



PENN PROGRAM ON  
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## **Regulatory Excellence via Multiple Forms of Expertise**

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*“All of them are right; what is wrong is only what they deny, not what they affirm”*<sup>1</sup>

The search for excellence in administrative governance appears on the policy agenda for many good reasons. Some of these good reasons are known as government or governance failures, with various industrial accidents and financial crises often cited as prime examples. Still, the extent in which these governance failures are avoidable or even a fair representation of regulatory reality – rather than a pure reputational shift or ideological debate – is unclear and contested. The same goes for the question of whether government failures are more widespread, severe, or costly when compared with market failures.<sup>2</sup> Still, whatever the relative merits (and costs) of different strategies of governance and welfare-maximization, one thing is clear: excellence in regulation responds well both to “real” governance failures as well as to the perceptions that they are pervasive. In one way or another, excellence seems the right, perhaps the only response, when trust in government is low and when the de-legitimation of regulation is strong.

Moreover, excellence of any kind – personal and organizational – has become enshrined in liberal Western societies, so it is hardly surprising that aspirations toward excellence now appear widely on regulatory agencies’ mission statements. In a certain sense, excellence is not a leadership choice anymore. It is not even an organizational choice. It has become a core value that shapes identity, mission, and strategy. Excellence is actively promoted and nurtured by global organizations that act sometimes as “model missionaries” and other times as “model mongers”.<sup>3</sup> Excellence strategies are often promoted in the language and forms of the diffusion of “best practices” and nurtured via “twinning.”<sup>4</sup> One should take it for granted that excellence will remain high on the agendas of, or at least in the public discourses of, regulators around the world.

Still, the search for regulatory excellence, while commendable on moral and institutional grounds, is prone to disappointment. Disappointment will emerge because there are many, often conflicting, dimensions of excellence, and because excellence comes with substantive material costs. These costs include those demanded by expertise, both in terms of human capital as well as a high investment in research and coordination capacities. Furthermore, excellence requires some difficult internal decisions as to a regulatory organization’s priorities, even with respect to excellence itself. After all, there are many dimensions of excellence. Excellence in risk analysis is not excellence in public participation; excellence in prevention of risks is not necessarily excellence in risk-spreading and risk mitigation; and excellence in reducing red-tape does not necessarily equate to excellence in political strategies. On top of all this comes an understanding of the problems associated with the production, organization, dissemination, and translation of knowledge that make expert-based decision making in the field of regulation particularly risky.

Public policy processes in general, and regulatory processes in particular, are increasingly expert-dominated. Excellence does not come on its own. It assumes, even embeds, the idea of expertise and is tightly coupled with it. Not many, especially in academic circles, would dispute

the suggestion that a necessary condition for a best-in-class regulator is “world-class knowledge” and access to “world-class experts.” More than at any time in the past, we live in a “knowledge economy” and “knowledge society,” which favors “reason-based” political and organizational processes. Even if one does not personally accept these suggestions, I doubt many would dispute the argument that current social, economic, and political processes (not to mention scientific and technological processes) are clearly taking government and governance in this direction. Expertise has become the *sine qua non* of excellence. This is all part of a growing dominance of knowledge- and expert-based legitimacy in the global.<sup>5</sup>

To a large extent, this paper aims at coupling, de-coupling, and re-coupling the two “e”s: “excellence” and “expertise.” A growing tendency to favor both agency independence and so-called risk-based regulation tends to reinforce the dominance of a certain type of expertise, often that held by economists with advanced technical capacities in econometrics and modeling. I suggest that regulators instead would do well to design institutions that allow other professions to perform creative and useful roles in regulatory decision-making, implementation, and evaluation. Regulatory excellence comes from fostering the kind of institutional capacities that bring diverse kinds of expertise into the decision-making process and in this way to allow different and multiple rationalities to play out within the regulatory organization.

