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The Policing of Mass Demonstration
in Contemporary Democracies

Police Philosophy and Protest Policing
in the Federal Republic of Germany,
1960-1990

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EUROPEAN UNIVERSITY INSTITUTE, FLORENCE

ROBERT SCHUMAN CENTRE



**The Policing of Mass Demonstration
in Contemporary Democracies**

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Federal Republic of Germany, 1960-1990**

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A Working Paper written for the Conference organised by the RSC
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Problem Definition, Concepts, Hypotheses

How did the political self-image of the German police, and particularly that of high-ranking police officers, change during the period from 1960 until the German reunification in 1990? In which direction did police protest control strategy move during this period? What kind of interdependence exists between police conflict strategy in the context of public protests and police self-definition? This working paper shall attempt to respond to these three questions by means of a chronological history of the police debate on the self-definition of the police and on police interventions during public protest events.

The empirical basis of this contribution lies not in police action but in *police knowledge* of their action (referred to as police knowledge hereafter). One of the implicit premises of this text is that cognitive structures are of significant relevance to action. 'The knowledge which governs the actions of the police (...) should be interpreted as an objectivation of police practice. It constitutes an objective frame of reference for the actors which - removed from the action level - encloses the practice of these actors and transforms it into a reality in its own right (...)' (Malinowski, 1975: 61). The type of police knowledge which is relevant to the above questions consists in interpretative models on the social and political macro-level as well as on the meso-level of conflict which have a direct bearing on protest policing.¹ Protest policing is defined as police interventions during protest events; more generally, police 'treatment' and control of protestors.²

Two fundamental categories may be distinguished on the level of conflict knowledge: first, *protest diagnosis*, defined as the police assessment of protestors, their action patterns and action motives. In addition, protest diagnosis takes in the police interpretation of conflicts involving the police themselves as

¹ Cf. the somewhat more restricted definition of police knowledge introduced by Donatella della Porta. She conceives of 'police knowledge' as being 'police images of their own role (or police professional culture) and of the external reality (or police environmental culture)' (1993a: 1).

² This term was introduced into the discussion by della Porta. She defines protest policing as '(...) the control of protest events by state or state-sponsored actors, a more neutral description for what protestors usually refer to as "repression" and the state as "law and order"' (della Porta, 1993b: 4).

actors and their political perspective on the conflict. The second category refers to the *policing philosophies* favoured by high-ranking police officers; that is, the conceptual principles and guidelines underlying police operations during protest events. The policing philosophy determines the method of protest policing resorted to in the case of specific forms of protest - that is, whether the police opt for offensive or defensive, tolerant or repressive, hard or soft, cooperative or confrontational tactics (cf. della Porta, 1993b: 19).

On a second level, quasi the macro-level of police knowledge, I deal with general patterns of interpretation. On the one hand, this involves the social diagnosis of police officers, including their reflections on or perceptions of society, the state and the political system, and on the other hand it takes in their definitions of the role of the police in the state and society. This is where the terms 'police philosophy' and 'police theory' come into play. This latter term was 'invented' by Denninger, a public law expert, in the late 1960s.³ However, it only became an established term in police literature in the mid-1980s, together with 'police philosophy' and 'police culture'. The terms 'police theory' and 'police philosophy' have *de facto* come to be used interchangeably. Both denote a conglomerate of normative claims and descriptions of the reality of police action in the state and society.⁴ They express the normative (i.e., also the political) and factual self-image embedded in the social diagnosis; that is to say, the view of society and the conception of the police, the state and democracy. In short, these two terms relate to views on the function and position of the police in state and society.

Following Berger and Luckmann (1980), this text examines the *social construction of reality of leading police officials*;⁵ thus, the analysis of police

³ In a paper given at the *Berliner Beamtentage* (Civil Servants Congress) in 1969, Denninger claimed that there was a 'deficit in "police theory"' (1978b: 143).

⁴ Police philosophy, as Gintzel and Möllers (*DP* 1/1987: 1) understand the term, is a 'management strategy which combines expedient rationality and humanitarian thinking'.

Funk mocks these attempts by the police to find their inner self: 'The claim to scientific reflection has found its expression above all in a police theory. This theory, conceived with teutonic fundamentalism, combines normative principles of a "modern police force" with considerations for a contemporary "cooperate identity" [*sic.*] as put forward in management conceptions' (Funk, 1990: 118 f).

⁵ In my definition these include high-ranking police leaders and officials in the Ministries of the Interior. My analysis did not reveal significant differences in argumentation between police and 'civilians'. However, I did not investigate this issue in depth (i.e. the

knowledge can be conceived as an empirical sociology of knowledge (cf. Berger and Luckmann, 1980: 15). The categories of police knowledge - 'police and policing philosophy' and 'social and protest diagnosis' - may be regarded as legitimization theories (*Ibid.*: 98 ff), which provide both justification and explanation for police behavior.

One central reference point in the classification of police conceptions and police philosophy is formed by the concepts of *status constitutus* and *status constituens*, the definitions of which go back to the public law specialist, Denninger. The *status constitutus* summarizes the legal position of citizens on the basis of existing laws and the Constitution (Denninger, 1978a: 117). In other words, we are dealing with the social (positively formulated) norms stipulated in statutory form. The areas of police responsibility concerned with the protection of existing legal standards and the sanctioning of breaches of norms (in cooperation with the judicial authorities) are characterized by their function of maintaining existing social conditions. A strict legalism - namely, the priority of aligning police thinking and action with existing laws - constitutes a central aspect of concepts of police action to protect the *status constitutus*.

The *status constituens* is defined as the 'state-generating *Rechtsstaat* ("state under the rule of law")' (*Ibid.*: 117). Further, 'It goes far beyond the right to vote and eligibility, it also comprises, for instance, the freedom of information and speech, the right of assembly, the freedom of association and the freedom to form a coalition, as well as the right to a hearing and the right to participate in administrative proceedings, participation in self-governing bodies, etc.' (Denninger and Lüderssen, 1978: 9 f). The constitutive element of a democracy is the political commitment and participation of citizens in the ongoing process of the formation of political will. As a result of this process, rights and laws are distinguished by a dynamic and changeable character. Hence, a democratic police force has to contribute to 'maintaining the opportunity of change' (Denninger, 1978b: 149); in other words, the prerogative for a minority of the population to become a majority must be protected. This means that fundamental rights - such as the freedom of speech, the freedom of assembly or the freedom of association - which are necessary conditions for participation in the democratic process, must enjoy the special protection of the state. This openness of the process of democratic decision-making safeguards the ability of the political system to adapt to social change and to shifts in attitudes within the population.

specific situation in each German federal state).

These two categories allow us to construct a *typology of police philosophy* in two (ideal) basic patterns of police self-image: *Staatspolizei* (police serving the interests of the state) and *Bürgerpolizei* (police serving the interests of the citizens). In the *Staatspolizei* conception, the police protect the existing legal order, the *status constitutus*. In their strictly legalistic thinking, highest priority is given to law enforcement, criminal prosecution and the principle of legality. Security and order are the main values making up their etatistic self-image; a 'law and order' mentality determines police understanding of their duties. There is no question about their loyalty to the legislator. The safeguarding of the state and its monopoly on the use of force, seen as the greatest cultural achievement of civilized mankind, and the maintenance of the legal order are the core duties of the *Staatspolizei*. The state and its monopoly on the use of force are not only means to an end, but the end *per se*. The cornerstones of the self-image of the *Staatspolizisten* are centred on lines of argument based on a 'well-fortified democracy'⁶ - a democracy which is able to protect itself, which should fight its enemies, if necessary by restrictions on their fundamental rights - or on the police as the personification of the state and as the institution responsible for the protection of the state. Radical critics and disturbers of public order thus become personalized enemies of the state, and hence also of the police. This results in rigorous repressive police action against such activities hostile to the state. Thus, the policing philosophy and the tactics of protest policing in this model are characterized not by hesitant action but by massive use of force against social protestors. The threshold of police intervention (i.e. the adoption of 'immediate coercion') is quite low in order to ensure that any threats to (public) order may be nipped in the bud. The protestors - the objects of police action - are ostracized as being deviant. Their existence contradicts the dominant conviction regarding the identity of the state and citizens. It is for this reason that dissidents are thought to come from outside the state (preferably from the communist Eastern bloc, at least while it existed). The phenomenon of demonstrations meets with fundamental mistrust. It is perceived as an irritating, even straining alien element in the harmonious concord between state and society, the governing and the governed. Both the supporters of the *Staatspolizei* police philosophy and advocates of the *Bürgerpolizei* model emphasize the principle of political neutrality of the police. The police should not expound opinions on political

⁶ The principle of a 'well-fortified democracy' is based on constitutional norms: Art. 5 Para. 3, 9 Para. 2, 18, 21 Para. 2, 79 Para 3 *Grundgesetz*. Cf. Jaschke (1991).

issues brought into the public eye by demonstrators. Instead, their responsibility lies in fulfilling their legal duties and devoting themselves to law enforcement.

Second, the policing philosophy of the *Bürgerpolizei*⁷ model is grounded on the basic idea that the police must protect the democratic framework of opportunities for change. The underlying understanding of democracy and the state emphasizes the changeability of the legal system. The priorities of a *Bürgerpolizei* are different to those of a *Staatspolizei*. The *status constituens* has constitutional status, its protection is of higher significance than mere law enforcement. The advocates of this police philosophy set their value-conscious 'constitutional legalism' against the formal juristic legalism of the *Staatspolizei*. They attach the highest importance to the Constitution and its values. The *Bürgerpolizisten* do not envisage the police force as an institution of the government, but rather of the Constitution and the republic. 'To serve the people rather than the state' is the motto underlying this philosophy, which originated in the Anglo-Saxon police tradition (Busch *et al.*, 1990: 18). The citizen is the subject of political change rather than the object of state actions. The public welfare orientation of the *Staatspolizei* is replaced by an individualized and citizen-centred self-image within this model. Typical lines of argument pertaining to this republican police philosophy include a continuous emphasis on the primacy of politics and on the primacy of political solutions over operative-tactical 'substitute actions' on the part of the police. In particular, the police are required to protect demonstrations as an expression of the people's sovereignty in order to safeguard the opportunity for democratic change. Their intervention methods are thus characterized by the claim of civility. Language and communication are considered the major tools of action of the *Bürgerpolizei*. The use of force must remain the *ultima ratio*.

