

of justified community hostility. They not only seriously inconvenience the citizen or even result in his incarceration, but they result in an arrest record which may greatly affect his present or future employment.

Arrests for Harassment

The police in some cities use their arrest power to harass persons whom they do not intend to prosecute because of insufficient evidence or because of the practice of the courts in giving light sentences. The harassment arrest is primarily used as a mechanism for annoying persons who are allegedly involved in vice practices such as prostitution, gambling, or illegal liquor sales. The American Bar Foundation study found in Detroit, during 1956-57, for example, over 1,000 arrests were made for gambling and liquor violations during a 6-month period in one precinct. Ultimately, however, only 60 cases were presented for prosecution.³⁹³ These arrests were made because, as an assistant prosecutor commented: "the prosecutor's office and the police department are forced to find other means of punishing, harassing, and generally making life uneasy for the gamblers."³⁹⁴

The same study found that as many as 40 or 50 prostitutes a night were arrested and released the next day because they were found on the street in an area where prostitution was practiced and they had a prior record of arrests for prostitution. Negro women with white men were almost always charged. A police official asserted that the arrests were part of "a harassment program. The police department has no other means of dealing with prostitution."³⁹⁵

Similarly, in Cleveland, of 1,202 women arrested and taken to a particular precinct in a Negro area of Cleveland for investigation in connection with prostitution, 1,075 were Negro. Only 96 were charged. The 224 white men arrested were all released on the stated ground that they were needed to testify against the women. The uniform release of these men has been a cause of great resentment in the Negro community.³⁹⁶

While the police are under considerable pressure to contain vice within a community and to keep undesirable persons off the streets, the current practice of using the arrest power in situations in which there is no intent to submit the case for prosecution is deplorable. Police departments, therefore, should establish policies which specifically prevent illegal harassment arrests, and which direct that arrests be made only if probable cause exists that a crime has been committed.

Arrests for Minor Crimes

Arrests for minor crimes, such as vagrancy, disorderly conduct, use of obscene language, loitering, failure to move on, blocking the street or sidewalk, drunkenness, drinking in public, and curfew violations, constitute almost one-half of all arrests made each year in the United States.³⁹⁷ There is evidence that such arrests create great antagonism against police officers in slum communities. For example, many complaints filed with the review

board in Philadelphia involve such ordinances and not a single complaint has involved an incident during commission of a felony.³⁹⁸ The reason for hostility resulting from minor crimes is probably that while most offenders know when they have committed major crimes and expect that they will be arrested for them, the issue as to most alleged minor crimes is not as clear and the offender does not usually believe, whether or not he has acted illegally, that he has done anything sufficiently wrong to justify arrest. The comments of two men in Harlem suggest the antagonism that can result:³⁹⁹

A bunch of us could be playing some music, or dancing, which we have as an outlet for ourselves. We can't dance in the house, we don't have clubs or things like that, so we're out on the sidewalk, right on the sidewalk; we might feel like doing dancing, or one might want to play something on his horn. Right away here comes a cop. "You're disturbing the peace!" No one has said anything, you understand; no one has made a complaint. Everyone is enjoying themselves. But here comes one cop, and he'll want to chase everyone. And gets mad. I mean, he gets mad! We aren't mad. He comes into the neighborhood, aggravated and mad.

* * * * *

Last night, for instance, the officer stopped some fellas on 125th Street * * *. [T]he officer said, "All right, everybody get off the street or inside!" Now, it's very hot. We don't have air-conditioned apartments in most of these houses up here, so where are we going if we get off the streets? We can't go back in the house because we almost suffocate. So we sit down on the curb, or stand on the sidewalk, or on the steps, things like that, till the wee hours of the morning, especially in the summer when it's too hot to go up. Now where were we going? But he came out with his nightstick and wants to beat people on the head, and wanted to—he arrested one fellow. The other fellow said, "Well, I'll move, but you don't have to talk to me like a dog."

Minor crime statutes are frequently misused. They are employed as a means of clearing undesirables or unsightly persons from the street or driving them out of town, aiding the police in detaining a suspected person during an investigation of a more serious crime, and regulating street activity in slum neighborhoods. Often, under pressure from the community, the police will "declare a war on bums, prostitutes, homosexuals, and narcotic traffickers" by making wholesale arrests for vagrancy, disorderly conduct, drunkenness, or loitering.⁴⁰⁰ Justice William O. Douglas found that in Tucson, between 1958 and 1960, the poor were discouraged to come to the city for employment by the policy of picking "up any vags spotted within the city limits."⁴⁰¹ In 1966, a District of Columbia judge found that "the typical accused under [the vagrancy] law is a miserable derelict whose principal offense is poverty and affinity for cheap wine, or an individual, male or female, suspected of engaging in prostitution or homosexuality."⁴⁰² The court concluded that the "basic design" of the vagrancy law is "preventive conviction imposed upon those who because of their background and behavior are more likely than the general public to commit crimes and * * * the statute contemplates such convictions even though no overt criminal act has been committed or can be proved."⁴⁰³ Recent studies of the use of public drunkenness statutes in two cities found that they were often employed to arrest skid row types who were not drunk

³⁹³ *Supra*, note 352 at p. 473.

³⁹⁴ *Id.* at p. 478.

³⁹⁵ *Id.* at p. 456.

³⁹⁶ U.S. Civil Rights Commission, staff memorandum, "Police-Community Relations, Cleveland, Ohio" (Feb. 21, 1966), pp. 3-4.

³⁹⁷ *Supra*, note 387 at pp. 108-109.

³⁹⁸ *Supra*, note 21, vol. II, at p. 232.

³⁹⁹ Kenneth B. Clark, "Dark Chetto" (New York: Harper & Row, 1965), pp. 4-5.
⁴⁰⁰ Caleb Foote, "Vagrancy Type Law and Its Administration," University of Pennsylvania Law Review, 104: 603-650, 613.

⁴⁰¹ Tucson Daily Citizen, Jan. 4, 1960, quoted in William O. Douglas, "Vagrancy and Arrest on Suspicion," Yale Law Journal, 70: 1-14.

⁴⁰² *District of Columbia v. Ricks*, No. D.C. 3050-66, decided June 16, 1966, p. 10.

⁴⁰³ *Id.* at p. 2, 3.

but were aesthetically displeasing.⁴⁰⁴ Until 1965, one department was arresting women under an ordinance which made it a crime for a "woman of notorious character" to walk or ride up "the streets of this city."⁴⁰⁵

This practice is even more harmful to a person than an unwarranted field interrogation, since the suspect is not merely stopped, but he is arrested and confined, at least until he can make bail. While such arrests may serve some investigative value to the police, there is grave question as to their propriety.

The American Bar Foundation, in its study of 1956-57, found that the "Police assume that these [vagrancy] statutes are intended primarily as aids to investigation."⁴⁰⁶ For example, if the police desire to undertake an in-custody investigation of a person, and investigative arrests are not used, they often arrest a person for violating a vagrancy-type statute. In one observation made during the American Bar Foundation study, a man was seen near a pawn shop with a jacket on his arm. When questioned, he said that he was unemployed because he had just come to the city to find work and that he had no identification because his wallet had been stolen; he also gave other evasive answers. The officers arrested him for vagrancy because they suspected him of burglary but lacked evidence. Similarly, a man suspected of homicide was arrested for vagrancy so that a prolonged investigation could be made while he served his sentence.⁴⁰⁷ Other statutes were found to be used for the same purpose. A man suspected of carrying narcotics, whom the officers did not have evidence to arrest, was arrested for a minor traffic violation which would ordinarily result in a warning and his car was searched.⁴⁰⁸

Arrests for failure to move on, loitering, blocking the sidewalk, or public drinking are predominantly made in slum neighborhoods. One reason is that more officers are stationed in these neighborhoods because of the greater amount of serious crime. As a result, residents sometimes charge "over policing" at the same time they seek more protection from crimes such as robbery and burglary. Minor crime statutes, however, are also more used in poor areas because it is harder to keep order there. As a precinct captain in Washington, D.C. stated:⁴⁰⁹

We do tend to enforce the drunk laws more rigidly on 14th Street than in, say, Crestwood, a better part of the precinct. If we overlooked things on 14th Street, we would have a more serious problem.

The source of these difficulties in enforcement of minor crime statutes reaches beyond the police. The community often demands that the police rid the city of undesirable persons, harass persons engaged in vice activities, and keep the unsightly off the streets, even though the police do not have legal means of doing so.⁴¹⁰ Thus, until the public recognizes the dilemma facing the police in regulating such behavior, the police will continue to be placed in an untenable position.

As recommended in chapter 5 of the General Report, the content and use of minor crime statutes should be care-

fully reexamined in all communities. Obviously, certain minor crime statutes are necessary in order to regulate reasonable conduct on the street. If persons are disorderly and disturb others, if they block the streets and sidewalk, if they use obscene language in public, police action is warranted. Many existing statutes, however, which base criminality on suspicious conduct, a prior record, or poverty, are of questionable legal validity and usually of considerable harm to community relations.

At least some minor crime statutes should be eliminated. In chapter 9 of the General Report, the Commission recommended the abolition of criminal drunkenness statutes. Besides its other virtues, this would reduce the tension which frequently results, particularly in minority communities, from the arrest of drunks. The neighborhood reaction would doubtless be different if citizens knew, as the Commission recommends, that drunks were merely taken to a sobering up facility and then released or treated.

