Policing in Emerging Democracies: Workshop Papers and Highlights

National Institute of Justice, U.S. Department of Justice

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Conference Wrap-Up: Where Do We Go From Here?

by Mark Moore

My assignment for this session is to take the pieces put on the table by conference participants, and assemble them into a whole that captures the points made. It is an exciting challenge to try to present a complete, coherent picture of where we stand now, and where we might go in the future on the basis of the presentations and discussion of the past few days. Each of you has contributed something important, each something different, and the framework must be able to contain all these interesting contributions.

To help us, I have an outline of my talk. First, I am going to introduce the concept of strategy in the public sector, a topic that I can't resist mentioning within 3 minutes of speaking before an audience. Second, I want to identify and explore what I think was the basic question we tried to address: "How can we reform the police in ways that can support the development of democracy?" Third, I want to take up three issues related to that basic question:

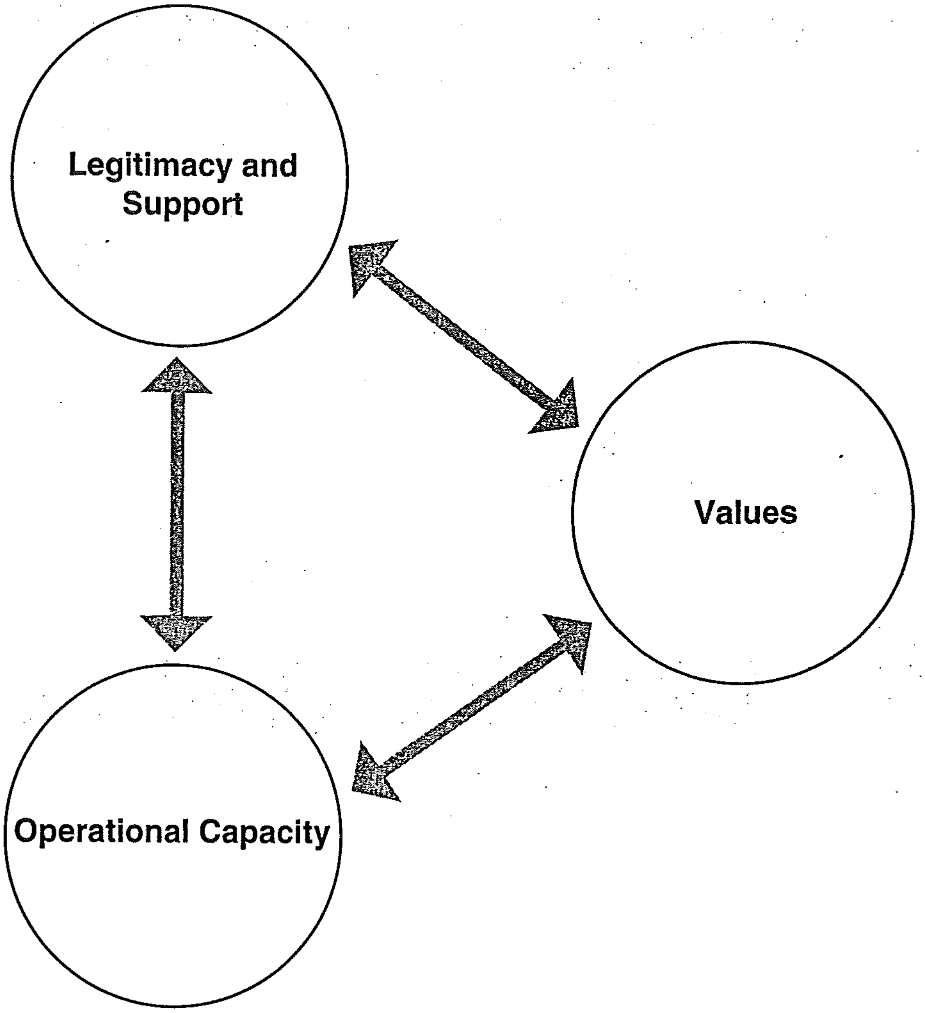
- Under what circumstances is the basic question interesting and important?
- In what situations does it become an interesting question to the *United States Government*?
- In thinking about reforming the police, whose purposes are going to matter—a foreign government's or ours?

