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## The State, a Police Matter? What the Work of Internal Police Oversight Agencies Teaches Us about the State

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**Abstract.** The stateness of the police institution is often assumed by social scientists. This article attempts to show that making that stateness uncertain may contribute to a renewal of the sociology of the State. Based on a fieldwork led on a French police internal affairs device, this article shows that its investigations concerning acts of violence and acts of what we will call “misuse of police authority” uncover the boundaries of *police discretion*. The analysis of the distribution of sanctions by police internal affairs units permits the author to explore a sociology of *trials in the State*, that is to say of moments in which police stateness is experienced.

**Keywords.** Police, State, Pragmatic Sociology, Violence, Internal Affairs.

### INTRODUCTION

This article addresses the equivocal nature of sociology whenever it deals with the police and the state. On the one hand, sociology seems to posit the existence of a naturalized link between the former and the latter – in which case it focuses only on the form that this link can take<sup>1</sup>. On the other hand, many ethnographic studies of policing have largely established the autonomy of routine police practices – in which case the figure of the state is secondary, if not superfluous, in the description and the analysis. This apparent contradiction could be attributed to a mere sociological “lens effect” (monographs are only able to yield isolated findings) or to specific institutional contexts (many studies of police patrols have been carried out in the United States, so it makes sense that the figure of the state is incidental to them since US police forces’ legitimacy is independent of the federal government). Yet this would mean ignoring the unique nature of the link between the state and the police, which I aim to explore in this article. I will argue that there are compelling empirical reasons for dissociating police activity from the figure of the state, and that the idea that the police is completely separate from the state cannot easily be dismissed. But I will then show that it is possible to

<sup>1</sup> As is the case with the best ethnographic studies of policing, from W. Westley’s pioneering book, *Violence and the Police*, (1970), to D. Monjardet’s seminal book on the French sociology of the police, *Ce que fait la police*, (1996).

propose a pragmatic approach to the relation between the state and the police – an approach that, while mindful of the implications of the empirical findings of the sociology of policing, remains attentive to the perspective of a sociology of the “stateness”<sup>2</sup> of the police. Accordingly, this article aims to contribute to the sociology of state tests<sup>3</sup> (*sociologie des épreuves d’État*) by examining the conditions in which the “stateness” of the police becomes explicit.

In France, the National Police is a so-called state police force. Its personnel depend on a general directorate with national jurisdiction. This centralized structure results in particular from a process of nationalization of police forces initiated in 1941, which no republican government has since wanted to reverse. This historical process could help understand why the social sciences insist on establishing a quasi-natural link between the state and the police. However, such contextualization would certainly apply to France, but not to the United States or the United Kingdom, even though the question of the link between the police and the state is posed in similar terms there. In fact, this contextualization is missing another key element, which M. Weber included in his definition of the state<sup>4</sup>: to ensure that it has the monopoly of the legitimate use of violence whenever its regulations are enforced, the state entrusted various institutions – in particular the police – with the use of force in circumstances that must guarantee the legitimacy of this use. Historical explanations and theoretical totalization may thus suffice to explain why the social sciences tend to identify the police with the state, so much so that their dissociation may be seen as an anomaly.

Many studies on the police institution are based on the principle of an identity between the police and the state. This intrinsic dependence of the police on the state can take various forms depending on the approach adopted. The most common approach consists in referring to the police as a state agency, as if the transitivity from the one to the other were obvious. It is based on historical arguments, as the emergence of modern police forces coincided with the state’s desire to control its population and protect its territory<sup>5</sup>. The governmentalization and later the institutionalization of police agencies within the state naturalized the identity between the police and the state, which no longer needed to be questioned. Moreover, the study of a certain number of historical configurations has shown that, in certain situations, the police institution served purely as a tool for

enforcing the decisions of the political power, whether it executed direct orders<sup>6</sup> or was given free rein more or less explicitly<sup>7</sup>. Another, more radical approach, which corresponds to J.-P. Brodeur’s theory of *instrumentality*, sees the police as the armed wing of the state. Widely adopted by the Marxist critique of the police, it has led to studies viewing the police as “a relatively inert instrument, which comes to life to mechanically execute the orders of the state, which in turn serves the class interests it is appointed to defend”<sup>8</sup> [Translation ours]. The idea of instrumentality therefore applies to situations where policing missions are carried out by officers for the purpose of upholding the political order rather than ensuring public security and fighting crime. All of these studies form a continuum, along which one can place most cases, situations, and configurations analyzed by the sociology of the police.