Most statutes which are used to regulate street conduct are so broad that almost unlimited discretion is given to the police officer to arrest persons on the street or, as with a failure-to-move-on statute, to regulate conduct by the threat of arrest. Such statutes should be amended to cover only conduct which reasonably disturbs the public or is an immediate threat to the peace. Even if this is done, however, there would still be a need for police departments to formulate guidelines concerning their permissible use.⁴¹¹ The guidelines should clearly bar discriminatory enforcement of minor crime statutes either against individuals or in particular neighborhoods. The District of Columbia Crime Commission Report noted that "until recently, there were no criteria issued by the police to assist the officer in exercising * * * discretion wisely."⁴¹²

Arrest Quotas

It is often alleged that police officers and perhaps even precincts have arrest quotas. As a result, it is contended officers who have not made a sufficient number of arrests begin to make frivolous or marginally warranted arrests relating to minor crimes and that supervising officers order patrolmen to clear the streets of drunks and the like. The police, on the other hand, generally deny the such quotas exist.⁴¹³

The difficulty in determining whether arrest quotas exist is that they need not be absolute requirements. The effect is virtually the same if precincts and individual officers are expected to make an approximate number of arrests as evidence that they are carrying out their responsibilities in a diligent and effective manner. Such expectations can be as effective as a regulation.

The Commission has little evidence that police forces use quotas for evaluating officers. Two Commission surveys did find, however, that, in both a mid-western and a western city, one means by which supervisors evaluated officers was by the number of fi-

⁴⁰⁴ Emory University, Department of Psychiatry, "Alcohol Project," Sept. 23, 1963, p. 18.

⁴⁰⁵ "Atlanta Prostitutes Win Fight to Curb Arrests on Streets," New York Times, Dec. 10, 1965, p. 38, col. 5.

⁴⁰⁶ *Supra*, note 352 at p. 88.

⁴⁰⁷ *Id.* at p. 151.

⁴⁰⁸ *Ibid.*

⁴⁰⁹ *Supra*, note 134 at p. 35, col. 5.

⁴¹⁰ See, ch 2, Law Enforcement Policy: The Police Role.

⁴¹¹ For example, the Corporation Council in the District of Columbia recently issued a ruling, construing the move-on statute to mean that the person does not commit an offense when he fails to move after being ordered by an officer unless there are circumstances which "(a) amount to an actual obstruction of vehicular or pedestrian traffic, or (b) constitute an immediate threat to the safety, public peace, or public order." Milton D. Korman, Letter to the Commissioners, "Authority of Police Officers to Order Persons Congregating on Streets to Move On," June 7, 1966, p. 13.

⁴¹² *Supra*, note 77 at p. 67.

⁴¹³ *Supra*, note 21 at vol. I, pp. 126-127, 162.

interrogations each had made.⁴¹⁴ In one of those cities a ranking officer stated:⁴¹⁵

Our first line supervisors [Sergeants] have a responsibility to keep statistics on each officer's production—not an average, but his production—to find out whether a particular officer's performance is consistent with what his [s]quad's average might be. As a result, if a particular man is low, we expect an explanation.

Police work is far too complicated and delicate a job to judge an officer's work or qualifications for promotion on the number of arrests he has made. Furthermore, arrest quotas, if they exist as either explicit requirements or implied expectations, can lead to improper activity by policemen. Patrolling officers have the complex and difficult responsibility of exercising their discretion based on the circumstances of the particular case. No part of this calculation should consist of the number of arrests the officer has made in comparison to a preestablished quota or expectation set by the department.

USE OF FIREARMS TO APPREHEND OR ARREST SUSPECTS

Police use of firearms to apprehend suspects often strains community relations or even results in serious disturbances. For example, the San Francisco riot of 1966 started after a juvenile was shot and killed while fleeing from a stolen car.⁴¹⁶ Severe tensions were aroused in Los Angeles during May 1966, after an officer's firearm accidentally discharged and killed a man who had refused to stop his automobile until it was forced to the curb.⁴¹⁷ In St. Louis, disturbances began in September 1966 after police officers shot and killed a person who had his hands handcuffed behind him in a police car located in the courtyard of police headquarters. The police assert that the suspect threatened officers in the car with a tear gas pistol he had in his belt behind him which the officers had failed to find in a search earlier.⁴¹⁸

When studied objectively and unemotionally, particular uses of firearms by police officers are often unwarranted. For example, an American Bar Foundation study revealed one instance where a foot patrolman signaled a speeding driver to stop. When the driver did not, the officer fired five times at the speeding car.⁴¹⁹

A study by an American Civil Liberties Union affiliate in a medium-sized city found that officers fired guns more than 300 times in a 2-year period and over one-third were during automobile chases involving juveniles.⁴²⁰ An average of 240 persons per year were fatally injured by police between 1950 and 1960.⁴²¹ The Michigan State study concluded that police officers often use guns indiscriminately and that this was due, in large part, to overemphasis of danger in police work.⁴²² While the murder of a single police officer is a tragedy, as of 1955, the rate of total police fatalities while on duty (including accidents) was 33 fatalities per 100,000 officers which was less than the rate of deaths on duty in mining (94), agriculture (55), construction (76), and transportation (44).⁴²³

It is surprising and alarming that few police depart-

ments provide their officers with careful instruction on the circumstances under which the use of a firearm is permissible. For example, a 1961 survey of Michigan police forces found that 27 out of 49 had no firearms policies.⁴²⁴ A survey in 1964, of 45 of the 51 American cities of over 250,000 population, found that 3 had no written firearms policy,⁴²⁵ and, while others had comprehensive policy statements, many were quite limited. For example, one simply prohibited warning shots, one instructed its officers to "exercise the greatest possible caution," and 10 urged officers to use "good judgment."⁴²⁶ While it is true that many departments have oral firearms policies, these policies have normally developed through customary practices that rarely are the product of careful analysis and are usually not well understood by patrolmen.⁴²⁷

It is essential that all departments formulate written firearms policies which clearly limit their use to situations of strong and compelling need. A department should even place greater restrictions on their use than is legally required. Careful review of the comprehensive firearms use policies of several departments and discussions with police administrators indicate that these guidelines should control firearms use:

1. Deadly force should be restricted to the apprehension of perpetrators who, in the course of their crime threatened the use of deadly force, or if the officer believes there is a substantial risk that the person whose arrest is sought will cause death or serious bodily harm if his apprehension is delayed. The use of firearms should be flatly prohibited in the apprehension of misdemeanants, since the value of human life far outweighs the gravity of a misdemeanor.⁴²⁸

2. Deadly force should never be used on mere suspicion that a crime, no matter how serious, was committed or that the person being pursued committed the crime. An officer should either have witnessed the crime or should have sufficient information to know, as a virtual certainty, that the suspect committed an offense for which the use of deadly force is permissible.

3. Officers should not be permitted to fire at felony suspects when lesser force could be used; when the officer believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force; or when there is any substantial danger to innocent bystanders. Although the requirement of using lesser force, when possible, is a legal rule, the other limitations are based on sound public policy. To risk the life of innocent persons for the purpose of apprehending a felon cannot be justified.

4. Officers should never use warning shots for any purpose. Warning shots endanger the lives of bystanders, and in addition, may prompt a suspect to return the fire. Further, officers should never fire from a moving vehicle.

5. Officers should be allowed to use any necessary force, including deadly force, to protect themselves or other

⁴¹⁴ Supra, note 22 at pp. 335-336; supra, note 21 at vol. I, p. 142.

⁴¹⁵ Supra, note 21 at vol. I, p. 126.

⁴¹⁶ Lawrence E. Davies, "Calm is Restored in San Francisco," *New York Times*, Sept. 30, 1966, p. 1, col. 5.

⁴¹⁷ Peter Bart, "Inquest Tightens Tension in Watts," *New York Times*, May 21, 1966, p. 13, col. 1.

⁴¹⁸ Donald Janson, "St. Louis Orders Riot Crackdown," *New York Times*, Sept. 29, 1966, p. 39, col. 3.

⁴¹⁹ Supra, note 352 at p. 213.

⁴²⁰ American Civil Liberties Union, "Police Power vs. Citizens' Rights" (*New York: The American Civil Liberties Union, 1966*), pp. 4-5.

⁴²¹ Gerald D. Robin, "Justifiable Homicide by Police Officers," *Journal of Criminal Law, Criminology and Police Science*, 54:228-229. Robin also notes

that an average of 240 persons per year were fatally injured by police intervention between 1950 and 1960—approximately six times the number of officers killed by criminals.

⁴²² Supra, note 22 at pp. 344-346.

⁴²³ Supra, note 421 at pp. 228-231.

⁴²⁴ Samuel G. Chapman and Thompson S. Crockett, "Gunsight Dilemma: Police Firearms Policy," *Police*, May-June 1963, p. 54.

⁴²⁵ Cincinnati Police Department, "Police Regulations Governing Use of Firearms Survey," Apr. 22, 1964, p. 1.

⁴²⁶ Id. pp. 9-54.

⁴²⁷ Supra, note 424 at p. 22.

⁴²⁸ This is already prohibited in many States by statute.

persons from death or serious injury. In such cases, it is immaterial whether the attacker has committed a serious felony, a misdemeanor, or any crime at all.

6. In order to enforce firearms use policies, department regulations should require a detailed written report on all discharges of firearms. All cases should be thoroughly investigated to determine whether the use of firearms was justified under the circumstances.

If all departments formulated firearms use policies which include the above principles and these policies were consistently enforced, many of the tragic incidents which had a direct bearing upon community relations could have been avoided.

