

Xavier University, Cincinnati, OH

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The Idea of Police in China

Kam C. Wong, *Xavier University*



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Chapter Three

The Idea of Police in China

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“In traditional China and for a long time, there was no distinction between military and administration (*junzheng bufen*), there was no distinction between police and administration (*jingzheng bufen*), there was no distinction between judicial and penal administration (*sifa xingzheng bufen*), in reality there was no independent ...public order system in China.”

History of Traditional Public Order System in China (1998)¹

“Police is a historical phenomenon. It originates with the state and disappears with the state. The basic characteristic (*benzhi teshi*) of police is an important instrumentality of the state to effectuate dictatorship (*guojia zhuanzheng gongju*)...”

“Definition of “Jingcha”

Chinese Public Security Encyclopedia (1989)²

Introduction

Police are not the same everywhere.³ The mandate and legitimacy, vision and mission, role and function, structure and process, operations and

¹ Zhu Shaohou, *History of Traditional Public Order System in China* (“Zhongguo gudai zhian zhidu”) (Henan: Henan daxue chubanshe, 1998), p. 2.

² *Chinese Public Security Encyclopedia* (“Zhongguo gongan baike quanshu”) (Jilin: Jilin chubanshe 1989), p. 2024R.

³ Arianit Koci, “LEGITIMATION AND CULTURALISM: TOWARDS POLICING CHANGES IN THE EUROPEAN ‘POST-SOCIALIST’ COUNTRIES.” In *POLICING IN CENTRAL AND EASTERN EUROPE: Comparing Firsthand Knowledge with Experience from the West* (Slovenia: College of Police and Security Studies, 1996). (Newly liberated communist states in central and Eastern Europe - Albania, Bulgaria, Hungary, Poland, Russia, Lithuania - developed their own form and style of policing that is consistent with their own social, cultural and political-specific circumstances.)

style of the police are variously determined by history⁴ and tradition,⁵ philosophy and ideology,⁶ and culture and custom.⁷ David Bayley investigated 47 police forces in five developed countries worldwide and discovered discernable differences in police structure and process as reflecting disparate historical development and cultural influences.⁸ James Q. Wilson examined eight communities across the U.S. and found varieties of policing style, as determined by communal structure and local politics.⁹

Differences aside, the actual practice¹⁰ of policing worldwide share much in common in terms of goals, i.e., crime prevention and order maintenance, and means, i.e. use of force.¹¹ Such similarities register basic

⁴ Jonathan Dunnage, *The Italian Police and the Rise of Fascism* (Greenwood Publishing Group, 1997), Especially, Chapter 1: “An Introduction to Italian Police History,” pp. 1 – 19.

⁵ India Police Commission, *History of Police Organization in India and Indian Village Police* (University of Calcutta, 1903)

⁶ Louise I. Shelley, *Policing Soviet society: the evolution of state control* (Routledge, 1996), p. xiv. (For seven decades the militia in Russia impose ideological control and instill personal discipline on the people.)

⁷ Allan Y. Jiao, “Police and Culture: A Comparison between China and the United States,” *Police Quarterly*, Vol. 4 (2):156-185 (2001).

⁸ David Bayley, *Patterns of Policing: A Comparative International Analysis* (New Brunswick, NJ: Rutgers University Press, 1985).

⁹ J.Q. Wilson, *Varieties police behavior* (Harvard University press, 1968).

¹⁰ “On practice,” Mao Tsetung, *Five Essays on Philosophy*. (Foreign Language Press, Peiking, 1977), pp.1-22. (“The truth of any knowledge or theory is determined not by subjective feelings, but by objective results in social practice. Only social practice can be the criterion of truth.” Citing Karl Marx, at note 2)

¹¹ Weber observed: “Ultimately, one can define the modern state sociologically only in terms of the specific means peculiar to it, as to every political association, namely, the use of physical force... a state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory.” “Politik als Beruf,” *Gesammelte Politische Schriften* (Muenchen, 1921), pp. 396-450. Originally a speech at Munich University, 1918, published in 1919 by Duncker & Humblodt, Munich. See also Carl B. Klockars, *The Idea of Police* (SAGE Publications, 1985) (Police is defined not by ends but with means. Police “forcibly compel other people to do something”) and Egon Bittner, *The Functions of Police in Modern Society*. (Chevy Chase, MD: National Institute of Mental Health, 1970). (Police officers have been granted the privilege of using “non-negotiable coercive force”) Marx and Engles: “The

human instincts, e.g., striving for safety and justice, and reflects durable communal aspirations, i.e., yearning for order and security.¹²

In the case of China, since antiquity,¹³ policing functions, from political control to social ordering, have been achieved informally, by way of family¹⁴ and with the help of the community. In imperial China, family, and by extension clan, was the most basic unit of economic production and social control. Parents have powers to make and enforce family rules, with delegated authority from the state. The situation is not much different in Japan and other Asian countries which assimilate Chinese culture.¹⁵

In modern time and under Communist rule, the clan - family as a social control site has been replaced by the work units (“danwei”).¹⁶ The work units controlled the individuals ideologically, economically and socially.

centralised State power, with its ubiquitous organs of standing army, police, bureaucracy, clergy and judicature-organs wrought after the plan of a systematic and hierarchic division of labour-originate from the days of absolute monarchy, serving nascent middle-class society as a mighty weapon in its struggles against feudalism.” Lewis S. Feuer (ed.)(1959). *Marx and Engels: Basic Writings on Politics and Philosophy* (London, Collins 1959) p. 402.

¹² William Golding’s *Lord of the flies* (1959) is a vindication of Thomas Hobbes (1588-1679)’s observation that in the "state of nature" human beings are "solitary, poor, nasty, brutish and short" and engaged in a "war of every man against every man". Ultimately “might make right”. For contrasting view, see Jean-Jacques Rousseau (1712 – 1778) in his *Du contrat social (On the Social Contract)* (1762).

¹³ See Chapter 1: “The Chinese Tradition in Antiquity.” In *Sources of Chinese Tradition* Vol. 1 (Columbia University Press 1960), pp. 1 – 14.

¹⁴ See Chu Tung-tsu, *Law and Society in Traditional China* (Paris: Mouton & Co. 1965), pp. 24-36, for how disrespectful children and unfaithful spouses were dealt with. See also court cases reported in Collin Howes, “Reinterpreting the Law in the Song: Zheng Ke’s Commentary to “Magic Mirror for Deciding Cases,” *The Journal of Asian Legal History* 2001 Volume 1: 23 – 68 (Respectful spouses and pious children were treated more compassionately than the law required.)

¹⁵ David Bayley, *Forces of Order: Policing Modern Japan* (CA: University of California Press; 2nd edition (May 1, 1991).

¹⁶ Chapter 2: “Social Control in Chinese Work Units.” Victor Shaw, *Social Control in China: A Study of Chinese Work Units* (Greenwood Press, 1996), pp. 19-25.

The myth that China has no formalized¹⁷ and organized¹⁸ social control arrangements before the *Qin* dynasty should be discarded. As described in *Shang Shu* (Book of History), beginning with the *Xia* dynasty (21 to 16 BC), there were functional police operatives (magistrates, runners) existed within the government and social control agents (parents, gentries) dispersed in the community.¹⁹

Specialized and professionalized police came to China by way of Japan, circa 1889.²⁰ Western policing, in the guise of bureaucratic, scientific, technocratic and legalistic policing began to spread and take roots in the People's Republic of China (PRC) after 1979.²¹ Given China's lack of exposure to Western policing²² it is interesting and useful to investigate into how China comes to police herself through the ages; more pointedly, whether China has her own indigenous conception (or image, or sense) of

¹⁷ Not to be confused with formal or official arrangements.

¹⁸ Not to be confused with (rational) organization.

¹⁹ Fei Chengkang, *The Family and Clan Rules in China* (Zhongguo de jiafa zhugui) (Shanghai; Shanghai shehui kexue chubanshe, 1998)

²⁰ Hon Yanlung and Su Yigong, *Contemporary Police History I* (Zhongguo jindai jingchashi) (Shehuikexue chubanshe 1999). (Hereinafter: *Contemporary Police History* (1999))

²¹ Kam C. Wong, "The Philosophy of Community Policing in China," *Police Quarterly* Vol. 4(2): 186-214 (2001). See also Mu Yumin, *Beijing Police: A hundred year* (Beijing Jingcha Bainian) (Beijing: Zhongguo renmin gongan daxue chubanshe 2004), p. 597. (Chapter 4, Section 3: "The focus of public security work shifted to protecting the modernization of socialism" ("Gongon gongzuo zhongdian zhuan dao baowei shehui zhuyi xiandiahua"))

²² The term "Western" is not a scientific concept, capable of clear demarcation and particular referent, without anchoring and contextualizing. "Western" has however received meaning, such as "occidental" or those of European extraction and origin. The term "Western" is not a geographic concept as much as it is a cultural marker, e.g., Greek civilization vs. barbarian culture, and economic classifier, e.g., industrialized nations vs. developing countries. The Western influence on the world is unmistakably Greek, from philosophy of government (Plato, Aristotle), to scientific inquiry, e.g., math, architecture (physics and geometry), astronomy and theoretical science. See Chapter 1: "The Revolution in Western Thought." In pp. 5-6 Huston Smith, *Beyond the Postmodern Mind: The Place of Meaning in a Global Civilization* (Quest Book, 2003).

police? In the words of Deng, what does policing “with Chinese characteristics” look like, conceptually, organizationally and operationally?

This chapter is organized into the following sections. After this brief “Introduction,” Section II states the “Research Focus, Method and Contributions.” Section III “Literature Review” provides an overall review of various research projects into Chinese police and policing, observing a lapse of attention. Section IV: “Problems with Historical Police Research” discusses reasons for the lack of historical police research in China. Section V: “Conceptualizing Police and Policing” explores how “police” and “policing” have been conceptualized or defined in China. Section VI: “The Concept of Police in China” investigates the linguistic roots and cultural meaning of “jing cha” (police) in imperial China, and more recently, “baowei” (security-defense) and “gong-an” (public security) in People’s Republic of China. Section VII: “The Origin and Development of Chinese Policing” traces the first recorded undertaking of policing functions by the state to the time of “Xia, (21st to 16th century B.C.) and the first centrally organized police bureaucracy to the *Qin* dynasty (221 to 207 B.C.). The last section, Section VIII: “Conclusion” summarizes the findings and articulates the lessons learned.

II

Research Focus, Method and Contributions

This is an investigation into the origin of “police” as a conceptual entity and development of “policing” as a social practice in early imperial China.²³ The article addresses two related issues: What is the cultural

²³ This essay follows conventional usage, i.e., “police” refers to police as an organization, agency or institution, whereas “policing” refers to policing as an activity or

meaning of police (“jingcha” or “jing cha”) in China? How was policing functions organized and performed in imperial China?

The difficulty with conceptualizing “police” in China is that the term is a transplanted idea with no indigenous roots. Starting at the translation level, there is an illness of fit between “police” and “jing cha” (as a verb) vs. “jingcha” (as a noun). More significantly, “police” or “jingcha” as a specialized state control agency is not an important, still less exclusive, social qua political institution to secure political obedience, maintain social order and provide personal services in China. That is to say, up through the centuries, political control, social regulations and public order were achieved in other more informal, organic and dispersed ways.

In the understanding of Chinese policing, history matters.²⁴ This is so for the following reasons.

First, Chinese people in general and Confucius scholars in particular are extremely historically conscious.²⁵ They look to history for mistakes

function. Unless otherwise specify in text or made apparent from context, “police” and “policing” is used interchangeably.

²⁴ Liu De, “Preface One”. In Mu Yumin, *Beijing police: A hundred year* (Beijing Jingcha Bainian) (Beijing: Zhongguo renmin gongan daxue chubanshe 2004). (Every era has its own characteristics and each generation possesses its own wisdom. In providing for continuity, there is a need to look back as a way to move forward.)

²⁵ Confucian view of governance is one realizing “tianmin” (heavenly mandate) on earth. The “golden age” of perfect government was achieved during the Yau, Shun, Yu time, some 5000 years ago. The Confucius view of history is one of recycling pattern. Together, Confucian governing philosophy required the emperors to look back as a way of looking forward. D. LANCASHIRE, “A Confucian Interpretation of History,” *Journal of Oriental Society of Australia* Vol. 3(1): 76 – 85 (1965). Following Confucian’s teachings, many Chinese emperors and imperial officials have taken to heart the lessons of history. For example, Tang Taizhong (635) revered history as guide for actions. He said: “With the use of bronze mirror, to straighten out my clothing; with the using the past as mirror, to know the rise and fall of empire.” (“夫以銅爲鏡，可以正衣冠；以古爲鏡，可以知興替”). As a result, Tang Dynasty (608-906) appointed historians to compile dynastic histories to assist with rulers to learn from the past. Sima Guang (1018-1086) was entrusted by the Song emperor to write a grand history for all

made and lessons learned.²⁶ The first emperor of Han dynasty (206 BC to 220 AD), Han Gaozu (256 BC – 195 BC), after defeating *Qin* empire (201 – 227 BC), wanted to learn about the mistakes of the *Qin*'s rule.²⁷ Later, Tang emperor Li Yuan observed: “Examination of winning and losing, investigation of ebb and flow of events...know more about history, leave something behind for the future.” The avowed purpose for Simaguan compiling <<Shi Ji>> (Books of Historian) was to: “Relate the past, prospect the future”²⁸ Emperors used history to leave a legacy, as captured by this admonition: “qian gu liu ming” (leave a good name for a thousand years) vs. “wei chou wen nian” (leave a bad name for ten thousand years).²⁹

Second, doctrinally Karl Marx preached historical materialism, as the science of politics. According to Marx, the material base and production

time which was appropriately named *Comprehensive Mirror for Aid in Government* (*Zizhi tongjian*).

²⁶ Mo Fengyun, “Look back to find the future, review the old to know the new,” (“Jian wang zhilai, wenguzhixin - 鉴往知来 温故知新”) *Public Security Studies* Vol. 6, 1989. (In April of 1979, the leading Party group of MPS decided to establish the “Public security historical data collection research leadership group” (“Gongan shi ziliao zhengji yanjiu lindao xiaozu de tongzi.” On August 4, 1981, the MPS issued the “Notice to establish public security historical data collection research leadership group” (“Guanyu gongan chengli shi ziliao zhengji yanjiu lindao xiaozu de tongzi”). The project focused on collecting data about the development of communist policing in China, dating back to Yanan.)

²⁷“Please explain to me why Qin lost the kingdom and I secure it, also the success and failures of past states.” (“试为我著秦所以失天下，吾所以得之者何，及古成败之国”) - *Record of Historians: Biography of Aheng Lujia* (<<Shiji.Lisheng Lujia lizhuan>> 《史记·酈生陆贾列传》)

²⁸ *Record of Historians: The Self-preface of Shi Taigong* (“<<Shi Ji. Shi Taigong Zhixu>> - 《史记》太史公自序)

²⁹ See “China in the Twentieth Century: A History Course” by Prof. Dr. S. Weigelin-Schwiedrzik (Universität Heidelberg, Sinologisches Seminar) and Prof. Marilyn A. Levine. (Lewis-Clark State College, Div. of Social Sciences). (“Chinese culture is known among the high cultures of the world as extremely historically minded.”)

http://www.lcsc.edu/modchin/history_and_historiography.htm See also “CHINESE MUSIC HISTORY” *CHINA PEOPLE PROMOTIONS* (“Chinese culture has the richest historical records and the Chinese have been most historically minded.”)

<http://www.chinesemusic.co.uk/english/history.html>

relationship, and in turn superstructure of the society and social consciousness of the people moves through predictable and inevitable historical stages; from tribalism to feudalism to capitalism to communism.³⁰ Thus, in order to prepare for the future one must know the past.³¹ More importantly, in order to liberate oneself from the domination of the exploitative capitalistic class, one must study history, as Friedrich Engels did with his *MANIFESTO OF THE COMMUNIST PARTY* (1888).³²

Third, Mao was a librarian. He was an avid reader of Chinese classics and political history. Many of Mao's thoughts were rejuvenation and extension of traditional Chinese thoughts.

This cursory review of Chinese culture, ideology and personality shows that to truly understand China is to intimately engage with Chinese history. The Chinese police professionals take this to heart. For example, a cursory review of Chinese police text finds many references to the past.³³

³⁰ With the demise of communism in Russia and the embrace of capitalism by China, legitimate question is being raised about the prophecy of Marx's brand of historicism. Sir Karl Popper has long predicted the eventual demise of communism on historicism grounds, Karl Popper, *Poverty of Historicism* (1988).

³¹ The demise of communism liberated China from the straight jacket of "historical materialism" only to return her to the ubiquitous burden of an all embracing Chinese civilization. View in this light, communists embrace of "historical materialism" provide yet more evidence of an un-breaking, and unbreakable habits of the mind that seeks to link the present with the past, and identity with destiny.

³² "The history of all hitherto existing societies is the history of class struggles."

³³ See for example, Zhongguo Jingcha Xuehui (China Police Studies Association (ed.) *China police law* (Zhongguo jingcha fa) (Beijing: Qunzhong chubanshe 2001), p. 4 (on historical concept of police); p. 16 (on history of police law research); pp. 34 – 39 (on history of police law); Kang Daimin, *Discourse on broad concept of public security* (Guangyi gongan lun) Beijing: Qunzhong chubanshe 2001), p. 3 (on historical use of the term "public security"; p. 17 (on historical debate over scope of "public security" studies; pp. 29 – 36 (on Marxist historical analysis of police), pp. 39 – 45 (on Chinese history and origin of police); pp. 45 – 48 (on foreign historical origin of public security as an objective state); p. 79 - 80 (on history of importation and development of police from Japan); pp. 125 – 126 (on historical Party focus on morality); pp. 230 – 231 (on history of police higher education); Wang Yong, *Discourse on police operations* (Jingcha qinwu

As observed below, there is a lack of (Western) research into the origin of police and history of policing in China.³⁴ This is a first attempt to fill this research lapse. This research is based predominately on Chinese historical materials, as supplemented by and illuminated with occasional English literature, when warranted.

III

Literature review

Focused study on policing in China before 1870s did not exist. Thus, it is best to consult general historical treatises on political, e.g., *Zhongguo zhengzhi zhidu shi* (1987),³⁵ administrative, e.g., *Zhongguo gudai xingsheng lifa* (1990),³⁶ or legal, e.g., *Zhongguo falu zhidu shi tonglan* (1989)³⁷ development to understand social control and state governance in China. These treatises while illuminating on different aspects – philosophy, structure, methods, practice - of governance in imperial China, are not very informative on “police” as a distinctive intellectual concept or “policing” as normative social/political control function.

lun) (Beijing: Zhongguo renmin gongan daxue chubanshe 2001), Chapter 2: “The developmental stages of police operations” (Jingcha qinqu de fazhang licheng), pp. 31 - 63, esp. pp. 3- - 36 on imperial China public order management; Xu Fake, *Discourse on Chinese police law* (Zhongguo jingcha fa lun) (Hunan chubanshe, 1996), pp. 14 – 15 “The meaning of *Gongan*” (“Gongan de hanyi”); and “Traditional meaning of “jing” “cha” (“Gudai yi “Gudai yii shang de jingcha”) pp. 73 – 76 “The development of law on police organization” (“Jingcha zuzhi de falun yuange”).

³⁴ For a comprehensive literature review of China policing, see Kam C. Wong, “Policing in PRC – Road to Reform in the 1990s,” *British Journal of Criminology* 42:281-236 (2002)

³⁵ Zhang Jinfan and Wang Chao, *Chinese political system history* (Zhongguo zhengzhi zhidu shi) (Beijing: Zhongguo zhengfa daixue chubanshe 1987)

³⁶ Pu Jian, *Traditional administration and legislation in China* (Zhongguo gudai xingzheng lifa) (Beijing: Beijing daxue chubanshe, 1990)

³⁷ *Comprehensive view of Research on Chinese legal and institutional history* (Zhongguo falu zhidu shi tonglan (Tianjin jiaoyu tubanshe, 1989).

The earliest discussion of China police history was by Huang Zunxian (黄遵宪) (1848 – 1905), a Qing diplomat turned police reformer,³⁸ known as the “contemporary Chinese police foundation-layer” (“Zhongguo jindai jingcha dianji ren”).³⁹ He was instrumental in establishing the short lived but trend setting *Hunan Baowei Ju* in China modeled on Western policing.

Huang traced the first discussion of police origin in China to <<Zhou li>> and <<Guan Zi>>; <<Zhou li>> detailed the titles, roles and responsibilities of various central officials responsible for law and order functions, and <<Guan zhi>> described how government administrative practices such as *baoji* were carried out.⁴⁰

Zhongguo Baojia Zhidu (1936)⁴¹ was the first book on policing in China. It described traditionally how Chinese communal social control was organized. Specifically, how communities - tied to farm land, lived in closed proximity and connected by blood relationship - were organized into a self help, mutual aid and communal responsibility system known as *boajia*.⁴² However, it has little to say about the “police” as a centrally organized, bureaucratically administered, functionally specialized, professionally trained agency in China.

³⁸ “Chapter XII: Prisons”. In Sidney David Gamble, John Stewart Burgess, *Peking: A Social Survey Conducted Under the Auspices of the Princeton* (George H. Doran Company, 1921) pp. 303 – 323.

³⁹ Huang stands shoulder to shoulder in police history with such pioneers as Sir Robert Peel of England and Mr. August Vollmer of United States.

⁴⁰ *Contemporary Police History* (1999), p. 18.

⁴¹ Men Juntian, *Bao Jia system in China* (Shanghai: Commercial Press 1936)

⁴² Dutton’s work is a modern rendition of Men’s work within a Foucault theoretical framework, Dutton, Michael R. *Policing and punishment in China: from patriarchy to “the people”* (New York: Cambridge University Press, 1992).

Contemporary Police History (1999) is the most authoritative and comprehensive study on Chinese police history in recent years.⁴³ It provides a detail description and meticulous documentation of how the Chinese dysfunctional police system was reformed, organized and operated during the late *Qing* dynasty and early Republic of China periods. The book began with the establishment of the *Hunan Baowei Ju* in 1887.⁴⁴

According to *Contemporary Police History* Ge Yuanxi, a long time Shanghai resident, wrote a book <<Hu you zai ji>> (“Miscellaneous accounts of Shanghai journey”) in 1876 about the people, custom and happenings in Shanghai during that time. Ge provided a first person vivid account of foreign police operating in China.⁴⁵ Ge observed that according to the <<Shanghai zu di zhan cheng>> (Charter for Shanghai Settlement) (1951) Shanghai Municipal Council was responsible for providing law and order in the international settlements. Accordingly, it established “xunbu fang” (patrol police stations), staffed by half Western and half Chinese officers. They were identified with numbers on their uniform⁴⁶ and worked in various British, French, America concessions in Shanghai.⁴⁷ Patrol officers were assigned to beats and patrolled the street on foot at night. The Western police officers were equipped with knives and the Chinese with batons. Their duties were to deter crime, track criminal, maintain order and

⁴³ *Contemporary Police History* (1999).

