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TASK FORCE REPORT: THE POLICE

Task Force on the Police
THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND
ADMINISTRATION OF JUSTICE

Publications of the President's Commission on Law Enforcement and Administration of Justice

Commission Report: The Challenge of Crime in a Free Society

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TASK FORCE REPORT: THE POLICE

Task Force on the Police

**THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND
ADMINISTRATION OF JUSTICE**

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Copies of other task force reports and other supporting materials can also be purchased.

FOREWORD

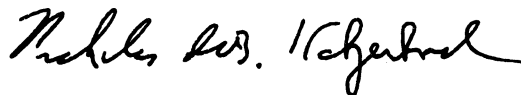
In February of this year the President's Commission on Law Enforcement and Administration of Justice issued its General Report: *The Challenge of Crime in a Free Society*. As noted in the Foreword to that Report, the Commission's work was a joint undertaking, involving the collaboration of Federal, State, local, and private agencies and groups, hundreds of expert consultants and advisers, and the Commission's own staff. Chapter 4 of that Report made findings and recommendations relating to the problems facing the Nation's police.

This volume, the Task Force Report on the Police, embodies the research and analysis of the staff and consultants to the Commission which underlie those findings and recommendations, and in many instances it elaborates on them. Preliminary drafts of most of the materials in the volume have been distributed to the entire Commission and discussed generally at Commission meetings, although more detailed discussions and intensive review have been the responsibility of a panel of five Commission members attached to this Task Force. While individual members of the panel have reservations on some points covered in this volume but not reflected in the Commission's General Report, this volume as a whole has the general endorsement of the panel. The organization of the Commission and the Task Forces is described in the General Report at pages 311-312.

Three chapters of this volume were prepared by Commission consultants after extensive consultation with Commission staff. Chapter 2, "Law Enforcement: The Police Role," was prepared by Profs. Frank Remington and Herman Goldstein of the University of Wisconsin College of Law at Madison. Chapter 4, "Coordination and Consolidation of Police Service," was the work of the Public Administration Service of Chicago, Ill., and Chapter 9, "The Community's Role in Law Enforcement," was written by Patricia M. Wald, former Commissioner of the President's Commission on Crime in the District of Columbia.

Among the Research Studies to be published shortly by the Commission will be a number of field studies, conducted by consultants to the Commission, which will have bearing on various aspects of police operations.

The Commission is deeply grateful for the talent and dedication of its staff and for the unstinting assistance and advice of consultants, advisers, and collaborating agencies whose efforts are reflected in this volume.



NICHOLAS DEB. KATZENBACH
Chairman

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*Police Task Force panel members.

THE STAFF

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Keith Stubblefield
Martin Timin
G. Joseph Vining
Richardson White, Jr.

‡Staff members devoting primary attention to the work of the Police Task Force.

CONSULTANTS

- Richard H. Blum, Professor, Stanford University, Stanford, Calif.
- Allen P. Bristow, Associate Professor, Department of Police Science and Administration, California State College at Los Angeles, Los Angeles, Calif.
- William P. Brown, Professor, State University of New York, Albany, N.Y.
- James E. Carnahan, Associate Professor, Department of Police Science and Administration, California State College at Los Angeles, Los Angeles, Calif.
- Edward V. Comber, Project Director, Criminal Justice Information Systems Design Study, California Department of Justice, Sacramento, Calif.
- J. Shane Creamer, First Assistant U.S. Attorney, Philadelphia, Pa.
- William F. Danielson, Director of Personnel, City of Berkeley, Calif.
- Harry Diamond, Associate Professor, Department of Police Science and Administration, California State College at Los Angeles, Los Angeles, Calif.
- George D. Eastman, Headquarters Representative, Public Administration Service, Chicago, Ill.
- John Fabbri, Chief of Police, South San Francisco, Calif.
- Edward A. Farris, Professor of Police Science, New Mexico State University, University Park, N. Mex.
- James L. Fyke, Field Representative, Public Administration Service, Chicago, Ill.
- Raymond Galvin, Assistant Professor, School of Police Administration and Public Safety, Michigan State University, East Lansing, Mich.
- A. C. Germann, Professor, Department of Criminology, California State College at Long Beach, Long Beach, Calif.
- Herman Goldstein, Professor, University of Wisconsin Law School, Madison, Wis.
- G. Douglas Gourley, Professor and Chairman, Department of Police Science and Administration, California State College at Los Angeles, Los Angeles, Calif.
- John Guidici, Captain, Oakland Police Department, Oakland, Calif.
- Richard O. Hankey, Professor, Department of Police Science and Administration, California State College at Los Angeles, Los Angeles, Calif.
- William H. Hewitt, Associate Professor and Chairman, Department of Police Science, State University of New York, Farmingdale, N.Y.
- Roy E. Hollady, Chief of Police, Fort Collins, Colo.
- Norman C. Kassoff, Supervisor, Police Training Unit, International Association of Chiefs of Police, Washington, D.C.
- Joseph Kimble, Chief of Police, San Carlos, Calif.
- Richard Laskin, Associate Professor, Department of Political and Social Science, Illinois Institute of Technology, Chicago, Ill.
- B. Earl Lewis, Foothill College, Los Altos Hills, Calif.
- G. Stephen Lloyd, Field Representative, Public Administration Service, Chicago, Ill.
- Joseph D. Lohman, Dean, School of Criminology, University of California, Berkeley, Calif.
- Lawrence S. Margolis, Special Assistant U.S. Attorney for the District of Columbia, Department of Justice.
- Gordon E. Misner, Visiting Associate Professor, School of Criminology, University of California, Berkeley, Calif.
- Richard A. Myren, Dean, School of Criminal Justice, State University of New York, Albany, N.Y.
- David L. Norrgard, Field Representative, Public Administration Service, Chicago, Ill.
- George W. O'Connor, Director, Professional Standards Division, International Association of Chiefs of Police, Washington, D.C.
- Bruce T. Olson, Police Administration Specialist, Institute for Community Development and Services, Michigan State University, East Lansing, Mich.
- J. Kinney O'Rourke, Executive Director, Massachusetts League of Cities and Towns, Boston, Mass.
- Margaret G. Oslund, Department of Political and Social Science, Illinois Institute of Technology, Chicago, Ill.
- Wesley A. Pomeroy, Undersheriff, San Mateo County Sheriff's Police Department, San Mateo, Calif.
- Norman E. Pomrenke, Assistant Director, Institute of Government, University of North Carolina, Chapel Hill, N.C.
- Louis Radelet, Professor, School of Police Administration and Public Safety, Michigan State University, East Lansing, Mich.
- Leonard E. Reisman, President, John Jay College of Criminal Justice, The City University of New York, New York, N.Y.
- Gerald Robin, Office of National Analysts, Philadelphia, Pa.
- Jewell L. Ross, Captain (retired), Berkeley Police Department, Berkeley, Calif.
- James D. Stinchcomb, Supervisor, Police Education Unit, International Association of Chiefs of Police, Washington, D.C.
- Patricia M. Wald, Commissioner, President's Commission on Crime in the District of Columbia.
- John B. Williams, Associate Professor, Department of Police Science and Administration, California State College at Los Angeles, Los Angeles, Calif.

ADVISERS

- Claude Abercrombie, Jr., Sheriff, Douglas County, Douglasville, Ga.
- Charles R. Adrian, Professor and Chairman, Department of Political Science, University of California, Riverside, Calif.
- Douglas W. Ayres, City Manager, Salem, Oreg.
- David A. Booth, Associate Professor, Department of Political Science, University of Kentucky, Lexington, Ky.
- C. Beverly Brily, Mayor, Nashville, Tenn.
- Thomas Brownfield, Special Agent Supervisor, FBI, Department of Justice.
- Robert L. Carter, General Counsel, National Association for the Advancement of Colored People, New York, N.Y.
- Joseph Casper, Assistant Director, FBI, Department of Justice.
- George E. Causey, Deputy Chief, Metropolitan Police Department, Washington, D.C.
- Ben Clark, Sheriff, Riverside County, Calif.
- Donald E. Clark, Sheriff, Multnomah County, Portland, Oreg.
- James Cotter, Inspector in Charge, FBI National Academy, FBI, Department of Justice.
- John Creer, County Commissioner, Salt Lake City, Utah.
- Thompson S. Crockett, Professor of Police Science, St. Petersburg Junior College, St. Petersburg, Fla.
- Louis R. Damiani, Chairman, Legislative Committee, National Office of the Fraternal Order of Police, Philadelphia, Pa.
- Jerome Daunt, Chief, Uniform Crime Reporting Section, FBI, Department of Justice.
- C. D. deLoach, Assistant to the Director, FBI, Department of Justice.
- Leonard J. Duhl, Special Assistant to the Secretary of the Department of Housing and Urban Development, Washington, D.C.
- Woodrow W. Dumas, Mayor, East Baton Rouge, La.
- Edward L. Epting, Sergeant, San Francisco Police Department, San Francisco, Calif.
- Paul E. Estaver, Dissemination Officer, Office of Law Enforcement Assistance, Department of Justice.
- Rev. Walter E. Fauntroy, Director, Washington Bureau Office, Southern Christian Leadership Conference, Washington, D.C.
- Thomas F. Fitzpatrick, Director, Bureau of Special Services and Intelligence, San Francisco Police Department, San Francisco, Calif.
- Arthur Q. Funn, General Counsel, National Urban League, Inc., New York, N.Y.
- Charles R. Gain, Deputy Chief, Oakland Police Department, Oakland, Calif.
- Robert R. J. Gallati, Director, New York State Intelligence and Identification System, Albany, N.Y.
- Bernard Garmire, Chief of Police, Tucson, Ariz.
- Peter F. Hagen, Inspector, Los Angeles Police Department, Los Angeles, Calif.
- William Harpole, Sheriff, Oktibbeha County, Starkville, Miss.
- Patrick Healy, Executive Director, National League of Cities, Washington, D.C.
- William W. Hermann, Police Consultant, Rand Corp., University of Southern California, Los Angeles, Calif.
- James C. Herron, Captain, Philadelphia Police Department, Philadelphia, Pa.
- Roderic C. Hill, Lieutenant General, Adjutant General, California National Guard, Sacramento, Calif.
- William Hollowell, Sheriff, Sunflower County, Indianola, Miss.
- John E. Ingersoll, Chief of Police, Charlotte, N.C.
- Adolph C. Jacobsmeyer, Major, St. Louis Police Department, St. Louis, Mo.
- John J. Jemilo, Deputy Assistant Director, Office of Law Enforcement Assistance, Department of Justice.
- Herbert T. Jenkins, Chief of Police, Atlanta, Ga.
- Mark E. Keane, City Manager, Tucson, Ariz.
- John T. Kelly, Deputy Chief of Police, Chicago, Ill.
- Hubert O. Kemp, Chief of Police, Nashville-Davidson County, Tenn.
- Harold Light, Assistant Special Agent in Charge at Quantico, Va., FBI, Washington, D.C.
- Floyd Mann, Former Superintendent, Alabama Highway Patrol, Chambers County Sheriff's Office, Langdale, Ala.
- Daniel H. Margolis, Attorney, Washington, D.C.
- Robert E. McCann, Director of Training, Chicago Police Department, Chicago, Ill.
- William P. McCarthy, Inspector, New York Police Department, New York, N.Y.
- Roy McLaren, Director, Field Operations Division, International Association of Chiefs of Police, Washington, D.C.
- Karl A. Menninger, M.D., Chief of Staff, The Menninger Foundation, Topeka, Kans.
- Raymond M. Mombosse, Deputy Attorney General, California Department of Justice, Sacramento, Calif.

- William Mooney, Special Agent Supervisor, FBI, Department of Justice.
- Patrick V. Murphy, Assistant Director, Office of Law Enforcement Assistance, Department of Justice.
- John F. Nichols, District Inspector, Detroit Police Department, Detroit, Mich.
- Joseph D. Nicol, Superintendent, Illinois Bureau of Criminal Identification and Investigation, Joliet, Ill.
- Harvard Norred, Chief of Police, Gwinnept County, Lawrenceville, Ga.
- Peter J. Pitchess, Sheriff, Los Angeles County, Los Angeles, Calif.
- George H. Puddy, Executive Officer, California Police Officers' Standards and Training Commission, Sacramento, Calif.
- Thomas Reddin, Chief, Los Angeles Police Department, Los Angeles, Calif.
- Rudy Sanfillippo, Task Force Director, Joint Commission on Correctional Manpower and Training, Washington, D.C.
- Lloyd G. Sealy, Assistant Chief Inspector, New York Police Department, New York, N.Y.
- Carleton F. Sharpe, City Manager, Kansas City, Mo.
- Daniel J. Sharpe, Inspector, Rochester Police Department, Rochester, N.Y.
- Robert Sheehan, Professor, Department of Law Enforcement Administration, Northeastern University, Boston, Mass.
- R. Dean Smith, Director, Research and Development Division, International Association of Chiefs of Police, Washington, D.C.
- Charles L. Southward, Brigadier General, Assistant Chief for Army National Guard, U.S. National Guard Bureau, Washington, D.C.
- Daniel Stringer, Sheriff, Cherokee County, Canton, Ga.
- Quinn Tamm, Executive Director, International Association of Chiefs of Police, Washington, D.C.
- Carl C. Turner, Major General, Provost Marshal General, Department of the Army, Washington, D.C.
- William Veeder, City Manager, Charlotte, N.C.
- Nelson A. Watson, Project Director, Research and Development Division, International Association of Chiefs of Police, Washington, D.C.
- Leon H. Weaver, Professor, School of Police Administration and Public Safety, Michigan State University, East Lansing, Mich.
- James Q. Wilson, Associate Professor of Government, Director, Joint Center for Urban Studies of Massachusetts Institute of Technology and Harvard University, Cambridge, Mass.
- Minor Keith Wilson, Assistant Chief of Police, Chicago Police Department, Chicago, Ill.
- O. W. Wilson, Superintendent, Chicago Police Department, Chicago, Ill.
- Orrell A. York, Executive Director, Municipal Police Training Council, Albany, N.Y.

SUPPORTING STAFF AND SERVICES

Secretarial and Clerical

James A. Adkins	Conchita A. Brown	Doris T. Farmer	Patricia A. Lanham
Doris J. Bacon	Scennie M. Brown	Ann Felegy	Joan E. Peterson
Margaret Beale	Suzanne L. Carpenter	Mary Fox	Evelene Richards
Mary G. Bergbom	Barbara A. Casassa	Carol A. Hambleton	Lee E. Salerno
Margaret R. Bickford	Sally M. Chopko	Rosalind M. Humphries	Shelia M. Sheahan
Nancy B. Bradley	Willie Copeland	Nancy Hunt	Nancy Strebe
Rita Louise Brooke	Catherine Cyrus	Betty C. Irby	Margaret Triplett
	Mary Frances Factory	Barbara J. Jones	

SUPPORTING SERVICES

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Edward T. Johnson & Associates, Washington, D.C.

COPY EDITING

Katherine M. Hanna
James O'Bryan

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Introduction

The police—some 420,000 people working for approximately 40,000 separate agencies that spend more than \$2½ billion a year—are the part of the criminal justice system that is in direct daily contact both with crime and with the public. The entire system—courts and corrections as well as the police—is charged with enforcing the law and maintaining order. What is distinctive about the responsibility of the police is that they are charged with performing these functions where all eyes are upon them and where the going is roughest, on the street. Since this is a time of increasing crime, increasing social unrest and increasing public sensitivity to both, it is a time when police work is peculiarly important, complicated, conspicuous, and delicate.

Because the police have the responsibility for dealing with crime hour by hour, where, when and as it occurs, there is a tendency on the part of the public, and often of the police themselves, to think of crime control almost exclusively in terms of police work. One response to the recent increases in the volume of crime has been the charge that the police lack the competence or the will to keep crime within bounds. A far more common one has been the assertion that the police could keep crime within bounds if only the appellate courts, or civilian review boards, or corrupt politicians, or an uncooperative public allowed them to. "Take the handcuffs off our police" is a cry familiar to everyone.

The fact is, of course, that even under the most favorable circumstances the ability of the police to act against crime is limited. The police did not create and cannot resolve the social conditions that stimulate crime. They did not start and cannot stop the convulsive social changes that are taking place in America. They do not enact the laws that they are required to enforce, nor do they dispose of the criminals they arrest. The police are only one part of the criminal justice system; the criminal justice system is only one part of the government; and the government is only one part of society. Insofar as crime is a social phenomenon, crime prevention is the responsibility of every part of society. The criminal process is limited to case by case operations, one criminal or one crime at a time. Some "handcuffs" on the police are irremovable. It is with that plain fact in mind that this volume, whose purpose is to propose ways in which the police can increase their effectiveness, must be read.

The volume also should be read with an understanding of what the police actually do to combat crime. This is a subject that is often neglected, with the result that public expectations of the police and prescriptions for improving police work are unrealistic. The heart of the police effort against crime is patrol—moving on foot or by vehicle around an assigned area, stopping to check buildings, to survey possible incidents, to question suspicious

persons, or simply to converse with residents who may provide intelligence as to occurrences in the neighborhood.

The object of patrol is to disperse policemen in a way that will eliminate or reduce the opportunity for misconduct and to increase the likelihood that a criminal will be apprehended while he is committing a crime or immediately thereafter. The strong likelihood of apprehension will presumably have a strong deterrent effect on potential criminals. The fact of apprehension can lead to the rehabilitation of a criminal, or at least to his removal for a time from the opportunity to break the law.

When patrol fails to prevent a crime or apprehend a criminal, the police must resort to investigation. Some investigation is carried out by patrolmen, but the principal responsibility rests with detectives. Investigation aims at identifying offenders through questioning victims, suspects, witnesses and others, through confronting arrested suspects with victims or witnesses, through photographs or, less frequently, through fingerprints or other laboratory analysis of evidence found at crime scenes.

When the number of square blocks—or in some cases square miles—of city each policeman must patrol is considered in conjunction with the many ways, times and places that crimes occur, the severe limitations upon the effectiveness of patrol and investigation are placed in dramatic focus. Such consideration will also suggest why crime rates often appear to fluctuate with relatively little correlation to what the police do.

The rate of apprehension of offenders in property crimes is extremely low—approximately 22 percent of those reported. The police have greater success with violent crimes—approximately 59 percent of those reported. In large part this is because more victims of violent crimes know or can identify their assailants. The ability of a victim or witness to identify the criminal is the factor responsible for solving a large percentage of the crimes that are solved.

To say that the police have a limited ability to prevent crime is not to criticize the police. The police, more than anybody, are frustrated by the wide gap between the task they are expected to perform and the methods at their disposal to perform it.

Seen from the perspective of history, the anomalies of regarding the police as solely responsible for crime control become evident. In the preindustrial age, village societies were closely integrated. Everyone knew everyone else's affairs and character; the laws and rules of society were generally familiar and were identical with the moral and ethical precepts taught by parents, schoolmasters, and the church. If not by the clergy and the village elders, the peace was kept, more or less informally, by law magistrates (usually local squires) and constables.

These in the beginning were merely the magistrates' agents, literally "citizens on duty"—the ablebodied men of the community serving in turn.¹ Not until the 19th century did policing even have a distinct name.² Until then it would have been largely impossible to distinguish between informal peacekeeping and the formal system of law enforcement and criminal justice. The real outlaws—murderers, highwaymen and their ilk—were handled mostly by the military when normal procedures for crime control were unsuccessful.

The greatly increased complexities of society and its laws today only make more important the kind of unofficial peacekeeping that Jane Jacobs has called the "intricate, almost unconscious, network of voluntary controls and standards among the people themselves."³ In communities and neighborhoods where the other instrumentalities of society whose success bears directly on controlling crime have failed—families, schools, job markets, and welfare agencies—the police must handle an enormously increased volume of offenses, both serious and petty.

It is when it attempts to solve problems that arise from the community's social and economic failures that policing is least effective and most frustrating. For, while charged with deterrence, the police can do little to prevent crime in the broader sense of removing its causes. On the whole, they must accept society as it is—a society in which parents fail to raise their children as law-abiding citizens, in which schools fail to educate them to assume adult roles, and in which the economy is not geared to provide them with jobs. The most eminent of modern police administrators, August Vollmer, once said: "I have spent my life enforcing the laws. It is a stupid procedure and has not, nor will it ever solve the problem unless it is supplemented by preventive measures."⁴

The difficulties and inherent limitations of law enforcement are seldom appreciated by the public when it considers what the police can do, and reacts to what they do. Americans are a people used to entrusting the solution of their social ills to specialists, and to expecting results from the institutions those specialists devise. They have entrusted the problems of crime to the police, forgetting that they still operate with many of the limitations of constables of years past, even though today's citizens are no longer villagers.

The adjustment of conceptions of what can be expected of the police is particularly difficult for people who are themselves law-abiding and who live in a law-abiding community. For them the phenomenon of crime seems far simpler than in fact it is. The voluntary controls of society work well for them and, since they have no desire to violate the criminal law, their supposition is that crime must be a choice between right and wrong for all men, and that more effective policing alone can determine this choice. Thus public concern about crime is typically translated into demands for more law enforcement,

and often into making the police scapegoats for a crime problem they did not create and do not have the resources to solve.

No one, of course, is more sensitive to demands for more law enforcement than the police themselves. They see the menace of crime most directly, and their lives are dominated by their professional task. In addition, they have encouraged and share the idea that they are inherently more capable of controlling crime than analysis has thus far shown them to be. In part, this conception derives from the efforts of modern police leaders to secure support and respect as professionals with a specialized ability capable of effective exercise apart from political control. And naturally enough the police, like men in all occupations, tend to view problems in terms of their own function and to have particular faith in their own skills to resolve them.

The police are fully aware of many of the restrictions that are placed upon them, and protest some of them. Their reaction is intensified by a general and often justified feeling that the very public that is responsible for these limits on effectiveness at the same time demands greater success in law enforcement. A leading police training text, for example, states:⁵

Many police executives are frustrated today, because of the heavy pressures brought to bear upon them and their agencies to eliminate crime and delinquency hazards and to successfully solve cases. . . . Instead of pressuring legislative representatives for changes in the law, many citizens pressure their chief of police. And much such pressure is without knowledge of the law and its limitations, its restrictive interpretations by the courts, and its scope.

In its more extreme forms this reaction has had serious consequences. It has intensified police sensitivity to criticism and to contacts or controls that imply criticism. It has evoked frequent suspicion and bitterness toward those sections of the public seen as responsible for police limitations: politicians, courts, civil libertarians. In combination this sensitivity, suspicion, and bitterness has become in itself a significant limitation on police effectiveness.