I present a basic analytic framework for identifying the relationship between the reform of government, the reform of policing, and the form that police reform takes. Finally, I conclude by discussing the interesting question that arose concerning the relationship between the goals of support for U.S. law enforcement objectives, on the one hand, and the goal of supporting democracy on the other. That is one important question. Others include: What are the forms of policing that are available to us to consider as "export items"? What do we think the mechanisms are by which any particular form of policing might affect the quality of democracy? What are the rules and instruments of engagement that we would use in trying to export a model of policing? That is the basic outline. I will try to go through it rather quickly.

Strategy in the Public Sector

Let me start by introducing a basic concept. My colleague, Professor [Philip] Heymann, invented this concept when we were working together on public sector management. The basic idea is that in order for a public sector initiative or enterprise to be viable and useful in the world, it has to meet three tests, symbolized by three different points of the triangle I present as figure 1. First, the enterprise must achieve some important public value; otherwise, the expenditure of money and authority required to accomplish the enterprise is not worth it. Second, the initiative must have legitimacy and attract support from those who are in a position to contribute money and authority to it; otherwise, there will not be enough resources to accomplish the goal. Third, there has to be a set of operational capacities sufficient to achieve the goal; otherwise, the enterprise will fail. The basic concept is that in order for the government enterprise to be successful, it has to be valuable, authorizable, and doable—very trivial ideas. What is important about this diagram is that it reminds us that all three of those bases must be brought together in order for us to have successful enterprises. You can see quickly what happens when one of them is miss-

Figure 1: Strategy in the Public Sector



ing. If a purpose has legitimacy and support but insufficient operational capacity, people say, "Great idea. Couldn't get it done, too bad. Let's take the money back." If operational capacity is sufficient for a particular purpose but there is no longer legitimacy and support, you hear such comments as: "Great idea. Nice try. Too bad nobody wants it." If the purpose is one for which there is neither support nor capability, then you are an academic. This is the framework that I tend to use.