On the other hand, the theory of *insularity* sees the police as a “state within the state,” so to speak. In fact, this approach aims to show that, being able to escape any political control<sup>9</sup>, the police acts out of self-interest, using its own means, to achieve its own ends<sup>10</sup>. The theory of police autonomy is based primarily on the existence of professional standards competing with rules that are intended to regulate police activity and that may vary from one unit or mission to another (police units and missions being quite diversified in contemporary police institutions). The numerous ethnographic studies of daily police work thus seem to rule out the indefectibility of the organic link between the police and the state. They emphasize the great autonomy of law enforcement officers throughout their operations, as they decide in which situations they should intervene, how to approach them, and so on<sup>11</sup>. Actually, these studies hardly need the figure of the state to describe and explain police activity. Likewise, research on police unions has highlighted their ability to interfere with the formal organization of the institution, sometimes successfully challenging it<sup>12</sup>. These studies confirm the

<sup>6</sup> As was the case with the Vichy Regime, see P. Mann (1994, 436).

<sup>7</sup> As was the case with the Parisian police when confronting Algerians between 1944 and 1962. E. Blanchard’s thesis is more subtle than this might suggest. However, the author clearly demonstrates that excessive use of force by the police did not result from internal misconduct; rather, it was facilitated – if not encouraged – by police and political authorities (Blanchard 2011). For a more debatable systematization of the relation between the police and political authorities, see A. Dewerpe (2006).

<sup>8</sup> J.-P. Brodeur (1991 [1984], 320).

<sup>9</sup> P. Mann (1994, 436).

<sup>10</sup> “The police apparatus is seen as an autonomous body that successfully resists external constraints to further its own interests” [Translation ours] (J.-P. Brodeur 1991 [1984], 320).

<sup>11</sup> See in particular J. van Maanen, P. Manning (1978).

<sup>12</sup> D. Monjardet (1993, 61-82); C. Journès (1998, 239-257); J.-L. Loubet

<sup>2</sup> D. Linhardt (2009).

<sup>3</sup> See also B. Karsenti, D. Linhardt (2018).

<sup>4</sup> M. Weber (1995 [1920], 97).

<sup>5</sup> See for instance A. Williams, (1979).

idea that the institution creates its own rules and even informal hierarchies. The sociology of policing could thus almost do without the state. It could become part of what is known as the pluralist approach to social groups, which, in the United States, has sought to show that the tutelary albeit ghostly figure of the state was needed to describe society<sup>13</sup>. More recently, many US political scientists have explored the possibility of doing away with the fiction of the state for good<sup>14</sup>. Researchers seeking to develop a sociology of the police without the state could draw significant theoretical and epistemological benefits from this endeavor.

As a result, the understanding of the relation between the police and the state is bounded by two perspectives that, while not antithetical since each deals with specific historical and empirical configurations, are puzzling when considered together. On the one hand, some studies see the identity between the police and the state as natural and thus can be arranged along a continuum depending on how intense or elastic they consider this link to be. On the other hand, a number of empirical studies of policing do without the state and view the police as a social autonomous group.

This disagreement is facilitated by the empirical evanescence of the state. The latter poses indeed a fundamental problem for empirical sciences, as its “sociological locus”<sup>15</sup> seems impossible to find. Obviously, the sociology of the state has addressed this paradox, suggesting several possible ways to resolve it. One possible solution has been provided by the tools of the sociology of tests (*sociologie des épreuves*)<sup>16</sup>. This line of research has sought to put the state to the test, in the plurality of its forms of existence, as a monument and as a process, as a material entity and as an idea<sup>17</sup>, through situations of controversy the state is involved in *as such*, that is, through tests of the state (*épreuves d’État*)<sup>18</sup>. While the empirical data this article is based on does not rely on historic controversies over the nature of the state, it nevertheless includes numerous tests *within* the state, that is, instances where the link between the police and the

state becomes visible, problematic, and can therefore be describable.

Of course, this is not to say that the police is not a state institution – it would be pointless, if not outright absurd, to do so. I simply propose not taking the link between the state and the police for granted, as this makes the following two operations possible. First, not predefining the institutional, political, or social boundaries of the state and the police allows us to examine how they form and crystallize in the course of the tests they subject themselves to or are subjected to. Second, introducing a methodological uncertainty about the link between the police and the state allows us to argue that the state is not necessarily put to the test (*mis à l’épreuve*) whenever the police is – an additional operation is required for this to be the case. Yet the obvious “stateness” of the police precludes this argument from being taken seriously: if the police is challenged, so is the state *in one way or another*. I argue that this *way* of challenging the state requires an additional operation, which puts the state – as well as the police – to the test.

As previously stated, in the case of the sociology of the state, finding a locus for observation and experimentation is difficult. While routine police practices are informed by organizational requirements and constraints<sup>19</sup> and have little or nothing to do with the state, other police operations seem to link the police and the state more directly. Since “whatever resists trials is real,”<sup>20</sup> as Bruno Latour says, we must turn to empirical situations where the link between the police and the state resists. In doing so, the aim is not to settle the false binary between the theories of insularity and instrumentality, but to solve the dilemma identified earlier: how can we empirically establish the “stateness” of the police institution – which underlies many sociological studies on the police, as well as Weber’s definition of the state – while also taking seriously the fact that daily police activity is not the direct result of state orders?