⁴⁴ Frederic Wakeman, Jr., "American Police Advisers and the Nationalist Chinese Secret Service, 1930-1937," *Modern China* Vol. 18(2):107-137 (1992). Frederic Wakeman, Jr., "Policing Modern Shanghai," *The China Quarterly* No. 115: 408-440 (1988); especially "Origin of Shanghai Police," p. 409.

⁴⁵ *Contemporary Police History* (1999), p. 4.

⁴⁶ Sir Robert Peel was the first to call for identification of police with uniform and numbers.

⁴⁷ Frederic Wakeman, Jr., "Policing Modern Shanghai," *The China Quarterly* No. 115: 408-440 (1988).

handle emergency.⁴⁸ The chief of police was appointed by the Municipal Council Board, with elected members by Western commercial leaders.⁴⁹

He Qi and Hu Liheng wrote the book <<Zhongguo yi gailiang xinzheng lunyi>> (“Discussion on how China ought to introduce reform to new administration”) which made a number of far reaching and radical reform proposals to save the Qing regime, including the establishment of “xunbu” (police) in China, modeled on the West.⁵⁰

In 1895 Cheng Guanying⁵¹ wrote the book <<Shengzhi weiyan>> (“Warning during prosperous time”) with a chapter on “Police” (“Xunbu”). In the chapter Cheng detailed the operations of police in New York City and Shanghai concession, with growing admiration and sobering observation:

“In the old time, people’s culture was simple and sincere, natural and unsophisticated, doors were not locked at night and lost properties were not picked up. Nowadays there are diversity of opinions and different kinds of characters. If there are no effective laws to clean up the wicked and good regulations to arrest the criminals, there is no way to remove the evil and promote the good. This is why the West set up the police (*xunbu*). In examining Western legal systems, (we find that) there are police stations (*xunbu fang*) in big cities and major urban centers. They are divided into morning and night shifts. Police officers are on duty in the street and supervised by beats. When they observe suspicious activities and come upon assaults, kidnaps and robberies, they immediately make arrest and present the offenders to (justice) officials. Thus the rascals

⁴⁸ *Contemporary Police History* (1999), p. 4.

⁴⁹ For structure, role, functions and operation of Municipal Council Board, see Manley O. Hudson, "The Rendition of the International Mixed Court at Shanghai," *The American Journal of International Law* Vol. 21(3): 3451-471 (1927), esp. 453 - 455 (Municipal Council Board members were elected by foreign rate payers.)

⁵⁰ *Id.*

⁵¹ Cheng was born in Guangzhou and resided in Macau. He was a trader. He was an influential reformer of the time, *ibid* p. 6.

dare not cause trouble and lay people are not fearful at night. If there are small disputes between neighbors, they will quiet down and stop arguing, thus avoiding personal injuries. Their ability to prevent crime and protect residents contributed much to the local welfare. This is what Western style governance can offer.”⁵²

Hon and Su also observed that there was a lack police historical research. The observation is a valid one. A comprehensive survey of articles published in *Gongan daxue xuebao (Journal of Chinese People’s Public Security University) (PSUJ)*⁵³ between 1999 - Vol. 43 to 2007 - Vol. 128

⁵² *Contemporary Police History* (1999), p. 6.

⁵³ *PSUJ* is selected for analysis because of its strong political leadership, high academic standards, and popular scholarly appeal. Politically, it is one of very few police journals sponsored and managed by the Ministry of Public Security. Academically, it is a national journal edited by the Public Security University. Scholastically, it is one of the top police journals in the field, according to citations counts. In a citation count survey of police articles appearing in the *Journal of Jiangsu Police Officer College* (1986 to 2002) (Ji Weiwei, “Analysis on Calculation of Quotation in *Journal of Jiangsu Police Officer College*” (“<<Jiangsu gongan zhuanke xuexiao xuebao>> yinwen jiliang fenshi”) Vol. 89 (2003/4), pp. 181 – 187) there were a total of 1729 (sic.) articles published [Table 1 show 1927 (sic?)] with 505 articles having references or 26.21%. This is lower than the national average for the social science discipline as a whole, i.e., 41.5% (national) vs. 26.21% (*Jiangsu*) but progressively getting better, i.e., 1986 (16.67%) vs. 1997 (25.6%) to 2002 (63.91%). The citation count further shows that a total of seven police journals were cited – *Journal of Jiangsu Police Officer College* (*Jiangsu jingguan xueyuan xuebao*) (22 citations); *PSUJ* (*Gongan daxue xuebao*) (8 citations), *Public security studies* (*Gongan yanjiu*) (7 citations), *Social public safety studies* (*Shehui gongong anquan yanjiu*) (7 citations); *World police information digest* (*Shijie jingcha cankao ziliao*) (7 citations); *People’s public security* (*Renmin gongan*) (7 citations); *Modern world police* (*Xiandai shijie jingcha*) (5 citations) Discounting *Journal of Jiangsu Police Officer College* apparent leadership in citations due to possible editorial preference, personal connection and scholarly community reasons, *PSUJ* leads all the other six journals by 1 to 2 citations. While the lead is small, this is nevertheless one piece of tentative evidence that *PSUJ* is a well regarded journal by peers. The fact that most police officers, instructors and professors graduated from the Chinese Public Security University also helps to elevate the academic standing and consolidate its scholarly dominance. See Table 5 to Ji Weiwei, “Analysis on Calculation of Quotation in *Journal of Jiangsu Police Officer College*” (“<<Jiangsu gongan zhuanke xuexiao xuebao>> yinwen jiliang fenshi”) Vol. 89 (2003/4).

uncovers only a handful of articles discussing aspects of the history of policing in China:

(1) Lin Fang, “Construction of Chinese Legal System: Its Review and Prospect” (“Zhongguo Gong'an fazhi jianshe de huigu yu zhangwang”), *PSUJ* Vol. 2, 1994, pp 13 – 21;

(2) Wang Yong and Li Jianhe, “Police Patrol: Origin, Development, Status, and Function,” (“Jingcha xunluo de youlai, xianzhuang ji zuoyong”) *PSUJ* Vol. 1 (Total 47), 1994, pp 1 – 7;⁵⁴

(3) Li Shu, “The Establishment and Development of Preliminary Examination in the New Democratic Revolutionary Base I, II & III.” (“Xin minzhu geming shiqi genjudi yusheng zhidu de jiangli he fazhan I & III”)⁵⁵ *PSUJ* Vol. 1, 1996, pp 67 - 69; Vol. 3, 1996, pp 75 – 77 respectively;

(4) Zheng Zhongwu, “Exploring the Historical Origins and Development of Police I, II, III, IV” (“Jingshi yuan liu shitan”) *PSUJ* Vol. 3, 1998, pp 100 – 103; Vol. 4, 1998, pp 84 – 87 and Vol. 5, 1998, pp. 108 – 111; Vol. 6, pp. 87 - 90 respectively;

⁵⁴ The author traced police patrol to local public security organ of “ting” in Qing & Han dynasties. Citing <<Hou Han Shu. Bai Guan Zhi>> the authors observed that “ting” has the responsibilities of deterring would be criminals by patrol and arresting of criminals through investigation. The “ting” patrol was armed with sticks for defense and ropes for tying up suspects. Citing <<Sung Hui Yao Ji Gao.Jiguan. Xunjiansi>> the authors reported that according to Sung law, “xunjiansi” (“patrol inspection officers”) lead soldiers to patrol the land on horse and water by boat. In 1120, a system was devised to supervise patrol activities, i.e., “xunjiansi” was to record their visits to a village in a duty restore. In 1898, Li Nengshi wrote in his book <<Qingji Hunan de weixin yundong>> (“Reform movement in Hunan during Qing time”) that: “Both inside and outside the city there were people on patrol day and night. Unsavory characters were no longer in sight. The city was peaceful. Commercial people all felt safe.” Finally, in 1902, Governor Yuan Shikai set up the first patrol office in Tianjian and promulgated the <<Tianjian nanduian xunjing zhongju xianxing zhangching>> (“Regulations of current Tianjian South Sector Patrol Headquarter”). By 1905, foot patrol has become a fixture in cities and towns.) (pp. 4 -5)

⁵⁵ “The establishment and development of preliminary examination in the new democratic revolutionary base II ”is unaccounted for.

(5) Wan Chuan, “Shang Yang’s Reform in Household Registration and Its Historical Significance,” (“Shang Yang de huji zhidu ji qi lishi yiyi”) *PSUJ* Vol. 1, 1998, pp 80 – 83;

(6) Yuan Xiaohong, “Description and analysis of Huang Zunxian’s police management’s idea” (“Huang Zunxian jincha xingzheng sixiang shulue”) *PSUJ* Vol. 1, 1999, pp. 95 – 6;

(7) Xu Xingyuan, “Review of the Development of Public Security Organs and the Structure of People’s Police in 50 Years,” *PSUJ* Vol. 4, 1999, pp.91 - 92;

(8) Xin Xuyuan, “The development of China police uniform,” (“Zhongguo renmin jingcha zhifu de fazhan”) *PSUJ* Vol. 2, 2000, pp. 37 - 38;

(9) Chen Hong, “Reflection on traditional public order” (“Dui gudai zhian de lilun sixiang”) *PSUJ* Vol. 2, 2000, pp.84 - 89;

(10) Chen Zhiyong, “Public order management in the Xia Shang period” (“Xia Shang shiqi de zhian guanli”) *PSUJ* Vol. 2, 2000, pp. 34 - 34;

(11) Meng Qingchao, “Analysis of the reason for the failure of police reform at late Qing” (“Qing mo jiangjing shibai yuanyin fenxi”) *PSUJ* Vol. 5, 2002, pp. 124 – 126;

(12) Liu Junling and Kuang Cuiye, “A review and reflection on China public security historical research” (“Dui woguo gongan shi yanjiu de huigu yu sikao”) *PSUJ* Vol. 5, 2004, pp. 152 – 157.

(13) Xie you-ping and Deng Li-jun, “Reviews the History of Secret Investigation of Chinese Feudal Society” *PSUJ* Vol. 2: 111-119 (2006).

A review of another leading provincial police journal, i.e., that of *Journal of Jiangsu Police Officer College* (Jiangsu jingguan xueyan xue

bao), for one year, i.e. 2003 (six issues – Vol. 86 - 92) shows only one article on police history, i.e. Xia Min, “Establishment of Modern Chinese Police System in Late Qing Dynasty,” (“Wan Qing zhiqi zhongguo jingdai jingchah zhidu jiangshe”) *Journal of Jiangsu Police Officer College* Vol. 18(1), pp. 142 – 147).⁵⁶

With respect to the state of public security historical research, Liu and Kuang’s work offered one of the more systematic and comprehensive assessment.⁵⁷ According to the authors, the interest in Chinese public security historical research started in early 1980s with the formation of a dedicated research group at MPS (“Gongan shigao jiliao zhenji yanjiu lingdao xiaozu” – Public security historical data collection and research leadership small group” (“PS research leadership group”), with the endowment of offices and deployment of staff.⁵⁸ This was followed by provincial efforts in establishing local public security annals research organizations. Other researchers from a variety of academic disciplines and perspectives (Party history, social history) soon joined hands.⁵⁹ As to activities, the “PS research leadership group” held a number of workshops

⁵⁶ According to Jie Weiwei, “Metrological (sic) Analysis of essays published in Journal of Jiangsu Public Security College” (“<<Jiangsu gongan zhuanke xuexiao xuebao>> kanwen jiliang fenshi”) *Journal of Jiangsu Police Officer College* Vol. 18(1), pp. 174 – 180, the *Journal of Jiangsu Public Security College* (since 1986) (now *Journal of Jiangsu Police Officer College* (as of September 2002) published about 23.5 articles a volume or 141.5 articles a year on average (between 1986 – 2002). It has contributions from all the provinces including Hong Kong and Macau. However, most articles, i.e., 80.3% of all articles, came from Jiangsu.

⁵⁷ “Reflection and thinking about our nation’s public security investigation” (“Dui woguo Gong’an shi yanjiu de huigu yu shikao”) *PSUJ* Vol. 5, 2004, pp. 152 – 157.

⁵⁸ *Id.* p. 152

⁵⁹ *Id.* p. 152R.

(“gongzuo zuotan hui”) in 1982, 1983, 1984 to plan, coordinate and direct research work.⁶⁰

Into 1990s, the MPS changed its research direction. It disbanded the “PS research leadership group.” The Fourth Research Institute at MPS has since taken up the leadership role in coordinating and direction public security research all over the nation.⁶¹ It compiled oral history, trained researchers and solicited manuscripts from provinces and local public security organs around the country. There was however a noted decline of interest and reduction of efforts in Chinese police historical research. This has led the Chinese Police Association sound the alarm about the lapse of leadership and demise of such researches in 1999.⁶² This prompted the Chinese People’s Public Security University to redouble the effort in launching Chinese police history as a teaching – research area in 1999.⁶³

Overall, public security research initiative in the 1980s and 1990s boasted the following achievements. In terms of (notable) publications, there are: *History of Public Security* (“Zhongguo renmin Gongan shigao” (Beijing; Jingguan jaoyu Chubanshe, 1997); *Contemporary public security work* (“Dangdai Gongan gongguo”) (Beijing: Dangdai Zhongguo chuabsnshe, 1993); *Mao Zedong public security work theory* (“Mao Zedong Gongan gongzuo lilun”) (Beijing: Qunzhong chubanshe, 1993); *Luo Ruqing discussing people public security work* (“Luo Ruqing lun renmin gongan gongzuo”) (Beijing: Qunzhong chubanshe, 1994); *First Minister of Public Security – Luo Ruiqing* (“Xing zhongguo diyi ren gonganbu chang – Luo

⁶⁰ *Id.* p. 152L.

⁶¹ *Id.*

⁶² *Id.* p. 153R.

⁶³ *Id.* p. 153R.

Ruiqing”) (Beijing: Qunzhong chubanshe, 1993, ⁶⁴all essential literature in understanding public security thinking and development, particularly before Deng’s reform.

In terms of local efforts, the most valuable ones are the public security annals (“Difang Gongan zhi”) of different region or areas. This set of data promised to be a goal mine of researching into public security history and development from bottoms up and from different part of the country.

In terms of data collection, the most comprehensive and authoritative publication is that *Overview of major public security events since the establishment of the nation* (“Jian guo yilai Gongan gongzuo dashi yaolan”) (Beijing: Qunzhong chubanshe, 2002) which documented public security development from October 1949 to 2002.

Finally substantial amount of internal historical materials are reported in internal publication *Public Security Historical Research Materials* (“Gongan shi yanjiu zhiliu”) as representative and validation of “PS research leadership group’s” work in the 1980s and 1990s.⁶⁵ Such “neibu” (internal) data is essential in reconstructing and understanding police development from an inside out perspective.

As a critique of public security historical research, Liu and Kuang observed uneven development and lack of systematic, in-depth and well grounded research. The first resulted from poor coordination and later is caused by lack of well trained and experienced researchers.⁶⁶

In terms of future research, the Liu and Kuang suggested the following areas or issue of interests: The Party’s theory, direction, policy

⁶⁴ *Id.* p. 153.

⁶⁵ *Id.* p. 153.

⁶⁶ *Id.* p. 154.

and strategy for public security, especially their evolution and pattern; the thinking of third (now fourth) generation leadership and their historical impact and significance; the contributions and mistakes of various personalities in public security history; the evolution – continuity and change of public security organs; the conduct, process and outcome of various public security events and activities; the support and participation of the people in public security work; finally the change in public security operational environment .⁶⁷ In terms of methods the research should adopt the view point of historicism and materialism with focus on the relationship between public security and history, Party and the people.⁶⁸

As intimated, the scarcity of police historical research in the PRC reform era resulted from deliberate government policy. MPS was more interested with applied research, policy analysis and case studies. As an example, a standard *PSUJ* “applied research” articles start with an introduction which contextualized the study, a focus and scope statement which delineates and delimits the paper, a definition of the key concepts which sets forth the conceptual boundary of key terms, a description of the nature of the problem being studied, a presentation on incidence and prevalence, pattern and trend of the problem, an investigation into the causation and impact of the problem, and finally a rendering of solutions and remedies to the problem. Such articles are long on description and short on analysis; firm on policy and short on critique; detail with prescription and short on facts.

⁶⁷ *Id.* p. 155.

⁶⁸ *Id.* p. 155R.

These kinds of research share one thing in common, i.e., they help the police to deal with recurring problems and controversial issues brought about by the reform process;⁶⁹ along Party – government policy line.

The struggle of public security historical research to establish itself as a respected (read useful and relevant) field of study is also a struggle for disciplinary identity (with its focus and methods) of the police studies as a whole. Is or should police studies be an academic vs. professional study?

Increasingly the professional study and applied research school is gaining an upper hand. Academic police studies, including historical research, is in eclipse. The latest death nail came from changing the education mission at the PSU. Beginning Fall 2008 the PSU is no longer taking in undergraduate police cadets. PSU will be devoted to entirely professional training for in-service officers and graduate studies of the applied kind.⁷⁰

Unlike Western (police) scholarship which treasures diversity of approaches and rewards originality in findings, Chinese (police) research promotes uniformity in theory and consensus of interpretation.

This is not hard to explain.

Western social science scholarship in general and police studies in particular is built upon an interdisciplinary research tradition and is informed by a constructionist approach. However, the other tendency is to make the study of police a “science” for the purpose of earning disciplinary legitimacy. This has led to standardization of methods and uniformity of

⁶⁹ Editorial staff, “Public security higher education journals must serve the needs of contemporary public security struggle needs,” (“Gongan gaoxiao xuebao yaowei Gong'an xianxi douzheng fuwu”) *PSUJ* Vol. 1, 1993, pp. 1-2.

⁷⁰ Personal communication Professor Mei of MPS, January 2008.

findings. Interpretation gives way measurements, understanding to prediction.

Chinese research has long been devoted to finding of eternal and universal truth with the use of historical data. This scholarship orientation is exacerbated by the Communist Party's ideology, i.e., historical materialism is scientific in nature, and not to be disputed. This dampens inquisitive spirit and foster conformist mentality in the Chinese police researchers, who are not independent scholars but state sponsored researchers.

However, the search for eternal truth has never been easy or successful. It runs against strong currents of individual interpretation and subjective understanding of what historical events means or portents. Thus beneath the appearance of share agreement hide many contentious schools of thoughts and more individual renditions of facts. Not being able to challenge orthodoxy, from Confucianism to Communism, Chinese scholars pour its inventiveness and creativity in writing poetry which speaks from the subliminal mind and caters to the yearning spirit.⁷¹

Zheng Zhongwu's four part series "Exploring the Historical Origins and Development of Police I, II, III, IV" in *PSUJ* published in 1998 exemplifies contemporary police historical research scholarship in orientation and style.⁷²

In this series of article, the Police Chief of Shangxi province, Xiongdong county public security bureau, traces the origin and development of Chinese policing with historical materials. He started by affirming the

⁷¹ Michelle Yeh "The "Cult of Poetry" in Contemporary China," *The Journal of Asian Studies*, Vol. 55 (1): 51-80, 58 (1996).

⁷² Zheng Zhongwu, "Exploring the Historical Origins and Development of Police I, II, III, IV" ("Jingshi yuan liu shitan") *PSUJ* Vol. 3, 1998, pp 100 – 103; Vol. 4, 1998, pp 84 – 87 and Vol. 5, 1998, pp. 108 – 111; Vol. 6, pp. 87 - 90 respectively.

importance of and need for historical research to maintain historical continuity in Chinese culture and police work.

Zheng analyzed Chinese historical materials (<<Hanshu>> (Book of Han) with a Marxist (Frederick Engle) theoretical framework and found that there was no police in pre-historical time and with primitive tribal – hunting communities.⁷³ Social order was maintained by custom and taboo enforced by spiritual leaders in the name of god, such as “wushi” (wizard) or “jishi” (ceremonial officer).

According to <<Shangshu: Yaodian>> (Book of History – The Cannon of Yao), there were evidence of order maintenance, i.e. “guard room” (*hu fang*), when people move in the cities. Furthermore by Shun’s time there were already many kinds of punishment and a penal officer (*xingguan*). This suggested the emergency of a rudimentary criminal justice system.

Xia was China’s very first statehood. According to “Historical records – Xia Imperial Biographies” (<<Shiji Xia . ben ji>>) *Xia* constructed the first prison (*yuan*) to stop people from challenging the emperor’s authority. There was however no separation between the military and police in securing the state from all kinds of challenges; military is an extension of the police. Beginning with the Shang – Zhou dynasties and as reported in “Rites of Zhou” (<<Zhouli>>), specialized criminal justice officers were established.⁷⁴

While Zheng’s treatment of police development is well supported by classical Chinese historical text, his interpretation was build upon a Marxist theoretical – ideological foundation, i.e., police resulted from the discovery

⁷³ F. Engels, *The Origin of the Family, Private Property, and the State* (1884).

⁷⁴ “Exploring the Historical Origins and Development of Police I.”

of private property, emergence of an exploitative class and formation of a repressive state.

As a whole, Zheng's work is objectionable on conceptual, theoretical and empirical grounds:

First, conceptually, Zheng never defined the concept of "police." Still, Zheng was able to find "police" in the Shun period and associating "police" with a variety of law enforcement officials in the Zhou dynasty. Many questions need to be answered. Why were these officials considered as "police" within the Marx-Engels theoretical framework? Is it because they protected class interests with coercive state power?

Without a theoretical definition, how can police be properly identified: By the functions they performed, i.e., order maintenance, crime fighting, law enforcement? By the legitimacy they possessed, e.g., political mandate? By the means they carry out their duties, e.g., the use of coercive force?

The meaning of police is a cultural product. It is not a materialistic phenomenon, capable of objective validation. Zheng in simplifying complex history to fit essentialist ideological claims overlooked contrary evidence and ignored competing claims.

Second, Zheng's observation is not supported by historical evidence.