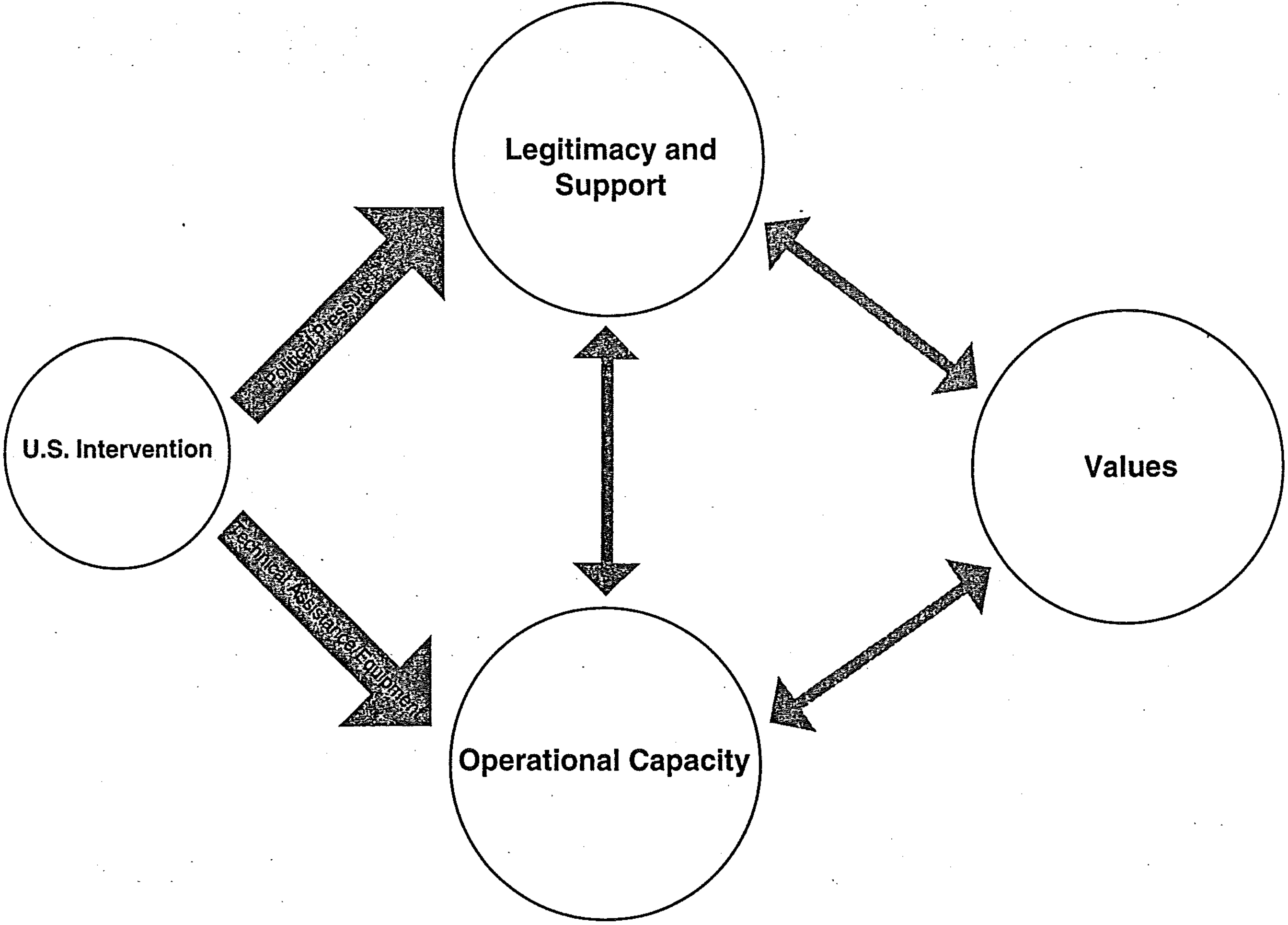
Now I want to begin applying this framework to our particular discussion. One way to proceed is to draw a box around figure 1 and indicate what the strategy of policing in a foreign country should be. In order for that concept to be viable, it must meet the strategic requirements we have been talking about, i.e., it must be consistent with:

- An attractive set of values.
- A set of operational capacities.
- Legitimacy and support.

We have been assuming that a particular set of values, namely, democratic values, ought to be reflected both in policing and in overall governance. Part of our discussion has focused on what particular kind of policing we think is consistent with democratic values—would it emphasize "rule of law" or "local responsiveness?" But the most interesting idea we have been talking about is the possibility that the way in which a local police enterprise tries to define and authorize itself might have an important *causal connection* not only to the success of the police function but also to the production of a locally satisfactory democratic culture. That would be one way to understand the key issue. We are trying to imagine the nature of the relationship between, on the one hand, the construction of a certain style of policing (one that seeks to pursue particular values and legitimate itself in a particular way) and, on the other, either the reflection or production of a locally attractive democratic culture.

We could, of course, put ourselves outside the local environment and look at the problem from the vantage point of the U.S. Government. We could imagine that the U.S. Government affected local law enforcement strategies by simultaneously contributing to the operational capacity of the local police (we do so through technical assistance, providing money and equipment, etc.) and to their legitimacy and support (through endorsing or criticizing local authorizing processes). This idea is reflected in figure 2, which shows us standing outside the local environment but trying to influence the local strategic situation—pressing our values, influencing local authorizing environments, and providing direct assistance to operations. And, of course, in order for some U.S.-based agency

Figure 2: U.S. Interventions in Local Policing Strategies



(such as the U. S. Department of Justice's International Criminal Investigative Training Assistance Program (ICITAP)) or a university-based training effort to accomplish this result, the initiative must be consistent with its own strategic situation.

