



Police Response to Uncivil Anti-Police Protests

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Recent literature in political philosophy has argued that protesting against police brutality can permissibly involve uncivil conduct, including damage to property and confrontation with police officers. If this view is correct, how should the police respond to uncivil protestors? This paper challenges the prevailing view amongst criminologists and political philosophers alike, which holds that the police should respond forcefully to violent protestors in order restore order and peace. Instead, I argue that police should adopt a discerning approach which permits permissible forms of incivility while minimizing impermissible harm. This argument is grounded in protestors' moral rights to engage in uncivil conduct in response to systemic injustices and in the duties of police officers to assist them in carrying out their protest in permissible ways.



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On August the 9th 2014, a Saturday, at 12:02 p.m., in a street outside the Canfield Green Apartments complex in Ferguson, Missouri, officer Darren Wilson shot and killed 18-year-old Michael Brown during a police arrest. Brown's body was left lying in the hot Missouri sun for four hours – the time it took the forensics team to collect evidence from the scene. Many onlookers were upset by what they saw as yet another incident of a killing of an unarmed African American by police, followed by a delayed and disrespectful treatment of his body. As a crowd began to gather, officers at the scene called in a canine unit and, later, an armored vehicle, to keep onlookers at bay. But the presence of dogs and of police in riot gear only added to the onlookers' anger and agitation. Social media messages started spreading across town, urging people to gather at the site. By nightfall, the crowd had grown so large that the officers stationed there, fearing for their safety, decided to leave. Protestors remained in the area throughout the night, chanting against police brutality, lighting fires, and causing some low-level property damage.

The next morning, the St. Louis County Police released a laconic and unapologetic statement about the previous day's events. The view among its leadership was that, while few anti-police protests and gatherings were to be expected throughout the day, the situation was by and large under control. This was a profound "lack of understanding of the situation."¹ Throughout the day protests indeed remained fairly calm, but as night drew in, larger groups began to assemble in different locations around town. Their demonstrations grew more intense, with some participants setting fire to shops, attacking police vehicles, and throwing projectiles at officers. Looting was also reported. In response, the police deployed canine units and armored vehicles. Officers were given mixed messages from the chain of command about arrests procedures and the appropriate use of force, which led to bursts of police violence even against peaceful protestors. SWAT teams were also sent in, heavily deploying tear gas and other crowd control agents.

Such clashes between protestors and police continued over several days, consistently escalating after dark. Around the site where Brown was killed protestors,

¹ Institute for Intergovernmental Research 2015. p. 11.

“were throwing rocks, bottles, frozen bottles of water, Molotov cocktails, and other objects,” to the extent that the police decided to fully retreat from the area. Later, local residents complained they had been abandoned.² Meanwhile, demonstrations in other parts of town were also vocal and aggressive, and some participants looted and set fire to businesses. From their side, the police deployed armored vehicles, tear gas, bean bag rounds, and Stinger balls. The violence and clashes continued for several more nights and subsided only after the Governor called in the National Guard.

During the sixteen days and nights of protests, which later became known as “The Ferguson Uprising” or “The Ferguson Riots,” the police arrested 326 people. 39 police officers were injured. Dozens of civilians sustained minor injuries, though no serious injuries were reported. And there was widespread damage to property – from police vehicles and bus stations to shops and private residential units.

Public responses to the Ferguson protests were mixed. Many people wholly condemned those protestors who turned to violence and, because of this, defended the police’s decision to respond in force. President Obama, for example, stated in an address following the events that, “burning buildings, torching cars, destroying property, putting people at risk – that’s destructive and there’s no excuse for it. Those are criminal acts. And people should be prosecuted if they engage in criminal acts.”³ In contrast, many civil rights organizations argued that the violence was triggered by the police’s overly aggressive response to largely peaceful protestors and was mostly in self-defense. As the ACLU summary of the events stated:

[T]he predominately white local and county police responded to the largely peaceful protests in the overwhelmingly African-American community with a show of force that left Americans wondering whether they were watching events unfold on the streets of suburban St. Louis or on the streets of an authoritarian country. The police’s paramilitary tactics and mindset combined with the slow and selective release of information to smear Michael Brown have only served to enflame the situation.⁴

Recent scholarship in political philosophy has begun to explore the normative dimensions of uncivil and violent protests like those that erupted in Ferguson. As I will discuss in more detail later in the article, many voices in that literature reject the

² Ibid., p. 16.

³ <https://www.cnn.com/2014/11/25/politics/obama-holder-ferguson/index.html>.

⁴ <https://www.aclu.org/the-aclu-response-to-ferguson>.

view expressed in President Obama's statement. Instead, they argue that uncivil and destructive street protesting can be a permissible political strategy, especially when it responds to widespread practices of police brutality and discrimination against racial minorities. However, these views have not yet paid much attention to the question of the appropriate police response to uncivil protests. If it is the case that at least some of the incivility deployed by the Ferguson protestors was permissible, how should the police have responded? Did the police even have the moral right to respond in force? And if they did, how much force ought they have deployed, and to what end?

Protest policing has been the subject of much sociological research, and that scholarship has identified different models for responding to and controlling crowd behavior. Generally speaking, these accounts agree that best practice for protest policing should aim to minimize conflict and reduce violent acts against individuals, property and police.⁵ Furthermore, several studies suggest that the initial police response to protestors plays a dominant role in how a protest might develop. As the criminologists Mike King and David Waddington explain, "public order policing is not simply reactive," and, "can pre-empt and de-escalate potential disorder".⁶ Here it has been shown, rather conclusively, that an initial aggressive police response – especially one that does not distinguish between peaceful and uncivil protestors and where police appear in full riot gear (as they did in Ferguson from the early stages of the protest) – is likely to anger protestors and to lead to more intense confrontations.⁷ That said, experts of protest policing also agree that, once a protest *has* turned violent, a forceful response is necessary and appropriate in order to curtail property damage, protect lives, and restore order. As one author puts it, "once disorder breaks out, the only effective tactic... is the deployment of very large numbers of officers."⁸ Crucially, this "forceful control" view suggests that (once violence has erupted) police ought to respond with (necessary and proportionate) force even if the violence was triggered by the initial police response, and regardless of whether the protestors' cause is, essentially, just.

Harsh critics of the police, like those I cited earlier, are likely to reject the "forceful control" model. One version of this rejection suggests that violent anti-police protestors

⁵ Reicher et al. 2007, p. 403–404. For example, the assessment of police response to the Ferguson protests stated that police's duty is, "to protect people and property during mass demonstrations and protests" (Institute for Intergovernmental Research 2015. p. 125).

⁶ King and Waddington 2004, p. 119.

⁷ See, e.g.: Della Porta and Reicher 1988; Gorringer and Rosie 2011; Newburn 2016; Perez, Berg and Myers 2003. On the impact of riot gear on protestors see Becker, Hartwich and Radke (2025).

⁸ Gorringer and Rosie 2011, p. 3.

are merely responding to an aggressive and illegitimate police force, and that in the absence of police, or if the police were to be abolished, violent protesting would not have occurred anyway, or could be managed through community control.⁹ But even if we were to accept the necessity of police in societies as we know them (the view I take in this article), it may seem that if uncivil protesting is indeed a permissible political strategy, police ought not attempt to suppress it. Call this, “the duty to retreat” view (I will expand on this view in Section II).

In this article, I dispute both the “forceful control” and the “duty to retreat” views. Instead, I develop a middle position which I call the “discerning confrontation” model. According to this model, when police are dealing with uncivil protesting against police brutality, police may respond in force to protestors, but their response should not aim to gain control, reduce harm, or restore order. Rather, their response should aim to reduce *impermissible* harm, while allowing, to a large extent, more permissible forms of harmful incivility. My model entails, then, that the police’s appropriate response to uncivil protestors is partially determined by the cause of the protest. In other words, I challenge the assumption of police impartiality, which is commonly advocated by scholars and police practitioners.

Before moving on to the analysis, it is worth noting already that the model I advocate departs in important ways from two recent normative assessments of protest policing.¹⁰ The first assessment is offered by William Smith. Smith forcefully argues that citizens in democratic states have a right to civil disobedience (which on his view is part of citizens’ rights of political expression), and that, therefore, police ought not respond in force to protestors who engage in illegal yet *civil* protest.¹¹ Smith offers a persuasive defense of a constrained police response to street protests, yet he broadly agrees with the sociological accounts I mentioned above which recommend the deployment of force when the protest turns uncivil. As he writes, “if protesters intend to use physical force against persons, or engage in incendiary or vigorous damage to their property, the account does not defend a defeasible claim against preventive measures of law enforcement officers.”¹² My account differs, then, from his position.

