I. ABSTRACT

In recent years, there has been a steady stream of growing concern in nations throughout the world about police officers' use of excessive, brutal, and sometimes deadly force where circumstances do not warrant such actions. In the United States, many such concerns have arisen out of an emerging awareness of a pattern of excessive police violence targeted at members of racial and ethnic minority groups, including Native Americans, African Americans, Asian Americans, and Hispanic Americans.

A significant amount of the literature on the police-minority group conflict in the United States focuses on racism as the driving force behind most instances of police use of excessive force. However, there is a negative consequence associated with limiting the analysis of the inter-group conflict between police and minority groups to the racial dynamic. When this narrowed lens of analysis is used, it yields too little viable and substantive information to support an adequate understanding of the conflict and its resolution. Further, it does not adequately address the proliferation of international accounts of police violence against citizenry in those nations where racism is a lesser dynamic and where the police and citizens often share one racial heritage, e.g., Jamaica, Mexico City, and Brazil.

To encourage a more comprehensive analysis of the many factors that produce protracted inter-group conflict at the international level, Byrne and Carter propose a theoretical framework labeled "social cubism." The social cubism perspective approaches inter-group conflict as a complex puzzle of social dynamics that combine as an integrated unit to sustain the conflict behaviors. This paper utilizes the social cubist paradigm to broaden the analysis...
of the complex and protracted conflict between law enforcement officials and minority groups in America. Ultimately, it should become apparent how this analytical paradigm may be aptly applied to any protracted inter-group conflict involving state-sponsored violence, regardless of where it resides.

Whether in Mexico City, Sao Paulo, Los Angeles, or Jamaica, it has become apparent that police throughout the world are seeking new ways to legitimize their power and influence by carrying out arbitrary acts of violence similar to vigilantism or "popular justice." In many cases, police violence is inflicted upon an implicitly designated citizenry, often distinguishable by its poverty, class, skin color, religious affiliations, and/or political beliefs. Through what are often unspoken historical, institutional, and cultural arrangements, such state-sanctioned violence has been likened to barbarism and terrorism where global accounts of human rights abuses share one dynamic: there is a protracted, violent, and sometimes deadly inter-group conflict between the police and the citizenry they have been designated to protect.

During the past few years, mounting reports by international watch groups and news services have painted a horrid picture of police abuses on nearly every national front. Their reports include the following accounts:

- On July 25, 2001, Kenyan police surrounded a bus and ordered seven passengers who were suspected robbers to lie on the ground. Each of the seven was then shot in the back by the police.2
- In January 2001, Tanzanian police officials used gas and ammunition to break up a political demonstration and kill at least thirty-seven people. This incident came on the heels of compelling reports of police beatings and rapes of citizens on the island of Pemba.3
- In April 1999, BBC broadcasts filmed South African security forces that used lethal force against individuals who had surrendered. The police inflicted beatings, cigarette burns, electric shocks, and suffocation upon the suspects and restricted their access to medical attention.4

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In March 1997, Australian police were filmed brutally punching and kicking Aborigines while other police officials were holding them down.\(^5\)

In June 1995, violence erupted when Mexican police were arrested in connection with killing seventeen people who were on their way to a political protest.\(^6\)

"Between 1983 and 1993, the police killed an average of 182 persons each year in Jamaica; in fact, the police killed many more people than they wounded."\(^7\)

The list of police indiscretions goes on. The British police were recently charged with racial abuse and frame ups against its Black citizens;\(^8\) the National Police of Israel has repeatedly come under attack for its use of excessive physical force;\(^9\) members of the Guatemalan police force were charged with torturing and killing five children in a case brought before the Inter-American Human Rights,\(^10\) and the Brazilian police have a lengthy association with proliferating accounts involving the infliction of deadly violence upon Afro-Brazilians.\(^11\) Consequently, one of the most frequently reported types of human rights violations occurring throughout the world involves those abuses exacted by police officers.

The widespread reports of state-sponsored atrocities compel our analysis of the motivations for such acts. Certainly they suggest an unrelenting, complex, and endemic conflict dynamic between the institution of policing and select groups of people. Accordingly, it behooves us, in the consideration of the police-minority group conflict in America, to examine the magnitude of social forces that serve to fuel and maintain such conflicts to the degree that they are manifest throughout the world. Thus, the beauty of the social cubist framework rests in its allowances for the close examination of these forces.

As Max Weber said in 1918, "Specifically, at this present time, the right to use physical force is ascribed to other institutions or to individuals only to the extent to which the state permits it."

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7. Chevigny, supra note 1, at 27.
In November 1998, six Kansas City police officers fatally shot Timothy L. Wilson, a thirteen-year old African American male who was driving a borrowed pick-up truck.

In April 1999, a Hartford police officer fatally shot Aquan Salmon in the back. Aquan was an unarmed fourteen-year-old African American youth suspected in an attempted street robbery.

In June 1999, LaTanya Haggerty, a nineteen-year-old African American woman, was fatally shot by Chicago police officers following a traffic stop. The officers reported that they mistook her cell phone for a handgun.\(^{12}\)

In recent years, there has been a steady stream of growing concern in nations throughout the world about police officers' use of excessive, brutal, and sometimes deadly force where circumstances do not warrant such actions. In the United States, many such concerns have arisen out of an emerging awareness of a pattern of excessive police violence targeted at members of racial and ethnic minority groups - including Native Americans, African Americans, Asian Americans, and Hispanic Americans.

For many Americans, it is an embarrassing and indeed frightening concept that within its borders, people of color are routinely subjected to a form of legitimized oppression inflicted by some police officers. In a land which has long boasted of a "moral conscious" thought to elevate American society above the fray of nations where human rights seem forever at a premium, we have come to realize that American society is not entirely unlike others where state-sanctioned repression of selected citizens exists. For indeed, it is from the state that excessive and brutal police violence against minorities receives its stimulus.