The Basic Policy Question

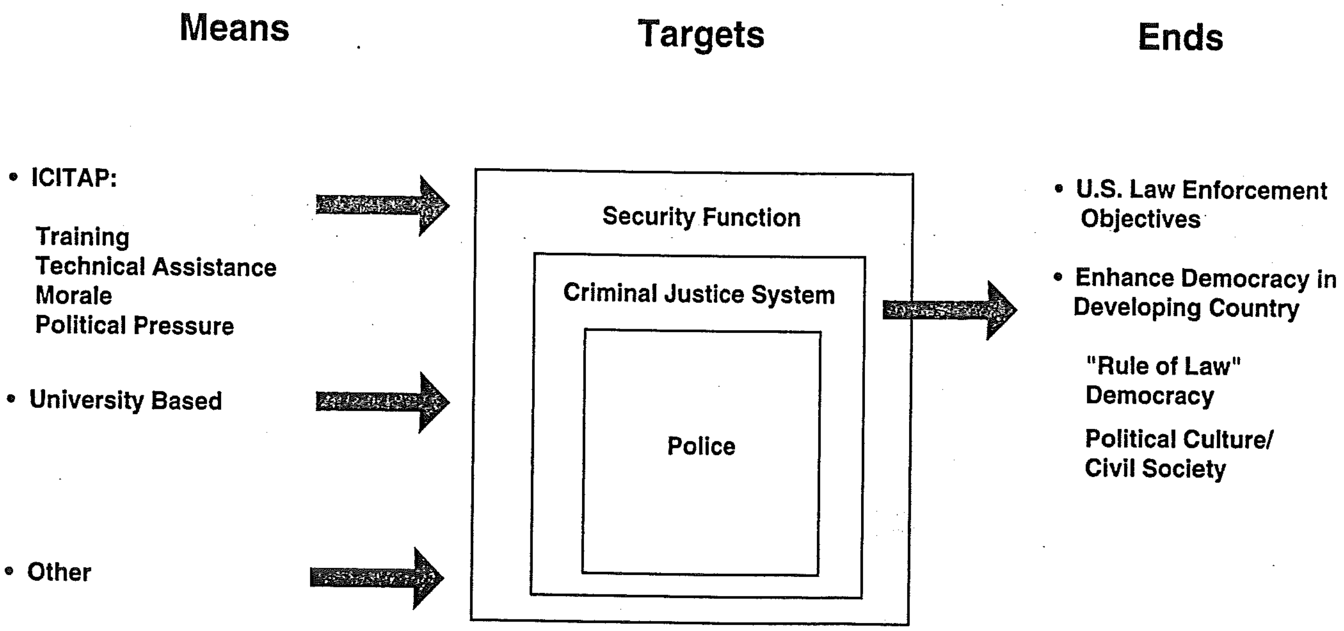
The strong form of the basic question is, "How can we reform the police in ways that can support the development of democracy?" A weaker form of the question is, "How can we reform police in ways that are not destructive to the development of democracy?" That would be a more modest objective. We could say something slightly in the middle, which would be, "How can we reform the police in ways that make the police reflective of a democratic society without undermining whatever democratic impulses exist in the local environment?" We could support the democratic impulses by having a form of police that was consistent with democracy and definitive of it. Or we could have a form of police that is not only reflective of and definitive of democracy but actually did things that strengthened the quality of democracy beyond the boundaries of its own operation.

Note that the preceding sentence contains three important nouns. One is "we." Who are the "we?" For the purposes of our exercise, I am imagining that we are taking the point of view of citizens or representatives of the U.S. Government who are contemplating the allocation of Government resources to support policing in foreign countries. (This is the outside position suggested by figure 2.)

A second noun is "police." This is a more interesting question, and you will see that in the framework presented as figure 3, the concept of police becomes more complicated. Actually, we were never quite sure if the focus of our interest in policing was one of the following three possibilities:

- *Police* institutions.
- *Criminal justice* institutions (including prosecutors, jails, prisons, and perhaps defense counsel).