From this perspective, internal oversight agencies of the French National Police form appropriate fields of observation. As sites that receive complaints filed against officers, they allow us to observe tests of police behavior, but also – as we shall see – tests of the police as a body authorized to use force, and consequently, of the state<sup>21</sup>.

del Bayle (1999, 435-445).

<sup>13</sup> For an introduction to the pluralist approach to the state and the reasons why it failed to show that one could forgo the figure of the state, see D. Linhardt (2010, 295-330).

<sup>14</sup> For an interdisciplinary introduction to these studies, see D. Linhardt, C. Moreau de Bellaing (2005, 268-298).

<sup>15</sup> D. Linhardt (2009).

<sup>16</sup> For more on the notion of test, see L. Boltanski (1990 [*Love and Justice as Competences: Three Essays on the Sociology of Action*, Cambridge and Malden, Polity Press, 2012]); B. Latour (2001 [1984] [*The Pasteurization of France*, Cambridge and London, Harvard University Press, 1993]).

<sup>17</sup> C. Moreau de Bellaing (2006, 51-58).

<sup>18</sup> D. Linhardt (2004).

<sup>19</sup> While studies on police patrols in France, the US, Canada, and elsewhere have shown that policing is primarily guided by goals defined by patrol officers, the introduction of devices for quantifying police activity, such as Compstat, seems to have started to change practices. See E. Didier (2011a et 2011b: <http://champpenal.revues.org/7971>).

<sup>20</sup> B. Latour (2001 [1984], 244 [*The Pasteurization of France*, Cambridge and London, Harvard University Press, 1993, 158]).

<sup>21</sup> The fact that the state is usually considered a “macroactor” does not mean in any way (quite the contrary) that, as such, it cannot be tested

This article is therefore based on an ethnographic study of an Internal Affairs unit: the General Inspectorate of the Services [*Inspection générale des services*, abbreviated IGS]. The IGS handled allegations of police deviance in Paris and its inner suburbs until 2013<sup>22</sup>. Observing the daily activity of an internal oversight body that monitors an institution authorized to use force makes it possible to put to the test Weber's definition of the state, that is, to view it as a starting point that needs to be tested, rather than as a result describing a solidified institutional situation. Thus, focusing on the day-to-day work of an agency investigating what constitutes the legitimacy of policing allows us to explain how the link between the police and the state is being discussed, questioned, modified, or consolidated. In this respect, cases investigated by the IGS can constitute *tests within the state*.

The sociological treatment of the issue of internal police oversight has resulted in a dichotomy that at first appears similar to the instrumentality/insularity one. On the one hand, a certain number of studies see Internal Affairs units as auditing bodies (*instances d'apurement*). They view internal police oversight as the ultimate means of regulating the institution within a state governed by the rule of law, which must guarantee the accountability and efficiency of its administration and, above all, of the police. Internal oversight thus contributes to protecting civil liberties "from the risks of misconduct, abuse of power, and unlawful violence"<sup>23</sup> [Translation ours]. This perspective highlights the comparative advantage that IGS investigators have as officers who had a career in police precincts before working for the IGS and who, as a result, are formally, practically, and intuitively well versed in police techniques. They are familiar with both official regulations and the informal ways of handling daily police work (unofficial codifications, work techniques, "secrets," "tricks," and other arrangements). These studies therefore consider internal oversight to be the best option for guaranteeing effective monitoring of police activity and, consequently, efficient power and counterpower mechanisms in a democracy.

On the other hand, an entire body of academic literature has shifted its focus from the activity of internal oversight to its effects in terms of legitimation of the state. Pierre Bourdieu's sociogenesis of the state and its bureaucracy thus highlights the emergence of a "true public order" based on internal oversight<sup>24</sup>. The imple-

mentation of bureaucratic services of oversight is therefore part of a double dynamic: "monitoring oneself in order to better exert control"<sup>25</sup> (*se contrôler pour mieux contrôler*) [Translation ours]. The forms of internal oversight that emerged in Europe in the 18<sup>th</sup> and 19<sup>th</sup> centuries were part of a strategic arsenal that served not only as a means of justifying the bureaucracy, but also as a condition for its own expansion. Legitimacy has thus become legitimation<sup>26</sup>: "oversight of the bureaucracy, rather than acting as a limit on the power of the bureaucracy, is its very foundation"<sup>27</sup>. Contrary to what liberal theories of balance of powers suggest, internal oversight does not restrict the bureaucracy's power, but constitutes the principle of state functioning, thereby providing the state with a base and guaranteeing its future functioning – without which it *cannot* survive.