In a sense, this entire volume is a discussion of how the police can either overcome or more effectively work within the limitations upon them. Many of those limitations are functions of the way the police are organized and managed; they, probably, are the easiest to surmount. Chapter 3 examines the organizational and operational problems of individual departments. Chapter 4 discusses ways in which two or more departments can improve their service by coordinating or pooling their activities and resources. Chapter 8 discusses "State Commissions on Police Standards."

Most police departments are plagued by a shortage of resources of all kinds: skilled personnel, money, modern scientific and technological equipment. Chapter 3 touches on equipment, a subject that is discussed in detail in the report of the task force on science and technology. Chapter 5 considers in great detail the many ways in which better educated and more skilled men and women

¹ Michael Banton, "The Police in the Community," (London: Tavistock Publications, 1964), p. 5.

² Charles Reith, "The Blind Eye of History," (London: Faber and Faber Limited, 1952), p. 9.

³ Jane Jacobs, "The Death and Life of Great American Cities," (New York: Random House, 1961), p. 32.

⁴ August Vollmer, "Community Coordination," March-April, 1939, as quoted in V. A. Leonard, "Police Organization and Management," 2d ed., (Brooklyn: The Foundation Press, Inc., 1964), p. 246.

⁵ A. C. Germann, Frank D. Day, and Robert R. J. Gallati, "Introduction to Law Enforcement," (Springfield: Charles C. Thomas, 1966), p. 32.

can be attracted to police work and how, once attracted, they can be trained to perform their difficult tasks. Securing more money for the police is essential and is, of course, the responsibility of local, State, and Federal government and, ultimately, of the public. Chapter 13 of the Commission's "General Report" discusses this subject.

Public hostility and indifference are among the most perplexing problems the police face. Chapter 6 is devoted to the timely subject of police-community relations, and chapter 9 proposes a number of ways in which individual citizens and their organizations can help the police. The discussion of police policymaking in chapter 2 is also immediately relevant to public attitudes toward the police, as is the discussion of police integrity in chapter 7.

The limitations on police work that in recent years have aroused the most controversy are those imposed by court decisions about such subjects as interrogation, surveillance, and search and seizure. This subject is discussed in chapter 4 of the "General Report." In addition, chapter 2 of this volume proposes ways in which the police can, in the future, make sure that their interests are presented clearly and fully to appellate courts reviewing police actions.

Finally, a theme that runs through this entire volume is the extent to which police work is limited by a lack of precise knowledge about crime and the means of controlling it. Almost every chapter demonstrates, indeed documents, the urgent need for research into every aspect of police work by the police and by scholars working with the police. As the "General Report" stated, and as cannot be too often repeated, "The greatest need is the need to know."

HISTORY OF THE POLICE

The face of America has changed since colonial days from a collection of predominantly rural and independent jurisdictions to an industrialized urban nation. Yet in several respects law enforcement has not kept pace with this change. As America has grown and policing has become correspondingly complex, the existing law enforcement system has not always been altered to meet the needs of a mechanized and metropolitan society.

Over the years, the proliferation of independent and, for the most part, local policing units has led to an overlapping of responsibilities and a duplication of effort, causing problems in police administration and in the coordination of efforts to apprehend criminals. America is a nation of small, decentralized police forces.

Other problems have plagued the police over the years. Forces have lacked an adequate number of sufficiently qualified personnel. Unattractive salaries and working conditions, and a general lack of public support have hindered police development. And the need for harmonious police-community relations has been a persistent problem, one which, unfortunately, has not been widely recognized until recently. Community relations problems are nothing new; they have existed since American cities were divided into subsocieties by virtue of different

ensuing waves of immigrants from western, and later eastern, Europe, who started settling in urban centers before the turn of this century.

To understand better the prevailing problems that police agencies face today, it is helpful to examine their development in England as well as in the United States; for there are many weaknesses in the existing system that stem from practices developed in the rural colonies and from the colonial philosophy of law enforcement.

EARLY HISTORY OF ENGLISH LAW ENFORCEMENT

France and other continental countries maintained professional police forces of a sort as early as the 17th century. But England, fearing the oppression these forces had brought about in many of the continental countries, did not begin to create police organizations until the 19th century. Moreover, England, in its early history, did not maintain a permanent army of paid soldiers that could enforce criminal laws when not engaged in guarding the country's borders against invaders. The cost of developing a force specifically for peace-keeping duties was believed to be too high for the royal purse. Private citizens could do the job cheaper, if given a few shillings reward for arrests. This simple law enforcement expedient, which had begun with Alfred the Great (870-901), can be recognized as the forerunner of American police agencies.

Primarily, the system encouraged mutual responsibility among local citizen's associations, which were pledged to maintain law and order;⁶ it was called the "mutual pledge" system. Every man was responsible not only for his own actions but also for those of his neighbors. It was each citizen's duty to raise the "hue and cry" when a crime was committed, to collect his neighbors and to pursue a criminal who fled from the district. If such a group failed to apprehend a lawbreaker, all were fined by the Crown.

The Crown placed this mutual responsibility for group police action upon 10-family groups. Each of these was known as a "tithing." From the tithing, there subsequently developed the "hundred" comprised of 10 tithings. From this developed the first real police officer—the constable.⁷ He was appointed by a local nobleman and placed in charge of the weapons and equipment of each hundred.

Soon, the "hundreds" were grouped to form a "shire," a geographical area equivalent to a country.⁸ A "shire-reeve"—lineal antecedent of tens of thousands of sheriffs to come—thus came into being, appointed by the Crown to supervise each county. The constable's breadth of authority remained limited to his original "hundred." The shire-reeve was responsible to the local nobleman in ensuring that the citizens enforced the law effectively. From his original supervisory post, the sheriff soon branched out to take part in the pursuit and apprehension of lawbreakers.

It was during the reign of Edward I (1272-1307), that the first official police forces were created in the large towns of England. These were called the "watch and

⁶ J. Daniel Devlin, "Police Procedure, Administration and Organization" (London: Butterworth & Co., 1966), p. 3.

⁷ Supra, note 5 at p. 49.

⁸ Ibid.

ward," and were responsible for protecting property against fire, guarding the gates, and arresting those who committed offenses between sunset and daybreak. At the same time the constable became the primary law enforcement officer in all towns throughout England.

In 1326, to supplement the "shire-reeve" mutual pledge system, Edward II created the office of justice of the peace. The justices, originally noblemen, were appointed by the Crown to assist the sheriff in policing the county. This led in time to their taking on local judicial functions, in line with the primary duty of keeping the peace in their separate jurisdictions.

The constable, who retained the responsibility of serving as a major official within the pledge system, meanwhile gained in importance. He became an assistant to the justice, responsible for supervising the night watchmen, inquiring into offenses, serving summonses, executing warrants, and taking charge of prisoners.⁹ It was here that the formal separation between judge and police officer developed.

As law enforcement increasingly became the responsibility of the central government in 14th century England, the justice, as the appointee of the King, exercised a greater degree of control over the locally appointed constables. By the end of the century the constable no longer functioned independently as an official of the pledge system. Rather, he was obliged to serve the justice. This essentially set the justice-constable patterns for the next 500 years. The "justice [remained] the superior, the constable the inferior, conservator of the peace"¹⁰ until the second quarter of the 19th century.

Meanwhile, over these years, the local pledge system continued to decline. Community support languished. And with considerable reason.¹¹

What was everybody's business became nobody's duty and the citizens who were bound by law to take their turn at police work gradually evaded personal police service by paying others to do the work for them. In theory constables were appointed annually, but in fact their work was done by deputies or substitutes who so acted year after year, being paid to do so by the constables. These early paid police officers did not rank high in popular estimation as indicated in contemporary references. They were usually ill-paid and ignorant men, often too old to be in any sense efficient.

But as the local pledge system was declining, innovations in policing were cropping up in the emerging cities of the 17th and 18th centuries. Those first law enforcement officers were increasingly assisted by a paid night-watch force. Although these nominally were responsible for guarding the cities against thieves and vandals, apparently they were not effective. Reportedly they did little more than roam the streets at night, periodically calling out the condition of the weather, the hour, and the fact that "all was well."

INDUSTRIALIZATION IN ENGLAND

While England remained essentially a rural country, the dominance of the justice of the peace in law enforce-

ment machinery aroused little formal opposition. But with the advent of the Industrial Revolution at the end of the 1700's families by the thousands began traveling to factory towns to find work. Inevitably, as the cities grew, established patterns of life changed and unprecedented social disorder resulted. Law enforcement became a much more complex enterprise.

Government and citizens alike responded to this need for better law enforcement. A number of fragmented civic associations, such as the Bow Street Horse and Foot Patrol, were formed to police the streets and highways leading out of London and the Government passed statutes creating public offices, later to be known as police offices. Each of these housed three paid justices of the peace, who were authorized to employ six paid constables. These new posts thus helped to centralize law enforcement operations within a small area.

By the beginning of the 19th century nine police offices had been established within the metropolitan area of London, but there was little apparent effort to coordinate their independent law enforcement activities. This was reportedly due to the fact that each office refused to communicate with another for fear that the other might take credit for detecting and apprehending an offender.

In London especially, these weaknesses combined to make the police forces seemingly powerless to combat crime. Highwaymen on the road, thieves lurking in the cities, daily bank robberies, juvenile delinquency—all presented major law enforcement problems.¹² However, out of this difficult situation emerged a unique remedy to discourage thieves from attacking citizens; in the early 1800's gaslights were introduced on the streets of London.

Many of the experiments in law enforcement before 1820 failed "because no scheme could reconcile the freedom of action of individuals with the security of person and property."¹³ In 1822, Sir Robert Peel, England's new Home Secretary, contended that, while better policing could not eliminate crime, the poor quality of police contributed to social disorder. Seven years later he introduced and guided through Parliament an "Act for Improving the Police In and Near the Metropolis." This led to the first organized British metropolitan police force. Structured along the lines of a military unit, the force of 1,000 was the first one to wear a definite uniform. The men were commanded by two magistrates, later called commissioners, who were given administrative but not judicial duties. Ultimately, the responsibility for equipping, paying, maintaining, and to a certain degree supervising the "bobbies," as they later became known, was vested in the Home Secretary. Because he was made accountable to the Parliament "for the exercise of his authority over the Metropolitan police, it could [thus] be said that the new force was under the ultimate control of a democratically elected Parliament."¹⁴

Availability of competent manpower, then as today, became an immediate problem. It was difficult to recruit suitable men to serve in the "new police," for the salaries were poor and the commissioners selective. And

⁹ Supra, note 6 at p. 6.

¹⁰ Royal Commission on the Police, "Royal Commission on the Police 1962, Final Report" (London: Her Majesty's Stationery Office), p. 12.

¹¹ Supra, note 6 at p. 7.

¹² Supra, note 5 at p. 59.

¹³ Supra, note 6 at p. 10.

¹⁴ Supra, note 6 at p. 16.

there were other harassments. Parliament objected to appropriating Government funds to maintain a police force. The radicals were afraid of tyranny. The aristocracy, though willing to accept the protection of such a force, was disgruntled because the commissioners refused to abide by the traditional rules of patronage in making appointments.

Nevertheless, the London metropolitan police proved so effective in suppressing crime and apprehending criminals that within 5 years the provinces, which were experiencing increasing crime problems and violent riots, asked London for policing help.¹⁵ Shortly after, Parliament enacted a series of police reform bills. Among them, one empowered justices of the peace in 1839 to establish police forces in the counties; and in 1856 another required every borough and county to have a police force.

As regular police forces developed, the justices of the peace voluntarily relinquished their law enforcement duties and confined themselves to deciding questions of law. Before this change occurred, the police had served as the agents of the powerful justices and had consequently used the justices' authority to carry on investigation of those in custody. When the justices relinquished their law enforcement powers, the legislature gave no consideration as to what, if any, investigative responsibilities should be transferred to the police. As a result, the statutes for law enforcement officers that remain on the books today contain little recognition of the broad discretion that police continue to exercise.¹⁶

LAW ENFORCEMENT IN THE AMERICAN COLONIES

American colonists in the 17th and 18th centuries naturally brought to America the law enforcement structure with which they were familiar in England. The transfer of the offices of constable and sheriff to rural American areas—which included most colonial territory—was accomplished with little change in structure of the offices. Drawing upon the pattern of the mutual pledge system, the constable was made responsible for law enforcement in towns, while the sheriff took charge of policing the counties. The Crown-appointed Governors bestowed these offices on large landowners who were loyal to the king. After the revolution, sheriffs and constables tended to be selected by popular elections, patronage when being on the wane.

In many colonial cities the colonists adopted the British constabulary-nightwatch system. As early as 1636 Boston had nightwatchmen, in addition to a military guard. New York and Philadelphia soon developed a similar nightwatch system. The New York nightwatchmen were known as the "Rattlewatch," because they carried rattles in their rounds to remind those who needed reminding of their watchful presence.

URBANIZATION IN THE UNITED STATES

As American towns grew in size and population during the first half of the 19th century, the constable was unable

to cope with the increasing disorder. As in England years before, lawlessness became more prevalent:¹⁷

New York City was alleged to be the most crime-ridden city in the world, with Philadelphia, Baltimore and Cincinnati not far behind. . . . Gangs of youthful rowdies in the larger cities . . . threatened to destroy the American reputation for respect for law. . . . Before their boisterous demonstrations the crude police forces of the day were often helpless.

Again, as in England, many American cities began to develop organized metropolitan police forces of their own. Philadelphia was one of the first. In 1833 a wealthy philanthropist left a will that provided for the financing of a competent police force in Philadelphia. Stimulated by this contribution, the city government passed an ordinance providing for a 24-man police force to work by day and 120 nightwatchmen. The force was unfortunately shortlived, for the ordinance was repealed less than 2 years later.

In 1838, Boston created a day police force to supplement the nightwatch, and other cities soon followed its lead. Crime, cities were finding, was no respecter of daylight. There were certain inherent difficulties, however, in these early two-shift police systems. Keen rivalries existed between the day and night shifts, and separate administrations supervised each shift. Recognizing the evils of separate police forces, the New York Legislature passed a law in 1844 that authorized creating the first unified day and night police, thus abolishing its nightwatch system. Ten years later Boston consolidated its nightwatch with the day police.

Following the New York model, other cities developed their own unified police forces during the next decade. By the 1870's the Nation's largest cities had full-time police forces. And by early 1900's there were few cities of consequence without such unified forces. These forces gradually came under the control of a chief or commissioner, often appointed by the mayor, sometimes with the consent of the city council and sometimes elected by the people.

These first formal police forces in American cities were faced with many of the problems that police continue to confront today. Police officers became the objects of disrespect. The need for larger staffs required the police to compromise personnel standards in order to fill the ranks. And police salaries were among the lowest in local government service, a factor which precluded attracting sufficient numbers of high standard candidates. It is small wonder that the police were not respected, were not notably successful, and were not known for their vitality and progressiveness. Moreover, the police mission in the mid-1800's precluded any brilliance:¹⁸

The aim of the police departments was merely to keep a city superficially clean and to keep everything quiet that [was] likely to arouse public [ire].

Many of the problems that troubled these first organized metropolitan police forces can perhaps be traced to a single root—political control. As one authority has explained:¹⁹

Rotation in office enjoyed so much popular favor that police posts of both high and low degree were constantly changing

¹⁵ Christopher Hibbert, "The Roots of Evil." (London: Weidenfeld and Nicolson, 1964), pp. 125-128.

¹⁶ Edward J. Barrett, Jr., "Police Practices and the Law—From Arrest to Release or Charge," California Law Review, March 1962, 50: 17-18.

¹⁷ Arthur Charles Cole, "The Irrepressible Conflict, 1859-1865." A History of American Life in 12 Volumes, vol. VIII, Arthur M. Schlesinger, Sr., and Dixon Ryan Fox, editors (New York: The MacMillan Co., 1934), pp. 154-155.

¹⁸ Arthur M. Schlesinger, Sr., "The Rise of the City, 1878-1898," A History of American Life in 12 Volumes, vol. X, Arthur M. Schlesinger, Sr., and Dixon Ryan Fox, editor (New York: The MacMillan Co., 1934), p. 115.

¹⁹ Bruce Smith, Sr., "Police Systems in the United States" (2d rev. ed., New York: Harper and Bros., 1960), pp. 105-106.

hands, with political fixers determining the price and conditions of each change . . . The whole police question simply churned about in the public mind and eventually became identified with the corruption and degradation of the city politics and local governments of the period.

In an attempt to alleviate these problems, responsible leaders created police administrative boards to replace the control exercised over police affairs by mayors or city councils. These boards were given the responsibility of appointing police administrators and managing police affairs. Unfortunately, this attempt to cure political meddling was unsuccessful, perhaps because the judges, lawyers, and local businessmen who comprised the administrative boards were inexpert in dealing with the broad problems of the police.

Another attempt was made at police reform during the close of the 19th century. Noting that poor policing tended to occur mainly in urban areas, the State legislatures, which were dominated by rural legislators, required that police administrators be appointed by authority of the State. Thus State control became an alternative to local control of law enforcement. This move brought little success, for many problems had not been anticipated:²⁰

For one thing, the theory of state control . . . was not uniformly applied. It was primarily directed at the larger cities, by legislatures seeking to [perpetuate] rural domination in public affairs.

In spite of increased state control, the large city continued to pay for its police service, and police costs rose. One reason was that police boards were not even indirectly responsible to the local taxpaying public which they served. In cases where the State and city governments were not allied politically, friction increased. It increased further when the State-appointed administrator instituted policy out of harmony with the views of the majority of the city population. It was not until the first decades of the 20th century that cities regained control of police forces in all but a few cases.²¹

After these sincere attempts at reform during the last half of the 19th century, police forces grew in size and expanded in function. However, there was very little analysis of the changes in society that made expansion necessary nor of the effect such changes would work upon the role of the police. Civil service proved helpful, spreading to local police agencies and alleviating some of the more serious problems of political interference. The concept of merit employment, which some reformers had been proposing, was embraced by some forces.

One of the most notable police advancements of the 1900's was the advent of police training schools, even though on a somewhat modest basis. In the early 1900's, the new policeman learned chiefly in the school of experience:²²

. . . Thus, for the most part the average American city depends almost entirely for the training of its police recruits upon such casual instruction as older officials may be able and willing to give.

In numerous areas, however, it was not until the 1940's and notably in the 1950's that police departments established and, in many cases, greatly expanded their recruit training programs.

STATE AND FEDERAL LAW ENFORCEMENT AGENCIES

Although a State police force, known as the "Texas Rangers," was organized in 1835 to supplement Texas' military forces, modern State police organizations did not emerge until the turn of the century. In 1905, the Governor of Pennsylvania, in the absence of an effective sheriff-constable system, created the first State force. Its initial purpose was to cope with a public dispute between labor and management. Soon such continuing factors as the inadequacy of local policing by constables and sheriffs and the inability or unwillingness of city police forces to pursue lawbreakers beyond their jurisdictional limits convinced State legislatures of the need for Statewide police forces.²³

The majority of State departments were established shortly after World War I to deal with the increasing problem of auto traffic and the accompanying wave of car thefts. Today all States except Hawaii have some form of State law enforcement body. While some State agencies are restricted to the functions of enforcing traffic laws and protecting life and property on the highways, others have been given general policing authority in criminal matters throughout the State.

The role of the Federal Government in law enforcement has developed in a sporadic and highly specialized manner. Federal law enforcement actually started in 1789, when the Revenue Cutter Service was established to help prevent smuggling. In 1836, Congress authorized the Postmaster General to pay salaries to agents who would investigate infringements involving postal matters. Among the more important law enforcement responsibilities later recognized by Congress were internal revenue investigation and narcotics control. Congress authorized a force of 25 detectives in 1868 and increased the number in 1915. In 1924, J. Edgar Hoover organized the Federal Bureau of Investigation in the Justice Department.²⁴

With the expansion of interstate movement of people and goods, and Federal involvement in all aspects of life, the responsibilities of Federal agencies have increased significantly within the last few years. These Federal agencies are responsible to departments of the National Government. The Treasury Department's Secret Service is, for example, charged with the protection of the President and with investigating counterfeiting and forgery of Federal documents. Civilian departmental agencies, with the sole exception of the FBI, function under civil service regulations.²⁵

The manpower and jurisdiction of the FBI have increased greatly since its establishment. Some of the statutes that have been responsible for this expansion are the National Stolen Property Act, the Federal Kidnapping Act, the Hobbs Act (extortion), the Fugitive Felon Act, the White Slave Act, the National Bank Robbery Act,

²⁰ Id. at p. 186.

²¹ Id. at pp. 186-187. State control of urban police continues to exist in certain cities in Missouri, Maryland, Massachusetts, Maine, and New Hampshire.

²² Elmer D. Graper, "American Police Administration" (New York: The MacMillan Co., 1921), pp. 109-110.

²³ Supra, note 19 at pp. 147-150.

²⁴ Supra, note 5 at pp. 67-68.

²⁵ John Coatman, "Police" (London: The Oxford University Press 1959), p. 50.

Federal interstate gambling laws, and the Dyer Act. The last brings within the FBI's jurisdiction automobiles stolen and taken across the border of a State. Recent passage of strong Federal legislation has enhanced the FBI's role in the enforcement of civil rights.

MODERNIZATION

Serious study of police reform in America began in 1919. The problems exposed then and those faced by police agencies today are similar in many respects. For example, in 1931 the Wickersham Commission noted that the average police chief's term of office was too short, and that his responsibility to political officials made his position insecure. The Commission also felt that there was a lack of competent, efficient, and honest patrolmen. It said that no intensive effort was being made to educate, train, and discipline prospective officers, or to eliminate those shown to be incompetent. The Wickersham Commission found that with perhaps 2 exceptions, police forces in cities above 300,000 population had neither an adequate communications system nor the equipment necessary to enforce the law effectively. It said that the police task was made much more difficult by the excessively rapid growth of our cities in the past half century, and by the tendency of different ethnic groups to retain their language and customs in large cities. Finally, the Commission said, there were too many duties cast upon each officer and patrolman.²⁶ The Missouri Crime Commission reported that in a typical American city the police were expected to be familiar with and enforce 30,000 Federal, State, or local enactments!²⁷

Despite the complexity of these problems, many hopeful improvements have occurred in the past few decades. Some cities, counties, and States have taken great strides in streamlining their operations through reorganization and increased use of technology and the use of modern techniques to detect and apprehend criminal offenders. Others are on the threshold of modernization. But many departments remain static. And it is these that obviously constitute a burden on the machinery of justice, and are detrimental to the process of achieving a truly professional police service.