(1) Chinese historical records while comprehensive and detail is selective and constructive official history ("zhengshi"). Much of the grass roots experiences and local conditions were neglected or ignored. For example, Zheng relied on <<Shang shu>> which was known to be

incomplete and unreliable for purposes of ascertaining the application of penal measures of the time.⁷⁵

(2) Instructed by Marx, Zheng found no police agency before the emergency of class interests (slave vs. master) and discovery of structured conflicts (have vs. have not). The world then was a utopia, with no crime and few conflicts. In so assuming, Zheng, as with Engels, suffered from a bad case of utopianism and idealism.⁷⁶ First, as postulated by Hobbes, the idyllic world where everyone could get along with anyone might just be a myth.⁷⁷ In the natural world, survival of the fittest is the norm (Darwinism) and ruthless competition is the rule (Hobbes). Give this understanding of human nature and social conditions, the finding of a world without individual conflicts and collective warfare is most unlikely. This is evidence by <<Zhouli>> constant admonition of the Emperors and people to lead a virtuous life, and not giving in to expedience and temptation. Second, conflicts between people and crime against society result from many sources, of which competition of interests and differences in values are the two most prominent ones. Such conflicts and differences must be resolved. It is thus unsound to presume that ALL conflicts are structural in nature and political in kind. It is also not true, only the state has an interest in resolving disputes and suppressing dissents. In China, from antiquity much of the disputes and disorder is controlled by the family and community. No state police is necessary.

⁷⁵ G Mac Cormack, "Hsiang Hsing and Hua Hsiang: The Problem of 'Symbolic' Punishments in Early China," *Revue internationale des droits de l'antiquité*, 2002, pp. 297 – 325, 306. <http://www.ulg.ac.be/vinitor/rida/2002/maccormack.pdf>

⁷⁶ Zheng's assumption of human nature and state of nature resembled that of Rousseau. *Social Contact* <http://www.utm.edu/research/iep/s/soc-cont.htm>

⁷⁷ Hobbes, *Leviathan* (1660). Peter Amato, "HOBBS, DARWINISM, AND CONCEPTIONS OF HUMAN NATURE," *Minerva - An Internet Journal of Philosophy* Vol. 6 2002. <http://www.ul.ie/~philos/vol6/hobbes.html>

IV

Problems with Historical Police Research

The research literature on Chinese police is meager⁷⁸ but adequate to sustain an emerging field.⁷⁹ The lack of police (historical) research and the challenges for researchers is best summed up by Hon Yanlung and Su Yigong in 1982:

“Part of the reason is ...the investigation into police history of successive dynasties in our nation’s academic community has started relatively late, not only are there no specialized treatise in the area, there are only very few articles...there is a need for the collection and analysis of data anew, this present much difficulties, more importantly how to define the concept of police ...though the functions of police in maintaining social security (*shehui zhian*) already exist...”⁸⁰

The lack of police research in general and historical research in particular, especially before 1990s, is due to five factors:

First, as an emerging discipline, police studies is confronted with many pressing problems, e.g., what to study, and controversial issues, e.g., how to critique state sponsored ideology, i.e., Communism.

⁷⁸ Li Kunsheng, “Thinking over the “Police Theory” and the Construction of Its Academic System,” *PSUJ* Vol. 4, 2001, pp 109 – 120. (The investigation into Chinese police started in 1940, with Taiwan and Japanese scholars. PRC research into policing started in 1980s. As of yet “police studies” (“jingcha xue”) is not well developed or gained maturity. There are continued debate over: (1) the similarity and difference between “gongan” vs. “jingcha” (p. 111); (2) the definition of “jingcha” (p. 112); (2) the scope and boundary of police studies (p. 114).

⁷⁹ Guo Yuheng, *Chinese History of Public Security (Zhongguo baojia zhidu)* (Zhongguo zhian shi) (1997), pp. 250 ff.

⁸⁰ *Contemporary Police History* (1999), “Preface” at p. 1.

Second, as an emerging discipline, it is afflicted with boundaries issues.

Third, as a professional field, police studies is preoccupied with contemporary problems and focused on emergency issues. It also devotes more time and resources to political education, policy issues and practical problems rather than theoretical and historical ones.⁸¹ A cursory review of publication policy at leading public security journals supports this observation. In terms of mission, public security college journals existed to facilitate public security education, promote scientific research and theoretical construction, groom scientific leaders and provide a foundation for policy. The basic criteria for publication are whether research can support, promote and contribute to public security work. For example, police publications are to be assessed with three criteria, i.e. “principle of Party nature” (“dangxing yuanze”), “principle of utility” (“you jia yuanze”) and “principle of suitability” (“shi yong yuanze”):

“Principle of Party nature” means that articles should conform with communist ideology, that is: First, follow Marxist theory and scientific methodology (such as dialectics, historical materialism), Mao’s theory (such as how to deal with “contradiction”) and Deng’s thought (such as “socialism with Chinese characteristics”); Second, follow Party line (such as “yi fa zhi guo” or “rule country by law”); Third, integrate theory and practice (such as findings informed by theory and driven by facts); Fourth, conforming Party’s doctrine of “shi shi jiu shi” or “derive truth from facts”).

⁸¹ Yang Hongping, “The Roles of Publishing Article by Academic Magazines by Police Colleges,” (“Gongan gaoxiao xuebao de yonggao yuanze”) – [Author’s note: Better translated as “Principles governing publication of articles at public security colleges”] Vol. 1: 103 - 105 *PSUJ* (1999).

“Principle of utility” means that research should have application value (“shi yong jia zhi”). It should be accessible-readable (“ke d u xing”), provocative (“qi fa zing”) and capable of being consulted/referenced (“can kao xing”). Finally, it should support the “strengthen police with science” (“kexue qiang jing”) mission declared by the Fifth Plenary Session of the 14th Central Committee of the CPC.

“Principle of suitability” means that editors must be selective in what to publish, especially with the explosion of information and ease of communication in the electronic age.⁸²

Currently, all police journals publish similar subject matter articles, namely: public security education (*jingcha jiaoyu*), public security management (*gongan guanli*), public security research (*gongan yanjiu*), criminological research (*fanzui yanjiu*), public order management (*zhian guanli*), criminal investigation (*xingshi zhencha*), public security technology (*gongan keji*), law enforcement research (*zhifa yanjiu*), theoretical learning – political theory (*lilun xuexi – zhengzhi lilun*), case analysis (*anli fenxi*), jurisprudential research – legal system forum (*faxue yanjiu – fazhi luntan*), police culture (*jingcha wenhua*), anti-drugs research – anti-drugs strategy (*jindu yanjiu – jindu moulue*), preliminary examination strategy and tactics (*yueshen jice*), trace analysis (*henji jianyan*), traffic management (*jiaotong guanli*) and troop management (*duiwu guanli*). The editors were admonished to set its own journal apart from each other: in methodological orientation (*yanjiu jiaodu*), in theoretical perspective (*lilun guandian*), and academic standard (*xue shui suiping*). Substantively, the editors are repeatedly and emphatically admonished to publish materials supportive of public security

⁸² *Id.*

education mission and research findings helpful to police operations. Little mention is made of police historical work.⁸³

Fourth, the research agenda, investigation focus and publication rate is politically controlled, ideologically determined and policy driven.⁸⁴ The Party is less interested in historical research and more attuned to applied study.⁸⁵ Traditionally, police journals are not academic forums to exchange ideas and debate issues as in the West.⁸⁶ Police journals are another tool to transmit Party doctrine, e.g., until very recently police journals are all “neibu

⁸³ *Id.*

⁸⁴ Ma Li “Understanding and realizing public security academic journal quality control” (“Gongan xueshu qikan zhilian kongzhi de rengshi yu shijian”) *PSUJ* Vol. 3: 107 – 109 (1997) (Quality articles should deal with concrete public security “hot topic” (*redian*) and “difficult problems” (*nandian*). Jia Yongsheng, “Personal Views about the Well – Running of the Academic Magazines of Public Security Colleges,” (“Banhao gongan gao deng youanxiao xuebao zhi wojian”) *PSUJ* Vol. 3, 1997, pp 101 – 102. (Overall quality and academic standard of police journals at public security colleges can be improved through professionalizing the editorial office by appointing academic editors and training of editorial staff.) There were animated discussion and heated debate amongst the public security editors about how to achieve “bianji xuezhe hua” (“editing by scholars model”), in making current editors more scholarly and academic (*xuezhe*). The introduction of scholarly editors will make police journals less politically and more professionally oriented, i.e., more scientific and applied research. Xu Yeli, “Regarding reflection on editing by scholars,” *PSUJ* Vol. 2, 1997, pp 106 – 109.

⁸⁵ The Editorial Department, “The Vocation of Police Journals: Giving Energetic Publicity to the Theme of Spiritual Civilization Construction,” *PSUJ* Vol. 1, 1997, pp 1 – 2 (In response to Jiang Zeming’s essay “Guanyu jiang zhengzhi” (“Regarding to discussing politics”) of March 1996, public security journals should focus on promotion of “spiritual enlightenment”.)

⁸⁶ Starting with 1992, there were attempts to change the direction and quality of police college journals. See “Summary of the third national public security colleges academic journal work conference” (“Di san ci quanguo gongan gaoxiao xuebao gongzuo yantaohui jiyao”) *PSUJ* Vol. 1, 1997, pp3 – 5. The Third National Conference was held between August 6 – 9, 1992 at Zhejiang province. The conference affirmed the accomplishments of the Second National Conference (August 1990). The Third National Conference discussed three major issues: (1) Should journals be jointly sponsored by MPS and public security colleges? (2) Should journals support public security education or help with police practical work? (3) Should journals pay more attention to the internal articles, or external ones?

faxing” (internal circulation), not for public distribution or general consumption.⁸⁷

Given this historical (propaganda) role⁸⁸ and traditional style (populist) style,⁸⁹ police scholarship in the reform era was torn between political correctness and academic excellence, ideology purity and scientific integrity.⁹⁰

The poverty of historical research into policing should also be looked at in a larger intellectual, social, and historical context:

Intellectually, traditional Chinese intellectual discourse, in orientation, style, and substance, did not make room for the idea of police to grow.⁹¹

First, Chinese sage scholars were humanists.⁹² Confucius preferred rule of man over rule of law, i.e., *renzhi* (govern with humanity) and *dezhi*

⁸⁷ Yan Zhifen, “The Development Sense of the Newly Publicly Issued Academic Magazines,” (“Xin pi gongkai faxing xuebao de fazhan yishi” – [Author’s note: “Development perspective on newly release academic journals” might be a better translation.] *PSUJ* Vol. 1 (1999), pp. 106 – 108.

⁸⁸ Mao Zedong, *Selected work on media work* (“Xinwen gongzuo wenxuan”) (Beijing: Xinhua chubanshe 1983).

⁸⁹ Mao was a populist. He brought literary to the “mass”. Instead of educating the mass to read classical Chinese, he simplified Chinese characters, making them accessible to the peasants. In doing do, he carried on the work of May 4 movement (Chen Duxiu, Cai Yuanpei and Hu Shih) in simplifying classical Chinese (*wen yan*) into *bai hua*, (vernacular Chinese).

⁹⁰ Xu Zhengqiang, “The characteristics of professional academic journals and quality of editors” (“Zhuanye xing xueshu qikan de teshi yo bianji suzhi”) *PSUJ* Vol. 3, 2000, pp. 99 – 102. (Professional academic journal must be politicalized (*zhengzhi hua*), socialized (*shehui hua*), popularized (“ya-su gong shang” or “appeal to both the more and less cultured” [*The Pinyin CHINESE-ENGLISH DICATIONARY* p. 791L), scholarly (*xueshu xing*).

⁹¹ Michael Bond, *Beyond the Chinese Face. Insights from Psychology* (Oxford University Press, 1992).

⁹² Hao Xiajun and Mao Lei, *Comparison Between China and West in 500 Years* (Xinhua chubanshe, 1996) (Until the 16th Century, China was more advanced and progressive, materialistically and culturally, than other foreign nations. For example, the Ming dynastic excelled in weaving technology (Ch. 1, pp. 4 – 20). Reform efforts in the

(govern with benevolence).⁹³ As observed by Thomas Metzger, Chinese officials and scholars perceived:

“a kind of ideal, saintly, cosmologically grounded moral order or *gemeinschaft* according to which ... "Chinese utopianism" is a peculiar phenomenon ... describes the pursuit of an impracticable goal of political perfection by people insisting it is practicable...The Chinese have often been well aware that contemporaneous evils could not be conveniently overcome, but they still saw this recalcitrance as an eradicable condition, not as a reflection of permanent human frailties.”⁹⁴

The sage scholars were not interested in and otherwise oblivious to the need for the discussion of how to actualize their ideals in organizational and practical terms, still less in a scientific way.⁹⁵ Thus unlike the legalist Hon Feizi, Confucian scholars offered no systematic treatment on law enforcement and criminal punishment.

Second, the Chinese sage scholars were holistic thinkers.⁹⁶ They offer comprehensive and integrated solution to governance problems in

20th century China failed as a result of entrenched Chinese culture, i.e., possessing traditional values of despotism, paternalism, feudalism and lacking in scientific thinking (pp. 785 - 798)

⁹³ Liu Tingsheng (ed.) *Treatise on early Qin public security ideas* (Xianqin zhiang sixiang lungao) (Wenhi chubanshe, 2000). More specifically: The Master said: "How great indeed was Yao as a ruler! How majestic! Only *tian* is truly great, and only Yao took it as his model. How majestic was he in his accomplishments, and how brilliant was he in his cultural achievements." (*Analects* 8:19)

⁹⁴ Thomas Metzger, "The Western Concept of the Civil Society in the Context of Chinese History," Hoover Institute (n.d.)

⁹⁵ This is not to observe Chinese literary work is devoid of pragmatic value or practical utility altogether. Quiet to the contrary Confucianism is less philosophical tenets than practical advices to deal with worldly problems. See Steve Palmquist, "HOW 'CHINESE' WAS KANT?" *The Philosopher*, Volume LXXXIV No. 1 (Spring 1996). At its heart, Confucius tried to improve human conditions and social relations by imploring people to engage in self-cultivation in his community.

⁹⁶ "Synthetic Reason, Aesthetic Order, and the Grammar of Virtue," *Journal of the Indian Council of Philosophical Research* 18 (4): 13-28 (2001).

exhortative terms and with general principles.⁹⁷ Thus Confucius scholars were much less interested in offering particularistic answer and concrete solution to day to day government problems and issues, such as theory of policing⁹⁸

Third, Chinese intellectuals⁹⁹ (*junzi*) were not supposed to engage in “based people”¹⁰⁰ (*xiaoren*) way of thinking and behaving.¹⁰¹ Specifically, according to Confucianism, the personal disposition and moral compass of *junzi* vs. *xiaoren* are different. *Junzi* are motivated by *yi* (moral duty) and *xiaoren* by *li* (materialistic utility), the former moved by shame and later with punishment.¹⁰² Thus it is inappropriate to use *xiaoren*’s thinking to

(Aristotle analytic thinking and formal logic consisted of breaking things down.) See also N. F. Gier, *Wittgenstein and Phenomenology* (SUNY Press, 1981), esp. Chap. 8.

⁹⁷ Contrast crime fighting as POP. Herman Goldstein, *Problem-Oriented Policing*, (New York: McGraw Hill, Inc., 1990). The Chinese called this the comprehensive management of crime (*zhonghe zhili*). For a theoretical treatment, see Xu, Weihua, *An Initial Study on the Comprehensive Control of Social Order*. (Beijing: People’s Court Publishing House 1996) (Comprehensive crime management looks at crime and disorder as a multi-faceted social problem and should be managed as such. Thus crime is not a police problem as much as it is a social problem of the community as a whole, i.e., parents, teachers, neighbors, colleagues, security guards. Measures to deal with crime should not be restricted to law and punishment but also include mediation, persuasion, counseling, education, surveillance, peer pressure etc.) For practical application of the comprehensive control theory, see Ye Feng (1997) (ed.) *A Practical Handbook on Comprehensive Management of Social and Public Order* (The Chinese People’s University of Public Security Publishing House, Beijing, 1997). For an empirical study, see Zhang, L., Zhou, D., Messner, S.F., iska, A.E., Krohn, M.D., Liu, J., & Lu, Z., “Crime Prevention in a Communitarian Society: Bang-Jiao and Tiao-Jie in the People’s Republic of China,” *Justice Quarterly*, 13:199-222 (1996).

⁹⁸ In the imperial days, the local magistrates were responsible for keeping order, preventing crime and promoting welfare generally, not removing criminals specifically.

⁹⁹ Intellectuals were “superior man,” or “gentleman” (*junzi*).

¹⁰⁰ Based people were “inferior man,” or “small man” (*xiaoren*),

¹⁰¹ See “II. The Intellectuals and Confucian ethics.” In pages 36 – 39 Kam C. Wong, “THE BEHAVIOR OF QING DYNASTY SPEECH CRIME LAW IN CHINA: A CROSS-CULTURAL APPLICATION OF BLACK’S THEORY OF LAW. Dissertation, School of Criminal Justice, University at Albany, State University of New York (1998).

¹⁰² “The profound person understands what is moral. The small person understands what is profitable.” (*Analects* 4.16) “The moral force of the profound person is like the wind;

understand *junzi*'s mentality, as in "e xiao ren zi xin du junzi zi fu" ("using a buffoon's yardstick to characterize a scholar.") With *junzi* social control consisted of self - cultivation and internal discipline, not like that of *xiaoren* to be supervised and controlled with punishment. Thus many basic tenets and fundamental propositions of the Chinese sage scholars mitigated against effective intellectual engagement with police and punishment issues, e.g., prevention obviates punishment and education trumps supervision.

Fourth, the Chinese sage scholars adopted a governing philosophy that aim at creating an orderly world through the development of a wholesome person functioning in a harmonious world. More specifically, people are to be internally driven, not externally regulated, starting with self-cultivation:¹⁰³

The ancients who wished to illuminate “illuminating virtue” all under Heaven first governed their states. Wishing to govern their states, they first regulated their families. Wishing to regulate their families, they first cultivated their personal lives. Wishing to cultivate their personal lives, they first rectified their hearts and minds. Wishing to rectify their hearts and minds, they first authenticated their intentions. Wishing to authenticate their intentions, they first refined their knowledge. The refinement of knowledge lay in the study of things. For only when things are studied is knowledge refined; only when knowledge is refined are intentions authentic; only when intentions are authentic are hearts and minds rectified; only when hearts and minds are rectified are personal lives cultivated; only when personal lives are cultivated are families regulated; only when families are regulated are states governed; only when states are governed is there peace all under Heaven.

the moral force of the small person is like the grass. Let the wind blow over the grass and it is sure to bend.” (*Analects* 12.19)

¹⁰³ There are to be differences between schools of thoughts, e.g., *Fa jia* or the legalists certainly believe that punishment is necessary to deter people. Liu Yongping, *Origin of Chinese Law* (H.K.: Oxford University Press, 1998), pp. 173 – 201.

Therefore, from the Son of Heaven to the common people, all, without exception, must take self-cultivation as the root.¹⁰⁴

Thus observed, self-cultivation holds key to betterment of mankind and personal discipline lead to orderly society.¹⁰⁵ The most famous of all Confucius admonition in this regard perhaps is: “Direct the people with moral force and regulate them with ritual, and they will possess shame, and moreover, they will be righteous.” (Analect: 2.3) As a result, Confucius idea of “self-cultivation, discipline the family, govern the country and pacify the world” (*xiushen qijia zhiguo pingtianxia*) are well integrated into China’s cultural believe, social practices¹⁰⁶ and political program.¹⁰⁷ Thus there is no need to discuss law enforcement and policing.

Socially, there are five reasons why the Chinese people shun the involvement with the “police”. First, police is considered as not a necessary evil, and resort to as a last resort. In the past, external policing was deemed as not necessary in an intimately related, tightly bonded and closely watched community that was China’s past.¹⁰⁸ Self-discipline, family surveillance and social pressure were considered sufficient to induce conformity and regulate conduct. Second, officials/police are considered as outsiders. Community

¹⁰⁴ “The Great Learning”, see Wing-tsit Chan, trans., *A Source Book of Chinese Philosophy*, p. 86, as translated and cited in footnote 11 to *Tu Weiming*, “The Ecological Turn in New Confucian Humanism: Implication for China and the World” in *Daedalus* (Journal of the American Academy of Arts and Sciences, Fall 2001).

¹⁰⁵ Philip J. Ivanhoe, *Confucian Moral Self Cultivation* (Hackett Pub Co; 2nd edition (March 1, 2000).

¹⁰⁶ Ge Fang and Fu Xi Fang, Monikla Keller and Wolfgang and Edelstein and Thomas J. Kehle and Melissa A Bay, “Social moral reasoning in Chinese children: A developmental study,” *Psychology in School* Vol. 40(1) 2003, pp. 125 – 138.

¹⁰⁷ Fareed Zakaria “Culture Is Destiny; A Conversation with Lee Kuan Yew,” *Foreign Affairs* March/April, 1994.

¹⁰⁸ Jianhong Liu, Lening Zhang and Steven F. Messner, *Crime and Social Control in a Changing China* (Greenwood Press, 2001)

disputes and personal problems can be best resolved within the tight knitted in-group.¹⁰⁹ Third, culturally Chinese are taught to avoid confrontation and absorb affronts.¹¹⁰ They are expected to seek accommodation through tolerance and resolve disputes by way of mediation,¹¹¹ at all costs.¹¹² Fourth, involvement with the officials and association with the police spell trouble for all concerns, i.e. punishment and loss of “face” for all concerns.¹¹³ The saying: “not entering officials’ doorstep while alive, not going to hell when dead” – “shen buru huan men, sibu ru diyu” was widely shared and strictly abided; hell and government were considered similarly horrendous, unfathomable experience! Fifth, petty law enforcement agents (*xuli*) enjoyed low social economic status in Chinese society. They were uneducated and came from the underclass, if not the underworld. They were

¹⁰⁹ This tendency to keep problems at home and away from officials is best captured by the saying: “family shame should not be spread outside” (“jia bu yi wei chuan”). It is also appropriate to have elders in the family to resolve any dispute. They are considered wiser and more knowledgeable, than any outside officials, to find out the truth and decide the punishment. Fei Chengkang, *The family and clan rules in China* (Zhongguo de jiafa zhugui) (Shanghai; Shanghai shehui kexue chubanshe, 1998), Chapter 4: “Adjudication and punishment,” (“ Cheng Chu”), pp. 106 – 129.