### **Agency Independence and the Search for Excellence**

Since the 1990s, independence has become a world-wide “gold standard” for regulatory agencies, treated as a *sine qua non* for excellent performance and outcomes. Independence is expected to provide for pure professional decision making at the level of rule-making, monitoring, and rule enforcement. It is not a new idea. The origins of “agency independence,” and the set of interests, institutions, and ideas that promote it, are clearly as old as bureaucracy itself. Still, the idea has gained dominance in recent years and nowadays holds the status of “taken for granted” in the field of regulation. The movement for central bank independence, together with the expectation that these central banks will adopt increasingly narrow mission goals, led the way in the 1980s and 1990s and fostered in other realms the creation of hundreds of so called “independent regulatory agencies.”<sup>6</sup>

The model of agency independence originated primarily in the United States in the financial sector, with its central banks and institutions supervising stock markets. But it now forms a dominant organizational form for agencies in numerous spheres and nations around the world. Independence, as with “agencification” more generally, is supposed to shield expert decision making from undue influence and prevent two important kinds of capture: capture by politicians, and capture by business and other narrow interests. Capture biases regulatory decision making process. Accountability, transparency, and regulatory competition are often proposed, and rightly so, as steps to reduce the vulnerability of agencies to capture.

In many respects, the diffusion of independence as best practice and the separation of regulatory functions from other functions of government, are evident in the rise of special type of regulatory experts: the “regulocrats.” Like bureaucrats, the regulocrats build on their superior expertise when compared to non-specialists. Still, unlike many of the post-war bureaucrats, the regulocrats of today manage to keep one leg in their professional group — be it engineering,

planning, law, economics, public administration, management, sociology, or science. Not only do the regulocrats regulate rather than provide services and manage delivery, but they also have an affiliation with professional groups and peers outside the state. (There are, of course, differences across nations and sectors.) Regulocrats' mobilization, promotion, role-perceptions, and career patterns are shaped with at least one eye always on the norms and ideas in their respective professions and academic disciplines.

The growing importance of professional groups, and more generally the growing influence of academic knowledge, on the preferences and world views of the regulocrats suggests, on the face of it, more rational decision making. But this expectation for greater rationality finds its limits. One of these lies in the fragmented organization of knowledge production in academia and the professions. Academia and the professions are organized around sets of skills and jurisdictions, not around problems. Problems usually, perhaps always, escape the domain of one profession or knowledge domain, and thus actors with strong reliance on professional or academic expertise may find themselves undermined in the face of the problems. If capture by outsiders – politicians or narrow interests – suggests the need for greater agency independence, then the current state of the production and application of knowledge suggest that the heads of regulatory agencies also need to carefully assess the limits of integrating expert knowledge into decisions.

### **Depoliticized Agencies? Depoliticized Experts?**

The separation between “politics” and “expertise” is not as clear as portrayed in an idealistic account of expert-based decision making. Regulatory agencies are highly politicized even if politics within these organizations seem different than in the electoral arena. Knowledge, rationality, and reason are always mediated (not to say mobilized or abused) by political processes within and outside organizations. It is common to contrast experts versus politicians, and to bring forward the tensions inherent in democratic policy making, where different types of legitimacy and authority are conflicting. These tensions are real and should be discussed in any analysis of regulatory policy making. Still, our focus here is not on a dichotomy between the experts and the politicians. Professionals have political skills and use them frequently even if they do not “run” for office.<sup>7</sup> Experts are involved with political struggles within and outside their professions. These struggles represent legitimate and even useful competition between ideas as long as they do not result in “professional domination” and a culture of unreflective knowledge and mono-rationality.

Perhaps the best example of professional domination nowadays is the hegemony that economists enjoy in regulatory policy.<sup>8</sup> This hegemony is expressed in economists' pro-privatization, pro-market, and pro-liberalization recommendations in many policy spheres, including finance, where other points of view and rationalities are only presented on a limited basis. Still, the challenges of professional domination are not confined to the role of the economists. They unfold in struggles between managers and physicians, physicians and nurses, psychiatrists and psychologists, psychiatrists and social workers, engineers and lawyers, lawyers and field workers, planners and engineers, and so forth.

The negative effects of professional competition and professional domination increase with the increased role of knowledge in decision making, on the one hand, and the combination of “agency independence” and jurisdictional monopolies or cartels, on the other hand. This all can be examined and assessed against the growing tendency to adopt risk-based regulation as a strategy for excellence. From food safety to financial regulation to climate change, regulators are using the language of risk assessment, risk-based regulation, risk communication and risk analysis<sup>9</sup> Risk approaches are today more than ever before “promoted as a universal organizing concept for improving the quality, efficiency, and rationality of governance.”<sup>10</sup> It is beyond the scope of this paper to provide a more lengthy and in-depth analysis of risk regulation, but what makes risk regulation useful here is the role it holds for experts. Risk-based regulation reflects the growing dependence of agencies on academic knowledge.