⁹ For a representative example of this view see Táíwò (2020).

¹⁰ Political philosophy engagement with the normative dimensions of policing is still in fairly early stages of development. For two recent important contributions see Del Pozo (2020) and Monaghan (2023a).

¹¹ Smith 2012; 2018; cf. Del Pozo 2020, pP. 89–91.

¹² Smith 2018, p. 191.

The second assessment is offered by Jake Monaghan, in his recent analysis of policing anti-police protests. Monaghan agrees with Smith that the police have a moral duty to take an accommodating approach to civilly disobedient protestors.¹³ Furthermore, he points out that when police fail to adopt such accommodating tactics and instead deploy aggressive force, it “provokes” protestors. For example, skirmish lines are likely to lead the crowd to push against them, which would then lead to a defensive police response and to further escalation. Police that deploy such tactics are therefore acting negligently and are responsible for the violent crowd behavior that ensues.¹⁴ But Monaghan leaves open the question of how the police ought to proceed when the violence has erupted. May police respond in force to protestors who attack them? And may they respond in force in widespread street protests that involve the destruction of private property and potential harm to persons?

My article explores these further questions. Section I sets the stage, offering an overview of recent sociological accounts and normative defenses of uncivil protests. Section II explores the ethical dilemma that permissible violent protesting raises for police and argues against the apparent conclusion that police have a duty to retreat when facing permissible violent protestors. Section III develops what I believe is the appropriate police response to permissible protesting. Section IV deals with objections. Section V concludes.

I. UNCIVIL PROTESTS AGAINST POLICE BRUTALITY

The question of whether political resistance to racial oppression and to police brutality may take an uncivil and violent route has been extensively debated and practiced within anti-racist social movements.¹⁵ But only recently has professional political philosophy turned to this issue, exploring the permissibility of uncivil resistance – namely, resistance whose features include covertness, evasiveness, violence, and offensiveness.¹⁶

¹³ Monaghan 2023b. To show this, he compares the police response during two consecutive nights of protests in New Orleans in 2020, following the murder of George Floyd. On the first night, the police used an accommodating tactic, allowing for an illegal but negotiated road blockage. On the second night, the police responded to a road blockage attempt with full force, which in turn generated a violent and disorderly crowd response.

¹⁴ Monaghan 2023b, p. 665. Del Pozo's (2020, pp. 78–79) account gestures in a similar direction.

¹⁵ For example, the debates within the American Civil Rights Movement around the legitimacy of armed resistance. See: Cobb 2014; Umoja 2013.

¹⁶ Delmas 2018, p. 44.

Within this broader literature, some authors have focused their attention on the specific phenomenon of uncivil street protests which involve widespread property damage and confrontations with law enforcement agencies.¹⁷ In this Section I provide a brief overview of the core features of such protests and the literature that argues for their permissibility. This brief review will serve as the starting point for the analysis of police response to violent protests.

Qualitative studies of uncivil street protests suggest that an incident of police brutality, like the killing of Michael Brown, ignites a protest when it is set against an already fraught relationship between law enforcement agencies and racial minorities.¹⁸ That fraught relationship typically takes the form of what Vesla Weaver refers to as “distorted responsiveness,” or the “over-policing” and “under-policing” of racial minorities.¹⁹ Especially in urban areas with large concentrations of poverty, racial minorities regularly encounter excessive police monitoring, including fines and arrests for even the most minor transgressions. Furthermore, their interactions with police often involve demeaning, disrespectful, and even brutal treatment. At the same time, the police fail to provide the very same communities protection from serious crimes such as theft, assault, and gun violence. Officers tend to respond slowly and inefficiently to complaints about such crimes, and perpetrators are rarely brought to justice.²⁰ Such toxic dynamics indeed characterized the relationship between police and the local black community in Ferguson prior to the 2014 protests.²¹ Against this background, a specific incident of police brutality, and especially a killing of a racial minority (whether or not it was lawful), can trigger an angry response. As the sociologist Cathy Schneider explains, “the killing of unarmed minority youths by white police in particular spark moral outrage, activate racial boundaries, crystallize grievances along a single us/them

¹⁷ It’s worth noting that in the sociological literature I refer to below (as well in some of the philosophical literature), such protests are often referred to as “riots” or “political riots.” I avoid using this term due to its negative connotations in common speech.

¹⁸ The leading model that supports this thesis is Waddington’s (1992) flashpoint model. For a review of the literature around this model see King and Waddington (2005).

¹⁹ Weaver 2021; cf. Anderson 2010, p. 41–42.

²⁰ For an analysis of the causes of under policing see Lewis and Usmani (2022).

²¹ As described in detail in Cobbina (2019, p. 53). For an analysis of similar dynamics in New York see Schneider (2014). For analysis of police treatment of racial minorities in France see Fassin 2013. For the UK see Lewis et al. (2011).

boundary, and provoke riots.”²² Or, as one participant in the 2005 anti-police protests in France put it, “we had it up to here with the cops.”²³

Is uncivil and violent protesting morally permissible? In recent years, a growing number of philosophers and political theorists have given a cautiously affirmative reply to this question, arguing that unruly and destructive street protests, involving widespread property damage and confrontations with law enforcement agencies, can be morally permissible in real-world democratic states marred by serious racial injustices.²⁴ For some, the justification of such protests is grounded in their potential instrumental role in affecting desirable policy changes (e.g. promoting better supervision and accountability practices in the police).²⁵ For others, the justification revolves around the symbolic and expressive goals of uncivil protesting, including the collective expression of pain and anger, and the public defiance of an unjust political order.²⁶ Those who argue for the permissibility of uncivil street protests suggest, firstly, that uncivil, confrontational protesting is an effective means for realizing either set of goals. For example, it has been argued that confronting the police and refusing to submit to arrest are effective in communicating justified anger and defiance; and that violent and costly demonstrations effectively wield pressure on policy makers.²⁷ Secondly, defenders of street protests argue that a move away from civil, nonviolent and constrained forms of resistance is necessary to achieve either set of goals. Here authors draw on well-established observations from political science, according to which highly marginalized racial groups lack access to mainstream political channels that would have an impact on policy makers.²⁸ When other paths of effective political participation are blocked, or have been tried and failed, violence and incivility in the service of valuable

²² Schneider 2014, p. 3–4. Not all cases of violent street protests are set against conditions of serious racial injustice or are provoked by police brutality. My concern here is specifically with protests that are.

²³ Greenhouse 1990.

²⁴ It should be noted that these defenses do not revolve around the legality of the specific incident that ignited the protest – such as the killing of Michael Brown (which the Department of Justice [2005] later deemed as lawful). Rather, these defenses are grounded in the view that there are general patterns of racial discrimination and unjust treatment in the police approach to racial minorities. These general patterns create a culture which leads to the awful reality where police killings of racial minorities are all too common.

²⁵ Pasternak 2019. Pasternak 2025. Lai 2019, p. 102. Delmas 2018.

²⁶ Chrisman and Hubbs 2021. Celikates 2016. Flanigan 2023. Hooker 2016. Thompson 2017.

²⁷ For a review of the debate on the efficacy of violent protests see Pasternak (2025, pp. 96–103).

²⁸ For a discussion of the relevant literature see Chrisman and Hubbs (2021).

political goals may be necessary.²⁹ Finally, defenders of uncivil disobedience argue that uncivil street protests do not necessarily violate the principle of proportionality if their participants focus on targets that are liable to some harm, given their own involvement in the injustices that provoked the protests. For instance, Jonathan Havercroft argues that protestors may permissibly cause damage to police property, given the police's responsibility for its racial misconduct.³⁰ Others have argued that the police is also the appropriate target of expressions of anger and defiance.³¹ Relatedly, it has been suggested that at least some private property owners are liable to a share of the financial burdens that are generated by the (necessarily uncivil) struggle against racial injustice, given their own involvement in racially discriminating practices.³²

II. A DUTY TO RETREAT?

For the remainder of the article, I will proceed on the assumption that uncivil street protests, involving property damage and clashes with law enforcement agents, could be a necessary, effective and proportionate response to widespread practices of police brutality and discrimination against racial minorities in contemporary democratic states. Were this to be the case, how should the police respond to the protestors?

