people were shot one afternoon while they were relaxing on their front porch. When firefighters and emergency medical technicians arrived on the scene to assist the shooting victims, one woman who was shot in the shoulder and both legs screamed at them to leave her alone. According to the detectives who investigated, the victims were some of the most uncooperative they had encountered in their careers. Probably this woman either knew or had observed something that could help the police identify the shooters and bring them to justice, but evidently she doubted the usefulness in helping the police.

If the only task and responsibility of the police officers were to collect the evidence and information they needed to solve the crime and punish the perpetrators, then they were stymied by the noncooperation of the woman and the other victims.

But if their tasks and responsibilities included seeking to understand and transform the woman's conflict with the first responders and police officers—a conflict manifest in her decision not to talk to or cooperate with any of them—then from an insight policing perspective they had plenty of evidence with which to work and every reason to work with it.

Insight policing gives officers the analytical framework and the investigatory tools to understand conflict behavior. Officers can then identify the conflict dimensions of explicitly criminal behavior (such as deciding to drive by a house and shoot the people on the porch), as well as conflict behavior that is not explicitly criminal (such as deciding to stonewall the police officers investigating the scene of the shooting). The analytical key to insight policing is twofold. First, it calls for officers to attend explicitly to the seemingly obvious fact that people have minds and use them when they make decisions. Second, it calls for officers to grasp that conflict behavior is the manifestation of an inner cognitive process that is defined by the functional relationship of two variables: (1) a felt sense of threat and (2) a decision to defend oneself against that threat.<sup>17</sup>

As a set of concrete acts, conflict behavior is probably endless in its variety, but, for analytical purposes, this variety can be usefully categorized into four broadly descriptive types: fight, flight, freeze, and fawn. Each type can be further explained by the functional relationship of the perceived

threat and the defense against that threat. “Fight” covers the range of verbal and nonverbal actions that people employ when they decide to defend themselves against the perceived threat by being aggressive. “Flee” covers the gamut of verbal and nonverbal actions that people employ when they decide to defend themselves against the perceived threat by trying to avoid or get away from it. “Freeze” covers the scope of verbal and nonverbal actions that people employ when they decide to defend against the perceived threat by camouflaging or deflecting attention from themselves. “Fawn” covers the span of verbal and nonverbal actions that people employ when they decide to defend themselves against the perceived threat by ingratiating themselves or currying favor.

The practical import of this analytical approach (even the thumbnail version of it sketched here) becomes evident in the way it guides and directs officers to wonder at the conflict behavior of the woman on the porch. The insight framework enables officers to recognize that the woman's refusal to cooperate is not the end of the inquiry: *It is the beginning*. First, the insight approach would enable officers to assume that, for some as-yet-to-be-determined reason, the presence of the first responders and police officers posed a threat to the woman, a threat that she decided to defend against by engaging in a type of conflict behavior identifiable as “fight”—that is, by screaming at them to leave her alone. Second, the insight approach would orient the officers' subsequent effort to understand her conflict with them and thereby potentially to transform this particular manifestation of the conflict. These steps would in turn be the necessary precursors to understanding and helping her deal with the other more basic (and criminal) conflict behavior: someone is shooting at her house!

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16 See, e.g., WILLIAM KER MUIR JR., POLICE: STREETCORNER POLITICIANS (1977). See also HERMAN GOLDSTEIN, PROBLEM-ORIENTED POLICING 112 (1990) (“Conflict may be at the heart of many problems initially defined differently.... [E]xperiments in problem-oriented policing have demonstrated that conflict resolution is often the most sensible response to a problem.”).

17 See Price, *supra* note 11.

Insight policing gives civilians an experience of the law that enhances the probability that they will alter their (negative) perceptions of it. Insight policing positions officers to take seriously the role of the civilian as the touchstone of police legitimacy and to bear the burden of restoring that legitimacy when officers discover that it is initially denied. By way of further explication, consider the following incident, which took place in Memphis one spring evening in 2013.<sup>18</sup>

Three Memphis police officers trained in insight policing skills received a call on a shooting. When they arrived at the scene, they found a group of young men at the back of a house that had received multiple hits in a drive-by shooting. The officers began their encounter with the young men by asking questions aimed at getting the information they needed to solve the crime: “What did you see? What can you tell us about the shooting? Who do you think might have done this?”