As this outline of the two types of police philosophies has shown, determination of the role and function of the police in state and society is embedded in the understanding given to democracy and the state. The image of

⁷ The most consistent supporters of a *Bürgerpolizei* concept are the Berlin-based CILIP group. Their ideas of a democracy-adequate police force are outlined in their expert opinion for the *Grünen* (the German green party) (Busch *et al.*, 1990). Although all advocates of *Bürgerpolizei* situate this term on similar foundations (i.e. a supportive attitude towards basic rights), there are differences when it comes to advanced concepts of its concrete form: while police authors, such as Kniesel, give more importance to a stepping up of preventive action strategies (also in the field of protest policing, cf. Kniesel in DP 9/1989: 231 ff), CILIP tends to stress democratic control, limitation of tasks and the restriction of powers of the police (Busch *et al.*, 1990: 54 ff, 69 ff, 94 ff).

the state and democracy and the self-image of the police are thus inseparably linked.

This chapter has a historical-analytical character and is based on an evaluation of statements made by high-ranking police officers and ministerial officials in specialized police journals over the period from 1960 to 1990. Such semi-official or official professional organs are used by police or ministerial officials to communicate with the professional public, i.e. a group of people with similar status. In a qualitative contents analysis, I examined 31 volumes (1960-90) of the monthly *Die Polizei* (DP hereafter), 15 volumes (1976-90) of the quarterly *Schriftenreihe der Polizeiführungsakademie* (SPFA hereafter) and four seminar reports produced by the *Polizei-Führungsakademie* (Police Staff College).⁸

The results of this analysis may be condensed into four hypotheses: first, the police force as a single entity does not exist. There are different schools of thought in the higher echelons of the police hierarchy regarding the position and functions of the police in state and society, and there are differences in opinion concerning 'appropriate' methods of protest policing. Despite this plurality, however, the range of opinions among the police is relatively narrow;⁹ many patterns of argumentation and interpretation as well as the essential frameworks within which conflicts are perceived and processed belong to a general repertory of high-ranking police officers. In the Federal Republic of Germany, internal security policy is held to be a matter for the federal states. The police are thus seen as a sovereign issue of the federal states, not of the federal government; that is, the federal states are responsible for their police forces, including police

⁸ Complete titles are given in the Bibliography. Apart from these sources, other specialized journals were also used in a random sample way in order to check the results of my interpretations. These include *Bereitschaftspolizei-heute*, *Kriminalistik* and the *Polizeidienstvorschrift 'Einsatz und Führung der Polizei'* (Police Regulation on 'Deployment and Leadership of Police forces') (*PDV 100* hereafter).

⁹ It goes without saying that this may be largely due to the semi-official nature of the sources, which apparently allows for only a limited range of opinions. However, it is to be doubted whether one would be able to harbour extremist opinions and still climb to the higher echelons of the police force or executive administration. The fundamental approval of the political system and the state, which one 'serves', and of its police forces are prerogative for professional advancement.

organization and police law.¹⁰ Continual calls by authors for consensus on internal security policy and within the police forces reflect the desire for concord and conformity within the institution of the police.

The second and third hypotheses concern developments in the debate within the police forces over the three decades under review. First, the prevailing police philosophy shifted from an etatistic, executive-oriented and thus authoritarian *Staatspolizei* model towards a republican *Bürgerpolizei* conception, supportive of basic rights.¹¹ Second, on the level of protest policing, an extension of police tolerance towards unconventional forms of protest can be detected. However, the extent to which these tendencies are actually manifest in the practice of protest policing and hence verifiable can only be ascertained through observation of police interventions.

The fourth hypothesis emerging from the analysis is the most significant: from 1960 until the German reunification in 1990 the police defined their position and functions within the state through their protest policing duties. Police philosophy and the philosophy of protest policing are therefore mutually dependent - the development of police philosophy (as outlined above in hypothesis 2) cannot be separated from the development of protest policing philosophy (cf. hypothesis 3).

The following sections of this text will elaborate on these four hypotheses by summarizing the history of the discourse within the police. The development of police discourse since 1960 can be roughly structured into four phases, defined according to the contents and intensity of debate. However, as

¹⁰ Exceptions are the federal border police, the *Bundesgrenzschutz*, and the central criminal investigation department, the *Bundeskriminalamt*, which belong to the federal Ministry of the Interior.

¹¹ Mayntz claims that a similar change has taken place in the work ethic for the entire public service sector: 'In their actions directed towards the outside the functional self-image of the personnel in the civil services is shifting, roughly put, on an axis from being servants of the state to becoming "lawyers of the people", although this process has different meanings for the personnel in the executive administrations and those in the law enforcement sphere, corresponding with their different functions. In the field of law enforcement the occurring change in the approach may be described as an increasing orientation towards the public' (Mayntz, 1985: 174). 'The direction into which the functional self-image of the ministerial officials is changing could be described as an orientation towards public welfare. Thus a ministerial official is less obliged to a certain government or a certain minister, respectively, but rather to public interest or public welfare and feels that this obligation justifies him to set his differing opinion against the view of his minister' (*Ibid.*: 175).

the dividing lines between the phases are fluid, the indication of years is approximative and is intended chiefly for orientation. The first phase certainly began before 1960; the availability of material basically determined this year as the starting-point.¹²

Phases and Developments in the Police Discourse between 1960 and 1990

A. Phase 1: The 'Era of Good Feeling', 1960-1967

The first phase can be subdivided into two periods: a first period of public peace and order until 1961 and the second, from 1962 to 1967, during which the first signs of political unrest could be felt. Fairchild defines Phase 1 as the 'era of good feeling' (1988: 43); economic growth and internal peace characterized this period of stability in the history of the FRG and in the history of the police self-image. This is reflected in the satisfaction with state and social order expressed in journal articles. In comparison with later phases, the police view of society during 1960-67 was largely homogeneous. The social world of the high-ranking police officers was (still) in order; in the eyes of authors during this period state and society had been straightened out; the police leaders identified themselves with the state. During this time there were no political protests of any import out on the streets. The previous major wave of protests

¹² From a non-police perspective, the history of protest movements in conflict with state power in the FRG has been described in a number of essays and monographs. Only a few significant ones shall be mentioned here.

Brand gives a comprehensive chronology of protest policing in the 1975-87 period from the protestors' viewpoint (1988: 171 ff); the perspective of the *Autonomen* (autonomous groups) is reflected in Geronimo (1990). Scheerer describes the left in the FRG in a historical outline (1988), in which he attempts in particular to explain the development towards left-wing terrorism; Sack and Steinert (1984) has a similar aim. A history of protests from the 'pen' of sociologists researching new social movements can be found in Brand, Büsser and Rucht (1986). Volume 9-10/1981 of the periodical *Bürgerrechte & Polizei* (CILIP) provides a detailed account of the conflicts involving the squatter movement in the late 1970s-early 1980s in Berlin, Zurich and Amsterdam (CILIP, 1981). The standard book on the German police by the *Arbeitsgruppe Bürgerrechte* (Study Group on Civil Rights) contains case studies of protest events and police actions (Busch *et al.*, 1985: 328 ff).

in 1957-58,¹³ aimed at putting a stop to the nuclear armament of the *Bundeswehr* (the German army), had long since subsided. Gradually, however, the first signs of cracks in this structure appeared: youth riots, in particular the so-called *Schwabinger Krawalle* in July 1962, and later on the nascent student protests. A system of order was beginning to collapse for the 'traditionalists' - as I call the advocates of a state-oriented police philosophy who cling to the status quo - at first gradually, then rapidly in the second phase. The opposing standpoint to that of the traditionalists was taken up by the 'reformers' (again, my term). With a flexible and less confrontational concept of police action, referred to as 'soft wave', proponents of this view sought to provide an alternative to conventional police tactics, which in their opinion provoked an escalation of violence. This conflict between the traditionalists and the reformers continued to dominate the first period of Phase 2.

A debate on the combatant status of the police gradually developed from 1961 on (most heated from 1961 to 1963), centred on the issue of the protection of the police under international law according to the Hague Land Warfare Convention. The issue was whether the police force was a military institution, with its members consequently enjoying combatant status, or whether it was a department of the Ministry of the Interior, i.e. civil administration. At its core this discussion on combatant status was a dispute about the military versus the civil character of the police; the cue for the debate was: the 'deployment of mortars by the police' (DP 9/1961: 257).¹⁴ The troupes of the *Bereitschaftspolizeien* of the *Länder* (federal states) and of the *Bundesgrenzschutz* (the federal border police) were rehearsing subversive scenarios in paramilitary manoeuvres¹⁵: the dreaded enemy was represented by the communist bloc in the East and its supporters and partisans in the West. In particular, the reform-oriented *Gewerkschaft der Polizei* (the strongest police

¹³ Cf. Brand, Büsser and Rucht (1986: 52 ff) for the '*Kampf dem Atomtod-Kampagne*' (the 'fight nuclear death' campaign).

¹⁴ Following a resolution adopted by the Conference of the Ministers of the Interior in 1969, mortars were no longer to form part of the armament of the *Bereitschaftspolizei* (Busch *et al.*, 1990: 26). This decision was facilitated by the 1968 emergency legislation. Because the *Bundeswehr* now could serve as a military safety anchor in domestic politics, the police formations could be demilitarized and turned into a purely police force. Cf. Schneider (1986).

¹⁵ Werkentin (1984: 211 ff) gives a survey of the training scenarios of the *Bundesgrenzschutz* and the *Bereitschaftspolizei*.

trade union in Germany) and its national chairman Kuhlmann came out strongly in favour of a civil police force. 'The police are not a military force' (*Deutsche Polizei* 7/1992: 12) was Kuhlmann's motto for his police policy. The debate focused not only on the profile, job content, equipment and armament of the police, but also on the internal leadership style, the 'internal structure' (*DP* 12/1961: 357) and 'esprit de corps' (*DP* 9/1961: 258), the institutional independence of the police and thus on their role and position in state and society (i.e. on a police philosophy). A number of conferences were held on themes relating to a mental reorientation of the police. This debate on the military character of the police began to subside in *Die Polizei* in 1963.