POLICE TACTICAL PROCEDURES

Police-community relations are not affected by the actions or conduct of individual officers alone. Often, departmental procedures which are intended to reduce crime, quell riots, or promote efficiency have a major effect on police-community relations. For example, in order to reduce crime in a high-crime area, a police department may saturate it with substantially increased numbers of police officers or decide to use trained dogs and handlers. In order to make more efficient use of its personnel, a police department may use motor rather than foot patrol or one-man rather than two-man motor patrols. Such practices, although often far more efficient and economical, can sometimes antagonize the public or at least reduce the opportunity for friendly contacts which are the basis of good community relations.

Motorized Patrols

The Nation's police forces are increasingly patrolling in cars rather than on foot because motor patrol is plainly more efficient—officers can cover many times more area in the same period of time—and police officers have more to do.⁴²⁹ The change to motor patrol can, however, significantly affect police-community relations. The University of California study found that since officers on motor patrol in San Diego had such a heavy workload and were without portable police radios, they rarely left their automobiles to meet citizens in a nonenforcement situation.⁴³⁰ Similarly, a study of another western city which almost exclusively used motor patrol found that the officers had "little opportunity to build up an intimate familiarity, much less an identification, with any neighborhood."⁴³¹

On the other hand, an officer on foot has the opportunity to have informal and friendly exchanges with the people whom he quickly comes to know personally. The public can develop a greater understanding of the officer and his job. The officer similarly can learn the culture and opinions of the people in the area and can learn to appreciate them as individual human beings and not as a nameless part of a racial, religious, or ethnic group.⁴³² As Professor Oscar Handlin has noted:

I think it is fair to say if one thinks of the large municipalities as a whole, the links between the police and the communal organizations have not been strengthened in the last quarter of a century and in some ways have been weakened. In an earlier period the policeman walking his beat at least had a certain familiarity with the institutions of his own immediate district. I'm not putting too much emphasis on that nor do I wish to romanticize that gallant figure; but nevertheless he knew something about the actual people and the actual organizations in the district of the beat which he walked.

Similarly, the Commissioner of the London Metropolitan Police said:⁴³³

The policeman in a car, on a motorcycle, or absent from his beat becomes a cipher. * * * [T]he greatest safeguard of public relations, as well as the greatest preventive measure against crime, lies in making good deficiencies on the beat.

The recent Royal Commission Report concluded that:⁴³⁴

In spite of heavy and conflicting demands on their limited resources we regard it as most important that chief police officers should bear in mind the need to allocate an adequate number of men to beat duties, where they will be in touch with the public.

The question then is: Can the need for greater efficiency be coupled with sufficient informal contact to improve police-community relations?

There are several possible patrol techniques and new personnel assignments which can accomplish both the objective of greater efficiency and substantial informal contact. First, foot patrolmen or community service officers should probably remain in high-crime, high-tension areas where the streets are usually crowded. Second, patrolmen in other areas could ride motor scooters which permit easier contact with residents.⁴³⁵ Third, patrolmen either on scooters or in automobiles could park their vehicles at one end of a block (or two) and then walk around it. If they have portable police radios, they could still be summoned immediately to proceed to the scene of an emergency.⁴³⁶ Alternatively, as in Philadelphia, a two-man car can be used with one partner walking a beat with a portable radio to communicate with the man in the car.⁴³⁷ Thus, motor patrolmen are in effect considered as foot patrolmen using cars to increase their mobility. Fourth, informal citizen contacts by patrol officers using traditional motor patrol methods can be increased by having them work, along with precinct community relations officers, with community organizations.

One-Man Patrols

Police departments are increasingly changing from two-man to one-man motor patrols.⁴³⁸ Again, this allows scarce personnel to cover more area at less cost.

The one-man patrol in itself has no major effect on police-community relations unless it leads to changes in other police procedures. It has been suggested that an

⁴²⁹ Governmental Research Institute, "One-Man Police Patrol Car Operation," and O. W. Wilson, "Put the Cop Back on the Beat," both appearing in Samuel G. Chapman, ed., "Police Patrol Readings" (Springfield: Charles C. Thomas, 1964), pp. 129 and 97.

⁴³⁰ *Supra*, note 21 at vol. I, pp. 114, 161-162.

⁴³¹ *Supra*, note 172 at p. 27.

⁴³² Oscar Handlin, "Community Organization as a Solution to Police-Community Problems," *The Police Chief*, March 1965, p. 22.

⁴³³ *Supra*, note 15 at p. 106.

⁴³⁴ *Ibid.*

⁴³⁵ The police of New York City, New Rochelle, Washington, D.C., North Bergen, N.J., and Newport, R.I., reported to the Commission that they were experimenting

with the use of motor scooters in conjunction with programs to provide transportation for men formerly assigned to foot patrol.

⁴³⁶ O. W. Wilson, "Put the Cop Back on the Beat," and Thomas J. Rogers, "Review of Foot Patrol in Chicago," both appearing in Samuel G. Chapman, ed., "Police Patrol Readings" (Springfield: Charles C. Thomas, 1964), pp. 97-101; 105-110. Also, police in New York City, Oakland, Berkeley, Kalamazoo, and Meriden, Conn., have been equipped with portable police radios. This concept is discussed in detail in ch. 3.

⁴³⁷ *Supra*, note 21 at vol. II, p. 190; and Norman L. Clowers, "One and One Half Man Cars," *Police*, March-April 1960, appearing in Samuel G. Chapman, ed., "Police Patrol Readings" (Springfield: Charles C. Thomas, 1964), pp. 102-105.

⁴³⁸ *Supra*, note 429 at pp. 129-130.

officer, making an arrest when alone is more likely to try persuasion than force.⁴³⁹ On the other hand, in San Diego, police policy is to handcuff all persons arrested regardless how minor the crime or inoffensive the person. The reason given is that an officer driving an arrested person alone to the station is so vulnerable to attack that handcuffs are required.⁴⁴⁰ Similarly, if officers, particularly in areas of great hostility to the police, are nervous or afraid of being alone, this may well lead them to use a gun or nightstick where it is not needed.

Such problems can be met in ways other than the general use of two-man patrols. When difficult arrests are to be made, at least a second car can be dispatched to the scene. Two-man patrols can be used in high-tension areas even if not needed in other parts of the city. In any event, it is important that the change to one-man patrols not inadvertently lead to police practices harming relations with the public.

Tactical Forces

Increasingly, large urban police forces are creating special units to more effectively control crime. In Washington, it is the tactical force; in New York, the tactical patrol force; in Chicago, the task force; and in Detroit, the tactical mobile unit.⁴⁴¹ In Washington, the force has consisted of 200 regular officers working an extra 8 hours a week.⁴⁴² In New York, the force is a carefully selected group of 450 men, which is soon to be increased to 690. All are 6 footers, under 30 years of age, unmarried, picked on the basis of physical ability and intelligence, and are specially trained.⁴⁴³ Tactical units usually perform special functions such as patrolling in high crime areas, controlling disturbances and riots, and handling demonstrations and other large crowds.

The use of tactical units with relation to disturbances, riots, and crowds in itself need not present any community relations problem. On the contrary, since such units generally receive special training over an extended period of time and have greater experience in handling crowds, it is likely that they will be both more effective from the standpoint of the police and more disciplined and fair in protecting the public. On the other hand, the aggressiveness of one tactical force consisting of highway patrol officers—a ranking officer has called it “a skull-cracking division”—has produced strong public hostility.⁴⁴⁴ As a result, one ranking officer has said that

“[W]henver there are sensitive situations developing in my district, or if disturbances actually have broken out, I will be better off if the highway patrol does not come into any district and stimulate violent reaction.”⁴⁴⁵

It is important both for effective law enforcement and police-community relations that patrolling officers become intimately acquainted with their assigned neighborhood. Consequently, if crime is high in an area and additional officers are needed in an area on a long-term basis, they

should be permanently assigned and special task forces should not be used on routine patrol.⁴⁴⁶ Temporary saturation of an area by officers unfamiliar with it should be used only when it is essential in special circumstances such as the likelihood of a disturbance or riot, or an outbreak of robberies, burglaries, or other serious crime problems.

When extra forces are assigned to an area, it is important that they avoid straining police-community relations. Even though most people who live in high-crime areas strongly desire additional police protection,⁴⁴⁷ resentment is likely to be increased further if the additional police spend much of their time making many more arrests for minor crimes such as loitering, vagrancy, and drunk-and-disorderly.⁴⁴⁸

The possible community relations problems can be met in several ways. For example, tactical unit officers should not be used to enforce minor crime statutes except in unusual circumstances. When the objective is apprehension rather than deterrence, officers in plain clothes should be used.⁴⁴⁹ It is always important that the reason for the use of tactical forces be carefully explained by community relations officers in neighborhoods where they are likely to be used.

Use of Dogs

Although used from time to time since the turn of the century, dogs have been extensively employed in American law enforcement agencies only since 1960. They have been used for searching for intruders in warehouses, stores, and parks; for handling crowds; for tracking suspects; and for finding runaway children. Only in the past 10 years have they been generally used for deterring crime, protecting the officer, and making arrests during routine patrol in high-crime areas. Various police forces report their dog-handler teams have had considerable success in performing all these functions.⁴⁵⁰

Unfortunately, considerable hostility has arisen from using dogs to control crowds, for civil rights demonstrations, and on routine patrol in minority areas.⁴⁵¹ In Washington, D.C., which has the largest canine corps in the country with 92 doghandler teams, the corps formerly patrolled routinely on foot, mostly at night, in high-crime areas.⁴⁵² Negro citizen groups in Washington, D.C. have made the use of dogs one of their principal complaints against the police. As one resident asked at a neighborhood meeting, “What do the police use them for anyway except to scare us?”⁴⁵³ The occasional times when a dog has attacked the wrong person⁴⁵⁴ increased Negro fears. As a result, the District of Columbia government agreed in 1965 not to use dogs for crowd control or in any place that is “congested” with people.⁴⁵⁵

The President's Commission on Crime in the District of Columbia in its 1966 report concluded that there existed no adequate measure of the effectiveness of the canine corps; dogs are often hard to handle during the

⁴³⁹ *Supra*, note 238 at pp. 69, 151-152.

