The Police and Weapons Offenses

By Mark H. Moore

ABSTRACT: To control violence committed among strangers in public locations, police departments have increasingly turned to tactics of “directed patrol” focused on particular dangerous places or activities. Arguably, a suitable focus for directed patrol is illegal carrying or possession of weapons in public locations. Questions arise concerning the methods of weapons enforcement, the effectiveness of such a focus, and its administrative feasibility. Preliminary results of empirical investigations into police practices with respect to weapons enforcement reveal that weapons arrests typically occur as a by-product of other enforcement activities and that the most important factor determining aggregate levels of weapons arrests is the general proactivity of the police department. Further, some empirical results suggest that police departments can shift to proactive strategies—and increase the level of weapons arrests—without dramatically changing the demographic characteristics of those arrested. Crucial unanswered questions include the effectiveness of such a strategy in reducing violent crime and the administrative means of changing police strategies against weapons offenses.

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SYSTEMATIC inquiry into the nature of violent crime and the impact of police operations has eroded, even devastated, our confidence in the capacity of the police to prevent it. Part of the problem is that violent crimes such as murder, rape, and aggravated assault typically occur in situations that are effectively shielded from police interventions: the offenses occur in such intimate settings, involve so few people, and develop from conception to action so quickly and conveniently that the police have no chance to anticipate or intervene in the events.¹ To be sure, when such offenses occur among people who know one another, the police can often apprehend the offender.² Moreover, this fact may loom large in the minds of people tempted to attack relatives, friends, and acquaintances. But still, apart from this general deterrence, which is really wielded by the victim or witnesses rather than police, police capacity to intervene in situations involving interpersonal violence is astonishingly limited.

THE LIMITATIONS OF POLICE STRATEGIES AGAINST VIOLENT CRIME

The limitations of police strategies against violent crime are hardly relieved when we consider violent acts in public locations. Rapes, assaults, and murder occur in public locations as well as in private ones. But when we think about violence in public locations, we are apt to think of more instrumental crimes, such as robbery. In principle, a crime committed in a public location has a greater chance of being thwarted by the police simply because the police need no special license or invitation to observe it. In practice, however, the police are nowhere near enough to ubiquity to create a substantial risk of on-view detection. Instead, they must wait for a victim or witness of a crime to call their attention to it and must respond sufficiently rapidly to catch an obviously guilty offender. Unfortunately, experience suggests that despite the enormous investments made in training and technology to support a rapid response capability and despite the truly astonishing response capacity that now exists in most urban police departments, the police usually arrive too late and with too little information to be effective in thwarting a crime or apprehending an offender.³ In effect, the police find themselves as dependent on victims and witnesses in coping with public crimes as they are in coping with private crimes. Moreover, in dealing with public crimes, the police often discover that the victims and witnesses have much less information to give about their assailants, since the assailants are likely to be strangers.

Thus one must now be somewhat agnostic about police capacities to prevent violent crime. We assume that the risk of apprehension for a violent attack creates some degree of deterrence, but we understand that the risk of apprehension is small when the attack occurs among strangers. We assume that a visible police presence in public areas will deter crimes, but we understand that

¹. The classic study showing this for homicides is Marvin E. Wolfgang, Patterns in Criminal Homicide (Philadelphia, PA: University of Pennsylvania Press, 1958).
modest circumspection leaves wide areas in which predatory criminals might operate more or less safely.

These observations suggest a somewhat discomforting conclusion: current police strategies may be as ineffective in dealing with violent crimes committed among strangers in public locations as they are in dealing with private violence in intimate settings. This conclusion is discomforting for two slightly different reasons. For many people, violent crimes committed by strangers in public locations are the heart of the crime problem. That is what frightens them and forces them to accept painful and inconvenient adjustments in the way they live. Even though the risk of violence at the hands of one’s spouse or children may be statistically more significant than the risk of violence from strangers, violent strangers lurking in crannies of public spaces are what create a general fear of violence and stimulate a demand for public action. This leads to the second point. Violence by strangers in public locations is precisely the kind of crime that we expect the police to control. The promise that they could do so has traditionally justified their existence. This aim has guided their organizational development. Thus even to consider the possibility that the police are ineffective in controlling public violence is to ponder the bankruptcy of current crime-control strategies.