Figure 3: Basic Analytic Framework


Means
Targets
Ends
• ICITAP:
Training
Technical Assistance
Morale
Political Pressure
• University Based
• Other
Security Function
Criminal Justice System
Police
• U.S. Law Enforcement Objectives
• Enhance Democracy in Developing Country
"Rule of Law" Democracy
Political Culture/ Civil Society

- The *security function* that might be distributed across a large number of institutions in the society.

At varying times, each of these possibilities was considered a potential target of our intervention. I will use the word "police" conveniently to bracket the uncertainty about each of the meanings we had in mind. Thus, our question becomes, "How can we reform the police, criminal justice system, or security function in ways that can support the development of democracy?"

The third noun is "democracy." That, too, requires a definition. I will not attempt to resolve all the interesting questions about how to define democracy, but I do want to draw your attention to some of the various ways in which that concept entered into our conversations. Figure 4 helps us understand some different concepts of democracy. In this diagram, the first things to note are the two columns labeled "culture" and "institutions." I want to start there because Professor Heymann started us off in an interesting and useful way. He said he wanted to define democracy not in terms of a set of institutions and not even in terms of the functions of governmental institutions, but, instead, as a force in the lives of citizens that shapes their aspirations and expectations with regard to how their government should be organized. Thus, Professor Heymann began by focusing our attention on *culture*, not on institutions.

We made an interesting distinction, as shown in the rows of figure 4. One definition of democracy we offered and used could be called the "rule of law." I think, as do some others here, that the rule of law is at least necessary, and sometimes sufficient, both for the definition and the accomplishment of democracy. The "rule of law" concept encompasses having effective street crime control, having a legal system capable of reaching police corruption, and having a law enforcement system capable of reaching political corruption (understanding that when we move from police to political corruption we are moving toward increasingly powerful figures in the political and economic system). I'd like to add to that list the protection of individual rights in situations in which a person is accused of a crime. Professor Heymann could have said that having all four of these is the definition of a "strong enforcement operation" and therefore supported by the definition of a strong democracy. But it could also be true that such a strong enforcement operation could come into existence *only if a strong democracy already existed.*

I also introduced a different definition of democracy. I claimed that it was concerned not with "rule of law" but with some notion of *responsiveness to collective aspirations*. A notion of democracy, then, was built around the existence of a politics that included elections and voluntary associations that would be capable of both articulating collective aspirations and holding government agencies accountable for their performance against that set of collective aspirations. There was some notion of democracy as requiring a capacity for citizens to get together in various ways, ideally in large numbers, to express their collective views. Those are the two concepts we associated with democracy.

A third idea of democracy never came into so sharp a focus. That idea went beyond the equal delivery of political rights and included the equal delivery of substantive services to people, or the creation of just conditions in society. That concept might, at a minimum, include some expectation that people would enjoy equal security. It might also mean that citizens would enjoy equal claims on the public security being provided. Those ideas were sometimes articulated as principles of democracy that must be honored in the particular way in which we operate in society.

Again, I will not attempt to resolve the question of which of these is the correct definition of democracy. At this stage I want simply to observe that the concept of democracy as we have used it in this conversation is quite complicated and probably needs to be sorted out.

Let me move quickly through the next couple of questions. Under what situations does this question become an interesting policy question for the U.S. Government? The three most common cases are where the state has collapsed, civil war has broken out, or an invasion has occurred. There is an older tradition of intervention to support policing. This occurred when the United States had a nationally important law enforcement objective that it could not achieve except through the existence of a powerful local police capacity. In those situations, we would intervene to advance our own law enforcement objective. Indeed, the principal reason we began supporting police operations overseas was to advance U.S. law enforcement or to achieve Cold War political objectives. With Cold War political objectives achieved, U.S. law enforcement interests are advancing and becoming more important. But we suddenly find ourselves in a situation in which many states seem to have collapsed, and that gives us an opportunity to intervene to provide humanitarian aid, to support democracy, to effect future advancement of U.S. law enforcement purposes, or any of the above. That is the foreign policy context of the local situation that has arisen.