⁴⁴⁰ *Supra*, note 21 at vol. I, p. 143.

⁴⁴¹ *Newsweek*, June 27, 1966, p. 24.

⁴⁴² *Supra*, note 77 at p. 56.

⁴⁴³ “Police Increase Tactical Force,” *New York Times*, June 14, 1966, p. 18, col. 6.

⁴⁴⁴ *Supra*, note 21 at Vol. II, p. 46.

⁴⁴⁵ *Ibid.*

⁴⁴⁶ *Supra*, note 96 at p. 250; *supra*, note 77 at p. 52.

⁴⁴⁷ *Supra*, note 25 at pp. 25-26; *supra*, note 36 at p. 2.

⁴⁴⁸ *Supra*, note 77 at p. 57. About this issue, the District of Columbia Crime Commission noted that “It has been suggested to the Commission that a number of the many drunk-and-disorderly arrests being made by police officers assigned to the Tactical Force emanate in part from the boredom inherent in its current operations.”

⁴⁴⁹ *Id.* at p. 57.

⁴⁵⁰ Samuel G. Chapman, “The Dog in Law Enforcement,” *Police*, June 1960,

pp. 52-56; Samuel G. Chapman, “Whether to Use Police Dogs,” *Police*, September-October 1961, pp. 62-67; Samuel G. Chapman, “Dogs in Police Work” (Chicago: Chicago Public Administration Service, 1960), pp. 14, 26-27, 39, 40, 43, 46-48; *supra*, note 96 at pp. 250-251.

⁴⁵¹ *Supra*, note 22 at pp. 18, 26; California Advisory Committee to the U.S. Commission on Civil Rights, “Report on California: Police-Minority Relations,” August 1963, p. 22.

⁴⁵² *Supra*, note 77 at pp. 53-54; “Use of City Canine Corps Stirs Comments,” *the Washington Post*, Nov. 4, 1965, sec. E, p. 4, cols. 1-6.

⁴⁵³ “Use of City Canine Corps Stirs Comments,” *the Washington Post*, Nov. 4, 1965, sec. E, p. 4, cols. 1-6.

⁴⁵⁴ “K-9 Corps Dog Bites Wrong Man in Chase,” *the Washington Post*, May 6, 1966, sec. C, p. 3, cols. 1, 2.

⁴⁵⁵ “Use of City Canine Corps Stirs Comments,” *the Washington Post*, Nov. 4, 1965, sec. E, p. 4, cols. 1-6.

hot summer months; animosity has developed between observers and the police where dogs have sniffed drunks during arrests. The most serious disadvantage is that "there is a risk that people may see themselves as controlled, rather than protected, by the dogs."⁴⁵⁶ Consequently, the Commission recommended that the corps not be expanded without proof of its effectiveness; that "great caution" be exercised in deploying dogs in populated areas; that all requests for use of dogs in particular areas be clearly justified; and that clear directives be issued.⁴⁵⁷

It is likely that in many areas the large majority of residents will accept the prudent use of dogs for routine patrol if this is carefully explained. Even in Washington, D.C., where criticism of their use has been great, the survey by the Bureau of Social Science Research found that 46 percent of Negro men and 60 percent of Negro women who responded favored more use of police dogs.⁴⁵⁸ And in St. Louis, after talks in the schools to civic groups, public demonstrations of the use of dogs, and other dissemination of information to the public, the use of such dogs has produced little, if any, consternation in the Negro community.⁴⁵⁹

There is considerable doubt, however, whether dogs should ever be used to control crowds. While the policies of most departments were to use dogs as a last resort in crowd control, if at all, the Michigan State University survey found that they were frequently present at disturbances as "backup" units or for "shows of force."⁴⁶⁰ Their use might well increase violence and produce further harm to community relations.

Handling Crowds, Demonstrations, and Riots

Crowds. The police handling of a crowd which could possibly become a riot raises substantial community relations problems. Although the police naturally seek to assemble sufficient personnel to prevent a riot, police in unnecessarily massive numbers may be regarded by minority and perhaps other groups as a provocation.⁴⁶¹ The possibility of provocation through oversaturation can be minimized without interfering with adequate protection, by holding some units on a standby basis a few blocks away and assigning them out of the area as tensions lessened.

It is crucial that careful procedures be developed in advance on proper handling of crowds and that such planning take into account different kinds of crowds. For example, careful preparation was made for dealing with a possibly dangerous crowd prior to a Labor Day motorcycle race at Marlboro, Md., in 1965. Part of the police planning included discussion about how to avoid harsh, indiscriminate treatment of the motorcyclists which could result in unifying them against the police. The police officers were instructed to treat motorcyclists like any visiting motorists in the county. During the weekend, motorcyclists were not harassed, but law violators were dealt with fairly and firmly. The result was not only immediately effective in preventing a riot

but the lack of police harassment created good relations for the future.⁴⁶²

Demonstrations. One of the primary responsibilities of the police is to protect the constitutional rights of citizens. Part of this responsibility involves cooperating with all legal demonstrations no matter how repugnant the participants or cause may be to policemen personally. They must protect demonstrators against the illegal action of bystanders, and they must take official action against demonstrators if laws are violated.⁴⁶³ The police must treat competing pickets (who are acting lawfully) equally but must be mindful of the prospects for friction between opposing groups. Such demands are among the hardest facing the police today.

Unfortunately, police action has not always met these necessary standards. As shown earlier, the police, particularly in the South, have sometimes themselves attacked peaceful and clearly legal demonstrators with excessive force and have failed even to try to protect demonstrators from violent attack. These actions, which have received national press and television coverage, have reduced respect for the police not only in the South but throughout the country.

On the other hand, many police forces have received strong, public praise from leaders of demonstrations for their cooperation and fairness regarding demonstrations, such as during the huge and peaceful march on Washington, D.C., in 1963. Such success is not the result of chance. Chief Thomas Cahill has described the elaborate preparations used in San Francisco. The police seek out the leaders of the demonstrators, and then plan with them together. At one demonstration, the police told its leaders of the advisability of monitors with armbands for every 100 demonstrators so that the demonstrators could police themselves. Few uniformed officers were in sight although others were in the vicinity. The demonstration, as Chief Cahill described it, "was one of the most orderly demonstrations that I have ever seen. The leaders paid tribute from the platform, not only to the participants, but also to the police department for their cooperation and assistance."⁴⁶⁴

Before another sit-in demonstration, the leaders came to Chief Cahill's office and told him of the action they proposed to take. They said that they expected to be arrested and together with the Chief they discussed the charge which would be brought. The sit-in occurred, the demonstrators were arrested, and no other problem developed.⁴⁶⁵

Similarly, in New York, peace groups have informed the police department about demonstrations. Ground rules have been established such as placing placards on light, blunt sticks rather than sharp sticks or heavy poles. The number of demonstrators had been limited to prevent unreasonable interference with other citizens.⁴⁶⁶

These examples show that the police can work closely with the leaders of demonstrations and that the latter will frequently work with the police. This requires, however, that the police be completely fair—that they not use the cooperation of the demonstrators against them. It

⁴⁵⁶ *Supra*, note 77 at p. 54.

⁴⁵⁷ *Id.* at p. 55.

⁴⁵⁸ *Supra*, note 14 at p. 13B; the same study discloses that 53 percent of the white men and 68 percent of the white women responding favored the use of dogs.

⁴⁵⁹ *Supra*, note 22 at p. 38.

⁴⁶⁰ *Supra*, note 22 at pp. 347-349.

⁴⁶¹ *Supra*, note 21 at vol. I, p. 158.

⁴⁶² Robert Shellow and Derek V. Roemer, "The Riot That Didn't Happen," (unpublished report, 1965).

⁴⁶³ "New York City Police Commissioner States Policy on Demonstrations," *The Police Chief*, July 1963, p. 14; Quinn Tamm, editorial, "Police Brutality—Or 'Smokescreen'?" *The Police Chief*, December 1963, p. 7.

⁴⁶⁴ *Supra*, note 99 at p. 37.

⁴⁶⁵ *Ibid.*

⁴⁶⁶ Michael J. Murphy, "Civil Disobedience," *The Police Chief*, June 1963, pp. 58-59.

also requires that the police be willing to deal with all kinds of groups including those which are generally hostile to them.⁴⁶⁷

It is also important that personnel at demonstrations have special training and experience. For example, Philadelphia has a special squad of 22 police officers, 11 of whom are Negro. The squad has been unusually successful in dealing effectively with demonstrations while maintaining good relations with the demonstrators.⁴⁶⁸ Similar results have been achieved by giving special training to a civil disobedience unit in a populous suburban Maryland county near Washington, D.C.⁴⁶⁹ The officer should be trained to avoid an unnecessary show of force which would suggest police antagonism to the demonstration, although the police should be ready to handle any situation which might arise. Before reporting to their stations, all officers should be specifically informed about the demonstration, and police strategy, and be briefed on contingency plans.⁴⁷⁰

Finally, if arrest is required, demonstrators should be treated courteously and humanely. As former Commissioner Murphy of New York has stated:⁴⁷¹

We may well be headed toward a situation where we will feel obliged to say "pardon me" as we escort the violator to the waiting patrol wagon. But, gentlemen, if our work is to be done properly that "pardon me" will in no way interfere with the speed and efficiency of the arrest process.