Like Myrdal's concept of the "Negro problem,"\(^{13}\) unwarranted police violence targeted at racial and ethnic minorities in America causes a moral uneasiness that represents one of many paradoxes in our "democratic" system. In one of its most recent reports of police brutality in America, entitled *United States of America: Race, Rights and Police Brutality*, Amnesty International noted that:

\[\text{[t]here continue to be frequent disturbing reports of unjustified police shootings, with officers firing on unarmed suspects fleeing non-}\]


violent crime scenes, during traffic stops, at the end of pursuits or in other questionable circumstances. In some cases suspects have been hit with multiple police gunfire. In most of the cases, the victims were African American or other minorities, and some were children.14

Several months preceding the release of this report, United States Attorney General Janet Reno spoke at a National Press Club Luncheon about police brutality targeted at minorities in America. She said that

[t]he issue is national in scope and reaches people all across this country. For too many people, especially in minority communities, the trust that is so essential to effective policing does not exist because residents believe that police have used excessive force, that law enforcement is too aggressive, that law enforcement is biased, disrespectful, and unfair.15

Skolnick and Fyfe observe that, "every social order is at some level maintained by the threat of punishment...but somewhere deep in the American experience is the idea that the legal order and its system of punishment are inadequate to cope with the problem, whether defined as crime, as immigrants or as minority groups."16 In fact,

evidence of discriminatory treatment and bias in police contacts with members of the Black, Latino, and Asian communities is widely documented by NGOs, commissions of inquiry, in court cases and lawsuits...such treatment is contrary not only to the United States Constitution, but also the United States obligations under international law to eliminate all forms of racial discrimination.17

As a result, the discrepancy between the human rights protections explicated in the laws of the United States and the human rights abuses committed by some police officers fuels the growing hostility between minorities and the police. Indeed, "police brutality, particularly against minorities, is one of the most serious, enduring and divisive human rights violations in the United States."18

15. Id. at 2.
In America, as in most other nation-states throughout the world, the police and the military are the only groups entrusted with the authority and capacity to use violence for the protection or destruction of life. But unlike the military, "the police are not sequestered on bases - they are spread throughout the community."19 Equipped with uniforms, badges, weapons, ammunition, chemical sprays, teargas, dogs, restraint holds, electro-shock weapons, and clubs, some police officers patrol the streets not only "to protect and serve," but often times to inflict tyranny and repression.

Not surprisingly, the great majority of police-citizen encounters where the police officer is in an official capacity are rarely free from the nuance of conflict. From the very start, two sources of conflict are inherent in each of these encounters. The first involves the circumstance that brought the two together, and the second involves the significant power disparities between the officer and the citizen. Add to this existing micro-conflict an encounter that brings together the police officer and the problem (the minority citizen) in a social milieu where stereotypes, negative perceptions, distrust, and fear interact in the midst of structural oppression, and it becomes apparent why hostilities between members of the police force and minority groups continue to exist. Still, this does not answer succinctly the question: What leads to the police abuse of power, particularly against minority citizens, and particularly in America, where the virtues of equality and liberty are promulgated in nearly every national symbol?

II. THE SOCIAL CUBIST FRAMEWORK

A significant amount of the consideration given to the police-minority group conflict in the United States focuses on the surface issue of racism as the driving force behind most instances of police use of excessive force. In fact, the American Civil Liberties Union recently observed that, "police abuse, especially against people of color, is as deeply entrenched as ever, and seems impervious to reform."20 However, "while race is a key factor in police brutality, it is not the sole problem. Police use of excessive force and questionable shootings are reported with alarming regularity in a variety of situations, sometimes cutting across racial lines."21

Certainly, "there is a racial divide between Anglo and African Americans in the United States—a divide so pronounced that even the apparently strong culture of policing does not transcend it."22 However, there is a negative

22. David Weisburd et al., Police Attitudes Toward Abuse Of Authority: Findings From A National
consequence associated with limiting the analysis of the inter-group conflict between police and minority groups to the racial dynamic. For when this narrowed lens of analysis is used, it yields too little viable and substantive information to support an adequate understanding of the phenomenon. This is not intended to suggest that racism is not a major factor in the police-minority group conflict; but instead, it suggests that a narrowed focus on racism in the analysis of much of this conflict threatens to obscure from our awareness the complex ways in which other social forces combine to manifest the conflict.

To exemplify the idea that racism, in and of itself, is merely a tool—and not necessarily a cause of oppression. Steinberg aptly highlights this quote from the character Tshembe in Lorraine Hansberry's play *Les Blancs.* “Race—racism—is a device. No more. No Less. It explains nothing at all ... I said racism is a device that, of itself, explains nothing. It is simply a means. An invention to justify the rule of some men over others.” Subsequently, “what often appears to be an eruption of ‘traditional hatreds’ [such as that associated with race] on closer examination turns out to involve political and economic issues that are real and immediate.” For this reason, we cannot afford, in the examination of inter-group conflict, to ignore ways in which a variety of social issues combine to influence the conflict. When inter-group conflict is the outgrowth of numerous systemic practices reflected in societal inequalities, proposed resolutions to the conflict must involve an adequate consideration of those practices.

Furthermore, a concentration on racism does not take into account the role of minority groups as participants (passive and/or active) in the inter-group conflict. After all, the accumulated anger, cynicism, rage, and alienation felt by minority groups in response to perceived biases in police conduct “give rise to witnesses who fail to cooperate with the police, citizens who view prosecutors as the enemy, lawyers who disdain the rules they have sworn to uphold, and jurors who yearn to ‘get even’ with a system that has in their eyes, consistently mistreated them . . . .” Thus, the conflict is intensified by the sentiments and hostilities of members representing both groups.

Finally, a concentration on racial and ethnic differences as the impetus for police brutality does not adequately account for those occurrences of police abuse where the officer and citizen share the same racial and ethnic heritage. For although the great majority of reports of excessive police violence in

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24. *Id.* at 170.