The officers quickly discovered that the young men had decided to freeze them out by refusing to respond to any of their questions. The officers faced a decision. How were they going to respond to this freeze-type conflict behavior? How were they going to respond to this repudiation of the rule of law and the legitimacy of their role as its officers?

The officers recounted that if they had followed customary procedure, they would have handcuffed the young men and taken them to the police station for booking on probable cause of gang-related activity. They said their reasons for handling the situation this way would have been twofold: on the one hand, to use their leverage as law enforcement officers to coax some useful information about the crime from the young men and, on the

other hand, to keep them temporarily off the streets and unable to retaliate.

Instead the officers decided to remain at the scene with the young men and asked a series of insight questions aimed at understanding their conflict behavior. “So it seems you’ve decided the best thing to do here is to stonewall us about the shooting,” one of the officers remarked. “Do I have that right?”<sup>19</sup> Upon receiving wry, nonverbal confirmation of this assessment, the officers pursued a line of questions aimed at discovering how the young men arrived at their decision to engage in conflict behavior: “What are you worried might happen if you talk to us? What makes stonewalling us the best thing to do here? What are you hoping to achieve by acting this way?”<sup>20</sup>

Needless to say, having police officers rolling up on them in the aftermath of a drive-by shooting had triggered feelings of threat in the young men, and they spontaneously adopted a passive-aggressive, freeze-type conflict behavior: defensive, noncommittal, uncooperative. However, when they sensed these same police officers being curious—not about the crime but about the young men’s own cares and concerns in response to the shooting—the young men not only found their expectations about the police officers confounded; they found that the sense of threat triggered by their presence dissipated, too. With no feelings of threat to defend, they found themselves spontaneously pondering the relative merits of their decision to freeze out the officers.

This release of inner curiosity about their own decision making in turn freed them to imagine a wider range of possible responses, including the possibility of talking to the officers about what had happened. Indeed, the officers reported that during

this encounter the young men changed their minds about being uncooperative and decided instead to volunteer critical information about the shooting. This information in turn enabled the officers to apprehend the drive-by shooter later that evening.

### The Mutual Accountability of Officers and Civilians

The Retaliatory Violence Insight Project delivered a series of training in insight policing to select officers in the police departments of Memphis and Lowell in the winter of 2013. One year later, in an effort to assess whether the training had generated any sustained impact, the Retaliatory Violence Insight Project conducted a round of one-on-one taped telephone interviews with as many of the officers who were willing and able to participate.<sup>21</sup> One of the interesting findings from these interviews was that insight policing had enhanced the mutual accountability of officers and civilians in fulfilling their respective roles as keeper and touchstone of police legitimacy and accountability.

The officers interviewed by the Retaliatory Violence Insight Project recounted the ways their insight policing skills had helped them respond to resistance, noncooperation, and other conflict behavior they had encountered during routine enforcement duties such as traffic stops and warrant pickups. Reflecting on their law enforcement experiences prior to their training in insight policing, officers in Lowell and Memphis remarked on the pervasive lack of cooperation from civilians and the quickness with which their encounters with civilians could become contentious and volatile. They reported that they had come to regard this state of affairs simply as a matter of “the way things are.” They were struck therefore to discover that

<sup>19</sup> *Id.* at 9.

<sup>20</sup> *Id.*

<sup>21</sup> Price & Price, *supra* note 8.

<sup>18</sup> See Price & Price, *supra* note 8, at 8–10.

when they used their insight policing skills to become curious about the conflict behavior of the civilians they encountered, they were able to defuse situations that would ordinarily have escalated.

As one officer remarked, insight policing “keeps things from blowing up real bad.... It’s helping keep [us] stress free.”<sup>22</sup> Others noted that they had become less reactive to the conflict behavior of civilians and more spontaneously curious about it. “The biggest difference I notice as a result of the training,” commented one officer, “is that I have more of a listening ear. I allow the other party to express themselves. It’s a more positive interaction.”<sup>23</sup> Another reflected that “with the Insight training we gained the opportunity to ask more questions rather than just assume.”<sup>24</sup>

Another finding was that insight policing has a significant impact on the officers’ approach to making arrests. One officer reported:

Prior to Insight training, I would go to calls and it would be like this: I’d kind of hear what’s going on, and I would make a quick determination on what action I’m going to take, and then I would go ahead and take that action.<sup>25</sup>

But, after the training, the officer reported that he changed this pattern:

Insight training helps you to understand that sometimes its [sic] good to listen to people and hear people out to get the complete story about what’s going on with them before you jump to a conclusion and take some kind of action. It also helps once you listen to what people are really saying. Then

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### Civilians who encounter an officer engaged in insight policing tend to alter their initial perception of the officer, and change their conflict behavior as a result.