As we saw in the Introduction, there is a general agreement in the literature that protest policing should aim to minimize harm and curtail uncivil behavior. Given this goal, the police's *initial* response should not be confrontational or aggressive, in order to avoid escalating volatile situations (although, in practice, police routinely fail to adopt these recommendations). Furthermore, the literature agrees that if order has collapsed, and protestors have resorted to widespread incivility, then police may and should deploy necessary and proportionate force – including the use of crowd deterring agents and arrests – to restore order and prevent further harm to life, limb, and property.³³

And yet, as I hinted in the Introduction, if we are to assume – as the literature I discussed in the previous section does – that the uncivil protestors police are facing are acting permissibly, then the above recommendations seem, on the face of it, to collapse.

²⁹ For discussion in the context of Ferguson, see Cobbina (2019, ch. 4).

³⁰ Havercroft 2021, p. 915. Lai 2019.

³¹ e.g. Flanigan 2023, p. 17. Celikates 2016, p. 43. Pasternak 2025, pp. 117–126.

³² e.g. Chrisman and Hubbs 2021, p. 401. Havercroft 2021, p. 916. Pasternak 2025, pp. 152–158.

³³ As we saw, political philosophers like Monaghan and Smith argue for a more permissive police response than leading sociological accounts, but they too do not endorse an accommodating response to widespread violent street protests.

To see why, consider a parallel from just war theory: As Jeff McMahan has shown in his decisive rejection of the “orthodox view” of justice in war (the view that draws a moral parallel between combatants fighting on the just and unjust sides of a military conflict), combatants who fight on behalf of a just cause (for instance, defending their country from an unjust invasion) do not lose their natural right not to be harmed in battle.³⁴ Harm inflicted by unjust combatants on just combatants is disproportionate, as it violates the rights of non-labile agents. The same logic might seem to apply to clashes between violent protestors and the police: If it were the case that protestors are acting permissibly, that is, deploying uncivil yet necessary and proportionate means on behalf of a just cause, then they would not be liable to physical harm or arrest. In other words, the police ought to retreat from engagement rather than confront them.³⁵

I suspect this conclusion would strike many as counterintuitive, even contradicting the very function of the police to “serve and protect” and to secure the rule of law.³⁶ Indeed, as we saw in the case of the Ferguson protests, local residents felt betrayed when the police treated some areas as “no police zones” and allowed looting and damage to property to go uninterrupted. One could say in response that, if we already assume that the incivility and disorder were permissible, then it follows that the residents’ “sense of betrayal” was misplaced. If the protest met the necessity and proportionality constraints, then *ipso facto* the local residents whose property was targeted were liable to that harm. However, as I now turn to show, while this rejoinder is sometimes correct,

³⁴ McMahan 1994.

³⁵ At this point one might wonder if there are alternative models of police engagement with uncivil protestors – besides the forceful control or retreat models. In his normative analysis of police responses to *civil* disobedience, Smith (2012) identifies two additional models – “negotiated accommodations” and “protest management.” In my view, neither model is appropriate or applicable once the protest has turned uncivil. The negotiated accommodation model requires that the police negotiate with the protest leaders on the merits of the protest. But uncivil protests of the type we are concerned here with do not have leadership, authority and control structures amongst the protestors, so it’s not clear who the police could negotiate with and to what end. The protest management model’s goal is to contain and reduce the visibility of the protest, without negotiation with leaders. But in cases where the protest has already turned confrontational, it is bound to collapse into the forceful control model and to involve widespread use of force.

³⁶ There is no general agreement on the definition of the core function of the police in democratic societies, but all existing accounts would lead to the same conclusion: Some argue that the police’s core mission is to preserve social peace (e.g. Loader 2016); others focus on the mission of the police to “protect property rights and rights to life and bodily integrity” (Monaghan 2017, p. 232); and yet others focus on its role in promoting substantive justice (Del Pozo 2020, pp. 16–17).

it does not fully address a tension within the moral defense of unruly uncivil protests, a tension which grounds the moral case for a more active police response.

The issue here is that, as existing defenses of violent protesting all acknowledge, the effectiveness, necessity, and proportionality constraints set definite limits on the type and level of harm that street protestors may inflict on behalf of their cause. I lack the space to examine in detail the types of harm that could meet these constraints, but even mere intuition suggests that, for example, harm to public property (and especially to police property) is far more likely to satisfy the proportionality constraint than looting shops owned by fellow oppressed citizens, or than inflicting lethal harm on either police or on ordinary citizens.³⁷ Existing literature has developed detailed accounts of such restrictions. However, as persuasive as these theoretical accounts may be, it is hard to deny that, in practice, it would be difficult to implement them, given the core features of real-world protests like those that erupted in Ferguson – spontaneous outbursts of collective violence, carried out by unorganized crowds, typically composed of young, predominantly male individuals.³⁸ Young, untrained, largely undercoordinated, and acting on raw emotions in a chaotic atmosphere, it is inevitable that some protestors cannot or will not restrict their conduct in the way that is required by proportionality, necessity, and effectiveness. This prediction does not imply that violent street protests are necessarily impermissible from the outset. If the inflictions of impermissible harm remain relatively low then the protest itself may be deemed “widely proportionate,” that is, an infliction of harm that remains overall permissible, given the important protections it is sufficiently likely to bring about for oppressed racial minorities on the one hand, and the relatively minor rights violations it is likely to involve on the other.³⁹ But whether the protest would, overall, be morally permissible is a question that involves a high degree of uncertainty. Therefore, whether individuals may initiate or take part in a violent street protest would be partially determined by the level of confidence they have in their own, as well as in other participants’ willingness and ability to constrain their behavior. Put differently, oppressed citizens, operating under real world conditions which involve limited information, face a morally risky decision: taking part in the protest may entail participating in an impermissible collective activity; but not taking part may constitute a failure to contribute to efforts to prevent

³⁷ For more detailed of this and other restrictions see: Havercroft 2021; Lai 2019; Pasternak 2025, pp. 209–211.

³⁸ These are fixed features of the street protests defended in the aforementioned literature. A background assumption here is that highly marginalized groups have no viable access to more organized forms of political participation.

³⁹ McMahan, 2009, pp. 23–24.

further wrongdoing.⁴⁰ As I now turn to show, an engaged police response can help to reduce this risk.

III. “DISCERNING CONFRONTATION” IN UNCIVIL ANTI-POLICE PROTESTS

We saw in Section II that the police response to violent protests against police misconduct raises a dilemma. Police could choose to contain the violence by deploying the “forceful control model”. But, in doing so, they risk violating many protestors’ rights to engage in permissible incivility. Of course, they could choose not to engage, or even retreat, yet here they risk failing to prevent impermissible violations of citizens’ property rights and rights against bodily harm. Here, it is worth noting that empirical evidence suggests that a meek police response often inflames indiscriminatory violence and disorder. This was the case in Ferguson, for example, around the “no-police zone” in the Canfield Greed Apartments area, as well as in the 2011 London protests.⁴¹ So, retreating might make it even less likely that the protest could meet the permissibility constraint.

What, then, should the police do? An option, which I now turn to develop, is for the police to adopt a response model of “discerning confrontation”. By this I do not merely mean that police should discern between peaceful and violent protestors, accommodating the former while confronting the latter.⁴² Instead, the idea is that in addition to discerning between peaceful and uncivil protestors, police should also differentiate among *types* of uncivil behavior. The police should aim to confront and contain uncivil protestors when they are likely to inflict impermissible harm, but they

⁴⁰ That marginalized citizens face this moral risk is in itself objectionable. More privileged citizens would typically have the privilege of being able to choose to engage in effective protest using means that are less likely to inflict impermissible harm (for example, campaigns of civil disobedience). I should add that even within decentralized violent protests participants influence each other’s conduct. The decision of one individual to engage in violence, or to abstain from it, can have a ripple effect on the behavior of others. This is one aspect of the moral risk inherent to how each participant chooses to act. For a detailed account of crowd norms in violent protests, see Reicher (1984). For an analysis of some of the responsibilities these norms generate see Pasternak (2025, pp. 197–99).

⁴¹ Gorringer and Rosie 2011. There are similar findings for the 2001 Burnley protests (Moran and Waddington 2014).