¹¹⁰ Cecilia Chan, “The Cultural Dilemmas in Dispute Resolution: The Chinese Experience,” Conference of Enforcing Equal Opportunity in Hong Kong, Hong Kong University, June 14, 2003.

<http://www.hku.hk/ccpl/pub/conferences/documents/14062003a-CeciliaChan.pdf>

¹¹¹ Donald C. Clarke, “Dispute Resolution In China,” *Journal of Chinese Law* Volume 5, Number 2. See also; Bobby K Y Wong. “Traditional Chinese Philosophy and Dispute Resolution,” *Hong Kong Law Journal*, Volume 30 (Part 2) 2000.

¹¹² When dealing with external relationships family rules (*jia gui*) prevail. Such family rules incorporated seven admonitions: (1) having good relationship with neighbors; (2) avoid litigation; (3) avoid hurting others; (4) avoid conflict; (5) defend the clan; (6) punish thieves and robbers; (7) protect the environment. Four of the seven, i.e., (1) to (4), consisted of avoiding conflicts. Fei Chengkang, *The family and clan rules in China* (Zhongguo de jiafa zhugui) (Shanghai; Shanghai shehui kexue chubanshe, 1998).

¹¹³ John R. Watt, *The District Magistrate in Late Imperial China* (New York: Columbia University Press, 1972)

mostly corrupted,¹¹⁴ exploitative and oppressive.¹¹⁵ Their work were considered as dirty or profane, i.e. associated with law breakers and involved with disputes.¹¹⁶ Thus policing is best left to the police, not to be heard from.¹¹⁷ There is no need to record their activities much less study them. This attitude still prevails today, e.g. young people are discouraged from joining the police.¹¹⁸

Historically, Chinese historiography (*shixue*) constituted of writings by court historians (*zhengshi* or official history) as supplemented by work of retired officials and scholars (*yeshi* or unofficial history). In as much as official and unofficial historical accounts tend to document events and report matters from the authors' perspective and since police and policing was not cognizable as a conceptual category, it is rarely attended to. For example, in court, historical records were kept of events, people¹¹⁹ or by dynasty.¹²⁰¹²¹

¹¹⁴ Bradley W. Reed, "Money and Justice: Clerks, Runners, and the Magistrate's Court in Late Imperial Sichuan," *Modern China*, Vol. 21: (3): 345-83 (1995).

¹¹⁵ Chen Yu and Mao Wei "The Three Social Stratum and Legal Practice in Chinese Characters," ("<<Ruulin waishi>> zhong de sange jiecheng yu falu shijian") *Journal of Jiangsu Police Officer College*, Vol. 17(2), pp. 109 – 119, p. 116R. (Petty officials were all corrupted. They were hated by the people and avoided by the public.) [Author note: the title of article in the original is wrong translated. It should be: "The three classes in the <<The Scholar>> and legal practices"]

¹¹⁶ Melissa Macauley. *Social Power and Legal Culture: Litigation Masters in Late Imperial China* (Stanford: Stanford University Press, 1999). Chapter 1: "The evolution of a crime and its punishment" describes how "songshi" or litigation masters were being considered as "habitual litigation hooligan" in stirring up disputes, pp. 19 – 46, at 19.

¹¹⁷ Peter K. Manning, *Police Work: The Social Organization of Policing* (Waveland Press, 1997)

¹¹⁸ The common admonition in Hong Kong is: "Good boys do not become police." While such an attitude is fast disappearing because of increased salary, opportunity, professionalism, and status a police career, it still strong felt and articulated in some quarters of the community, e.g., well to do families. Kam C. Wong, "Police Power: Misconduct and Accountability." Unit 4 to *Police and Society* (Open University, 2000), pp. 120

¹¹⁹ A biographical type (*jizhuanti* 紀傳體). For example, *Benji* (本紀) (Biographies of the rulers/emperors); *Shijia* (世) (Biographies of eminent feudal lords and people);

There is no special provision made for “police” or “policing” in historical text except as passing comments in court records discussing governing philosophy and administration politics,¹²² organizational charts and duty roster detailing police roles and responsibilities,¹²³ memorials¹²⁴ discussing police policies,¹²⁵ manuals of local officials discussing best practices,¹²⁶ and judicial decisions and judgments.¹²⁷ In the private arena, reportage and documentation of police and policing related matters can be extracted from

Liezhuan 列傳 (biographies of ordinary people) in *Shiji* 史記 "Records of the Grand Scribe".

¹²⁰ Annalistic year-by-year type (*biannianti* 編年體)

¹²¹ Zhang Bai, *Legal literature* (Falü wenxian xue) (Zhejiang renmin chubanshe 1998) Chapter One: “Classification of legal literature”. The author started by observing that (as with police) except for the penal codes of respective dynasties there is no separate category of legal literature. Legal matters are embedded in various kinds of historical documents.

¹²² *Zhenguan zhengyao* 貞觀政要 "Important Politics from the *Zhenguan* Period"

¹²³ Chi Yun *Li-tai chih kuan-piao* 歷代職官表 (A Chronological Listing of Official Titles). Compiled by 紀昀. First published during the Ch'ien-lung period (1736-1795).

¹²⁴ Silas Wu. *Communication and Imperial Control in China: The Evolution of the Palace Memorial System, 1693-1735*. Cambridge: Harvard University Press, 1970.

¹²⁵ Jonathan D. Spence, *Emperor of China: Self-Portrait of K'ang-hsi* (Vintage Books, 1988; originally Knopf, 1976)

¹²⁶ Huang Liu-Hung, *A Complete Book Concerning Happiness and Benevolence : A Manual for Local Magistrates in Seventeenth Century China* (University of Arizona Press 1984)

¹²⁷ He Ning (898 – 955) and He Meng (951 – 995), *Collection of Doubtful Cases (Yi Yu Li)* (Taipei: Shangwu, 1974), Wu Ne (1372 – 1457), *Parallel Cases from Under the Pear Tree (Tang yin bi sh yuanbiani)* (Beijing: Zhonghu shuju, 1985) (Compiled by Gui Wangron (c 1170 – 1260 BC) and published in 1221. An abridge version of Magic Mirror with 144 cases). For a translation, see Robert Hans Van Gulik, *Tang-yin-bi-shih Parallel Cases from Under the Pear Tree* (Leiden: E.J. Brill, 1956); Yang Fengkun, *Magic Mirror for Deciding Cases Annotated (Yiyu ji Zhe yu gui jian jiosh)* (Shanghai: Fudan daxue chubanshe, 1988) (Compiled by Zheng Ke in mid 1130s. 395 cases from Warring period (473-221 BC) to Northern Song (960 – 1126 AD), half of them in the later period. The other half is from He Ning (898 – 955) and He Meng (951 – 995), *Collection of Doubtful Cases (Yi Yu Li)* (A majority of the case were gathered from dynastic histories or grave inscription of officials); Brain E. McKnight and James Liu, *Enlightening Judgments: Chingming chi* (Albany: State University of New York Press 1999), See also *Minggong shupan qingming* (Beijing: Zhonghua shuju 1989)

biographies of scholars and officials.¹²⁸ Again, as a result of their *station in life*, police and policing were hardly the kind of subject matter the scholars or officials indulged in when writing their biographies.

V

Conceptualizing Police and Policing

“Police” vs. “Policing”

In as much as this research is about the origin of the idea of “police” and development of practices of “policing” in China, it is appropriate to start with a discussion of how “police” vs. “policing” are defined; in what way they are the same and to what extent they are different.

Police is defined as a formal institution¹²⁹ of social control of and by the state, i.e., government social control.¹³⁰ By “formal” institution I mean one that is subject to “rule of recognition” and follows established process.¹³¹ By social control “of” the state I mean that which is sanctioned and empowered by the state. As to social control “by” the state I mean that it must be conducted by and through state agents.

¹²⁸ Biographical writing in China appears in different forms, including grave obituary (*mu zhi*), grave inscriptions (*mu zhi ming*), grave notices (*mu biao*), inscriptions on the avenue to the grave (*shendao bei*), epitaphs (*bei*), funerary odes (*song*), sacrificial odes (*ji wen*), eulogies (*lei*), collections of biographies (*lie zhuan*) in the dynastic histories (*zheng shi*), in local gazetteers (*fangzhi*), collections of Buddhist (*gaoseng zhuan*) and Daoist (*xian zhuan*) hagiographies as well as of loyal officials (*zhong chen*) or Confucian scholars (*ru xuean, zong zhuan*) up to family biographies (*jia zhuan*) and year-by-year accounts of a man's life (*nianpu*). Shiji of Sima Qian (c 100 B.C.) contain “zhuan” of officials and famous people. See Zhang Bayuan, *Falu Wenxian Xue* (Zhejiang renmin chubanshe, 1998). Pp. 32-3.

¹²⁹ For followers of Weber, this means a bureaucratic organization, centrally commanded, functionally specialized, with a hierarchy structure and chain of command. .

¹³⁰ Donald Black, *The Behavior of Law* (N.Y.: Academic Press, 1976).

¹³¹ H.L.A. Hart, *The Concept of Law* (1961).

Policing is defined as formal or informal functions of social control, i.e., public or private ordering.

Whereas all society needs some form of policing, not every society has a police agency¹³² which is state sanctioned¹³³ and centrally organized.¹³⁴ In fact for a long time, e.g., primitive society,¹³⁵ policing functions of maintaining control, preserving order and providing services have been achieved informally and voluntarily, e.g., community self-help such as China Song dynasty's *baojia* or Mao's mass campaign.¹³⁶

In theoretical terms, Wong has challenged the basic assumption of a monolithic and monopolizing governmental control scheme, i.e., one state organized police. He observed that historically and empirically there are many kinds of "police" agencies and "policing" agents sponsored and supported in "more or less" degrees by the state in society, from family discipline to private security. These "lesser" police agencies part take in "policing" functions with well define scope of control, e.g., corporate security works within a company premises, and clear delegation of power, e.g., father of a family can physically punish their children. This postulated

¹³² A police agency is a corporate entity charged with policing responsibilities, however defined.

¹³³ A police agency sanctioned by the state is one that is approved and supported by the state with financial resources, e.g., annual appropriation, and coercive power, e.g., use of firearm.

¹³⁴ Organized policing is policing with a purpose, e.g., crime control, and coordination of resources, e.g., use of discipline. Non-state "policing" can be very organized, e.g., private security firm. State "police" agency effort can be relatively unorganized, e.g., community policing.

¹³⁵ India Police Commission, *History of Police Organization in India and Indian Village Police* (University of Calcutta, 1903)

¹³⁶ Men Juntian, *China Bao Jia system* (Shanghai: Commercial Press 1936). For contemporary state supervised communal control, see Chen Xiaoming, "Community and Policing Strategies: A Chinese Approach to Crime Control," *Police and Society*, Vol. 12(1): 1- 13 (2002) and Michael Dutton, "The End of the (Mass) Line? Chinese Policing in the Era of the Contract," *Social Justice* June 22, 2000.

theoretical proposition¹³⁷ supported by observed empirical evidence,¹³⁸ cautions against search for “police” as a short hand way to understand how “policing” is conducted.

Table 1: Wong’s more vs. less government authority: Varieties of police agency as a function of relative governmental (police) authority

	Crime	Order	Service
More governmental (police) authority	State police over completed criminal act	State police over disturbance in public space	State police for emergencies
Less governmental (police) authority	Family discipline over preparatory criminal activities	Private security over disturbance in private areas	Red cross for emergency supplies

Non-state or private policing, depending on their *relative* association with and *degree* of support by the state, exhibits *more or less* state characteristics, i.e., the more “policing” is “sponsored” by the government, the more it pursues state goals and acts in its image. Thus in the case of China, clan and family are in reality state sponsored “police” units conducting “policing” on behave of the state.

The assumption of state “police” role and mediation of political “policing” functions by community groups have great impact on how we conceptualized police and policing. “Police” is no longer a monopoly of the state and “policing” is not entirely a state function. This allows us to look

¹³⁷ “Black’s Theory on the Behavior of Law Revisited,” *International Journal of the Sociology of Law* Vol. 23(1): 189-232. (1995).

¹³⁸ "Black's Theory on The Behavior of Law Revisited III: Law as More or Less Governmental Social Control," *International Journal of the Sociology of Law* Vol. 26 (3) (1998).

elsewhere to discover how “police” is organized (e.g., around a family) and “policing” is done (e.g., with discipline and not coercion).

The Chinese police scholars have (independently) come to the same observation above. For example, in an article “The Definition for Police – Starting Point for the Study of Cop Subculture” the authors Zhang Zhaoduan and Wang Linsong observed the need to (re) define “jing cha” or police away from a normative model (“guifan qudong xing” or “norm driven by model”). The authors suggested that “police” should not be defined by the purpose or objective of what a police agency should do, such as suppression of crime or maintenance of order. “Police” should be defined functionally (“xingwei qudong xing” or “activities driven model”), i.e., define by what “policing” activities a person engages in.

The authors rightly pointed out that the formal and legal police “purpose and objectives” can be readily assumed by “non-police” private citizens or community group, still they can engage in police related activities.¹³⁹

In arguing for an “activities driven model,” the authors recognized all those who perform police functions or activities as de facto police agents. In so doing, the authors have created two issues. First, if all who perform policing activities are police agents of one kind or another, how can we separate formal – public police from informal – private police agent? Second, if police related activities are used as a litmus test of being a police agent, analytically what kind of functions and activities are normatively designated or empirically considered as policing activities?

¹³⁹ “Jingcha wenhua de yanjiu qi dian – Jingcha dingyi” (translated from “Where to begin, images and expectations, thinking about the police” (author, date, publication n/a), *PSUJ* Vol. 6, 1997, pp 40-41.

Towards a normative definition of police

Marx postulated that the law (by extension the police) is the instrumentality of the state to dominate over the people. Particularly, the police is established to fortify the capitalistic class interests at the expense of the proletarians.¹⁴⁰ Thus observed, police are not morally neutral but ideological biased in favor of the ruling class.

Informed by this ideological tradition,¹⁴¹ the PRC police scholars define police as: “Police are professional militant personnel for the

¹⁴⁰ Hugh Collins, *Marxism and Law* (Oxford: Oxford University Press, 1984), pp. 17-34. (Law as instrument of class oppression.) Engle made the following observations about state vs. police relationship: First, in primitive clan society there is no need for police. Second, Police is a product of historical circumstances. It is not universal, necessary, or inevitable. Third, economic and social conditions in a society give rise to the formation of police. PRC police scholars postulated that police serve political as well as social functions. (1) When there is private property and exchange of goods, people needs the police to protect their economic interests, i.e., when people accumulate property for profit and not consumption. (2) The ruling class needs the police to suppress and control unruly underclass members as due to un-resolvable class contradictions. (3) The ruling class needs the police to deal with intra-group irreconcilable personal differences and conflicts. (4) The society needs the police to fight crime and maintain order. Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daixue chubanshe, 1995), p. 2.

¹⁴¹ “Article 1. The People's Republic of China is a socialist state under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants. The socialist system is the basic system of the People's Republic of China. Sabotage of the socialist system by any organization or individual is prohibited.” CONSTITUTION OF THE PEOPLE'S REPUBLIC OF CHINA (Adopted on December 4, 1982). An amendment was approved on March 29, 1993, by the 8th NPC at its 1st Session, making it clear (at last two sentences of the seventh paragraph of the Preamble): "Under the leadership of the Communist Party of China and the guidance of Marxism-Leninism and Mao Zedong Thought, the Chinese people of all nationalities will continue to adhere to the people's democratic dictatorship and follow the socialist road....”

maintenance of state regulation and social order, it is an important instrumentality of the state class oppression.”¹⁴²

Similarly, though less politically, Chapman observed that: “The police power, as an extension of sovereignty, is the basis of the practical authority of the state.”¹⁴³ In the United States police power is defined as:

“An authority conferred by the American constitutional system in the Tenth Amendment, U.S. Const., upon the individual states, and in turn delegated to local governments, through which they are enabled to establish a special department of police, adopt such laws and regulations as tend to prevent the commission of fraud and crime, and secure generally the comfort, safety, morals, health, and prosperity of its citizens by conserving the public order, preventing a conflict of rights in the common intercourse of the citizens, and insuring to each an uninterrupted enjoyment of all the privileges conferred upon him or her by the general laws.”¹⁴⁴

In this image the police conduct the state’s business, from securing order to promoting welfare, with the endorsement and support of the sovereign state.

More democratically, Reith observed that the police are agents of the community to secure law and order.¹⁴⁵ In the same vein, Bayley defined

¹⁴² Zhongguo shehui kexue yaun, faxue yanjiu yuan (ed), *Zhongguo jingcha zhidu jianlun* (A brief history of police system in China) (Beijing: Qunzhong chubanshe, 1985), p. 2.

¹⁴³ Brian 1, *Police State* (London: Macmillan, 1970), p. 13.

¹⁴⁴ *Black’s Law Dictionary*, abridge fifth edition (St. Paul, Minn.: West Publication Co., 1983) P. 30L.

¹⁴⁵ Charles Reith, *The Blind Eye of History: A Study of the Origins of Present Police Era* Montclair, N.J.: 1974) (Police are necessary to enforce rules of communities. P.21)

police as “people authorized by a group to regulate interpersonal relations within the group through the application of physical force.”¹⁴⁶

All these police scholars and commentators envisioned the police as a coercive force in the bringing about of political (Marx), social (Bayley) or communal (Reith) normative order. Thus, the study of police and policing is the study of maintenance of collective normative order by the use of organized force. Four fundamental concepts inform this definition:

First, policing is a collective *sponsored* activity, i.e., by and for a group, sometimes political (state) other times social (communal). Politically (state) *sponsored* police can take part in social policing activities, e.g., when communal order is of a kind or nature to implicate that political involvement, i.e., the state interest test. Socially (communal) *sponsored* police do not as a rule involve political policing, except to the extent that social order reflects and re-enforces larger political order, e.g., Confucianism as a state creed.¹⁴⁷ The studying of modern police is the study of politically (state) *sponsored* police.

Second, police is there to promote and maintain collective *normative* order of all kind – political, social, economical etc., directly (fighting riots) or indirectly (suppressing dissent). Hence, the one defining police function is in maintaining *normative* order.

Third, the collective (political authority or social community) *endorses* the use *force* to maintain order.

¹⁴⁶ David Bayley, *Patterns of Policing* (N.J.: Rutgers, 1985), p. 7.

¹⁴⁷ State and government can politicize social control through sponsorship or endorsement. “Black’s Theory on the Behavior of Law Revisited II: A Restatement of Black’s Concept of Law,” *International Journal of the Sociology of Law* Vol. 26(1) (1998)

Fourth, the use of police as a force field must be *organized*, i.e., the use of force is subject to larger organizational principles of when, how and to what extent force should be used.¹⁴⁸ More significantly, the organized use of force means that such the use of force is to be held strictly accountable – monitored, supervised and reviewed.

VI

The Concept of Police in China¹⁴⁹

Introduction

The concept of “police” (“jingcha”),¹⁵⁰ as conventionally understood and contemporary practiced in the West,¹⁵¹ did not exist in China.¹⁵²

¹⁴⁸ Consistent with Goldstein’s observation that police are problem solvers, not crime fighter or incident respondent (see Herman Goldstein, *Problem-Oriented Policing* (New York: McGraw Hill, Inc., 1990), I have argued elsewhere that police need adequate and appropriate resources to solve individual problems. Police force or state sanctioned violence is a resource to be used prudently, i.e., subject to certain organization principles. “A General Theory of Community Policing: State Police as Social Resources Theory,” International Police Executive Symposium Cincinnati, Ohio. May 12-16, 2008. By organizational principle I mean managing resources in the achievement of goals. Those organizational principles might implicate law, justice, morality, cost, efficiency or effectiveness.

¹⁴⁹ China here refers to People’s Republic of China, not Hong Kong, Macau and Taiwan. While China insisted that China included all three places, only the former two, Hong Kong and Macau, have been successfully returned to China in 1997, after years of colonization. Taiwan is still not integrated politically with mainland China. This research does not investigate into the idea of police in Taiwan. See Ma Yexiong and Wei Peihua, “Critique of Taiwan police academic community research on the meaning of police” (“Ping Taiwan jingjie dui jingcha hanyi de yanjou”) *PSUJ* (Gongan Daxue Xue Bao) Vol. 10(6), 1994, pp. 42 – 44. Taiwan while joined to China in ethnicity and culture has since 1949 been separated by history and politics. In the meantime, Taiwan has developed its own cultural identity, and with it social understanding of what police mean.

¹⁵⁰ I used “jingcha” to refer to foreign concept of police and “jing cha” to refer to domestic idea of policing.

¹⁵¹ Conventional understanding notwithstanding, the term “police” has perplexed police scholars East and West. Xu Fake, *Zhongguo Jingcha Fa Lun* (A Treatise on Chinese Police Law) (Hunan Chubanshe, 1997) (There is no universal definition of police because of differences in focus, assumption and perspective.) For difficulties in coming up with a

According to *Ci Yuan*, there term “jing cha” was not provided.¹⁵³ The closest reference is to “jing xun” which refers to military internal security patrol¹⁵⁴ during the Sung dynasty.

As to why military security patrol is being considered as policing, it is important to point out that in imperial China physical forces – from beating to killing – were used against all kinds of people who offended the Emperor or challenged the state authority. There was no artificial distinction being drawn between military use of arms (*bing*) to repel foreign aggressors and police resort to punishment (*xing*) to sanction domestic offenders. Under this formulation, the proper deployment of force depended more on the perceived offensiveness of the person, act or event and considered efficiency, efficacy and effectiveness of counter-measures. Thus both enemies and offenders were subject of coercive sanctions for challenging the Emperor’s rule or disturbing public order. Within this context, it is easy to understand why in imperial China soldiers assumed internal security “police” patrol, and local magistrates took part in purging bandits.

The idea of “jingcha” is an imported idea and alien institution. The *Qing* dynasty reformers imported the idea and practice of “jingcha” from

scientific definition of police, see David Bayley, *Patterns of Policing* (N.J.: Rutgers, 1985), pp. 7-14

¹⁵² Xu Fake, *Zhongguo Jingcha Fa Lun* (A Treatise on Chinese Police Law) (Hunan Chubanshe, 1997), p. 3. (The term “jing cha” existed in classical Chinese, but “jingcha” as a modern police form came recently to China in the later half of 19th Century.) See also Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daixue chubanshe, 1995). (The modern idea of police came to China in late *Qing* dynasty during the Constitutional Reform period and by dint of “Hundred Day Modernization” movement in 1898. Before that time, policing functions were performed by a varieties of imperial officials and local authorities.)