There is thus a contrast that seems at first similar to that characterizing the relation between the police and the state: on the one hand, internal oversight is seen as a form of (self)regulation of the institution; on the other hand, it is fully *embedded* in the state since it is its very foundation. There is a major difference, though. When internal oversight is viewed as auditing, the state is implicitly present, as a "state governed by the rule of law." Unlike the ethnographic studies of policing that conclude that routine police activity *per se* does not involve the state and that an additional operation is required for the figure of the state to appear, I will show that empirically examining the work of the IGS gives us more direct access to the link between the police and the state.

This article is based on empirical data collected during an ethnographic study conducted between 2003 and 2004 at the IGS, the Internal Affairs unit of the French National Police, which has jurisdiction over Paris and the three *départements* of the inner suburbs<sup>28</sup>. I had access to the annual reports issued by the Operational Management and Training Bureau [*Bureau de gestion opérationnelle et de formation*], which analyzes the complaints filed each year. I examined more than 60 disciplinary cases corresponding to the activity of the unit I had been assigned to for three months. I was allowed to attend some twenty hearings of both complainants and accused police officers. Finally, I had access to all the reports of disciplinary proceedings held over seven years<sup>29</sup>.

by situations as supposedly isolated as a case brought before an internal oversight body. See M. Callon, B. Latour (2006, 11-32).

<sup>22</sup> It has since become the Paris branch of the General Inspectorate of the National Police [*Inspection générale de la police nationale*].

<sup>23</sup> P. Roux (1988, 31). See also R. Kessous (1976, 193-198); R. Le Doussal (1993, 49-56); C. Vigouroux (1996, 743-760); B. Froment (2002, 43-56).

<sup>24</sup> P. Bourdieu (1997, 67).

<sup>25</sup> P. Bourdieu, O. Christin, P.-E. Will (2000, 7).

<sup>26</sup> For more on this issue, see B. Latour (2002, 152 *et seq.*) and O. Favereau (2001 [1999], 298 *et seq.*).

<sup>27</sup> P. Bourdieu, O. Christin, P.-E. Will (2000, 8).

<sup>28</sup> For a more in-depth presentation of the IGS, see C. Moreau de Bellaing (2009, 119-141).

<sup>29</sup> For more on this empirical data, C. Moreau de Bellaing (2011: <http://>



Whereas the sociology of police deviance is still in its infancy in France, this is not the case in Anglo-Saxon countries, where an impressive body of academic literature provides several categories of police deviance. Essentially, the Anglo-Saxon sociology of police deviance identifies three types of misbehavior: (1) *police crimes*, that is, non-political offenses of varying degrees of seriousness: shoplifting, drug trafficking, rape...) committed by police officers; (2) *police misconduct*, that is, either minor professional misconduct (absenteeism, drunkenness on duty, insubordination) or inappropriate behavior toward the public (rudeness, refusal to take a complaint...); (3) deviance related to police discretion, that is, this gray area in police officers' relationship to the law<sup>30</sup>. The third category deserves special attention. "Police discretion" means that officers are given some legal leeway to carry out their duties. This applies to several kinds of situations: officers may select which laws to enforce depending on the urgency and requirements of the situation, or professional imperatives; they may improvise, as in many other occupations<sup>31</sup>; they may use the law as a resource to achieve their ends<sup>32</sup>; and finally they may momentarily misuse the powers vested in law enforcement agents<sup>33</sup>. The sociology of the police has largely documented the fact that the police mandate<sup>34</sup> entails a certain degree of legal flexibility, with officers receiving what J.-P. Brodeur calls "gray checks" (*chèques en gris*)<sup>35</sup>.

The first two categories, *police crimes* and *police misconduct*, involve auditing work on the part of the IGS. The latter is tasked with casting out "bad apples"<sup>36</sup> who broke the law or calling to order officers guilty of professional misconduct and inappropriate behavior toward superiors and the public. In contrast, deviance linked to police discretion is more difficult to grasp<sup>37</sup>. Indeed, police discre-

tion *per se* may be unlawful, if not deviant. Drawing on J.-P. Brodeur's definition of policing<sup>38</sup>, we can consider that police discretion encompasses all the practices and techniques that would be punishable by law if they were not carried out by police officers. IGS inquiries into deviance related to abuse of police discretion involve testing the boundaries of the police mandate or at least questioning the issuers and recipients of what J.-P. Brodeur calls "gray checks." I will focus in particular on police discretion, from the perspective of a pragmatic approach to tests *within* the state. Since police discretion encompasses all police behaviors, attitudes, techniques, and practices that test the boundaries of the mandate entrusted to the police by the state, analyzing how an Internal Affairs unit of the French National Police handles police discretion provides a unique empirical access point to outline this very mandate and, consequently, grasp the nature of the link between the police and the state.