PROFILE OF THE POLICE

To understand many of the analyses and recommendations in this volume, it is helpful to have as background information a profile of law enforcement organization, manpower, and expenditures in the United States today. The statistical data, which are summarized in table 1, are explained in this section. Much of the same information will be expanded in later chapters as different aspects of policing are discussed in greater depth.

NUMBER OF POLICE AGENCIES, DISTRIBUTION, AND LINES OF RESPONSIBILITY

There are today in the United States 40,000 separate agencies responsible for enforcing laws on the Federal, State, and local levels of government. But law enforcement agencies are not evenly distributed among these three levels, for the function is primarily a concern of local government. There are only 50 law enforcement agencies on the Federal level of government and 200 departments on the State level. The remaining 39,750 agencies are dispersed throughout the many counties, cities, towns, and villages that form our local governments.²⁸

If we look at a breakdown of the numbers of local agencies, it is again apparent that distribution tends toward the local unit, for only 3,050 agencies are located in counties and 3,700 in cities. The great majority of police forces—33,000—are distributed throughout boroughs, towns, and villages.

Because the concept of local autonomy in enforcing laws has prevailed throughout our history and because the many local policing agencies have held firmly to their traditional jurisdictional authority, responsibility for maintaining public order is today extremely decentralized. This decentralization is further accentuated by the fact that a police officer's responsibility for enforcing law is usually confined to a single jurisdiction.

The problems caused by decentralization are many, particularly where a number of police agencies exist within a radius of a few miles. Jurisdictional barriers are often erected between these agencies; maintaining ade-

Table 1.—A Profile of Federal, State, and Local Law Enforcement Agencies

	Agencies	Full-time personnel				Dollars spent					Percent average annual increase, 1955-65
	Number in 1965	Number in 1955	Number in 1965	Percent of total in 1965	Percent average annual increase, 1955-65	Total in millions, 1955	Total in millions, 1965	Per capita expenditure, 1955	Per capita expenditure, 1965	Percent of dollars 1965	
Federal.....	50	22,000	23,000	6.2	0.5	129	220	\$0.78	\$1.26	8.5	7.7
State.....	200	22,000	40,000	10.8	8.2	139	315	.84	1.79	12.2	12.7
Local.....	39,750	229,000	308,000	83.0	3.4	1,091	2,051	6.60	11.25	79.3	8.8
Total.....	40,000	273,000	371,000	100.0	3.6	1,359	2,586	8.22	14.20	100.0	9.0
Percent increase.....			35.9				90.3		72.7		

SOURCE: Memorandum from Michael S. March, Assistant Chief of Education, Manpower and Science Division. U.S. Bureau of the Budget, May 11, 1966.

²⁶ National Commission on Law Observance and Enforcement, "Report on the Police," (Washington: U.S. Government Printing Office, 1931), pp. 5-7.

²⁷ Preston William Slossom, "The Great Crusade and After, 1914-1929," A His-

tory of American Life in 12 Volumes, vol. XII, Arthur M. Schlesinger, Sr., and Dixon Ryan Fox, editors (New York: The MacMillan Co., 1931), p. 102.

²⁸ Supra, note 5 at p. 153.

quate communication is difficult, and obtaining assistance from several adjacent agencies when needed becomes a complex operation.

The problems of decentralization have been overcome in part either by creating county, State, and Federal agencies or by increasing the responsibility of existing ones. These agencies have tended in many areas of the country to supplement and coordinate the work of local police agencies.

The 50 Federal law enforcement agencies have directed their efforts mainly to enforcing national laws dealing with interstate violations or with such specific Federal violations as theft of Federal property, postal violations, and counterfeiting U.S. currency, or with enforcing such Federal statutes as those that control the import and sale of narcotics. The duties and activities of these agencies have been defined by Congress through a series of statutes passed over a number of years. It is because of America's strong tradition of local autonomy that the Federal Government has not become extensively involved in local law enforcement.

The States have the primary constitutional responsibility for maintaining order within their boundaries, and all of the States have exercised this authority by enacting broad criminal codes. But because local police departments have traditionally maintained law and order within their jurisdictions and because thousands of violations occur daily in all parts of States, the responsibility for preventing crime has been delegated by States to the local governments in which the violations occur.

Through legislation each State has defined the scope of police responsibility among its many agencies—the State police; county sheriffs; and city, township, borough, and village police. The States have not only divided the responsibility for enforcing law among these various agencies, but they have also determined the extent to which each agency may exercise its power. In addition, State legislatures have passed statutes setting the bounds of civil and criminal liability for police officers who overstep their authority.

On the State level of government the State police are the major law enforcement agents. Their primary responsibility is to enforce some State laws, to patrol highways, and to regulate traffic. They also provide services as needed to local police such as maintaining a State system of criminal identification, conducting police training programs or providing a State communications system. Some States, in addition, have created specialized agencies to enforce particular regulations, such as conservation or alcoholic beverage control laws.

At the county level of government, the sheriff is the primary law enforcement officer. He is an elected official, whose term usually spans from 2 to 4 years and whose jurisdictional responsibility primarily covers unincorporated portions of each county. His functions include keeping the peace, executing civil and criminal process, patrolling the area, maintaining the county jail, preserving order in county courts, and enforcing court orders. The sheriff as a rule performs only restricted law enforcement functions in incorporated areas within a county, and

then usually only when the city requests his participation in such activities as patrol or investigation.

In suburban townships and municipalities, police officers are vested with broad law enforcement authority and perform functions similar to those of city police. In rural areas, where most of the 18,000 townships of America are located, police officers usually confine their activities to a limited range of ministerial and traffic duties. In the absence of a local police agency, the local unit of government relies upon the services of the sheriff or State police for law enforcement assistance. These duties may include patrol, investigation, or enforcement of traffic regulations.

Two additional types of police agencies operate on the local level of government. One is the police special service district, created to protect residents or industry in unincorporated portions of urban areas. But few of the Nation's 19,000 special service districts actually provide police service. Most have been created to provide fire protection, street lighting, drainage, and sewage treatment.²⁹ The second type is the force whose mission is highly specialized. Such forces may be established to protect parks, housing developments, ports, toll roads, and subways. But neither these forces nor police in special service districts have had significant impact on American police administration.

PERSONNEL

There were 420,000 full- and part-time law enforcement officers and civilians employed by police agencies in 1966. The majority of these persons—371,000—were full-time employees, and 11 percent, or approximately 46,000, were civilians. In 1965 there was an overall ratio of 1.7 police officers to every 1,000 persons.³⁰ (Tables 2 and 3 show police manpower and population ratios.) The total number of police employees at the local level of government has been increasing at an average annual rate of 3.5 percent over the past 8 years.³¹

Twenty-three thousand of the full-time officers serve at the Federal level of government, and 40,000 at the State level. The remaining 308,000 officers—or 83 percent of the total—are divided among the many county and local police agencies.

Table 2.—Full-Time Local Police Manpower Per 1,000 Population

	Police officers and civilians	Police officers only	Range in different geographical divisions
Cities over 250,000.....	2.6	2.3	1.5 to 4.1
Cities of—			
100,000 to 250,000.....	1.7	1.5	1.3 to 2.5
50,000 to 100,000.....	1.5	1.4	1.2 to 1.9
25,000 to 50,000.....	1.5	1.3	1.1 to 1.7
10,000 to 25,000.....	1.4	1.3	1.2 to 1.7
Cities under 10,000.....	1.4	1.3	1.2 to 1.9
Total.....	1.9	1.7	1.1 to 4.1

SOURCE: Federal Bureau of Investigation, U.S. Department of Justice, "Uniform Crime Reports, 1965" (Washington: U.S. Government Printing Office, 1966), p. 148-51. These data include civilian employees.

²⁹ Committee for Economic Development, "Modernizing Local Government" (New York: Committee for Economic Development, July 1966), p. 32.

³⁰ Federal Bureau of Investigation, U.S. Department of Justice, "Uniform Crime Reports, 1965" (Washington: U.S. Government Printing Office, 1966), p. 32.

³¹ Memorandum from Michael S. March, Assistant Chief of Education, Manpower and Science Division, U.S. Bureau of the Budget, May 11, 1966, table 4.

Table 3.—Full-Time Local Police Manpower By Character of Jurisdiction

	Population served	Number of agencies reporting	Number of police employees	Average number of employees per 1,000 population
City police.....	109,633,000	3,613	212,883	1.9
Suburban police ¹	40,251,000	1,770	55,040	1.4
County sheriffs.....	32,357,000	1,154	32,159	1.0

¹ Agencies and population represented in suburban area are also included in other city groups.

SOURCE: Federal Bureau of Investigation, U.S. Department of Justice, "Uniform Crime Reports, 1965" (Washington: U.S. Government Printing Office, 1966), p. 149.

Of the 308,000 police officers serving on the county and local level of government, about 197,500 enforcement officers are distributed among the 39,695 agencies with jurisdictions in county or local areas. These include:

- 3,645 cities of under 250,000 population,
- 3,050 counties, and
- 33,000 townships, boroughs, villages, and special districts.

The remaining 110,500 police personnel are divided among the 55 agencies enforcing law in the 55 cities of the United States of a population over 250,000.³²

The number of personnel in local police agencies also varies to a considerable degree among locales. On the county level of government the 3,050 sheriff's offices range from a one-man force in Putnam County, Ga., to a 5,515-man force in Los Angeles County, Calif. The average number of police officers serving on the county level is small; only about 200 counties of the 3,050 in the United States have a sheriff's staff of more than 50 officers.³³

In the local police forces below the county level of government the size of a force may vary from the 1- to 5-man force in the many boroughs and towns of the United States to the mammoth 28,671-member New York City police force.

Even within the radius of a major city, police forces have extraordinary range in size. Chicago, for example, has a total force of 11,745 civilians and officers. Within Cook and DuPage Counties, which encompass much of metropolitan Chicago, there are only 2,187 full-time officers enforcing the law among the 119 municipalities (other than Chicago) located there. One community in Cook County controls crime with only 1 full-time officer, assisted by a part-time complement of 26 people.³⁴

AVAILABILITY OF MANPOWER

Due to the great difficulties of attracting capable personnel, almost all large police departments in the United States are substantially below their authorized strength. In 1965 a survey of about 300 police departments—including nearly all of the large city departments—

showed that 65.5 percent of the forces polled were below authorized strength. The average force was 5 percent below its quota; the average large-city force was 10 percent below standard capacity.³⁵

The difficulties in filling quotas are increased by a low rate of eligibility among police applicants. In 1961 a survey indicated that the acceptance rate dropped from 29.9 percent in 1956 to 22.3 percent in 1961. (See table 4.) An even further rate reduction is suggested by recent experiences in two large metropolitan areas. In 1965, Washington, D.C., was able to hire less than 10 percent of people applying.³⁶ Los Angeles reported that only 2.8 percent of police applicants were accepted, and 4.9 percent of applicants for the county sheriff's police were hired.³⁷

Table 4.—Applicant Success Rates—Regional Replies—1956-61

Region	1956			1961		
	Applicants	Eligible	A.S.R., percent	Applicants	Eligible	A.S.R., percent
New England.....	2,934	992	33.8	2,107	700	33.2
Middle Atlantic.....	22,094	7,707	34.8	19,967	5,863	29.4
East North Central.....	7,111	1,211	17.0	5,939	879	14.8
West North Central.....	1,538	522	33.9	2,641	577	21.8
South Atlantic.....	5,518	1,580	28.6	4,851	1,125	23.2
East South Central.....	973	427	43.9	1,014	480	47.3
West South Central.....	1,881	689	36.6	3,066	764	24.9
Mountain.....	1,077	344	31.9	3,016	622	20.6
Pacific.....	7,887	1,795	22.8	13,018	1,420	10.9
Total.....	51,013	15,267	29.9	55,619	12,430	22.3

SOURCE: George W. O'Conner, "Survey of Selection Methods" (Washington: International Association of Chiefs of Police, 1962), table 33.

Manpower problems are also caused by turnover in personnel. Each year an average of 5 percent of a police department's force leaves the police service. In the next 10 years, as the mass of police officers recruited just after World War II reaches retirement age, many departments will face severe recruiting needs. For example, 41 percent of the existing Los Angeles Police Department³⁸ and 10 percent of the 83-man force in Joliet, Ill., will be eligible to retire in 1967.³⁹

The present need for manpower and the anticipated rate of turnover both indicate that over 50,000 new police officers will be required in 1967 alone.

CHARACTERISTICS OF PERSONNEL

In 1960 the census showed that the median age of male local law enforcement personnel was as follows:⁴⁰

	Years of age
Police and detectives.....	37.6
Marshals and constables.....	50.5
Sheriffs and bailiffs.....	45.4

A cross section of the age distribution of male and female police officers and detectives is seen in table 5.

³² International City Managers' Association, "The Municipal Year Book 1966" (Chicago: International City Managers' Association), pp. 444-445.

³³ Conversation with Ferris E. Lucas, Executive Director, National Sheriffs' Association, Washington, D.C., Oct. 31, 1966.

³⁴ Information received from the Illinois Police Association, Elmwood Park, Ill.

³⁵ Raymond L. Bancroft, "Municipal Law Enforcement, 1966," (Nation's Cities: Washington, Feb. 1966), p. 16.

³⁶ The President's Commission on Crime in the District of Columbia, "A Report

on the President's Commission on Crime in the District of Columbia" (Washington: U.S. Government Printing Office, 1966), p. 17.

³⁷ American Trial Lawyers Association, "Crime and Its Causes in Los Angeles" (Lancaster, Pa.: Golden West Publishing Co., 1966), pp. 7-8.

³⁸ Wall Street Journal, Apr. 5, 1966, p. 1, col. 5.

³⁹ Herald-News, Joliet, Ill., July 15, 1966, sec. 1, p. 1, cols. 5-7.

⁴⁰ U.S. Department of Commerce, Bureau of the Census, "U.S. Census of Population: 1960. Subject Reports. Occupational Characteristics," Final Report PC(2)-7A (Washington: U.S. Government Printing Office, 1963), table 6, p. 79.

Table 5.—Employed Public Police and Detective Personnel, by Age and Sex, 1960

Age range	15-17	18-19	20-24	25-29	30-34	35-44	45-54	55-59	60-64	65-69	70-74	75+	Total
Number of employees:													
Male.....	41	163	12,381	36,733	46,117	71,389	38,633	10,518	6,805	2,840	1,130	728	227,478
Female.....	0	40	364	695	881	2,077	1,179	221	60	19	20	0	5,556
Total.....	41	203	12,745	37,428	46,998	73,466	39,812	10,739	6,865	2,859	1,150	728	233,034

SOURCE: U.S. Department of Commerce, Bureau of the Census, "U.S. Census of Population: 1960. Subject Reports. Occupational Characteristics," Final Report PC(2)-7A (Washington: U.S. Government Printing Office, 1963), table 6, pp. 79, 89.

The median educational level of police officers has risen slightly in this decade. Figures released by the U.S. Department of Health, Education, and Welfare set the median at 12.4 years of education in 1966, a slight rise from the 12.2 level reported by the Bureau of the Census in 1960. A recent national survey of 6,300 police officers indicated that approximately 24 percent of patrolmen and 31 percent of top-level department administrators had attended college.⁴¹

Police personnel are predominately Caucasian. The 1960 census showed that only 3.5 percent of law enforcement employees throughout the Nation were non-Caucasian. A study by the Civil Rights Commission in 1962 revealed that only one-fifth of 1 percent of State police officers were Negro. Of the 36 Negroes serving as State police officers in the Nation, 24 were employed in Illinois.⁴² The same Civil Rights Commission survey polled 271 sheriffs' offices and found that in 1962 there was a Negro-white employment ratio of 1 to 20 on the county level of government.

Some cities have recently recruited a substantial number of Negro officers. In Washington, D.C., for example, Negro employment in the past few years has increased from 14 to 19 percent of the police force, and in Chicago it has increased from 9 to 20 percent of the force.⁴³ And a notable event occurred in the South in January 1967 when Lucius D. Amerson was sworn in as sheriff of Macon County, Ala. Amerson became the first Negro sheriff in a Southern jurisdiction since Reconstruction.

EMPLOYMENT REQUIREMENTS

More than 70 percent of the Nation's police departments have set the high school diploma level as an educational requirement for employment. About one-fourth of the agencies require no more than some degree of elementary education.⁴⁴ Most large cities and counties maintain a high school education or its equivalent as a minimum standard, and at least 22 departments have raised their standard to require college credit. But 21 of these are located in California.

Physical requirements for police employment are rigid. The minimum standards usually require that a recruit be between the ages of 21 and 35, have nearly perfect vision, weigh between 150 and 250 pounds, and be at least 5 feet 8 or 9 inches tall. Many departments only recruit people who have lived within the police jurisdiction for a given period of time before employment. The requirement for

preservice residency may vary from 6 months to 5 years. In 1965 more than two-thirds of local law enforcement officers throughout the United States were born in the State in which they were employed.

Almost all local police departments require that an applicant take written intelligence tests. But these tests are in no way standard, and many are ineffective for purposes of measuring educational achievement or personal capability for service. In 1961 a survey showed that only about 15 percent of the local agencies screened their candidates for emotional fitness as a routine procedure.⁴⁵ The National League of Cities, which sampled police departments in 1965, indicated that only 27 percent of the agencies responding conducted some kind of psychiatric evaluation of applicants.

POLICE COMPENSATION

In the past 30 years, police salaries have risen, and the number of hours worked in a week have been reduced. The 40-hour week is now standard in the majority of agencies. In small communities median salaries for patrolmen have risen from a figure of approximately \$1,600 in 1937 to \$4,600 in 1966. Maximum salaries rose from a 1938 figure of \$1,800 to a 1966 figure of \$5,500. In larger cities during these same years median beginning salaries for patrolmen, which had been \$1,900, rose to \$5,300. At the same time median maximum salaries rose from \$2,400 to about \$6,600. Compensation for chief administrators on a nationwide scale in 1938 ranged from \$1,980 to \$12,500 per annum.⁴⁶ In 1965 it had risen to a range of \$3,600 to \$35,000.⁴⁷

The above compensation figures do not include retirement, health, and other benefits accrued by public police employees.

POLICE TRAINING

Classroom training for recruits is a relatively new concept in American policing. During the early years of this century, experience on the job was the most prevalent method for learning police skills.⁴⁸ In the last few years, however, there has been a marked trend toward formal training programs for recruits. Of the 1,352 cities responding to a 1965 survey, 84 percent of city police forces reported formal, in-service training for police officers.⁴⁹

In 1965, a survey of law enforcement agencies showed that 4,000 agencies had appointed over 16,000 new police

⁴¹ Institute for Community Development and Services, Michigan State University, "Police Training in the Detroit Metropolitan Region: Recommendations for a Regional Approach" (draft submitted to the Metropolitan Fund, Inc., of Detroit, 1966), table 25, p. 70.

⁴² U.S. Commission on Civil Rights, "Administration of Justice, 1963" (staff report, draft submitted 1963), pp. 13-16.

⁴³ Ibid.

⁴⁴ George W. O'Connor, "Survey of Selection Methods" (Washington: International Association of Chiefs of Police, 1962), table 15.

⁴⁵ Id. at table 19.

⁴⁶ International City Managers' Association, "The Municipal Year Book 1939" (Chicago: International City Managers' Association), p. 424.

⁴⁷ Supra, note 32 at p. 434.

⁴⁸ Supra, note 22 at p. 110.

⁴⁹ Supra, note 32 at p. 437.

officers between July 1964 and June 1965.⁵⁰ The extent of the recruit training programs provided by these agencies is reflected in table 6. A 1966 survey indicated that 97 percent of the 269 agencies responding had formal training programs that ranged from 1 to 12 weeks.⁵¹

While almost 100 percent of the police departments in cities over 250,000 in population conduct their own recruit training programs, many of the smaller departments either have limited training programs or none at all. Some departments, which do not have their own training programs, use the training facilities of other local, State, and Federal agencies.⁵²

EXPENDITURES FOR LAW ENFORCEMENT

As table 1 shows, law enforcement services cost the Nation slightly in excess of \$2.5 billion in 1965. Approximately \$2 billion of this sum was allocated to local law enforcement agencies. The remainder was divided between State agencies, which received \$315 million, and Federal agencies, which obtained \$220 million.

The bulk of money for law enforcement is spent on salaries. At the local level a police department may spend between 85 and 90 percent of its budget for this purpose.⁵³

Like other services, the cost of policing has increased in the past few years. For example, since 1955, numbers of police personnel have increased about 36 percent and expenditures have soared 90 percent. The cost increase is primarily linked to the expense of salaries and equipment. If the present average increase in expenditures of almost 10 percent per year continues, law enforcement costs will total almost \$5.5 billion by 1975—more than double the 1965 figure.

Clearly, law enforcement is competing for tax dollars with a large number of other social services provided by all levels of government, for police agencies over the past 65 years have received a declining percentage of increasing total government expenditures. In 1902, for example, police agencies were allotted 4.9 percent of total governmental fiscal outlay. In 1962 this figure had declined to 3.5 percent.⁵⁴ The percentage of governmental

allotments to law enforcement continues to decline even though the cost of enforcing the law has risen from \$8.22 per capita in 1955 to \$13.52 per capita in 1964.⁵⁵

The costs of policing are highest in large urban areas. As depicted in table 7, the per capita policing costs in a city of over 1 million people are almost twice the cost of police activity in cities of between 200,000 and 300,000 population. Furthermore, the relative cost rate in the largest cities is more than triple that of cities having fewer than a 50,000 resident population.

The trend toward greater per capita expenditure in large urban areas is not a phenomenon unique to law enforcement. It demonstrates that the complex way of life found in large, populated cities today costs more than the relatively simple life of small towns. As expenditures for education, public welfare, and public housing increase, so do police budgets. A comparison between governmental expenditures in urban and nonurban areas is presented in table 8.

