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Police Torture and the Real Militarization of Society

By Steve Martinot
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The Structure of Obedience

Consider the following scenario. A police officer tells a person to stay in one place, or to sit down, or to lie down on the ground face down. The person starts to walk away, and gets arrested. Though that may be a brief journalistic description, it has enormous political ramifications.

Lets take a specific example, seen nationally in an officer's own lapel camera video. First, the journalistic version: a pregnant woman who had just brought her daughter to school, and who happens to be black, is approached by a cop. He asks to see her ID. She objects, takes a single step away, and he grabs her and arrests her. Now, the real version: a cop approaches a black woman, after having been advised of a quarrel between her and a white woman, and ignoring the white woman. This black woman had just brought her daughter to school, and happens to be pregnant. He demands to see her ID. She says (correctly) she doesn't think she has to show it to him, and questions his having approached her in the first place. She says she will call a friend to affirm her rights. Ten seconds into her call, she takes a step away from him, and he reaches out and grabs her sleeve. She says "don't touch me," and pulls away. He then grabs her, throws her down on the ground with his knee in her back, ignoring the fact that she is pregnant, and handcuffs her behind her back. He arrests her. One step away was all it took.

The journalistic version focuses on the woman, who is approached for some reason. In the realistic version, the cop acts toward a black person rather than a white person, though this black person is just standing there. The fact that she is black is noticed as important, and the fact that she is pregnant is ignored as unimportant. She is an object and not a female human being. She has no right to object to him. The cop has created a situation for her to which he, the cop, then responds by throwing her to the ground and handcuffing her.

Even if a person is sitting in his/her car, the same scenario can unfold. The officer can tell the person to get out of the car so that he can throw the person to the ground and handcuff him/her. (This is what happened to Sandra Bland in Texas, who ended up dead while in custody.) The act of throwing a person to the ground, has become a routine response to the act of questioning an officer's approach. To say, hypothetically, "you have no reason to approach me," is to risk being thrown to the ground and handcuffed. This paradigm has occurred so often, all across the country, that it can not be considered anything but a routine trained response.

The next level of escalation above this routine seems to be to shoot the person when they actually move away. Hundreds of people, mostly black and brown, have been shot in the back by police for moving away from an arbitrary approach by police (e.g. Yvette Henderson, January, 2015, Emeryville).

There is a rhetorical expression that the police use to justify throwing a person to the ground and handcuffing them. "The subject became uncooperative." When a person walks away from the cop and gets shot, the rhetorical expression is: "I felt threatened." But there is a momentous assumption that the cop makes in either case. That is that he can play the role of a commanding officer, as if in a military institution, and the civilian on the street must respond with the obedience of a platoon member. Only in the military is the requirement for "cooperation" that absolute.

In the language of civil society, to throw a person to the ground is assault. To kneel on someone's back is torture. To handcuff a person in order to prohibit their autonomy and self-respect is a violation democratic ethics as well as of Constitutional due process. To shoot someone in the back is murder. Yet these criminal actions are now routine responses to a failure to obey. To

question or disagree with a police officer amounts to disobedience, and can be punished in the moment.

A cop in McKinney, TX, actually explained this paradigm (again on candid video). He had broken up a teenage pool party, and in a berserk fashion chased down all the black partiers he could catch. He threw a young woman to the ground twice to handcuff her, and pulled his gun on others. Then, suddenly returning to rational demeanor, he lectured two teenage black men whom he had told to sit on the ground, as if he was their housemother. “I personally told you to get on the ground, and stay there. What did you do when I walked away? You did just what everybody else did, which was illegal [indicating the others had fled]. You did it, and you got caught.” And he arrested them. He is not only assuming the position of a commanding officer over these others who are his “subordinates,” but he consciously regards his own words as law.