America have been associated with encounters between white officers and citizens who are members of minority groups, there have been instances where minorities have felt equally fearful of abuse during encounters with police officers who are also members of minority groups. In many of these instances, abuse has come in the form of an officer’s support of the “code of silence” by “thinking blue” and looking the other way when their peers carry out abuses. Subsequently, long-held fears about police brutality have resulted in a generalized anxiety where minorities have become concerned about abuse from any police officer, regardless of the officer’s race.

Evidence of this dynamic was presented to the New Jersey Black Law Students’ Association when Delacy Davis, an African American and ten-year veteran of the New Jersey police force, reported a letter that he had received from a fellow African American officer in response to his [Delacy’s] activism on behalf of minority citizens. According to Delacy, the letter was “filled with obscenities urging him to ‘think blue’.” During his presentation to the law students, Davis, who founded Black Cops Against Police Brutality, acknowledged that there are some minority officers who will not look out for minority citizens.

To encourage a more comprehensive analysis of the many institutional factors that form to produce protracted inter-group conflict, Byrne and Carter propose a theoretical framework labeled “social cubism.” And although the social cubist framework does not presume to cover the entire spectrum of factors related to the manifestation of an inter-group conflict, it effectively “highlight[s] some of the most salient issues of these complex conflicts.”

The social cubism model approaches inter-group conflict as a complex puzzle of social dynamics that combine as an integrated unity to sustain the behaviors of inter-group conflict. The six dynamics (or pieces of the puzzle) are:

- a) historical; b) religious; c) demographic; d) political; e) economic; and f) psychocultural factors. Where the social cube of conflict is applied, each dynamic is dissected and analyzed to produce a holistic picture of the conflict. Once such a picture exists, it becomes easier to perceive of the complexity of the conflict, and quite possibly, less difficult to address its resolution. Thus, given the complex nature of the protracted conflict

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27. Id.


29. Id. at 52.
conflict between the police and members of minority groups in America, the social cubist paradigm will be used to broaden our analysis of this conflict.30

- In July 1998, an unarmed Mexican national, Pedro Oregon, was fatally shot six times in the back, twice in the head and once in his hand, by six Houston police officers who entered his home during a drug raid.
- In October 1998, Donta Dawson, a nineteen-year-old, unarmed African American youth was fatally shot by a Philadelphia police officer who approached the youth as he sat in a stationary car with the engine running.
- In May 1999, New York City police shot and critically injured Dante Johnson, an unarmed sixteen-year-old black male, after the youth ran away from the three officers who stopped to question him.31

Since the first night watch patrol was established in Boston in 1631,32 hundreds of books, studies, articles, scholars, and practitioners have addressed the historical relationship between American police and its citizenry. Historically, the police in America have represented a hierarchy (although in and of themselves, they are not the hierarchy), established and supported by public opinion for the social restraint of power and the maintenance of societal discipline and order. However, such restraint and discipline have the potential for abuse33 since they are designed to control access to social and economic power by maintaining the status quo of class distinctions.34

The history of the police-minority group conflict in America clearly reflects the class divisions promulgated by in-group/out-group idealism and theories of social dominance. Lobe observes that when the National Advisory Commission on Civil Disorders studied the race riots of the 1960s, it found that police had come to symbolize "white power, white racism and white repression," (symbols of the privileged status group's domination) to many of the nation's minorities.35 But minority group distrust and disdain for the police in America is not rooted in the 1960s, nor is police distrust and disdain for America's minorities. The hostilities between these groups began more than two centuries before in the legacies of colonialism, vigilantism, and slavery.

30. Id.
34. Kelling, supra note 19.
35. Lobe, supra note 18.
"In America, police targeting of black people for excessive and disproportionate search and seizure is a practice older than the Republic itself."\textsuperscript{36} In fact, one could say that the history of policing in America was founded on the policing of racial and ethnic minorities. Skolnick and Fyfe observe, "American Indians were unquestionably the first ‘alien’ group to feel the combined assault of private and officially sanctioned violence. Regarded as threatening and exterminable, the native population of what was to become the United States was subjected to massive and sustained violence by private groups and government soldiers."\textsuperscript{37}

In 1704, following the formal designation of police forces, the slave patrols were formed as one of the first official police duties in America. These patrols were a precursor to modern police forces.\textsuperscript{38} Slave patrols authorized police to arbitrarily search slave quarters, randomly detain Blacks on the streets, and "enter the house of any Black person who kept his lights on after nine p.m. and fine, flog, and extort him."\textsuperscript{39} Maclin observes that some of the slave patrol practices are not entirely unlike today’s police practice of racial profiling.\textsuperscript{40}

During the early 1900s, police were frequent participants and/or approving observers in the Southern lynchings of Blacks.\textsuperscript{41} Later, in the 1960s, Americans throughout the country were witnesses, (with the help of television), to the brutality and violence inflicted upon Blacks during the civil rights movement. Not surprisingly, "the commissions investigating the riots and civil disorders of the 1960s found that police routinely used excessive force, especially against Blacks."\textsuperscript{42} The commissions’ findings however, were not news to the nation’s Black citizens who already knew that they were more likely than Whites to feel the wrath of law enforcement.

A 1965 Gallup poll revealed that thirty-five percent of the African American men surveyed believed that police brutality occurred in their communities, while only seven percent of white men believed that there was police brutality in their communities.\textsuperscript{43} Just two years later in 1967, a Detroit-based study conducted by the Urban League revealed that eighty-two percent of the residents believed that there was some form of police brutality in their communities.\textsuperscript{44} Some twenty-four years after the Detroit study, a 1991 poll

\begin{thebibliography}{9}
\bibitem{38} \textit{VILA & MORRIS}, supra note 32.
\bibitem{39} Maclin, \textit{supra} note 36, at 34.
\bibitem{40} \textit{Id.}
\bibitem{41} \textit{SKOLNICK & FYFE}, supra note 16.
\bibitem{42} \textit{Id.}
\bibitem{43} American Civil Liberties Union, \textit{supra} note 20.
\bibitem{44} \textit{Id.}
\end{thebibliography}
conducted by the Los Angeles Times revealed that thirty-three percent of Latinos and forty-four percent of African Americans considered the brutality rendered against Rodney King by Los Angeles police to be very common police conduct, while only nineteen percent of Anglos considered the behavior to be very common.\textsuperscript{45} These findings reiterate long-held minority beliefs that account for much of the group's angst and rage related to police bias and brutality. Media images have routinely reinforced these beliefs. In fact, images of police-led attacks on non-violent protesters continue to be replayed in the minds of many Americans. Add to these images pictures of Miami's 1980 Liberty City riot which followed the acquittal of police in the fatal beating of African American insurance executive Arthur McDuffie, and the 1992 Los Angeles riots which followed the acquittal of police charged with the brutal beating of motorist Rodney King, and it is easy to understand how minority group "mistrust and hostility predictably follow upon abuse and repression."\textsuperscript{46}