In these situations we face an important question, "Whose purposes are we trying to accomplish?" One answer to that question is, "Not ours." We should do for other countries only what they ask and want. Our relationship then is to offer support to countries in whatever they are trying to get done. I think that is the extreme view of the cultural relevance argument. The alternative answer is, "No, it is our purposes that matter. We're spending the money, we're spending the effort, we're trying to accomplish something here." Of course, we would understand that the accomplishment of our purposes requires us to understand a country's institutions and cultures and what it is trying to achieve and, to the extent that we can, accommodate such goals. If we don't accommodate them, there will be relationship problems, and we won't have any leverage.

I prefer the second answer to this question so that we would not have to deal with it again. It is, of course, true that when we sit here thinking about how to use U.S. resources to support policing in emerging democracies, it is *our* purposes that

Figure 4: Concepts of Democracy

Rule-of-Law

- Just & Effective Crime Control
- Anti-Police Corruption
- Anti-Political Corruption
- Protection of Individual Rights

Culture

Institutions

Political Culture/ Civil Society

- Elections
- Voluntary Association
- Pressure for Substantive Rights
  - Equal Security
  - Equal Closure on Public Security Efforts

matter. I think we all agree that it is terribly important for us to attend to the capabilities and interests of emerging democracies and to accommodate them and not feel vulnerable to accusations of having "gone native." We must always be a little nervous that we have given up too much in terms of *our* objectives in order to maintain the relationship and satisfy a country's desire for independence. I assume that is the general problem with diplomacy that we don't have to resolve today.

Question from Carl Klockars. So a collaborative approach is discarded. It is our objectives that count? Is that what I understand?

Answer by Mark Moore. No. Collaboration is not discarded. I am simply making the point that we evaluate any particular collaboration in our terms. We calculate whether we like what is going on. When we come to the rules of engagement, Professor [David] Bayley says, "Be prepared to pull out." Professor Heymann says, "Be tough, be demanding, insist on something." A collaborative relationship is necessary in negotiation, but you calculate what you get out of the result of a negotiation in terms that matter to you. Those terms may include the protection of an ongoing relationship, certain humanitarian assistance, and so on. However attentive you are to their concerns and their desire to maintain a relationship, in the end you calculate whether you like or don't like the results of the deal you have been offered in terms that satisfy you (which can, of course, also include concerns for them and their welfare).

Question from Philip Heymann. In the litany of interests that might motivate us, Ukrainians and Russians in their country have suspicions about Americans buying up the market, so it may be appropriate to list our financial interests in the area.

At worst we ask, whose purpose? The answer is that it is a common purpose. The reason that we offered four courses on money laundering in Ukraine is that curtailment of money laundering is one of our objectives. We did it because it matched that country's objectives. We had a match, so we did a program. If we didn't get a match, we didn't do a program.

Answer by Mark Moore. Sometimes you can offer a program because you have different interests, but the program you are planning to offer serves the interests of both countries. It may turn out that is a rather common situation. You don't necessarily need common objectives to be able to make a deal. Sometimes people will agree to a deal because they see something in the deal for them and are happy to go along, and what each party to the deal values is different.

The Basic Analytic Framework

Now we are at the stage in which we are talking about the basic analytic framework. When thinking about a policy, I always think in terms of three questions: (1) What are our objectives? (2) What are our instruments? (3) What do we know about the relationship between our ends and our means? So far, we have talked about the possible ends of U.S. support to policing overseas—the advancement of law enforcement objectives or the enhancement of democracy. At this stage you can incorporate that matrix I presented in which the goals were the development of political culture and civil society (figure 4). One of the issues I'll address deals with the relationship between these two different objectives.

I have already alluded to the fact that at various times we have targeted the intrastate police, criminal justice system, or security function to examine how those would be effective. The *means* we talked about include ICITAP, which provides training and technical assistance and supports morale. We also heard about several Government-supported university programs that tended to use the same set of instruments for accomplishing the result. Professor Heymann was particularly strong on the potential value of using outside institutions to intervene (by building morale and political pressure) in the authorizing environment of the locality, rather than to intervene directly in developing operational capabilities. I think it was David

Bayley who also reminded us that a lot of other things were happening that affected either the police, criminal justice, or security.