Civil society is not a military organization. We have not been enlisted or inducted into one, and to so consider us is wholly inimical to any democratic ethics. Yet in Nebraska, there is a law that allows each citizen only five second to obey a police command and not be subject to arrest. In other words, legislatures and courts have ratified this regimentation of civilians, rendering us platoon members on pain of prison. The jail house may say “free society” on the door, but it is still a jail house.

The Militarization of the Police

The issue of police militarization has become a general concern throughout the country. Police departments receive military weaponry and surveillance technology from the federal government, as if preparing for war. But this weaponry is like the rhetorical expressions the police use to explain their behavior. It is an exhibition designed to buttress (as well as to normalize) the legitimacy of the demand for absolute obedience. The weaponry is not for defense against criminals. It is to create a military atmosphere to facilitate general acceptance of that demand. The regimentation of the people is the real content of police militarization. Yvette Henderson was shot and killed by the Emeryville police using military assault rifles. She was shot in the back as she walked away from them. (The existence of assault rifles in civilian hands is a different question, and entails government complicity in allowing them unlicensed.)

Police motivations are most clearly expressed, however, in their requests for tasers. Tasers are not weapons of defense or war. They are instruments of torture. Police label them “less-lethal” substitutes for guns. But tasers would not be used against real weapons, which is the alleged role of guns. Tasers are actually substitutes for billyclubs or pepper spray, that are weaker forms of torture, with lesser reach. They are thus “more lethal” forms of exacting obedience. (When they label tasers “less-lethal” substitutes for guns, the police are admitting that the primary role of guns is also obedience and not defense.) The use of tasers has resulted in over 900 deaths in the last few years. What the taser better facilitates than other technologies is the expression of sadism by the cop using them – the many cases of people already handcuffed who were then tased repeatedly (often resulting in death). It more properly belongs to the category of instruments of restraint – such as hog-tying, body-wraps, spit masks, etc. – which also appeal to the sadistic mind.

Some people think that the police simply need to be better trained in the use of the taser. That is, they see the taser as a legitimate control instrument, and its sadistic use as a mistake. But the “misuse” of the taser is already implied in the militarist demand for absolute obedience.

The precedent for using torture to exact obedience lies deep in US history. In the slave system, for instance, a person was compelled to obey any order given by a white person under penalty of torture (painful punishment) or death (depending on the degree of resistance). The entire system depended on torturing the kidnapped Africans into absolute obedience at the onset of their enslavement. Torture was the technology of control. Any self-defense by the laborer was punishable by bodily damage or death. And just as the enslaved person had no legitimate defense against any white person’s aggressive whim (whether physical, sexual, or moral), so today a civilian (and especially a person of color) has no defense against whatever command a cop desires to give. That withholding of the right to refuse extends to various sexual demands on women by police officers, under the same paradigm of obedience.

The Machinery of Un-Civil-War

In these situations, where the cop initiates an approach for no extant or obvious legal reason (including arbitrary traffic stops), the cop is acting purely on the basis of suspicion or desire (to harass). His impunity in doing so not only gives suspicion the power of law, it gives desire the power of command (a power nexus between regimentation and autocracy).

The legal mechanism underpinning this power is the victimless crime law. Victimless crime laws dispense with the need for a complainant. They give a cop the ability can act autonomously in deciding who to notice and what to use as “probable cause.” In other words, probable cause becomes arbitrary, a question of unilateral volition. The officer who stops someone on the street or in traffic needs only to say he was carrying on an “investigation.”

But now, because disobedience is illegal, “investigation” becomes a euphemism for a process of criminalization. Having stopped an individual, the cop has only to find a command to which the person will object as too humiliating, and charge disobedience.

From a civilian perspective, the ability of the police to criminalize civilians at will is a criminal enterprise in itself. Worse than entrapment, it is a complete abandonment of every principle of justice. The cop himself becomes the situation in which a violation of law can be charged, and the person arrested. The entire procedure has nothing to do with law enforcement. It is more akin to racketeering.