SPECIAL URBAN PROBLEMS

The relative urban-rural crime rate has been the subject of much statistical study in recent years. As crime rates have increased throughout the United States, the rate in cities has continued to be substantially higher than in less populous areas. For example, the FBI's "Uniform Crime Reports, 1965" indicates that the rate for robbery in urban areas was 88.6 per hundred thousand population, as compared to a rate of 9.9 in rural areas.⁵⁶ The urban rate of aggravated assault was 127.7 per hundred thousand population as compared to a rural rate of 58.3—more than double. Similarly, the urban rate for burglary was 732.7 per hundred thousand population as compared to a rural rate of 308.4. And the urban rate for larceny of \$50 and over was 492.0 per hundred thousand population, while the rural rate was 176.2.⁵⁷

In addition to the greater incidence of serious crime, urban police face rising rates for other types of crimes. The increase of petty crimes, for example, is much more severe in cities than in nonurban areas. The problem of drunkenness has caused a major drain on police time in

Table 6.—Percent of Departments Providing Recruit Training by Program Length, 1965

Population group	Weeks of training									
	Less than 1	1	2	3	4	5	6	7	8	More than 8
Over 1,000,000.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	80.0	60.0
500,000 to 1,000,000.....	100.0	100.0	80.0	80.0	80.0	80.0	70.0	70.0	70.0	60.0
250,000 to 500,000.....	100.0	88.0	84.0	84.0	84.0	80.0	68.0	52.0	52.0	40.0
100,000 to 250,000.....	100.9	97.7	85.3	77.5	67.4	58.4	46.0	34.8	24.7	14.6
50,000 to 100,000.....	100.0	91.0	76.1	64.0	53.4	43.9	29.2	12.6	10.5	4.7
25,000 to 50,000.....	100.0	81.6	69.5	53.5	42.9	34.1	23.8	9.7	6.2	2.5
10,000 to 25,000.....	100.0	74.2	61.5	48.3	38.6	29.3	21.0	7.6	6.0	4.9
5,000 to 10,000.....	100.0	63.3	49.4	33.9	26.1	21.3	15.3	5.7	3.8	1.6
Under 5,000.....	100.0	48.6	39.0	25.3	18.0	14.7	9.6	2.3	1.5	1.0
Percent of agencies.....	100.0	68.3	56.0	42.0	33.4	27.7	19.0	8.1	6.0	3.5
Percent of total officers.....	100.0	87.6	76.6	69.0	63.1	57.9	49.5	41.0	34.7	25.9
Number of total officers.....	16,169	14,178	12,399	11,162	10,203	9,362	8,011	6,632	5,619	4,199

SOURCE: International Association of Chiefs of Police, "Police Training," report submitted to the President's Commission on Law Enforcement and Administration of Justice Washington, D.C., 1966.

⁵⁰ International Association of Chiefs of Police, "Police Training," report submitted to the President's Commission on Law Enforcement and Administration of Justice, Washington, D.C., 1966.

⁵¹ Supra, note 35 at p. 20.

⁵² Supra, note 50.

⁵³ Supra, note 27 at p. 443.

⁵⁴ U.S. Department of Commerce. Bureau of the Census of Governments: 1962, vol. VI, no. 4, "Historical Statistics on Government Finances and Employment" (Washington: U.S. Government Printing Office, 1964) table 1.

⁵⁵ Supra, note 31, table 2.

⁵⁶ Supra, note 30 at pp. 94-95.

⁵⁷ Ibid.

Table 7.—General Services and Police Expenditures Per Capita by City Population, 1963-64¹

	City population						
	50,000 and less	50,000 to 100,000	100,000 to 200,000	200,000 to 300,000	300,000 to 400,000	500,000 to 1,000,000	1,000,000 and over
City per capita expenditure on:							
General services.....	73.23	119.11	137.93	135.12	133.97	178.74	248.12
Police.....	8.74	12.19	12.78	13.92	14.82	19.21	27.31

¹ Source: U.S. Department of Commerce, Bureau of the Census, Government Finances in 1963-64, table 4, p. 22.

Table 8.—Per Capita Local Government Expenditure Patterns Within and Outside Metropolitan Areas in the United States, 1962

	Within SMSA's ¹	Outside SMSA's	United States
Total.....	267.05	199.68	242.96
Education.....	97.29	95.29	96.57
Highways.....	18.46	22.85	20.03
Public welfare.....	16.13	9.78	13.86
Police protection.....	12.59	5.28	9.98
Fire protection.....	7.79	2.91	6.05
Sewerage.....	8.44	3.98	6.85
Housing and urban renewal.....	8.69	1.61	6.16
Parks and recreation.....	6.43	1.77	4.77

¹ Standard Metropolitan Statistical Areas.

SOURCE: Advisory Commission on Intergovernmental Relations, "Metropolitan Social and Economic Disparities: Implications for Intergovernmental Relations in Central Cities and Suburbs," "Report" A-25, Jan. 1965, p. 51.

large cities, while in the small town the problem is likely to be handled quickly and informally in the relatively few cases where it comes to police attention. Major metropolitan areas also face increasing incidents of juvenile delinquency, fed by social conditions in the city. Fi-

⁵⁸ Samuel G. Chapman, "Police Manpower and Population Changes in Michigan Communities of 10,000 or More Population, 1950-60" (East Lansing, Mich.: Institute

Table 9.—Mean Per Capita Expenditure of Cities on Police Services, 1951

City type	Number of cities	Mean per capita expenditure
Major resort city.....	5	\$11.36
Core city of major metropolitan area.....	77	7.35
Industrial suburb.....	68	7.17
High-income residential suburb.....	34	6.95
Low-income residential suburb.....	68	5.72
Core city of minor metropolitan area.....	106	5.56
Independent city.....	137	4.95
Mean for 462 cities.....		6.04

SOURCE: Ruth L. Mace, "Municipal Cost-Revenue Research in the United States," Institute of Government, University of North Carolina, 1961, p. 164, computed from data in U.S. Department of Commerce, Washington Bureau of the Census, "Compendium of City Government Finances in 1951," pp. 44-61.

nally, the complex city problem of daily traffic snarls requires police regulation and control different in degree from that required in small towns.

The changing makeup of urban population is another factor in explaining the increasing cost of police services today. Table 9 shows the per capita expenditures for policing in different types of urban areas.

Each large urban sprawl has one major section that serves as the commercial hub. Generally, the number of residents in this hub is relatively few in comparison to the surrounding area. During the day the middle and upper classes travel to the central area for business purposes sometimes increasing the population enormously. Although Detroit's resident population, for example, had decreased 9.7 percent between 1950 and 1960, its week-day population had approximately doubled. The Detroit police force was, therefore, required to add 133 personnel, an increase of 2.8 percent, to serve a city whose population was decreasing.⁵⁸ Similar considerations apply to resort cities whose populations increase several fold during the seasonal influx of tourists.

for Community Development and Services, Michigan State University, 1961), pp. 8-9

Law Enforcement Policy: The Police Role

Law enforcement has always been a difficult task. It is especially difficult in a society such as ours that has so heterogeneous and mobile a population; that has so prosperous an economy; that has so high a degree of urbanization, with its accompanying congestion and anonymity; and that places so high a value on individual freedom, upon equality under the law, and upon local control over the police power.

The current widespread concern with crime and violence, particularly in large cities, commands a rethinking of the function of the police in American society. It calls for a reassessment of the kinds of resources and support that the police need to respond more adequately to the demands that we make upon them.

In this effort to look at the police function, the term "police" is used to refer to all persons having law enforcement responsibility, but major emphasis is upon the departments and the police officers, particularly patrolmen, who have responsibility in the large urban areas for dealing with the wide range of social and behavioral problems that are of primary concern today.

THE RANGE OF PROBLEMS CONFRONTING THE POLICE

While each person has a somewhat different impression of the nature of the police function, based primarily upon his personal experiences and contacts with police officers, there is a widespread popular conception of the police, supported by news and entertainment media. Through these, the police have come to be viewed as a body of men continually engaged in the exciting, dangerous, and competitive enterprise of apprehending and prosecuting criminals. Emphasis upon this one aspect of police functioning has led to a tendency on the part of both the public and the police to underestimate the range and complexity of the total police task.

A police officer assigned to patrol duties in a large city is typically confronted with at most a few serious crimes in the course of a single tour of duty. He tends to view such involvement, particularly if there is some degree of danger, as constituting real police work. But it is apparent that he spends considerably more time keeping order, settling disputes, finding missing children, and

helping drunks than he does in responding to criminal conduct which is serious enough to call for arrest, prosecution, and conviction. This does not mean that serious crime is unimportant to the policeman. Quite the contrary is true. But it does mean that he performs a wide range of other functions which are of a highly complex nature and which often involve difficult social, behavioral and political problems.

Individual misbehavior with which the police must deal, for example, ranges from that of the highly dangerous, assaultive sex offender to that of the petty thief or common drunk. Organized criminal activity varies from that affecting a large segment of a community, such as the "policy" or "numbers" rackets, to the two-party agreement between a burglar and the person buying his stolen property. The peace-keeping function of the police requires that they deal with human conflicts ranging from large-scale rioting to disputes between husbands and their wives. Laws enacted to preserve order within a community require the police to perform a variety of tasks, from enforcing traffic regulations to assuring that dogs, peddlers, and various businesses have their proper licenses. And, in addition, the police are called upon to provide certain emergency services which their availability and skills qualify them to fulfill—services largely unrelated to crime or potential crime situations.

It is generally assumed that police have a preventive and protective role as well. Thus, for example, the police endeavor, through such activities as patrol, to lessen opportunities for the commission of crimes; they initiate programs to reduce the racial tensions that exist in the ghettos of large cities; they conduct educational programs to promote safe driving and prevent accidents. Police are expected to afford protection to individuals who are likely to be victimized or are in some other way prey to harm—the down-and-out drunk, the mentally ill, or the naive patrons of vice activity who may be subjecting themselves to the risk of robbery or worse. Moreover, they are expected to preserve the right of free speech—even when that speech is intensely antagonistic and likely to incite opposition.

To fulfill their obligations, the police are given formal authority to invoke the criminal process—to arrest, to prosecute, and to seek a conviction. But making use of

this traditional process is much more complex than is commonly assumed, due to the infinite complications that distinguish separate incidents. The police must make important judgments about what conduct is in fact criminal; about the allocation of scarce resources; and about the gravity of each individual incident and the proper steps that should be taken.

When the police are dealing with highly dangerous conduct, for example, they are expected to arrest the offender, and participate in his prosecution in order to insure correctional treatment. But when the conduct is not considered particularly dangerous as, for example, in the case of the common drunk, police may conclude—given the volume of cases—that it is not worth the effort to invoke the full criminal process. Often the police will simply pick up the drunk, detain him overnight, and release him when sober.

Domestic disputes account for a high percentage of the total number of incidents to which the police are summoned. They generally occur late at night and result in a call for the police because an assault has taken place, because there is the potential for violence, because the neighbors are disturbed, or simply because a low income couple has no other source of help in arbitrating marital conflicts. Given the nature of such disputes, the formal system of arrest, prosecution, and conviction is rarely an appropriate means for dealing with them. In the absence of likely alternatives to police involvement, police officers are left with the responsibility for dealing with such situations without being adequately equipped to do so.

When criminal activity involves a "willing buyer" and a "willing seller," a somewhat different pattern of problems is present. Widespread community support for some forms of gambling activity or an ambivalent community attitude toward some forms of sexual conduct require that a police agency decide what constitutes an appropriate level of enforcement. In the absence of a complainant, police must determine the amount of resources and the investigative procedures that they should employ to discover criminal offenses.

Because a high percentage of crimes is committed by juveniles, police are frequently called upon to deal with the youthful offender. In spite of this, there remains uncertainty as to the proper role of the police in the juvenile process. In practice most incidents involving juveniles are disposed of by the police without referral to a social worker or a judge, and consequently what police do is of great significance.

Finally, police must respond to the conflicts that arise out of what has been termed the "social revolution." It is difficult, in policing such situations, to distinguish between legitimate and illegitimate group behavior and to balance the value of free expression against the risk of public disorder. The lines which must be drawn are difficult to determine and call for policy decisions quite different from those made in traditional crimes like burglary.

It has been argued that many of the complex problems of the criminal process could be solved by more narrowly

defining the police function. If drunkenness were dealt with by medically qualified people, for example, police would not have to contend with the habitual drunk. If family problems were handled by social work agencies, police would not have to deal with the many domestic and juvenile matters which now confront them. If the substantive criminal law were revised, police would not be confronted with the difficult decisions resulting from broad prohibitions against narcotics, gambling, prostitution, and homosexual activity. And if increased efforts were made to solve some of the social ills that give rise to criminality, the police could be relieved of many of their crime prevention functions.

But little effective action has been taken to develop the kind of resources required by the adoption of any of these alternatives. Some courts have recently held that it is unconstitutional to treat habitual drunkenness as a criminal offense. Presumably, this means that the police should no longer be concerned with public drunkenness, although it is possible that the police might be involved through a process which is medically rather than criminally oriented. But the test of such decisions is in whether they result in a more adequate and humane method of dealing with drunks rather than in their conformity with principle. Because few efforts have been made to develop alternatives to police involvement, the consequence of police not taking action is that drunks would be left to lie where they fall.

Proposals to relieve the police of what are essentially social services have also been lacking in their consideration of the relationship of such services to the incidence of more serious crimes. Domestic disturbances, for example, often culminate in a serious assault or a homicide. The down-and-out drunk is almost a certain victim of a theft if he is left to lie on the street and has any article of value on him. The streetwalking prostitute may, in one sense, be primarily a social problem, but many streetwalkers engage regularly in arranging the robbery of their patrons as a supplement to their income.

It might be desirable for agencies other than the police to provide community services that bear no relationship to crime or potential crime situations. But the failure of such agencies to develop and the relationship between the social problems in question and the incidence of crime suggest that the police are likely to remain, for some time, as the only 24-hour-a-day, 7-day-a-week agency that is spread over an entire city in a way which makes it possible for them to respond quickly to incidents of this kind.

If, as seems apparent, continued reliance is to be placed upon law enforcement agencies for meeting the wide range of functions that now comprise their task, it is important that attention be turned to the manner in which they perform those functions.

THE POLICE RESPONSE

To urge recognition of the fact that the police task covers a wide range of activities and that it is highly complex is not to maintain that the police adequately fulfill all of their functions. It is obviously difficult and often

impossible for police officers to respond in an appropriate manner to the numerous incidents called to their attention. They are under constant pressure, especially in highly congested areas, to handle a volume of cases that is beyond their capacity—forcing them to develop “short-cut” responses to run-of-the-mill situations. They lack adequate training with respect to some of the more complex social problems. And there has been little effort to provide individual officers with the guidelines which they require if they are expected to make more effective and judicious decisions in disposing of the incidents which come to their attention. In the absence of adequate resources, training, and guidance, the tendency is for individual police officers to attempt to meet largely by improvisation the varied demands made upon them.

Some indication of the manner in which this is achieved can be gathered from the following account of an observer who accompanied two police officers functioning in a congested urban area during a tour of duty that began in the early evening hours:

After receiving routine instructions at the rollcall held at the precinct station, Officers Jones and Smith located the car to which they were assigned and started out for the area in which they would spend their tour of duty. While enroute, the officers received instructions from the dispatcher to handle a fight in an alley. Upon arrival, they found a group of young men surrounded by their parents, wives, and children.

One of the young men, A, had a couple of knives in his hand. While the knives were within legal limits, Officer Smith took them (and later disposed of them in a refuse container). Another of the young men, B, stood by his mother. The third, C, stood by A, from whom the knives had been taken.

The mother of B was the complainant. She claimed that C had attacked her son with a knife and she demanded that C be arrested and jailed. C readily admitted he had been fighting with B, but he claimed that he had just tried to protect A. C had been drinking and was very belligerent. He indicated a readiness to take on anyone and everyone, including the police. He kept shouting and was obviously antagonizing the officers.

A attempted to explain the situation. He stated that he had been the one originally fighting B and that C had merely come to his aid. B concurred in this account of what had taken place, though he did not reflect very much concern as the supposed victim of the attack.

A's mother-in-law interrupted at this time to claim that A was innocent; that the fight was B's fault. B's mother did not stand for this accusation and entered the fray.

The confusion spread. Other police officers, in the meantime, had arrived at the scene and the number of observers had grown. Officers Jones and Smith decided to take the participants to the precinct station where conditions would make it possible to make a more orderly inquiry.

At the station, the families and participants were separated and talked with individually. The mother of B insisted on signing a complaint against C and A, but finally relented as to A when he promised not to allow C to come to his apartment.

C was then formally arrested and charged with disorderly conduct. A and B were sent home with their wives and mothers. By charging C with disorderly conduct rather than a more serious crime, the officers observed that they were saving themselves some paperwork. They felt that their action in letting the mother sign a complaint against the “loudmouthed” C had served to pacify her.

After filling out the arrest reports on C, Officers Jones and Smith notified the dispatcher that they were available and resumed patrolling. But in several minutes they were dispatched to another beat to handle a domestic situation.

A young Indian girl met them at the door. There obviously had been a fight; the place was a shambles. Furniture was broken, food was on the floor, and beer cans were scattered everywhere. The girl gave an explanation to which the police officers were very much accustomed—her husband had gotten drunk, had become angry, and had gone on the “warpath.” When she told the officers that her husband had been behaving in this manner for 5 years, any sympathy which they had for the girl disappeared. They explained that they were not in a position to do anything for her since her husband was not there. They advised her to go to court to obtain either a warrant for his arrest or to arrange for the issuance of a peace bond.

Upon reporting back in service with the dispatcher, Smith and Jones were assigned a domestic problem involving a couple who had been married for 27 years. The couple had only recently begun to have trouble getting along. But when the difficulty started, it was serious. The wife had been attacked by the husband a week previously and had suffered a concussion. She was now back from the hospital and wanted her husband locked up. The woman led the officers to the apartment, but the husband had, in the interval, left. They then went through the ritual of telling the wife the procedure by which she could obtain a warrant or a peace bond. They also told her to call back if she had any more trouble.

After this call, there was a short lull in activity, during which the officers patrolled the southeast corner of their assigned area. They were then told to see a complainant at a designated address.

The complainant, it turned out, was a landlord. One of his tenants had a child who had been bothering other tenants. The mother had been told to quiet the child down, but she apparently had not done so. In addition, the mother was behind in the rent. The landlord had attempted to serve her with an eviction notice but had not been able to find her at home.

The mother was at work at a lounge and the landlord asked the officers to serve the eviction notice on her there. The officers explained that they would not be able to do so since the lounge was outside the district to which they were assigned. The landlord countered this by contending that he had been a friend of the police and that he had helped them in the past. He also stressed that he was a taxpayer. Officer Jones reacted by requesting the dispatcher to assign a police officer to meet the landlord at the lounge and help him in serving the notice. The officers, in this manner, disposed of the incident.

Smith and Jones were next dispatched to investigate a noisy party. When they arrived at the scene, they found the party was going “full blast.” They knocked and, when the door was answered, Officer Smith asked for the host. He told the person who then came to the door that someone had complained and that they would have to “hold the noise down.” The host and others who were listening in readily agreed. When Officer Jones notified the dispatcher that the first party had been quieted, the men were dispatched to another.

The officers could not find the second party and could hear no loud noise at the address which had been given. Officer Jones requested the apartment number from the dispatcher. Both officers then went to the apartment. When the hostess came to the door, Officer Smith told her that someone had complained about a loud party. He told her that while the party seemed quiet enough at the moment, she should be careful because she evidently had some touchy neighbors.

Smith and Jones stopped for a coke before placing themselves back in service. While they were parked, Officer Jones spotted a “downer” in the doorway of the office occupied by the city council member representing the area. They called for a patrol wagon. They then went over to the drunk, awakened him, and asked him some questions. He had been sleeping and eating wherever he could, having slept the previous night in a “flop-house” downtown. When the wagon arrived, the “downer” was placed in it and taken to jail.

When the officers reported back in service, they were immediately assigned to a juvenile disturbance at a hotdog stand. They did not rush to the scene, since they had been there numerous times in the past.

The owner of the hotdog stand would not force the youths to leave, letting them stand about until the whole parking area was

congested. He would then call the police. Smith and Jones dispersed the crowd. One youth started to resist but moved on when Officer Jones threatened him with jail.

The officers informed the dispatcher that they had handled the problem at the hotdog stand and then resumed patrol. They had traveled several blocks from the hotdog stand when they observed a driver run a red light. The officers gave chase and pulled the vehicle over to the side of the street. The motorist, it was revealed, had just returned from Vietnam and Officer Smith felt that he deserved a break. He released him with a suggestion that he be more careful. While Officer Smith was talking to the veteran, Officer Jones spotted a fight between two youths. He ran over, broke it up, and talked to the combatants. He sent them on their way with a warning.

The officers requested permission from the dispatcher to take time out to eat, but he responded by sending them back to the first party that they had quieted.

A great deal of damage had been done by the time they arrived. The youths had gotten drunk and loud. They had created a disturbance when the party broke up and the manager of the building had called the police. The officers advised the manager to exercise more care in deciding upon the people to whom she rented her apartments. Since the persons causing the disturbance had already gone, there was nothing else that the officers could do; they departed.

They again asked permission to take time for food, but were instead dispatched to the scene of a stabbing. They hurried to the location, which turned out to be a new portable public swimming pool.

There were three persons present—two lifeguards and a watchman. One of the lifeguards had been knifed. He was placed in the police car and officers started off for the nearest hospital. Enroute, the victim told the officers that a man had tried to go swimming in the pool after it had been closed for the night. When the lifeguard attempted to stop the intruder, he was stabbed during the scuffle. The other lifeguard called the police. At the hospital, the officers made out their reports while the victim received medical care. They later returned to the scene but found no additional information or people who would assist in the identification of the assailant. The reports were turned in for attention by the detectives.

The officers then, without asking, took their meal break, after which they reported that they had completed their work on the stabbing. They were dispatched to a party disturbance. Upon arriving at the scene, they encountered a young fellow walking out of the building carrying a can of beer.

He was stopped and questioned about the party. Officer Smith told him that "this is not Kentucky" and drinking on the street is not allowed. The fellow agreed to take the officer up to the party. When he turned to lead the way, Officer Jones observed a knife in the youth's back pocket. He took the knife away. There was not much going on at the party. Those present were admonished to keep it quiet.

Back on patrol, the officers cruised for a short period. It was soon quitting time, so they headed in the direction of the precinct station. As they turned a corner, Officer Smith saw a couple of fellows drinking on the street, but rather than get involved at this time, nothing was done.

This day in the life of Officers Jones and Smith reflects the broad and varied demands for police service, the pressures under which it is provided, and the informal and improvised responses which tend to develop. While neither articulated nor officially recognized, common responses obviously tend to develop in frequently recurring situations.