To do so, I analyzed 303 cases involving police officers brought before disciplinary boards, which represents seven years of activity at the Internal Affairs unit where I carried out my observations. I proceeded to sort the cases quantitatively, based on the allegations filed and the severity of the sanctions imposed by the disciplinary boards<sup>39</sup>. Of the 303 cases reviewed from 1993 to 1999 by the unit where I conducted field research, only 245 are considered in this article for methodological reasons<sup>40</sup>. Since complaints may contain several allegations, 331 distinct allegations were identified. Table 1 breaks them down by category.

These ten categories need some clarification. As the name suggests, the "Violence and death threats" category includes all acts of violence and death threats, whether committed on or off duty. The "Professional

www.laviedesidees.fr/Enqueter-sur-la-violence-legitime.html ).

<sup>30</sup> For more on these various distinctions, see in particular H. Goldstein (1975); V. E. Kappeler, R. D. Sluder, G. P. Alpert (1998); K. M. Lersch (2002); M. Punch (2009).

<sup>31</sup> F. Chateauraynaud (1997, 101-127).

<sup>32</sup> E. Bittner (2001, 285-305). See also N. Dodier (1991, 189-203).

<sup>33</sup> For more on the notion of police discretion, see K. Culp Davis (1975); G.H. Williams (1984); R. Reiner (1996).

<sup>34</sup> J. van Maanen, P. Manning (1978); P. Manning (2003).

<sup>35</sup> "On the one hand, the signature and the amounts granted are imprecise enough to provide the minister issuing it [the check] with a plausible reason for denying later on what has actually been authorized. On the other hand, they are still legible enough to allow the policeman receiving the check a certain leeway that he too can plausibly claim has been explicitly given to him" (J.-P. Brodeur 1991 [1984], 328).

<sup>36</sup> See D. Monjardet (1998, 78).

<sup>37</sup> I will not discuss in this article the issue of whether/how the notion of police discretion can be applied to France. The social, legal, and political processes that empower the police are certainly quite different in the United States and in France. Nevertheless, in both cases, the police has some leeway, which is left to the discretion of its agents and whose shifting boundaries are constantly being redefined. Thus, for the sake of

simplicity, I will use the notion of police discretion to analyze French police.

<sup>38</sup> J.-P. Brodeur (2010).

<sup>39</sup> As a specialist in the police institution, Dominique Monjardet (1998, 78) considers that "the severity of the sanctions is strictly in proportion to the relative importance of discipline in the administration of the various units". This explains why certain units characterized by strict discipline, such as the Republican Security Companies [*Companies Républicaines de Sécurité*, abbreviated CRS], are underrepresented. The central directorate of the CRS is the one that imposes the most direct sanctions on its officers – that is, sanctions that do not involve the IGS or the IGPN, but that are directly imposed by the concerned directorate.

<sup>40</sup> Of these 303 cases, thirteen were duplicates, pertaining to cases dealt with elsewhere; twelve reports were missing; seven proceedings were halted because the accused officers either resigned or died (from illness or by suicide); sixteen other officers were transferred or removed from the ranks (such measures are not taken by disciplinary boards); three cases were still pending, as the proceedings were not completed when I collected the data; and finally five other proceedings were halted before the officers were brought before the disciplinary boards (case dropped, end of the training period, etc.). This leaves us with 245 cases that actually led to disciplinary proceedings.

**Table 1.** Allegations filed from 1993 to 1999, by category

Allegations	N=
Misuse of police authority	62
Violence and death threats	60
Professional misconduct	37
Miscellaneous	36
Driving under the influence, drunk-driving traffic accidents, and other driving offenses	29
Theft, fraud, vandalism, debt	28
(Unauthorized) off-duty employment	25
Public intoxication	24
Serious criminal offenses	17
Drug-related offenses	13
Total	331

Source: Reports by the disciplinary boards of the French National Police (1993-1999)

misconduct” category refers to officers’ misbehavior toward the institution (conflicts with superiors<sup>41</sup>, unauthorized absences, indiscipline<sup>42</sup>, professional misconduct during investigations<sup>43</sup>, negligence<sup>44</sup>, poor leadership<sup>45</sup>, and sending anonymous letters<sup>46</sup>). The “Miscel-

<sup>41</sup> Like Officer Coridon, who reported a plot orchestrated by his supervisor against him.

<sup>42</sup> Like Officer Plestan and Officer Roux, who, while on night patrol in the context of the *Vigipirate* Plan (national anti-terrorist plan), offered beers and cigarettes to soldiers, carried out abusive identity checks, and made inappropriate comments to a passer-by.

<sup>43</sup> Like Officer Bonnard, who, after being informed that a crime had been committed, did not report the perpetrator, thus preventing the opening of a judicial inquiry (he was dismissed).