The Prima Facie Case for Increased Enforcement Against Illegal Carrying of Handguns

Understanding the situation in roughly the previously outlined terms, police departments have begun experimenting with new tactics that focus on violent street crime. Most prominent among these new tactics are decoys, stakeouts of likely targets of violent crime, and other forms of directed patrol guided by analyses of recent crime patterns. The principle in each of these innovations is the same: instead of random patrolling, which gives relatively equal police attention to all nooks of space and time within police purview, the police seek to identify some nooks of space and time that are much more likely to contain crimes than others and then to focus their attention on those. The differences in the tactics are given by differences in the ways the crime-prone nooks are created or defined. Decoys seek to create a crime-prone nook by dispatching an obvious victim into an area where predatory crime is particularly common. Stakeouts typically define crime-prone nooks in terms of particularly vulnerable locations, for example, bars and subways stations, and likely victims, for example, people at all-night variety stores or branch banks. Other forms of directed patrol are less narrowly focused than decoys and stakeouts and instead concentrate on areas or broad patterns of activity that are more likely to contain criminal offenses than are others.

A potentially interesting target of directed patrol strategies that has not been discussed much in this context, but has often been discussed in the context of gun-control policies, is to focus on the illegal possession or carrying of handguns in public locations. The prima facie justification for such a focus is that illegal carrying of handguns in public areas is as predictive of imminent violence as are many other activities or features of the world that have become the focus of directed patrol efforts. Consequently, if the police were to focus on illegal carrying and to succeed in both deterring illegal carrying and incapacitating those who continued to carry, they might be able to reduce crimes of violence committed among strangers in public locations. Such a view seems plausible for several reasons.

First, it seems at least plausible that carrying a handgun into public areas increases the probability of a violent attack. To be sure, some public crimes, such as bank robberies, truck hijackings, and other elaborate holdups, involve such extensive planning and sustained investment that the presence of guns at the scene of the crime must be considered an incidental part of preparing for the crime and not an important factor by itself in triggering or shaping the crime. For such crimes, the focus on illegal carrying provides at best only an additional opportunity to thwart the offense; it is unlikely that the crime would be deterred. Other offenses, however, may develop from a casual habit of carrying weapons. This may be the case, for example, with young predatory robbers who have no specific plans for a crime, but carry a weapon to take advantage of whatever opportunities appear. It may also be the case for ordinary people who carry a gun for protection and suddenly find it useful in venting their anger at someone who dented their car, insulted their wife, or stole a parking space. Since such people carry weapons generally and casually without a specific purpose, they might be easily dissuaded from continuing to do so if the risks were increased. If they carried them less

Second, it may also be true that arrests and successful prosecutions of people who carry weapons will incapacitate some potentially dangerous offenders. This could happen on a small scale if the police arrested someone carrying a weapon on their way to commit a crime, whether planned, opportunistic, or accidental. But it could also occur if people who were particularly apt to commit violent crimes often carried guns and if penalties for illegal carrying were severe enough to keep the offenders from committing crimes for noticeable periods. Lest this seem too severe, it is worth noting that owning or carrying a weapon can currently be the basis for the revocation of parole. This suggests that current policy finds the mere association of convicted felons and weapons sufficiently dangerous to warrant additional imprisonment.

Finally, it is worth noting that some basic institutional factors are favorable to the implementation of this strategy. In the first place, most major cities now have statutes which prohibit unleashed carrying of handguns and have been fairly stingy in granting licenses. Thus it is probably true that most gun carrying that now occurs is illegal. No new statutory authority must be granted. In 5. The question of whether criminals who use guns are likely to have “much serious” criminal careers has been investigated by Cook and Nagin. They “found little empirical support” that gun involvement in early crimes predicts more frequent and more serious crimes. See Philip J. Cook and Dan Nagin, Does the Weapon Matter (Washington, DC: Institute for Law and Social Research, 1979).

addition, under the principles articulated in Terry, the police have the right to conduct a superficial search for a dangerous weapon when they have stopped someone on the basis of reasonable suspicion. This amounts to a broader license to search for people who are illegally carrying or possessing weapons in public locations than now exists to look for drugs, stolen articles, burglars’ tools, arson equipment, or other kinds of contraband. Finally, there seem to be relatively few legitimate interests served by allowing unlicensed people to carry concealed weapons. While the usual self-defense arguments can be made, they seem somewhat weaker—and are voiced less strenuously—when one is talking about roaming the streets armed than when one is talking about defending one’s home or business. Apparently, most people can see the danger of involving innocent bystanders in a fight on city streets and prefer that the police be the only armed force on patrol. In fact, this tradition seems to go back as far as frontier towns, where marshals and sheriffs asked cowhands to turn in their guns when they came to town.