Contributing to the historical rift between minority groups and the police are deeply embedded stereotypes held by members of both groups and maintained through transgenerational discourse. For example, a police training guide distributed during the 1940s by the State of California's Department of Justice noted the following:

[p]olice officers will notice certain distinctive behavior traits of Negroes as a group, and of other minority groups . . . Members of minority groups are more than usually sensitive and defensive . . . they become apprehensive and continually fearful of insult or discrimination . . . Negroes and Mexican-American youth, as groups, seem more inclined to react aggressively to discrimination...The Southern Negro is compelled to be subservient to the white man in all ways. In trying to cast off this life-long habit of subservience, he is often likely to be rude and arrogant, or at least ill-mannered.\textsuperscript{47}

Thirty-three years later, Bayley and Mendelsohn's study\textsuperscript{48} of the Denver police force supported police stereotypes of the belligerent minority. Their study revealed that although police "understand that minorities have not received a fair deal in American society...they [the police] are nonetheless

\textsuperscript{45.} SKOLNICK & FYFE, supra note 16.
\textsuperscript{46.} Id.
offended by the militancy and assertiveness of them [minorities].” Bayley and Mendelsohn observed,

[t]here can be little doubt that policemen are sensitized to minority people . . . [the police] believe that the involvement of minorities with crime is greater than for other ethnic groups; that minorities involve policemen in mediating very ambiguous and very emotional situations, and not infrequently involving crimes against persons; that hostility toward policemen is greater among minority people, particularly in the form of resisting arrest, and that physical attacks on officers are more common in these areas than elsewhere . . .

This suggests that some police may enter an encounter with a minority with an expectation of confrontation. Stereotypes supporting these notions have changed little over the years.

Like the historical discourse among police about minorities, minority group members have also maintained a historical discourse about the police. Through the years, such discourse has served to transmit truths, myths, and stereotypes of the “other,” thereby exacerbating the conflict between the two groups. For example, over fifty years ago McEntire and Powers quoted a representative of Richmond’s Attorney General’s office who observed, “the average Negro believes that if he gets arrested he will immediately get his head beaten in with a club. Far too many Negroes believe that they will get the worst of it every time they get arrested.” Subsequently, each new story of police abuse reinforces “the belief by minorities that they are targets of abuse—a belief that historically has sparked major outbursts of violence against the police.”

Minority group beliefs about being the targets of police violence have been documented throughout much of American history. In fact, their complaints of abuse have been far out of proportion to their representation in the population. Certainly, findings on patterns of police brutality suggest that minority group concerns are warranted. Over thirty years ago Bayley and Mendelsohn reported that, physical abuse [at the hands of police] is more commonly experienced by minorities,” and still today, there is “evidence that racial and ethnic minorities [are] disproportionately the victims of police misconduct, including false arrest and harassment as well as verbal and physical abuse.” However, only a small

49. Id. at 150.
50. Id. at 97.
52. Lobe, supra note 18, at 2.
53. Id.
54. BAYLEY & MENDELSOHN, supra note 48, at 127.
number of white officers recently surveyed believe that minority citizens are treated worse than white citizens.56

Discrepancies in group perceptions are reinforced and legitimized based on historical recounts by opposing groups.57 Consequently, the reality of each individual experience will be subjective, to a degree, based on the preconceived notions of the collective's perceptual constancy. Ultimately, this means that each group will hold on to its stories and perceptions, for it is through these recounts that each reinforces the legitimacy of its position. The consequence is that the two groups have become further and further polarized.

- In December 1998, Tyisha Miller, a nineteen year-old African American woman, was shot twelve times by four white Riverside (California) police officers after they found her unconscious in her locked car with a gun on her lap.
- In June 1999, New Jersey police officers fired twenty-seven shots into a vehicle driven by Stanton Crew, an unarmed African American male, as he tried to maneuver around two police cars that had blocked his vehicle in following a police chase. Crew was killed by the gunfire.
- In August 1999, a California SWAT team in the midst of a drug raid burst into the home of a Mexican immigrant family and fatally shot, Mario Paz, an unarmed elderly man, in the back.58

Schribner and Fusarelli note that the degree to which religion impacts society and shapes political culture is unclear and open to dispute.59 This dispute is complicated based on the elusive concept of religion and the difficulty in determining its precise impact on public policy. Social and political institutions link to religion to foster bipolar societies and preserve a way of life.60

In the nineteenth century, Durkheim proposed that the passions of the individual need to be regulated by an external force.61 Otherwise, the insatiable and unlimited desires of the individual would lead to social disruption. For much of the history of mankind, both religion and the state have served as regulating forces of human behavior. Subsequently, God's law and man's law work concurrently to maintain societal discipline and order. Both church and

56. Weisburd et al, supra note 22.
57. Byrne & Carter, supra note 29.
60. Byrne & Carter, supra note 29.
61. Durkheim, supra note 33.
state have a low tolerance for deviance. Furthermore, they have traditionally competed or worked in collusion for access to power, privilege and persons. Each institution is intent on producing the ideal society based on the maintenance of the established social order.