A new police officer quickly learns these responses through his associations with more seasoned officers. The fact that a response is routine does not mean that it is satisfactory. To the contrary, many routine responses are applied on the basis of indefensible and improper

criteria. But once developed, the routine response is generally immune to critical reevaluation unless a crisis situation should arise. Because of their informal character, such responses tend not to be influenced by developments in police training. And, because they consist of the accumulated experiences of frontline officers, they tend to take on a vitality which continues even without the active support of the higher echelon of police administration.

Unique situations do arise, usually where the frequency of a given kind of incident is small, for which there is no routine response. Unless time permits him to confer with his sergeant, the individual officer is left to respond without any form of guidance. Under such circumstances, the decision of the individual officer will reflect his own personal values and opinions about people and about group behavior.

Improvement in the capacity of law enforcement agencies to perform the essential and highly sensitive functions that comprise the total police task requires a willingness on the part of the public and the police to take several bold steps.

There must, in the first place, be a more widespread recognition on the part of the citizenry and the police of both the range and the complexity of the problems which the police confront. Secondly, there must be a willingness on the part of the police to respond to these problems by the careful development and articulation of policies and practices which are subject to continuing reevaluation in the light of changing social conditions.

POLICE ATTITUDE TOWARD THEIR ROLE IN THE DEVELOPMENT OF LAW ENFORCEMENT POLICIES

The absence of carefully developed policies to guide police officers in handling the wide variety of situation which they confront is in sharp contrast to the effort taken to provide detailed guidance for other aspects of police operations.

Like all military and semimilitary organizations, a police agency is governed in its internal management by a large number of standard operating procedures. Elaborate regulations exist dealing with such varied phases of an agency's internal operations as the receipt of complaint from citizens, the keeping of records, and the transportation of nonpolice personnel in police vehicles. Established procedures govern such matters as the replacement of vehicles, uniforms, and ammunition. Police agencies also have established policies with respect to certain public service functions, but these usually do not involve important criminal law issues. There are policies, for example, which provide guidance in determining whether to transport a person requiring emergency medical assistance, in deciding whether to take a stray dog into custody, and relating to the inspection of the premises of a vacationing resident.

Progressive police agencies have developed sophisticated methods for establishing procedures in these areas

methods which call for analyzing the basic problems, weighing the desirability of various alternative solutions, and then developing and adopting criteria to serve as a basis for the decisions of operating personnel.

In contrast, there have been only occasional efforts to make use of a deliberative planning process to develop policies to guide and control police officers in dealing with the wide variety of situations that require the exercise of some form of police authority.

One of the most adequate statements of enforcement policy was produced in New York State in conjunction with the enactment in 1964 of the new "stop and frisk" law. Police and prosecuting officials recognized that this newly legislated authority to stop and question persons short of arrest and to subject them to a frisk was vulnerable to attack on constitutional grounds, and they were aware that opposition to its passage would result in its implementation being closely watched.

It was for these reasons that the New York City Police Department and the District Attorney's Office joined with other law enforcement agencies throughout the state to publish a set of guidelines for operating personnel prior to the date on which the new law became effective.¹ Five pages of specific requirements, limitations, prohibitions, and examples were used to elaborate upon the legislation which itself is contained in two relatively brief paragraphs. Emphasis was not placed upon defining the law so much as it was upon urging the police to exercise restraint and to act well within the outer limits of their prescribed authority.

In the area of traffic enforcement, a number of jurisdictions have developed "tolerance policies" which establish the point above the speed limit at which officers are to warn a motorist or issue a summons to him, and also provide criteria for making similar decisions with regard to other types of motor vehicle violations. Such policies are most frequently found in State police organizations, reflecting a need for providing guidelines for the isolated officer who cannot frequently consult with his supervisor or with fellow officers. They also reflect an organizational response to the demands for fairness and uniformity voiced by the cross-section of citizens who commit traffic violations—a group with the capability of insisting upon consistency in law enforcement.

There also have been some efforts on the part of police agencies to formulate policies relating to the disposition of juvenile offenders. This has, for the most part, consisted of an attempt to develop criteria to serve as a basis for deciding whether to release a juvenile offender to his parents, refer him to a social agency, or process him through the juvenile court.

Significant as these efforts are, they deal with but a small portion of the total police responsibility.

There are a number of factors which account for the general failure of police to develop policies for dealing with crime and potential crime situations, in contrast to their willingness to do so for issues of internal management of the department.

In the first place, devising procedures for handling routine matters of internal management can be done with

relative certainty and assurance that the decision will not be a subject of major debate in the community. Few people are concerned about these issues. To the extent that there is public interest, police seem confident of the propriety of their making policy decisions and of their ability to defend decisions that are made. In contrast, procedures for frisking suspects in high crime areas, for dispersing crowds which gather, and for deciding who is to be arrested inevitably involve difficult and sensitive questions of public policy.

Many police administrators are caught in a conflict between their desire for effective, aggressive police action and the requirements of law and propriety. Direct confrontation of policy issues would inevitably require the police administrator to face the fact that some police practices, although considered effective, do not conform to constitutional, legislative, or judicial standards. By adopting a "let sleeping dogs lie" approach, the administrator avoids a direct confrontation and thus is able to support "effective" practices without having to decide whether they meet the requirements of law.

The police administrator has greater control over management questions than he does over the criminal justice process, responsibility for which he shares with the legislature, the courts, the prosecutor, and other agencies. The fact that the courts in particular have assumed increasing responsibility for control in this area has resulted in a prevalent attitude by police administrators that criminal justice policy decisions are not their concern. As a consequence, neither police training nor research has been directed toward these basic policy questions.

The reluctance of the police administrator to deal explicitly with important enforcement policies is reflected in a common administrative attitude toward "tolerance limits" developed in the traffic field which are usually maintained with a high degree of official secrecy. The reluctance to publicize "tolerance limits" reflects several factors: (1) a concern that the administrative action which they reflect would be criticized as a perversion of legislative intent—a concern which gives rise to the basic issue of the propriety of police policymaking; (2) a fear that publication would lead to a public debate as to what constitutes an appropriate tolerance and would lead to arguments between the officer and the offender in a given case—a concern which relates to the willingness of police to be held publicly accountable for the policy decisions which they make; (3) a concern that the existence of such a document might be used as a basis for litigation in those situations in which an officer chooses to enforce the be free to deviate from their own policy in an individual case without having to justify such deviation; and (4) a fear that widespread awareness of the existence of such tolerances would result in drivers adjusting their behavior, utilizing the established tolerances rather than the posted and published laws as their guides.

In contrast, police agencies that have formulated policies relating to juvenile offenders have generally made their policies public. The frankness with which discretion is acknowledged in the handling of juveniles is ap-

¹ See Attachment A, a Policy Statement on the New York "Stop-and-Frisk" and "Knock, Knock" Laws Prepared by New York State Combined Council of Law Enforcement Officials, June 1, 1964, appearing at the end of this chapter.

parently attributable to (1) general recognition that it is both necessary and desirable for police to handle a large number of juvenile cases at the police level without referring them to the courts, an assumption less common with respect to adults; (2) a feeling that the juvenile process is in the "best interests" of the child while the adult process is punitively oriented—thus the sort of flexibility considered appropriate in dealing with the juvenile may be thought of as a denial of equal protection as it pertains to the adult offender; and (3) the usual existence of a specially trained group of juvenile police officers to whom the decisionmaking function is delegated.

The various factors that have been cited, taken together, account for the absence of a tradition for policymaking in most aspects of police functioning that relate to crime and potential crime situations. As a result, individual officers continue to depend primarily upon routine responses and upon their individual judgment when functioning in these areas. And critical problems which the police confront do not receive the kind of attention which they require.

THE NEED TO RECOGNIZE THE POLICE AS AN ADMINISTRATIVE AGENCY WITH IMPORTANT POLICYMAKING RESPONSIBILITY

There are two alternative ways in which police can respond to the difficult problems currently confronting them:

(1) The first is to continue, as has been true in the past, with police making important decisions, but doing so by a process which can fairly be described as "unarticulated improvisation." This is a comfortable approach, requiring neither the police nor the community to face squarely the difficult social issues which are involved, at least until a crisis—like the current "social revolution"—necessitates drastic change.

(2) The second alternative is to recognize the importance of the administrative policymaking function of police and to take appropriate steps to make this a process which is systematic, intelligent, articulate, and responsive to external controls appropriate in a democratic society; a process which anticipates social problems and adapts to meet them before a crisis situation arises.

Of the two, the latter is not only preferable; it is essential if major progress in policing is to be made, particularly in the large, congested urban areas.

To assert the importance of the police playing an important role in the development of law enforcement policies in no way detracts from the importance of the legislature, the appellate and trial judiciary, or the prosecutor.

There is undoubtedly need for greater legislative attention to the important issues of the criminal law. Major improvement can be made by thorough revision and codification of the substantive law, following the lead of some of the States and the American Law Institute's Model Penal Code. There is need and opportunity to go further and to deal with some of the borderline types of criminal conduct which have either been ignored or dealt with

inadequately in the revisions which have taken place. Major improvement can also be made by careful legislative attention to some of the basic and important questions involved in criminal procedure and administration. However, the opportunity for careful legislative attention in this field is complicated by appellate judicial opinion announcing increasingly specific rules of constitutional procedural due process.

However great the legislative contribution may be, experience demonstrates that legislatures can never deal specifically with the wide variety of social and behavioral problems which confront police. Legislation was inadequate to deal in detail with regulation of the economy during the depression of the 1930's. As a consequence there was a great increase in the number of economic regulatory agencies and in the importance of the administrative process. The administrative agency has survived as an essential vehicle for the introduction of needed flexibility and expertise in the economic regulatory process.

Certainly there is no reason to expect that legislatures can be more effective with respect to the work of police than they were with respect to the task of the economic regulatory agency. The "administrative process" and administrative flexibility, expertise, and, most important, administrative responsibility are as necessary and as appropriate with respect to the regulation of deviant social behavior as they are with respect to other governmental regulatory activity. This seems perfectly obvious. Yet the common assumption has been that the police task is ministerial, this perhaps reflecting an assumption that administrative flexibility and "the rule of law" are inconsistent. This assumption seems invalid. The exercise of administrative discretion with appropriate legislative guidance and subject to appropriate review and control is likely to be more protective of basic rights than the routine, uncritical application by police of rules of law which are often necessarily vague or overgeneralized in their language.

The judiciary has played and will undoubtedly continue to play an important role in the determination of what are proper law enforcement practices. It is a proper and traditional function of courts to listen to complaints from citizens alleging abuse of power by governmental agencies. And, through their interpretation of the Constitution, courts have defined the limitations upon the proper exercise of governmental power.

How specifically courts become involved with detailed law enforcement practices in the future may well depend upon how willing legislatures and police are themselves to assume the responsibility for defining appropriate practices and insuring conformity with them. However, no matter how specifically judicial review may deal with enforcement practices, it cannot be an adequate substitute for responsible police administrative policymaking. Judicial review is limited, for the most part, to cases which "go to court," and many important and sensitive police practices used in maintaining public order and settling minor disputes are seldom reflected in court proceedings. In addition, judicial review is most effective

if it relates to carefully developed administrative policies rather than to the sporadic actions of individual police officers.

The prosecutor has an important responsibility in the development of appropriate law enforcement policies. But there are practical reasons why his involvement cannot adequately substitute for a commitment by police to the importance of their participating, in a major way, in the policymaking process. Usually the prosecutor, particularly in the large urban areas, confines his principal attention to cases in which there is a desire to prosecute or to issues which are important to the political life of the community. He seldom, for example, becomes involved in the development of a policy for settling domestic disturbances or dealing with the down-and-out drunk or streetwalking prostitute.

The problems which confront law enforcement today are sufficiently important and sufficiently complex to require the participation of the prosecutor, the legislature, and trial and appellate courts. But it is essential to realize that they require as well the mature participation of police, as a responsible administrative agency, in the development and implementation of enforcement policies. Some of the advantages to be gained by such participation are worth describing in some detail.

THE MAINTENANCE OF ADMINISTRATIVE FLEXIBILITY

The problems confronting police are such that it seems both necessary and desirable that police be given some flexibility to adapt law enforcement practices to changing social conditions. Giving police flexibility is not new. Police have had a great deal of flexibility in the past, but this has been as a result primarily of legislative default rather than deliberate, overt legislative choice. A traditional legislative response to difficult issues has been either to deal with them by an overly generalized statute as is the case with respect to gambling, or not to deal with the issue at all which has been the case, until recently at least, with respect to stopping and questioning suspects.

The practical consequence has been to leave police with broad flexibility, but the delegation of responsibility has been at best implicit and police have not taken it as a mandate to develop and articulate proper enforcement policies. Partly as a consequence of this, the trend has recently been pretty clearly in the direction of increasingly specific rules to govern police conduct. This is certainly the effect, for example, of the *Miranda* case. This trend is inspired in large part by a prevalent assumption that police are unwilling or unable to develop proper policies and to conform their practices to those policies.

In some situations, control by specific judicial or legislative rule may be workable. Where this is the case there is opportunity for major legislative contribution through carefully drafted code provisions which clearly and adequately prescribe proper police practice. In other situations, however, highly specific rules may result in an inflexibility which makes the system unable to react adequately to complex and changing conditions. For example, police have had broad flexibility in dealing with the

domestic disturbance—the fight between husband and wife—which, in the large city, often results in a call to police. These disturbances occur in such widely varied circumstances and there are such varied ways of dealing with them, that it would be both difficult and unwise to try to specify the police response by categorical legislative treatment. Under present conditions, there seems obvious merit in allowing police flexibility in dealing with the domestic disturbance provided that this flexibility is not abused. The development by police of proper policies for dealing with the domestic disturbance and a demonstrated willingness to adhere to those policies would aid greatly in maintaining the desired flexibility.

A SOUND BASIS FOR THE EXERCISE OF DISCRETION

The results of efforts on the part of individual police officers, under current practice, to improvise their response to many of the situations they confront are often surprisingly good considering the absence of systematic planning: disputes are resolved; persons are disarmed; people not in control of their capacities are protected; and many are spared what, under some circumstances, would appear to be the undue harshness of the criminal process. But there are numerous situations in which mere volume and the lack of guidance result in an officer disposing of incidents less satisfactorily because of the ease with which the matter can be disposed of, the officer's personal attitudes toward the victim or the complainant, or his guess as to what form of disposition will most please his immediate supervisor. Similarly, command officers and entire departments will often respond to situations in a manner primarily dictated by the pressures exerted by the community, rather than by careful assessment of the competing values involved.

Proper and consistent exercise of discretion in a large organization, like a police department, will not result from the individual judgment of individual police officers in individual cases. Whatever the need for the exercise of judgment by an individual officer may be, certainly the development of overall law enforcement policies must be made at the departmental level and communicated to individual officers. This is necessary if the issues are to be adequately defined and adequately researched and if discretion is to be exercised consistently throughout the department.

ACKNOWLEDGMENT OF THE "RISK FACTOR" INVOLVED IN POLICING

Numerous factors contribute to the defensive posture commonly assumed by the police. Among them is an awareness on their part that members of the public will often question their exercise of discretion in a case in which subsequent developments focus attention upon an officer's decision. A police officer may, for example, locate one underage youth in a group of young people engaged in a drinking party. The fact that he is only under age by one month may influence the officer to release him with a warning. However, if subsequently the

released youth becomes involved in a serious accident, the fact that he was released earlier in the evening will often result in the officer being castigated by his superior because he has no publicly acknowledged right to exercise discretion, although all agree that it is both necessary and desirable that he do so.

Given the range of responsibilities which the police have, they cannot be held to a system of decisionmaking which involves no risk-taking—any more than can psychiatrists in deciding whether to release a person who has attempted suicide or parole board members in voting upon the release of an inmate. The formulation of policy and its articulation to the public would, over a period of time, begin to educate the public into recognizing that the police must not only exercise discretion, but must assume a risk in doing so. Prior statements which “put the community on notice” with regard to police functioning in various areas would afford some relief from the current dilemma in which, in the absence of such policy formulations, the police are both subject to ridicule for not exercising discretion and subject to condemnation for making such judgments when they do not work out.

A MEANS FOR UTILIZING POLICE EXPERTISE

Many actions which the police officer takes are based upon the knowledge and experience which he has accumulated in his years of service. For example, an officer may, in deciding whether a situation is a suspicious one, reach a judgment quite different from that which would be reached by an inexperienced layman or even an experienced trial judge. An officer may have the ability to recognize the smell of narcotics or the sound of a press used in printing illegal numbers or policy tickets. Yet there has been little effort made to capitalize upon police experience or to attempt to assess its reliability: to distinguish accurate inferences from inaccurate ones; or to systematize experience so that it can be effectively communicated through police training to new police officers and to others, like judges, when the propriety of police action is challenged.

MORE EFFECTIVE ADMINISTRATIVE CONTROL OVER POLICE BEHAVIOR

Lacking a formulated policy and thus a preannounced basis for internal disciplinary action, the police administrator is hesitant to impose sanctions upon the individual police officer who acts improperly but whose conduct does not violate the law or departmental regulations.

The police administrator finds himself caught in a conflict between his desire to be responsive to a citizen who has reason to complain about a policeman's behavior and his fear of the reaction of his force to seemingly arbitrary discipline where there is no clear breach of a preannounced standard of proper conduct.

This reluctance to characterize an officer's conduct as unwise is increased when the administrator feels that to do so will result in either the officer or the municipality being sued for damages. The administrator, therefore, may be placed in the position of defending a given action as legal,

and thus seemingly “proper,” even though it reflected judgment on the part of an officer. To minimize the chance of similar situations in the future, the administrator may urge his subordinates to use “common sense,” this is not very effective unless he is able to indicate clearly what “common sense” is in the wide variety of situations confronted by the police officer.

Formulated administrative policies to which police officers are required to adhere would provide a basis for disciplining those who violate them and would serve in a positive way to inform members of a force who are expected of them. Progress in elevating the quality of law enforcement is much more likely to come about as a result of trying to induce conformity to standards prescribed by department policy than by relying solely upon those minimal “legal” standards which must be adhered to to avoid civil liability or to avoid having important evidence suppressed in a criminal prosecution.

THE IMPROVEMENT OF RECRUIT AND INSERVICE TRAINING PROGRAMS

Recruit training in police agencies is most often inadequate because the instruction bears little relationship to what is expected of the officer when he goes to work in the field. In the absence of recorded and analyzed formulations of police experience, the instructor usually is left only with the formal definition of police authority, and this is often communicated to the trainee by reading statutory definitions to him. Procedures for dealing with crime and potential crime situations are thus typically taught in doctrinaire fashion. Laws are read on the assumption that they are to be fully enforced. With this kind of formal training, the new officer finds that he has to acquire a knowledge of all the patterns of accommodations and modifications from the more experienced officers with whom he is initially assigned. As he becomes aware of the impracticality and lack of realism in much of what he learned, he may begin to question the validity of all aspects of his formal training.

The obvious need is for training related to the important problems which the officer will face in the field training which will not only inform him of the limits of his formal authority but will also inform him of the department's judgment as to what is the most desirable administrative practice to follow in the implementation of his formal authority.

This kind of training has an additional advantage. If adequately done it ought also to serve as one important way of raising the basic enforcement issues requiring attention. Thus training can serve to improve the process by which administrative policies are developed and the adequately developed policies will, in turn, make training more effective.

A BASIS FOR THE PROFESSIONALIZATION OF THE POLICE

It is now commonplace to refer to practically any effort that is aimed at improving law enforcement as contributing toward the professionalization of the police

Thus, improved training, the application of the computer to police work, the adoption of a code of ethics, and increased salaries have all, at one time or another, been cited as contributing toward police professionalization.

Certainly, there is much that police do today that would not, under any definition, be viewed as constituting professional work. Directing traffic at a street intersection or enforcing parking restrictions requires stamina, but little knowledge of the social structure of the community. In sharp contrast, however, the beat patrolman assigned to police a congested, high crime area is called upon to make highly sophisticated judgments having a major impact upon the lives of the individuals involved. Such judgments are not mechanical in nature. They are every bit as complicated as the decisions made by any of the behavioral scientists and in many instances are more difficult because they must be made under the pressure of the immediate circumstances.

Adequate development of administrative policies for dealing with complex social and behavioral problems will require the maximum use of police experience, research, and experimentation. The effort to systematize experience and to test its validity by research is one important mark of a profession. Another, also implicit in the development of proper administrative policy, is adherence to values more basic than those required in the interest of efficiency. These relate to the place of police and law enforcement in a democratic society.

The utilization of experience, research, experimentation, and the effort to define the proper role of police in our society would constitute a more adequate basis for the development of a true profession.

INVOLVING THE POLICE IN THE IMPROVEMENT OF THE SYSTEM OF LAW ENFORCEMENT

Decisions relating to the enforcement function have traditionally been made for the police by others. The police have typically not been consulted when changes were contemplated in the substantive or procedural criminal law, despite the fact they clearly have more experience in dealing with some of the basic issues than anyone else. The reason that they have not been consulted is probably because they have not been considered qualified to deal with the complicated questions involved. But it probably is also true that police lack this skill precisely because they have not been involved in the making of important decisions in the past.

Today there is a strong commitment to the involvement of minority groups, young people and the poor in decisions about their future in the view they will respond most affirmatively if they have a feeling of participation in the initial decision. The same need is apparent in relation to police. They too are more likely to want to conform and have an ability to conform if they are part of the process for making important decisions affecting criminal justice administration.

CURRENT POLICE PRACTICES IN NEED OF ADMINISTRATIVE POLICY FORMULATION

Most practices currently used by police to deal with crime or potential crime situations give rise to important and sensitive policy questions of a kind that can and should be dealt with carefully and systematically by a law enforcement agency. Illustrative of these are the decision as to whether or not to make an arrest; the decision to use or not use certain methods of detection or investigation such as surveillance, field interrogation, or search; the decision to release rather than prosecute some guilty persons who have been arrested; the effort to keep public order by breaking up crowds and ordering people to keep moving; the settlement of minor disputes by the use of various formal or informal devices; and the effort to protect the right of free expression for individuals or groups who wish to express views unpopular to the majority of people in the community.

There are other aspects of the police function which also raise important policy questions. The ones listed are, however, adequate to illustrate the difficulty of the issues and the importance of police developing and articulating policies for dealing with them. They are discussed in some detail to give an indication of the kinds of questions which can and should be addressed in re-evaluating current practice and developing adequate policies for the future.