<sup>44</sup> Like those of Inspector Veron, who personally kept various items that had been placed under seal as part of judicial proceedings.

<sup>45</sup> Which resulted in pressure exerted on the officers under the authority of the accused policeman.

<sup>46</sup> The other allegations were filed only once: use of a police vehicle for personal convenience, failure to assist a person in danger, concealment of one’s criminal record, false declaration of loss of professional documents, negligence, racist comments while on duty, on-duty drunkenness, using an official police driver to pay a private visit to a policewoman while on duty, sending anonymous letters to superiors/colleagues, attempt to conceal an accident, photocopying other people’s private correspondence, being photographed in a police vehicle with naked women, concealment of information resulting in a police officer’s being held in custody, serious false accusations of misuse of police funds, slanderous comments in a professional exam paper, false statements to supervi-

laneous” category refers to a wide variety of off-duty incidents. Illegal possession of weapons is the most common allegation in this category (N=10). It is followed by insults of all kinds, including racist and anti-Semitic ones. Several complaints were filed for falsification of documents (train or subway passes, checks, official documents required for remarriage). Public indecency forms a fourth subset of the “Miscellaneous” category, ranging from public nudity (an officer was stopped and searched along with other naturists in a park in the Paris suburbs) to exhibitionism<sup>47</sup>. Finally, some complaints involve officers associating with prostitutes or individuals known to the police, or an officer apprehended while driving around with friends in a working-class neighborhood in search of confrontation. The persons questioned were all members of the French and European Nationalist Party, a neo-Nazi party that had been dissolved shortly before the incident<sup>48</sup>.

The “Driving under the influence, drunk-driving traffic accidents, and other driving offenses”<sup>49</sup> and “(Unauthorized) off-duty employment” categories speak for themselves. The “Theft, fraud, vandalism, debt” category includes fraudulent use of bank accounts, debt, bad checks, deliberate destruction or damage of property following family or private disputes, and theft (jewelry, car, whisky bottle, meal vouchers, computer or video equipment, police car, etc.) The “Public intoxication” category refers to instances where police officers were drunk in public and acted disruptively: disorderly conduct, fainting, resisting arrest. The “Serious criminal offenses” category refers to criminal acts of high seriousness committed by police officers: procuring, armed robbery, murder, rape, and sexual assault. The “Drug-related offenses” category refers to violations of drug control laws, from drug use to participation in drug trafficking.

sors, concealment of ongoing legal proceedings against oneself, threats, insults, and aggressiveness toward IGS investigators.

<sup>47</sup> For instance, near a road where two elderly women were standing, Officer Vasco pulled down his sweatpants and masturbated. He then drove up to them and offered them to “have some fun together.” As for Officer Lemoine, he received a twelve-month temporary exclusion sentence (6 months of which being a suspended temporary exclusion sentence) for exposing himself and masturbating in front of his apartment window in full view of a female neighbor.

<sup>48</sup> The following allegations were filed only once: private dispute requiring police intervention, unauthorized visit to a person in custody and aggressiveness toward the officers present, chasing one’s ex-husband into his police station, criticizing superiors in a demonstration, deflagration at one’s home, home invasion, suspicious behavior, breach of legal supervision.

<sup>49</sup> Whether the drunk-driving traffic accidents resulted in material damage, bodily harm, or – in one instance – death. I also included one motor vehicle accident that involved several traffic violations, although the complaint filed did not specify whether the officer at fault was intoxicated.

**Table 2.** Allegations filed and decisions rendered by disciplinary boards (1993-1999)

	1 <sup>1</sup>	2	3	4	5	6	7	Total
Misuse of police authority	24	1	8	8	16	4	1	62
Violence and death treats	15	2	1	11	20	4	7	60
Professional misconduct	11	-	3	8	9	4	2	37
Miscellaneous	9	-	10	4	7	4	2	36
Driving under the influence, drunk-driving traffic accidents, and other driving offenses	4	1	4	6	12	2	-	29
Theft, fraud, vandalism, debt	14	-	4	2	3	3	2	28
(Unauthorized) off-duty employment	7	-	3	1	8	6	-	25
Public intoxication	3	-	5	3	8	4	1	24
Serious criminal offenses	16	-	1	-	-	-	-	17
Drug-related offenses	12	-	1	-	-	-	-	13
Total	115	4	40	43	83	31	15	331

Source: Reports by the disciplinary boards of the French National Police (1993-1999)

<sup>1</sup> The numbers correspond to the category of decisions made by the disciplinary boards.