⁴² As I noted in Section I, such discernment is already recommended in empirical analyses of protest policing as a way to reduce the violence. Furthermore, nonviolent protestors are clearly acting within their rights and should not be met with police violence.

should be accommodating toward protestors who engage in forms of incivility that are more likely to meet the necessity, effectiveness and proportionality constraints. The goal of such discerning confrontation is to assist protestors in containing the violence, so that it meets the requirements of permissible incivility. The ability to predict that the police would be present to help “regulate” their actions to some extent would give protestors greater confidence that their collective efforts would not result in excessive violence. This, in turn, would reduce the moral risk of engaging in this form of protest.

What does this recommendation imply in practice? As I hinted earlier, the clearest examples of permissible uncivil behavior in protests against police brutality would typically include damage to public property, such as police cars, police stations, commemorative statues, and public transit stations. It has been suggested that some damage to private property can also be permissible— e.g. damage to stores with a history of racially discriminatory practices or to private vehicles in affluent areas.⁴³ Officers who adopt a “discerningly confrontational” response would ignore such displays of incivility, but would confront with the aim to contain conduct that is likely to inflict impermissible harm, such as protestors who set fire to residential units, inflict direct harm on persons, or target property in a way that puts lives at risk. It is beyond the scope of this article to examine the precise tactics that ought to be deployed to achieve these goals, but I would assume that an effective prevention of impermissible harm would involve some use of force and confrontational tactics (barricades, skirmish lines, crowd dispersing agents and arrests), as long as they are necessary and used proportionately.

Why should police engage in discerning confrontation? The duty to adopt this response model is grounded in the police’s obligations to oppressed minorities who are the subject of, and protesting against, police brutality. As we saw in Section I, these protestors are promoting instrumental goals (e.g., policy change) and symbolic goals (e.g. the expression of anger and defiance). Both sets of goals generate obligations for police officers to aid the uncivil protestors to limit their conduct.

Consider first the protestors’ instrumental goal: to improve the conduct of police towards racial minorities. Clearly, even ordinary police officers ought to do what they can to achieve this goal. As police officers they have especially strong obligations to ensure that the organization in which they work is not tainted by racist practices, so that they can perform well the role they took upon themselves when they joined the police – serving and protecting the population. Protestors who, given lack of effective alternatives, resort to *uncivil* protesting against police brutality are acting on behalf of a cause that the officers who face them themselves have a duty to promote.

⁴³ See fn. 32.

However, while permissible displays of incivility might advance this goal, displays of impermissible violence (such as looting small corner shops, causing bodily harm to ordinary citizens, and so on) are more likely to undermine it. Such acts are prone to generate a political backlash and to garner public support for giving the police an even freer hand to enforce law and order.⁴⁴ Therefore, if they help protestors to limit displays of impermissible incivility, the officers facing protestors would be promoting the cause of improving police practices. In other words, in deploying the model of discerning confrontation they would be discharging their own duties as police officers to ensure that the force they work in meets the bar of justice.

A second, related argument for discerning confrontation concerns the protestors' expressive and symbolic goals. As I mentioned in Section I, some view uncivil protesting as a uniquely fitting mode of expression for important moral emotions, including anger and pain in the face of police brutality, and apt defiance against an authority that so far has failed to address these wrongs. Police have a special obligation to assist protestors in expressing these emotions through permissible means. This special obligation also flows from these officers' participation in the police force, the very organization responsible for the wrongdoings that made the expressions of anger, pain, and defiance necessary and apt. As most accounts of participation in institutional wrongdoing and collective responsibility agree, individual members of an institution (and especially low-ranking members) do not always share personal blame for the wrongs their organization commits. However, they do typically incur a share of remedial responsibilities toward the victims of those wrongs. Consider, for instance, Christopher Kutz's influential account of complicity in collective wrongdoing. According to Kutz, when individuals act together, doing their part to execute a group's goals and policies, they incur a share of remedial obligations toward the victims of these wrongful goals and policies. These obligations include putting the wrong right or assisting the victims by way of compensation. These remedial obligations mirror individual members' participation. In other words, by participating in it, one becomes accountable, in this limited sense, to the outcomes of a collective action.⁴⁵

⁴⁴ As suggested, for example, by Wasow (2020) and Chenoweth (2021).

⁴⁵ Kutz 2000. Similar claims are made in: Isaacs 2011; Miller 2007; Pasternak 2021, p. 59; Stilz 2011.

Let us now return then to the expressive defense of uncivil protests. As we have seen, this view suggests that protestors (along with other members of the community) find the expression of anger, pain and defiance through uncivil means to be productive. As Juliette Hooker explains in her powerful analysis of the Ferguson protests, they, “provided an outlet for responses to the losses generated by white supremacy that [Black citizens] were otherwise precluded from expressing in public, visible ways that could not be easily ignored or bypassed by their fellow citizens.” Or, as one participant in the 1968 protests put it, “I felt at that point people had such grief and sense of loss and anger that they had to express it somehow.”⁴⁶

Hooker’s core observation here is that (in contrast with civil and acquiescing protest), uncivil protests like the one in Ferguson are uniquely fit to express these important emotions, and in doing so they help to alleviate some of the psychological and emotional harms caused by routine and persistent racially-charged encounters with agents of the state. However, as we already saw, *uncivil* protesting in the service of these important goals is morally risky. Participants cannot be certain they or others will be able to restrict the harm they inflict. Impermissible violations can happen, whether because protestors unintentionally incorrectly assess the outcomes of their conduct, or because they succumb to anger’s “red mist”.⁴⁷ Even those who are fairly certain they would act permissibly cannot be sure other participants would do the same, and that through their own participation in the protest they would enable and encourage others’ impermissible conduct. Under these circumstances, I submit that police have the duty to engage in discerning confrontation. This is in order to assist protestors to benefit from the remedial expressions of anger, pain, and defiance without engaging in morally impermissible forms of incivility. A response of discerning confrontation would then be a way of discharging police officers’ remedial obligations to the victims of police brutality and racist practices. For the police would assist in alleviating, at least somewhat, the burdens of that harm without incurring the moral weight of engaging in morally impermissible conduct.

IV. OBJECTIONS

I now turn to discuss four objections to my recommendations. The first objection concerns the risk of harm to police involved in the model of discerning conformation. The second objection concerns the risk of harm the model raises for protestors who act

⁴⁶ Hooker 2016, p. 464.

⁴⁷ Lepoutre 2022.

permissibly. The third objection concerns the likelihood that the police will accept the proposed model. The fourth objection concerns violation of police impartiality.

A. Unjustified Risk to Police?

A first objection suggests that the model of discerning confrontation is problematic because it imposes a risk of harm to police officers, which is higher than the risk they would face if they either retreated or forcefully confronted the protestors. This is a contentious empirical claim, but for the sake of argument I'll accept it. For example, perhaps it could be argued that the discerning confrontation model requires police to engage in attention-grabbing assessments of the risks posed by the protestors' conduct, and that doing so exposes police to greater harm than if they were to retreat or deploy full force. Indeed, in considering this objection, it is worth citing the testimony of one police officer who was part of an ill-prepared small force which found itself facing an angry crowd during racist anti-Asian protests in Lancashire UK in 2001:

I think I will remember for the rest of my life the feeling of total fear as the crowd came nearer. I honestly believed that this extremely angry crowd was capable of seriously injuring myself and my colleagues and possibly even killing us. Bottles and bricks were being thrown at us and I remember the fragments from a smashing bottle hitting my right hand. By this time we were walking slowly backwards and the crowd continued to close in on us. The noise from the crowd was tremendous and I began to realise that they had no intention of stopping. I don't recall any of my colleagues telling me to run but we all decided to retreat. ... The bottles were still smashing around my feet as I literally ran for my life.⁴⁸

This testimony clearly demonstrates the real threat of physical, psychological, and emotional harm that police officers face when responding to uncivil protestors, especially when they are ill-equipped and underprepared. However, while we should not discount these potentially heavy costs, we should also bear in mind that the alternative response models I discussed also involve threats of harm. If the police choose to retreat, the threat of harm to its officers will be lower, but the risk of harm to non-labile citizens would be much higher, given the likely impact of such a retreat on the levels of impermissible violence by protestors. In contrast, a forceful confrontation response – such as the one deployed during the Ferguson protests – might better protect police (a claim that is itself contentious), but it also results in higher levels of

⁴⁸ King and Waddington 2004, pp. 132–33.

serious, indiscriminate harm to peaceful protestors or, at the very least, list uncivil protestors who are acting permissibly.