Principles manifesting authoritarian values are also inherent in religious and state ideals of preeminence, supremacy, and rule. Consequently, religious ideology fortifies many of the repressive sanctions evident in society. In fact, it is based on religious doctrine and myths that much of society first conceded to the concept of hierarchical relationships involving subordinate and superior beings. In this regard, religious principles of obedience, especially as they may be applied to the subordinated in society, are linked to the social and political institution of law and order. Tenets of superior and subordinate beings are apparent in law enforcement's disparate treatment of citizens. For example, Chevigny observes that

[all] police brutality, including beatings such as the famous clubbing of Rodney King in Los Angeles, shares a relation to subordination; it is apparent in the police practice of forcing the person to lie on the ground... The use of deadly force, except when the officer acts in defense of himself or another, is a limiting case, like torture - the officer makes nothing out of the victim he kills. He tells society through the shooting that the victim's life is worth less than the assertion of authority and control.62

Although social scientists may not always agree on the value of religion, most agree that religious institutions serve to benefit "individuals, society as a whole, or some social group within a society."63 Gamarra proposes, "religion is linked to power as a disciplinary order and system of ethics... it is internalized by people [and] institutionalized in the minds of individuals."64

This concept is consistent with the ideology of the police state that exists in American society. After all, our leaders know that "if the state is to exist, the dominated must obey the authority claimed by the powers that be,"65—a concept consistent with religious ideology.

In December 1998, Franklyn Reid, an unarmed Jamaican immigrant wanted for parole violation, was chased and fatally shot in the back of the neck at close range by a Connecticut police officer. Reid was on his knees when he was shot.

In April 1999, New York police officers shot Gidone Bush, a mentally ill homeless man, twelve times as he wielded a hammer at them.

In May 1999, Margaret Mitchell, a fifty-four-year-old homeless woman pushing a shopping cart, was fatally shot by Los Angeles police officers when the officers thought that she was trying to attack them with a screwdriver.  

As noted earlier, there are valid arguments to counterclaims that racism is the sole factor in America's protracted police-minority group conflict. The social cubist argument, for one, might propose that the racism manifest in this conflict (and others) is a symptom of deeper, more endemic conflicts. Still, there is no denying that the persistence of racist ideology in America is salient to the protracted nature of the police-minority group conflict.

An examination of the racial and socioeconomic demographics associated with reports of police violence clearly demonstrates the role of these variables in police subjugation and mistreatment of minorities. One could argue that police bias based on the racial and socioeconomic dynamics of America's citizens is written between the lines of American history for the purpose of maintaining a caste system. This line of thinking is consistent with conflict theory, which according to Cureton, "implies that discriminatory application of the law against subordinates reflects rulers' perception of threat (posed by subordinates) to their power, resources and interests."  

An analysis of the historical treatment of racial and ethnic minorities in the United States could not withstand the scrutiny of conflict theory, which presumes that maintaining the disparate distribution of power is at the root of much "racial" conflict. For even after the African Americans had been officially released from the bonds of slavery and the Native Americans had been apportioned land for reservations, enormous distortions based on theories of racial superiority were used to justify the discriminatory treatment of racial minorities and to maintain their subordination in the caste system.  

Like the African and Native Americans, other racial groups too have long suffered based on the American caste system. For example, Skolnick and Fyfe observe that during the nineteenth century, state-sanctioned laws in the Western United


68. SKOLNICK & FYFE, supra note 16.
States were used to fuel vigilante group terrorization of Mexican and Chinese persons.\(^6\) The authors conclude that, "the pursuit of 'law and order' in the West prompted - as it sometimes does today—a special effort against minority groups considered dangerous to constituted arrangements, moral values and racial dominance."\(^7\) Thus, conflict theory holds that "because law enforcement officers are an extension of rulers' power, the job of the police is to suppress or contain the perceived threat that subordinates represent."\(^7\) Beyond theory, this is the lived experience of minorities in America.

It should be noted at this point that concerns about police use of excessive force are rooted less in the force deemed necessary to fulfill an officer's job duties and more in the degree of bias to which such force is applied. For certainly, "as long as some members of society do not comply with law and resist the police, force will remain an inevitable part of policing,"\(^7\) about this there is little disagreement. However, "research showing that Black to White arrest [or imprisonment, abuse, and fatality] differentials are associated with group characteristics such as race, age, low socioeconomic status, large percentages of concentrated Blacks, and unemployment can be considered evidence of discretionary discriminatory practices."\(^7\) In fact, there is significant evidence of such disparities in treatment. Statistics reported by the Institute on Race and Poverty\(^7\) clearly reveals a racial bias in the application of law enforcement policies. According to the Institute's findings:

- In Minnesota, a black man is twenty-seven times more likely than a white man to be in prison;
- Although African American drivers account for sixteen and nine-tenths percent of the drivers on I-95 in the state of Maryland, they account for nearly seventy-three percent of those stopped and searched by Maryland police, and
- Although African Americans constitute only thirteen percent of the country's drug users, they represent thirty-seven percent of those arrested, fifty-five percent of those convicted and seventy-four percent of those in prison for drug related offenses.

These are just a few examples of the disparities in law enforcement's treatment of minorities in the United States. Establishing statistical trends to

\(^6\) Id.
\(^7\) Id. at 27.
\(^7\) Cureton, supra note 67, at 704.
\(^7\) SKOLNICK & FYFE, supra note 16, at 37.
\(^7\) Cureton, supra note 67, at 704.
reflect a pattern of disparate treatment is a daunting task however, since not every instance of perceived maltreatment is reported. "There is evidence to suggest that Blacks are being discriminated against by police who are using their personal discretion rather than responding to actual criminal conduct..."\(^7\)

Probably no recently acknowledged police practice demonstrates the role of racial demographics in this inter-group conflict more so than that of the long-standing practice of racial profiling whereby "police-initiated action relies upon the race, ethnicity or national origin of an individual rather than the behavior of that individual."\(^6\) And although numerous analysts have concluded that racial profiling is a by-product of the nation's 1980s-initiated war on drugs, there is historical evidence that minorities in America were held in suspicion, (and thus "profiled"), long, long before the nation even acknowledged that there was a drug problem. As American history demonstrates, racial and ethnic demographics alone have traditionally been enough to suspect, arrest, and convict people of color.