¹⁵³ *Ci Yuan* (Source of words) (辭源) (Beijing: Commercial Press 1983)

¹⁵⁴ Li Kungsheng, “On Concept of Police” (Lun Jingcha de gainian) *PSUJ* Vol. 11(3), 1995, p.9.

Japan¹⁵⁵ who first borrowed the term from the West,¹⁵⁶ i.e., France (Paris) and Germany.¹⁵⁷

Qing government looked towards Japan for advice and assistance in reforming its police. Particularly, on April 14, 1901, the Qing government signed a contract with Japan to set up a police academy in China at the capital. The contract – “Establishing police academy contract” (<<Sheli jingcha xuetang hetong>>) - provided in that Japan is solely responsible for management of the academy, including designing academic programs, setting up recruitment standards, and assessing police work:

“The great Qing government is to undertake police service matters in the future, thus the need to establish a police academy in Beijing, and the need to select and send 10 students to go to Japan to learn about policing. It retains Chuan Dao of Japan to be the superintendent of the academy to take care of all its business, and also to lead the student delegates to Japan in the future. The contract salary is 400 *yuan* monthly. The contract is for three years. Whether the contract will be renewed will be discussed at that time. The academy is to employ a number of Japanese staff and payment of all expenditure is in

¹⁵⁵ Xie Min, “Establishment of Modern Chinese Police System in Late Qing Dynasty”(“Qan qing shiqi de zhongguo jindai jingchah zhidu jianshe”) *Journal of Jiangsu Police Officer College*, No. 4, July 2003, pp. 161 – 165.

¹⁵⁶ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daixue chubanshe, 1995), p. 66.

¹⁵⁷ HonYanlung and Su Yigong, *Contemporary police history* (Three volumes) (Zhongguo jindai jingchashi) (Shehuikexue chubanshe 1999), pp. 234-5. For police reform movement in Japan, see Peter J. Latzenstein, *Cultural Norm & National Security: Police and Military in Postwar Japan* (Cornell University Press 1996), pp. 48-63.

the hand of Chuan Dao. Police graduates are assessed and classified by Chuan Dao. After the police is assigned, it is also up to Chuan Dao to inspect graduate officers' performance, and to determine promotion and discipline.”

In essence, Chuan Dao has a free hand in running the school and training the students. Chuan Dao was not answerable to *Qing* government on police education matter.

Finally, transplanted Western police organization was first established in China in 1889 with the *Hunan Baoweiju*.¹⁵⁸

Besides “jing cha” there are other policing related terms, such as “gongna” (public security), “baowei” (protect and secure), “baoan” (security) and “zhian” (public order). To these varieties of police ideas in China we now turn.

Imperial China conception of “Jing Cha”

In classical Chinese the term “police” consisted of two Chinese characters, i.e., “jing” and “cha”. The term “jing cha” together literally means to warn (‘jing’) and be subjected to supervision (‘cha’).¹⁵⁹

Considered separately, “jing” has two distinct, if related, meaning. One of them means to be on the alert or being vigilant (“jiebi”), in order to prevent undesirable events from happening, e.g., natural calamities or intentional misdeeds. The other means to forewarn and admonish (“gaojie”¹⁶⁰ others to deter wrong doing, e.g., criminal act (state), disorderly conduct

¹⁵⁸ Zao Yanlung & Su Ligong, *Zongguo jindai jingcha shi* (Police history of contemporary China) (Beijing: Shehuishe wenxian chubanshe, 1991)

¹⁵⁹ *Hayu Dachidian* (Hayu Gauchudian Chubanshe, 1994)P. 417L

¹⁶⁰ *Ci Hai* (Shanghai Ci Hai Chubanshe, 1979), p. 215R.

(community), and personal.¹⁶¹ To break it down further, the word “jing” consisted of two radicals, i.e., upper radical is “jing” (respect) and lower radical is “yan” (speech or pledge in context). Together it means that people are expected to keep their words (pledge) once rendered to heaven (*tian*).¹⁶²

“Cha” is to examine or inspect closely.¹⁶³ “Cha” is also made up of two radicals. The upper radical symbolize under the cover of heaven. The lower radical is paying tribute to heaven with sacrifice of meat. Together it means asking for heaven to supervise ones conduct after pledge, i.e., omnipotent and omnipresent surveillance.¹⁶⁴

Together “jing cha” means to keep watchful eyes over unpredictable and undesirable events or against untoward conducts and unbecoming persons, with an eye towards self-defense and preservation (“baoan”).

While no one disputes the linguistic roots of “jing” and “cha”, there is a perennial debate as to when “jingcha” as we come to use the term today, i.e., “police” or “policing”, originated and meant.

¹⁶¹ The three source of conduct norms are state law, clan/family rules, and personal pledge.

¹⁶² This should not be confused with promises under “social contract” (Jean Jacques Rousseau, *THE SOCIAL CONTRACT. OR PRINCIPLES OF POLITICAL RIGHT* (1762) but rather one of “meng” (pledge to god). People are expected to keep faith with God, once pledged.

¹⁶³ *Id.* p. 2363R. For a further breakdown of the two characters and deeper analysis of the term, see Xu Fake, *Zhongguo Jingcha Fa Lun* (A Treatise on Chinese Police Law) (Hunan Chubanshe, 1997), p. 3.

¹⁶⁴ The normative order in imperial China is defined by *fa* (state law), *li* (Confucius rites) and *shi* (personal pledge). For a discussion of the significance of “shi” as oath or pledge as self subscribed conduct norm (as compared to “fa” and “li” as externally imposed state and community norms.), see “Pledge is an important form of law” (*shi shi fa de zhongyao xingshi*) in *Liu Hanian* and Yang Yifan, *Knowledge of traditional Chinese legal history* (*Zhongguo gudai falu shi zhishi*) (Heilungjiang renmin chubanshe, 1984), pp. 38 – 39. Except for the law, which is enforced by government officials both *li* and *shi* are supervised by family and community, and disciplined with self. Since “guo fa” (state law), “jia gui” (family rule) and “Kong li” (Confucian rites) are mutually re-enforcing and inter-penetrating, surveillance (*cha*) by community and supervision (*guan*) in the family takes the place of law enforcement by officials.

With one account, the two characters - “jing” and “cha” - were first used together in the Song dynasty (960 – 1279). In <History of Song. The Biography of Cai Ting>, it was recorded:

There were a lot of criminals (“dao”) in Heibei province, local military officials (“junshou”) should be carefully selected, they should be fully informed of the local conditions, they should be instructed to implement the county *baowu* mutual defense system...made them be vigilant over wrongdoings (“cha jing”), making arrests when a crime occurs.

Here the term, used as a verb, has taken on a meaning resembling the modern concept of policing, i.e., to be vigilant in the surveillance of people or place to prevent crime and detect criminals.

With another account, the famous *Qing* law reformer Shen Jiaben¹⁶⁵ opined that the term “jingcha” was first used in <Jinshi.Baiguanzhi> (History of Jin Dynasty (1115 to 1234 A.D.).Annals of Hundred Officials): The functions of “jingcha” included: “handling review of prison cases, and providing supervision over other departments.” According to this source, the police performed administrative oversight functions and not carried out street/people policing responsibilities.¹⁶⁶

¹⁶⁵沈家本 (AD . 1840-1913) was a famous legal expert and reformer in Qing. He passed the *jinshi* examination at the Capital in 1883 and served as Judicial Commissioners (Anchashi按察使) in Shanxi.

¹⁶⁶ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daixue chubanshe, 1995), 66 (“When did the term “jingcha” first appeared in China?”)

Still a third legal article traced the concept of “jing cha” to Yan Shigu’s <<Hanshu>>¹⁶⁷

Qing conception of “Jingcha”

The term “jingcha” as a foreign concept was first imported into China in late Qing, cir. 1876. Huang Zunxian, the putative father of China modern policing, introduced foreign police theory and practice to China in establishing the *Hunan Baowei Ju*.¹⁶⁸ Huang Zunxian (黄遵宪) (1848 – 1905) passed the Beijing provincial examination in 1877 at the age of 29 and became a diplomat. He has 17 years of diplomatic services in Tokyo (1877 – 1882), San Francisco (1882 – 1889), and England (1890 – 1891), ending as Consul-General of Singapore (1891 – 1894). Years of living and traveling overseas afforded him the rare opportunity to observe foreign police systems up close and around the world. Upon his return, Huang was committed to bringing his foreign experience on Western policing to reform and strengthen the Chinese government. He said: “if one wants to govern a state and security the people, he has to start with the police.” In 1898 Huang put his ideas of foreign police ideas to work in establishing the *Hunan Baowei Ju*.¹⁶⁹

Huang envisioned the police role and functions to be: “protecting the people (including) (1) remove harm, (2) promote health, (3) prosecute illegalities and violations, (4) investigate crime.” Specifically, police should be responsible for arresting criminals, tracking wanted people,

¹⁶⁷ *Hanshu* (漢書) (History of Former Han),

¹⁶⁸ Yuan Xiaohong, “Huang Zunxian jingzheng sixiang shulue” (Police administration thinking of Huang Sunxian”) *PSUJ* (Gongan Daxue Xue Bao) Vol. 1, 1999, pp.95 – 6.

¹⁶⁹ *Id.* 95R,

rendering emergency assistance, escorting drunk and insane people home, protecting seniors, youngsters, female and foreigners.

To secure the country, the police must know the layout of places and background of people residing in the jurisdiction. He must keep an eye on the unemployed and foreigners. He should be ready to deter and punish drifters, gangs and people who are critical of the government. He should listen to the people and convey their sentiments over government policy and actions upward.¹⁷⁰

To maintain public order, the police should stop people from gathering in the street, acting belligerently, e.g., causing commotions, or in unbecoming ways, e.g., play, sing and dance. He should stop and arrest people who obstruct the street and cause nuisance to others. He should punish people for fraud and misrepresentation. He should patrol the street to prevent criminals and protect against emergencies.¹⁷¹

As public service, the police should turn in lost properties and found items. He should terminate sick and wild animals. He should ask residents to clean up the streets and gutters. He should report damaged public property. He should sound fire alarms and rescue people.¹⁷²

Finally, if one were to draw a distinction between the imported concept of police (“jingcha”) in Qing and the indigenous idea of policing (“jing cha”) from China imperial past, it can be observed that:

- (1) “Jingcha” refers to “police” as an enforcing agency or agent and the “jing cha” to “policing” as rule/norm supervision or surveillance practice;

¹⁷⁰ *Id.* 95R,

¹⁷¹ *Id.* p. 96.

¹⁷² *Id.* p. 96.

- (2) “Jingcha” is always a state agency or agent, and “jing cha” can be performed by anyone and groups.
- (3) “Jingcha” are state agencies or agents enforces state laws and maintain public order, and “jing cha” involves anyone providing supervision, surveillance, monitor of state law, public order, communal norms, social customs, moral order, and even natural disasters.
- (4) “Jingcha” derives its power from state authority and with the use of coercion, “jing cha” gathers its influence from moral legitimacy derive from state endorsement, community support, and social pressure.

Communist conception of “Jingcha”

One of the salient features of PRC police is its overtly political and ideological nature. Above all lese police in a communist state is considered as a coercive instrumentality of the state. *Zhongguo gongan baike quanshu* defines “jingcha” (police)

“Administrative power of the state that is possessive of the nature of armed power (*wuzhuang xingzhi*) for the maintenance of social order (*weichi shehui diesu*) and protecting of national security (*baohu guojia anquan*). Police is a historical phenomenon. It originated with the state, and disappears with the state. The basic characteristic (*benzhi teshi*) of police is that it is an important instrumentality of the dictatorship of the state (*guojia zhuanzheng gongju*)...”¹⁷³

¹⁷³ *Zhongguo gongan baike quanshu* (China public security encyclopedia) (Jinlin: Jilin chubanshe 1989), P. 2024R.

The political nature and ideological orientation of communist policing is best captured by the official duties of political officers attached to police units. According to “Regulations on People’s police basic unit political instructor work” (1984),¹⁷⁴ political officers are supposed to carry out Party ideology and thought work (*zhengzhi xixiang gongzuo*). Their duties (Section 2) include: “(1) Promote Party line, principles, policy. Educate people’s police to maintain political uniformity with Party central. Supervise and assure that the orders and directions from above are thoroughly executed...(2) Organize people’s police in the serious study of Marxist – Leninism, Mao Zedong thought, (educate on) Party line, principles, policy...”

Table 2: Three concepts of “jingcha” compared:

	“Jingcha” (Qing)	“Jing cha” (Historical)	“Jingcha” (PRC)
Time introduced	1889	960	1921
Linguistic roots	Imported from France (Paris), German ¹⁷⁵ by way of Japan	First used together as one term during the Song dynasty.	Communist ideology espoused by Engles as interpreted by Lenin and applied by Mao to China. ¹⁷⁶

¹⁷⁴ MPS, “Regulations on People’s police basic unit political instructor work” (Trial (<<Renmin jingcha jiceng danwei zhengzhi zhidao yuan gongzuo tiaoli>> [shixing]) (May 5, 1984). The said Regulations were passed by the Fifth Public Security National Political Work Conference. Section 8 of the said Regulated provided that it replaced the 1962 MPS. “Interim detail rules on Public security post political instructor interim work” (<<Gongan paichusuo zhenzhi zhidaoyuan zhanxing xize>>). *Id.* p. 1442 – 1443,

¹⁷⁵ Hegel Mark Neocleous Brunel University ‘The Police of Political Economy’ (1998) <http://www.psa.ac.uk/cps/1998%5Cneocleous.pdf>

¹⁷⁶ Frederick Engels, *The Origin of the Family, Private Property and the State* (1884), esp. “Chapter V. The Rise of the Athenian State”: “The Athenians then instituted a police

Cultural meaning	Police agency or police officer.	Supervision, surveillance and guarding activities.	Instrumental of state (ruling class) to secure people's dictatorship
Source of authority	Political legitimacy	Moral authority – legitimacy	Political violence
Forms of sanction	Legal punishment	Social pressure	Military and gun
Scope of functions	Law and order	Justice	Ideology
Organization	Organized, ¹⁷⁷ centralized, ¹⁷⁸ specialized ¹⁷⁹ and differentiated ¹⁸⁰	Unorganized, diffused and comprehensive	Democratic centralism Mass line – from the people to the people
Process	Rule of law	Rule of man	Policy of Party
Comparative paradigm	Police as an institution Police as a profession Police as a	Policing as a political vs. social function Policing as community surveillance	Police as state instrumentality Policing as antagonistic contradiction

force simultaneously with their state, a veritable gendarmerie of bowmen ... this gendarmerie consisted of slaves. The free Athenian considered police duty so degrading that he would rather be arrested by an armed slave ... The state could not exist without police...”) Cladimar Lennin, *The State and Revolution* (1917); From Mao Zedong (Mao Tsetung), Speech "In Commemoration of the 28th Anniversary of the Communist Party of China, June 30, 1949," in *Selected Works*, vol. 5 (New York: International Publishers, n.d.), pp. 411-423 (In establishing the PRC, Mao did not want to abolish state power as of yet. He proposed to strengthen the state and police to fight imperialism and reactionaries.)

¹⁷⁷ To say that it is organized is to observe that there is a purpose with necessary resources to bring it about.

¹⁷⁸ To say it is centralized is to observe that direction of purposive activities emulated from the top, i.e., top down management.

¹⁷⁹ To say that it is specialized is to observe that people are selected and trained to carry out and achieve the purposive activities.

¹⁸⁰ To say it is differentiated is to observe that there is a division of labor, with different people performing different tasks.

bureaucracy

Policing as voluntary
supervision

Policing by mass
campaign

“Baowei” in contemporary China

Turning to contemporary China, the indigenous term that is closest in meaning to ancient “jing cha” or foreign “policing” is the concept of “bao wei”. In Chinese the character *bao* means to stand guard (*shou*),¹⁸¹ and the character *wei* means to defend against (*fangshou*) or protect from (*weihu*).¹⁸² Together *baowei* means to stand guard over an object/person/place and/or to protect an object/person/place from harm.¹⁸³ Thus construed, *baowei* suggests a reactionary, self-defense force to hold one harmless from external threats of all kinds. In recent Chinese history, there were many forms of local *baowei* or *baoran* units performing various kinds of security preservation, order maintenance, self-defense activities. For example,

(1) In June of 1897, the Hunan province *anchasi* (Minister of Justice), Huang Junxian, advocated for the establishment of Hunan *baoweiju* at Changsha.¹⁸⁴ This was achieved on July 27, 1898. The Hunan *baoweiju* served a number of social control functions: (1) to prevent crime (*yufang fanzui*); (2) to interdict robbers and bandits (*jibu daozei*); (3) to preserve public welfare (*weihu gongyi*); (4) to maintain household registration (*biancha hukou*); (5) to control and manage the streets (*guanli jiedao*); (6) to conduct judicial adjudication (*sifa shenpan*).¹⁸⁵ The short lived Hunan

¹⁸¹ See 1385, item 4, *Hanyu dacidian*. (Hanyu chubanshe, 1994).

¹⁸² See 1093, item 4, *Hanyu dacidian*. (Hanyu chubanshe, 1994).

¹⁸³ See 1385 *Hanyu dacidian*. (Hanyu chubanshe, 1994).

¹⁸⁴ *Zhongguo jindai jingcha zhidu*, Chapter 1, 40-47

¹⁸⁵ *Zhongguo jindai jingcha zhidu*, Chapter 1, 40-47

baoweiju thus functioned in every respect, except in name, as a grass roots police force.

(2) In August 1930 the Nanjing government set up a *baowei tuan* under the Civil Affairs Department at the provincial level to provide for local security. The *baowei tuan* was staffed locally and managed by the local magistrate. The *baowei tuan* was to take the place of local militia who was under rural elite control. The *baowei tuan* was a cheap and effective way to augment the regular Nanjing government military forces in fighting the increasingly effective Communist insurgency in the country side.¹⁸⁶

(3) In May 26, 1914 the generalissimo, Yuan Shikai in order to consolidate his power and extend his control over whole of China issued the “Difang baoweituan tiaoli” (Regulations on local self-defense association) which consolidated all local militia-defense units in China into one centrally controlled “policing” force. The role of the *baowei tuan* was to organize local self-defense to aid the police in maintaining law and order. It has two main functions: First, to conduct household registration. Second, to prevent crime and arrest criminals. Under Yuan Shikai, the *baowei tuan* served as a mutual aid-security pack or a modern form of *baojia*.¹⁸⁷

(4) From the beginning, CCP was much concerned about survival and obsessed with security,¹⁸⁸ from internal traitors to external spies.¹⁸⁹ The

¹⁸⁶ See 1093, item 1, *Hanyu dacidian*. (Hanyu chubanshe, 1994).

¹⁸⁷ See “Xian baoweituan fa” of April 11, 1931. (*Baojia* was used to organize village self-defense and carried out police investigations) For a discussion and citation of law on *baoweidui*, see *Zhongguo jindai jingcha zhidu* pp. 404-406.

¹⁸⁸ Ji Sulan, “Massline under the Party leadership is important historical experience of public security work” (“Dangwei lingdao xia de qunzhong luxiang shi zhongguo gongzuo de zhongyao lishi jingyan”) *PSUJ* Vol. 49: 12 – 15 (1994).

¹⁸⁹ Hou Junhua, Li Mozhen, Zhong Min, Pan Jiagui, *Secret police files of Jiang Jieshi* (*Jiang Jieshi jing cha m dang*) (Beijing: Qunzhong chubanshe, 1994), pp. 35 – 43, esp. 35 – 36.

CCP adopted elaborate measures to protect itself, in the form of “baowei gongzuo” (security work) and “baowei bumen” (public security bodies).¹⁹⁰ There were many kinds of “baowei gongzuo” associated with various Party and state agencies: “dang baowie” (Party security), “jundui barowei” (troop security), “zhengquan baowei” (state security) and “renmin gemin shiye baowei” (People’s revolutionary work security).¹⁹¹ The earliest form of CCP internal security organ was the “Zhongguo gongchangdang Zhongyang Teke” (CCP Central Special Branch) set up in December 1927 in Shanghai.¹⁹² It was placed under the leadership of Zhou Enlai, a member of the CCP Central Special Branch committee (Zhongyang tekwei).¹⁹³ In subsequent years, during the Second Revolutionary Civil War the CCP established “sufan weiyuanhui” (elimination of counter-revolutionary

¹⁹⁰ *The Pinyin CHINESE-ENGLISH DISCTIONARY* (H.K.: The Commercial Press 1995), p. 22R.

¹⁹¹ Keeping security for special places, people and events fell within the jurisdiction of the Ministry of Public Security – Department o Security(Zhongguo gongan bu baowei ju), or the Eighth Department (1949) and Second Department (1979), with corresponding mirror organs at the provincial (*Baowei chu*) and municipalities levels (*Baowei ke*).

Zhongguo gongan baikē quanshu (China public security encyclopedia) (Jinlin: Jilin chubanshe 1989), p. 329. For day to day personnel security work for VIP, see oral history of Zhongyang jingwei deputy department head, Wu Jicheng in Wu Jichang and Wang Fang, *Red Security Guards* (Hongse jingwei - 《红色警卫》 available as a e-book as (138 chapters) at [shuku.net](http://www.shuku.net) For command and working relationship between Zhongyan jingwei ju and Ministry of Public Security from 1949 to 1975), see Chapter 30 to *Red Security Guards*.

<http://www.shuku.net/novels/baogaowenxue/hsejwei/hsejwei.html>

¹⁹² *Jingcha shiyong cuanshu* editorial committee, *Jingcha shiyong quanshu* (Compendium of police practice knowledge) (Renmin gongan daxue chubanshe, 1986), p. 71.