Still, risk-based regulation unavoidably prioritizes some harms over others at the same time it requires the calculation of probabilities and impacts of potential adverse outcomes. The criteria for regulatory action are typically not based on legal or moral rights, but are utilitarian. Like any other imperialist approaches for governance, risk-based regulation creates its own privileged actors, institutional arrangements, and requirements for decision making and divisions. More importantly, it rests heavily on the requirement and expectation for expert-led decision making. More dependence on academic knowledge may mean increasing risk for jurisdictional cartelization or even monopoly. Hence, excellence creates its own risks. It is important to clarify that this is not a problem of risk-based regulation, only that risk-based regulation is more prone to this kind of failure than other strategies, say the adoption of cost-benefit analysis.

Risk-based regulation creates privileged actors: experts with high capacities in econometrics and mathematical modeling. As risks are being calculated, frameworks for risk assessment are being introduced to organizations; risk experts’ tools and assumptions, unknown to others, gain advantage. With it, new roles of risk officers are carved into the organizational structure, and new debates and challenges around terms such as “the precautionary principle” emerge. Risk-based regulation is a fascinating phenomenon and so is the new and innovative understanding of the state’s role as a “risk manager.”<sup>11</sup> One important element in the debate around risk-based regulation that is rarely discussed, however, is that it increases the reliance on experts in the decision making process and that its strong reliance on modeling and econometrics increases the dangers of professional dominance.

Professional hegemony or dominance are clearly a characteristic of the processes of professionalization and expert-led decision making. Abraham Kaplan, in *The Conduct of Inquiry* (1964), observes:

In addition to the social pressures from the scientific community there is also at work a very human trait of individual scientists. I call it the law of the instrument, and it may be formulated as follows: Give a small boy a hammer, and he will find that everything he encounters needs pounding. It comes as no particular surprise to discover that a scientist formulates problems in a way which requires for their solution just those techniques in which he himself is especially skilled.... The fragmentation of a science into “schools” is by no means unknown even in as

rigorous a discipline as mathematics; what is striking in behavioral science is how unsympathetic and even how hostile to one another such schools often are.... For the experimentalist science progresses only in the laboratory; the theoretician views experiments rather as guides and tests for his models and theories; others see the most important task making counts and measures, or arriving at predictions, or formulating explanations; the field worker and clinician have still other viewpoints. All of them are right; what is wrong is only what they deny, not what they affirm.<sup>12</sup>

The suggestions that experts have interests, are competing for hegemony, and suffer from tunnel vision will not be strange to sociologists of the professions, such as Abbott, or political economists who worked on the politics of knowledge and the relations between politics, think tanks, and the distributive allocation of positions and funding to certain professions and rationalities on the expense of others.<sup>13</sup> They are also confirmed by studies of “institutional logic” that compete for attention and prominence and are studied mainly by institutional sociologists.<sup>14</sup>

Nothing of this sort is usually taken into account in the institutional designs of agencies. But regulatory leaders and the designers of regulatory agencies should consider more seriously the tendency of professions to monopolize “jurisdictions” and thus to capture the agency. The probability of agency capture by one profession may increase with the increase in agency independence and with approaches like risk-based regulation that strengthen the role and functions of experts in policy processes.

### **Excellence via Multiple Rationalities**

What is the solution to the problems created by monolithic forms of expertise? Expertise itself – but different kinds of expertise. Recognizing the problems associated with professional domination by fragmented, narrow, and specialized forms of academic knowledge, I propose that a managed competition of ideas will provide an ideal strategy for achieving regulatory excellence. Managed competition of ideas recognizes the need to balance dominant expertise and rationalities via leadership strategies that nurture open competition between different kinds of expertise. This should be done by a careful institutional design that protects less privileged forms of expertise within the various layers of organizational space. I focus my attention on three professions that are less privileged within regulatory agencies: criminology, history and political science. The selection of these three professions is not necessarily systematic, but based instead on my understanding that they either are not commonly represented in regulatory agencies or are not privileged within the discursive domains of regulatory policy.