Riots. The police have little control over the social, economic, or other factors which create riots; however, a good and comprehensive community relations program is the best method of riot control available to the police, for most riots are at least triggered by police action.⁴⁷² If the police had genuinely good relations with all segments of the public, some riots could doubtless be prevented.

Police activities to prevent riots can cause serious police-community relations problems. For example, on some occasions, a show of force can be unwarranted and provocative.⁴⁷³

The unanswered question is: Could other police measures have met the objections of the neighborhood residents and still have prevented a riot? Some alternatives might have included using fewer cars, patrolling in unmarked cars, and patrolling without the show of weapons. For example, in Philadelphia, the police have had unusual success in employing as little force as possible although much greater additional force is nearby.⁴⁷⁴ Similarly, in Washington, D.C., when a disturbance began in August 1966, the police sealed off the crowd and called in civilian leaders who could calm it.⁴⁷⁵

Once a disturbance or riot is in progress, of course, the dominant consideration must be to end it. However, even then, it is extremely important that the means used be weighed for their effect on police-community relations. This is essential since actions which stir up antagonism in turn may prolong the riot and increase the likelihood of future ones. Alternative methods of equal, or virtually equal, effectiveness may be available for controlling the riot which will cause less serious damage to police-com-

munity relations. For example, the common police technique in controlling riots is to use a massive amount of force to break up the rioters into small groups as soon as possible. Snipers are generally answered in kind; batons, dogs, and tear gas may be used.

In contrast, New York City, during the summer of 1966, employed a different method. When a mob formed, the police did not try to break it up directly. They blocked off streets but left open an avenue of "escape" for the mob. The mob then generally dissipated. No shots were fired by the police in answer to sporadic sniping and the emphasis was on restraint. Despite a week of disturbances, no major riot resulted, police casualties were light, and the department earned considerable praise from the community.⁴⁷⁶

It is debatable which methods are most effective for preventing and controlling a riot. Certainly, it is unfair to second guess police action long after the event. Yet it is important to note that the techniques used in New York and Washington improved, rather than hurt, community attitudes toward the police. At least, these examples show that considerations of police-community relations should be a major factor in developing plans relating to disturbances and riots.

To help local departments plan, the Commission assisted the FBI in preparing a manual, "Prevention and Control of Mobs and Riots," which was published by the FBI in April, 1967.

ENSURING FAIRNESS

INTERNAL PROCEDURES

The best way to deal with police misconduct is to prevent it by effective methods of personnel screening, sufficient training, constant retraining, and supervision. A department that clearly articulates its community-relations policies and holds its members to abide by them should receive a minimum of complaints from citizens. However, there will always be citizen complaints, warranted and unwarranted, about treatment by the police. And there will always be misconduct by individual officers about which no complaint will be made. How complaints should be handled and how misconduct should be dealt with has been the subject of perhaps the fiercest of the many controversies about the police that has raged in recent years.

Without question, the best means for ensuring that personnel are complying with departmental policies and general notions of fairness is through effective internal police procedures. Internal discipline can be swifter and, because imposed by the officers' own superiors, more effective. If properly carried out, internal discipline can assure the public that the department's policies concerning community relations are fully meant and enforced. This is particularly true when the department's own investigation discovers misconduct without any citizen complaint.

Strong discipline shows the public that misconduct is

⁴⁶⁷ Supra, note 174 at pp. 156-158.

⁴⁶⁸ Supra, note 21 at p. 84.

⁴⁶⁹ Robert Shellow, "Reinforcing Police Neutrality in Civil Rights Confrontations," *Journal of Applied Behavior Science*, 1:243-254.

⁴⁷⁰ Supra, note 174 at p. 163.

⁴⁷¹ Supra, note 466 at p. 59.

⁴⁷² See Assessment Task Force Volume of the report of the President's Commission on Law Enforcement and the Administration of Justice.

⁴⁷³ Supra, note 21 at vol. I, pp. 80-81.

⁴⁷⁴ Id. at vol. II, pp. 39-41, 190-191.

⁴⁷⁵ Claude Koprowski and Jesse W. Lewis, Jr., "Police Curb Outbreak in North-east," *The Washington Post*, Aug. 24, 1966, sec. A, p. 1, col. 1.

⁴⁷⁶ "More Stress Put on Role of Police 'Peace Officer,'" *Jamaica, N.Y.*, Long Island Press, July 28, 1966, sec. 1, p. 14, cols. 1, 2; Thomas A. Johnson, "New Police Plan Used on Crowds," *New York Times*, July 25, 1966, p. 16, col. 6.

merely the action of individual officers—the few who violate the rules in any organization—and not action which is customarily tolerated in the department. Consequently, high priority should be given to improving internal police procedures so that they can satisfy as much of the public as possible concerning their fairness and effectiveness.

Internal Investigations

Formal machinery within every police department for the investigation of complaints against police activity or employees and for the determination of whether departmental policy is being carried out is an absolute necessity. Most large police departments now have procedures of some kind for dealing with charges of misconduct by their members, whether those charges originate inside or outside of the department. When such machinery is fully and fairly used, in concert with internal investigation and inspection programs, it succeeds both in disciplining misbehaving officers and deterring others from misbehaving.

The job of ensuring fairness and good community relations requires continuous monitoring and creates a need at all times for information as to how well departmental directives are being carried out and what new problems are developing. There are numerous means through which an aggressive leadership can fill this need. For example, if the department has an active program of working with community groups, much information can be gained through direct communication. An alert inspection unit will provide valuable information, particularly regarding problem areas and the relative effectiveness of different personnel units and techniques. Internal investigations also provide important information about the conduct of individual officers. Once the department has obtained information concerning possible misconduct or violations of policies relating to community relations, it must give the same dedication and attention to further investigation and, when appropriate, punishment as it gives to other vital areas of police work.

Many police agencies have recognized this need and are seeking to meet it. But in many, the programs are seriously inadequate and in all those examined during the Commission's studies there is room for improvement. The purpose of this section is to suggest machinery for handling complaints and enforcing policy.

American police departments have long faced problems in fighting corruption and the best departments have responded by developing specialized investigative machinery to deal with them. These internal investigative units, described in chapters 3 and 7, operating independently under a senior officer, have proved valuable in attempts to control corruption. The internal investigation units should be just as diligent in sampling the conduct of its officers and ferreting out misconduct against citizens as in ferreting out corruption. For example, they should be willing to observe police conduct on the street, to have men in stationhouses to determine whether physical abuse occurs, and to utilize other promising investigative

techniques. In 1966, Chicago established an Under Force Unit within the Internal Investigation Division. The Unit is commanded by a Lieutenant and consists of 8 Negro and 7 white investigators.

Policemen all too often, because of misplaced loyalty, overlook serious misconduct by other officers. This has relevance to community relations as well as corruption. The Michigan State survey indicates that there is seldom any established procedures to accommodate the complaint of one officer against another and that "nearly every organization contacted made it extremely difficult both formally and informally for a patrolman to inform higher officials of improper conduct on the part of his fellow officers or his supervisors. The department nearly always require an exhaustion of the chain of command before pressing a complaint elsewhere."⁴⁷⁷

An officer should in no way be discouraged from reporting misconduct of other personnel. This will only serve to perpetuate misconduct. Rather, a department should provide a suitable procedure whereby misconduct of other officers and of superiors can be reported outside of normal channels, if necessary. In 1966 such procedures were in effect in the Boise, Idaho, force:⁴⁷⁸

Reporting Violations of Laws, Ordinances, Rules or Orders

If you know of other members or employees violating laws, ordinances, or rules of the department, or disobeying orders, you shall report same in writing to the chief of police via official channels. If you believe the information is of such sensitivity or such gravity that it must be brought to immediate personal attention of the chief of police you may bypass official channels.

Citizen Complaints

No department can be expected to operate without some misconduct at times by some of its personnel. Even a department can, however, be expected to attempt to discover its faults, correct them where possible, and learn from them. Since law enforcement is primarily a business which deals with the public and must have its trust, complaints by citizens offer a unique opportunity—a channel for communication that may otherwise not exist, means for discovering failures to follow department policies, a method for the redress of grievances, and an early warning of larger troubles. How a department treats such complaints is a general index of its concern or lack of concern for community relations.

Although some departments have recognized the vital role that a good complaint procedure can play in police administration, too few forces today have adequate procedures for dealing with complaints. The Michigan State survey found, that "there exists a widespread distrust of the internal police trial procedures by the major minority groups around the country."⁴⁷⁹ The University of California study made a similar finding as to Philadelphia and San Diego.⁴⁸⁰ Although some of the reasons for distrust are unjustified, there is a basis for the feeling that many departments have adopted procedures which discourage rather than encourage the filing of complaints and which are unfair either to the complainant or to the officer complained against.

⁴⁷⁷ Supra, note 22 at pp. 137-138.

⁴⁷⁸ Police Department of Boise, Idaho, "Police Manual," p. 6, quoted in supra, note 22 at p. 141.

⁴⁷⁹ Supra, note 22 at p. 223.

⁴⁸⁰ Supra, note 21 at vol. I, pp. 57-58, 89, 172-173; vol. II at p. 100.

Reception of Complaints. Since citizen complaints are extremely important to police departments, efforts should be made to encourage citizens with grievances to file them. Unfortunately, police officers and departments often regard a citizen complaint as an attack on the police as a whole rather than a complaint against an individual officer,⁴⁸¹ and therefore, attempt to discourage citizens from filing them. The discouraging of citizen complaints not only deprives a department of valuable information but also convinces the public that the kinds of practices complained about are condoned or even expected.