This leaves us with the largest category, “Misuse of police authority,” which refers to instances where officers abuse their position for personal gain. First, officers may abuse their prerogatives to obtain advantages, such as this policeman who showed his police ID card in an attempt to secure a bank loan. Second, officers may abuse their powers for intimidation purposes, such as this policeman who unlawfully impounded a vehicle to recover a 7,000-franc debt, or this officer who, after mentioning that he was a policeman, made death threats to an individual living with his ex-partner. Third, misuse of police authority may include instances where officers offer false evidence of good character. For example, an officer invoked his status as a policeman to vouch for a detainee’s integrity. Fourth, theft facilitated by the fact that the accused is a member of law enforcement may be considered a form of misuse of police authority. For example, several parking enforcement officers were punished for regularly stealing coins from parking ticket machines in Paris. Likewise, an impounding agent was involuntarily retired after the IGS investigation established that she had been fraudulently using credit cards of individuals who had collected their vehicles. The last common instance of misuse of police authority is the falsification of police documents for personal gain: for example, an officer wrote a fake ticket for one of his friends (at their request) to substantiate their claim before the labor court that they were not present at their place of work on that specific date; another officer drew up a certificate on administration letterhead to accredit a training company for security guards<sup>50</sup>.

<sup>50</sup> Here is the full list: misuse of police prerogatives to obtain advantages,

In view of the allegations made to the disciplinary boards, seven types of decisions (of varying degrees of severity) can be identified: permanent severance of all ties with the administration (1<sup>st</sup> category)<sup>51</sup>, (rare) rank-related sanctions (2<sup>nd</sup> category)<sup>52</sup>, suspensions of more than twelve months (3<sup>rd</sup> category), suspensions of one month to twelve months (4<sup>th</sup> category), suspensions of less than one month (6<sup>th</sup> category), light punishments (6<sup>th</sup> category)<sup>53</sup>, and, finally, acquittals (*relaxes*) (7<sup>th</sup> category). Table 2 cross-references the allegations filed and the corresponding decisions.

Unfortunately, I will not be able to present the complete data set in this article. I will simply outline key findings that emerged from the analysis of this data, kindly asking the reader to refer to my doctoral dissertation (from which the data is derived) for further details<sup>54</sup>. First, instances of violence and misuse of police authority are the most prevalent allegations made to disciplinary boards, respectively accounting for 18.1% or

misuse of police powers to defraud, falsification of a certificate, abuse of power, theft facilitated by police duties, active and passive corruption, unauthorized issuance of police documents, misuse or theft of police documents, falsification of police documents, loss of police property, unauthorized wearing of decorations, false testimony, attempt to use the administration’s credit card to pay for fuel for a private vehicle, misuse of a service weapon, possession of two police ID cards, pressure exerted using police authority, issuance of unwarranted tickets, undue presentation of one’s police ID card, using one’s professional network to canvass police officers, telephone harassment mentioning one’s status as a police officer.

<sup>51</sup> Dismissal, permanent exclusion from the unit, termination of the training period, forced retirement.

<sup>52</sup> Lowering of rank, forced transfer, demotion.

<sup>53</sup> Official warning, official reprimand.

<sup>54</sup> C. Moreau de Bellaing (2006, 561-590).

18.7% of all allegations filed. The second finding concerns the severity of the sanctions imposed for incidents falling into these categories. In the case of misuse of police authority, the number of sanctions decreases with their severity: twenty-four instances of misuse of police authority led to permanent severance of ties all with the administration (more than 20% of all such sanctions), whereas only one resulted in an acquittal. As for acts of violence, they constitute only the third most common cause for permanent severance of all ties with the administration, but the most common allegation resulting in an acquittal or a suspension of one day to one year. I would like to highlight a third key finding (which derives from a refinement of Table 2): 71.7% of instances of violence that led to disciplinary proceedings concern alleged acts of violence committed *off duty* (violence against a partner, a wife, an ex-wife, a minor, a third party in the public space, a neighbor, etc.).

The “Violence” and “Misuse of police authority” categories are both of particular interest to us insofar as they involve deviance linked to police discretion. Let us first examine the case of acts of violence. As previously stated, the latter were mostly committed *off duty*. This is all the more interesting as 88.7% of the complaints filed for violence concern *on-duty* violence<sup>55</sup>. Why is it that reported acts of violence were mostly attributed to on-duty police officers, while violence actually leading to disciplinary proceedings was mostly committed *off duty*? Elsewhere, I have shown that the requirements of the investigation process partly explain the limited number of sanctions imposed for on-duty violence: information missing from complaints and initial proceedings, ambiguous medical certificates, scarce third-party testimonies<sup>56</sup>, difficulty in distinguishing between legitimate and illegitimate uses of force<sup>57</sup>. Furthermore, instances of unlawful violence, which are difficult to prove, tend to benefit from the presumption of innocence, in addition to a presumption of institutional and practical credibility, which leads IGS investigators to lend more credence to police officers’ versions of the disputed events in the absence of any tangible evidence of violence or cover-up. One may therefore think that private violence is less difficult to prove (since bruising cannot be attributed to the individual resisting arrest, and testimonies can be collected more easily). Critics may also point to the possible collusion between Internal Affairs units and the accused police officers when it comes to on-duty violence<sup>58</sup>.