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you can kind of empathize with them, and it helps you to really understand what they’re going [through].<sup>26</sup>

The officer reported that having this understanding opened up the possibility of making different decisions:

It helps you to make a different determination versus just immediately arresting somebody. You can help them find alternative ways to solve whatever problem they have. So I think it helps a lot, listening a little bit more. And I think that’s what I really got from the Insight training. You don’t immediately make a determination to take someone to jail. You kind of hear them out—hear both sides out—try to figure out what’s going on—and try to find a way to help them, versus always arresting.<sup>27</sup>

Civilians who encounter an officer engaged in insight policing tend to alter their initial perception of the officer and change their conflict behavior as a result.

One specific example of this comes from a Memphis officer who was detailed to serve a warrant on a man wanted in connection with a murder.<sup>28</sup> The officer and his partner went to the man’s neighborhood to look for him and came across two of his brothers. The officer said that the brothers “were real uncooperative with us.”<sup>29</sup> However, the officer used his insight training to identify their resistance as conflict behavior, and he decided to probe their behavior. He

asked the brothers what he and his partner had done to make the brothers so uncooperative. And he asked what the brothers were worried might happen if they talked to the police. Through these and other questions, the officer discovered that the “guys had had a bad experience with the police, where the police just immediately arrested them without hearing their side of anything, without taking the time to find out what was going on.... And they thought it was the same way with this situation.”<sup>30</sup>

The brothers thought they were about to be arrested; to defend themselves they decided to engage in an aggressive “freeze”-type conflict behavior. Realizing this, the officers reassured the brothers that they had no intention of arresting them. This in turn dissipated the brothers’ felt sense of threat and opened them to the possibility of other courses of action. In fact, to the astonishment of the officer and his partner, the brothers ultimately decided to take the officers directly to their brother, who willingly surrendered. As the officer put it, this “kind of cooperation doesn’t happen very often. Not unless you really listen to the story.”<sup>31</sup>

Other officers reported similar experiences in routine enforcement duties. In one case, an officer described how insight policing made a difference in the way he handled a routine traffic stop.<sup>32</sup> The officer observed a traffic violation and pulled the car over. The driver, a man described by the officer as “probably 6’4”, 300 pounds,” began yelling at the officer: “You’re always writing tickets!

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22 *Id.* at 18.

23 *Id.*

24 *Id.*

25 *Id.* at 24.

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26 *Id.*

27 *Id.*

28 *Id.* at 19.

29 *Id.*

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30 *Id.*

31 *Id.*

32 *Id.* at 24–25.

There are other crimes being committed. You all need to be working towards that!”<sup>33</sup> The officer remarked that in the past he would have taken the man’s statement as a sign of disrespect for his role as a police officer, and, because of the man’s imposing size and strength, he would have called for backup. But the officer noticed this response within himself, recognized it as conflict behavior of his own, and realized that if he were to act on it, he would only escalate the conflict. “Doing that,” he said, “would have put the man at a disadvantage and made him uneasy by having so many officers there.”<sup>34</sup> Instead he regained his own equilibrium and said to himself, “I’m going to deal with this on a one on one level, and keep it to a moderate tone,” and, as he reported, “it ended up working out real well.”<sup>35</sup>

In another case, three officers went to serve a warrant at a man’s home. The man allowed them into his house, but when they told him they had a warrant for his arrest, he became enraged and angrily refused to go with them to the police station. The officers reported that their initial impulse was to control the man’s anger with physical force, but they decided instead to use their insight policing skills. They identified the man’s expressions of anger as conflict behavior of the “fight” type, and they asked him what was upsetting him so much. They posed this question even though they were pretty sure they already knew what the man’s answer would be: he was upset by the prospect of being arrested and taken to jail. What they discovered, to their surprise, was that the man was certain that he would be taken away without being able to let his wife know where he was, and he was angered at the prospect that his wife would be upset and worried. When

33 *Id.* at 24.

34 *Id.* at 25.