Several methods of discouraging complaints have been practiced in the past. In one large eastern city, for example, the police department used to charge many of those who filed complaints of police misconduct with filing false reports with the police. In 1962, 16 of 41 persons (almost 40 percent) who filed complaints were arrested for filing false charges, in comparison with the arrest of only 104 of 33,593 persons (0.3 percent) who filed similar charges against private citizens.⁴⁸² Officers sometimes told prospective complainants that all statements must be made under oath and that they could be charged with false reporting. Such a statement is apt to discourage complaints whether or not such charges are actually filed. In 1965, the Commissioners of the District of Columbia issued an order forbidding the police to file a charge of "false report" without their specific approval.⁴⁸³ However, the practice, as of 1966, was to drop criminal charges against a person if he would agree to withdraw his complaint or agree not to file one. Similar procedures have discouraged complaints in New York and other localities.⁴⁸⁴

In Philadelphia, the police review board found in 1959 "that it seemed to be standard police procedure to charge a person with resisting arrest or disorderly conduct whenever the person charges the police with brutality."⁴⁸⁵ It also found some evidence that two complainants had been intimidated—one by arrest at the completion of the hearing and one by harassment before it. Following the board's recommendation, the Commissioner ordered that such practices be "immediately discontinued."⁴⁸⁶ However, the University of California study found that there is still "fear of police retaliation if a complaint is lodged against a police officer."⁴⁸⁷

An observer from Michigan State University reported the following incident:⁴⁸⁸

A Negro stopped the police supervisor with whom our staff member was riding. The Negro indicated that two officers had mistreated him earlier in the night and he wanted to make a formal complaint. * * * The supervisor suggested to the complainant that the complaint was going to cause everybody a lot of trouble. He recommended that the whole thing be dropped because if it was not the complainant would have to miss a lot of work, etc., to pursue it. After listening to the supervisor, the complainant went on his way, and as far as the staff member knows, the complaint never received further attention.

The survey concluded that, through a variety of techniques "there was a tendency to discourage complaints against police officers."⁴⁸⁹

The mechanics of receiving complaints often tends to discourage potential complainants from taking any action. Some procedures are so little known, so complex, or so hard to pursue that the ordinary citizen either gives up or never tries in the first place. Indeed, 75 percent of police departments have no formal complaint requirements at all.⁴⁹⁰

Police departments should ensure that officers in no way discourage the filing of complaints. Once complaints are filed, they should be transmitted immediately to the proper bureau. When made a complaint should be accepted: (1) whether reported in person, in writing, or by telephone; (2) whether made anonymously, sworn to, or in any other form; and (3) whether from the victim, an eyewitness, a person who has merely heard of the incident, or an organization such as a civil rights group.

Prosecution for other charges should never depend in any way on whether the defendant has made or dropped a complaint. Even if the complaining citizen wishes to drop the complaint, the department should continue its investigations, if only to prevent any possibility that complaining witnesses will be discouraged or intimidated. As in Chicago, records of all complaints should be kept and, as in Detroit, settlements should be reviewed by the Chief of Police or another high-ranking official.⁴⁹¹

Departments should advertise widely, as Oakland and New York have done, that they seek out all complaints of police misbehavior of any type.⁴⁹² Complaint forms should be available for civic organizations, civil rights groups, antipoverty agencies, and neighborhood advisory committees.⁴⁹³ Advisory committees should be constantly reminded to encourage residents with complaints to bring them forward.⁴⁹⁴

Complaint Investigations. Although 90 percent of police departments surveyed by Michigan State and the National League of Cities now require an investigation of all citizen complaints, many forces do not have a designated special unit for dealing with complaints. Those forces lacking such units in the survey group tended to be State police organizations, departments in cities below 75,000 population, and southern departments. But there were some larger cities as well. The following tabulation shows the means available in departments for processing citizen complaints:⁴⁹⁵

	Michigan State Survey N=57		National League of Cities Survey N=395	
	Number	Percent	Number	Percent
No special unit.....	27	47.3	114	28.8
Special unit.....	29	50.8	191	48.3
No answer or other.....	1	1.7	90	22.8

⁴⁸¹ Supra, note 490 at p. 502.

⁴⁸² "Police Complaint Procedures," Oakland Police Department, Bulletin from the Office of the Chief, June 10, 1966, p. 1; Police Commissioner Vincent D. Broderick, "Improvements in the Procedures of the Police Department's Civilian Complaint Review Board," statement before the Committee on City Affairs of the City Council of New York City, June 29, 1965, Community Relations Press Release No. 62.

⁴⁸³ Ibid. In Oakland, copies of the complaint form have been provided in bulk to churches, business associations, civil rights and poverty groups. See Id. at p. 2.

⁴⁸⁴ Supra, note 22.

⁴⁸⁵ Supra, note 22 at p. 194. The National League of Cities data are from its Department of Urban Studies.

⁴⁸⁶ Supra, note 21, vol. I, pp. 153-154; vol. II at pp. 100, 187.

⁴⁸⁷ National Capital Area Civil Liberties Union, "A Proposed Revision of the System for Processing Complaints Against Police Misconduct in the District of Columbia," June 1964, p. 17.

⁴⁸⁸ Ibid.; supra, note 77 at pp. 76-78.

⁴⁸⁹ Ibid.

⁴⁹⁰ Philadelphia Police Review Board, "First Annual Report," Sept. 15, 1959, p. 5.

⁴⁹¹ Id. at p. 6.

⁴⁹² Supra, note 21, at vol. II, p. 164; vol. I at p. 174.

⁴⁹³ Supra, note 22 at p. 192.

⁴⁹⁴ Id. at p. 217.

⁴⁹⁵ Note, "The Administration of Complaints by Civilians Against the Police," Harvard Law Review, 77:502.

Although the best police practice has long recognized the utility of internal investigative units for controlling corruption, the Michigan State survey found that of those forces which had some kind of special unit, only half were internal investigation units:⁴⁹⁶

Units	Departments responding	
	Number	Percent
Internal investigation.....	15	50.0
Bureau of Staff Services.....	5	16.6
Community relations.....	2	6.6
Personnel.....	2	6.6
Other.....	6	20.0

The Michigan State study confirmed that discipline is still regarded as a function of line supervisors. It noted that, even in a department with an internal investigation unit, in 70 percent of complaints investigated, the investigation was performed by the district personnel where the accused officer was assigned.⁴⁹⁷ In total, fewer than 5 percent of the 191 departments responding to a 1963 survey relied exclusively on a special unit to investigate citizens' complaints.⁴⁹⁸

An internal investigations unit—or a designated individual in smaller departments—is necessary both to organizational control and to good community relations. The Michigan State and University of California surveys found that in departments without units, where investigations were conducted by the line unit involved, they were often haphazard and dependent on the attitude of the particular line commander; an independent, objective investigation was more difficult to obtain and, even if this was accomplished, suspicion of the result was more likely; records were generally inadequate; and department regulations were often not followed or were unclear.⁴⁹⁹ Consequently, as the International Association of Chiefs of Police and the President's Commission on Crime in the District of Columbia recommended for the Washington, D.C., Police Department, all citizen complaints should be handled, not merely supervised, by the specialized unit.⁵⁰⁰ The unit should be commanded by a high ranking officer who reports directly to the chief.

According to the Michigan State study, the caliber of investigations varied from completely inadequate to excellent. The difference tended to depend on the attitudes of the supervisors and investigators—that is, on the commitment of the department to ferret out misconduct directed at citizens. Investigators sometimes discourage complaints by calling on complainants repeatedly at work or coming to their homes in marked police cars.⁵⁰¹ The study concluded that most departments needed closer supervision of investigators to ensure adherence to regulations and adequate investigation.⁵⁰²

Resolution of Complaints. The Michigan State survey found numerous weaknesses in procedures to resolve complaints. For example, in one department, the commander of the internal affairs bureau indicated that there had been some civil judgments holding policemen liable

but that the department did not believe any of the cases merited disciplinary action. The department had no records concerning any of these cases. Between 1960 and 1965, this department had investigated 121 excessive force complaints and had sustained none.⁵⁰³

During the survey, approximately 300 departments were polled regarding their internal disciplinary proceedings. Of the 63 departments reporting, 5 percent found that 40 to 50 percent of the complaints they received had some merit and were sustained. In contrast, 50 percent of the departments found that less than 10 percent of the complaints they received were valid. Ten percent of the departments could not decide 70 to 100 percent of the complaints as true or not while 40 percent could decide in at least 90 percent of the complaint situations.⁵⁰⁴ A more detailed examination of excessive force complaints in five cities, based in part on confidential departmental records, also indicates a wide variation in the number of complaints sustained.⁵⁰⁵

These figures reveal, as was found by Michigan State, that "there is such a wide variation in the disposition of complaints that the public at times has cause to suspect that the police may not always be handling their complaints properly."⁵⁰⁶ As Deputy Chief Klug of Cincinnati has said:⁵⁰⁷

The thing that bothers me is that police continue to receive huge numbers of complaints but there are only a few instances where the complainant is upheld. They can't be wrong that much—and we can't be right that much.