From 1962 to 1965 the police were forced to deal on a large scale with masses in the streets who were neither 'orderly' nor firmly led, i.e. with the youth riots. The disproportionate nature and brutality of police interventions, especially during the *Schwabinger Krawalle*, proved to be highly controversial. The massive criticism by the public and within the media and a flood of charges¹⁶ brought against the police for injuries caused by public officials gnawed at the police self-image. As a consequence of their violent overreaction, the police moved into the centre of public attention. In turn, the strong criticism from outside initiated a debate within the police force on appropriate tactics for dealing with such new phenomena: the traditionalist side demanded that decisive action be taken in order to 'nip anarchistic excesses in the bud and to set further deterring examples' (*DP* 3/1964: 74). The opposing reformative side pleaded for a 'soft wave', 'without truncheons and hence all the better' (*DP* 10/1967: 319)! This debate also took up general issues of police philosophy, of the position of the police in the state and society, as central themes.

On the whole, the experiences in Schwabing greatly influenced the learning process within the police on a national level. The Schwabing example shows, incidentally, the degree to which the police learned by experience, i.e. reactively. The organizational and tactical consequence of the *Schwabinger Krawalle* was the development of the *Münchner Linie* (the Munich line) by the local police chief (*Polizeipräsident*), Manfred Schreiber. This line of thought promised a method of protest policing better suited to the events; more specifically, this meant greater tolerance towards unconventional behaviour by young people and less spectacular employment of force, which had to be justified in the eyes of the public. A mobile press office for public relations

¹⁶ 140 charges were brought against the police officers involved in the Schwabing events; however, these charges resulted in only four convictions (*DP* 2/1965: 34).

work and, very importantly, a police psychological service were institutionalized. The 'occurrence' of the riots was described by Schreiber as a 'mass-psychotic event' (DP 2/1965: 33); as a consequence, police psychology for the first time received the order to provide consultation in leadership and operational issues (Trum, 1981: 701). The measures adopted were not only restricted to the area of communication techniques. In the fields of deployment, leadership and personnel, measures were also taken to increase police efficiency. As a result of the riots, technical resources were improved: an additional water cannon and a mobile TV unit (to gather evidence) were procured; a photography and film squad was introduced, as well as a special squad of plain-clothes policemen to prosecute criminal offenders and two squads for close operations; moreover, training for interventions in close formation was stepped up. A further consequence of the Schwabing experience was a reform of the police leadership structures. A special department was created to support the leadership function of the police chief. Thus, the fierce clashes between the police and crowds led to the development of a long-term and central debate on the issue of acceptance of police measures against public protestors. A smooth transition took place from the debate over the youth riots to the discourse on the more politically motivated student protests. The first student demonstrations occurred in 1965. The reason for the first demonstration as reported in *Die Polizei* was a rise in the public transport fares in Heidelberg (DP 5/1965: 139-143).

In Phase 1 the police self-image was strongly etatistic; the traditionalists, 'policemen of the old school', dominated the discourse. The police identified themselves with the state and equated the authority of the state with the authority of the police. Authors in the specialized journals spoke of a 'state consciousness' which needs to be instilled in citizens as a bulwark against egoism which is detrimental to public welfare and disturbs the harmony between state and society. The underlying idea was that state and society are in fundamental harmonious unity. The executive power is exalted as the core of the state; by analogy the police saw themselves as a 'meta-institution', as an authority which stands above social affairs. Thus, for Stiebitz the police were 'the emotional, ethical and political nature of his (the citizen's) state' (DP 12/1961: 360); Samper even wrote of the 'dignity of the state' and the 'dignity of the police' (DP 10/1964: 312). The major duty of the police was seen as the protection of the community - and this meant the state order, according to the dominating view. Therefore, in Phase 1 the police, according to their self-image, can be classified as a *Staatspolizei*. The dominating traditionalists were the *Staatspolizisten* of the 1960s. However, even in this first phase forces already

existed - the reformers - which demanded a departure from the military traditions towards more civilized police structures and patterns of action.

B. Phase 2: Radical Change and Reform, 1967-1972

As was the case with Phase 1, this second phase can be subdivided into two periods: the period of unrest and upheaval from 1967 to 1969 (provoked by the student revolt), and secondly the reform era from 1970 to 1972. The 'good feeling' which marked Phase 1 was replaced by a certain dissatisfaction on the side of the traditionalists with the state and society; a system of order was collapsing. Rockers, hippies, beatniks and political 'provos' were destroying their harmonious world view, with its assumption of consensus between the governing and the governed, between state and society. The identification of the police with the state and its society - an essential element of the police self-image in the first phase - was suffering a severe crisis.

The new phase began in June 1967, marked by the fatal shooting of a student, Benno Ohnesorg, by a policeman, Kurras, during a demonstration against the visit by the Shah of Iran to West Berlin on 2 June.¹⁷ Suddenly, the discussion within the police changed; a controversial dispute between the reformers and the traditionalists flared up. Profound differences between the two camps became visible in their general approaches to protest policing (the policing philosophy) and in police philosophy. The tone of the debate became more and more aggressive, particularly on the part of the traditionalists who, in their rearguard action, argued aggressively, even doggedly. While only a small number of reformers held their ground in Phase 1, this new phase and the dynamics of events which increasingly pushed the police into the public limelight saw the reformers gradually become dominant.

The main stimulus for the intense debate derived from the fiery student protests. The conflicts caused by the student revolt and the *Außerparlamentarische Opposition* (extraparlimentary opposition - APO hereafter) in 1968 provoked the most profound break in police discourse of the previous 30 years, and hence also paved the way for the further development of the police. A fundamental right was discovered! 'Until the beginning of the '60s the heading "Demonstration" was not to be found in the textbooks on politics

¹⁷ This date is of great significance for the development of the student movement: 'The 2 June 1967 marks the leap from local protest to nationwide revolt' (Scheerer, 1988: 262). The police operation of 2 June is not discussed in my sources.

and constitutional law' (DP 7/1970: 213). The phenomenon of (political) demonstrations took the police by surprise and became the central topic in police discourse because, as had happened at the time of the *Schwabinger Krawalle*, the police and their operations became a focus of public attention. This time, however, the public scrutiny occurred to an extent previously not been believed possible.¹⁸ Problems concerning police image and legitimation resulted from severe public criticism of the brutal policing methods during student demonstrations; the debate on the definition of their position reached its climax. The number of contributions to police journals increased accordingly. The first articles published in 1968 were concerned with the methods used by the police to deal with the protests; the debate between traditionalists and reformers concentrated on the issue of a repressive versus a flexible tactical line. The first signs of this debate could already be observed in Phase 1. Owing to its success in Munich and probably also to the change in the general political climate (there was a change of national government to a Social Democrat-Liberal coalition in 1969) the *Münchner Linie* prevailed. Parallel to the dispute on operational conceptions, a controversy developed around political assessments of the protesting students. The following two quotations reflect the range of opinions on the protest diagnosis among the participants in the discussion: 'The student youth constitutes an extremely strong democratic potential in the population' (DP 12/1969: 377), wrote a member of the 'reform group'. A police school inspector of the old, traditional 'line' argued against this: 'When the demonstrators today shout "Away with Huber [Minister of Culture]" or "Ami go home", with this message of salvation they are not very far away from the SA who shouted "The jews are to blame for everything"' (DP 7/1970: 214 f).

Not least among the repercussions of the emerging demonstrations, which during Phase 2 became a part of normality in the FRG and an important component of the range of police duties, was the change they provoked in the concepts of democracy and the role of the police. 'Grandad's democracy is hardly feasible anymore!', police leader Schuster realized (DP 5/1969: 137). Social conflicts made the discrepancy between state and society apparent to police officers; the traditionalists' belief in the harmonious identity of state and citizens was proven to be mistaken by the practice of protest policing. Before 1968 demonstrations had been largely unknown to the police. There had been political assemblies and rallies prior to the student movement, but they were

¹⁸ See Hoffmann (1968: 1268 f, 1281) on the public criticism of the brutality of police actions and the resulting deterioration of the police image.

strictly organized with a leader responsible for the event. There was no comparison between these earlier protests and the spontaneous character of the 1968 demonstrations, which made them unpredictable and therefore incalculable for the police. Massive crowds were even associated with communist attempts for a coup d'état and equated with a revolutionary danger for the state. Therefore, demonstrations were regarded as potential disturbances of the peace; the aversion towards mass gatherings (following Le Bon's mass psychology¹⁹) as being irrational and animalistic and hence potentially dangerous rounded off the negative picture: 'The expert speaks of a primitive-reactive behaviour (...) Undoubtedly, here we can recognize the remains of the former herd instinct of primeval times' (DP 4/1964: 103).

Demonstrations did not fit into the harmonious conception of the state and its citizens held by high-ranking police officials. Thus, it was with this understanding of extraparliamentary protests that the police faced the student revolt. Strict injunctions, such as the requirement for demonstrators to walk in rows of three, curtailed the freedom of protestors. Any transgression or other infringements were met with harsh and violent action by the police; the threshold for the use of police force was very low, the police were liable to interfere even if the demonstrators deviated from the pre-announced march route. The level of violence was also an expression of the perplexity and sense of impotence on the part of the police, who did not know how to assess or handle this new phenomenon of 'disorderly' demonstrations - all they had experienced in the past were disciplined rallies, parades and Corpus Christi processions.²⁰ Due to this feared inadequacy, the political aversion of the police leaders and, in case of doubt, an order-dominant, i.e. violent, 'solution' determined police actions. The implementation of the *Neue Linie* ('new line', as I call this new operational concept) in the late 1960s marked a turning-point in police thinking from 'paramilitary' insurrection combat to 'police style' protest policing. With this new line, the police actually recognized the freedom to demonstrate as a fundamental right deriving from the Constitution (Article 8). Police action was thus supposed to be directed not against a demonstration as a whole, but against the trouble-makers and violent activists among those demonstrators. The protection of the gathering was one of the duties of the police force. The freedom of assembly enshrined in the Constitution obliged the police leaders to

¹⁹ Le Bon (1982, first published in 1895).