35 *Id.*

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## Nothing is more righteous and certain than a mind locked into conflict behavior—whether it is the mind of a civilian or a police officer.

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the officers responded by allowing him to call his wife, his anger dissipated, and he went along without further incident.<sup>36</sup>

As these examples demonstrate, insight policing has helped officers broaden the horizon of what they imagine is possible in their interactions with civilians. Insight policing has enabled officers to fulfill their role as the keepers of police legitimacy and accountability. In fact, a commanding officer reported that she has “fewer job-related complaints within the unit because of the Insight training.”<sup>37</sup> And when asked to reflect on whether the training in insight policing had affected her role as commander, she said, “I think about it in how I manage my officers and how I deal with the organizational issues that come up.”<sup>38</sup> She went on to say that, because of her work with insight policing, she now

36 *Id.* at 20.

37 *Id.* at 18.

38 *Id.*

recognized that certain violations of official procedures and acts of professional misconduct by police officers should also be seen as acts of conflict behavior. When she asked insight questions of officers who had engaged in professional misconduct, she discovered that such misconduct was often best understood as conflict behavior triggered by grief or threats of loss and worry, and the officers committed to defend against those threats. These insights have influenced her approach to disciplinary actions, and she has been developing insight-based strategies to help officers recognize and deal constructively with the feelings of threat and loss that can precipitate the kind of conflict behavior that rises to the level of professional misconduct.

### Reflections

Here we have shown how insight policing might be practical in helping police officers fulfill their role as the keepers of police

legitimacy and accountability and in restoring civilians—especially those who are wary about the integrity of the rule of law—to their role as a credible touchstone of police legitimacy and accountability. We suspect that our rather straightforward account of insight policing gives rise to a range of important and interesting questions, not least within the fields of criminal justice and conflict studies. And while our space limitations here do not permit us to anticipate and respond to these questions, we offer two concluding reflections.

The first is the relationship of insight policing to the issue of structural change and how insight policing expands the scope of traditional law enforcement training. However, since the aim of insight policing is to enhance the quality and legitimacy of community-police relations, we regard insight policing as a necessary complement to other higher-order structural changes that are aimed at enhancing police integrity, respect for the law, and the role of civilians in policing accountability. These structural efforts include securing public access to and transparency in the disciplinary records of police officers and reforming policing policies and procedures.<sup>39</sup> Structural efforts such as these lend broader institutional credibility to the efforts of officers engaged in insight policing, and law enforcement officials' enhanced experiences provided by insight policing confer greater credibility on the structural efforts.

The second is that insight policing, as an approach to law enforcement and civilian-police relations, is based on the targeted application of curiosity rather than force. When an officer engages in open, nonjudgmental curiosity about a civilian's conflict behavior, the civilian tends to become curious about it, too.

And as civilians spontaneously follow a police officer's line of insight questioning into what they find troubling in the current situation, what they are worried might happen, what they are hoping to achieve, and what makes them think their conflict behavior is the best way to achieve it, the civilians' conflict behavior tends to shift.

This is the theory of change that explains the efficacy of insight policing: when an officer exhibits sustained and targeted curiosity about the way a civilian is thinking, that civilian becomes reflexively aware of the thinking, too. When this happens, a civilian may change the decision to engage in conflict behavior with the officer. The possibility of reaching mutual understanding and agreement between officers and civilians opens up in circumstances that otherwise appear to be defined by insurmountable obstacles to cooperation and compliance with the rule of law: silence, anger, disrespect, hostility, and the threat of violence.

Of course, the emergence of such change is not a certainty, but no outcomes are guaranteed when officers decide to use force either. This much seems sure: when police officers are not curious about the sense of threat driving a civilian's conflict behavior, then neither is the civilian. Nothing is more righteous and certain than a mind locked into conflict behavior—whether it is the mind of a civilian or a police officer.

Insight policing enables civilians to experience the law and its representatives such that they will be more likely to apprehend the value of the law and its representatives, affirm their legitimacy, and decide to respond accountably. Insight policing is an approach to law enforcement that can hasten the day, in Shriver's words, "when [no] representative of law and order ... is

automatically perceived as the enemy, as the agent of a hostile, unjust society."<sup>40</sup>

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<sup>39</sup> See, e.g., [Invisible Institute, Press Coverage of Kalven v. Chicago Decision](#) (2014).

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<sup>40</sup> Shriver, *supra* note 5.