Police complaint investigative procedures in most departments must be substantially improved to obtain results which are just to all the parties and give the appearance of fairness. At present, the procedures in most departments have many deficiencies. For example, a study by the Harvard Law Review in 1963 found that 70 percent of police departments surveyed had no formal hearings even for serious complaints; almost half with hearings held them in secret; the complainant could not examine witnesses in 20 percent; he was entitled to the department's investigative report in only 5 percent; and in 20 percent, the complainant and officer were not entitled to the assistance of counsel.⁵⁰⁸ The Michigan State survey found that the trial board in one city is ineffective because of the lack of the subpoena power; that in many cities the secrecy of trial boards leads to public distrust; that the denial to complainants of a right to a hearing or, if one is held, to present witnesses or to testify themselves, produce charges of unfairness; and that organizational and procedural complexity, the lack of information given to the public, and lack of supervision of police personnel discourages many complaints.⁵⁰⁹

All departments must reassess their existing hearing procedures to determine whether they meet appropriate standards of fairness for all parties. Certainly, such reassessment should determine whether departmental hearing officers are properly screened to ensure against decisions which are based upon prejudice or preference. A reassessment of hearing procedures should also confront issues such as whether both parties should be entitled to

⁴⁹⁶ Id. at pp. 196, 198.

⁴⁹⁷ Id. at p. 211.

⁴⁹⁸ Supra, note 490 at p. 504.

⁴⁹⁹ Supra, note 22 at pp. 202-204, 218-221; supra, note 21 at vol. I, pp. 170-172, 174; and vol. II at p. 239.

⁵⁰⁰ Supra, note 77 at pp. 80-81.

⁵⁰¹ Supra, note 22 at p. 220.

⁵⁰² Id. at pp. 218-223.

⁵⁰³ Id. at p. 172.

⁵⁰⁴ Id. at pp. 201a, 201b.

⁵⁰⁵ Supra, note 22 at pp. 169, 171.

⁵⁰⁶ Id. at p. 203.

⁵⁰⁷ Richard Severo, "Today's Police Cast in Role of an Enemy of Society," *The Washington Post*, June 26, 1966, sec. A, p. 6, cols. 1, 2, 3.

⁵⁰⁸ Supra, note 490 at pp. 505-508.

⁵⁰⁹ Supra, note 22 at pp. 223-227.

counsel, whether both should have subpoena power, whether both should be entitled to be present during the entire hearing, whether both should have the right to cross-examination, whether transcripts should be provided, whether hearings should be formal or informal and whether all hearings should be opened to the public.

The following procedures seem consistent with the best practices:

1. Minor complaints should be resolved through informal procedures or summary punishment wherever possible. Often a formal apology from the department or the expunging of an arrest record will be sufficient where such a complaint has merit.

2. Serious complaints, such as physical or verbal abuse, discrimination, or harassment, should always go through normal departmental procedures for serious punishment unless the investigation shows no evidence at all of misconduct.

3. Such procedures should include, as is now the practice in most departments, a hearing before a trial board unless the department is so small that the chief of police can himself conduct the hearing. If a board is convened, its members should be carefully screened for impartiality and lack of prejudice. The hearing should be open to the public; the complainant and any witnesses he desires should be present; both the officer and the complainant should have subpoena powers, be represented by counsel, and be able to see the investigative report if they so desire; there should be opportunity for cross-examination by both the officer and the complainant; if desired by any party, a transcript should be made; and the decision should be prompt—probably no more than a month, except in unusual cases, after a complaint is filed. The trial board should render an opinion containing findings of all important facts and explaining its reasoning.

In some cities, disciplinary hearings are conducted by civil service commissions or by other agencies which are independent of the police department. In these cities, the agencies responsible for discipline must undertake the same type of reassessment of procedures that must be undertaken by police departments. Where necessary, laws or ordinances should be revised.

Discipline. The need for reassessment is not limited to hearing procedures. It is also essential that existing disciplinary policies be reexamined. Many persons have charged that where officers are found guilty of misconduct relating to abuse of authority or community relations, they are either punished too lightly or not at all. On the other hand, in some cities, associations of police officers or police unions complain that disciplinary actions assessed by the chief or statutory authority are often too severe for minor misconduct. The Michigan Civil Rights Commission concluded with regard to one large department:⁵¹⁰

The record of disciplinary actions taken by the Department in civil rights violations shows a practice of differential treatment. Disciplinary action went beyond written reprimand in only two instances where civil rights violations were charged. In too many cases the disciplinary measures invoked are not consistent with the seriousness of the offense. * * *

The Commission has emphasized to the Department the principle that disciplinary measures taken in civil rights cases must receive the same consideration as discipline applied in other violations.

The Michigan State survey concluded that "probably the strongest criticism that can be offered is that seldom is meaningful disciplinary action taken against officers guilty of one or more of the forms of brutality."⁵¹¹

In contrast, many police departments impose severe and automatic punishments for comparatively minor violations of regulations. For example, in Philadelphia, department regulations impose the same penalty—reprimand to 5 days' suspension for a first offense—for "[u]sing rude or insulting language or conduct offensive to the public" as for "unexcused tardiness" or "occupying a seat in a public conveyance while in uniform to the exclusion of paying passengers."⁵¹²

Clearly, police departments must take steps to insure that punishments more suitable to the offense committed are given. This will require that all departments examine penalties to determine whether they are effective in deterring future misconduct and whether they are justified when the nature of the offense is considered.

Publicizing the Decision. Once the decision on a complaint has been made, the complainant should be notified of the decision and of the basis for it. And the public should have access to the facts of the case and the nature of the decision. Unless the public has access to reliable information, it is likely to assume the worst.⁵¹³ On the other hand, if complainants are told of the disposition, "[t]hey would know that the Department is concerned and that their complaint was not thrown in the wastebasket."⁵¹⁴

Michigan State found that in 50 of 57 police departments notification of disposition of the complainant was given automatically, but that in 4, it was given only on request and in 3, not at all. Only 25 of the 57 departments surveyed by Michigan State, however, made investigative reports public to any extent, while 32 did not at all.⁵¹⁵

In addition, when an incident or series of incidents has raised tension in an area, it will often be desirable for the determination to be announced and explained directly to the residents of the area either through the community relations unit, a neighborhood advisory meeting, or some other similar procedure.⁵¹⁶ An annual report by the police department providing such facts as the number and kinds of complaints, the kinds of people who made them, the disposition of the complaint, and the punishments imposed can also make a useful contribution to better public understanding.

EXTERNAL REVIEW

In view of the increasing involvement of government officials in the lives of citizens, adequate procedures for the consideration of such individual grievances as citizens may have against such officials are essential. So far as possible, it is desirable that procedures for the considera-

⁵¹⁰ Supra, note 382 at p. 5.

⁵¹¹ Supra, note 22 at p. 186.

⁵¹² Supra, note 21 at vol. II, pp. 201-202.

⁵¹³ Id. at vol. I, pp. 172, 175.

⁵¹⁴ Interview with a Mexican-American leader in San Diego, supra, note 21 at vol. I, p. 92.

⁵¹⁵ Supra, note 22 at p. 200.

⁵¹⁶ The San Mateo County Sheriff's Department notifies the NAACP, American Civil Liberties Union, or other appropriate "social action groups that might reasonably be expected to have an interest" in citizen complaints, and these groups are kept informed as the investigation proceeds. If the group decides to conduct an investigation, the Sheriff's Office cooperates with it. San Mateo County, California Sheriff's Office Information Bulletin No. 25, "Procedure for Handling Personnel Complaints Involving Persons from Minority Groups," pp. 1-2.

tion of individual grievances against policemen—as well as grievances against other governmental officials or employees—be established within the governmental agency involved.

In all jurisdictions, if a complainant remains dissatisfied with the internal disposition of a case, there are other avenues of appeal outside the police agency: The local prosecutor; the courts; elected officials such as councilmen or the mayor; the State's attorney general; and the U.S. Department of Justice. In some jurisdictions, other forums exist such as civil rights or human relations commissions, civilian review boards, and ombudsmen. While these institutions have procedures for processing citizen grievances about the conduct of public officers or employees, they are frequently too formal, awesome, expensive, or geographically far removed from the often bewildered citizen. Some of them lack the machinery or resources to process grievances properly. Some can take action only if a criminal law has been violated and many acts of misconduct complained of do not qualify as a basis for criminal action.

In going beyond the established legal procedures, the Commission found it unreasonable to single out the police as the only agency which should be subject to special scrutiny from the outside. The Commission, therefore, did not recommend the establishment of civilian review boards in jurisdictions where they do not exist, solely to review police conduct. The police department is only one of a number of official agencies with whom the public has contact, and in some cases, because the police are the most visible and conspicuous representatives of local government, they may be the focus of more attention than they deserve. Incompetence and mistreatment by housing, sanitation, health, and welfare officials can be as injurious to citizens as mistreatment by the police and should be equally subject to public scrutiny. These officials, like policemen, are public servants.

If an agency's internal procedures for review of citizen grievances are ineffective or fail to inspire public confidence, including the confidence of those who may have legitimate grievances, further recourse is essential. The form that such further recourse should take is dependent on local needs and governmental structure.

The following section examines the various methods now utilized in different jurisdictions for external review of citizen complaints. Essentially, they present the several alternatives from which each jurisdiction can choose the most appropriate method of civilian recourse. It deserves emphasis that the following description of various techniques that some jurisdictions are using or have used for external review of citizen complaints is included here to make available the results of research by the Commission staff and consultants. It is not intended in any way to indicate endorsement by the Commission or its Police Panel. The position of the Commission and the Panel on the subject of external review is set forth in the preceding paragraphs of this section and at page 103 of the Commission's General Report.