We could even extend that list of interventions significantly if we ask the question, "Who is doing something that affects the quality of democracy in that country?" If we asked that question, we would find that our interests in supporting policing were just a tiny part of overall efforts to support democracy. One of the big questions in the background of our discussion has been, "How much leverage can we get out of any change in this system for the enhancement of democracy?" Compare that with a variety of other efforts that we might have if our goal was to enhance the quality of democracy. I assume all our political aid and a number of other things are working to enhance the quality of democracy. We have this one tiny piece that we are trying to define. This is the basic analytic framework that I wanted to present.

Basic Issues and Themes

Now let's move to the basic issues and themes. The first question is, "What is the goal of advancing U.S. law enforcement objectives versus the goal of enhancing democracy?" Ambassador [Robert] Gelbard said he thought these ends were not always incompatible. I think he is right. I could imagine some circumstances in which the two would be quite closely aligned. They would include a situation in which a target of U.S. law enforcement objectives was an impediment to the development of democracy in a country, and apprehending the targeted person required the development of local institutions and political cultures that would move toward enhancing democracy.

Where we would not be in alignment, however, is in a situation where we would support authoritarian regimes in order to achieve our law enforcement objectives. In that case we would be tempted to use nondemocratic means to achieve our law enforcement objectives and, in so doing, would shape the development of local policing and become a sponsor—in the name of developing democracy—for precisely the kind of things we want to discourage. No matter what we need to do, sponsorship of the wrong course of action comes from outside rather than inside the country and is always a price we end up paying when U.S. diplomatic instruments and financial assistance are used to support only U.S. objectives. There is some uncertainty about whether these things are always in opposition or always aligned. I think the answer is that they are sometimes together and sometimes in opposition.

The next question is, "What is the form of policing that we will try to export?" I again want to emphasize this distinction—which came up rather forcefully in our conversation—and that is the distinction among policing, the criminal justice system, and the security function. I want to emphasize this because its importance occurred to me when we were talking about the need for decent jail and prison conditions as well as effective policing. You could easily imagine that if none of the values we are trying to advance took hold (for example, democratic policing as respect for the rights of defendants), it would be a hollow position to maintain that we are in favor of protecting the rights of defendants if we then read them their Miranda rights and leave them languishing in jail without benefit of trial for long periods. It may be that insofar as our goal is to advance democracy, it includes not only the rule of law but also the protection of individual rights. We would, of course, have to take responsibility for working on trials and conditions in prisons and jails as well as good policing.

Clifford [Shearing] asked us to think more broadly outside the boundaries of criminal justice and imagine the ways in which institutions and private and civil society could be engaged in the process of producing security. It is quite interesting that if the form of democracy we seek to encourage includes constructing a political culture in a civil society, then determining how to police in a way that would help build that political culture would be an important contribution to at least that form of democracy, if not to the rule-of-law form of democracy.

The next question we addressed—and dropped rather quickly—deals with how to structure the security function. What I mean by that is determining which functions to include in the agency that we call the police. Should we include antiterrorism, antisubversion, civil disorder responses to riots, street crime, and governmental presence as functions of the police? David Bayley said he always recommends leaving the antisubversion, antiterrorism function out of the agency that you are trying to call the local police on the grounds that it is politically the most vulnerable. That is an interesting idea. There was also a question about whether we wanted to have a centralized or decentralized police force.

Perhaps the most important question concerns where we stand on the question of "professional law enforcement" versus community policing? We shared a couple of interesting observations. One is that we may have to practice professional law enforcement, to pass through that stage in police development, because it is most consistent with rule-of-law democracy. Focusing on community policing and the security function might be valuable as well because it would encourage the development of a local capacity for action that would support the kind of democracy associated with responsiveness, including cultural responsiveness. Those affected are going to see that tension. This was question one and issue one. Issue two involved the kind of policing.