In further consideration of how demographic forces affect this protracted inter-group conflict, one must take into account the role of America's changing demographic structure. Using data gathered from the 1999 United States Population Data Sheet, Pollard concludes that, racial and ethnic minorities now account for one-fourth of the United States population. By 2015, projections indicate that minorities will make up one-third of all Americans.\(^7\) These numbers reflect a dramatic increase in the nation's minority population. However, this information concludes more than an increase in the number of minorities. It also proposes an increase in the dominant class' perception of threat from these growing minorities. Consequently, social sanctions—such as those associated with the law—will be applied more harshly upon those posing the threat. With increases in the number of minorities in the United States, it will not be surprising to find parallel increases in the number of cases of reported minority abuse at the hands of the police - the most apparent institution of social control.

Looking through the lens of demographics to examine the police-minority group conflict, it would be helpful to confirm the percentage of minorities on the nation's community-based police force relative to the representation of racial and ethnic groups in these communities. For instance, to what degree is minority representation in the police ranks proportionate to minority representation in American society? Certainly, an examination of this number

75. Cureton, supra note 67, at 705.
76. Institute on Race and Poverty, supra note 74, at 1.
would be critical to advancing or retarding the notion of conflict theory as explained by Cureton, and analyzing its relevance to the police-minority group conflict.

Drawing on data procured by the United States Department of Justice, Lott conducted an extensive study of the racial and gender composition of police department demographics in 189 cities. He concluded that although "city police departments vary greatly in their racial and gender makeup, and there have been large increases in the proportion of Black and women officers... most departments have no Blacks, Hispanics, or Asians..."

There is little doubt that a proportionately equivalent representation of minorities in policing, to that in American society, could have a critical impact on the degree of police violence directed to minorities. Lott observes,

[the potential law enforcement advantages from multiracial or female officers seem obvious. Minority police officers may be more effective in minority areas simply because residents could be more forthcoming about information that will lead to arrests and convictions... Trust is also important for other reasons, as reports of riots erupting after white police officers have shot a black man may attest.]

Statistics available from the 1999 United States Census Bureau Statistical Abstract indicate that in 1998, Black officers accounted for over nineteen percent of the nation's public service police and detectives while Hispanic officers accounted for almost nine percent. However, these statistics can be misleading in any effort discern the representation of minorities on the police forces of individual cities. It could be for example, that a larger number of minority officers are employed in only a few cities and states while a relative dearth of minority officers are employed in the great majority of cities and states. A prime example of how the percentage of minority officers could influence the police-minority group conflict is the state of New Jersey, which has recently received a host of negative publicity related to its disparate racial profiling and abusive police practices targeted towards minority drivers. Zolper reports that in 1998, only fourteen percent of New Jersey police officers were minorities, as compared with a statewide minority population of twenty-six

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78. Cureton, supra note 67.
80. Id. at 241.
81. Id. at 239.
82. UNITED STATES CENSUS BUREAU, EMPLOYED CIVILIANS BY OCCUPATION, SEX, RACE AND HISPANIC ORIGIN (1999).
percent. This type of vast discrepancy encourages an in-group/out-group mentality based solely on race.

- In June 1998, Antoine Reid, an unarmed "squeegee man" was shot in the chest by an off-duty New York City police officer when Reid insisted on washing the windshield of the officer's car.
- In January 1999, Luis Enrique Hernandez died after he was hog-tied by three officers of the Fort Worth Police Department.
- In May 1999, Lewis Rivera, a homeless man, was arrested by police officers who sprayed him with pepper spray, kicked him, bound his hands and feet, and drug him to a police car. Less than an hour after the assault he was found dead in a holding cell.

Closely aligned with demographic factors is the influence of economics upon this inter-group conflict, which is fueled by perceptions of institutional favoritism and disparities in the distribution of economic resources. Economic disparities inherent in the American caste system reproduce the dominant and subordinate class structure. Since the role of law enforcement is constructed to maintain a deliberate social order, the police are viewed by subordinated classes as enforcers of class designations.

Where a caste system exists, the quality of a person's existence is based on his position in the production cycle of society. This will determine his political power. Consequently, where minorities are relegated by institutionalized discrimination to the lower production scales of society, the value placed on the condition of their existence is subordinate to that placed on the existence of members of the dominant class. This produces a cycle of oppression which manifests itself as the justifiable ill treatment of those perceived to be less productive and subsequently, less valuable to society. The alienation experienced by the subordinated class and the superiority felt by the dominant class ignites inter-group conflict and polarizes group positions. This polarization correlates strongly to the police-minority group conflict.

Where subordinated classes are concerned, Travis observes that "racial, ethnic, and socioeconomic groups differ substantially in their beliefs about the legitimacy of law; a higher proportions of blacks (twenty-nine percent) and

Latinos (thirty-one percent) than whites (nineteen percent) view legal norms as not binding. Furthermore, Travis notes that, "residents whose SES (socio-economic status) is low are twice as likely as those whose SES is high to report high levels of 'legal cynicism'." This suggests that the cynicism felt by America's economically subordinated minorities about the role of law enforcement is largely a by-product of their resentment of widespread social disparities. Lipschutz notes:

It is not about the size of one's piece of the pie...it is about who is entitled, under the terms of the [social] contract, to participate in the division of the pie. And it is not primarily about ethnic minorities demanding enhanced rights or returns; it is mostly about elements of the white majority fearful of losing in what they see increasingly as a zero-sum game.

Based on Lipschutz's comments, when the privileged status group perceives its economic and social prospects under challenge by the subordinated group, an inter-group conflict will arise. The inter-group conflict between police and minorities, is a microcosmic representation of a more widespread, systemic conflict in American society.

The manifestation of this conflict is also apparent in the pattern of police presence in communities. Cureton observes that, "there is evidence that police operations and services are concentrated in certain criminogenic, low-income, mostly non-White areas...[and], police concentration in these low-income, socially disorganized areas may increase the probability of arrests for residents in those areas." Consequently, the increased concentration of police in lower SES areas will increase the likelihood that discretionary violence will be inflicted upon minority residents.