THE DECISION WHETHER TO INVOKE THE CRIMINAL PROCESS

Whether a criminal prosecution is initiated against an individual depends, in most instances, upon a police judgment. Theoretically, this judgment is based upon the statutory definition of the crime, but it is abundantly clear that there are many situations in which a violation has in fact occurred and is known to the police, but where there is no effort by the police to make an arrest. Among the factors accounting for this exercise of discretion are the volume of violations, the limited resources of the police, the overgeneralization of legislative enactments defining criminal conduct, and the various local pressures reflecting community values and attitudes.

Social gambling affords a good example of the dilemma which police face. In most jurisdictions, all forms of gambling are illegal. Yet it is apparent that legislatures neither intend nor expect that such statutes be fully enforced. The consequence is that police are left with the responsibility for developing an enforcement policy for the particular community. The policy of a department may, for example, be clear, albeit unwritten, with regard to games of chance at church carnivals. They may be permitted because of their charitable nature. But, in the same community, the police response to gambling in a private home may vary with the circumstances of the individual case.

Usually there is no written policy but rather an informal policy which may reflect factors such as: Is there a complainant and, if so, is he adversely affected by the

gambling activity? Is the gambling the prime purpose in a group's getting together, or is it incidental to some other activity or pastime, such as a bridge game? Is the activity organized? Do the participants know each other? Were they steered to the location for purposes of engaging in gambling, or is the assemblage a get-together of old friends? Is the gambling for small stakes? Is there a profit separate from winnings being realized by the individual hosting the activity or by any one of the individuals present?

It is not clear that the existence of any one of these factors will necessarily result in an arrest. Usually police will take action when there is an insistent complainant or when there is evidence that the gambling activity is commercial in nature. The difficulty is that the employment of such criteria by individual officers may lead to disparity in practice and even where practice is consistent may involve basic policy questions which are not raised and thus not considered and resolved. Complaints may originate from neighbors who are disturbed by the noise from the gambling or from wives who are either concerned over the monetary losses of their spouses or resent their absence from home. Should a police agency allow itself to be "used" under such conditions? Is a pattern of enforcement which takes action only when there is an insistent complainant a desirable one?

The tests used in practice to determine whether the game is "commercial" rather than "social" also raise important policy questions which have not been resolved. Social gambling in a ghetto area takes on a different form than does social gambling in a middle-class neighborhood. A number of men commonly get together in a private apartment, placing comparatively small bets on a dice game. When the police investigate such get-togethers, they typically find that the participants cannot identify each other; the gambling is therefore viewed as not "social" and thus properly subject to enforcement. Yet, considering the pattern of life in a ghetto area, is there any reason to characterize such behavior as more reprehensible than that engaged in by a group of men involved in a poker game for some financial stakes at a local country club? Under present practice, the participants in the dice game will generally be arrested, searched, transported to a lockup, detained overnight, and brought before a judge the following morning. For the police, the net effect of such actions seems obvious; relationships with the residents of a ghetto area, which are typically very strained, are further aggravated.

The police action with regard to the dice game in the ghetto area is often in response to complaints from ghetto residents who are disturbed by the game. It is also a response to the general police concern, based on prior experiences, that the dice game in such areas frequently ends in a fight, sometimes resulting in a homicide. Intervention by the police is viewed as serving a crime prevention function. But neither of these aspects, i.e., the attitude of the community or the relationship of the dice game to more serious crime, is studied and evaluated. As a consequence the current police practice gives the appearance of improper class and racial discrimination.

The police handling of aggravated assaults raises a different character. These offenses come to attention more routinely because they frequently occur in public; the victim or witnesses seek out the police as a desire for police intervention before more harm is done; or simply because the victim desires police assistance in acquiring medical aid. But while the perpetrator is known to the victim in a high percentage of cases, there frequently is no arrest or, if an arrest is made, it is followed by release by the police without prosecution. This is especially true in the ghetto areas of urban centers, due, according to police, primarily to an unwillingness on the part of the victim to cooperate.

The failure to make an arrest for a serious assault is especially common if the parties involved are relatives or close friends. Police, based upon their experience, feel that there will be an unwillingness on the part of the victim to assist in establishing the identity of the assailant, in attending showups, in viewing photographs, or even in answering questions truthfully. Even if the victim cooperates at the investigation stage, the police assume from their experience that the willingness to cooperate will disappear at the time of trial when the victim will refuse to testify and may even express a desire that the assaultive husband or acquaintance be set free.

It would be possible for police to achieve some success in assault cases by resort to the subpoena in order to compel the victim to testify. But this procedure is seldom used. Given the high volume of cases and the competing demands upon a police agency, the path of least resistance is to acquiesce to the desires of the victim. The position is often rationalized on the grounds that the injured party was the only person harmed and that the community as a whole was not affected by the crime. These cases can be written off statistically as clearances, which is viewed as an index of police efficiency, and thus the most immediate administrative pressure is satisfied.

There is serious question about the relationship between current police practice in ghetto assault cases, on the one hand, and the amount of crime and community attitudes toward police, on the other hand. If the criminal justice process does deter, why will it not deter assaultive behavior in the ghetto area?

To what degree does police tolerance of assaultive conduct result in the formulation of negative attitudes on the part of ghetto residents toward law and order in general? What is the impact upon the residents of a ghetto when an attack by a ghetto resident upon a person residing outside the ghetto results in a vigorous prosecution?

Today these and other basic policy questions which can be raised are not dealt with by the police. Their practice continues to be informal, and, as a consequence, may very well serve to complicate rather than solve important social problems. Were the police to review their current practices, they might well conclude, for example, that so far as assaults are concerned, it is desirable to base police decisions to arrest on such criteria as the nature of the assault, the seriousness of the injury, and the prior record of the assailant.

THE SELECTION OF INVESTIGATIVE METHODS

Although there has been increasing attention given by legislatures and particularly by courts to the propriety of current police detection and investigative methods, there remain many areas in which the determination as to the investigative technique to be used is left for the police. Neither legislatures nor courts have been much involved, for example, with the propriety of police use of "undercover" or "infiltration" techniques, surveillance, or the employment of methods intended to afford an opportunity for an alleged offender to commit a crime in a manner that will make evidence of his offense available to the police.

On the other hand, some police investigative practices, like search for physical evidence, have been subject to increasingly close judicial scrutiny.

If the present trend continues, it is not at all unlikely that current investigative practices thought by police to be proper and effective will be held to be unconstitutional or subject to increasingly specific rules. This has occurred with respect to in-custody interrogation which is now specifically controlled by the *Miranda* decision. Whether this will happen with respect to other police practices will depend in large measure upon whether police can develop policies which differentiate the proper from the improper use of the particular investigative practice and develop the capacity to see to it that improper methods are not used as a matter of informal departmental policy or by individual officers out of either ignorance or excessive zeal.

Field interrogation is illustrative of an important police investigative technique which may or may not survive attack. Police have generally argued that the right to stop and question people is essential, especially when persons are observed in an area in which a crime has just been committed.

But, with several exceptions, there has been little effort to provide individual officers with carefully developed guidelines to assure that such interrogation is sparingly and carefully employed under conditions that justify its use.

The use of field interrogation as an investigative technique is complicated by the fact that it is a part of the total preventive patrol program which represents a current response of police in large cities to the demand that the "streets be made safe." Preventive patrol often involves aggressive action on the part of the police in stopping persons using the streets in high-crime areas and in making searches of both persons and vehicles. The purpose is not only to talk with individuals who may be suspected of having recently committed crimes but, more broadly, to find and confiscate dangerous weapons and to create an atmosphere of police omnipresence which will dissuade persons from attempting to commit crimes because of the likelihood of their being detected and apprehended.

It is probably true that an aggressive program of preventive patrol does reduce the amount of crime on the street, although there has been no careful effort to meas-

ure the effectiveness of this technique. It is also apparent, however, that aggressive preventive patrol contributes to the antagonism of minority groups whose members are subjected to it. A basic issue, never dealt with explicitly by police, is whether, even solely from a law enforcement point of view, the gain in enforcement outweighs the cost of community alienation.

The continuation of field interrogation as a police investigative technique depends upon a police willingness to develop policies which carefully distinguish field interrogation from clearly illegal street practices and to take administrative steps to demonstrate that a proper field interrogation program can be carried out without it leading also to indiscriminate stopping and searching of persons on the street. As yet, police have failed to make this kind of demonstration, and thus today field interrogation as a police investigative technique remains in jeopardy.

THE DECISION NOT TO PROSECUTE INDIVIDUALS WHO HAVE BEEN ARRESTED

While it is the practice in some States to take all arrested individuals before a judge, it is standard procedure in others for the police to release some individuals prior to their scheduled court appearance. Drunks are often given their freedom when they are sober. Juveniles are often released after consultation with parents or a social service agency. And in large urban areas, narcotic addicts and minor peddlers are often released with a grant of immunity in exchange for information leading to the arrest of more serious violators.

Where it is the practice to release some drunks without charging them, eligibility for release tends to be based upon such factors as appearance, dress, reputation, place of residence, and family ties. The process is generally intended to separate the common drunk from the intoxicated person who "knows better," but, in the judgment of the police, simply had "one too many." Whether this kind of distinction adequately serves an enforcement or social welfare objective is not entirely clear. Certainly police, who are daily confronted with the problem of the drunk, ought to give continuing attention to whether defensible criteria are being employed. Perhaps more important, they ought to lend support to and participate in an effort to develop ways of dealing with the alcoholic which are more sensible than the current arrest and release programs.

In some communities meaningful criteria have been formulated as a basis for the police decision as to whether a juvenile offender should be released to his parents, referred to a social agency, or brought before the juvenile court. In other communities, however, such decisions continue to be made without an articulated basis and often reflect indefensible criteria such as the color of the child, his attitude toward the police, or the status of the parents in the community.

The practice of releasing some narcotic addicts and minor peddlers in exchange for information or cooperation raises complex issues. Persons involved in narcotics control assume that the investigation of narcotics traffic

requires the accumulation of knowledge from those who are involved and that convictions depend upon the help of informants who are given immunity in return for co-operation. Certainly this is a practice also in need of continuing evaluation to determine whether the gain really justifies the costs which are involved.

THE ISSUANCE OF ORDERS TO INDIVIDUALS REGARDING THEIR MOVEMENTS, ACTIVITIES, AND WHEREABOUTS

The public, whether as pedestrians or motorists, generally recognizes the authority of the police to direct their movements in traffic. But there are many other situations in which police regularly tell people what to do under circumstances where police authority is less clear. Police order people to "keep the noise down" or to stop quarreling—usually in response to a complaint from a neighbor. They frequently direct a husband to stay away from his wife with whom he has had a fight. They order a young child found on the streets at night to go home. Troublesome "characters" are ordered to stay out of a given area. Persons who congregate on street corners are often told to disperse.

Police generally assume that congregating on a street corner is likely to give rise to disorderly conduct. This is especially true if such assembling takes place outside of taverns; if those who assemble are intoxicated to varying degrees; and if there is heavy pedestrian traffic which is likely to be blocked by the congregating group. The police response is to order the persons to "move on"—thus presumably minimizing the risk of a group disturbance. This response tends to become standard operating procedure applied to all groups that congregate on sidewalks and street corners, without regard to the varying character of the groups. In some cultural groups, for example, congregating on the streets is the most common form of socializing. In some congested areas of a city, the corner is used because of the absence of adequate public recreational facilities. For police to respond to these groups in the same manner as they respond to an intoxicated group outside a tavern may not serve a real enforcement objective. It may, instead, strain the relationship between the police and the residents of areas where the street corner is the place of social and recreational activity.

The practice of ordering people to "move on" is one which has major implications and one which warrants more careful use. Confronting the question of proper policy in dealing with congregating groups would afford police an opportunity to give attention to why groups congregate; to distinguish those congregations which create risk of serious disorder from those which do not; and to relate police work with other community programs designed to create positive social and recreational opportunities for persons who now lack these opportunities.

THE SETTLING OF DISPUTES

A substantial amount of the on-duty time of police officers is devoted to the handling of minor disputes between neighbors; between landlords and their tenants;

between merchants and their customers; between cab drivers and their riders; and between husbands and wives. Relatively little importance is attached to the handling of such matters by police administrators, particularly in large urban areas. The patrolman who responds to the disturbance usually either informs the parties of their right to initiate a prosecution; undertakes to effect a resolution of the dispute by ordering the parties to leave each other alone (advising the drunk husband to go to the movies, for example); or uses some other form of on-the-scene counseling. The method used depends largely upon the attitude of the individual officer.

Important policy questions are raised by the handling of all disputes and particularly by police handling of domestic disturbances. Yet, there has not been a systematic effort to measure the results of the alternative methods which police use or to develop more adequate referral resources (to social agencies, for example) which might, if they existed, provide a basis for a preventive police program for dealing with disputes like domestic disturbance. In an effort to develop adequate policies to guide the actions of the individual patrolman, police should learn how often disturbances are caused by families who are the subject of police intervention on a repetitive basis; how often the husband or wife swears out a complaint; the disposition of such cases; their impact upon the likelihood of future disturbances; the number of serious assaults or homicides which result from domestic disturbances and whether these follow a pattern which will enable the patrolman to identify a potentially dangerous situation; and the kinds of referrals which can be referred, with positive results, to existing community resources for dealing with family problems.

Through the process of careful evaluation of existing practices, police can acquire a competence which should enable them to develop more adequate methods of follow-up work in the domestic disturbance case, thus giving the emergency intervention of the individual officer more meaning and perhaps in the long run reducing the heavy burden on police who deal with this type of recurring social problem.

THE PROTECTION OF THE RIGHT TO FREE EXPRESSION

None of the functions which police perform so illustrates the sensitive and unique role of the police in a democratic society as that involved in the safeguarding of the constitutional rights of free speech and assembly. Police frequently find themselves in situations where they are called upon to provide adequate protection for a speaker or demonstrating group that wishes to exercise the right to express opinions, however unpopular the opinions may be and however hostile their audience.

Many urban police have not developed and formulated policies to guide police action in such situations. Although the issues involved in recent demonstrations reflect many factors which are beyond police control, it is nonetheless a fact that the manner in which police respond to demonstrations will determine, in large measure,

whether violence will break out and, if it does, the degree to which the resulting conflict will escalate and spread.

The problem is particularly difficult because of the fact that police officers may themselves identify more with maintaining order in their community, particularly to prevent disorder created by outsiders, than they do with their basic responsibility to preserve the right of free expression of social and political views. Thus, the officer assigned to a white neighborhood may view a Negro march through the neighborhood in favor of open housing as both a threat to public order in his district and also a threat to the values of the people in the neighborhood on whose support he depends in his day-to-day work.

In rural areas or small cities, the population may be relatively homogeneous, and thus the police officer can be responsive to the local citizens without this producing conflict for him. But the large urban areas today are made up of communities which differ in economic, racial, religious, and other characteristics. The officer who protects the right of free expression of ideas may find himself protecting an attack upon the segment of the community with which he identifies.

Adequate and consistent response by police in the highly tense situations which arise in some political and social demonstrations obviously requires a careful effort to work out in advance those policies which will govern their actions. Development of policies must be coupled with an effort to communicate them to individual officers in a way which will give each officer a basis for identifying with the protection of freedom of expression as an important enforcement objective. In addition, an effort must be made to articulate such policies to the affected community so that the public understands the reasoning behind police actions. This, in itself, can serve to lessen the likelihood of major disorders.

THE POLICY FORMULATION PROCESS

The formulation of policies is a difficult undertaking. For police officials who have not previously been called upon to fulfill the function, the task requires the development of a systematic process by which important issues are identified, studied, and resolved. The police are, of course, in a position to benefit in this effort from the experiences of other administrative agencies that are, in varying degrees, committed to developing guidelines covering their respective operations.

IDENTIFICATION

Police attention is currently drawn to problem areas only when crises arise. The recent civil rights disorders, for example, have resulted in a reexamination of police practices in some jurisdictions. There are obvious limitations in examining operating practices under the kinds of pressures generated by such crises. It would be preferable for the police to make use of a number of alternative methods by which issues can be dealt with before they reach crisis proportions.

One method of identifying important issues is by the analysis of routine complaints that are received. While there are dangers in relying on complaints as an adequate index of discontent with police actions because of the reluctance of large segments of the population to file complaints, they nevertheless often reveal patterns of police action which at least suggest the need for inquiry.

Another method of identifying important issues is by observation of field procedures. The size and semimilitary nature of large police organizations often result in those at the top of the agency having a quite different concept of prevailing practices than actually exists at the operating level. Absent an opportunity for occasional involvement at the operating level, administrative and supervisory personnel tend to discuss practices and resolve problems while quite oblivious to what is happening on the streets.

A third method of identifying important issues is by analysis of court decisions. Recurring problems become apparent to the trial judge, but typically are not communicated to the police. Motions to suppress evidence may, for example, be routinely granted because of the procedure used by the police in acquiring the evidence. Systematic review of these cases would disclose to the police administrator patterns of field practices which ought to be reevaluated.

Many operating police officers are themselves conscious of the need for addressing particular problems, but the semimilitary nature of the police agency tends to stifle the initiation of suggestions or the calling of attention to major problems by persons occupying the lower ranks of the organization. One means for overcoming this is through an effective in-service training program. Experienced officers, placed in a classroom setting which takes them out of the chain-of-command, can be encouraged to discuss the relationship between existing policies and apparent needs in the field. Training instructors ought to encourage such discussions and to communicate the field problems to those who are in a position to correct them.

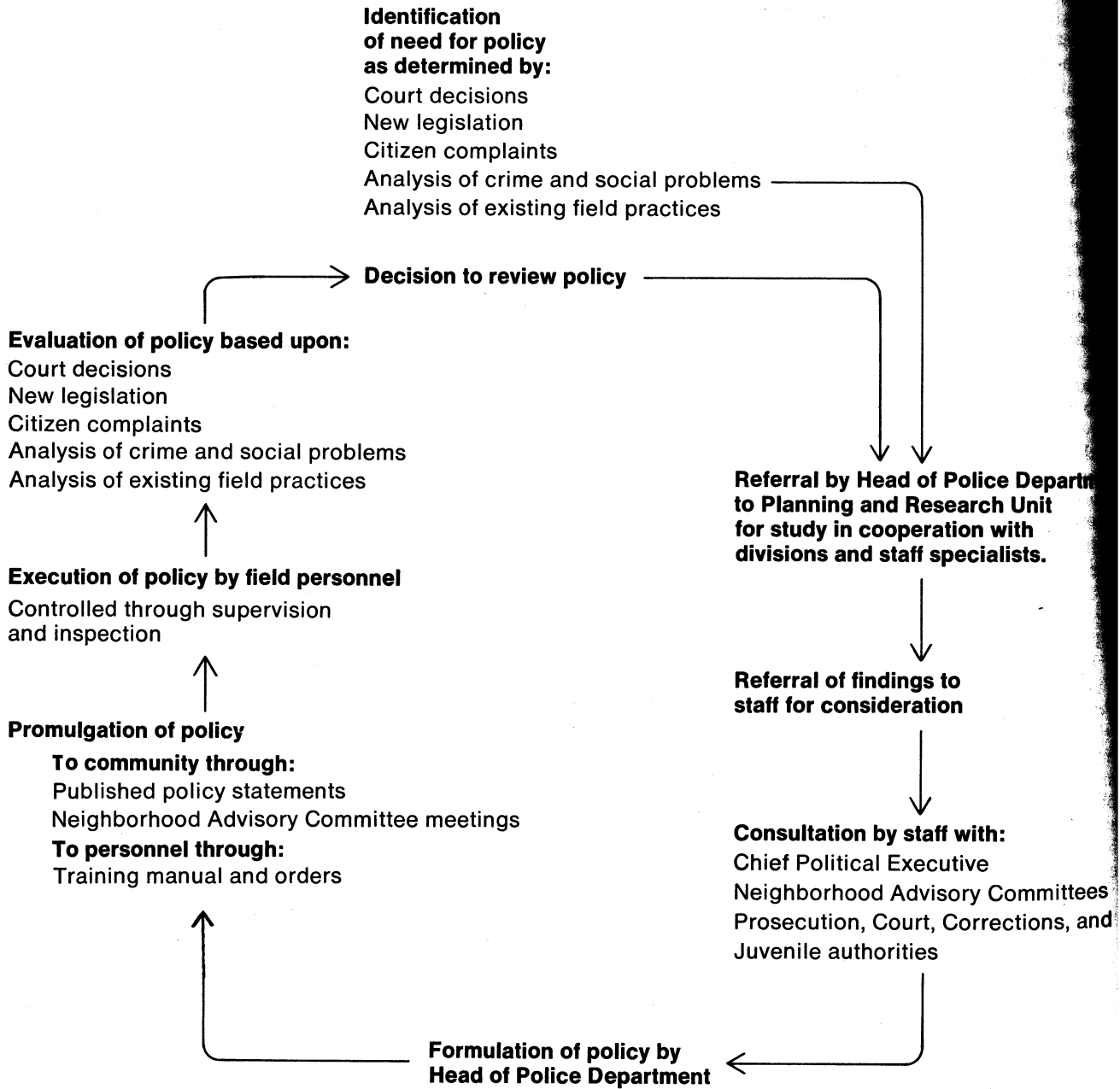
STUDY AND RESEARCH

Systematic study of a problem requires that the police develop a research methodology that equips them to clarify issues; to identify alternatives; to obtain relevant facts; and to analyze these facts in an effort to develop a basis for the formulation of a departmental policy.

Research methods must be devised to produce accurate understanding of current practices and, so far as it is measurable, their impact upon crime and the community. Adequate evaluation of existing practices may require the collection of a substantial amount of data not now gathered. Study of alternative practices may be aided by a willingness to engage in experimentation and demonstration projects.

Developing adequate research in a police department will require some specialization. It has, in recent years, become common for a police agency to establish a "planning and research" unit and to assign a number of police

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personnel to such a unit. But their function, until now, has focused almost exclusively upon the analysis and improvement of internal operating and managerial procedures, such as the deployment of manpower, the evaluation of equipment, and the streamlining of clerical procedures. The responsibility of these units should be expanded to include the continual review of practices and formulation of policies relating to the crime control and crime prevention functions of the police.

In the creation of a research staff an effort should be made both to utilize the rich and untapped knowledge of experienced police officers and also the knowledge and techniques of behavioral scientists like the urban sociologist; a criminologist capable of relating the existing body of knowledge regarding criminal behavior to law enforcement practices; and a lawyer trained to recognize and deal with the basic legal issues which police confront today.