Issue three is this interesting question of the mechanism by which policing affects democracy. We heard a great deal of skepticism about the extent to which one could expect reform of policing or of the criminal justice system or security function, in terms of capacity to affect the quality of democracy. I wrote down about five possible mechanisms by which we can imagine that happening. Let me just run through these because I think they are important.

The first mechanism would be to ask what form of policing we are going to have in this country and make it an issue. By doing so we may be able to sustain a dialogue at high levels and throughout society about democratic principles and what it means to live in a democracy. What part of democracy do we really want? What part of it has to do with being responsive to citizens? What part of it has to do with building a local as well as national political infrastructure? By making this an issue for discussion, we might be able to have an effect on the quality of democracy.

Second, if policing is a means of upward mobility for the society, it may be that police training is really training of future leaders—not just of the police department, but also of the civil society. That may be an important side effect of training—to train leaders for future civil society if not for the police.

A third possible mechanism could be this: To the extent that the police were effective in controlling street crime or disorder, one issue that would be favorable to the creation of authoritarian politics would be removed. In effect, an important way in which the police might be able to promote democracy is by doing a good enough job on reducing crime and stilling fear that people wouldn't be tempted to grant official power to the national regime. Effectiveness in controlling crime might be particularly important in judging whether a particular policing venture is likely to support democracy.

A fourth mechanism could be that policing could support democracy by enhancing the credibility of government as an effective agency, as a powerful agency, and most important, as a fair and equitable agency. That would mean that policing would be successful largely by building credibility in government.

The last mechanism I could think of—the fifth—is that the way we do policing might affect our success in engaging citizens in an experience that taught them democratic values. That experience could be in operation as an offender, victim, or witness, or it could be in some oversight of the police. If citizens have those kinds of experiences, that might be conducive to constructing a political culture supporting democracy.

It seemed to me that Dave's [Bayley] point when he was urging caution about introducing centralized systems was that we may want to try to introduce systems that have a kind of recurrent resistance to potential abuse. That is a downward-looking system, as I understand his argument, drawing its strength locally, and it has a peculiar kind of resistance to manipulating undemocratic ways. Not that it has to be foolproof, but the general objective would be to introduce or suggest systems with mechanisms that we believe are particularly resistant to totalitarian regimes.

Comment from Jeremy Travis. I would also add that we can support democracy by showing that no one is allowed to steal from the state. Nobody should be allowed to use the state for his or her own private purposes.

Response from Mark Moore. I think that is an important point. I meant to include that idea when we discussed being fair. We would be successful by eliminating corruption both within the police and other agencies of government as well as among politicians.

I have two last things to discuss. One is the rules and instruments of engagement. Our basic notion here is that we ought to apply [David] Bayley's principles for the next generation as long as he has a chance to think about it. It did seem fair to state that we faced a very tough strategic problem, in terms of our operational capacity, which has to do with tension we face (described quite well by the ICITAP people) between moving quickly in a situation, interacting effectively with U.S. and other military operations when they are still on site, and providing enough resources and staying long enough to have an effect. Again the question is about whether the U.S. Government is really prepared to act quickly, interact effectively with its own military, supply enough resources, stay long enough, and be flexible enough to actually produce a result. By all accounts it takes us 5 or 7 years to get a strong police organization formed in some democracies. Maybe we should be doing this for many reasons other than building democracies.

My last point concerns how to make further intellectual progress on the basis of this start. I think it is important to recognize that in any situation we enter, learning accompanies doing. We are not going to have the luxury of standing back, learning, and then doing. We are going to have to learn *while* we do. We ought to organize ourselves to learn while we are doing, which I think means documenting as effectively as we can our activities and their effects and giving ourselves many chances to get together and talk about our thoughts on the meaning of a particular experience. A partnership between academics and practitioners would be a crucial element. The particular new piece of grist that we need for this would be case studies that accurately describe all such interventions we have made so far. These studies can be used as the basis for understanding what seems to have worked and what hasn't. In any event, the cases will help us understand and describe the situations we are talking about in more concrete detail.