While these various elements certainly help explain the discrepancy between reported on-duty violence and punished off-duty violence, they are still insufficient. An additional explanation is needed: off-duty violence is all the more likely to be punished as its unlawfulness cannot be disputed. In other words, private violence is punished not only because of the violence itself (which is punishable under criminal law), but also because off-duty violence committed by a police officer is unquestionably unlawful<sup>59</sup>. As a result, private violence can never fall within the purview of police discretion. Conversely, this also sheds light on the reasons why on-duty violence is rarely punished: given the fine line (or the one-too-many blows from a baton) that tends to separate legitimate uses of force from illegitimate violence (as long as it is not overly disproportionate), punishing on-duty violence would amount to jeopardizing the very principle of police discretion, which allows officers to use force to carry out their missions<sup>60</sup>.

The fact that sanctions are primarily imposed for *misuse of police authority* is also a means of protecting the principle of police discretion. This category includes instances where officers misuse objective distinctive to the police force for personal gain. Whether one considers that the primary task of the police institution is to enforce the law, to uphold public order, or to respond to a situation requiring immediate intervention, police equipment and accessories must never be “for the particular utility of those in whom [public force] is trusted” (Art. 12 Declaration of the Rights of Man and of the Citizen). All allegations that fall into the “Misuse of police authority” category refer to instances where police officers unduly used, mentioned, or displayed objects or powers – in other words, “things”<sup>61</sup> – that materially symbolize policing. Such “things” are public *par excellence*. During an identity check, one can ask to see the officer’s police ID cards to verify their identity and status as a member of law enforcement. Police officers’ service weapons are always visible in their belt holsters, which responds both to the need for speed in dangerous situations and to the need to publicly display the state’s ability to use force. The purpose of the uniform is not only to command respect and inspire a sense of tranquility, but also to show police officers’ daily work to the citizens. Officers’ powers are regulated by a series of procedures

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they do not completely dismiss it either, as a case might not have been handled with all the attention and care that it deserved.

<sup>59</sup> Using the vagueness of the practical conditions of the legitimate use of violence and the imprecision of its legal and judicial boundaries, the IGS tends to conclude – except for instances of extreme violence – that the violence is indeed legitimate, if only by default.

<sup>60</sup> E. Bittner (2001).

<sup>61</sup> As defined by Bruno Latour (2005, 4-31).

<sup>55</sup> C. Moreau de Bellaing (2009, 138).

<sup>56</sup> Insofar as police brutality is more likely to take place in face-to-face situations. F. Jobard (2002).

<sup>57</sup> *Ibid.*, p. 127-134.

<sup>58</sup> Although most cases that I examined do not substantiate this claim,



designed to ensure that police equipment and accessories cannot be misused to the detriment of the public or for personal gain. But these distinctive objects also contribute to police discretion; they are the concrete means that allow officers to use the powers granted to them by testing the boundaries of the law. In frequently imposing severe sanctions, police disciplinary bodies fight against the misuse of the objects that attest to the public nature of police activity, thus separating the right uses of police discretion from the wrong ones. Indeed, when distinctive police objects are instrumentalized and privatized, not only do they no longer fall within the purview of police discretion, but they also jeopardize it.

What implications for a sociology of tests *within* the state can we infer from these findings? Both misuse of police authority and off-duty violence are punished because they pose a threat to police discretion. But police discretion carries in its DNA (so to speak) the link between the police and the state. Paoli Napoli states that the police institution is primarily characterized by its ambivalent position at the crossroads of the rectitude of the law and the multiplicity of reality. It derives a specific power – which I refer to as police discretion – from this ambivalence and can only be monitored through its deviance<sup>62</sup>. Police discretion is therefore the locus where the link between the police and the state plays out; its existence is necessary in practice to guarantee what Weber captured in his definition of the state. Thus, the subversion or the uncontrolled – even worse, privatized – extension of police discretion may be problematic as it may cause controversy over the police and the state. In creating uncertainty about the legitimacy of both policing and the nature of the mandate entrusted to police forces, off-duty violence as well as misuse of police authority serve as tests during which the link between the police and the state becomes explicit and describable. Consequently, besides fighting crime and misconduct, the task of the IGS – and what distinguishes it from other investigation units – is to ensure that the form and scope of police discretion remain in keeping with what the police of a state can do without undermining its nature and, thereby, that of the state. In this respect, IGS investigations were not only police investigations, but also, inquiries, as defined by J. Dewey (1993 [1967], 169 *et seq.*), into the link between the police and the state, with complaints forming the sociological locus where the “stateness” of the police is put to the test.

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<sup>62</sup> Napoli (2003, 207 and 236).

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