¹⁹³ Ji Sulan, “Massline under the Party leadership is important historical experience of public security work” (“Dangwei lingdao xia de qunzhong luxiang shi zhongguo gongzuo de zhongyao lishi jingyan”) *PSUJ* Vol. 49: 12 – 15 (1994)..

committee) in the revolutionary bases (*geming genju di*) to conduct “political policing”.¹⁹⁴

In November of 1931, the CCP - Soviet People's Delegates established its first formal government structure at Ruijin,¹⁹⁵ that of China Soviet Republic (*Zhonghua suweiai gongheguo*) (1931 – 1934) provisional government and with it the *Minjing guanli ju* (Civil police administrative Bureau) and *Guojia zhengzhi baowei ju* (State political security – defense bureau). Their major functions were to collect intelligence and in defense of the Party from KMT spies, infiltrators and security agents. Later, on February of 1939, the CCP integrated and streamlined its intelligence gathering and counter-espionage functions in the *Zhongong zhongyang shehuibu* (Central Department of Social Affairs).¹⁹⁶ *Shehui bu* was responsible for public security. *Baowei weiyuanhui* was responsible for weeding out the traitors and spies.¹⁹⁷ After 1949, it was replaced by Central Investigation Department. In June 1983 the National People's Congress established the Ministry of State Security under the State Council to provide for "the security of the state through effective

¹⁹⁴ <<Suweiai zhuzhifa>> (Soviet Organization Rules) of August of 1929 required the establishment of counter-revolutionary committees at all revolutionary bases of Soviet Governments, including Southwest Jiangxi, West Min, Northeast Jiangxi, West Hunan-Hebei, Hunan-Jiangxi, Fujian-Zhejiang-Jiangxi, Hubei-Henan-Anhui bases. See “Su fang weiyuan hui” at *Zhongguo gongan baike quanshu* (China public security encyclopedia) (Jinlin: Jilin chubanshe 1989), p. 1365R.

¹⁹⁵ Mao then called the First All-China Congress of the Soviets on November 7, 1931, to be held in his capital city of Ruichin.

¹⁹⁶ See Ji Sulan, “Massline under the Party leadership is important historical experience of public security work” (“Dangwei lingdao xia de qunzhong luxiang shi zhongguo gongzuo de zhongyao lishi jingyan”) *PSUJ* Vol. 49: 12 – 15, 13. (1994). See also Intelligence Resource Program <http://www.fas.org/irp/world/china/mss/history.htm>

¹⁹⁷ See Ji Sulan, “Massline under the Party leadership is important historical experience of public security work” (“Dangwei lingdao xia de qunzhong luxiang shi zhongguo gongzuo de zhongyao lishi jingyan”) *PSUJ* Vol. 49: 12 – 15, 13. (1994). See also Intelligence Resource Program <http://www.fas.org/irp/world/china/mss/history.htm>

measures against enemy agents, spies, and counterrevolutionary activities designed to sabotage or overthrow China's socialist system."¹⁹⁸

“Baowan” in reformed China

In Deng’s reform era (1979), the nation’s priority shifted from fighting a class war to that of four modernization. In Mao’s term, the struggle is no longer one of contradiction with the enemy but between the people, i.e., from an antagonistic to non-antagonistic struggle. As a result, national security became a lesser concern and social stability and public order a more important problem. “Baowei” as a protective function changed its focus from safeguard political targets, Party organs, government buildings and military secrets, to that of securing financial assets and commercial buildings. “Baowei” in the reform era took up quasi public, communal or private security duties and responsibilities. When used in this context “baowei” takes on a different name, i.e., that of “bao an” or “security guard” services.

“Gongan” in modern China

PRC established the MPS (*Gonganbu*) in November of 1949.¹⁹⁹ Before 1949, the CCP briefly set up a Nan Chang Gongan Ju on August 1, 1927

¹⁹⁸ For duties and responsibilities of Ministry of State Security, see “State Security Law of the People's Republic of China” (Adopted by the National People's Congress Standing Committee February 22, 1993), Article 4: “Any organization and individual whose conduct harms the PRC's state security must be dealt with by legal means...(including): 1. Of plotting to subvert the government, dismember the state and overthrow the socialist system; 2. Of taking part in an espionage organization or accepting a mission assigned by an espionage organization or its agents; 3. Of stealing, secretly gathering, buying and illegally providing state secrets for an enemy; 4. Of instigating, luring and bribing state personnel to rise in rebellion; and 5. Of engaging in other sabotage activities against state security.” See also “Detailed Rules for Implementing the State Security Law of the People's Republic of China” (Promulgated by the State Council, July 12, 1994).

after the Nan Change revolution.²⁰⁰ On October 2, 1927, the Ministry of Interior promulgated <<Geji gonganbu bianzhi daigan>> (Outline of Public Security Office at all Levels) which required the naming of all provincial level police agencies as Gongan Bu (Public Security Department).²⁰¹

Gongan was defined in the *China public security encyclopedia*²⁰² as: “Actions that are sanctioned by the state ... to maintain social order, protect public safety, public and private property and citizens’ personal rights in accordance with the law.”

Gongan is literary translated as “public” (“gong”) and “security” (“an”).²⁰³ The idea was traceable to the Committee of Public Safety of the French Revolution of April 6, 1793.²⁰⁴

According to Kang Daiwen, a leading PRC expert on police concept, *gongan* did not original from “jing cha” (domestic) or “police” (foreign), nor can it be meaningfully equated with them. These terms have separate linguistic roots with different cultural meaning. However, more often than not “gongan” and “jing cha” are considered the same.²⁰⁵ For example the police chief for Shangxi province, Hong Dong county police office, Zheng

¹⁹⁹ Wong has argued that the earliest form of policing by the CCP was the *jiucahdui* of the CCP organized striking workers in 1925 at Hong Kong – Canton Strike, “Origin of Communist Policing in China.” See Chapter 4, *infra*.

²⁰⁰ See *Zhongguo gongan baike quanshu* (China public security encyclopedia) (Jinlin: Jilin chubanshe 1989), p. 205L.

²⁰¹ Kang Daimin, “Police studies? Public security studies?” (Jingcah xue? Gonganaxue?) *Public Security Education* Vol. 4 1998 (Gongan Jiaoyu)

²⁰² See *Zhongguo gongan baike quanshu* (China public security encyclopedia) (Jinlin: Jilin chubanshe 1989), p. 205L.

²⁰³ *The Pinyin CHINESE DICTIONARY* (H.K.: The Commercial Press, 1995), 234L.

²⁰⁴ Wnag Hongshi, “The Title of Public Security: Origin and Existence,” *Journal of Jiangsu Police Officer College*, Vol. 19 (1) (1/2004), pp. 98 – 103. See also

²⁰⁵ Yi Jiaqi & Yao, “Recognition of the Meanings of Police and Public Security” (Dui jingcha yu gongan hanyi de zai renshi) *PSUJ* Vol. 6, 1997 pp 37-39, 38. [Author note: The title is mistranslated in the original. It should read: “Re acquaintance with the meaning of “jing cha” and “gong an”]

Zhongwu, observed: “gongan” and “jing cha” are collapsible into one (“combining two into one” (*he er wei yi*), the former being the goal, the later the activities of policing. Thus observed, police history (*jingcha shi*) is public security history (*gongan shi*).²⁰⁶

In the earlier years of PRC, “gongan” is also referred interchangeably as “gongan ganbu” (public security cadre) or “ganjing” (security police), to recognize that “gongan” is also a Party cadre.²⁰⁷

VII

The Origin and Development of Chinese Policing

Introduction

Charles Reith, the pre-eminent police scholar, has defined police as a “necessary force for securing sustained observance of laws in human communities.”²⁰⁸ Since antiquity, there are two kinds of police “force”: kin

²⁰⁶ Zheng Zhongwu, “Exploring the Historical Origins and Development of Police I, II & III” *PSUJ* Vol. 3, 1998, pp 101.

²⁰⁷ In 1984, the State Council designated all people’s police at police post (*paichusuo*), detention center (*kanshousuo*), criminal investigation troop (*xingjing dui*) and traffic police (*jiatong dui*) as ganbu (Party cadre). Feng Shuangping, “My tentative opinion on certain issues about public security construction” (“Wo dui gongan jianshe de rugan wenti qianjian”) *Public Security Studies*, Vol. 6 (Cumulative 38) 1994).

²⁰⁸ Charles Reith, *The Blind Eye of History: A Study of the Origins of Present Police Era* (Montclair, N.J.: 1974) p. 20. Reith’s definition of police as an agency of “physical force” anticipated other police scholars following him. See for example, Egon Bittner, “Florence Nightingale in Pursuit of Willie Sutton: A Theory of Police,” *In Potential Reform of Criminal Justice*, ed. Herbert Jacob, pp. 17-44. (Beverly Hills: Sage Publications, 1974) (“the policemen alone, is equipped, entitled, and required to deal with every exigency in which force may have to be used to meet it.”). See also Chapter Six, “The Capacity to Use Force as the Core of the Police Role” *Functions of Police in Modern Society* (Rockville, Maryland: National Institute of Mental Health: Centre for Studies in Crime and Delinquency, 1970). (Citizens call the police because police intervention implies that force may be used to achieve a desirable objective.)

police and ruler appointed police.²⁰⁹ The first corresponds to informal social control and the later identified with bureaucratic policing.

Historically, China has experimented with both kinds of policing. For political, economical,²¹⁰ and cultural²¹¹ reasons, community social control was the more dominant kind.²¹² When asked: “What is meant by “in order rightly to govern the state, it is necessary first to regulate the family” Confucius answered: “It is not possible for one to teach others, while he cannot teach his own family. Therefore, the ruler, without going beyond his family, completes the lessons for the state.”²¹³ Control started from self-cultivation, followed by family discipline, community surveillance, and finished with state sanction, each reinforcing each other.

In imperial China, Community social control, e.g., family discipline and community surveillance was complemented and supplemented by the bureaucratic policing.²¹⁴

²⁰⁹ *Id.* Most of the police scholars have identified the “ruler appointed police” as the prototypical kind of “police.” Brian, *Police State* (London: Macmillan, 1970) (The term police came from the Greek term “politeia” and latinized as “politi”, derived from the Greek word for city or “polis.” Police work thus touches on all matters affecting the survival and welfare of the inhabitants of a city. In Greek times, this concept is inseparable from the law governing the institutions of the city state) p. 11.

²¹⁰ *Id.* (The villages and families were isolated, closed, and self-sufficient economic and social units.) p.55.

²¹¹ The Great Learning, Chapter IX: 4, James Legge (trans.) *The Four Books* (Hong Kong: Culture Book, 1981), p. 23

²¹² Kam C. Wong, “Community Policing in China: Philosophy, Law and Practice,” *International Journal of the Sociology of Law* Vol. 29 (2001)

²¹³ *Id.*

²¹⁴ The relative distribution of community policing (natural, private, and informal social control) and bureaucratic (positive, public, formal, legal) policing has perplexed social control scholars. Whereas German sociologist believed that society is moving from a pre-modern *Gemeinschaft* type of organization to a modern *Gesellschaft* form, LaPiere argued that the two systems of social structure (and control) is complementary of each other and operated in different realm. Richard T. LaPiere, *A Theory of Social Control* (N.Y.: McGraw-Hill, 1954), pp. 20-21. Black has theorized that informal and formal

Traditionally, the Chinese Emperors ruled the empire by delegation of authority and with proxy agents. The Emperors governed the state by and through his officials,²¹⁵ who in turn delegated the responsibility of social control to the local community and indigenous agents, e.g., family, clan, and village.²¹⁶ In theory and practice, the whole nation is organized as one big family. The Emperor was the head of the nation household. The local officials, e.g., magistrates, were the fathers and mothers (“fu wu guan”) to the local residents under their charge. The father, as head of household, presided over all family business. The clan chief presided over the clan/village business. Finally, the Emperor took care of the nation’s business.²¹⁷

Social control started with the family, clan, and in rare instances and only as a last resort referred to local officials.²¹⁸ State law (*guofa*), family admonitions (*jia xun*) and clan rules (*zugui*) reflected and reinforced each other, in giving vent to Confucius’ ideas and ideal.²¹⁹ As described by Dutton: “In classical China, an intricate web of relations, based ultimately upon the family and policed by a labyrinth of mutually self-checking units augmented by an advanced system of documentation, succeeded in maintaining social harmony for most of the dynastic period.”²²⁰

social control existed as a continuum, the more of one the less of another. Donald Black, *The Behavior of Law* (N.Y.: Academic Press, 1976).

²¹⁵ “The Ideas of Regulating Officials Reflected in “the Rules for Acting as Officials” of the Qin Dynasty Bamboo Documents” Zhang Jinfan, *Zhongguo Falushi Lun* (Treatise on Chinese Legal History) (Beijing: Falu Chubanshe, 1983), p. 96-111.

²¹⁶ *Id.* “The Chinese Feudal Laws and the Sovereignty of Patriarchy and Clan Authority.” *Id.* pp. 52-68.

²¹⁷ *Id.* p. 54.

²¹⁸ *Id.* p. 56.

²¹⁹ . Liu Wang Hui-chen, *The Traditional Chinese Clan Rules* (Locust Valley, N.Y.: J.J. Augustin Incorporated Publisher, 1959).

²²⁰ Dutton, *Policing and Punishment in China* (Cambridge University Press, 1992), p. 3.

Origin and development

The following section traces the early development of policing and organization of police in China from *Xia* to the *Qin* dynasties.

Table 4: Historical development of policing from *Xia* (21st to 16th century B.C.) to *Qin*

Historical Period	Official – Institution	Implications for Policing	Significance
<i>Xia</i> (21st to 16th century B.C.)	<p>“Situ” official</p> <p>Prison: In ground round hole (“huan tu”)²²¹ for the holding of offenders. It is also called or “jun tai”²²² or “xia tai”.²²³</p>	<p>Educate people to avoid disputes.</p> <p>Confinement of rebellious criminals.²²⁴</p>	<p>First appearance of confinement as a social control measure.²²⁵</p>

²²¹ Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), p. 12.

²²² “Jun tai” is the name of place where Xia built central holding “huan tu”. *Id.*

²²³ <<Shiji.Xiaben>> (Records of the Grand Historian – Annals of Xia) has an entry of the rebellious leader Tong who later found the *Shang* dynasty was “imprisoned at “xia tai”. *Id.*

²²⁴ *Id.*

²²⁵ *Id.* Tong (of Shang) was considered not deserving of penal measures, such as hard labor, but only need to be restricted in movement.

<p>Shang (16th to 11th century B.C.),</p>	<p>Emperor as the source of law on earth, justice from heaven,²²⁶ and head of nation (family).²²⁷</p>	<p>Setting rules of conduct for policing, e.g., “zhen bo” officers in charge of fortune telling before all important decisions being made by Emperor must be followed²²⁸ and personal pledge to heaven must be enforced.²²⁹</p>	<p>Establish authority and legitimacy of policing.</p>
<p>Western Zhou (11th century to 771 B.C.)</p>	<p><u>Three Constitutional principles:</u></p> <p>Emperor ruled supreme;²³⁰</p> <p>Legitimacy of rule: benevolent governance corresponding to mandate from heaven “:yi de pei tian”).²³¹</p> <p>Clan absolute rule²³²</p>	<p>Application of Constitutional principles:</p> <p>Police powers came from heaven, exercised by the Emperor alone.</p> <p>Police power subject to mandate from heaven.</p> <p>Family and clan</p>	<p>Western Zhou provided prototypical model of penal administration and social control working in tandem:</p> <p>(1) Established constitutional government: authority, accountability</p>

²²⁶ *Id.* p. 15.

²²⁷ *Id.* p. 16.

²²⁸ *Id.* p. 18. “zhen bo” officers are often picked to be government officials.

²²⁹ *Id.* 23

²³⁰ *Id.* 28.

²³¹ *Id.* 28.

²³² *Id.* 28. Entitlement to govern based on blood – clan principle. Emperor delegated powers to rule to the blood relatives, and head of family, clan, nation rules by dint of their family and clan status.

²³³ *Id.* 31. See *Rites of Zhou* (**Chinese:** 周禮/周礼; **pinyin:** Zhōulǐ) - *Offices of Heaven* which discusses government in general.

²³⁴ The state was run by three executive – policy officers in charge of local administration (“chang ba”), official appointments (“chang bai”) and criminal justice (“zhun ren”), *Id.* 33.

²³⁵ *Id.* 33, The other eight officials were “tai shi” in charge of history; “tai zhu” in charge of worships; “tai bo” in charge of fortune telling; “tai zai” in charge of slave and

	<p><u>Eight Administrative principles, including:</u></p> <p>(1) On staffing (“guan shu”); (2) On role and responsibilities (“guan zhi”); (3) On collaboration and coordination (“guan lien”); (4) On routine duties (“guan chang”); (5) On rules and regulations (“guan cheng”); (6) On protocol (guan fa”); (7) On rules for five punishment (“guan xing”); (8) On supervision of officials (“guan ji”).²³³</p> <p><u>National justice officials:</u> National crime justice policy was set by “zhun ren”.²³⁴</p> <p>Justice administration is executed by “tai shi”.²³⁵</p> <p>Day to day public order (“an bang”) was performed by:</p> <p>“Situ” who looked after the welfare and education of the</p>	<p>acted as all purpose grass roots social control – policing agents.</p> <p>Policing subject to administrative rules.</p> <p>Administrative and justice officials part take in policing of matters in their jurisdiction and under their charge.</p>	<p>and control.</p> <p>(2) Develop a system of government – social control based on blood.</p> <p>(3) Formulation of administrative principles to organize, guide and supervise policing activities.²⁴³</p> <p>(4) No need for separate police agency and police officials, policing carried out as part and partial of justice and social administration.</p> <p>(5) Integrated system of penal - social control: at capital, national, local, communal, family level.</p>
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finance; “tai zhong” in charge of Emperor and temple affairs. All of these officials have police powers in matters under their charge, e.g., “tai zhu” can enforce ceremonial rules by invoking the authority of the emperor.

²³⁶ *Id.* 34.

²³⁷ *Id.* 34.

²³⁸ *Id.* 40.

²³⁹ *Id.* 41.

²⁴⁰ *Id.* 41.

²⁴¹ *Id.* 41.

²⁴² *Id.* 41.

²⁴³ *Id.* 31.

	<p>people.²³⁶</p> <p>“Sikong” who was in charge of god of the land (“sheji”), temples, imperial clothing, transports, complements.</p> <p>“Sikong” also served as “dai sikou” in charge of justice and punishment.²³⁷</p> <p><u>Nation’s capital security and justice:</u> “Shi shi” was in charge of the nations security, safety crime control and justice administration.</p> <p><u>Local justice administration:</u> “Xian shilou” was in charge of local justice²³⁸ in criminal (“yu” or imprisonment)²³⁹ and civil cases (“susong” or civil litigations”)²⁴⁰</p> <p>“Xiang shi” was in charge of litigations, justice and penal measures within 100 <i>li</i> (mile) and “zui shi” was in charge of areas beyond 100 <i>li</i>.²⁴¹</p> <p><u>Community order</u> Community order was achieved by household registration.</p> <p>“Si min” was in charge of household registration.²⁴²</p>		
<p>Spring and Autumn Period (770 to 476 B.C.) and</p>	<p>(1) “Simin” was in charge of household registration.²⁴⁴</p> <p>(2) “Sishi”²⁴⁵ was responsible for keeping order in the market.</p> <p>(3) “Sibao”²⁴⁶ was responsible for maintaining social order.</p>	<p>Varieties of administrative officials performing policing functions covering different</p>	<p>Providing the clearest evidence that all Western police functions – law enforcement,</p>

²⁴⁴ “Si” is official in charge. “Min” is the people or general public. The term literally means official in charge of the general population.

²⁴⁵ “Si” is official in charge. “Ji” is to inspect. The term literally means official in charge of inspection and compliance

<p>Warring States (475 to 221 B.C.)</p>	<p>(4) “Siji”²⁴⁷ was responsible for the arrest and punishment of robbers and thieves. (5) “Siwushi”²⁴⁸ was responsible for enforcement of curfew. (6) “Jinbaoshi” was responsible for the suppressing civil disturbance, prohibition violation, fraud, and disorderly conduct. (7) “Jinshalu”²⁴⁹ was responsible for maintaining public order and control of criminals. (8) “Sixuanshi”²⁵⁰ was responsible for fire prevention and fire fighting. (9) “Siluhi”²⁵¹ was responsible for the direction and control of traffic. (10) “Sili”²⁵² was in charge of confiscation of weapons, contrabands, and assignment of slaves. (11) “Sili”²⁵³ was responsible for management of slaves, captives, and arrest of criminals. (12) “Sihuan”²⁵⁴ was responsible for prison management and</p>	<p>aspects of social and economic life, including household registration; law enforcement, criminal investigation’ emergency services, economic/social ordering; traffic regulation; punishment dispensation.</p> <p>Conspicuous absent is policing as a service functions which was tsupplied by family and communities.</p>	<p>crime control, order maintenance, internal security, emergency services – were provided for.</p>
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²⁴⁶ “Si” is official in charge. “Bao” is violent. The term means official in charge of (pacifying) violence.

²⁴⁷ “Si” is official in charge. “Shi” is the market. The term literally means official in charge of the market place.

²⁴⁸ “Si” is an official in charge. “Wushi” is the person who is awake, i.e., keeping night watch. The term literally means official in charge of night watch.

²⁴⁹ “Jin” is to prohibit and prevent. “Shalu” is to slaughter. *The Pinyin Chinese English Dictionary* (H.K. : Commercial Press, 1978), p. 590L.

²⁵⁰ “Si” is official in charge. “Xuanshi” is person associated with a blaze. The term literally means official in charge of firefighting. *Id*, p. 784L.

²⁵¹ “Ye” means in the wild, i.e., outdoor. “Lu” means hut. *Id*, p. 442R. The terms means person associated with outdoor (vs. indoor) activities, i.e., traffic.

²⁵² “Si” is official in charge. “Li” is a stern person. *Id*, p. 420R.

²⁵³ “Si” is official in charge. “Li” is a subordinate. *Id*, p. 421L.

²⁵⁴ “Si” is official in charge. “Huan” is a round hole in the ground for the detention of criminals and offenders.

²⁵⁵ “Si” is official in charge. “Men” is the gate. The term literally means official in charge of gate entrance.

²⁵⁶ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 5. (Policing functions during the Autumn and Spring/Warring Periods were very well developed.)

	<p>punishment. (13) “Simen”²⁵⁵ was in charge of guarding the capital gates and providing for custom inspection.²⁵⁶</p>		
<p><i>Qin</i> dynasty (221 to 207 B.C.)</p>	<p><u>United China:</u> Central administration Rule of law Rational bureaucracy</p> <p><u>Imperial rule:</u></p> <p>“Weiwei” in matters of imperial security.</p> <p>“Zhongwei” in matters was capital security.</p> <p>“Tingwei” in matters of justice administration.</p> <p><u>Local public security administration:</u></p> <p>Prefecture: “Jun shou”</p>	<p>Organized policing with bureaucracy and law.</p> <p>Responsible for guarding the emperor and patrolling the palace grounds.</p> <p>Responsible for public order and security within the capital grounds.</p> <p>Responsible for criminal investigation, arrest, adjudication, sentencing, and execution.</p> <p>Responsible for all the welfare and security of the local residences, including with maintaining law and order within the <i>jun</i>.²⁵⁸</p>	<p>Institutionalization of police.</p> <p>First centrally administers criminal justice – police system.</p>

²⁵⁷ “Ting” literally mean kiosk. *The Pinyin Chinese English Dictionary* (H.K. : Commercial Press, 1978), p. 684L.