Under these circumstances, it is not unreasonable to argue, in my view, that police officers have a particularly strong obligation – stronger than that of protestors or fellow citizens – to bear a risk of harm. After all, these officers voluntarily joined the police force and are members of the very organization whose faulty practices created the grounds for the uncivil protest. As I suggested in Section III, such participation generates powerful obligations, including the obligation to incur some of the costs generated by a defensive response to the injustice. In light of these obligations, police should deploy a response model that reduces the risk of harm to protestors and to bystanders, even if it is riskier for them.⁴⁹

To be clear, I am not suggesting that police ought to always deploy the model of discerning confrontation, regardless of the level of risk it poses for them. Police officers do not have a duty to incur unlimited risks in their attempts to ensure that protestors are not inflicting impermissible harm. The precise level of harm that individual police officers are liable to in anti-police protests is a complex question, the answer to which depends on many factors, including the officer's own conduct and their personal culpability for the wrongs that instigated the protests. My own view is that most police officers are not liable to serious bodily harm in anti-police protests and are entitled to take steps to protect themselves from such harm. However, it is far from obvious that the model of discerning confrontation indeed exposes officers to risk of such high levels of harm in every case. Assuming police can deploy this model, at least sometimes, without exposing themselves to a high risk to serious bodily harm, then they ought to do so, even if it means it is riskier for them than the alternative models.⁵⁰

⁴⁹ For further elaboration see Pasternak (2025, pp. 103–126).

⁵⁰ A related question concerns the use of riot gear by police. As I noted earlier, studies suggest that police in full riot gear—including masks, helmets, shields, and batons—tend to generate a confrontational response from protestors. This implies that, at least in the initial stages, police should not use this gear which is closely associated with the forceful confrontation model. However, once a protest turns violent, police who seek to engage in discerning confrontation are entitled to protective gear to reduce the risk of casualties and the tools necessary to contain protestors when required. This suggests, perhaps that police should develop a different model of protest policing gear, one that is less associated with military uniforms and aggressive policing than existing riot gear. I thank an anonymous referee for this question.

B. Unjustified Risk to Protestors?

A second objection is that, in comparison to the retreat model, the discerning confrontation model risks imposing harm on permissible protestors. The concern here is that in the heat of a violent protest, police cannot be expected to be perfectly precise in their response. While police can and should make an effort not to deter permissible forms of uncivil protest, it is unrealistic to believe they could confront only impermissible protestors without interfering or causing any harm to those who are acting permissibly. Mistakes can happen, especially given that the tools at the police's disposal for suppressing disorder are fairly blunt. Why then should protestors who act permissibly be exposed to the risk of such harm? Can they not demand that the police retreat so that they are not exposed to harm?

In my view, even protestors who act permissibly cannot expect police officers to adopt the retreat model. For although these protestors themselves act permissibly, they are part of a collective endeavor, which – as they should recognize – could easily get out of control given its unique features. If that happens, the result would not only be serious rights violations of fellow citizens (and often fellow oppressed citizens). It would also in all likelihood render the protest counterproductive, potentially leading to a political backlash that would be costly for them and for other oppressed citizens. Under these far from ideal circumstances, it remains the “lesser evil” option for the police to confront protestors, aiming primarily to quell the more problematic forms of protest. I arguing this I draw on a familiar position within the ethics of self-defense, according to which defenders may permissibly inflict harm on non-labile parties when they are acting on a sufficiently weighty just cause or to save a high enough number of lives.⁵¹ In such cases, it is commonly argued that the defensive harm is justified even though some non-labile parties are harmed and their rights are infringed. Assuming that the police does not use excessive force against protestors – that is, more than is necessary and proportionate – the discerning confrontation model remains the lesser evil option, even if it involves some harm to permissible protestors. It follows, then, that protestors “controlling the streets” is not a desirable outcome of street protests. While the sense of freedom from police control is often reported as exhilarating and valuable by participants in uncivil protests,⁵² protestors should be aware of the great

⁵¹ McMahan's (1994) much discussed example involves a “tactical bomber” who is fighting on the just side in war and who is attacking a military facility, knowing that some civilians will be killed in the attack. Assuming the destruction of the factory is sufficiently important for the just war cause, then the bomber is justified, even though he infringes upon the rights of the civilians he will kill. For further discussions see: Mapel 2004; Frowe 2018.

⁵² e.g. Newburn et al. 2018.

moral risk that such freedom entails, and that – if they achieve it – they are likely to inflict excessive and unjustified harm.⁵³

C. The Problem of Feasibility

The third objection is pragmatic and concerns the likelihood that the police as an institution would adopt the type of action-guiding recommendations I have made. This objection is especially pressing under conditions where uncivil protesting against police conduct is permissible in the first place. Permissible uncivil protesting responds to serious and entrenched injustices including practices of excessive police brutality and discrimination of racial minorities. But when such practices are common enough to warrant an uncivil response, it becomes highly improbable that the police would be inclined to accept the view that uncivil protesting in general, and in protests against police brutality in particular, is morally permissible or ought to be accommodated. Indeed, as the example of the Ferguson protests suggests, real-world police forces tend to respond with excessive aggression to anti-police protestors, failing to meet even the more modest recommendations of police experts who call for the deployment of less inflammatory protest management tactics.⁵⁴

My response to this objection concerns the level of command to which the model I proposed could apply. Clearly, the police as an institution will not accept recommendations of the type I made here. Nevertheless, even when these recommendations are rejected by the police institution and by key decision-makers, they could have an effect on the behavior of the individual officers. This is important because police work, both in general and in response to protests in particular, by its nature involves many discretionary decisions made by officers on the ground.⁵⁵ These officers can and do exercise moral judgement with regard to the central commands they are given. Their responses to such commands can range from full and enthusiastic compliance at one end to open refusal at the other. Under conditions of serious and entrenched injustice, most police officers will not be moved by arguments motivated by the moral permissibility of the protest. But we can hope that some officers might be of a different mindset. Consider the group of officers during one night of BLM protests

⁵³ I leave open the question of whether protestors whose rights are infringed in this way have the right to respond in force to police. My sense is that protestors do have that right, but I lack the space to develop the view in detail here.

⁵⁴ King and Waddington 2004. Perez, Berg, and Myers 2003. Reynolds-Stenson 2018. Warner and McCarthy 2014.

⁵⁵ Della Porta and Reicher 1988, p. 23. Smith 2021.

in New Orleans who were, “kneeling in solidarity with protestors,” while, “protestors were voicing their dissatisfaction with American policing, and the NOPD officers acknowledged their concerns”.⁵⁶ Such officers might be more open to the idea that they have moral responsibilities towards the protestors of the kind that I have described.

The suggestion that my recommendations could apply to individual police officers raises important questions about the scope of permissible disobedience for police officers. Don't police officers have a role obligation, based on their contractual promises and the important functions the police serve, to follow centrally made commands? Such questions have been the subject of debate in recent literature. Here, I take the lead from Kimberlee Brownlee in assuming that official role holders in general, and police officers in particular, have the right and even the duty to challenge unjust orders.⁵⁷ Brownlee argues that there can exist a gap between the moral basis of an official role and the legal or formal duties the role holder is instructed to perform. For example, a police officer may receive an order to arrest a person she knows beyond a reasonable doubt is innocent. Such an instruction conflicts with the moral basis of the officer's role and authority (namely, to serve and to protect). Brownlee argues that when such a tension arises, official role holders have a right and a duty to follow their first-order moral reasoning, and to protest, subvert and even refuse the official command. Her argument partly relies on the observation that frontline officers (police officers, doctors, social workers) often have an epistemic advantage over policy makers and those higher up the command chain in understanding and interpreting the practical applications of the moral basis of their role.⁵⁸

Not everyone agrees with Brownlee here. David Estlund, for instance, argues that, given the epistemic constraints facing individual soldiers, they have a duty to obey orders even in an unjust war as long as it was declared by a democratic authority. However, his argument applies only to democratic states whose decision-making procedures are, “duly looking after the question whether the war is just,” and where there is no excessive, “ignorance, deception, bias and manipulation.”⁵⁹ These background conditions are not met in the circumstances I am describing. Here, conscientious police officers have good reasons to suspect that centrally made commands are tainted by structural biases against racial minorities – the same biases that serve as the background to the protests. These biases lead to aggressive protest policing policies which, according to police

⁵⁶ Monaghan 2017, p. 662.

⁵⁷ Brownlee 2012; cf. Giunta Martino 2025.