²⁰ See Narr (1983) on the changing forms of demonstrations and on the evolution in perceptions of demonstrations.

approve of demonstrations - even if the political motives of the demonstrators seemed incomprehensible to them. Some authors retrospectively paraphrased the negative consequences of this adjustment as a process whereby the police had to 'learn the hard way'.²¹ 'The police were forced to realize that the conventional principles of police deployment often did not meet the psychological requirements during this phase of demonstration activities. Especially in this period of time, the police had to learn "the hard way" because they offered themselves time and again as an aggressive partner and in their efforts to safeguard obsolete concepts of law and order they very often provoked conflicts that could have been avoidable' (*Polizei-Institut Hilstrup*, 1971: 4).²²

The debate progressively moved away from protest policing to more general topics, such as the predominant commitment of the police to the Constitution and the proximity of the police to citizens; discussion on the police self-image, a police philosophy, thus reached a first peak.²³ Until its gradual decline, following the fall of the great coalition (1969), the student revolt provided much tinder to the debate within the police force. In the wake of the students' radical drive for change, the larger society as well as parts of the police were infected by the mood for radical change: on the one hand, the police feared impending revolutionary machinations; on the other, the general

²¹ However, the victims of the negative consequences were surely also the demonstrators who had to suffer from the arbitrariness and disproportionate nature of police interventions. In his analysis of the events during the anti-Shah demonstration in Berlin on 2 June 1967, Sack draws the conclusion that this police operation destroyed the relationship between students and police for years and that police brutality came to be a certain and expected fact from then on (Sack *et al.*, 1984: 109).

²² In their paramilitary manoeuvres the police rehearsed anti-guerilla warfare, with a backdrop of communist subversive scenarios. It is for this reason that unconventional student actions during demonstrations often carried the police with their rigid confrontational policing philosophy into the role of a brutal, heavy-handed Goliath. The police did not know how to react to the demonstrators and the demonstrations - particularly in the obvious cases of disrespect for their authority (Scheerer, 1988: 261): 'The fighting method of committing non-violent breaches of the rules proved exceptionally useful, in particular in view of the rigid, easily provokable institutions they challenged. The overreactions came with absolute certainty. And with the same, almost mechanical certainty these clashes brought an ever increasing part of the bourgeois-liberal sympathy potential over to the demonstrators' side' (Scheerer, 1988: 257).

²³ Cf. Boldt (1992: 34).

reformatory euphoria was contagious and led to demands from within the forces for democratic reforms of the state and the police.²⁴ Once again, the discussion focused on the demand for a more civil character of the police. Calls were made for police actions to be demilitarized, police competences and duty profiles were to be shifted towards 'social engineering',²⁵ and, last but not least, a debate on the function and role of the police in the political process - particularly in relation to demonstrations - developed.

After calmness had returned to the demonstration events and the police had slowly drifted from the centre stage of public discussion, more extensive reform aspirations going beyond a mere increase in the efficiency of police work faded from the debate. This was also the case with regard to the duties of protest policing: the *Neue Linie* became generally accepted in 1969 and guidelines issued by the Ministries of the Interior vested them with an authoritative character.²⁶ The *Neue Linie* - similar to the *Münchner Linie* - abandoned the dysfunctional ballast of the protest policing course of the traditionalists, which only created problems in terms of public acceptance and the image of the police. The conception of the *Neue Linie* can only be judged as ambiguous: on the one hand, it follows the line of argument of the reformers in defining the fundamental right of freedom to demonstrate as an object of police protection; on the other hand, it moves away from the reformers' socio-political demands aimed at a democratization of the state and police, which for instance were fervently made by the commanding officer Hunold.²⁷ The political open-mindedness shown by the reformers towards protestors was replaced by an

²⁴ One of the most radical advocates of reforms was the later chief of the *Bundeskriminalamt* (federal Criminal Investigation Department) Horst Herold, who coined the expressions of the recognition privilege of the police and the socio-sanitary task of the police (*DP* 5/1972: 134).

²⁵ The *Gewerkschaft der Polizei* defined a social engineer as '(...) an expert for issues of public safety who is capable of translating into the practice of prevention scientific findings on the causes of safety disturbances, in particular those emanating from human behaviour' (*DP* 2/1978: 39). The job profile of a policeman as social engineer shows similarities to that of a social worker. However, this discussion is only of marginal importance for the central topic of this chapter. These ideas rarely appear in articles dealing with the political self-image of the police.

²⁶ Cf. *DP* (1/1969: 91* f) for Lower Saxony.

²⁷ Cf. Hunold (1968).

instrumental-tactical opposition to 'trouble-makers', who were to be 'fought' by means of flexible, efficient operational tactics, improved equipment (water cannons, tear gas, etc.) and with the support of psychological methods.²⁸ This approach was significantly strengthened during Phase 3.

From this point on political demonstrations became a regular aspect of practical police work. However, many high-ranking police officials continued to harbour a negative attitude towards this phenomenon. The association of demonstrators with trouble-makers remained vital, as reflected in the markedly instrumental views of police leaders on protestors and their actions. Their attention was focused on the trouble-makers, who were to be separated from sympathizers and other participants in protest events. Disturbances of the peace, non-adherence to the 'rules of the game' in political conflicts were punished by disciplinary measures. By projection, it was assumed that the trouble-maker, as opponent of the police, followed an instrumental strategy and tactic, which the police themselves adopted towards the trouble-maker. The fundamental distrust towards demonstrators, contained in this instrumental thinking, is illustrated by the following observations:

Also the "spontaneous" demonstrations are almost always based on tactical principles which have been carefully prepared and are at least known to the leaders of a demonstration (...)

- a) the formation of headquarters, leadership personnel and committees without hampering official channels and with well-functioning communication routes
- b) the preparation of guidelines and textbooks (...)
- c) strict leadership from the leaders and extension of leadership systems
- d) the establishment of internal discipline by developing command and communication structures
- e) secrecy (...)
- f) large-scale employment of (also motorized) reconnaissance forces; police radio monitoring
- g) reconnaissance of the routes of public transport, dead-end streets, traffic light sequences (...), etc.
- h) adoption of a "tactic of direct action" by "playing games" such as "Mensch, ärgere die Polizei!", "Knüppel aus dem Sack!", "Wulle-wulle, Bulle-Bulle" (...) (DP 5/1969: 102*).

²⁸ However, consideration should also be given to the fact that demonstrations, such as the '*Schlacht am Tegeler Weg*' (battle of Tegeler Weg) in West Berlin, also tended to be more militant than before 1967-68.

The limits of the police reform in the areas of centralization, expansion of police competences and degree of autonomy were drawn at the political level. The commitment to law and order was and remained the supreme maxim of the police; this meant the rejection of an overly far-reaching preventive orientation of police work, as elaborated in police chief Herold's concept of a pro-active, socio-sanitary police. The federal principle was maintained. The reform debate died down in 1972; from then on there was once again political consent on the police issue. The result on paper of the police reform efforts was the '*Programm für die innere Sicherheit*' ('Programme for Internal Security'), adopted in 1972 by the Conference of the Ministers of the Interior, and modified in 1974. The reform covered the organizational structure, police law, training, equipment, personnel and duties. The following terms form the frame of this early 1970s police reform (cf. Busch *et al.*, 1985: 69 ff):

- conversion into a regular police force, i.e. demilitarization of the *Bundesgrenzschutz* and the *Bereitschaftspolizei*;
- modernization, increased efficiency and mechanization of material resources, including the operational means (particularly, in the field of information processing, but also the entire technical equipment of the *Bereitschaftspolizei* was modernized) (Blessmann, 1986: 2);
- modernization and increased efficiency of the organizational structures, particularly the internal command structures at the management level (setting up new staff units and broadening the highest echelons of leadership);
- specialization in different tasks and the formation of special units;
- standardization of equipment, training and regulations (such as the *Polizeidienstvorschrift 100 'Einsatz und Führung der Polizei'* - Police Regulation 100 'Deployment and Leadership of the Police');
- 'defederalization', i.e. centralization of police institutions, including extension of the *Bundesgrenzschutz*, the *Bundeskriminalamt* and the *Polizei-Führungsakademie* (Police Staff College);
- enhancement of the scientific approach in the fields of police research²⁹ and police technology research; findings from different scientific disciplines began to be utilized by the police;
- financial and personnel expansion of the security forces;

²⁹

Used here in the sense of research conducted for the interests of the police.

- changes in the legal field (in particular, the 'model draft for a unified police law').

The police reform of Phase 2 must be described as exclusively technocratic-organizational; there was no reform of the contents (in this sense see also Ahlf in *DP* 5/1989: 111 f). The democratic reform demanded by some police reformers did not materialize; what was left was an 'improved bureaucratic efficiency' (Busch *et al.*, 1985: 441). The authors of the *AG Bürgerrechte* assumed '(...) that the police reform was the repressive substitute for the failed "internal reforms"' (*Ibid.*: 65), such as reforms in the educational, administrative and social fields. The police reform resulted in a modernization and increased efficiency in police work; it only did away with the dysfunctional remnants of police thinking and action - for instance, in the area of protest policing, where it abolished counterproductive strategies and operational principles (unconditional massive use of force at a low intervention threshold). The police reform created the material preconditions for the *Neue Linie* by bringing about a demilitarization of the police armament: CN gas, water cannons, helmets and shields were introduced, while mortars and machine guns (which had never been used in the context of demonstrations) were scrapped.

The *Neue Linie* was certainly based on democracy-friendly principles. However, with its instrumental thinking, it detached itself from the democratic understanding of the reformers. By bringing strategic and tactical factors to the fore, the instrumental perspective denied the political character of the demonstrations. Once more, the result was an increase in efficiency and the adaptation of police measures to the practice of protest policing. The conventional methods of protest policing damaged the image and acceptance of the police within the public; the frequent use of seemingly arbitrary force had high costs for the police in terms of legitimation. 'What matters for the police is not that they win a battle but that they avoid one' (*Polizei-Institut Hiltrup*, 1971: 7). The understanding that protest policing not only takes place during a police intervention but also in the public discourse on such interventions was gradually accepted. It is for this reason, as the Berlin police chief Hübner commented towards the end of Phase 3, that a police officer has to learn daily and time after time, '(...) that each street riot is always a battle lost for democracy' (*DP* 7/1979: 214). Violent conflicts and battles were considered counterproductive not only for democracy, but also for the police image; the threat remained that public criticism of coercive police interventions would undermine the legitimation of police action.