²⁵⁸ The duties of the “jun shou” included “governing people (*zhimin*), recommendation of the virtuous (*jinyan*), encourage meritorious acts (*quangong*), adjudication (*juesong*),

	County: “xian ling” (over 10,000 residents) and “xian chang” (under 10,000 residents)	Responsible for keeping law and order and administration of justice within his jurisdiction. ²⁵⁹	
	“Xiang” (rural area): “San Lao” -	A person “zhi” ²⁶⁰ was appointed to take care of minor disputes and litigations. A person “you ji” was responsible for patrolling the area to uncover and prevent illegal activities.	
	“Ting” (police post): ²⁵⁷ “		
	“Tingchang” (chief of the post)	Maintain order, suppress crime and enforce the law	First police post and patrol.
	“Tingzu” (soldier of the post).	One was responsible for internal administration and other public	

removal of evil (*jianjiang*)... promoting agriculture and providing for relief...” (<Shiji> volume 79.)

²⁵⁹ Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), p. 81.

²⁶⁰ “Zhi” means order. *The Pinyin Chinese English Dictionary* (H.K.: Commercial Press, 1978), p. 905L.

²⁶¹ *Id.*

²⁶² The *baojia* was a comprehensive state administrative system. Besides policing, it also served important emergency relief, collection of taxation and corvee functions. This is not unlike the modern police. Because of its general power, wide jurisdiction, and all hours of duty, the police are being called upon to assume duties which they are not charged with nor trained for.

	<p><u>Community policing:</u></p> <p>“Baojia” system –</p>	<p>health, order and safety – prevention of crime (<i>qiudao</i>), arrest of criminals (<i>buzei</i>), and maintenance of public health (<i>wei sheng</i>).²⁶¹</p> <p>A community policing system performing mutual defense, informal surveillance, and collective accountability functions.²⁶²</p>	<p>First state controlled community policing program</p>
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Shun (2255 – 2205 B.C.)

The earliest record of policing activities in China was traceable to the legendary sage monarch *Shun* (2255 – 2205 B.C.).²⁶³ China then was not a united kingdom but a coalition of tribes, led by a charismatic, respected and powerful leader. During *Shun* rule, the tribal coalition committee (“buluo lianmeng yihui”) established nine kinds of officials (“guan”). Two of them – “situ” and “shi” – carried out modern day policing functions. “Situ” was responsible for resolving people’s disputes and maintaining social order.

²⁶³ Researchers and readers should be careful, if not even skeptical, with such early recorded events. Oftentimes, the records were incomplete and unreliable. In this regard, the only thing that is certain is that by the *Xia* dynasty, there were prisons like confinable space dug in the ground to hold offenders. This suggested the existence law enforcement agents. Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), p. 12.

“Shi” was responsible for policing the border, investigating crime, and maintaining prisons.

Xia, (21st to 16th century B.C.)

Xia dynasty (21st to 16th century B.C.)²⁶⁴ inherited *Shun* order maintenance scheme. Thus <Shan Shu. Yao Dian> (Book of Shang. Work of Yao) observed: “The people do not love each other (*buqing*). They are no longer humble and modest (*buxun*). “Situ” has to be established to educate people to avoid disputes.”²⁶⁵ “Situ” were central officials. Grass roots order maintenance functions were handled by the local officials.²⁶⁶ Furthermore, from the inscriptions of bones or tortoise shell unearthed, historians confirmed the existence of a system of in-ground confinement areas, or prisons being maintained in the *Xia* dynasty.²⁶⁷ This suggested institutionalized law enforcement activities of some kind.

Shang (16th to 11th century B.C)

Shang dynasty (16th to 11th century B.C.) followed *Xia* dynasty (21st to 16th century B.C.). In *Xia* dynasty there was no record of police apparatus or policing officials. However, there were officials in charged of conquered

²⁶⁴ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 5. (“8. When was the earliest police established in our country?)

²⁶⁵ See citation and translation in Guo Chengwei, *Shehui Fanzui yu Zhonghe Zhili* (Crime in society and comprehensive management) p. 33.

²⁶⁶ *Id.* 34.

²⁶⁷ Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), pp. 22-23.

people and captured slaves. Occasionally, the military were mobilized to suppressed rebellion, civil disturbance, and chase after offenders.²⁶⁸

Western Zhou dynasty (11th century to 771 B.C.)

According to Confucius, Zhou dynasty exemplified good government.

The *Western Zhou* dynasty (11th century to 771 B.C.) conquered the *Shang* dynasty in the 11th century B.C.²⁶⁹ The first task on hand was to consolidate its power and perfect its control over an alien nation spread over the vast Central Plain of China (“zhonguan”).²⁷⁰ This led to the establishment of a centralized and bureaucratized political and social control system, denominated in legal and administrative terms.²⁷¹

During the *Zhou* dynasty, the “Shikou” (司寇 – Minister of Justice) was responsible for justice administration (“sifa”).²⁷² “Shikou” assisted the Emperor in handling all criminal matters within the realm.²⁷³ In do doing,

²⁶⁸ Guo Chengwei, *Shehui Fanzui yu Zhonghe Zhili* (Crime in society and comprehensive management) pp. 35-36.

²⁶⁹ Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), pp. 22-23.

²⁷⁰ Before its overthrown the *Shang* dynasty, *Zhou* was a small tribe in the North-West part (currently Shanxi province, Changon county North-West) of China under the domination and control of the *Shang* empire. *Id.* pp. 24-5.

²⁷¹ Bayley has theorized that in the case of “Europe and North America, the key factor that explains the initial impulse to centralize is violent resistance to the consolidation and assertion of state authority.” David Bayley, *Patterns of Policing* (N.J.: Rutgers, 1985), p. 67.

²⁷² <Zhouli.Daishikou> (The Rites of Zhou. Grand Justice Official). Gao Shaoxian, *Zhongguo Lidai Faxue Mingpian Zushi* (Annotation of Famous Jurisprudence Literatures from Chinese Historical Periods) (Beijing: Zhongguo renmin gongan daxue chubanshe, 1993), pp. 29-33.

²⁷³ *Id.*

the “Shikou” followed well defined justice philosophy and established penal policy by the Emperor.²⁷⁴

The Minister of Justice assumed much of the modern day police functions, e.g., maintaining state authority (Emperor mandate), national security and social order.²⁷⁵ His duties included: promulgating laws; running of prisons; implementing “contemplative” (*fanxi*) punishment; facilitating people’s petitions; presiding over oath of allegiance (*mengyue*); adjudicating criminal and civil cases, participating in offering ceremonies; leading processing of vassal lords (*zhuhou*); executing of military law; securing major thoroughfare. The Minister of Justice was the first public, specialized, and professional policing institution in China.²⁷⁶

In Zhou’s time, there were many kinds of policing needs:

²⁷⁴ “Shangshu. Luxing” *Id.* pp. 24-28. See also “Zhongguo Zuizao de Yan Xing Zhuzuo” (The very first criminal jurisprudence treatise – Book of Lu) Liu Hai-nian and Yang Yi-fang, *Zhongguo Gudai Falu-shi Zhishi* (Knowledge in Chinese legal history), pp. 30-35.

²⁷⁵ Ordering is differentiated in time and place, not universal. Michael Foucault, *The Order of Things* (1970). (On what ‘table’, according to what grid of identities, similarities, and analogies, have we become accustomed to sort out so many different and similar things.) Contemporary police in the West is much concerned with policing spatial order. In the days of the Zhou dynasty, the “Shikou” policed political, moral, and social correctness, e.g., loyalty to the emperor, honesty to friends, and respect for parents. Gao Shaoxian, *Zhongguo Lidai Faxue Mingpian Zushi* (Annotation of Famous Jurisprudence Literatures from Chinese Historical Periods) (Beijing: Zhongguo renmin gonandaxue chubanshe, 1993). (People should avoid evil and unwholesome thoughts (*xie e zainian*) and follow the right way (*zhenglu*). People should not be rebellious and disorderly (*bufan buluan*). People should support (*yonghu*) and submit (*guifu*) to the emperor’s authority.)

²⁷⁶ David Bayley, *Patterns of Policing* (N.J.: Rutgers, 1985), pp. 14 (Modern policing is characterized by public, specialized, and professional policing.) Kun Yufeng, *Dushi Jingzheng Xue* (Urban police study) (Taiwan: Zhongzheng shuju, 1971). (The earliest institutionalized public Chinese police can be traceable to the office of the ‘shikou’ and ‘shibao’ during Zhou.), p. 1. Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 5 (The earliest police is the “shitu”).

First, the Emperor has to monitor household registration and maintain public order. It was observed in <Shang Shu.Hung Fan>²⁷⁷ that in order to govern well, the Emperor must carry out eight kinds of administrative – supervision duties, i.e., (1) agriculture production; (2) business and financial affairs; (3) offering rituals; (4) household and civil affairs; (5) cultural education; (6) public order and judicial administration (*zian sifa*); (7) foreign and diplomatic affairs; (8) national defense.²⁷⁸ Item 4 required that households activities be monitored, a police administrative act. Item 6 called for the maintenance of public order by law, a law enforcement activity.

Second, the Emperor has to enforce his decree, law of the land. It was observed in <Shang Shu. Hung Fan> that in order to govern well the Emperor, as the highest ruler of the land, should promulgate decrees incorporating heavenly mandate and moral norms. Emperor’s decrees were to be obeyed and enforced, punctiliously.²⁷⁹

Third, the Emperor has to make sure that officials’ loyalty and commitments are kept. A recently unearthed (Feb. 1975) litigation judgment

²⁷⁷ <Book of Shang. Universal Law>. The document was written after *Zhou Wu Huang* (Emperor Wu of Zhou) has defeated *Shang*. It recorded a dialogue between Emperor Wu and the descendants of *Shang* dynasty on how best to govern the state.

²⁷⁸ During those time, an Emperor has to attain to the following: (1) act in accordance with nature (*wuxing*); strengthen five moral temperament (*daode xiuyang*); (3) work hard to implement the five administrative affairs (*zhengwu*); (4) adopt the five kinds of timing methods (*jishi fangfa*); (5) establish the emperor’s authoritative rule (*junzi faze*); (6) follow the three administrative policies (*zhengce*); (7) resolve uncertainty with divination (*bushi*); (8) pay attention to all kinds of omens (*zhi zhao*); (9) award good and punish evil (*shang shan fu er*). Gao Shaoxian, *Zhongguo Lidai Faxue Mingpian Zushi* (Annotation of Famous Jurisprudence Literatures from Chinese Historical Periods) (Beijing: Zhongguo renmin gonandaxue chubanshe, 1993), pp. 9.

²⁷⁹ <Book of Shang. Universal Law>.

showed that the official in charge of offering animals was penalized for not keeping to his official promise²⁸⁰ in suing his superior.²⁸¹

The Minister of Justice was assisted by a number of subordinate officials and local (*difang*) officers.

Spring and Autumn Period (770 to 476 B.C.) and Warring States (475 to 221 B.C.)

During the Spring and Autumn (770 to 476 B.C.) and Warring States (475 to 221 B.C.) periods. China was politically divided between many factions contending for powers. In the end, the *Eastern Zhou* Emperor was no longer able to control various rebellious vassal lords.²⁸²

The vassal lords, free from central control, experimented with and established a variety of policing officials: (1) Household registration and control was the task of “simin”.²⁸³ The official controlled the birth, death, and mobility of people. Similar functions are performed today by PRC household police (*huji jingcha*).²⁸⁴ (2) “Sishi”²⁸⁵ was responsible for keeping

²⁸⁰ It is of interest to note that obligations could be imposed by the emperor as law or assumed by the individual officials as promises. Liu Hai-nian and Yang Yi-fang, *Zhongguo Gudai Falu-shi Zhishi* (Knowledge in Chinese legal history) (Helungjian renmin chubanshe, 1984), pp. 38-38 (Oath is an important manifestation of the law). This was expressed at the grass root level as “village pack” (*xian yue*)

²⁸¹ “Erqian ba bai nian qian de yi fan xuxong panjue” (A litigation judgment two thousand and eight hundred years ago) in Liu Hai-nian and Yang Yi-fang, *Zhongguo Gudai Falu-shi Zhishi* (Knowledge in Chinese legal history) (Helungjian renmin chubanshe, 1984).

²⁸² Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), p. 50-52.

²⁸³ “Si” is official in charge. “Min” is the people or general public. The term literally means official in charge of the general population.

²⁸⁴ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 18 (The responsibilities of the Household Police are: (1) manage household; (2) understand household and population conditions; (3) prevent, discover, and stop crime; (4) coordinate and assist the streets, schools, business units, and family in the education of minor offenders; (4)

order in the market. Similar function is performed by PRC public order police (*zhian jingcha*).²⁸⁶ (3) “Sibao”²⁸⁷ was responsible for maintaining social order. Similar function is performed by PRC public order police (*zhian jingcha*). (4) “Siji”²⁸⁸ was responsible for the arrest and punishment of robbers and thieves. Similar function is performed by PRC foot-patrol (*xunluo jingcha*).²⁸⁹ (5) “Siwushi”²⁹⁰ was responsible for enforcement of curfew. Similar function is performed by PRC People Armed Police (*Renmin Wuzhuan Jingcha*).²⁹¹ (6) “Jinbaoshi” was responsible for the suppressing civil disturbance, prohibition violation, fraud, and disorderly

supervise parolees, probationers, and community correction offenders; (5) organize the mass in conducting safety measures; (6) direct and supervise local Security Committees; (7) investigate and deal with public order offense on the spot; (8) assist other kinds of police in carrying out their duties.)

²⁸⁵ “Si” is official in charge. “Ji” is to inspect. The term literally means official in charge of inspection and compliance

²⁸⁶ The main tasks of PRC public order police are to maintain social order and public security, including: (1) prevent, uncover, and stop offenders and criminals; (2) protect public order and regulate special kinds of businesses; (3) regulate dangerous goods and prevent harmful activities; (4) investigate public order offenses; (5) conduct public order patrol; (6) handle public order offenses; (7) lead and direct public order joint-defense team; (8) assist household police and criminal police in their tasks.) Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 18

²⁸⁷ “Si” is official in charge. “Bao” is

²⁸⁸ “Si” is official in charge. “Shi” is the market. The term literally means official in charge of the market place.

²⁸⁹ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 22. (The foot patrol police officer is responsible for maintaining law and order; preventing public order offense and criminal activities; controlling crowd; regulating assembly, procession, and demonstration; handling emergencies; directing traffic; resolving disputes; restraining disorderly conduct; controlling the mentally sick and drunk; assisting old, sick, and helpless; accepting citizens’ complains; recovering lost property; providing safety and security; reducing fear of crime.)

²⁹⁰ “Si” is an official in charge. “Wushi” is the person who is awake, i.e., keeping night watch. The term literally means official in charge of night watch.

²⁹¹ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 21 (The PAP is responsible for maintaining curfew during civil disturbances.)

conduct. Similar function is performed by PRC foot-patrol (*xunluo jingcha*). (7) “Jinshalu”²⁹² was responsible for maintaining public order and control of criminals. Similar function is performed by PRC criminal police (*xingshi jingcha*). (8) “Sixuanshi”²⁹³ was responsible for fire prevention and fire fighting. Similar function is performed by PRC People’s Armed Police – fire prevention police (*Renmin wujing- xiaofang jing*).²⁹⁴ (9) “Siluhi”²⁹⁵ was responsible for the direction and control of traffic. Similar function is performed by PRC traffic police (*jaotung jingcha*).²⁹⁶ (10) “Sili”²⁹⁷ was in charge of confiscation of weapons, contrabands, and assignment of slaves. The first two functions are performed by PRC foot-patrol (*xunluo jingcha*). (11) “Sili”²⁹⁸ was responsible for management of slaves, captives, and arrest of criminals. The last two functions are general duties of PRC foot-patrol (*xunluo jingcha*). (12) “Sihuan”²⁹⁹ was responsible for prison management and punishment. These are the functions PRC judicial police (*sifa*

²⁹² “Jin” is to prohibit and prevent. “Shalu” is to slaughter. *The Pinyin Chinese English Dictionary* (H.K. : Commercial Press, 1978), p. 590L.

²⁹³ “Si” is official in charge. “Xuanshi” is person associated with a blaze. The term literally means official in charge of firefighting. *Id.*, p. 784L.

²⁹⁴ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 19. (Fire fighting police is responsible for fire prevention; fire fighting; fire investigation; fire prevention inspection; fire equipments standard setting and enforcement; fire education.)

²⁹⁵ “Ye” means in the wild, i.e., outdoor. “Lu” means hut. *The Pinyin Chinese English Dictionary* (H.K.: Commercial Press, 1978), p. 442R. The terms means person associated with outdoor (vs. indoor) activities, i.e., traffic.

²⁹⁶ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 18. (The traffic police is responsible for directing and regulating traffic, management and control of cars and drivers; dealing with traffic violations and accidents; engaging in traffic safety education.)

²⁹⁷ “Si” is official in charge. “Li” is a stern person. *The Pinyin Chinese English Dictionary* (H.K.: Commercial Press, 1978), p. 420R.

²⁹⁸ “Si” is official in charge. “Li” is a subordinate. *Id.*, p. 421L.

²⁹⁹ “Si” is official in charge. “Huan” is a round hole in the ground for the detention of criminals and offenders.

jingcha).³⁰⁰ (13) “Simen”³⁰¹ was in charge of guarding the capital gates and providing for custom inspection.³⁰² The gate guarding function is performed by PRC internal guard police (*neiwei jingcha*).³⁰³ The custom inspection function is performed by the PRC border police (*bianfang jingcha*).³⁰⁴

Qin dynasty (221 to 207 B.C.)

The *Qing* dynasty made three durable contributions to the development of policing in China. It institutionalized bureaucratic policing. It regularized community policing. It provided for the policing of the officials.

Bureaucratic policing

³⁰⁰ Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 21 (The duties of the judicial police are: maintain court order; escort offenders to court; implement court order and judgment; execute civil order by force; escort capital offender to execution; delivery of court and procuratorate documents.).

³⁰¹ “Si” is official in charge. “Men” is the gate. The term literally means official in charge of gate entrance.

³⁰² Liu Xiaochuan, *Jingcha Shiyong Zhishi Quanshu* (Compendium of Police Practical Knowledge) (Zhongguo gongan daxue chubanshe, 1995), p. 5. (Policing functions during the Autumn and Spring/Warring Periods were very well developed.)

³⁰³ *Id.*, p. 20 (The internal guard police is attached to the PAP. It is mainly responsible for providing security for Party leaders, foreign dignitaries; major events; strategy places; securing prisoners and chasing after escapees; stopping and suppressing internal disturbance..)

³⁰⁴ *Id.*, p. 20 (The border police is attached to the PAP. Its duties include: maintaining and securing order at the border area; conducting border patrol; preventing and discovering illegal border crossing; stopping enemy, spy, and armed infiltrations; conducting immigration and emigration people and custom inspections; investigating border incidences; handling affairs concerning foreign affairs at the border.)

Qin dynasty (221 to 207 B.C.) united China by central administration³⁰⁵ and with uniform law.³⁰⁶ Centralized and bureaucratic policing came into prominence during the *Qin* dynasty due to five reasons:

First, the First Emperor (*Qin Shihuangdi*) 秦始皇帝 wanted to create a central bureaucratic state out of the loosely copulated feudal system of Zhou. To do so, he introduced the principle of vertical rule (*chufa erzhi*):³⁰⁷

“The whole empire was divided into commanderies (*jun* 郡), administered by a civil governor (*shou* 守), a military commander (*wei* 尉) and an imperial inspector (*jianyushi* 監御史). The commanderies were divided in counties (*xian* 縣), administered by a magistrate (*ling* 令).”³⁰⁸

In order to unite Chin, *Qin Shihuangdi* needed unfailing execution of his instructions and total obedience to his orders. This required the

³⁰⁵ Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), p. 98.

³⁰⁶ Shang Yang (390 to 388 B.C.) “Shang Yang de Fazhi Lilun he Bianfa Shijian” (Shang Yang’s Theory of Rule by Law and Practice of Legal Reform) in Liu Hai-nian and Yang Yi-fang, *Zhongguo Gudai Falu-shi Zhishi* (Knowledge in Chinese legal history) (Helungjiang renmin chubanshe, 1984), pp. 75-81.

³⁰⁷ Guo Chengwei, *Shehui Fanzui yu Zhonghe Zhili* (Crime in society and comprehensive management) p. 50 (Shang Yang [390 to 338 B.C.] and Han Fei (280 to 233 B.C.) introduced the idea of “vertical rule”). See also “Fajia de Hanfe de fazhi xixiang” (The ideas of rule by law of Hanfe as integrating all legalists ideas) in Liu Hai-nian and Yang Yi-fang, *Zhongguo Gudai Falu-shi Zhishi* (Knowledge in Chinese legal history) (Helungjiang renmin chubanshe, 1984), pp. 82-86. (His proposal of central rule is the most distinguishable aspect of his rule by law theory.), p. 85.

³⁰⁸ “Chinese History - Qin Dynasty 秦 (221-206 BC) - government and administration” <http://www.chinaknowledge.de/History/Han/qin-admin.html>

establishment of a centrally controlled law enforcement agency to supervise the officials and check on the people.³⁰⁹

Second, central administrative state means an impersonal, rational and rule bound bureaucracy. Marx Weber has identified the characteristics of a modern bureaucracy as follows: official jurisdiction (scope, authority, method) provided by rules; hierarchical authority based on meritorious appointment; professional career with life long employment; management by written documents separating the public from the private; specialization through training; official duties demand the full working capacity of the official; management of office is rule bound and can be learnt.³¹⁰ The officials were bureaucratized and in accordance with “The Rules for Acting as Officials” (weili zhidao).³¹¹ This led to the development of specialized and professional police.

Third, *Qin* dynasty introduced the rule of law to China. For the first time, law and punishment was used to control the state and regulate the people. The legalists proposed:

“The state would be ordered by an exhaustive set of rules defining in detail the duties and responsibilities of all its members, which would be administered with complete regularity and impartiality. Severe punishments would restrain

³⁰⁹ Wu Shuchen, *Zhongguo Zhuantong Falu Wenhua* (Chinese traditional legal culture) (Beijing: Beijing daixue chubanshe, 1990), Chapter 4, pp. 258-345. (Starting with Autumn and Spring period and ending with Qing dynasty, the emperor described it as “jia ben wei and cheng wen fa” [state centered and formal law] period. During this time the Qin emperor consolidate his power over the realm by law and with administration.)