Of course, one of the primary arguments for a greater police presence in lower income neighborhoods involves reports of higher criminal behavior in these areas. In fact, Rand notes that, "persons from households with lower incomes [are] more vulnerable to violent crime than those from higher income households." However, that there is a higher incidence of violent crime in

87. Id. at 3.
89. Id.
90. Cureton, supra note 67, at 704.
low-income neighborhoods, and thus, an explicit demand for increased police presence in these communities, could also be presumed to reflect the economic disparities of American society. Merton hypothesized that "aberrant behavior may be regarded sociologically as a symptom of dissociation between culturally prescribed aspirations and socially structured avenues for realizing these aspirations."92

The following question, poignantly posed by Merton, prompts one to consider more strongly the influence that a disparate economic structure has on criminal behavior. Merton asks, "What, in short, are the consequences for the behavior of people variously situated in a social structure of a culture in which the emphasis on dominant success-goals has become increasingly separated from an equivalent emphasis on institutionalized procedures for seeking these goals?"93

Merton's views are not offered as excuses for criminal behavior, but instead, as a possible theory for the causes of such behavior when it is so obviously associated with the economic disparities among groups. In effect, his conclusions are not dissimilar to earlier studies of impoverished immigrant populations conducted by Thomas and Znaniecki, who found that the criminal behavior of "peasants" may be "the tragic solution of some difficult social situation involving powerful individual tendencies."94 Consequently, there may be an inherent pressure towards deviation among those in the lower economic strata.95

- In 1997, Frankie Ann Perkins, an African American woman, died after police choked her and kneed her in the chest.
- In September 1997, Jeremiah Mearday, an eighteen year-old African American male, suffered a broken jaw after being hit in the face with a flashlight wielded by a Chicago police officer.
- In 1994, Shirley Alejos, a Hispanic woman, was handcuffed and beaten by Chicago police to the degree that her face was unrecognizable in photos taken afterwards.
- In June 1999, Gregory Riley died after being placed in a chokehold by Chicago police officers.96

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93. *Id.* at 235.
Amnesty International reports a pattern of police abuse perpetrated by members of the nation's police forces. For example, in their October 1999 report that focused on the city of Chicago, Amnesty officials revealed the findings of a study of the twenty-year period between 1972 and 1992.\(^9\) According to this study, Chicago police officers routinely engaged in the systematic torture of suspects during interrogations. The study revealed that officers mentally and physically abused suspects by involving them in torturous games, such as Russian Roulette, suffocating, choking, punching, and shocking (electrical) them. Amnesty reports that, "most of the victims were African American or other minorities and the officers involved were white."\(^9\)

It is interesting that instances of "police brutality often give us the impression that the police are 'out of control,' that they are not obeying the bureaucratic-legal norms of the state..."\(^9\)! when in fact they may very well be obeying state norms. Certainly, the repeated allegations of police brutality and the millions of dollars spent each year by law enforcement to settle claims and award damages for undue harm inflicted by officers suggests the institutionalization of norms related to excessive force.

Chevigny observes that "the police are the chief players in a political drama that is always a tense one for us in liberal democracies: the balance between violence and order."\(^10\) He adds,

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[n]evertheless, we recognize that violence is used directly to control people and impose order...defiance of the police...is tantamount to defiance of order. But the level of violence the police will use varies all the way from merely arresting a defiant person to shooting him or to torturing [him] ...\(^10\)
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There is no doubt that the policing of America represents a political institution. In fact, "the term 'police' was originally synonymous with all internal governance of the state, including keeping order."\(^10\)! However, the authority to maintain state sanctioned social order is rarely applied to all citizens on an equal basis, since "... it is rare and risky for the police to try to subordinate those who are not subordinate, [or] to use degrading violence

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97. Id.
98. Id. at 1.
100. Id. at 11.
101. Id. at 11.
102. Id. at 10.
against people who are middle or upper class or who are not from a minority."\textsuperscript{103} Consequently, policing is an institution whose operations are legitimized by the government to the degree that it fulfills its authority to regulate behavior and maintain social control of the lower classes. "The policeman is, by the nature of his calling, a defender of the status quo."\textsuperscript{104} Therefore, it is by design that the authority given to police officers to enforce the law immediately distinguishes them from the "ordinary" citizens who are obligated to obey the law. This empowerment leads to distinct and separate group identities between those who enforce the law and those who must obey the law. The question then becomes, to what degree does the power bestowed upon those to enforce the law develop in them the elitist attitudes of the dominant class?

One elitist attitude of police was most apparent among those officers in New York City's infamous Street Crimes Unit (SCU) who were associated with the fatal shooting of African immigrant Amadou Diallo in 1999. In this case, the SCU's motto, "We Own the Night," may not only have given "the police the mind-set of a soldier, who doesn't spend much time thinking about the rights of his enemy,"\textsuperscript{105} but also suggests their superior mindset. This motto reflects a police culture clearly alienated from democratic values\textsuperscript{106} and an institution where tolerance for abuse is reinforced by an association with the values of the dominant class.

Chevigny observes that, "controlling the level of violence is the essential problem of human rights in ordinary police work."\textsuperscript{107} This becomes an increasingly complex challenge when presented with the charge given to law enforcement officers by the American political institution. On one hand, "citizens, politicians and vested interest groups have always pressured police to "do what has to be done"\textsuperscript{108} to enforce order, while on the other hand American society boasts of being a nation where human rights are paramount. Consequently, the boundaries between authority and restraint could be perceived as relatively ambiguous, except to those who intentionally assert their authority with bias and malice.

- In March 1991, motorist Rodney King was brutally beaten, receiving more than fifty-six blows at the hands of Los Angeles police officers, for failing to stop during a police pursuit..