C. Phase 3: Consolidation, 1973-1979

Once again, this phase can be subdivided into two periods: a period of stabilization of the reform and consolidation from 1972 to 1974, and a period dominated by the fight against terrorism from 1974 to 1978. Following the troubled period of the student revolt and the waning of the debate within the police in 1973, the 1973-79 period can be described as relatively calm. The police were not exposed to a critical public - a statement that requires qualification, however, from 1975 on.

The continuation and 1974 amendment of the 'Programme for Interior Security' and the considerable increase in state spending on internal security hardly constituted reasons to debate police philosophy. The 1970s reform of the internal organization of the police towards greater efficiency was accelerated by the 'supportive thrust of terrorism for police reform' (Busch *et al.*, 1985: 440): politicians declared that decisive resistance would be put up against the left-wing extremist terrorism (i.e. the *Revolutionäre Zellen*, the *Bewegung 2. Juni* and, above all, the *Rote Armee Fraktion*). The fight against terrorism as the outstanding duty of the state became the priority task of the police; the improvement of efficiency of police actions was now at the centre of police reform. In the debate (1974-78) the fight against terrorism eclipsed all other facets of protest policing interventions. During this 'state under threat' period, the new priority role of the police as the institution mandated to protect the order of the state brought sufficient legitimation and acceptance among the population. The fight against terrorism did not shake the police self-image, which explains why there was virtually no controversial debate during these years on police philosophy. Owing to the existence of an external enemy - the terrorists - the police were united internally. Some of the participants in the police discourse even launched a political 'roll-back': the liberalization of society was blamed for the emergence of terrorism as, for instance, in the opinion of police leader Wolf, it caused 'a dismantling of the *Rechtsstaat*' (DP 6/1978: 195).

During this phase an extraordinarily large number of contributions by the highest-ranking politicians were published in the specialized police journals under review. Police and politicians seemed to move closer under the impression of danger they perceived as threatening the state.

Driven by the terrorist threat to the state, argumentative figures in favour of a 'state police' emerged. This led to a renaissance of arguments for a strong state which must defend itself against attacks from both the left and right, pleas

for a stronger 'constitutional militancy', and opposition to tendencies for social liberalization which were fervently put forward during Phases 1 and 2, as is illustrated by the following remark: 'A *Rechtsstaat* which is not able to defend itself is incapable of surviving and risks the danger of soon ceasing to be a state and hence a *Rechtsstaat*' (DP 6/1978: 195).

D. Phase 4: Evolution, 1979-1990

Phase 4 can be subdivided according to a number of 'milestones', mainly created by the activities of protestors and protest groups. The main points of emphasis in the police discourse triggered off a gradual evolution of the police self-image, which makes it difficult to draw lines between the different periods.

The first focus of public debate, from 1979 but especially during 1980-82, concerned police treatment of protestors - participants in the so-called youth protest,³⁰ the alternative movement and, in general, the new phenomenon of *Bürgerinitiativen* (civic action groups). The first spectacular protest action was the *Bremer Krawalle* (riots) targeted against the swearing-in ceremony of army recruits in Bremen in 1980.³¹ Articles on protest policing proliferated in the specialized journals during 1981, reaching similar numbers to the time of the first protest wave in 1968. Once again clashes between the police and social protest movements (particularly the squatter movement) and their strong public resonance stimulated a lively debate on the position of the police, although it did not seem to shake their very foundation as had been the case in 1968. Problems relating to political guidelines and the political aspects of police interventions became the main topics in the police discourse, which reached its peak in 1982. The controversy was sparked by the eviction of squatters, its legal peg was the dilemma faced by the police between carrying out their duties to enforce the law and fending off dangers. This debate on the toleration of violations of the law, on 'law-free' areas (*rechtsfreie Räume*), on the principles of legality, appropriateness, and proportionality in the context of squatting and other protest actions led to the gradual delineation of different tactical lines. The politicization of security policy - police leaders' fears had materialized - was dividing the

³⁰ The three cornerstone topics of the youth protest were housing policy (squatting), nuclear power and peace.

³¹ There was even a special supplement in the journal *Die Polizei* describing these events (DP 6/1980: I-XII).

Länder into two camps: the so-called *A-Länder* and the *B-Länder*; the former were governed by the SPD (Socialdemocratic Party), the latter by the CDU (Christiandemocratic Union). Responsibility for this split lay principally with the politicians, not the police. However, it was also reflected at the highest police levels, where, parallel to the political level, two camps had formed. This illustrates the close relation between the higher-ranking police officers and the political sphere. Despite loud dissent within their own professional ranks, many police chiefs urgently called for a consensus in security policy. Politicians and their ministerial officials on the other hand sought to dedramatize the split in the eyes of the police leaders, defending it as an expression of political pluralism. Regardless of whether there was a general split or merely differences of opinion on individual points, divergences in the evaluation of protest movements (protest diagnosis), in the police management of protests (policing philosophies) and in the conceptions of police philosophy now existed.

The second important 'milestone' during this phase was the change in October 1982 on the national political level in West Germany, with the coming to power of a conservative-liberal coalition. This swing, according to Werkentin (1988: 99), was not felt in the area of internal security; it had been above all the SPD that had taken the lead in the police reform of the 1970s as the party then in government (together with the liberal FDP). Following the shift in power on the national level, the *Länder* governed by the SPD subsequently moved towards a citizen-centred police philosophy. The all-out consensus in security politics had become fragile. The rupture of the great coalition (Social Democrats and Conservatives) over police policy translated into a crisis within the police from the early 1980s regarding basic concepts, which seems to have become the normality over the years. Apart from this, further protest waves were shaking the police: the peace movement (reaching its height of mobilization in 1983) smoothly followed on from the youth protest. Whereas police debates during the youth protest concentrated on the issue of toleration of violations of the law, the peace movement period saw leading police officials grappling with issues concerning methods of civil disobedience - non-violent methods, but relevant under criminal law.

The next crucial event in the evolution of the political self-image of the police was marked by the 1985 decision of the federal Constitutional Court (*Bundesverfassungsgericht*) on the prohibition of a demonstration against the nuclear power plant at Brokdorf in 1981. The degree to which this decision in favour of basic rights dominated further debate is quite astonishing: the definitive decision can be judged as confirmation of the arguments put forward

by the police reformers of Phases 1 and 2; no further article on protest policing could get round this judgement! This decision also influenced ideas concerning protest policing in the *Länder* governed by the conservatives.

The fourth 'milestone' during Phase 4 was the new anti-nuclear power movement (1986), the last big protest wave of the 1980s. Triggered off by the reactor disaster of Chernobyl, demonstrations were held across the country in the FRG. The energy policy became the centre of a nationwide public discussion. The crest of this wave was the violent clashes between protest groups and the police around the building site of a reprocessing plant for burnt-out nuclear fuels (WAA) at Wackersdorf (the *Pfingst-Krawalle* in May 1986) and the demonstrations in June of that year at Wackersdorf, Brokdorf and Hamburg (the key word was '*Hamburger Kessel*'³²). As a result of their interactions with protestors, which escalated into violence, the police were again pushed into the hot-spot of public attention.

Chernobyl and the 'Battle for Nuclear Power' (as a series by the news weekly *Der Spiegel*, nos. 30, 31 and 32/1986, was headlined) proved to be the catalysts for the subsequent discourse on police philosophy, which for the first time was conducted *expressis verbis* under this name. The foundations for this discussion were laid by Gintzel and Möllers in 1987 with an extraordinarily long article on their basic rights-friendly '*Neue Polizeiphilosophie* (new police philosophy) (*DP* 1/1987: 10), as they themselves called their programmatic statement. The debate on police philosophy lasted from the mid-1980s to the early 1990s, with an intensity unparalleled in the 30 years under review.

Why were the police leaders explicitly demanding a police philosophy? Several lines of argument emerge from the police journal articles:

- 'A deficit in police theory is hindering police work', wrote the *Leiter des Fachbereichs Einsatzlehre*, Bahr (*SPFA* 4/1989: 114). In particular, when police work increasingly suffers acceptance problems, a police philosophy acts as an antidote to legitimacy and identity crises among the police. A police philosophy serves to explain police measures to the outside world, also in view of changed (legal) opinions (*SPFA* 4/1989: 50). By means of offensive public relations

³² 'Hamburger Kessel' refers to the 'tactical encirclement' (*DP* 8/1986: 282) of an anti-nuclear power demonstration with 781 participants at the Heiligengeistfeld in Hamburg on 8 June 1986. Some of the demonstrators were forced to stay in the 'Kessel' for up to 12 hours. On 30 October 1986 the Administrative Court in Hamburg ruled that this measure was illegal (12 VG 2442/Sb, printed in the journal *Neue Zeitschrift für Verwaltungsrecht* (9/1987: 829 ff).

efforts, the fact of an increasingly sensitized public shall be taken into account (Bahr in SPFA 4/1989: 109) and this understanding of police shall be clarified for the citizens.

- The discussion on police philosophy also has an internal effect, serving to 'consolidate a self-image of the police' (SPFA 4/1989: 6). The creation of a police philosophy aims to distance the police from daily politics and to immunize them against populist and opportunistic behaviour (DP 5/1990: 100). In particular, during legally delicate interventions the police have to avoid giving the impression of exercising *vorausseilender Gehorsam* (anticipating obedience, i.e. police in a given protest policing situation act as they assume their superiors would like them to), or actual or apparent political opportunism (DP 5/1990: 100). By detaching themselves from the image of being an instrument of the executive, the police develop a more independent role and an improved image in public opinion. A police philosophy as a clarification of the police self-image is linked with calls for greater self-confidence and independence of the police from politics (SPFA 4/1989: 98), especially because there is 'a relatively high degree of disappointment and anger towards politics' among the police in the late 1980s (SPFA 4/1989: 97).

- A common police philosophy functions as a unifying bond within the police and strengthens them in relation to the outside world. The deficit concerning a unified conception of the role and duties of the police results in differing assessments of situations and differing attitudes during police interventions (Bahr in SPFA 4/1989: 107 f). In order to be better armed for the 'challenges during violent events' (SPFA 4/1989: 5) and for increasingly aggressive crime, agreement on the issues involved in the definition of the position of the police is a necessary condition. Finally, the demand for a unified police theory includes a call for consensus in security policy (SPFA 4/1989: 116): 'A consensus on the role of the police has to be reached and must be firmly grounded in a philosophy of the police' (SPFA 4/1989: 117)!