Thus a directed patrol strategy focusing on the illegal possession and carrying of handguns in public locations holds some prima facie interest as a device for controlling violent crime among strangers in public locations. Once one’s interest is engaged, however, a host of more probing skeptical questions arise. Obviously, there are important issues concerning effectiveness. If we have learned anything from the intrusion of social science into policy-making, it is that theory alone is rarely sufficient to guide policies reliably. We need facts gathered from actual experience. And at this stage, there is very little in the way of hard facts to show that a strategy against illegal carrying of handguns will reduce violent crimes.

There are also important worries about unexpected side effects and the basic fairness of the approach. The strategy obviously invites the police to be more intrusive—to look for people carrying weapons, rather than to ignore such possibilities. In looking for weapons, they may find many people who would have committed crimes. But they will also find people who would not have committed crimes, but are nonetheless carrying weapons. And they will stop and “pat-down” many people who are not carrying weapons. Each of these misses or errors imposes a cost. The only benefit is the general deterrence of carrying. One can reasonably worry that the police would miss often and that the consequent high costs of intrusive-feasibility and the proximate effects of stepping up enforcement against illegal carrying of handguns.

**The “Technology” of Weapons Arrests**

Throughout the United States, the police arrest 150,000 to 200,000 people for weapons offenses, such as illegal possession or carrying, each year. Exactly how they manage to make these arrests is unclear at the outset. A priori, several different mechanisms can be imagined. One possibility is that weapons arrests are the by-products of enforcement activities aimed primarily at other offenses. Reactive investigations into offenses such as murder, rape, assault, burglary, and even auto theft might result in weapons arrests if nothing else can be charged against a prime suspect or if the prime suspect is arrested in the company of others who happen to be committing a weapons offense at the time of the arrest. Proactive investigation directed at drug dealers, numbers banks, extortion rackets, and loan-sharking might also lead to weapons arrests for the same reason. Similarly, ordinary patrol operations designed to respond to complaints or to enforce traffic laws could easily produce weapons arrests as a by-product of their operations. If people complain about people brandishing or discharging weapons and patrolmen arrive on the scene quickly, they will make a weapons arrest. If patrolmen stop a person for drunk driving and a superficial frisk of the driver reveals a handgun, a weapons arrest will probably result. Thus even if the police make no special

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8. Some preliminary results evaluating the Bartley-Fox gun law in Massachusetts that established a minimum mandatory sentence of one year indicate some reductions in assault. This is not strong evidence for the tactic suggested here for those reasons. First, the effects may not bear up on closer and more detailed scrutiny since assaults declined in many areas in the period under examination. Second, the Bartley-Fox experience is an experiment with more severe sanctions; nothing was altered in terms of levels of arrests. The tactic discussed here involves increased arrests rather than changes in sanctions. For evaluations of Bartley-Fox, see James A. Beha, "And Nobody Can Get You Out," Boston University Law Review, 57: (1) (Jan. 1977); Ibid, 57: (2) (March 1977); and Glenn L. Pierce and William J. Bowers, The Impact of the Massachusetts Gun Law on Gun and Non-Gun Related Crime (Boston, MA: Center for Applied Social Research, 1979).

efforts to make arrests for weapons offenses, it is conceivable that they will generate large numbers as a "resultant" of operations mounted for other purposes.

A second possibility is that weapons offenses are generated by special organizational arrangements designed to produce them. One can imagine, for example, specialized weapons units analogous to those now maintained to control drugs, gambling, and vice. Surely it is conceivable that arrests for illegal transfers of, possession of, and carrying of handguns could be made by the same mixture of investigative, surveillance, and undercover operations that now produce arrests for illegal drug transactions and illegal sex acts. Or one can imagine focusing the attention of the patrol force on weapons arrests by giving special recognition to patrolmen who make them, by training them in patrol procedures helpful in making weapons arrests, by providing them with operational intelligence about patterns of weapon carrying, or indeed, by giving weapons complaints high priority among calls for service.