\textsuperscript{103} Id. at 12.
\textsuperscript{104} BAYLEY & MENDELSOHN, \textit{supra} note 48, at 28.
\textsuperscript{106} KELLING, \textit{supra} note 19.
\textsuperscript{107} CHEVIGNY, \textit{supra} note 62, at 11.
\textsuperscript{108} KELLING, \textit{supra} note 19, at 11.
In August 1997, Abmer Louima, a Haitian immigrant, was beaten and sodomized with a broomstick following his arrest by New York City police officers. In February 1999, an unarmed African immigrant, Amadou Diallo, was fatally shot by New York City police officers who fired forty-one shots and pierced his body with nineteen bullets after they mistook his wallet for a gun.\textsuperscript{109} \textsuperscript{110}

Probably more so than any other recent reports, the high-profile cases of Rodney King, an African American motorist, Abner Louima, a Haitian-immigrant, and Amadou Diallo, an African immigrant, most succinctly characterize the overwhelming concerns about police brutality and excessive force targeted at minorities in America. In each case, these incidents pitted the police force against the minority population, clearly reflecting the depths of group distinctions. Skolnick and Fyfe observe that as a group, "...police often identify themselves as a moral force, protecting innocent and productive members of the public against those who would brutalize and victimize ordinary decent citizens."\textsuperscript{111} Certainly, there are thousands of morally conscious police officers that put themselves in harms way each day to protect others. In the wake of the King, Louima, and Diallo tragedies, minorities across America came one step closer to identifying as the victims of a "moral force" gone awry.

Boudreau observes that, "in this age of ambiguity, individuals and groups often look for a reassuring refuge in a unique and historical group identity."\textsuperscript{112} Thus, collective group identities are created based on the shared historical experiences of groups. These separate identities reinforce perceptions of in-group and out-group boundaries whereby hostilities provide groups with reciprocal positions to preserve intra-group cohesion.\textsuperscript{113} In this case, the police force and the minority community find a sense of identity, strength, and solace within their group membership, while subconsciously using such memberships to radically distinguish themselves from the other. The psychocultural factors inherent in the police-minority group conflict are most apparent in each group's expressed distinctions from the other.

Where there is no equality in group status, such distinctions amplify the degree to which the disenfranchised and marginalized group members are

\textsuperscript{109} SKOLNICK \& FYFE, \textit{supra} note 16.
\textsuperscript{111} SKOLNICK \& FYFE, \textit{supra} note 16, at 92.
excluded from attaining access to society's power and privilege. Since the police are empowered to an immense degree, and minority groups remain effectively un-empowered, police have historically represented the interests of "privileged status groups" while minority groups have historically represented society's problem. Consequently, as one group vies to control the other and the other struggles to resist being controlled, a clash emerges between the empowered and the un-empowered, the oppressor and the oppressed, the dominator and the dominated.

Whether through the projection of one's power over the other (as in the case of the police) or the acknowledgement of one's victimized existence (as in the case of the minority community), the polarization between the groups becomes more prominent each time a controversy involving brutality or excessive force on the part of police erupts. The polarization manifests itself in the form of cultural symbols and norms. For example, police concepts of "a code of silence," "thinking blue," the "blue curtain," and the "blue wall," represent a shared belief system designed to reinforce group ties. Skolnick and Fyfe observe that, "the fundamental culture of policing is everywhere similar, which is understandable since everywhere the same features of the police role—danger, authority, and the mandate to use coercive force—are everywhere present. This combination generates and supports norms of internal solidarity, or brotherhood."  

Similarly, the minority group concept of a shared victimization draws members closer together. In fact, it is this idea of a shared victimization that permits us to make this analysis of the police-minority group conflict whereby the minority group is singular. Otherwise, the distinctions between minority groups are so prominent that any attempt to group them together would be marred.

Some social scientists have theorized that the police are an example of a minority group. For example, McEntire and Powers note that since "a minority group is any group toward which others have prejudices," the police could be considered a minority group based on the prejudices associated with the occupation. Also, Bayley and Mendelsohn conclude that "there are several minority groups in America, and one of them is the police." These conclusions, however, are lacking since they ignore that the primary distinctions between minorities and other groups in America are the tradition of domination shared by members of the majority group and the tradition of victimization shared by members of minority groups. As a group, minorities in America represent members of a traditionally victimized collective—that is, people of

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color who constitute "the powerless segments . . . the working and/or lower classes, the poverty stricken, the semiskilled and/or unskilled, and the under and uneducated." This characteristic of victimization is a crucial concept associated with the psychocultural issues at the heart of the conflict. And like the police concept of thinking blue, the minority group sense of victimization cannot be ignored, minimized, or shared with the enemy other.

"Relations of conflict do not by themselves produce a social structure, but only in cooperation with unifying forces." In 1936, Karl Mannheim wrote, "the principle thesis of the sociology of knowledge is that there are modes of thought which cannot be adequately understood as long as their social origins are obscured." Consequently, this analysis of the inter-group conflict between America's police and minority communities has attempted to broaden the lens through which the police-minority group conflict is perceived so as to reduce such obscurity.

A society that sanctions the domination of one man over another is the same society that sanctions the unequal allocation of power, the unequal distribution of wealth, and the unequal confirmation of human rights. Finally, this is the same society through which there exists a collective and hegemonic social contract within which its citizens agree to be dominated and controlled, for they are convinced of the necessity for social restraint. In this case, the socially-sanctioned state exercises a system of oppression where human activity is never truly free, but only thought to be so. This is a particularly salient concept for the minority in America.

This paper has utilized the social cubist paradigm to broaden our analysis and understanding of the complex and protracted conflict between the institution of law enforcement and minority groups in America. It should also be clear from this analysis that the inter-group conflict between police and citizenry throughout the world, regardless of the nation, can never be reduced to one or two social dynamics. The application of the social cubist paradigm in this regard should support efforts to understand the structural nature of police violence and hopefully, produce a series of peace-making designs to re-structure the paradoxical role of police in a world where their presence is often met with a sense of need and a sense of fear.

117. Cureton, supra note 67, at 705.
118. Simmel, supra note 113, at 77.