The debate in the first half of the 1980s was marked by individual police personalities (the *Land* police chief of Baden-Württemberg, Alfred Stümper,³³

³³ Stümper is one of the most important police officers in the history of the FRG. He gained status as a security ideologist, who, as the Hamburg criminologist Sack remarked, '(...) unhibitedly claims even the most remote and absurd thought of common human sense for his cause and respects the line between theory and demagoguery at best as an invitation to cross it' (Sack in Nogala, 1989: XIII). For Stümper, security is a category that spans all spheres of life, as becomes evident in the model case of a threat scenario he constructed, which must be read in the context of the youth protest: 'It is not only the differentiation between internal and

and Berlin's police chief, Klaus Hübner³⁴), while in the second half of the decade it was dominated by representatives of a constitution- and citizen-oriented police philosophy (the director of the *Bereitschaftspolizei* in North Rhine-Westphalia, Kurt Gintzel, and Bonn's police chief, Michael Kniesel). The debate in Phase 4 can be roughly subdivided into two periods: the first concentrated on the discussion peak of 1982, the second on the years 1986/87. As of 1985 - with the Brokdorf decision of the federal Constitutional Court as a partition wall between the two discussion blocks - a change occurred in the understanding of democracy and of the police, supported also by a gradual generational turnover at the top police level. The federal Constitutional Court confirmed the principle of the *Neue Linie*, i.e. protection of the right to demonstrate, and thus the North Rhine-Westphalian line of the 1980s, whose 'pioneer' Gintzel had already spoken up for this principle in Phase 2 (DP 7/1968: 213-218). The new discussion of protest policing was dominated by the argumentative patterns of the federal Constitutional Court.

Protest diagnosis

Despite the recognition in practice of the fundamental right of the freedom to demonstrate in concepts of police intervention after 1968-69, until well into the 1980s (and partly even in more recent discussions) the discussants' concepts of democracy were chiefly grounded in representative parliamentarism and the

external security which has become questionable in a time when the instigation of internal conflicts can be and is precisely planned and coordinated with the execution of military actions - no need to give examples here -; it is rather that in our times there are a large number of different starting points for internal and external opponents of a state to attack the latter's security and thus unhinge it. Thus, for instance, via an attack on the security in the field of energy policy, the economic security and hence the security of the labour market and financial security and, in turn, the social and psychological security, the security of internal and external politics and military security can be increasingly undermined and eventually destroyed' (DP 1/1982: 3).

Cf. Riehle (1983), who analyses Stümper's multifunctional security concept.

³⁴ Among the well-known statements by Hübner is his plea for a police force which 'skims off' violence from the streets (the 'course of skimming off violence' (in DP 2/1986: 49): 'The police mission is an unmistakable and permanent mission, and a good police force encountering conflicts in the political sphere has at its disposal safe concepts to filter out violence, and thus to clear the political room to move for the relevant responsible politicians' (DP 6/1981: 169).

majority principle. Authors showed suspicion towards plebiscitary and participatory elements, such as the collective articulation of political demands on the streets. They presumed that decisions taken by a majority in Parliament should be accepted by the population. Police leaders reacted with incomprehension and disapproval not only to calls for militant resistance but also to calls for civil disobedience. They saw such actions as a violation of the basic 'rules of the game' of the democratic political process and of law and order. In their eyes protests of this nature lost their credibility and legitimacy. In a polarizing manner, authors separated constructive criticism from destructive criticism: politically credible protests which adhered to the 'rules of the game', from politically illegitimate protests which disregarded the 'rules'. The 'enemies of the liberal democratic civil order' would be rigorously met by the challenge of the '*wehrhafte Demokratie*' (well-fortified democracy). This attitude that 'if you are not for us you're against us' prevented a more differentiated assessment of the demonstrators and a political analysis of the opponents of the system. Thus the political world of the top police officials was divided into two distinct camps: on the one hand, those who essentially approved of the status quo of the *Rechtsstaat* and democracy; on the other hand, those who negated the state. The *Rechtsstaat* and democracy were seen in black and white terms - yes or no; any intermediate level of 'more' of democracy or 'less' of *Rechtsstaat* were unimaginable within this either-or perspective. This 'magnetic field' of bipolar 'friend-foe' thought meant that even less radical critics of the state order fell into the category of opponents of the system to be fought. Trouble-makers, according to the line of argument commonly used to this day, abuse the right to demonstrate as they commit criminal offences under the cover of this fundamental right. For this reason, it was argued, they should be prosecuted under criminal law, arrested on the basis of secure evidence and possibly sentenced by the court. Demonstrations continued to constitute an irritating, even potentially threatening issue for public order, as can be gathered from articles published in Phase 3 and early Phase 4. Nevertheless, protection of the freedom of demonstration granted by the Constitution moved the high-ranking police officials towards a more positive view of the phenomenon. This evaluation of demonstrations as a positive element of democracy, however, only gradually gained momentum in the consciousness and the published texts, respectively, of the police leaders.

Policing philosophy

The central ideas of the *Neue Linie* remained valid in the 1980s. However, the gap between their claim (protection of the right to demonstrate) and the actual acceptance of plebiscitary forms of action on the part of protestors was narrowed only slowly. A decisive step in this direction was the Brokdorf decision of the federal Constitutional Court. This decision strengthened the positive evaluation of the right to demonstrate by emphasizing its democratic functions. The argumentation of the decision confirmed the basic principles of the *Neue Linie*; its impact on the police discourse should not be underestimated. Participants in the discussion simply could not sidestep this decision. Thus this argumentation of the federal Constitutional Court became the mainstream line - also in the *Bundesländer* governed by the conservatives.³⁵ The police discourse and the practice of protest policing was now concentrated on violent trouble-makers; militant activists became the focus in the construction of a conception of a political enemy by the police leaders, so too they became the focus of police tactics. The differentiation ruling of the federal Constitutional Court supported the consistently harsh action taken against violent trouble-makers: they were to be arrested on the basis of secure evidence, while the police were to assist and help peaceful demonstrators. The judgement narrowed the instrumental perspective of the *Neue Linie* to the militant core of demonstrations; the police concentrated their tactical-operative efforts on the '*Schwarze Block*' (black block) formed by the black-dressed *Autonomen* activists during demonstrations.³⁶ Police tolerance was not only extended in the sense of a basic affirmation of the freedom of assembly. The Court decision also increased tolerance by its broad definition of demonstrations, which included spontaneous ones. Acceptance of spontaneous demonstrations was not new for the *Neue Linie*, but the authority of the federal Constitutional Court, as the highest court

³⁵ With the new version of the commentary on the chapter 'Unpeaceful Demonstrative Actions' dated October 1991, the guidelines of the Brokdorf decision are inserted into the *Polizeidienstvorschrift 100 'Führung und Einsatz der Polizei'* (3.4.1: 7 ff).

³⁶ The *Bayerische Linie* (Bavarian line) constitutes an exception, as is shown by the contents and style of the action reports on the occasion of Chernobyl demonstrations: 'Alternating conceptions should be practised in further police actions in order to

- disconcert participants (I, M.W.), trouble-makers and violent activists and
- make it more difficult for the opposing side to gain insight into police intentions and to react to police measures' (Fenzl, 1986: 43).

in the FRG, gave this point additional weight. With its assembly-friendly tendency, this decision in general supported advocates of the *Neue Linie*. In the aspiration of the Court to shape a police force acting in closer proximity to democracy, there is, in my view, a late confirmation of the claims made by the reformers in the early part of Phase 1, including Gintzel, Hunold (and the public law specialist Denninger). One indicator of the increased tolerance towards assemblies was the more relaxed handling of mass demonstrations involving tens of thousands of participants than had been the case in Phases 1 and 2. The police of the 1980s ceased to fear any threat to the state, nor even the danger of revolution, as they had 20 or 25 years before.

A shift towards greater tolerance should also be noted in police dealings with non-violent resistance, i.e. civil disobedience, cultivated in particular by peace movement activists in blockades of military installations between 1982 and 1984. In accordance with the decision of the *Bundesgerichtshof* (BGH hereafter - Federal High Court),³⁷ the police condemned such actions as coercive violence: 'But even if clad into a flowery guise it will remain violence if one blocks the entrance to a *Bundeswehr* station and thus prevents the execution of decisions reached democratically' (DP 10/1983: 312). The commentary on the police service regulation *PDV 100* of July 1986 (3.4.3.1.: 6) argues along the same lines: 'The argument, that the reprehensibility clause (*Verwerflichkeitsklausel*) § 240 Para. 2 StGB legitimizes the actions of the blockades that are not violent, is untenable.' However, the non-violent nature of the peace movement's sit-in blockades made it unthinkable for the public to place them in the militant 'corner', nor from a police tactical point of view did it seem appropriate. Thus, evaluations of this phenomenon developed from a categorical rejection of blockaders and condemnation of blockades as acts of violence towards a differentiated view which, however, was not shared by all police officers. At this stage, some of the authors, particularly the supporters of the *Neue Polizeiphilosophie* (for whom the state monopoly of force is not jeopardized by sit-in blockades), began to make a distinction between blockaders committing an offence and violent activists. Kniessel, for instance, warned against the criminalization of peaceful blockaders: 'Those who push people exercising passive resistance from noble motives into the proximity of the terrorist area have to put up with the accusation of recruiting the new generation for those who have declared war on our political system' (DP 9/1989: 232). Yet,

³⁷ The Lapple judgement of the *Bundesgerichtshof* of 1969 (BGH St 23, 46 ff, printed in *Neue Juristische Wochenschrift*, 1969: 1770 ff).

uncertainty remained among the police as to the legal situation of sit-in blockades. The stalemate of the federal Constitutional Court in the sit-in blockade decision of 11 November 1986 (also called the Mutlangen decision, *BVerfGE* 73, 206 ff) did not remove the uncertainty surrounding this issue. The decision states that sit-in blockades do not necessarily fall outside the scope of the fundamental right of the freedom of assembly (cf. Article 8 *Grundgesetz* - Federal Constitution). Nevertheless, police leaders were in agreement with the Court that blockaders must be prosecuted under criminal law, namely under the coercion section 240 *Strafgesetzbuch* (Penal Code), or because of infringements committed.³⁸