*Can “criminologists” make a difference?*

There are many reasons why the Securities and Exchange Commission (SEC) failed repeatedly in the prevention of and timely action against fraudulent behavior in high-profile cases such as Enron, Bernie Madoff, and AIG. One plausible reason, according to criminologist William K. Black, is the scarcity of criminologists in the U.S. financial regulatory systems:

No federal, state, or local government agency has a “chief criminologist” (or a junior criminologist) position – yet most of them do (or should) serve as “civil law enforcement” agencies. The federal government does not even have a position entitled “criminologist.” In our [i.e., the criminologist’s] absence, regulatory decisions are frequently made that unknowingly create intensely criminogenic environments that produce widespread fraud and other ills.... But subtler public policy failure has occurred in part because criminologists are excluded from the policy debates on regulation.<sup>15</sup>

How could well-trained criminologists help the SEC or any other regulatory agency? Criminologists more than any other profession have expertise in criminal behavior, deviation, and compliance – an expertise that extends beyond just traditional criminal domains. Where some professions examine regulation and compliance strategies via procedural justice, political feasibility, or cost-effectiveness, criminologists approach regulation by seeking to understand fraud, fraud-prevention, detection, and mitigation. They also have a better idea of the characteristics and signals that are typical of criminogenic environments and how to design architectures that are less prone for noncompliance. These include rapid growth, rapid change, shifts in the organization of industries, and new technologies that destroy old institutions and existing clubs and other types of networks. If regulation is ultimately about enhancing compliance, and indeed it is, then criminologists have a lot to contribute.

The idea that criminology matters to regulation comes hand in hand with the transformation of criminology itself.<sup>16</sup> There were times when criminology was mainly about social deviance, “street-level” individual crimes, deterrence, prisons, and punishment. But not anymore. Even if the traditional subjects still define the field overall, the criminology agenda today includes compliance, the emergence of social norms, corporate crimes, white-collar crimes, a wide range of mechanisms for dispute settlements, and a wide range of enforcement strategies, such as naming and shaming. What criminologists bring to the regulatory process is an understanding of deviant behavior and compliance strategies in organizations. In this regard, they have perspectives, capacities, and types of knowledge that are highly relevant to regulatory agencies that prioritize compliance, whether with finance and antitrust rules or with food safety and other forms of risk regulation.

It seems only logical to expect that every regulatory agency would benefit from having a compliance department and a “chief criminologist.” Even if a chief criminologist would not have prevented the Enron, Madoff, and other recent financial scandals, the rationale for institutionalizing the functions of a chief criminologist in regulatory agencies is so compelling that one must wonder why criminologists do not occupy more prominent positions in regulatory agencies. The answers lie in the realm of professional power, the internal organization of academic knowledge, and institutional path dependence rather than in the realm of necessity, usefulness, and regulatory excellence.

*Does an excellent regulator need a “chief historian”?*

While many of us know the histories of our respective countries, only some of us know well the histories of our own organizations, and even fewer of us systemically and authoritatively

use lessons from our organizations' histories in decision making and argumentation. The same is true for most people who work in regulatory organizations – and yet their lack of systematic understanding of their organizations' histories makes them susceptible to repeating significant mistakes of the past. Excellent regulators will incorporate historical knowledge into their practices, “thinking in time” to make more effective decisions.

Historians are the custodians of an organization's memory of events, decisions, procedures, and conflicts that define the inside and outside of the organization from the moment it was first conceived. Such a job is probably performed best when taken the organization's history is studied in comparison to other organizations and with an eye toward political, economic, and social developments that shape the organization's legitimacy, capacities, and legal and political mandates. We not only need organizational history in order to avoid the mistakes of the past but to extend our views and understanding of the options for action and inaction at any given moment. To do so, we need to actively form strong “organizational memories” and use the processes that create and enhance organizational memory in a manner that will allow the regulators and regulatory agencies to actively connect their “memory” to current practices of “knowledge management” and decision making.

Organizational history can also help form a strong organizational identity. By “strong,” I mean preferably not in terms of manipulated image and thus the abuse of disciplinary tools, but strong in the sense of possessing a reflexive understanding of the organization's history. Such an identity-building process should allow flexibility and adaptation in the organizational identity itself. The benefits of a strong organizational identity include the promotion of organizational ethos and commitment to the basic values and goals of the organization. Both organizational memory and organizational identity may facilitate the role of regulatory organizations as learning organizations. At the same time, that may help the organization meet its basic intellectual and social legitimacy concerns. The intellectual awareness and capacities of a historian may enhance regulators' courage to speak truth to people in power.