Table 1 summarizes these various mechanisms for producing weapons arrests. Since none of these mechanisms precludes any other, one would expect the aggregate pattern of weapons offenses to include contributions from each cell of Table 1. Our questions, however, are as follows: (1) which of these mechanisms currently contributes the most to overall weapons arrests? (2) which sectors seem to hold the greatest potential for expanding current levels of enforcement? and (3) what would be the side effects of seeking expansion in any one of the sectors? We have investigated this question in two different ways. First, we have looked for the major determinants of weapons arrests by formulating a simple regression model and testing it against empirical data for 30 cities in three years. Second, we have tried to refine the picture of weapons enforcement by analyzing samples of reports describing weapons arrests in five different cities. The results of these preliminary investigations are presented in the following pages.

### Proactive Patrol and Weapons Enforcement

The regression model hypothesized that the observed level of weapons arrests would be determined by various factors that provided the police with opportunities and incentives to make arrests. Thus we hypothesized that observed levels of weapons arrests in a given community would be determined by (1) the density of guns in the community; (2) the scope of the local gun laws; (3) the general proactivity of the local police; (4) the vigilance and willingness of the community to report disturbances to the police; (5) the rowdiness of a community, which would give police frequent excuses to intervene; and (6) police interest in enforcing gun laws.

Obviously, serious conceptual and empirical problems arise in developing convenient operational measures of these variables. In fact, we have so far not succeeded in measuring vigilance, rowdiness, and police interest very reliably. But measurements of the other variables have been more satisfactory. We measured gun density with the index developed by Philip J. Cook, which takes the average of the fractions of suicides and homicides committed with guns in a given locale. The scope of local gun laws was measured by an index that assigned points to local laws according to how much opportunity they gave to the police to make gun arrests. In this index, the existence of carrying laws counted most heavily, but laws requiring identification cards for possession and proscribing possession by minor, alcoholics, felons, and so forth were also given some weight. Police proactivity was measured by total arrest rates for drunkenness, disorderly conduct, vagrancy, stolen property, vandalism, suspicion, and miscellaneous Part II offenses as reported in the Uniform Crime Reports. Since these arrests are made primarily at the initiative of patrol officers, total arrest rates in these categories give some indication of how nosey and aggressive local police departments are.

Preliminary results with the regression model indicate that police proactivity is probably the single most important variable in determining levels of weapons arrests. In many different specifications of the model with many different combinations of explanatory variables, police proactivity always emerges with the appropriate sign and with a large and significant coefficient. Gun density and the scope of gun laws all behave as expected, but their effects are less clear and robust as different specifications are tried. Thus the regression model using aggregate data suggests that general police proactivity is probably the most important explanation of observed levels of weapons arrests.

To check this general conclusion and to refine our understanding of how weapons arrests were commonly made, we also visited five different cities—Atlanta, Boston, Los Angeles, St. Louis, and Washington.


11. Further details of this model will be forthcoming in subsequent publications. The best current estimation of the model produces the following results ($R^2 = 0.587; F = 8.57$).
ton, D.C.—and analyzed samples of incident reports describing the situations in which weapons arrests were made. Obviously, some question about the accuracy of the incident reports exists, particularly since weapons arrests may involve searches on the border line of legality. But for simple purposes, such as a description of which units made an arrest and whether the investigation was initiated by a complaint or by something the policeman observed, the incident reports provide satisfactory evidence. The questions we asked in looking at the incident reports were quite simple: (1) the kind of weapon involved—we restricted our attention to guns—(2) which police units made the arrest; (3) whether the arrest was the result of a complaint, an on-view intervention, or an ongoing investigation of some kind; and (4) the demographic characteristics of the person arrested.12

The findings of the survey are also easy to describe. First, handguns were involved much more frequently than long-guns in weapons arrests in these cities. Typically, more than 80 percent of the arrests involved handguns. Second, the vast majority, more than 80 percent, of the arrests were made by patrol units rather than investigative units. Third, with respect to the circumstances under which the police made weapons arrests, some substantial variation occurred across the cities. Table 2 presents the results. Atlanta is the most reactive city with about two thirds of the weapons arrests being the result of complaints. Los Angeles and St. Louis are the most proactive with only about 40 percent of their arrests produced by complaints. Boston and Washington occupy the middle ground with about half their arrests emerging from complaint situations. It is interesting to note that “investigations” account for relatively few arrests in the five cities surveyed. The fact that the relatively proactive cities were also the cities that had higher rates of weapons arrests lends support to the notion that shifting to a proactive patrol strategy will increase the number of weapons arrests in a city.