⁵⁸ Brownlee 2012, pp. 95–100, 107–109.

⁵⁹ Estlund 2007, pp. 213, 228. Where these conditions are met, Estlund argues that the central decision making has an epistemic advantage over individual soldiers in judging whether the war is just, and, even when errors are made, they are within the range of acceptability.

experts and ethicists, are unjust and unwise. Under these nonideal conditions, officers have a *pro tanto* duty to engage in first-order moral deliberation, and to contest, disrupt or refuse orders which they reasonably conclude are not compatible with the duties they have to the protestors and which flow from their participation in the police.⁶⁰

D. The Question of Impartiality

A final objection concerns the problem of police impartiality. The principle of impartiality is a core guiding principle of policing in democratic societies. As Smith explains, this principle requires that police protect the equal rights of all, with “no arbitrary discrimination in terms of race, gender, sexuality, nationality of political allegiance.”⁶¹ Impartiality is the cornerstone of policing, precisely because democratic societies aim to curb the arbitrary application of the rule of law. All subjects, regardless of their identity or political affiliation, should receive the same treatment from law enforcement agencies. This principle, we might think, applies to protest policing as well: police should respond in the same manner to uncivil protestors whether they are protesting against real racial injustice or against a fabricated stolen presidential election. The recommendations I have made seem to violate this principle because they suggest that the police have a duty to deploy a more lenient approach toward protestors who have a just cause. In other words, the political allegiance or cause of the protestors affects how the police treat them.⁶² Would such a recommendation not open the door

⁶⁰ Whether officers should contest, disrupt or refuse depends on various factors (including the risk that their action would pose to themselves and to others). My recommendations are not that officers should allow for permissible uncivil harm no matter what. I merely argue that they have a *pro tanto* duty to allow for such harm.

⁶¹ Smith 2021.

⁶² Del Pozo advocates a similar position in his reflections of the police role. Del Pozo argues that this role includes a duty to protect citizens’ basic liberty as well as to protect pluralism, and that police should use discretion, and even go against majoritarian views, when they act on these duties (Del Pozo, pp. 78–80, 194–196). Finally, Del Pozo accepts that liberal democracies can produce seriously unjust laws and policies, and when that is the case, citizens have a duty to them. (Ibid, p. 121). All this leads to his observation that, “if we accept Delmas’ view that people ought to resist injustice even if it means breaking certain low-level laws, then it follows that the police ought to exercise judgement and discretion in the enforcement of these laws.” (Ibid. p. 199) Here, then, Del Pozo argues that police ought to treat differently protestors who resist serious injustice than protestors who break the law for dangerous or non-justice related causes. Notably, Del Pozo does not apply this suggestion to violent protestors and seems on the whole open to police accommodation of more civil types of rule breaking. But the concern about the implications of allowing for impartial conduct apply to his account as well.

to arbitrary and unjustified abuses of police power where police accommodate uncivil protesting whenever they see fit on behalf of a cause they happen to deem as just?

In response to this concern, I should clarify from the outset that my argument does not grant police officers the mandate to exercise discretion and accommodate uncivil protesting whenever they personally support the protestors' cause. Two factors constrain when officers should adopt the model of discerning confrontation. First, there should be sufficient evidence that the protestors are justified in engaging in uncivil protesting. As I clarified in Section I, the bar of justifiability is quite high: the injustice the protestors are challenging should be sufficiently grave and they should have exhausted, or have no recourse to, other avenues of political action. Many prominent examples of real-world uncivil protests from recent years would not meet this bar, including the protests against the temporary restrictions on freedom of movement due to the COVID-19 pandemic, protests against migrants, or protests against a fabricated election fraud.

Second, my argument in Section III rested on the claim that police officers have a special duty to assist protestors by adopting a discerning accommodation of uncivil conduct. This duty applies specifically to scenarios where the protest is against the police's own conduct such as practices of police brutality and distorted police service to racial minorities. I have not argued that police officers have a duty to accommodate uncivil protest for other causes, even if those causes are just. For example, it may be the case that in our time, climate activism has reached the point where it must resort to uncivil means in order to coerce a swifter and more decisive response to the impending climate crisis. My account has not shown that police facing uncivil climate activists have a special reason, as police officers, to accommodate permissible incivility here as well, given that the protest would not be directed at the specific institution in which they are participating. As I argued in Section III, it is their participation in the police force that grounds police officers' special duties to assist the protestors who are (or who are acting on behalf of) the victims of the police institutional failures. Thus, on my account it is only in a very specific set of circumstances – justified anti-police uncivil protests – that officers have the duty to adopt the discerning confrontation approach. These restrictions minimize the bite of the worry that the account allows for widespread violations of the principle of police impartiality.

Nevertheless, one may raise the objection that, even if the account permits officers' discerning response only in a specific set of circumstances, were some officers to comply with its recommendations, they are likely to encourage impermissible violations of police impartiality. For example, studies suggest that police officers' likelihood of following rules is highly affected by the conduct of other officers in their

Department.⁶³ It may well be the case, then, that officers who witness other officers deploy a lax approach towards uncivil protestors in the type of protests I have in mind here, will (erroneously) conclude that they have a *carte blanche* to let their personal political opinions and beliefs affect their professional conduct. To avoid such effects, one might argue that no police officer should violate impartiality in protest policing.

This objection raises the following challenge: To what extent should our moral deliberation on how to act in a specific situation take into account the risk that our action – though permissible in isolation – might influence others to act in a morally impermissible manner? The most sustained treatment of this question is provided by Victor Tadros, as part of his reflections on permissible actions in a world where others act wrongly. Tadros argues there, persuasively in my view, that the impact of our actions on other people's conduct must be taken into account in our moral and practical deliberation, even if those other agents will act impermissibly. He explores this idea in a series of cases, the most relevant of which to the current discussion is this:

*Defense and Harm**: X attacks Y. S can prevent Y from being killed by X. S knows that if she successfully defends Y, Z, who is a friend of X's, will become enraged and kill V.⁶⁴

Tadros argues that given that it is not normally permitted to save one life while killing an innocent person as a side-effect, S is not permitted to save X. Let's assume this conclusion is correct. If so, it seems to lead to a similar prohibition in the following case:

Protest and Harm: S` is a police officer facing justified uncivil protestor Y`. S` knows that if she discharges her duty to Y` to accommodate his permissibly uncivil conduct, Z` – a fellow officer – will “follow her example” and regularly engage in unjustly partial conduct towards V`s.

As Tadros' discussion suggests, the anticipated impact of officer S`'s conduct on officer Z` should be taken into account in officer S`'s moral deliberation. However, we should also notice the important differences between *Defense and Harm** and *Protest and Harm*. In *Defense and Harm** S's position with regard to Y and V is equal. That is, she has the same negative duties to not harm either and the same positive duties to assist either:

⁶³ Quispe-Torreblanca and Stewart 2019.

⁶⁴ Tadros 2016, p. 128. I refer to this case as *Defense and Harm** because it is a slightly revised version of Tadros's original example, in which X is defending himself from Y's attack.

not so in *Protest and Harm*. Here, officer S` stands in a special relationship to protestor Y`. She has special duties of assistance to him by virtue of the fact that she is participating in the police force whose brutal conduct necessitated protestor Y`'s uncivil conduct. Furthermore, as a police officer she also has special responsibilities towards the Vs` – other civilians whom she is duty bound to serve and protect. Officer S` might also have role responsibilities to officer Z`. For example, if officer S` is Z`'s commanding officer, then it is part of her role to ensure that officer Z` internalizes the correct norms of police conduct. On the other hand, if officer S` is officer Z`'s subordinate, she has a much weaker role obligation to ensure he internalizes those norms. Thus, unlike S in the case of *Defense and Harm*, officer S` must adjudicate between various duties, all of which flow from her role as a police officer. While – as Tadros suggests – officer S` should not dismiss as morally irrelevant her impact on officer Z`'s conduct, she should also not dismiss her duties of assistance to protestor Y`. Such duties might be especially strong in this case given that he is taking part in a justified anti-police protest. What officer S` should do the final calculation depends on the circumstances of the case, and on which possible violation of her role-related duties (to protestor Y`, to V` and to officer Z`) is likely to cause more harm. My argument is not that officer S` ought to follow the discriminating confrontation recommendations no matter what impact this conduct would have. Rather, my argument is that officer S` should take seriously her obligations to the protestors in her practical reasoning.⁶⁵

As part of this process of practical reasoning, officers like S` should bear in mind that they are operating under already very nonideal circumstances. These circumstances would affect the likely impact of their compliance or noncompliance with the model of discerning confrontation. More specifically, they should bear in mind that their police force is likely already violating the norm of impartiality. Indeed, as we saw earlier, one of the core charges that serve as the background to uncivil snit-police protests is that police routinely violate impartiality in its dealing with racial minorities. Furthermore, studies suggest that police forces tainted by such institutional racism are likely to respond with much more force to anti-police protests than to other type of uncivil behavior.⁶⁶ Against this background, one could argue, firstly, that a

⁶⁵ Note that if officer S` has good reasons to be concerned about the impact of her actions on officer Z`, she could try to conceal her discretionary actions from other officers.