Essential is a strong commitment on the part of the police administrator to the importance of research. He must give meaning to this commitment through the devotion of a substantial proportion of his own time, by providing for adequate staffing, and by closely relating the function of the research unit to other aspects of departmental operations.

CONSULTATION BOTH WITHIN AND OUTSIDE THE POLICE AGENCY

The final stages in the formulative steps of the policy-making process should consist of achieving agreement on the part of the command staff of the agency and those outside the agency whose approval may be necessary or desirable.

Consideration by the command staff of policy proposals affords an opportunity to weigh the practicality of what is being advocated; to consider ramifications that a new policy might have throughout an agency, and to crystallize opinions and hammer out compromises. The process serves as a means for focusing the attention of operating personnel upon important issues that they might otherwise tend to ignore under the pressure of their daily tasks. Participation also should serve to elicit a commitment on the part of the command personnel to support the policies which are adopted.

Because many important police practices are of concern to other criminal justice agencies, particularly the prosecutor, trial judge, and correctional officer, it would be desirable to discuss proposed policies with these agencies.

ARTICULATION, PUBLICATION, AND DISSEMINATION

The major challenge in the formulation of policy is to deal adequately with the complex problem involved and to do so in terms that are clear, sufficiently precise, and meaningful to the officer at the operating level whose job it will be to implement it. Police agencies stand to gain from exploration of existing methods and from experimentation with new methods for more effectively communicating written policy to operating personnel.

Most police agencies already have available to them the mechanical means for disseminating administrative directions. They are variously referred to as general orders, memoranda, or bulletins. Existing procedures could easily accommodate the series of publications likely to result from reducing operating policies to paper.

Emphasis on methods for disseminating and communicating policies reflects the assumption that openness, affording an opportunity for public criticism, is of major importance as a protection against the arbitrary exercise of governmental powers. It follows that policies of administrative agencies, including those of the police, ought not to be kept secret except in those exceptional cases in which confidentiality is necessary in order to maintain their effectiveness.

TRAINING

However successful a draftsman may be in building clarity and preciseness into a policy statement, dependence cannot be placed upon the written word in order to achieve effective implementation. Opportunities must be afforded for officers at the lowest level in the organization to ask questions and, more importantly, to gain a full understanding of how the policy came about and why it is important that it be implemented. An officer who knows why a policy is adopted is more likely to comply with it and, to the extent that he identifies with the new policy, is more likely to work toward its successful implementation.

If adequate policies exist, they can best be communicated to the individual officer by a problem approach to training rather than the more traditional lecture form of police training. The problem approach, if done well, serves to test whether the training staff understands the important situations encountered in the field and whether existing policies are adequately responsive to these situations.

REVIEW

Flexibility is one of the major objectives in the formulation of policy, both as a means for enabling a department to adjust its operating practices and, at a lower level, as a means for affording individual officers functioning within departmental policies an opportunity to adapt to the varied circumstances they confront. The desirable degree of flexibility for both the department and for the individual officer is not static, but rather changes from time to time. A decision as to what constitutes proper guidelines for the police must, therefore, be subject to frequent review to assure that adequate room is allowed for the exercise of an officer's judgment, but to assure as well that the guidelines are not so broad as to encourage or allow for the making of arbitrary decisions.

In addition, experimentation with a given policy over a period of time is likely to result in experience which will make possible a more comprehensive review of the basic problem than was possible at the time the policy was first formulated.

INTERNAL CONTROLS

It is in the nature of an administrative organization that the establishment of policies to guide the exercise of discretion by individuals is not enough. There is need also for the development of methods for assuring compliance. This requires a system of administrative controls to be applied within an agency.

METHODS OF INTERNAL CONTROL

An analysis of patterns of deviations from appropriate policy standards indicates that such deviations usually fall into three general categories: situations in which an officer violates departmental regulations or policies; situations in which an officer's behavior is considered improper, but does not constitute a violation of existing departmental policy; and situations in which an officer's behavior is clearly illegal or improper, but is consistent with the routine practice of the particular agency and is generally condoned by its administration.

(1) There are a limited number of situations today in which police administrators have issued policy statements to control police conduct. These tend to mirror the requirements of appellate cases as, for example, policies to implement the specific interrogation requirements of the *Miranda* case. Field studies conducted by the Commission indicate that such policies, promulgated at the top of the agency, are often disregarded in practice. Occasionally situations may arise in which a failure to adhere to existing policy becomes a source of embarrassment to the top echelons of the police agency, as, for example, if a failure to give the warnings required by the *Miranda* case were to prevent the conviction of a serious criminal in a highly publicized case.

The fact that administrative policy for dealing with crime or potential crime situations does not have a very significant impact upon the actions of individual officers appears to be primarily attributable to two factors: the ambivalent attitude which often accompanies the pronouncement of a policy implementing a decision like *Miranda*, and competing influences brought to bear by subordinate command staff who are subject to more immediate pressures from the community they serve.

Top police officials have been quite outspoken in registering their opposition to recent decisions of the U.S. Supreme Court. Personnel within an agency are fully aware of the public pronouncements of their superiors. They recognize that an order which purports to urge compliance with a recent decision is necessitated by the decision and is reluctantly issued by their superior. Without a special effort on the part of the administrator to distinguish between his right to enter into public debate over the wisdom of court decisions and the need for compliance with court decisions, it is likely that departmental policies which simply mirror the requirements of an appellate decision will be largely disregarded.

A somewhat similar situation exists when operating personnel believe that a change in departmental policy reflects a somewhat reluctant effort on the part of the

administration to appease some community group which has made a complaint against the department.

In current practice, such departmental policy is but one of a number of competing considerations which influence police actions at the operating level. Immense pressures are generated upon the various command levels in a large police agency by community groups—pressures from which such personnel can be easily isolated. The desire on the part of a superior officer or precinct commander to satisfy a prominent citizen, to meet the demands of a community group, to support his continued effectiveness and acceptance, to obtain favorable publicity, or simply to please his most immediate superior may override any desire to adhere to established policy. Subordinates, in turn, have their eye upon their superior rather than upon formal pronouncements which come to them in written form. The extent to which they conform to policy formulated at the top levels will be determined in large measure, by the spirit and tone in which the policy is communicated to them by their more immediate superiors. Each of the many levels of supervision in a police agency, therefore, constitutes a point at which policy may be diluted or ignored.

(2) An entirely different set of problems is raised when an individual officer acts in a manner which none of his superiors would condone, but there is no formal policy to serve as a basis for discipline or condemnation.

The problems are complicated by the peculiar nature of the police function. Officers are usually spread out over an entire city. They do not have the opportunity for immediate consultation with superior officers who are called upon to take action. The danger of mass disorder is always present, and the need for quick decisions often requires that the officer take some form of action before he has the opportunity to acquire all of the facts. It is therefore, difficult for the police administrator to hold an individual police officer to the same standard one would hold a person who had an opportunity to consult and think about the matter before acting.

The actions of individual police officers are not easily subject to review. Contacts between police officers and citizens are often contentious, tending to evoke an emotional response on the part of both the officer and the citizen. They occur at times and in locations where others are not present. And an informal code among police officers, which binds individual officers together for mutual support when challenged from the outside, silences fellow police officers who may be the only witnesses to an incident. As a consequence the typical complaint will consist of an assertion of wrongdoing on the part of a citizen and a denial by the officer. There usually is no available basis for corroborating either story. The consequence of continually disbelieving the officer would obviously mean a loss of morale. Hence, the tendency in such cases is for the police administrator to accept the officer's version unless there is some reason to believe the officer is being untruthful.

(3) The most complicated situations that arise in current practice are those in which the actions of an officer

are clearly illegal or improper but are consistent with prevailing practices of a department. Such practices are commonly found in the police agencies serving large urban areas, where the practices constitute part of the informal response which the police have developed for dealing with problems of a recurring nature. It is, for example, common for police officers to search the interior of a vehicle without legal grounds in high crime-rate areas. It is similarly common for police to search gamblers or arrest known prostitutes without adequate grounds. Since such actions are generally encouraged by superior officers, it is inconceivable that the officer would be administratively criticized or disciplined upon the filing of a complaint. Nevertheless, complaints tend to be processed administratively in the same way as complaints alleging a violation by an officer of administrative policy. As a consequence, the complaint procedure does not serve as a vehicle to challenge and cause a reconsideration of policies which are sanctioned by the department even though not articulated.

PROPOSED IMPROVEMENTS IN METHODS OF INTERNAL CONTROL

Some of the problems of achieving control over the conduct of individual police officers would be simplified if there were a commitment by the police administrator to a systematic policy-formulation process. This would require specific attention to present unarticulated policies which are clearly illegal and as a consequence would create administrative pressure to reject them or develop alternatives rather than assume the indefensible position of formally adopting illegal practices as official departmental policy. The development of adequate policy statements would afford the individual police officers greater guidance with respect to important decisions like the use of force, and the decision to arrest or to search.

But the mere adoption of administrative policies will not alone achieve compliance. This will require "good administration," that is, the use of the whole array of devices commonly employed in public administration to achieve conformity. These include, but are not limited to, the setting of individual responsibility, the establishment of systems of accountability, the designing of procedures for checking and reporting on performance, and the establishment of methods for taking corrective action.

The police administrator currently achieves a high degree of conformity on the part of officers to standards governing such matters as the form of dress, the method of completing reports, and the procedures for processing of citizen complaints. Sleeping on duty, leaving one's place of assignment without authorization, or failing to meet one's financial obligations are all situations against which supervisory personnel currently take effective action.

The success of internal controls as applied to such matters appears to be dependent upon two major factors: (1) the attitude and commitment of the head of the agency to the policies being enforced and (2) the degree

to which individual officers and especially supervisory officers have a desire to conform.

The average police administrator, for example, has no ambivalence over accepting responsibility for the physical appearance of his men. He does not wait to act until complaints are received from a third party. He undertakes, instead, by a variety of administrative techniques, to produce a desire in his subordinates to conform. This desire may reflect an agreement by the subordinates with the policy. Or it may reflect respect for their superior, a lack of interest one way or the other, or a fear of punishment or reprisal. Whatever the reason, the officer in a sort of "state of command" does what he is told rather than follow a course of his own choosing.

In sharp contrast, the police administrator is typically ambivalent over the responsibility he has for controlling the activities of his force in the exercise of discretionary power in dealing with crime or potential crime situations. While he views the physical appearance of his men as his concern, he often sees the methods by which the law is enforced as involving matters which are the primary responsibility of others outside the police establishment. This deference may, in part, be attributable to the sharing of responsibilities with other agencies—particularly the courts. Unlike internal matters over which the police administrator has complete control, much of what the police do relating to crime and criminals is dependent for approval upon the decisions of nonpolice agencies.

Strengthening of administrative control requires the creation of the same sense of personal responsibility on the part of the police administrator for the implementation of proper law enforcement policies as he presently has for implementing policies relating to internal matters.

This will require that the administrator be given the education, training, and resources necessary to fulfill the role. It requires also a change in what is expected of police administrators by the public and by those occupying key positions in other agencies in the criminal justice system. Police officials cannot be expected to develop a sense of responsibility, if they are treated like ministerial officers, and excluded from important policy-making decisions, such as those regarding the revision of substantive and procedural laws.

Also required is the development of a professional identification which can serve police officers as a frame of reference within which they can see the importance of their conforming to appropriate law enforcement policies. Blind obedience to orders, such as is currently elicited for some aspects of police operations, is limited in both its value and desirability to functions of a purely administrative nature. Personnel called upon to deal with complex problems of human behavior and expected to make decisions on the basis of professionally developed criteria must, themselves, have some form of professional identification as a common basis from which to function.

Professional identification has, for example, been a major element in the rapid development of what are now some of our more highly regarded correctional systems. With training and education in social casework as a prerequisite to employment, operating personnel function

from a framework for decision-making which is consistent with and supportive of departmental policies. The whole administrative process is facilitated because both administrators and field personnel are on the same "wave length," talking the same language and supporting the same values.

A somewhat similar development is essential in the police field. Individual police officers must be provided with the training and education which will give them a professional identification consistent with the police role in a free society. Such training and education will equip them to understand the policies of their superiors; make them receptive to efforts to make law enforcement both fair and effective; and enable the officer to take appropriate action in the unpredictable situations not dealt with by even the best efforts at policy formulation.

EXTERNAL CONTROLS

The operations of the police, like the operations of any other administrative agency that exercises governmental authority, must be subject to effective legislative, executive, and judicial review and control. This is important when the police are called upon to carry out specific legislative, executive, or judicial mandates. It is doubly important in areas in which the police are left with discretion to develop their own policies within broad legislatively or judicially fixed limits.

METHODS OF EXTERNAL CONTROL

While there is a very strong formal commitment to local control of law enforcement in this country, the actual means for exerting control has become quite obscure. To whom is a police agency responsible? By what means may citizens influence its functioning?

By City Councils and Mayors. Ultimate control, in local government, is normally exerted through the ballot box. But efforts to protect the police from partisan political influence have, in many jurisdictions, made the police immune from the local election processes. Early efforts to assure popular control of the police did include provisions in some cities for the chief of police to be elected. In others, the police were made responsible to the local legislative body. It became quickly apparent, however, that such direct control led to a pattern of incompetence, lax enforcement, and the improper use of police authority. Elected office holders dictated the appointment and assignment of personnel, exchanged immunity from enforcement for political favors, and, in some cities, made use of the police to assist in the winning of elections.

In more recent times there has been a continuing effort to compromise the need for popular control with the need for a degree of operating independence in order to avoid the undesirable practices that have generally resulted from direct political control. Election and city council supervision of the police function gradually gave way to the establishment of administrative boards, vari-

ously constituted, in an effort to assure both independence and some semblance of civilian control.

These organizational patterns have, in turn, often led to an obscuring of responsibilities, resulting in a move back to more direct control in the form of a movement toward the appointment of a single executive, directly answerable to the elected mayor or, more recently, to a city manager who in turn is responsible to a city council. Variations in each of these arrangements, including some attempts to return to State control, continue to this day, with periodic fluctuations from one organizational pattern to another in response to a community's conclusion that its police force has too much or too little independence.

The record of involvement by elected officials in police operations, to the detriment of both the efficiency and effectiveness of the police establishment, has had a lasting and somewhat negative impact on the relationship of control between the citizenry and the police. In cities in which the desire to isolate the police from political interference led to the adoption of special organizational patterns, the change in some instances has had the effect of making the police impervious to citizen demands of a legitimate nature. Although the organizational structure provides for direct control, the results have nevertheless been somewhat similar even in those cities in which the police administrator is directly responsible to an elected mayor.

Fear of being accused of political interference and awareness of the sensitive nature of the police task have often resulted in the mayor abdicating all responsibility for police operations by granting complete autonomy to his police department. Indeed, the mayors of several of the largest cities, considering police department autonomy to be a virtue, have campaigned for reelection on a platform stressing the independence which they have granted to their police agencies. A mayor's apprehensions are created by his knowledge that any action on his part affecting the police, no matter how legitimate, may be characterized as political or partisan interference. The consequence is that we are now in a period of uncertainty as to the best relationship between police and the city government, the issue aggravated by the situation of unrest in large urban areas.

By Prosecutors. The prosecutor, State's attorney, or district attorney is designated as the chief law enforcement officer under the statutes of some States. However, despite this designation he is not generally conceived of in this country as having overall responsibility for the supervision of the police. His interest in police operations is usually limited to those cases likely to result in a criminal prosecution, thereby excluding the non-prosecution-oriented activities that constitute so high a percentage of the total police effort.

Practices vary significantly from one jurisdiction to another as to the degree of involvement on the part of the prosecutor in the review of police procedures and actions in those cases in which the police objective is prosecution. While some cases are subject to review prior to the effecting of an arrest, the vast majority of arrests

by municipal police officers are made prior to consultation with the prosecutor. Some prosecutors establish procedures for the review of all arrests prior to their presentation in court, while others do not become involved until the initial hearing is begun before a magistrate. Systematic review of all cases prior to their presentation in court tends to result in the adoption of standards that are informally and sometimes formally communicated to the police agency. Police practices may be criticized or changes suggested, but such criticism and suggestions are not generally viewed as a form of control. Rather, they are seen as being primarily motivated by a desire on the part of the prosecutor to facilitate his task in the review and prosecution of cases. Where there is no prior review, the staff of the prosecutor in large cities often routinely presents in court cases in which the practices by the police were clearly illegal, apparently feeling no responsibility for reacting to the police practice, either in the form of a refusal to prosecute or in the form of a communication through appropriate superiors to the administration of the police force.

In general, instructions or guidelines issued by the prosecutor relating to procedures for the prosecution of criminal cases will be accepted and followed by the police, particularly if the prosecutor is viewed by the police as seriously interested in the effective presentation of the case in court. But neither the police nor the prosecutor assume that the prosecutor has the responsibility either to stimulate or to participate in the development of administrative policies to control the wide range of police practices.

By the Judiciary. In many jurisdictions the trial judge has acted as a sort of chief administrative officer of the criminal justice system, using his power to dismiss cases as a method of controlling the use of the criminal process. But except in those cases in which his action relates to the admissibility of evidence, this has been done largely on an informal basis and has tended to be haphazard, often reflecting primarily the personal values of the individual trial judge.

In contrast, the function of the trial judge in excluding evidence which he determines to have been illegally obtained places him very explicitly in the role of controlling police practices. However, trial judges have not viewed this role as making them responsible for developing appropriate police policies. Many trial judges, for example, when asked if they would explain their decision to the police, indicate that they have no more responsibility for explaining decisions to police than they have with regard to private litigants. When asked whether they would suggest to the police proper ways of acquiring evidence in the future, some judges assert that it would be unethical for them to do so unless they also "coached" the defense.

Occasionally a judge will grant a motion to suppress evidence in order to dismiss a case he feels should not be prosecuted because the violation is too minor or for some other reason. Use of a motion to suppress evidence in this manner serves to confuse the standards that are

supposed to guide the police, and has a destructive effect upon police morale.

Most often, the process of judicial review is seen as a decision about the propriety of the actions of the individual officer rather than a review of departmental administrative policy. Judges seldom ask for and, as a consequence, are not informed as to whether there is a current administrative policy. And, if there is one, they seldom ask whether the officer's conduct in the particular case conformed to or deviated from the policy. As a result, police are not encouraged to articulate and defend their policy; the decision of the trial judge is not even communicated to the police administrator; and the prevailing police practice often continues unaffected by the decision of the trial judge.

The effectiveness of trial court review is further complicated in courts of more than a single judge by the disparity of their views about the propriety or desirability of given police practices. Ordinarily the prosecution has no opportunity to appeal adverse decisions. And where appeals are allowed, prosecutors seldom view them as a way of resolving conflict between trial judge rulings. As a result police often tend to ignore all of the decisions, rationalizing that it is impossible to conform to conflicting mandates. While increasing attention has been given to minimizing sentencing disparity through such devices as sentencing institutes, designed to minimize disparity, no similar attention has been given to disparity in the supervision of police practices.

Finally, the effectiveness of the exclusionary rule is limited by the fact that it deals only with police practices leading up to prosecution. Many highly sensitive and important practices are confined to the street and are not reflected in prosecuted cases.

Civil Liability of the Police Officer. One much discussed method of controlling police practice is to impose financial liability upon the governmental unit as well as the police officer who exceeds his authority. A somewhat similar approach is provided for under the Federal Civil Rights Act.

The effect of the threat of possible civil liability upon police policy is not very great. In the first place, plaintiffs are seldom able to sustain a successful lawsuit because of the expense and the fact that juries are not likely to have compassion for a guilty, even if abused, plaintiff. Insurance is also now available along with other protective methods that insulate the individual officer from financial loss.

The attitude of the police administrator is to try to protect his man or the municipality from civil liability even though he may privately be critical of the actions of the officer. Usually legal counsel will instruct the police administrator to suspend departmental disciplinary proceedings because they might prejudice the litigation.

Even in the unusual case where an individual is able successfully to gain a money judgment in an action brought against a police officer or governmental unit, this does not cause a reevaluation of departmental policy or practice.

In general, it seems apparent that civil litigation is an awkward method of stimulating proper law enforcement policy. At most, it can furnish relief for the victim of clearly improper practices. To hold the individual officer liable in damages as a way of achieving systematic re-evaluation of police practices seems neither realistic nor desirable.

By Citizen Complaint. Complaints alleging police misconduct may relate to an isolated incident involving the actions of a specific officer or may relate to a formal or informal practice generally prevailing throughout a department. However, the citizen complaint process, like the civil action, is typically limited, in its effect, to the specific case which is subjected to review. Experience has shown that most complaints come not from the ghetto areas where there may be most question about police practice, but rather from middle income areas where an articulate citizen becomes irate over the actions of an officer which deviate from prevailing police practice in his neighborhood.

Most attention in recent years has focused upon the means for investigating such complaints, with public discussion concentrated upon the relative merits of internal departmental procedures versus those established by a form of citizen complaint board functioning in whole or in part outside the department. Whatever the method for conducting an investigation, there is no evidence that the complaint procedure has generally served as a significant vehicle for the critical evaluation of existing police practices and the development of more adequate departmental policies.

PROPOSED IMPROVEMENTS IN METHODS OF EXTERNAL CONTROL

The primary need is for the development of methods of external control which will serve as inducements for police to articulate important law enforcement policies and to be willing to have them known, discussed, and changed if change is desirable. There is obviously no single way of accomplishing this.

The task is complicated by the fact that popular, majority control over police policy cannot be relied upon alone. Often the greatest pressure for the use of improper police practices comes from the majority of articulate citizens who demand that "effective" steps be taken to solve a particular crime, to make the streets safe, or to reverse what is often seen as the trend toward an increase of lawlessness.

Effective response to crime is obviously a proper concern of police. But it is also apparent that police policy must strive to achieve objectives like consistency, fairness, tolerance of minority views, and other values inherent in a democratic society.

The creation of an institutional framework to encourage the development and implementation of law enforcement policies which are effective and also consistent with democratic values is obviously difficult. To achieve this requires a basic rethinking of the relationship between

the police and legislatures, courts, prosecutors, local government officials, and the community as a whole.