We need “chief historians” in regulatory agencies because historical reasoning or thinking is useful to decision-making. True, historical knowledge may well be lacking in “the predictive precision that is usually claimed by quantitative or social science models,” but “[w]hat it offers instead is a systematic way to understand the changing context of organizations, communities, and policies within which planners pursue their profession.”<sup>17</sup>

Of course, there are no easy answers to how to make historical knowledge more prominent in the life of organizations. For sure, this is a job that should not be trusted only to the “chief archivist” of the organization. The “chief historian” job in organizations should be elevated from the basement to the higher floors of the organization, closer to where strategy is shaped and decision making takes place.

*Might regulators need a “chief political scientist” too?*

A “chief political scientist” can be useful to regulatory agencies in a variety of ways. I'll focus here on two. The first is to advise on agency strategy in three key political arenas – the regulatory, parliamentary, and judicial – and vis-à-vis the various stakeholders who are integral



to the agency's work. Regulatory excellence means not only success in getting support needed from time to time for the agency goals but also for nurturing on an ongoing basis the political environment of the agency. Regulators need to understand the political environment in which the various social and business stakeholders are working and design pro-active responses to some of the most pressing and important aspects of these environment. Excellent regulators understand the interests and constraints of its various stakeholders, have a realist understanding of political capacities, and work to enhance those capacities in the various arenas and vis-à-vis key stakeholders. The recruitment of a chief political scientist would help with all of these tasks. It also should allow the agency to clearly develop a political identity and to escape the myth of a complete depoliticization of regulation. Although political strategies can be designed by non-political scientists, the expertise and professionalism of political science provides a better basis for successful formulation and implementation of the agency's political strategies and for the legitimacy of the function itself within the organization.

The second way a chief political scientist could help is by advising on, and advocating for, public participation in the regulatory process. The increasing role of regulation in the policy-making process and the accompanying process of professionalization of policy making requires regulators to think differently and creatively about the meaning of democracy in the regulatory state. The expectations for democratic control via transparency, mechanisms of accountability, and the direct and open participation of different stakeholders in all aspects of the agencies' work will require new institutional designs. The experts in these institutional designs are often political scientists – and perhaps also social psychologists. These social scientists can and should be able to integrate into regulatory processes various democratic innovations such as deliberative polls, town meetings, e-democracy, and citizen juries. They also know how to systematically learn from regulatory experiments in democratic deliberation. In doing so, they not only add democratic criteria to the assessment of the agency's performance but also turn attention from measures of output legitimacy to process and input legitimacy.

## **Conclusion**

We have no need today to justify the search for excellence. Aspirations of “excellence” might even be taken for granted in the work of government in general and regulatory agencies in particular. It makes perfect sense to strive for excellence as long as agencies and their leaders are professionals. We expect excellence to be one of the core principles that is embedded in the identity and mission of every respectable agency; excellence matters even more than other norms and ideals, such as transparency and accountability, which are themselves stepping stones toward excellence.

The key challenge with regulatory excellence centers on how to achieve it. Asking “how” implies that excellence must actively be sought and does not come for free. Achieving excellence most likely will require some trade-offs with respect to other good aims – or between excellence on one dimension rather than another, or in the short-term versus the medium- or long-term. In other words, the search for excellence is necessarily more open and uncertain than one might assume. To make this observation is not a call for institutional conservatism, stagnation, or incrementalism. It is not to proclaim cynicism or engage in “excellence denial.” Instead, it is to recognize the importance of organizational strategies that emphasize excellence in regulators’

*capacities*, alongside the day-to-day investment in short-term performance. Building capacities to deploy different kinds of expertise will provide the best chance of achieving excellence in the long and medium terms.

What makes a regulator excellent? Excellent regulators invest in broadening the capacities of their organizations, recognizing that academic and professional knowledge is highly specialized. Any single expert possesses only a narrow knowledge about specific aspect of a regulatory problem. But regulatory problems are in fact multi-dimensional and can be framed and understood differently by different experts from different professions. Even within a single profession knowledge is transitory and dynamic. Different generations of experts bring with them new and different ideas and values. Most importantly, excellent regulators recognize that knowledge itself is “political,” at least in the sense that the production of academic knowledge depends on priorities of funding of powerful institutions and individuals. Given these realities, the excellent regulator learns to allow for different problem-definitions and different solutions, and then to transform different points of view through open, and possibly adversarial, discussions that chart a path toward more legitimate and coherent agency strategies.