⁶⁶ Smith compares here the lenient police response to the January 6 protestors with the much harsher response to BLM protestors. He quotes US Crisis Monitor findings that, “right-wing demonstration activity has met with very limited government intervention, underscoring how these events consistently face low levels of force, rare arrests, minimal legal consequences, and infrequent intimidation by armed extra-legal entities, particularly when compared with their left-wing and BLM counterparts” (Smith 2021, p. 102).

conscientious officer's decision to allow for permissible uncivil conduct is unlikely to negatively affect the behavior of other officers (who are, anyway, already deploying discriminatory practices when dealing with protests). In fact, it might encourage more justified conscientious disobedience amongst other officers. Second, given the magnitude of discrimination and bias, conscientious officers who choose to remain impartial might be failing to do enough to offset their fellow officers' already-existing biases: If conscientious officers already know that many of their colleagues are going to respond with unjustified force to protestors, it may well be the case that, in order to offset that trend, they have a duty to respond with extra leniency. Doing so may reduce the impact of their colleagues' wrongful treatment of protestors who are exercising their moral rights. Put differently, under conditions of serious institutional injustice, conscientious officers have even stronger duties of assistance to uncivil protestors as they have an obligation to undo some of the effect of the unnecessarily oppressive treatment served by their colleagues. As I accepted above, these duties of assistance would not necessarily outweigh officers' other role obligations, but they should be given serious consideration in officer's practical reasoning.

V. CONCLUSIONS

Conscientious police officers operating in the real-world circumstances of partial justice have to navigate the conflicts that arise between the moral foundation of their role and their official role obligations. This article has responded to these dilemmas by rejecting two simplistic views on the appropriate police response to uncivil anti-police protesting. One response, popular amongst police chiefs and protest policing experts, is that once protestors have resorted to violent conduct, the police should simply respond in force to restore order. The other response – popular among antipolice activists – is that the police lack legitimacy and have no right to respond in force to protestors. The position I have developed here is more nuanced: it recognizes the justifiability of anti-police uncivil protests but also highlights their morally risky nature. It recognizes the justifiability of police efforts to contain violent protests, but limits what they may permissibly do as part of that effort. I have argued that when facing anti-police protestors, the police have a *pro tanto* duty to allow uncivil protesting, but at the same time they ought to try and stop the protestors from preventing excessive, impermissible harm. Undoubtedly, given the nuance of these recommendations, it is going to be difficult to implement them. Indeed, in the heat of a protest, neither protestors nor police can be expected to engage in overly careful moral deliberation on the right course of conduct. Nevertheless, we can hope that recommendations like those made here could have some impact on some police officers impacting, to some extent,

their decision-making process on how to respond to anti-police protestors. Under the increasingly nonideal political circumstances in which we find ourselves today, even such modest hope is of value.

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COMPETING INTERESTS

The author declare that they have no competing interests

REFERENCES

- Anderson, Elizabeth. 2010. *The Imperative of Integration*. Princeton, NJ: Princeton University Press. <https://doi.org/10.1515/9781400836826>
- Becker, Julia; Lea Hartwich; and Helena R. M. Radke. 2025. The effect of apparent police power at demonstrations against right-wing populism on protestors' resistance using a virtual reality experiment. *British Journal of Social Psychology*, 64. <https://doi.org/10.1111/bjso.12809>
- Brownlee, Kimberley. 2012. *Conscience and Conviction: The Case for Civil Disobedience*. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199592944.003.0002>
- Celikates, Robin. 2016. rethinking civil disobedience as a practice of contestation—beyond the liberal paradigm. *Constellations*, 23 (1): 37–48. <https://doi.org/10.1111/1467-8675.12216>
- Chenoweth, Erica. 2021. *Civil Resistance: What Everyone Needs to Know*. New York: Oxford University Press. <https://doi.org/10.1093/wentk/9780190244392.001.0001>
- Chrisman, Matthew, and Graham Hubbs. 2021. The language of the unheard: rioting as a speech act. *Philosophy and Public Affairs*, 49 (4): 379–409. <https://doi.org/10.1111/papa.12201>
- Cobb, Charles E. 2014. *This Nonviolent Stuff'll Get You Killed: How Guns Made the Civil Rights Movement Possible*. New York: Basic Books. <https://www.dukeupress.edu/this-nonviolent-stuff-ll-get-you-killed>
- Cobbina, Jennifer E. 2019. *Hands Up, Don't Shoot: Why the Protests in Ferguson and Baltimore Matter, and How They Changed America*. New York: NYU Press. <https://doi.org/10.18574/nyu/9781479819744.001.0001>

- Del Pozo, Brandon. 2020. *The Police and the State*. Cambridge: Cambridge University Press. <https://doi.org/10.1017/9781009215435>
- Della Porta, Donatella, and Stephen Reicher. 1988. The policing of protest in Western democracies. Pp. 1–32 in *Policing Protest*, ed. Della Porta and Reicher. Minneapolis: Minneapolis: University of Minnesota Press. <https://www.upress.umn.edu/9780816630646/policing-protest/>
- Delmas, Candice. 2018. *A Duty to Resist: When Disobedience Should Be Uncivil*. Oxford: Oxford University Press. <https://global.oup.com/academic/product/a-duty-to-resist-9780190872199?cc=us&lang=en&>
- Department of Justice. 2015. *Department of Justice Report Regarding the Criminal Investigation into the Shooting of Michael Brown by Ferguson, Missouri Police Officer Darren Wilson*. <https://www.govinfo.gov/content/pkg/GOVPUB-J-PURL-gpo55759/pdf/GOVPUB-J-PURL-gpo55759.pdf>
- Estlund, David. 2007. On following orders in an unjust war. *Journal of Political Philosophy*, 15 (2): 213–234. <https://doi.org/10.1111/j.1467-9760.2007.00277.x>
- Fassin, Didier. 2013. *Enforcing Order: An Ethnography of Urban Policing*. Cambridge: Polity. <https://www.wiley.com/en-us/Enforcing+Order%3A+An+Ethnography+of+Urban+Policing-p-9780745664804>
- Flanigan, Edmund Tweedy. 2023. From self-defense to violent protest. *Critical Review of International Social and Political Philosophy*, 26 (7): 1094–1118. <https://doi.org/10.1080/13698230.2020.1870859>
- Frowe, Helen. 2018. Lesser-evil justifications for harming: why we're required to turn the trolley. *Philosophical Quarterly*, 68 (272): 460–480. <https://doi.org/10.1093/pq/pqx065>
- Giunta Martino, Marta. 2025. Disagreement and expressions of dissent within public institutions. *Ethical Theory and Moral Practice*, 28: 293–311. <https://doi.org/10.1007/s10677-025-10496-x>
- Gorringer, Hugo, and Michael Rosie. 2011. King Mob: perceptions, prescriptions and presumptions about the policing of England's riots. *Sociological Research Online*, 16 (4): 193–198. <https://doi.org/10.5153/sro.2521>
- Greenhouse, Steven. 1990. Vaultx-En-Velin journal; Arab youths of France: their anger boils over. *New York Times*, October 19, 1990. <https://www.nytimes.com/1990/10/19/world/vaultx->
- Havercroft, Jonathan. 2021. Why is there no just riot theory? *British Journal of Political Science*, 51 (3): 909–923. <https://doi.org/10.1017/S000712342000085X>
- Hooker, Juliet. 2016. Black Lives Matter and the paradoxes of US black politics: from democratic sacrifice to democratic repair. *Political Theory*, 44 (4): 448–469. <https://doi.org/10.1177/0090591716640314>
- Institute for Intergovernmental Research. 2015. *After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri*. COPS Office Critical Response Initiative. Washington, DC: Office of Community Oriented Policing Services. <https://portal.cops.usdoj.gov/resourcecenter/Home.aspx?item=cops-p317>
- Isaacs, Tracy. 2011. *Moral Responsibility in Collective Contexts*. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199782963.001.0001>