Social diagnosis

Phase 4 also saw a re-emergence of the attitude patterns of the traditionalists from Phase 1 - including the public welfare concepts and doubts about the maturity of citizens to participate in politics. Such ideas were put forward by police leaders such as Stümper and Hübner, without however violating the linguistic conventions of the *Neue Linie* (e.g. recognition of the right to demonstrate as a fundamental right): 'In many cases maturity is conceived of as a challenge for unrestraint' (Hübner in *DP* 6/1981: 166). An etatistic attitude was also revealed in the strictly formal legalistic thinking of some high-ranking police officials. At this point it was the *Rechtsstaat* (and its laws) and no longer the state *per se* which the police had to protect: 'Also a liberal *Rechtsstaat* must defend itself, otherwise liberality and the very *Rechtsstaat* will be lost' (Stümper in *DP* 8/1988: 218). 'Our *Rechtsstaat* must not flirt with lawbreakers' (Stümper in *DP* 1/1982: 5).³⁹

Supported by the Brokdorf judgement of the federal Constitutional Court and driven by the debate over police actions during the anti-nuclear power protests, the police discourse from the mid-1980s on saw an increasing tendency to align the police self-image less with etatistic and more with republican ideas,

³⁸ Postscript: with the new decision of the federal Constitutional Court dated 10 January 1995 (published in *Neue Juristische Wochenschrift* (1995: 1141 ff), actions of civil disobedience cease to be punishable coercive force (acc. to § 240 *Strafgesetzbuch*). This decision corrects the Mutlangen decision and puts a stop to the broad interpretation of violence.

³⁹ When he mentions 'lawbreakers', Stümper is referring to squatters, as is evident from the context of the quoted paper.

i.e. with the principle of the sovereignty of the people (according to Article 20 II *Grundgesetz*), and to follow an action concept centring on fundamental rights and the citizens: 'The citizen is superior to the state (...) From this it follows that police intervention as a matter of priority must serve neither the furtherance of some ominous reason of state nor of the collective good of public welfare or public interest, but the protection of the individual' (Kniesel, 1987: 26). For the *Neue Polizeiphilosophie*, 'more' of civil society meant 'less' state in the political process: 'Democracy is not an event controlled by the police with the citizen as a participant in the state' (Dietel and Kniesel in *DP* 11/1985: 337). Legitimation for police intervention was provided by reference to the Constitution, its principles and fundamental rights, which the police were to protect. Advocates of this constitution-oriented police philosophy came predominantly from North Rhine-Westphalia, including Gintzel who had been among the reformers in Phase 2; Kniesel represented the *Neue Polizeiphilosophie*. They were supported by the North Rhine-Westphalian line adopted by their Minister of the Interior, Schnoor. Distinct from the traditional, etatistic police philosophy, Kniesel argued for the police to be regarded as a *Bürgerpolizei*, a police force serving the people: 'Because of this position as a guarantor, the police cannot be qualified as the mere preserver of the status quo, as a repressive instrument wiping off political protest. Insofar as it is not a *Staatspolizei* but a *Bürgerpolizei*, as it has to guarantee the chances of the minority - which according to Art. 1, Para. 1 *Grundgesetz* as a subject of political change is a majority 'in being' - to become a majority, as long as it keeps itself within the framework of the Constitution' (Kniesel, 1987: 28).

On the whole, the lines of argument of the *Neue Polizeiphilosophie* dominated the debate on police philosophy in the late 1980s. No other diverging outlines of a police philosophy were put forward.⁴⁰ Despite this, etatistic and legalistic elements of a *Staatspolizei* programme permeated (still permeate?) the interpretation patterns of police leaders, as reflected in the frequent statements concerning the identity of state and police, of the police as a 'prominent

⁴⁰ There is one trend within the *Neue Polizeiphilosophie* which tries to orient the new police philosophy - Kube calls it 'police culture' in this context - towards business management theory and thus to create a corporate philosophy for the police. Key word: a 'corporate identity' (Kube in *DP* 5/1990: 97, 99) for the 'service provider' (Murck in *SPFA* 4/1989: 85) of interior security: 'The issue of models or of an organizational philosophy and an organizational culture can be viewed primarily under the motto "Who are we, what do we want and how do we want to deal with each other and with third parties?"' (*DP* 5/1990: 99).

representative of the immediate state power', as 'the personified state power' (DP 2/1984: 38), so to speak.

The Interdependence of Protest Policing and Police Philosophy

If the police philosophy supported by high-ranking police officers has developed away from concepts of a police force serving the state and towards concepts of a police serving the citizens and if the philosophy of policing has developed along the lines of greater tolerance towards forms of protest, if therefore profound changes have occurred, we need to pinpoint the factors which brought about these changes:

- Personnel changes at the highest executive, political levels (Ministers of the Interior, secretaries of state, high-ranking ministerial officials) and in the police hierarchy brought about by election changes or retirement: only a new generation of top-level police officials could facilitate a general change in police philosophy. Individuals within the police hardly change their self-image over the course of time; they adapt it, if at all, to the prevailing linguistic usage of the time.
- The authority of the federal Constitutional Court, which is capable of cementing turning-points in protest policing by the legal force of its decisions.
- Changes in the assessment of forms of protest by the population: representative opinion polls have shown a tendency towards a growing acceptance of unconventional forms of action among the population - according to Kaase and Neidhardt (1990: 20) some 500,000 to 1 million young people conceive of different acts of civil disobedience as a 'normal' means of political argument.
- The actions of protestors: it may be assumed that the actions of protestors have positively influenced the public climate in relation to the use of unconventional forms of protest (as well as the attitudes of the federal Constitutional Court and the police).

This last argument will be pursued further below. During the 30 years under review the police were marked by 'chronic' identity and legitimacy problems, as the discourse among officers in the highest echelons of the police hierarchy illustrates.⁴¹ Why did the police require continuous clarification of

⁴¹ The definition of the position of the police in state and society was picked out as a central theme by the periodical *Die Polizei* as early as 1960 (DP 11/1960: 321-326); in 1961 Stiebitz demanded a clarification of their own position' (DP 12/1961: 360).

their self-image throughout these years? This question can be answered, according to my thesis, by linking police philosophy and protest policing in the police discourse.

It is striking that the controversy over protest policing reached a peak of intensity during the same periods as the debate on police philosophy, as may be seen at the time of the student revolt in the late 1960s and the youth protest in the early 1980s. Discussion within the police climaxed in each of these cases a few months after the heyday of protest events and the maximum public reception.⁴² For instance, police perceptions and interpretations of the youth protest, which reached its height in 1981, mainly took place in 1982. Thus, it would appear that discussants among the police are always only reacting to protests, they never succeed in anticipating them!⁴³ Debate is sparked within the police as a consequence of police interventions during demonstrations and public reactions.

The best-founded argument for this interconnection between police philosophy and protest policing is supplied by the authors themselves. The high-level police officials writing in the specialized journals continually established a link between a general definition of the position of the police and the debate on protest policing. Starting from general statements on the role and position of the police in the FRG, authors often concentrated on the political sphere of police action, on the issue of demonstrations and of violent actions during demonstrations. Even in articles on the general crime situation, discussants focused particular attention on politically motivated criminality during protests, squatting events, and so on. During periods of intense protest activity this connection became even more apparent, with calls for a (re-)definition of the position of the police in state and society frequently heard. I take this as a clear indication of the fact that the conflict between the police and protestors hit the

⁴² See Winter (1991: 233) for statistics concerning articles on police philosophy and protest policing in the periodical *Die Polizei*.

⁴³ This circumstance is also interesting in that the prevention of social conflicts perceived as eruptions by scientifically supported police prevention corresponds to the conceptions and targets of several 'police philosophers'. For many police leaders the 'forecasting' of social conflicts is based on their marked socio-political pessimism. If the conflict thus occurs, they feel confirmed. However, this has little to do with socio-technological prognosis. Other mechanisms such as self-fulfilling prophecies play a more important role: if the police anticipate violent actions by protestors, they are (involuntarily) provocative by their massive deployment to prevent violence, or they encourage violent actions by obsessively talking about violence in the discourse prior to the protest event.

(political) core of police philosophy. Consequently, from the viewpoint of the top police officials, protest policing constitutes a significant range of tasks for police action. What might be the reasons for this?

- The police, who define themselves as the personification of the state and as an instrument for the protection of the state, feel challenged by protests which criticize the state, particularly in terms of their potential delinquency.
- From the time of the student revolt, the police again and again found themselves in the spotlight of public attention and criticism. Protest policing constitutes the most publicity-effective field of police action. In the wake of coverage of - spectacular - demonstrations and police interventions, the police were drawn into the centre of public debate; their duties, difficulties in mediating, the need to enforce the law - by force if need be - and to fend off dangers were scrutinized in public and 'checked out' for legitimation deficits. In the confrontation with protestors, the dilemma of legality and legitimacy in police intervention was brought to light.⁴⁴ If their leaders deemed the use of 'immediate compulsion' appropriate, the police revealed their 'ugly', because violent, faces during demonstrations. Police leaders felt responsible for possible conclusions drawn by demonstrators, and particularly the general public, from the police as the "'visiting card" of the state' (Hunold, 1968: 128) to the state itself since general legitimation and acceptance problems of the state also touched the identity of the police given that they identified themselves with the state. Violence, even if legally used, has to be publicly justified; the legal justification does not (any longer) suffice for its legitimation in public opinion. The police attach the highest relevance to their legitimacy in the eyes of the public. Continuous legitimation deficits of police interventions in the public opinion result in general identity crises of the police. The police feel stripped of the basis of trust within the population. The use of force by the police is both their trump card (as a legally employable resource) and the Achilles heel of the police and their tactics, because the social taboo of violence is so far-reaching that even forceful interventions legalized by the state may cause image problems for the police.
- Further dilemmas of police actions are especially reflected in protest policing, in the concrete police intervention. The police find themselves in a strained relationship between the protection of the existing legal system and protection of the emerging one, between *status constituens* and *status constitutus*,

⁴⁴ E.g., evictions of illegally squatted houses by the police, while the housing shortage and large number of unoccupied houses provide political legitimacy for the squatters.

between security and freedom, between state and society, between neutrality in the political process and political responsibility. Confrontation in the streets with people who are critical (of the state) thus becomes a test case for the self-image of the police, particularly in situations where the law is violated. Such protest actions are interpreted by the police as violence and the conflict thus escalates into one of violence.