The Legislature. Adequate external control over police policymaking requires first an explicit recognition of the necessity and desirability of police operating as an administrative policymaking agency of government. One, and perhaps the best, way to accomplish this is through legislative action which will delegate an explicit policymaking responsibility to police in areas not preempted by legislative or judicial action. Often it is neither feasible nor desirable for the legislature to prescribe a specific police practice; there is a need for administrative variation, innovation, and experimentation within limits set by the general legislative purpose and such legislative criteria as are provided to guide and control the exercise of discretion.

Legislative recognition of the propriety of police policymaking should encourage the development of means to develop enforcement policies and their subjection to adequate external control. It should also encourage flexibility and innovation in law enforcement while at the same time providing some guidance to police policy-making through the prescription of appropriate legislative standards or criteria.

Judicial Review of Police Policymaking. Given explicit legislative recognition of police policymaking, it ought to be possible to develop effective methods of judicial review which will not only serve to minimize the risk of improper police practices but will also serve to encourage the development, articulation, defense, and, if necessary, revision of police policies.

If there is legislative acknowledgment of the propriety of police policymaking, it would seem to follow that it would be appropriate for a person, with proper standing, to challenge existing policy, formal or informal, on the ground that it is inconsistent with general legislative policy. Where there is challenge, courts would have an opportunity to require the law enforcement agency to articulate its policy and to defend it, and, if the challenge is successful, to change the policy.

It is possible and certainly desirable to modify the current system of judicial control and to make it consistent with and, in fact, supportive of the objective of proper police policymaking. To accomplish this would require some basic changes in judicial practice:

(a) When a trial judge is confronted with a motion to suppress, he, and the appellate court which reviews the case, should request a showing of whether the conduct of the officer in the particular case did or did not conform to existing departmental policy. If not, the granting of such a motion would not require a reevaluation of departmental policy. However, it ought to cause the police administrator to ask whether a prosecution should, as a matter of police policy, be brought when the officer violated departmental policy in getting the evidence.

If departmental policy were followed, the judge would be given an opportunity to consider the action of the individual officer in the light of the overall departmental

judgment as to what is proper policy. Hopefully, a judge would be reluctant to upset a departmental policy without giving the police administrator an opportunity to defend the reasons for the policy, including, where relevant, any police expertise which might bear upon the reasonableness of the policy. To do this will slow down the proceedings, will take judicial time and effort, but if judicial review of police policy is worthwhile at all, it would seem that it is worth doing properly.

(b) Trial judges in multijudge courts should develop appropriate formal or informal means to avoid disparity between individual trial judges in their decisions about the propriety of police policy. The Sentencing Council, created in the Eastern District of Michigan to minimize judicial disparity in sentencing, would seem to be a helpful model. This council uses a panel of judges to consider what is an appropriate sentence rather than leaving the decision entirely to a single judge. The panel serves to balance any substantially different views of individual judges, and results in a more consistent judicial standard. Again, this involves cost in judicial time.

(c) It seems obvious that judicial decisions, whenever possible, ought to be effectively communicated to the police department whose policy was an issue. Yet it is common in current practice for the police administrator to have to rely primarily upon the newspaper as a source of information about judicial decisions, even those involving an officer of his own department. One way of achieving effective communication might be through making the police officer commonly assigned by departments to regular duty in the courtroom responsible for reporting significant decisions to the police administrator. This would require a highly qualified, legally trained, court officer. In addition, trial judges would have to be willing to explain their decisions at least orally, if not in writing.

(d) If the exclusionary rule is to be a principal vehicle for influencing police policy (as distinguished from disciplining an individual officer who acts improperly) then it seems apparent that the appellate process must be accessible to the prosecution as well as the defense so that inconsistent or apparently erroneous trial court decisions can be challenged. It is nonetheless often urged that allowing appeal in a particular case is unfair to the particular defendant. Moreover, where the authority to appeal does exist, prosecutors often limit appeals to cases involving serious crimes rather than systematically appealing all cases in which an important law enforcement policy is affected.

Other Forms of External Control Over Police Policy-making. Even with carefully drafted legislation and a more adequate system of judicial review, there will still be wide areas of police practice which give rise to very important issues which must be resolved by administrative action without specific legislative or judicial guidance. This is particularly true with regard to the wide range of police contacts with citizens on the street, contacts which usually do not result in criminal prosecution but which do have a major impact upon public order and upon the relationship between police and the community. It is

very important that these practices be the subject of careful administrative policymaking and be subject to appropriate methods of external control.

It has been said that one of the major current challenges to our system of governmental control is to devise appropriate methods for safeguarding the exercise of discretionary power by governmental agencies in situations where judicial review is not feasible or not desirable.

Because there is no "best" answer to the question of control over the exercise of discretionary power, it seems obviously desirable to encourage a multifaceted approach, stressing innovation and experimentation, with the hope that, in the process, enough will one day be learned to afford an adequate basis for deciding what methods are best.

The basic need can be stated briefly, though at some risk of oversimplification. It is for giving police policymaking greater visibility, so that the problems and current police solutions are known to the community; to devise methods of involving members of the community in discussion of the propriety of the policies; and to develop in police a willingness to see this process as inherent in a democratic society and as an appropriate way of developing policies which are both effective and supported by the community.

There are some worthwhile alternatives which can be identified:

The Involvement of the Mayor or City Council in Policy-making. It may be helpful, in the long-range interest of law enforcement, to involve local officials in the process of developing enforcement policies, particularly those which have an impact upon a broad segment of the community. If, for example, a police agency is to adopt a policy to govern individual officers in deciding what to do with the down-and-out drunk, it would seem appropriate and helpful to report that policy to the mayor and city council in order to see whether there is opposition from the elected representatives. Where the issue is significant enough, a public hearing may serve to give an indication of the community response to the particular policy being proposed. Although this involvement of city government may give rise to concern over "political influence," the risk of improper influence is minimized by the fact that the involvement is open to view. The vice of political influence of an earlier day was that it tended to be of a personal nature and was secretive.

The Involvement of the Prosecutor and Trial Judiciary. Where a police policy deals with an issue such as investigative practices, which have impact upon the arrest, prosecution, and conviction of offenders, it would seem desirable to involve those other criminal justice agencies which also have policymaking responsibility.

This will require, in practice, a greater interest by the prosecutor who often today conceives of his role as limited to the trial and appeal of criminal cases rather than the development of enforcement policies which anticipate many of the issues before they arise in a litigated case.

The participation of the trial judge on an informal basis in policymaking raises more difficult questions. In theory, the judge is the neutral official not involved until an issue is properly raised in the course of the judicial process. In fact, some trial judges do act as if they are the administrative head of the criminal justice system in a particular community, and do deliberately try to influence policy with regard to when arrests are to be made, who is to be prosecuted, when charges are to be reduced, and other matters which vitally affect law enforcement.

Citizen Involvement in Policymaking. In some areas of governmental activity, there is increasing utilization of citizen advisory committees as a way of involving members of the community in the policymaking process. In some cases, the group may be advisory only, the governmental agency being free to accept or reject its advice. In other instances, the group is official and policies are cleared through the committee as a regular part of the policymaking process. The advantages of both methods are that they serve as an inducement for the police administrator to articulate important policies, to formulate them, and to subject them to discussion in the advisory group. How effective this is depends upon the willingness of the group and the police administrator to confront the basic law enforcement policy issues rather than being preoccupied with the much easier questions of the mechanics of running the department. Where there is a commitment to exploring basic enforcement policy questions, the citizens' advisory group or policymaking board has the advantage of involving the community in the decision-making process, thus giving a broader base than would otherwise exist for the acceptance and support of enforcement policies.

Official or Unofficial Inquiry Into Police Practices. In some other countries of the world there is a greater commitment to continuing inquiry into governmental activity designed to learn and assess what is going on. Thus, in England a royal commission has, on several occasions, been used as a vehicle for helpful inquiry into the state of police practice there. In other countries, especially in Scandinavia, there has been reliance upon the ombudsman, not only as a way of handling complaints, but also as a vehicle for continuing official inquiry into governmental practice, including the practices of police.

There has been less tradition for systematic, official inquiry into governmental practice in this country. Where there has been inquiry into police practice, it has commonly been precipitated by a crisis, has been directed toward finding incompetence or corruption, and, whatever the specific finding, has failed to give attention to the basic law enforcement issues involved.

It would be helpful to have systematic legislative inquiry into important police practices at the local, state, and federal level. If devoted to an effort to learn what the existing practices are and to give the police an inducement to articulate their policies and a forum for explaining and justifying them, the process of legislative inquiry can have a positive impact upon the long-range development

of the police as a responsible policymaking agency. To achieve this objective, the short run price which police would have to pay in criticism and controversy would be well worth it.

Unofficial studies of law enforcement practices can also be helpful. For example, a bar association may make an important contribution by the maintenance of a standing committee which has as its mandate a continuing concern with important law enforcement policies. The police field would, in the long run, be aided by the critical, but at the same time sympathetic, interest of the organized bar.

There is also need for greater involvement of universities and especially social science research into the basic problems which confront police. Continuing university interest is itself a form of inducement to confront some of the basic policy questions; and by reporting and critically evaluating current law enforcement practices research can serve as a method of review and control in the same way that law review comment has served this function with regard to the appellate judicial process. Greater involvement of the university would also serve as a basis for the development of badly needed social science courses which deal adequately with the tasks confronting police and the role which police play in our society. This in turn should increase the number of educated and articulate citizens who are knowledgeable about and interested in the important problems of law enforcement and who thus hopefully will constitute a support for proper police policies.

Establishing Communication With the Inarticulate Segments of the Community. One of the most important ways of asserting appropriate control over police practice is to have an informed and articulate community which will be intolerant of improper police practice. A difficulty in the law enforcement field is that the groups which receive most police attention are largely inarticulate, and no formal system for the expression of views will be utilized by the groups. There is need, therefore, for development within the minority community of the capacity and willingness to communicate views and dissatisfactions to the police.

Fulfillment of this need would not only be in the interests of the community, but is desirable from the police standpoint. If the minority community could better articulate its needs, a more balanced community support for the role that the professional police administrator sees himself as filling in a democratic society would be provided. A stronger minority voice would also serve to offset some of the pressures brought to bear upon the police to adopt policies and engage in practices that are of questionable nature.

Secondly, the police have a very practical reason for wanting to be informed about what is bothering the residents of an area. However narrow a focus a police administrator may assume with regard to the development of the police function, it seems apparent that if he is to take seriously his responsibility for preventing outbreaks

of violence in his community, he must undertake programs which will keep him informed of the basis for unrest.

There has been substantial progress toward meeting this need through the establishment of a wide range of police-community relations programs. The success of these is in large measure dependent on the degree to which they serve as a vehicle for enabling the otherwise unorganized citizenry to make themselves heard. It seems apparent that programs which rely primarily upon contact with well established and organized interest groups, while of value in their own right, do not serve to meet the kind of needs that are most critical. Properly developed, police-community programs afford an opportunity for police to take the initiative in soliciting the kind of insight into their own operations and the way they affect a community, which should in turn contribute to the development of more adequate police policies.

Total dependence obviously cannot be placed upon the police to assist the minority community in articulating its needs. Indeed, the lack of sensitivity to the problem on the part of the police in some jurisdictions may place the entire burden on other methods, such as the development of community action programs and neighborhood law offices. Services of this kind, which are becoming increasingly available, are likely to bring demands upon the various governmental agencies, including demands that the police review some of their policies for dealing with problems encountered in the ghetto area. A sensitive police administrator ought to recognize that such groups can contribute to a process of development and continuing evaluation of important law enforcement policies.

IMPLICATIONS FOR POLICE LEADERSHIP, PERSONNEL, TRAINING, AND ORGANIZATION

Achievement of an important policymaking role for police will require major changes in police leadership, personnel, training, and organization. These changes are described in detail in chapter 5, but the relevancy of the need for change as it relates to policy-making is briefly discussed below.

Asserting that there is need for change does not mean that current leadership is not capable, but it does mean that the traditional attitude of the police leadership toward their own function will have to be altered. There will obviously have to be a commitment to the importance of police playing this kind of role and a willingness to have police policies the subject of community interest, discussion, and debate.

There is also need for police personnel adequate to develop and articulate policy and for individual officers who can apply general departmental policies in the difficult and sensitive situations in which police find themselves, particularly in the congested urban areas. Large police departments will have to take on some of the organizational characteristics of traditionally recognized regulatory agencies, staffed to engage in on-going research and policy development. Training will have to reflect the importance of trying to deal in an adequate way with the

function of the police officer in sensitive situations, like his on-the-street encounters in high crime areas, and do so in a way which supports his professional identification, including a willingness to conform to rules devised by courts and other nonpolice agencies.

LEADERSHIP

Police administrators, in the past, have been primarily selected on the basis of their demonstrated technical skill in the apprehension of criminal offenders. This tendency has apparently been supported by the fact that appointing authorities share the common impression that the apprehension and prosecution of criminals constitutes the major aspect of the law enforcement task.

Investigative skill by itself is obviously an inadequate criterion by which to evaluate and select persons to head police agencies. As has been noted, there is much more to the police task. For example, there is no reason to believe that the abilities required of a good detective relate sufficiently to the talent and skill required to be an administrator capable of leading a police agency which has a major policymaking responsibility.

The current need for police administrators to effectively handle the broad range of social issues with which they must deal makes obsolete the narrow standards for selection which have been utilized in the past. The need today is for a police administrator who is much more of a generalist rather than a person possessing narrow technical skills. He must have a sound grasp of the unique function of the police in a democratic society. He must support values which often are in conflict with the most immediate goals of arrest and successful prosecution. He must have the ability to relate police functioning to the functioning of the other agencies in the criminal justice system; to analyze and resolve complex issues relating to the exercise of police authority; to direct his subordinates in a manner which will elicit their compliance with the policies he establishes; and, in the process, to be especially sensitive to legitimate community demands and interests.

Such leadership is not likely to develop on its own. If it is to emerge from within the police establishment, means must be designed to afford police officers having the basic intellectual capacity with the opportunity to acquire a broad college-level education. Promotions in rank must be based more directly upon the degree to which officers possess the abilities required of the police administrator, rather than upon measures of seniority or technical knowledge.

The monolithic structure of police agencies must be altered to enable greater freedom of movement on the part of supervisory personnel between and among agencies. It is essential that appointing authorities be afforded the opportunity to select the best available person to head a police force; they ought not to feel any inhibition in recruiting their leadership from outside their own police agency. The current tradition of limiting appointments to persons employed within an agency has served to reduce the caliber of police leadership to a low common denominator. Selection practices should instead serve to en-

courage a steady flow of the most competent leaders into police agencies, thereby serving to lift the overall quality of law enforcement throughout the country. Such a change is also essential if competent police officers are to be afforded a broader basis for the development of their careers than is typically available in a single police agency. Freedom of movement is an important characteristic of a profession. Creation of more opportunities for such movement is thus needed in the development of professional status for police officers.

If means are not devised to meet the need for more effectively identifying and developing leadership from within the police field, it is likely that the increasing need for competent leadership will lead to the appointment of individuals without prior law enforcement experience to head police agencies. To the degree that such a tendency is viewed by police as undesirable, it may serve as an impetus to them to make the changes essential to the development of leadership from within their ranks.

SELECTION OF PERSONNEL

Until recently, the dominant concern in the screening of applicants for the job of a police officer has been to assure that they met the rigid physical standards that were established. Such standards are still applied in many jurisdictions, despite the fact that they do not bear directly on the most difficult problems faced by the police officer today. Emphasis upon physical strength and aggressiveness reflects the popular image of what the police do rather than a careful analysis of job requirements.

There has been a failure to stress important characteristics which relate directly to the ability of an officer to perform the police function well, namely, intelligence and emotional stability. The adequate performance of the complex task given the patrolman in highly congested urban areas requires a great deal of talent. Perhaps this is not so with respect to some police functions like enforcement of parking and traffic regulations. This suggests that there may be need for job classifications which will reflect the different needs.

Certainly, many of the duties required of patrolmen and supervisory officers in urban areas require a person of above average intelligence and a high degree of emotional stability. This is necessary if the officer is to function adequately in an organization which assumes policymaking responsibility, and which leaves to the individual officer sufficient flexibility to make appropriate decisions under the varying and complex circumstances which characterize crime and threats to public order today.

There is need for careful reassessment of the assumption that the highly aggressive individual makes the best police officer. If, as it appears, there is need for mediation and conciliation more often than there is need for the use of force or the making of an arrest, it would seem to follow that the emphasis should be placed upon getting officers who are able to understand the problems of the community and who relate well to its members. This would increase their ability to participate effectively in the

solution of the social and behavioral problems which confront the police officer.

There is need for educated police officers. Certainly a liberal education should be a prerequisite for those police officers who aspire to positions of leadership in the police service. Encouraging the educated young man to enter the field of law enforcement is increasingly important. Most intelligent, well-adjusted high school graduates now go on to college. Unless law enforcement attracts individuals from this group, it will be forced to recruit from among those who lack either the ability or the ambition to further their education.

Ways exist of attracting the college qualified high school graduate. Very effective methods, such as the work study program, have been developed in other fields like corrections. Basically these programs consist of the person being sent to college as part of his job. There is no reason why these kinds of programs cannot be adapted to the law enforcement field. But police leadership must be willing to take the view that it is essential to have educated police officers; that education is relevant to the major problems of the field; and, therefore, that support should be given to programs which create an opportunity for recruiting the college educated person or offering the college qualified person an opportunity after he joins the police force, through a work-study or similar program. Certainly police departments cannot perform as responsible policymaking agencies of government unless they can successfully recruit, inspire, and retain their share of intelligent, educated young persons.

TRAINING

While considerable progress has been made in recent years in the development of training programs for police officers, the total training effort in this country, when related to the complexity of the law enforcement task, is grossly inadequate.

Many smaller jurisdictions continue to put men to work as police officers without giving them any formal instruction as to their duties. Training in numerous departments consists primarily of assigning a new man to work with a senior officer. More formal efforts to provide instruction are often of a very amateur quality. Some agencies put together a string of speakers who talk on subjects which represent their special interests, but with no real effort either to relate the talks to each other or to assure comprehensive treatment of the areas that ought to be covered. Others depend for their training upon special programs. One or two men are typically selected to attend national or regional institutes, often concerned with but a single aspect of police work, these ranging in duration from one day to several months.

Large cities do have their own training programs and facilities for both recruits and officers with years of experience. But even these established programs are limited in their effectiveness by inadequacies in course offerings, staff and facilities, and by the tendency on the part of administrators to resolve the competing pressures

for manpower by restricting the amount of time allocated for instruction.

While current police training programs are better than what has existed in the past, they nevertheless continue to be a somewhat fragmented, sporadic, and rather inadequate response to the training needs of the field in a day when police are confronted with some of the most perplexing social and behavioral problems we have ever known.

For there to be basic improvement, it is essential that the legitimacy of the training needs be recognized. There ought not to be any hesitation or reluctance on the part of police administrators or the public to support police training. It should be viewed as a vital and indispensable process in equipping a police officer to perform highly sensitive and complex functions. It ought also to be recognized as a continuing need. Training cannot be accomplished by occasional and improvised programs. Rather there is need for established programs, qualified staffs, and adequate physical facilities.

Course offerings must be revised. Police officers should be given a much more solid foundation in the fundamental principles of democratic government and the society in which we live. They should be provided with sufficient background on the growth of democratic institutions to enable them to understand and appreciate the complexity of the law enforcement task and the challenge inherent in its fulfillment.

Training programs should be designed to elicit a commitment on the part of a police officer to the importance of fairness as well as effectiveness in the exercise of his authority. He must be provided with much more than has traditionally been provided in the way of guidance to assist him in the exercise of his discretion. He should be provided with a basis for understanding the various forms of deviant behavior with which he must deal. And he should be acquainted with the various alternatives and resources that are available to him, in addition to the criminal process, for dealing with the infinite variety of situations which he is likely to confront in his daily work.

This kind of training is beyond the capacity of the police officer, no matter how experienced, who is drawn from a force and temporarily assigned to the training function. There is an obvious need for more adequate staffing of training operations and new and better training materials. In the case of small departments, achievement of this objective will require a statewide effort or some other form of cooperative endeavor by which agencies can pool their resources to support a single training program.

ORGANIZATION

Efforts to improve the organization of law enforcement, both within an agency and on an areawide basis, have been influenced primarily by a desire to achieve a greater degree of operating efficiency. Within police agencies, the trend has been toward centralization designed to facilitate the control of the chief executive, to make more efficient and more flexible use of manpower, and to enable the development of expertise through specialization.

These same objectives account for many proposals that have been made to consolidate police agencies on a metropolitan or county basis, but there has been much less movement in this direction, due primarily to the high value which Americans place upon the control, at least in theory, of their local police forces.

The need for creating a sufficiently broad base to support the kind of leadership required if the police are to fulfill their policymaking function is another reason supporting the current trend toward centralization and consolidation. But it is, at the same time, increasingly clear that one of the other major needs in law enforcement is to establish closer relationships and more direct lines of contact between the police and the citizenry. One can only speculate on the degree to which current antagonism toward the police is due to too great an emphasis having been placed upon the desire to achieve operating efficiency, characterized as it has been by the move toward centralization which has resulted in a degree of detachment by the police from the communities they serve.

This suggests that a pattern of organization must be devised to balance more adequately the need for centralization, which is a very compelling need for the administrator, with the necessity for having a form of organization that facilitates contacts with the community. The concept of community service officers described in chapter 5 is one way of achieving a better balance; another is the organization of the British police which has been designed to achieve such a balance. Training programs, for example, are established and administered by the Home Office for the entire country; regional crime squads have been created to work on crime problems that cut across jurisdictional boundaries; the special services of Scotland Yard are available to police agencies outside of London that require assistance in the investigation of major crimes; and a program of amalgamations has served to combine the resources of small police forces into larger units. But, at the same time, a continual effort is being made within this framework to assure a direct relationship between police officers and citizens. Thus, for example, the police in several urban areas are currently running experiments in which a police officer takes up residence in the area he serves, thereby establishing the same kind of relationship between the officer and the neighborhood as exists in rural areas where the constable is the resident officer. The situation in this country is probably more complex than that which exists in Britain, and therefore calls not only for careful examination of the British experience, but for much more in the way of experimentation in meeting specific needs.

Insofar as police policymaking is concerned, it seems clear that the police agencies serving our major cities are sufficiently large and have sufficient resources to develop their own capacity to fulfill their policymaking role. For smaller agencies, the need should serve as a stimulus for development of new patterns of cooperation or for the creation of a unit within a state agency, such as the office of the attorney general, that would develop the capacity to assist the administrators of the smaller agencies in meeting their policymaking function.