³¹⁰ Marx Weber, “Bureaucracy” in *Classics of Public Administration*, Second Edition, (Jay M. Shafritz & Albert C. Hyde ed.) (Chicago, Ill.: The Dorsey Press, 1987), pp. 50-55.

³¹¹ “Cong Qin jian <Weili zhidao> kan Qin “zhili” sixiang” (The Ideas of Regulating Officials Reflected in “the Rules for Acting as Officials” of the Qin Bamboo Documents” Zhang Jinfan, *Zhongguo falu shi lun* (Beijing: Falu Chubanshe, 1983), pp. 96-111.

evil, while generous rewards would encourage what was beneficial to the strength and well-being of the state.”³¹²

Hanfei defined law as rules and regulations of a state that are “published in the books, stored at the official’s office, and announced to the people.” More importantly, laws were to be obeyed and achieved by reward and punishment, consistently applied. This required the establishment of professional law enforcement agents who executed the law and were restricted by it.

Fourth, the *Qing* dynasty introduced and promoted the use of power and force (“shi”) to secure people’s obedience. Thus feel on the shoulder of the policing agents.

With the introduction of vertical rule, legal control, central administration, and coercive rule, law enforcement functions became institutionalized as a state craft and bureaucratic practice. Thus we can argue that the *Qin* dynasty, and particularly Shang Yang, introduced institutionalized policing to China.³¹³

³¹² *Sources of Chinese Tradition*, pp. 123.

³¹³ “There were three thousand penal items in Xia dynasty.” Liu Hai-nian and Yang Yi-fang, *Zhongguo gudai falu-shi zhishi* (Knowledge in Chinese legal history) (Helungjian renmin chubanshe, 1984) p. 2. During the Western *Zhou* dynasty (11th century to 771 B.C.) the Emperors issued law like instruments in the form of “ge” or imperial mandate, “shi” or imperial pledge, “ming” or imperial instruction. The feudal lords issued “wei xun” or teaching of old (deceased) to the people. See “Si Zhou nudi guojia de falu zhidu” (The legal system of Western Zhou’s slavery state) in *Zhongguo gudai falu-shi zhishi* p. 25. During the Spring and Autumn period (770 – 476 B.C.) Zi Chang of the Zheng State carved the criminal law of the law onto the a tripod (“xing ding” which was used for cooking purpose) in 536 B.C. This was the first time law was publicly promulgated. See “Zhu Xing Ding” (Casting criminal tripod) *Zhongguo gudai falu-shi zhishi* p. 48. A Japanese scholar has considered this to be the origination of Chinese law. Lee Jia-fu, *Zhongguo fazhi shi* (History of Chinese Legal System) (Liang-jin chubanshiwu gongsi, 1988), p. 61, n. 17. Li Kui, the prime minister of the Wei state, was the first to advocate the use of law to control a state. In context, Li Kiu sought social reform through law by compiling and publishing the <Fa Jing> (Law Treatise). “Zhongguo diyi bu bijiao xitong

The *Qin* dynasty established a comprehensive and integrated criminal justice system with the Emperor serving as the ultimate authority; being the fountain of virtue (*de* and *ren*) and bestowed with mandate from heaven.³¹⁴ The Emperor was assisted by the “tingwei” in matters of justice administration, including the investigation, arrest, adjudication, sentencing, and execution of criminals. The “weiwei” was responsible for guarding the emperor and patrolling the palace grounds. The “zhongwei” was responsible for public order and security within the capital grounds.³¹⁵

Beyond the capital, justice administration was in the hands of local officials. Administratively, *Qin* divided the state into 36 *jun* (prefecture) which were further sub-divided into many *xian* (county). Underneath the *xian* there were *xiang* (rural area), *ting* (post), and *li* (neighborhood). The *jun* was administered by the “jun shou” who was charged of all the welfare and security of the local residences, including with maintaining law and order within the *jun*.³¹⁶ The *xian* (county) was administered by a “xian ling”

de fengjiang chengwen fadian - <Fa Jing> (The first relatively systematic published legal code - <Law Treatise>. See *Zhongguo gudai falu-shi zhishi* p. 51.

However, Shang Yang gave us the first and most comprehensive theoretical treatment of the use of law to govern a state with the *Shang Jun Shu*. His influence was spread far and wide by his followers – Li Zi and Han Fei-zi. Cheng Liang-shu, *Shang Yang ji qi xue pai* (Shang Yang and his school of thought) (Taiwan: Xuesheng chubanshe, 1989) pp. I-II.

³¹⁴ Guo Chengwei, *Shehui Fanzui yu Zhonghe Zhili* (Crime in society and comprehensive management) p. 80. The idea of the Emperor being the surrogate of god (*yanzi*) above and ruled by received mandate (*tianming*) was first espoused and promoted during the Zhou dynasty. Having the heavenly mandate is not enough, the emperor must also act virtuously to maintain his good will with good. Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), p. 81.

³¹⁵ *Id.*

³¹⁶ The duties of the “jun shou” included “governing people (*zhimin*), recommendation of the virtuous (*jinyan*), encourage meritorious acts (*quangong*), adjudication (*juesong*), removal of evil (*jianjiang*)... promoting agriculture and providing for relief...” (<Shiji> volume 79.)

(over 10,000 residents) and “xian chang” (under 10,000 residents) who is responsible for keeping law and order and administration of justice within his jurisdiction.³¹⁷

Underneath the *xian* is the “xiang”. Within the “xiang” (rural area) the most senior and respected person was appointed as “san lao” who was responsible for the education of the people. A person “zhi”³¹⁸ was appointed to take care of minor disputes and litigations. A person “you ji” was responsible for patrolling the area to uncover and prevent illegal activities.

Underneath the *xiang*, there were ten posts or “ting”. Jurisdictionally, every ting covered ten li. Ting³¹⁹ was the earliest police “paichusuo” or police post.³²⁰ The ting served as communication relate points, traveling officials’ rest areas, and area patrol center. The ting was head by a *tingchang* (chief of the post) and two *tingzu* (soldier of the post); one was responsible for internal administration and other public health, order and safety – prevention of crime (*qiudao*), arrest of criminals (*buzei*), and maintenance of public health (*wei sheng*).³²¹ The ting personnel’s must be strong and able bodies. They were authorized to use force and well versed in five weapons (*wubing*) – bow and arrow (*gongu*), spear (*ji*); shield (“dun”), sword (*daojian*), and armor (*kaijia*) - stored at the ting. The *tingchang* was supposed to enforce the law. “Ting chang” was responsible for dealing with

³¹⁷ Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), p. 81.

³¹⁸ “Zhi” means order. *The Pinyin Chinese English Dictionary* (H.K.: Commercial Press, 1978), p. 905L.

³¹⁹ “Ting” literally mean kiosk. *The Pinyin Chinese English Dictionary* (H.K. : Commercial Press, 1978), p. 684L.

³²⁰ Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) (Beijing: Beijing daxue chubanshe, 1990), p. 113.

³²¹ *Id.*

criminals in accordance with the law (*erchiban*).”³²² This is the first historical record making reference to law enforcement activity.

Community policing

The smallest and lowest political/social administrative unit was the *li*. For every *li* there were *ten ting*. The day to day administration of justice and the policing of local population was relegated to “li dian” who was responsible for keeping the local peace and order in the local community. He was assisted in his work with the help of two institutionalized community policing mechanism:

- (1) The household registration system monitored the whereabouts and status of every person in the state. The household register recorded the birth, death, and whereabouts of all local residents, including visitors and temporary residents.³²³ The “lidian” was responsible for the accurate maintenance of the household registration. Anyone who failed to register or without household registration was called “wang ming”³²⁴ and was punishable. The “lidian” was also held accountable for any improper administration of the registration system e.g., failure to keep the registration correct or current. The household registration system has since been used as an administrative control of the people.³²⁵

³²² “Tingchang chi erchiban yi he ze.” “Erchiban” referred to published memorandum of law. “He ze” is to sanction the criminal. Yan Li, *Gongan Paichusuo Yewu Quanshu* (A comprehensive treatise on Public Security Post) (Beijing: Gongan renmin daixue chubanshe, 1994), p. 1.

³²³ <Shangjun Shu. Jingnei Pian> (Book of the Shang Master. Chapter on Within the Boarder> (“within the four corners of the state, husband, female should have their names recorded, births are recorded, deaths are detected”).

³²⁴ “Wang ming” means people fleeing from justice. *The Pinyin Chinese English Dictionary* (H.K. : Commercial Press, 1978), p. 710R. “Wang ming” is akin to the concept of felon or outlaw.

³²⁵ Dutton, *Policing and Punishment in China* (Cambridge University Press, 1992)

(2) Shang Yang established the *baojia* system – a community policing system performing mutual defense, informal surveillance, and collective accountability functions.³²⁶ In this earliest form of *baojia* system, five families were organized into one “wu” and ten families were organized into one “ji”. According to Shang Yang:

To have people organized into “ji wu”. They are held to mutual accountable for each other (*lian zou*). Those who do not report upon wrongdoings (*jian*) are punished by decapitation. Those who report wrong doings are rewarded the same as cutting the head of enemies.³²⁷

Policing the officials

The other durable contribution of the *Qing* dynasty was the introduction of accountability in government (to the Emperor) with the establishment of a formal and rule bound supervision system (*jiancha zhidu*)

³²⁶ The *baojia* was a comprehensive state administrative system. Besides policing, it also served important emergency relief, collection of taxation and corvee functions. This is not unlike the modern police. Because of its general power, wide jurisdiction, and all hours of duty, the police are being called upon to assume duties which they are not charged with nor trained for.

³²⁷ Guo Chengwei, *Shehui Fanzui yu Zhonghe Zhili* (Crime in society and comprehensive management) p. 60. In the recently unearthed <Shuidudi Qinmu Jujian. Falu Wenda> (“Sleeping tiger place bamboo stripes. Questions and answers on law” recorded: “A thief entered A’s house, injured and killed A, A sound the alarm about thief... *lidian* and *wulao* was not at home... they are still criminally responsible.” This is the earliest record of how the *baojia* community policing – neighborhood watch program worked.

Similar “lian sou” (mutual accountability) system was found in Anglo-Saxon time in the institutions of *bohr* or suretyship; the *gegildan* or community of gild-brethen; and the *teothing* or *tything*.

or “control of officials” (*zhi li*).³²⁸ Han Fei (280 to 223 B.C.) who was instrumental in introducing law to the Qin dynasty,³²⁹ observed the need for an imperial supervision system in <Han Fei Zhi. Hai Chen> thusly:

In the past the ruler *Zhou*³³⁰ was replaced and the dynasty *Zhou* was destroyed because of the growth in influence of the vassal and lords. The broken up of *Jin* and the invasion of *Qi* was due to the feudal lords growing too powerful. The reasons why during the *Yan* and *Song*³³¹ time the Emperor was murdered was for the same reasons... Thus in order for the Emperor to restrain his feudal lords, they must be held accountable to the

³²⁸ “Zhongguo fengjian shidai jaincha zhidu de bianqian” (The evolution of the feudal supervision system in China) in Liu Hai-nian and Yang Yi-fang, *Zhongguo Gudai Falu-shi Zhishi* (Knowledge in Chinese legal history), pp. 176-182.

³²⁹ “Fajia de jidaicheng Hanfei de faxhi xixiang” (The ideas of rule by law of Hanfe as integrating all legalists ideas) in Liu Hai-nian and Yang Yi-fang, *Zhongguo Gudai Falu-shi Zhishi* (Knowledge in Chinese legal history) (Helungjian renmin chubanshe, 1984), pp. 82-86.

³³⁰ Zhou was the last ruler of *Shang* dynasty (c. 16th – 11 century B.C.), reputedly a tyrant. *The Pinyin Chinese English Dictionary* (H.K.: Commercial Press, 1978) P. 913L.

³³¹ During the Autumn and Spring period (722 to 481 B.C.) the powers of the Zhou dynasty declined and were challenged by no less than 140 vassal lords. *Jin*, *Qi*, *Yan* and *Song* were amongst the strongest. They openly ignored the direct order of Emperor Zhou. Pu Jian, *Zhongguo Gudai Xingzheng Lifa* (Traditional Chinese Administrative Legislation) Beijing: Beijing daxue chubanshe, 1990), p. 51. This historical lesson is not lost on Han Fei who argued for the adoption of law (*fa*), employment of power (*shi*), and use of strategy (*xi*) to stay in control of the lords, officials, and people. “Fajia de jidaichengxhr Hanfei de fazhi xixiang” (The ideas of rule by law of Hanfe as integrating all legalists ideas) in Liu Hai-nian and Yang Yi-fang, *Zhongguo Gudai Falu-shi Zhishi* (Knowledge in Chinese legal history) (Helungjiang renmin chubanshe, 1984), pp. 82-86. (His proposal of central rule is the most distinctive aspects of his rule by law theory.), p. 84-5 (The integration of “fa” (formal law), “xi” (strategy of government), shi (the absolute power of the emperor) were the core idea behind Han Fei’s legal thoughts.)

law and keep in check with discipline. They should not be exempted from death and excused from punishment.³³²

Emperor *Qin Shi Huang* (259 to 210 B.C.) set up one of the most complex and elaborate administrative system in imperial China, up to that point.³³³ According to the legalist school, which was the dominant philosophy at that time, officials were not be trusted because they are motivated by self-interest (“zhishi”) and driven by utility (“liyi”) to abuse their position and authority for personal gain.³³⁴ Specifically, if unchecked

³³² As cited in Cheng Liangshu, *Han Fei de Zhushu ji Xixiang* (The publications and thoughts of Han Fei) (Taiwan: Xuesheng shuju, 1993) p. 337. Han Fei wanted tight control of the lords and officials for three reasons: (1) Historically, vassals, lords, and officials would challenge the Emperor’s rule if not tightly controlled. (2) Practically, people are driven by self-interest and moved by personal utility. Officials would challenge the Emperor if strong enough and given the opportunity to do so. They would abuse their power if allowed to do so in every turn.

³³³ “Qin Shi Huang falu xixiang de zhuyao neirong” (The primary content of Qin Shi Huang’s legal thoughts) in Liu Hai-nian and Yang Yi-fang, *Zhongguo Gudai Falu-shi Zhishi* (Knowledge in Chinese legal history) (Helungjiang renmin chubanshe, 1984), pp. 223-228. (*Qin Shi Huang* was credited with uniting China under one central government (*tongyi zhongguo*). He was remembered for: (1) granting titles and territories to nobles and vassals (as in the case of the *Zhou* dynasty [11th century to 770 B.C.] for life; (2) dividing the country into sub-administration units of “jun” (prefecture) and “xian” (county) to be administered by resident officials removable at will; (3) governing China with uniform law; (4) doing away with Confucius’ ideas of governing with “ren” (virtue) and “yi” (justice) in government and adopting the legalists’ ideas of ruling with law and punishment. *Id.*

³³⁴ Han Feizi took this a dim view of official (loyalty) because of three reasons. First, as an historian, he was much disturbed by the fact that the nobles and vassal lords failed to live up to their obligations and served the *Zhou* dynasty with undivided attention and unselfish motive; (2) Second, as a psychologist, he assumed that people are born to be self-serving driven by utility principles (much like Bentham). Han was much influenced by his teacher, Shang Yang, who postulated that people are born to be self-serving (*shili*). Cheng Liang-shu, *Shang Yang ji qi xue pai* (Shang Yang and his school of thought) (Taiwan: Xuesheng chubanshe, 1989) pp. I-II; (3) Third, personally, Han was born to an era of chaos and disorder where trust was in short supply. He experienced this first hand when the honest and forthright advice of dedicated counselors (*youshi*) were routinely rejected and summarily dismissed. Tragic enough, Han Feizi was eventually framed and

and given the opportunity, the officials would lied and keep the Emperor in the dark (*bi renjun er wu*) and lead the Emperor to act wisely (*mingzhi*); the officials would control the state's property and interest (*kongzhi guojia caili*) and led the Emperor to lose virtue and grace (*dewei*); the officials would issue unauthorized orders (*shanzi fabao mingling*) and led the Emperor to lose absolute control (*duanzhi*); the officials would arbitrarily dispense with benevolence (*renyi shishi yixing*) and led the Emperor to lose reputation and good will; and lastly the officials would foster their own clique (*peizi dangyu*) led the Emperor to lose his followings (*tuzhong*) and support.³³⁵ The remedy to all these official indiscretions was in establishing a “jiancha zhidau” (supervision system) to secure more systematic and effective supervision and control; in testing, appointment, reporting and promotion.

The office of the “yushi” (imperial envoy) was established to monitor the conduct and report on the performance of officials on way to establish a responsible (loyal, competent, effective) officials and accountable (rule bound) government.³³⁶

VIII

Conclusion

killed in prison by his master. Cheng Liangshu, *Han Fei de Zhushu ji Xixiang* (The publications and thoughts of Han Fei) (Taiwan: Xuesheng shuju, 1993) p. 399.

³³⁵ *Id.* 630.

³³⁶ The defining characteristics of an ideal lord and official to Han Fei is “zhong” (loyalty) and “yi” (utility). Practically speaking this means that a lord or official should be obedient and effective. Cheng Liangshu, *Han Fei de Zhushu ji Xixiang* (The publications and thoughts of Han Fei) (Taiwan: Xuesheng shuju, 1993) p. 399.

This chapter sets forth to discover the origin of idea(s) of police in imperial China and traces the practice of policing through time. Some of my findings and personal reflection is provided below.

General framework

In classical Chinese the term “police” consisted of two Chinese characters, i.e. “jing” and “cha”. The term “jing cha” together literally means to warn (‘jing’) and be subjected to supervision (‘cha’).

In the case of China, since antiquity, policing functions, from political control and social ordering, have been achieved informally and provided for by way of family and with the help of the community. Western ideas of policing came to China circa 1889. Professional and technocratic policing, began to spread and take roots in the People’s Republic of China after 1979.

Communal policing

The earliest record of policing activities appeared with legendary sage monarch *Shun* (2255 – 2205 B.C.). The tribal coalition committee (“buluo lianmeng yihui”) established nine kinds of officials (“guan”). “Situ” was responsible for resolving people’s disputes and maintaining social order. “Shi” was responsible for policing the border, investigating crime, and maintaining prisons.

Bureaucratic policing

Qin dynasty (221 to 207 B.C.) united China with vertical rule, legal control, central administration, and coercive governance, i.e., a criminal justice bureaucracy with the emperor serving as the fountain of virtue (*de* and *ren*) under heaven (*tianzhi*).

Community policing

In *Qin*, the smallest and lowest political/social administrative unit was the *li*. For every *li* there were *ten ting*. The day to day administration of justice and the policing of local population was relegated to “*lidian*” who was responsible for keeping the local peace and order in the local community.

The “*lidian*” was responsible for the accurate maintenance of the household registration. The household registration system monitored the whereabouts and status of every person in the state. Anyone who failed to register or without household registration was called “*wang ming*” and was punishable. .

The legalist Shang Yang established the *baojia* system – a community policing system performing mutual defense, informal surveillance, and collective accountability functions.

Western policing

Chinese first experience with Foreign policing was in 1876 with foreign policing arrangements in the international settlement port of Shanghai. Under the Charter for Shanghai Settlement, “*Xunbu fang*” (police Stations) were established in various foreign – British, French, America - concessions. The “*Xunbao fang*” was staffed by half western and half Chinese officers. The chief of police was appointed by the Municipal Council Board, with members elected by western commercial leaders.

Huang Zunxian (黃遵憲) (1848 – 1905), putative father of China modern policing, experimented with foreign police ideas in establishing the *Hunan Baowei Ju*. “The duty of the police is in protecting the people

(including) (1) remove harm, (2) health, (3) prosecute illegalities and violations, (4) investigate crime.”

Communist policing

Gongan literally means public peace. In China the police has been referred to as *gongan* and more recently as *jingcha* (police). There are two types of police in China; *minjing* or people's police and *renmin wuzhuang jingcha budui* or People's Armed Police (PAP). The functions of *gongan* are: "The work of maintaining social order (*weihu shehui zhixu*), securing public safety (*baozhang gonggong anquan*), protecting public and private property and citizens' personal rights (*baohu gongsi caichan he renmin renshen quanli*)." (Zhongguo gongan baike quanshu editorial committee 1989)

The first public security organ was set up in Nanchang, Jiangxi province, on 1 August 1929. Public security force grew from 400,000 officers in 1978 to 800,000 in 1990. This was complemented by 600,000 *wujing* and 870,000 special function public security officers, e.g. railway, traffic, aviation, agriculture, enterprise safety and economic security police. Altogether there were 2,270,000 public security officers of various capacities by 1990. This amounted to 20/10,000 population (based on 1990 population census of 1,130,510,000 people.) In 1991, there were 1.477 million professional police officers in the nation, of which 854,000 were *minjing* and 623,000 were *wujing* (PAP). There were 13.06 officers/10,000 population. They worked under 30 provincial (autonomous regions and municipalities directly under Central Government) police departments and out of 38,648 *paichushuo* (police posts) around the nation. The police handled 1,582,659 criminal cases in 1992. The bulk of which were thefts

(1,142,556 for 72.19% of the total) and robbery (125,092 for 7.9% of total). They processed administratively a total of 2,956,737 minor *zhian* (social order) cases during the same year. Again the majority was minor thefts (888,278 for 30% of total), followed by assault and battery (507,961 for 17.2%%).

Some reflections

There are a number of observations we can make from this brief excursion into and preliminary treatment of the history of the organization and practice of Chinese policing:

- (1) There were many political institutions and social agencies performing policing functions – maintaining order and enforcing law, but no unified police organization have the exclusive powers to deal with all order maintenance and law enforcement problems. From the beginning of time and until very recently, China has no single, institutionalized, centralized, and bureaucratized police organization to maintain law and order all over the nation. Police functions were shared, not centralized, e.g., in the *Qing* dynasty each level of government has its own policing officials. Law enforcement powers were distributed, not monopolized, e.g., during the Spring-Autumn festival there were many kinds of specialized police.
- (2) Policing in China covered not only things, conduct, and place but ideology, morality, culture, and character.
- (3) Police was not the exclusive or dominant form of social control. Other forces of social control came from many quarters and in a variety of ways.