Police public relations asks, “how are we to do our job if a person can simply walk away?” But the referent of this question has already distorted the category of “job,” shifting it from law enforcement to control. Suspicion, whose most prevalent form is racial profiling, is the opposite of law enforcement. In law enforcement, when a crime is committed, the police look for a suspect. In profiling, the police commit an act of suspicion, and look for a crime with which to charge the suspect. And the term “job” becomes a euphemism for impunity.

Within a democratic ethos, “investigation” would imply a different assumption. To ask a question implies that one will respect the answer, whatever it may be. The response could be silence, or walking away, and that would have to be respected. Not to do so is not to ask a question but to make a demand, and thus to withhold all respect. To demand certain answers is not to “investigate” but to carry on an inquisition, in which human personhood becomes irrelevant. The “investigation” and its questions become an instrument of control and regimentation, a withholding of respect as its basic assumption. However, once control and obedience become primary, all legitimate purpose (such as investigation) becomes mere pretense.

The Insecurity of Security

This suggests that there is an institutional insecurity that seeks to cover itself through social control, for which individual interactions with the police are the means. Indeed, with their command position over people, the cops act out this insecurity by criminalizing individuals in advance. No legal principle need be involved. There is only the militarist principle. When the pregnant woman steps away from the cop, she is breaking no law. To force her to ground and handcuff her is far from anything intended by the principle of due process in the Constitution. The Constitution provided for law enforcement, but not for police impunity. When police shoot a fleeing subject and claim they are acting in self-defense (i.e. threatened), it is not their person but the command and control principle that is threatened. To defend that control through assault or murderous action against a disobedient person implies that the cop’s own identity is wholly immersed in its paradigm. There is nothing psychological about this. Self-worth or insecurity is not the issue. There is only the military ethic of power, imposed on civil society through an assumption of impunity. It is the ethos of democracy, of human self-respect, that is the threat.

We have already suggested that slavery and its nexus of torture and obedience is a precedent for this mode of police behavior. The prison system is another, of course. Prison totally institutionalizes obedience. But the use of the paradigm of regimentation in civil society is responsible for that the US prison system having become the largest in the world. With 5% of the world’s population, its 2.5 million prisoners constitute 25% of the world’s total. Insofar as 70% of all prisoners are there for victimless crimes, this prison population testifies to the police having generalized their project of creating situations in which to criminalize people. Insofar as 75% of US prisoners are people of color, the primary form of criminalization is racial profiling.

And that points to the real institutional insecurity of the US, the weakness and fragility of white supremacy – which had been shown by the civil rights movements themselves. When social institutions require control and obedience, it is not only to protect cultural hegemony, but rather an admission that the foundation of that hegemony must not be questioned, because it is illegitimate, an institutional violation of social ethics and constitutionality.

The primary violation is then the structural inversion whereby the prison becomes the source of legality (legalism), manifest in society as police regimentation of the populace.

Conclusion

What rights can we still say we have, if we find ourselves trapped in a military structure? A person has the right to remain silent if arrested, but one does not have the right to remain silent if approached by the police on the street with the demand that one respond. That would constitute being “uncooperative.” Neither does one have the right to protect one’s property from the police. Private houses can be invaded on “suspicion,” and property confiscated as asset forfeiture. And the police who do this are insulated, hermetic, accountable only to themselves under the Patrolman’s Bill of Rights. They are immune from oversight.

This insularity, comparable to the military, informs what “doing their job” really means. Its concatenation of regimentation and impunity, of militarism and social supremacy, testifies to its white supremacy in content, and its insecurity in form. In short, the parentage of white supremacy in slavery has never been abjured. It remains in the Constitution, in the 13th amendment, which outlaws slavery everywhere except in prisons. To the extent the prison now becomes the source of social order and law in civil society beyond its prison walls, it embodies the technology of that supremacy, extended through police regimentation of society.

If the Constitution no longer protects people against this confluence of torture and regimentation, then the Constitution has become a dead letter.