- King, Mike, and David Waddington. 2004. Coping with disorder? The changing relationship between police public order strategy and practice—a critical analysis of the Burnley riot. *Policing and Society*, 14 (2): 118–137. <https://doi.org/10.1080/10439460410001674956>
- King, Mike, and David Waddington. 2005. Flashpoints revisited: a critical application to the policing of anti-globalization protest. *Policing and Society*, 15 (3): 255–282. <https://doi.org/10.1080/10439460500168584>
- Kutz, Christopher. 2000. *Complicity: Ethics and Law for a Collective Age*. Cambridge: Cambridge University Press. <https://doi.org/10.1017/CBO9780511663758>
- Lai, Ten-Herng. 2019. Justifying uncivil disobedience. *Oxford Studies in Political Philosophy*, 5: 90–114. <https://doi.org/10.1093/oso/9780198841425.003.0004>
- Lepoutre, Maxime. 2022. The red mist. *Journal of Ethics and Social Philosophy*, 24 (1): 36–57. <https://doi.org/10.26556/jesp.v24i1.2145>
- Lewis, Christopher, and Adaner Usmani. 2022. The injustice of under-policing in America. *American Journal of Law and Equality*, 2: 85–106. <https://doi.org/10.2139/ssrn.4192783>
- Lewis, Paul; Tim Newburn; Matthew Taylor; Catriona McGillivray; Aster Greenhill; Harold Frayman; and Rob Proctor. 2011. *Reading the Riots: Investigating England's Summer of Disorder*. London: The Guardian and London School of Economics. https://www.researchgate.net/publication/277230578_Reading_the_Riots_Investigating_England's_Summer_of_Disorder
- Loader, Ian. 2016. In search of civic policing: recasting the “Peelian” principles. *Criminal Law and Philosophy*, 10: 427–440. <https://doi.org/10.1007/s11572-014-9318-1>
- Mapel, David R. 2004. Innocent attackers and rights of self-defense. *Ethics & International Affairs*, 18 (1): 81–96. <https://doi.org/10.1111/j.1747-7093.2004.tb00454.x>
- McMahan, Jeff. 1994. Self-defense and the problem of the innocent attacker. *Ethics*, 104 (2): 252–290. <https://doi.org/10.1086/293600>
- McMahan, Jeff. 2009. *Killing in War*. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199548668.001.0001>
- Miller, David. 2007. *National Responsibility and Global Justice*. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199235056.001.0001>
- Monaghan, Jake. 2017. The special moral obligations of law enforcement. *Journal of Political Philosophy*, 25 (2): 218–237. <https://doi.org/10.1111/jopp.12123>
- Monaghan, Jake. 2023a. *Just Policing*. Oxford: Oxford University Press. <https://doi.org/10.1093/oso/9780197610725.001.0001>
- Monaghan, Jake. 2023b. Policing disobedient demonstrations. *Criminal Law and Philosophy*, 17 (3): 653–668. <https://doi.org/10.1007/s11572-023-09653-z>
- Moran, Matthew, and David Waddington. 2014. Recent riots in the United Kingdom and France. *Contention*, 2 (2): 57–74. <https://doi.org/10.3167/cont.2014.020205>
- Newburn, Tim. 2016. Reflections on why riots don't happen. *Theoretical Criminology*, 20 (2): 125–144. <https://doi.org/10.1177/1362480615598829>
- Newburn, Tim; Rachel Deacon; Beka Diski; Kerris Cooper; Maggie Grant; and Alex Burch. 2018. “The best three days of my life”: pleasure, power and alienation in the 2011 riots. *Crime, Media, Culture*, 14 (1): 41–59. <https://doi.org/10.1177/1741659016667438>

- Pasternak, Avia. 2019. Political rioting: a moral assessment. *Philosophy and Public Affairs*, 46 (4): 384–418. <https://doi.org/10.1111/papa.12132>
- Pasternak, Avia. 2021. *Responsible Citizens, Irresponsible States: Should Citizens Pay for Their State's Wrongdoings?* New York: Oxford University Press. <https://doi.org/10.1093/oso/9780197541036.001.0001>
- Pasternak, Avia. 2025. *No Justice, No Peace: The Ethics of Violent Protests*. New York: Oxford University Press. <https://doi.org/10.1093/9780197556719.001.0001>
- Perez, Anthony Daniel; Kimberly M. Berg; and Daniel J. Myers. 2003. Police and riots, 1967–1969. *Journal of Black Studies*, 34 (2): 153–182. <https://doi.org/10.1177/0021934703256716>
- Quispe-Torreblanca, Edika G. and Neil Stewart. 2019. Causal peer effects in police misconduct. *Nature Human Behavior*, 3 (8): 797–807. <https://doi.org/10.1038/s41562-019-0612-8>
- Reicher, Stephen; Clifford Stott; John Drury; Otto Adang; Patrick Cronin; and Patrick Livingstone. 2007. Knowledge-based public order policing: principles and practice. *Policing: A Journal of Policy and Practice*, 1 (4): 403–415. <https://doi.org/10.1093/polic/pam067>
- Reicher, Stephen D. 1984. The St. Pauls' riot: an explanation of the limits of crowd action in terms of a social identity model. *European Journal of Social Psychology*, 14 (1): 1–21. <https://doi.org/10.1002/ejsp.2420140102>
- Reynolds-Stenson, Heidi. 2018. Protesting the police: anti-police brutality claims as a predictor of police repression of protest. *Social Movement Studies*, 17 (1): 48–63. <https://doi.org/10.1080/14742837.2017.1381592>
- Schneider, Cathy Lisa. 2014. *Police Power and Race Riots: Urban Unrest in Paris and New York*. Philadelphia: University of Pennsylvania Press. <https://doi.org/10.9783/9780812209860>
- Smith, William. 2012. Policing civil disobedience. *Political Studies*, 60 (4): 826–842. <https://doi.org/10.1111/j.1467-9248.2011.00937.x>
- Smith, William. 2018. Policing, protest, and rights. *Public Affairs Quarterly*, 32 (3): 185–204. <https://doi.org/10.2307/26909993>
- Smith, William. 2021. The politics of protest policing: neutrality, impartiality, and “taking the knee.” *Harvard Review of Philosophy*, 28: 125–42. <https://doi.org/10.5840/harvardreview202172236>
- Stilz, Anna. 2011. Collective responsibility and the state. *Journal of Political Philosophy*, 19 (2): 190–208. <https://doi.org/10.1111/j.1467-9760.2010.00360.x>
- Tadros, Victor. 2016. Permissibility in a world of wrongdoing. *Philosophy & Public Affairs*, 44 (2): 101–132. <https://doi.org/10.1111/papa.12074>
- Táíwò, Olúfẹ́mi O. 2020. Power over the police. *Dissent Magazine*, June 12. https://www.dissentmagazine.org/online_articles/power-over-the-police/
- Thompson, Debra. 2017. An exoneration of black rage. *South Atlantic Quarterly*, 116 (3): 457–481. <https://doi.org/10.1215/00382876-3961439>
- Umoja, Akinyele Omowale. 2013. *We Will Shoot Back: Armed Resistance in the Mississippi Freedom Movement*. New York: New York University Press. <https://doi.org/10.18574/nyu/9780814725474.001.0001>

- Waddington, David. 1992. *Contemporary Issues in Public Disorder: A Comparative and Historical Approach*. London: Routledge. <https://doi.org/10.4324/9781003190981>
- Warner, Cody, and John D. McCarthy. 2014. Whatever can go wrong will: situational complexity and public order policing. *Policing and Society*, 24 (5): 566–587. <https://doi.org/10.1080/10439463.2013.784308>
- Wasow, Omar. 2020. Agenda seeding: how 1960s black protests moved elites, public opinion and voting. *American Political Science Review*, 114 (3): 638–659. <https://doi.org/10.1017/S000305542000009X>
- Weaver, Vesla. 2021. Policing narratives in the black counterpublic. Pp. 149–178 in *The Ethics of Policing: New Perspectives on Law Enforcement*, ed. Ben Jones and Eduardo Mendieta. New York: New York University Press. <https://doi.org/10.18574/nyu/9781479803729.003.0008>