## Notes

<sup>1</sup> Abraham Kaplan, *The Conduct of Inquiry: Methodology for Behavioral Science* (New Brunswick, NJ: Transaction Publishers, 1973), pp. 28–30.

<sup>2</sup> Charles Wolf, Jr., “Market and Non-Market Failures: Comparison and Assessment,” *Journal of Public Policy*, vol. 7 (January 1987), pp. 43–70.

<sup>3</sup> See Albert Bandura, *Social Foundations of Thought and Action: A Social Cognitive Theory* (Englewood Cliffs, NJ: Prentice Hall, 1985); David Levi-Faur, “The Global Diffusion of Regulatory Capitalism,” *The ANNALS of the American Academy of Political and Social Science*, vol. 598 (March 2005), pp. 12–32; David Levi-Faur, “‘Agents of Knowledge’ and the Convergence on a ‘New World Order’: A Review Article’,” *Journal of European Public Policy*, vol. 12 (October 2005), pp. 954–65.

<sup>4</sup> See Claudio M. Radaelli, “The Diffusion of Regulatory Impact Analysis—Best Practice or Lesson-Drawing?,” *European Journal of Political Research*, vol. 43 (August 2004), pp. 723–47; Dimitris Papadimitriou and David Phinnemore, “Exporting Europeanization to the Wider Europe: The Twinning Exercise and Administrative Reform in the Candidate Countries and Beyond,” *Southeast European and Black Sea Studies*, vol. 3 (May 2003), pp. 1–22.

<sup>5</sup> Gili S. Drori and others, *Science in the Modern World Polity: Institutionalization and Globalization* (Stanford University Press, 2002).

<sup>6</sup> Levi-Faur, “The Global Diffusion of Regulatory Capitalism,” pp. 12–32; Jacint Jordana, David Levi-Faur, and Xavier Fernandez i Marín, “The Global Diffusion of Regulatory Agencies: Channels of Transfer and Stages of Diffusion,” *Comparative Political Studies*, vol. 44 (October 2011), pp. 1343–69.

<sup>7</sup> James Q. Wilson, ed., *The Politics of Regulation* (New York: Basic Books, 1980).

<sup>8</sup> See Yves Dezalay Yves and Bryant G. Garth, *The Internationalization of Palace Wars, Lawyers, Economists and the Contest to Transform Latin American States* (University of Chicago Press, 2002); Marion Fourcade, *Economists and Societies: Discipline and Profession in the United States, Britain, and France, 1890s to 1990s* (Princeton University Press, 2009).

<sup>9</sup> Bridget M. Hutter, *Regulation and Risk: Occupational Health and Safety on the Railways* (Oxford University Press, 2001).

<sup>10</sup> Henry Rothstein, Olivier Borraz and Michael Huber, “Risk and the Limits of Governance: Exploring Varied Patterns of Risk-Based Governance Across Europe,” *Regulation & Governance*, vol. 7 (June 2013), pp. 215–35, 218.

<sup>11</sup> David A. Moss, *When All Else Fails: Government as the Ultimate Risk Manager* (Harvard University Press, 2004).

<sup>12</sup> Kaplan, *The Conduct of Inquiry*, pp. 28–30.

<sup>13</sup> See Andrew Abbott, *The System of Professions: An Essay on the Division of Expert Labor* (University of Chicago Press, 1988); Levi-Faur, “The Global Diffusion of Regulatory Capitalism,” pp. 12–32.

<sup>14</sup> Chad Michael McPherson and Michael Sauder, “Logics in Action: Managing Institutional Complexity in a Drug Court,” *Administrative Science Quarterly*, vol. 58 (April 2013), pp. 165–96.

<sup>15</sup> William K. Black, “Why Doesn’t the SEC Have a ‘Chief Criminologist’?,” *The Criminologist*, vol. 29 (November/December 2004), pp. 1–5, 2.

<sup>16</sup> See David H. Bayley and Clifford D. Shearing, “The Future of Policing,” *Law & Society Review*, vol. 30 (November 1996), pp. 585–606; John Braithwaite, “The New Regulatory State and the Transformation of Criminology,” *British Journal of Criminology*, vol. 40 (March 2000), pp. 222–38.

<sup>17</sup> Carl Abbott and Sy Adler, “Historical Analysis as a Planning Tool,” *Journal of the American Planning Association*, vol. 55 (Autumn 1989), pp. 467-73, 472.

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