Protest policing possesses a political character, in so far as police intervention during demonstrations signifies intervention in the political process. Hence, protest policing forms an essential component of the political self-image of the police, with the result that the police philosophy is mainly defined through protest policing. Vice versa, police conceptions of the state and democracy become manifest in their treatment and control of protest movements. It thus follows that there is a mutual feedback process between police philosophy and protest policing.

How does this interconnection between the police philosophy discourse and protest events come about? One major 'battle' between demonstrators and police may not necessarily shake the basis of acceptance of the police by the public; a number of impressive protest events indeed were not taken up in the sources.⁴⁵ It is only the public (political) discussion on an event and the relative police intervention, the controversy over the 'true' reconstruction of the conflict, over the question of blame, responsibility and legitimation that establishes the important link between protest and police discourse. In almost all reports on concrete police interventions in the specialized journals, the authors attempted to refute any blame placed on the police and to legitimize police actions. The

⁴⁵ As, for instance, the demonstration on 18 December 1964 against the visit of the Congolese Prime Minister Moïse Tshombe to Berlin: the violation of the police injunctions, the throwing of eggs and tomatoes, turned this demonstration into the first anti-authoritarian student action (cf. Sack *et al.*, 1984: 111). More recently there were big protest events which were not taken up, such as the *Krefelder Krawalle* in June 1983.

For this reason the interdependence hypothesis requires some qualification: the protest may not be the only driving force of a discussion; other decisive factors are the general mood and the sensitivity of the public towards the police, which in turn depend on police actions and their public reception. Despite public criticism of the police interventions during the anti-nuclear power demonstrations in the second half of the 1970s (Brokdorf, Grohnde, Kalkar, Why!) no discussion in the periodical *Die Polizei* followed these events. One explanation is that the balance in the police's legitimation account showed a credit. The police saw themselves as sufficiently legitimized and accepted by the population due to their fight against terrorism. The surplus of legitimacy compensated the legitimation deficits resulting from their disputed actions against nuclear power protestors.

internal police debate was therefore especially intense if the public debate caused a stir and if this was perceived by the police. If no, or virtually no, public criticism was heard or if the public approved the police action, and the police did not feel compelled to justify themselves, then there was no further discussion among the police. Analysis of the journal articles shows that the frequent occurrence of protest events, accompanied by intense public attention, over a certain period, as was the case at the time of the APO and the youth protest, created stronger repercussions than any singular action.

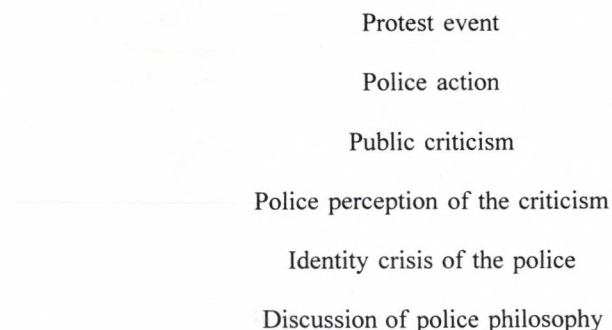
Changes in the self-image of the police are particularly triggered by protest events, mediated by public criticism. It is for this reason that protests can be described as the 'motor' of development in the police self-image over the past 30 years. During protest policing activities the police chiefly interact with new social movements (like the student movement, the peace movement, etc.), whose activists predominantly belong to the left-wing alternative spectrum. Consequently, almost all articles during the period under review deal with protest policing and all action reports with conflicts between the police and new social movements.⁴⁶

Police philosophy and protest diagnosis (i.e. assessment of the protestors) cannot be viewed separately. The actual as well as the discursive and the cognitive dealing with extra-parliamentary protest reveals the authors' conceptions of democracy and the police. Analysis of the specialized police journals reveals a far-reaching, chronologically-shifted parallel between the history of new social movements, especially their publicity-achieving actions, and the self-image of the police. The evolution of the police self-image is then a - distorting - mirror history of political conflict 'in the streets' of the FRG. Roughly generalizing, this means that the history of the police should be viewed in relation to the history of new social movements.⁴⁷

⁴⁶ Until the late 1980s there were no right-wing social movements showing demonstration activities of any note in the FRG; in my sources there is virtually no indication of police interventions in the context of right-wing protest.

⁴⁷ It is obvious that this process also develops in the other direction, though this is not the topic of this chapter. During their interactions with the police, the protestors change their attitude towards the police. In turn, this has an impact on the approach and action patterns of the police leaders, which again brings modifications to the concept of protest policing and the self-image of the police. This process of mutual influence does not only exist - as one may assume - during one field of interaction (e.g. during a demonstration) but is present during the course of an overall conflict (such as the conflict over the *Startbahn* (airport runway) West

The following diagram presents an idealized illustration of the linking process between protest movement, public and police self-image:



This process is illustrated by the debate provoked by the nuclear reactor catastrophe of Chernobyl in 1986, which brought tens of thousands of people out onto the streets in protest. As a result of their interventions, the police stood in stark public focus. The primary point of criticism by the public was the violent attacks which were felt to be unjust and arbitrary; (less severe) criticism was levelled at the police for their inability to bring conflicts with militant parts of the demonstration under control. The police thus had to accept an image and sympathy loss. Internal evaluations of the police interventions, the debate about suitable policing tactics and policing philosophy in the case of political demonstrations (protest policing) were followed by a discussion on the role and position of the police (police philosophy). The debate aimed at formulating a general definition of the position of the police, which would foster greater legitimization and hence greater confidence in conflicts and in the face of public criticism.

External criticism of the police, and particularly criticism of police interventions during demonstrations, causes a crisis of legitimization and thus of

near Frankfurt between police and protestors. Accordingly, this would mean that the history of protest movements has to be viewed in connection with the history of the police. Haupt (1986) confirms this general hypothesis in his comparative historical examination. Police measures had a significant impact on the formation of the workers' movements in Germany and France in the second half of the 19th century. See also Willems (1988: 20) and Harrach (1983: 171).

meaning and identity among the police for it is perceived as a lack of trust by the people in the police. The deeper the legitimation and identity crisis of the police, the more urgent is the demand for a police philosophy. Thus a police philosophy functions as a remedy on the part of the police to counteract the complaining power of the sensitized public, both as a means of strengthening police 'self-confidence' and as an argumentational aid in the face of public criticism. Thus, in addition to the determinants of law, tactics, resources and political leadership, the public is a further factor influencing police action. Protest policing takes place on two stages: on the one hand, the police intervention itself (the event on the action level) and on the other, the public discourse on the intervention.

The thesis of a reciprocal connection between police philosophy and protest policing is confirmed by the tendencies on these two stages over the 30 years of history of the political self-image of the police: the shift in police philosophy from a *Staatspolizei* towards a *Bürgerpolizei* is manifested in policing philosophy by an extension of tolerance towards unconventional forms of protest. Further studies will need to be carried out in order to ascertain whether the results of this analysis of the specialized police periodicals can be verified in the practice of protest policing. However, the high rank of authors and the official character of the sources reviewed would appear to support this.

By way of conclusion, we may stress that for the years up until the accession of East Germany to the FRG the police defined their function and role in the state and society to a large extent through their protest policing duties.

Does the *Neue Polizeiphilosophie* represent a 'genuine' reformatory step for the police or does it merely provide ideological material for a 'legitimation lining' of police work and for improved public relations? With the evolution of the police self-image between 1960 and 1990 from a police force serving the state towards a police serving the citizens, the question arises whether a reform of the 'contents' - of the police philosophy - will be carried out at the end of the '80s. A point in favour of this hypothesis is the fact that the orientation of the *Neue Polizeiphilosophie* towards the Constitution, the citizens and their fundamental rights is in harmony with the guiding principle of the *Neue Linie* to protect the fundamental right to demonstrate. The *Neue Polizeiphilosophie* can be described as the police-philosophical equivalent of the *Neue Linie* of 1969. However, in contrast with this earlier philosophy, the *Neue Polizeiphilosophie* appears to be serious about the claim for democratic adequacy and a civil character of the police. A point to the contrary may be seen in the fact that in the late 1980s, as was the case after 1960, reformatory efforts were separated

from their democratic demands. The democratic impetus of the Brokdorf decision and the *Neue Polizeiphilosophie* was practically dropped and the instrumental component (particularly the rule to distinguish between violent and peaceful demonstrators) became dominant (e.g. DP 10/1987 290-297). Methods of protest policing developed in the direction of a strategy of minimizing the use of force in order to create less cause of friction to public criticism: a publicly-declared friendliness towards peaceful assemblies, a rule of cooperation with the organizers of such events and the rule to distinguish between trouble-makers and peaceful demonstrators helped to bring the problem of legitimation and acceptance of police actions under control; the aim of transparency and communication with the people was substituted with an instrumental conception of public relations work targeted towards 'selling' police measures as positively as possible. For, as one author wrote: 'After large-scale actions the police find themselves permanently in the role of the accused' (SPFA 1987: 236). Thus, the efforts of the Bavarian police psychologist Trum, for instance, aimed to equip commanding police officers to handle conflicts with the public more effectively. Public relations work accompanying the deployment of the police is meant to overcome the 'speechlessness of the police' (SPFA 1987: 236). The extension of police tolerance in the policing philosophy does not necessarily have to be combined with an explicitly democratic claim; it may also be based on merely pragmatic policing motives. In his plea for more tolerance, Trum tried to minimize the danger of violent escalation by lifting the action threshold for the police. In this way, police leaders could avoid manoeuvring themselves into the focus of public criticism by initiating the escalation spiral: 'Does one have to move a water cannon into position if there is only a completely meaningless small fire? Does one have to take photos and shoot films like mad? Are they incapable of parting from helmet and shield? (...) Sometimes I cannot get rid of the impression that they expect demonstrators to behave not even like participants in a Corpus Christi procession do' (Trum in SPFA 1987: 237).

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