Not unexpectedly, then, it appears that the vast majority of weapons arrests emerge from the patrol column of Table 1. Investigations account for only a small fraction. In addition, very few investigations appeared to be aimed directly at weapons violations as weapons violations are non-existent and none emerged from specialized weapons units. Thus the specialized weapons investigative mechanism is almost nonexistent. Within the patrol column, it appears that reactive patrol can account for a large number of weapons arrests. If a department shifts to a proactive strategy, however, weapons arrests will increase. It is almost as if complaints operate as a floor for weapons enforcement activity, and the greater proactivity adds weapons arrests to that basic floor. Unfortunately, our survey of incident reports could not reveal whether the proactivity was specially aimed at weapons nor in fact could it reveal the administrative mechanisms that encouraged a proactive approach to patrol. Thus it is not clear how much could be gained by giving special emphasis to guns in proactive patrol nor how to go about doing this. Still, the survey data buttresses the implications of the regression model: aggressive patrolling seems to be the key in improving enforcement against illegal carrying and possession of weapons.13

**Proactive Weapons Enforcement, Race, and Youth**

The suggestion that “aggressive patrol” is the key to weapons arrests immediately raises the question of who will bear the brunt of the increased scrutiny involved in such tactics. The worry, of course, is that minorities and youth will be the ones who are arrested more frequently as police shift to more aggressive means of making arrests. The incident reports we analyzed provide some insight into this issue because they included information on the demographic characteristic of the people arrested. Table 3 presents the results.14 As one reads across the rows from arrests made in response to complaints to arrests made as the result of on-view interventions, one might expect the fraction of cases involving minorities and youth to increase. Generally, that is what one does observe—more strongly with minorities than youth, however. What is surprising, however, is that the differences in the populations arrested by the different techniques are relatively small: minority populations are a very large fraction of those arrested in response to complaints, and, in most cases, are only a slightly larger fraction of more arrested in the on-view interventions; youthful populations are a fairly small fraction of those arrested by complaint and are only a slightly larger fraction of more

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12. We also sought to develop more detailed characterizations of the incident by describing the relationship between the complainant and the arrested person in the case of complaints, the features of the situation that alerted the policeman in the case of on-view intervention, and the target of the investigation in those cases in which a weapons arrest emerged from an ongoing investigation. But, since these data are less reliable and are subject to many qualifications, they are not reported here.


14. Data on demographic characteristics of those arrested were not collected in Boston since the original work here was designed only to discover the circumstances surrounding the offense. Also, characteristics of those arrested as a result of investigation were omitted from this tabulation since the numbers were so small.
arrested in on-view situations. Even more important is that the largest changes in the characteristics of the population arrested are not associated with a generally proactive posture. The largest differences in the populations arrested by the different methods occur in Atlanta—a very large increase in the fraction of minorities arrested in on-view situations compared with complaint situations—and in Los Angeles—a very large increase in the fraction of cases involving youth. Atlanta is the least proactive department, and Los Angeles is one of the most. The other proactive department, St. Louis, shows minimal differences in the characteristics of the populations arrested by complaint and on-view interventions.

Thus while there is a tendency for proactive arrests to involve a more minority and youthful population, a shift in arrest practices toward proactive methods need not be accompanied by dramatic changes in the characteristics of those arrested. Obviously, recorded arrests for weapons offenses need not reflect the incidence of stops and searches, and we may be as concerned with the stops as with the arrests. But still, these data suggest that the police and the community may have fairly consistent views about where the problem of weapons enforcement lies and that a department can shift to a proactive enforcement effort against weapons without dramatically changing the demographic pattern of those arrested from what the pattern would be if the department merely responded to complaints. Whether sufficient crime reduction benefits could be generated to offset the anticipated changes in the characteristics of those arrested and exactly what administrative steps would be required to transform more reactive departments into nondiscriminatory proactive patrols remain crucial unanswered questions.