Review by Civilian Officials

Unless limited by a statute assigning final authority to discipline police officers to the police chief, civil service commission, or some other body, the mayor or city council normally has the power to review any such determination. However, this authority is rarely exercised effectively because the elected officials neither have the time nor the staff to consider carefully individual cases. As a result, the relatively few complaints made to elected officials are generally referred to the police department for investigation and determination with little, if any, review by the elected officials.

In 50 of 55 cities responding to the Michigan State University survey, no such review existed. In two cities, there was further review before a civilian board appointed by the chief executive; in two, before the public safety director; and in one, the chief executive.⁵¹⁷

In the District of Columbia, the Board of Commissioners reviews all summary hearings and trial board cases. The Board almost invariably approves the disciplinary actions. From 1962 through 1965, the Board affirmed 86 of 92 trial board determinations, modified 3, and reversed 3.⁵¹⁸

In Cincinnati, either the officer or the complainant can appeal to the civilian director of public safety who is superior to the chief of police. The chief of police can decide to hold a new hearing.⁵¹⁹

In Chicago, a five-man police board, appointed by the mayor, supervises the police department. In disciplinary matters, the case is presented to the board by the city council and the five members sit as a reviewing body. The accused officer may appear with counsel if he chooses. While it does not now do so, the police board has authority to hear appeals by citizens from the police superintendent's decision.⁵²⁰

Court Review

Some kinds of police conduct have traditionally been subject to review by the courts. It is very difficult to determine what impact this kind of review has had on police-community relations. It seems likely, however, that, except where the exclusionary rule has been applied, judicial influence has not been substantial. There are several reasons why this is so.

Criminal Law. The relevance of the criminal law to police-community relations is limited by the fact that many forms of police misconduct affecting police-community relations, such as verbal abuse, coercion of respect and the like, are not violations of the criminal law. It is further limited by the problem of proof and credibility of testimony. In many cases, the only witnesses to the misconduct are the policeman and the alleged victim, and often the alleged victim and nonpolice witnesses are from minority groups, are poor or unemployed, or have criminal records.⁵²¹ Finally, many prosecutors are reluctant to bring charges except in serious cases because they work so closely with the police.⁵²²

⁵¹⁷ *Supra*, note 22 at p. 200.

⁵¹⁸ *Supra*, note 77 at p. 77.

⁵¹⁹ *Supra*, note 22 at p. 206.

⁵²⁰ *Id.* at pp. 213-214.

⁵²¹ *Supra*, note 331 at p. 63.

⁵²² *Id.* at p. 80.

In some jurisdictions, special procedures have been established to insure that complaints against the police which may amount to criminal offenses are brought to the attention of the prosecutor. In Los Angeles County, the district attorney has gone a step further and established a special section within the division of investigation to deal with alleged official misconduct. This section investigates complaints of illegal conduct against all local officials including the police, monitors investigations of particular officers by the police departments themselves, and investigates all homicides by police officers.⁵²³

Such procedures are helpful. However, the basic problem is to assure that prosecutors enforce the criminal law as vigorously against public officers as against private citizens. Since it is sometimes difficult for local prosecutors to prosecute local public officials, authority should be given to State's attorneys general to bring such cases when necessary.

The principal Federal criminal statute with relevance to police misconduct is section 242 of title 18 which prohibits the deprivation "under the color of any law * * * of any rights, privileges or immunities secured or protected by the Constitution or laws of the United States * * * on account of such inhabitant being an alien or by reason of his color or race." In *Screws v. United States*, however, the Supreme Court interpreted the statute to require that the prosecution prove not merely that the defendant sheriff had beaten a helpless prisoner to death but that he "had the purpose to deprive the prisoner of a constitutional right."⁵²⁴

In 1961, the Civil Rights Commission found this statute largely ineffective and criticized the forcefulness with which it had been enforced.⁵²⁵ In 1965, it found that enforcement had improved somewhat due to the addition of personnel to the Civil Rights Division of the Department of Justice. Seventy-three cases had been brought in 2 years, an increase of 75 percent.⁵²⁶ In April 1966, the President asked Congress to authorize an additional 100 FBI agents and supporting personnel to deal with this kind of crime and Congress did so.

In 1961 and again in 1965, the Civil Rights Commission recommended that section 242 be clarified by specifically making it a crime to perform, maliciously under color of law, certain prescribed acts including the following:⁵²⁷

1. Subjecting any person to physical injury for an unlawful purpose;
2. Subjecting any person to unnecessary force during the course of an arrest or while the person is being held in custody;
3. Subjecting any person to violence or unlawful restraint in the course of eliciting a confession to a crime or any other information.

Civil Remedies. If an officer is guilty of misconduct, civil damages are legally available. Damages may include losses for physical injuries, medical costs, loss of earnings, harm to reputation, injury to property, and, in some instances, pain and suffering. Abuse which is purely

verbal, however, is not usually recompensable. If a judgment is awarded, it can influence the future action of officers or policies of a department, regardless of whether the judgment is paid by the officer himself, an insurance company, or the city.

In a few jurisdictions, civil actions are frequently brought in cases involving excessive force. During 1965, citizens filed 237 suits against New York City alleging police brutality; in 35, claims totalling \$169,482 were settled or were sustained at trial. From July 1, 1963, to July 1, 1964, 326 actions were brought and the city paid out \$232,425 in 72 cases.⁵²⁸

While civil cases are more frequent than criminal cases, particularly in large cities, civil litigation also has serious difficulties. The chief witnesses are still likely to be the alleged victim and the officer. Even if a victim is successful, the officer may not be able to pay the judgment. Unless the prospect of payment is substantial, there is little incentive for the victim to incur the costs of investigation and counsel necessary to the suit or for counsel to take the case on a contingent fee basis.⁵²⁹

In many States, the alternative of suit against the city or State which employs the officer is blocked by the doctrine of sovereign immunity. In an increasing number of others, however, this has been changed by statute or court decision.⁵³⁰ Most of the judicial decisions have involved negligent actions by government officials and therefore it is often not clear whether the governmental entity is liable for nonnegligent misconduct, the kind which most often affects community relations. In Illinois and Connecticut, police officers are entitled to indemnification for recoveries against them.⁵³¹ And in some States, policemen and sheriffs must post bond for the conduct of their officers.⁵³²

Procedures should be adopted in all jurisdictions to permit citizens to recover civil damages if they can prove damages due to officer misconduct. This may require waiver of sovereign immunity, requirements of bonding, provision for payment of counsel, or other changes in the law. In some instances, however, bonding and indemnification may lessen the deterrent effect.

The Federal civil statute, 42 U.S.C. 1983, is almost identical to the Federal criminal statute except that it does not require proof that the officer intended to deny the citizen a constitutional right. It covers not only excessive force but arrest without probable cause, illegal searches,⁵³³ and other violations of constitutional rights by police officers, and provides for injunctions as well as money damages.

In the 2-year period beginning in 1959, only 42 such suits were brought "for police brutality"—with few judgments awarded—and in 1961, the Civil Rights Commission concluded that this section was ineffective.⁵³⁴ The Civil Rights Commission therefore recommended that the statute should be amended (1) to allow suits against the local government as well as the police officer and (2) to allow the district courts to award costs and reasonable attorney's fees both in cases for damages and in cases for injunctive relief.⁵³⁵ No action has yet been taken on this recommendation.

⁵²³ Frank Riley, "The D.A.'s Answer to Police Brutality," *Los Angeles Magazine*, March 1966; District Attorney Evelle J. Younger, "Report to the Governor's Commission on the Los Angeles Riots," Oct. 28, 1965, pp. 42, 46-47.

⁵²⁴ 325 U.S. 91, 107.

⁵²⁵ *Supra*, note 331 at p. 67.

⁵²⁶ *Supra*, note 335 at pp. 112-113.

⁵²⁷ *Supra*, note 331 at pp. 112-113; and *supra*, note 335 at p. 178, note 2.

⁵²⁸ Walter Gellhorn, "When Americans Complain: Government Grievance Procedure" (Cambridge: Harvard Press, 1966), p. 184.

⁵²⁹ *Supra*, note 331 at p. 71.

⁵³⁰ *Id.* at pp. 81-82; Marshall S. Shapo, "Municipal Liability for Police Torts: An Analysis of the Strand of American Legal History," *University of Miami Law Review* 17: 475-518.

⁵³¹ *Id.* at pp. 505-506.

⁵³² See, e.g. *Ken. Rev. Stat.* 95: 750 (1959).

⁵³³ *Monroe v. Pape*, 365 U.S. 167.

⁵³⁴ *Supra*, note 331 at p. 69.

⁵³⁵ *Id.* at p. 113.

Court Exclusion of Evidence. In addition to those cases in which the courts are asked to review police conduct directly by way of a prosecution or civil action for damages, police conduct may come before the courts in the course of a normal prosecution. For example, a court may be asked to admit evidence which a police officer seized illegally or to accept a confession which the police obtained in some way not in accordance with law. In this kind of case, the Supreme Court has over a period of time developed a set of rules which prohibits the use of this kind of evidence. The impact of these rules, however, is limited to police conduct which is designed to obtain evidence for use in a criminal case.⁵³⁶ This is only one type of abuse which must be protected against, and only a small proportion of police abuses have this purpose.

Civilian Review Boards

Many citizens, particularly those from minority groups and civil rights organizations, have been dissatisfied with police internal review procedures. They have urged the creation of civilian review boards to investigate and determine the validity of citizen complaints. Civilian review boards of one sort or another were established in Washington, D.C. (in 1948), Philadelphia (in 1958), Minneapolis and York, Pennsylvania (in 1960), Rochester

(in 1963), and New York City (in 1966). Boards have been proposed in many other cities, including Chicago, Cincinnati, Detroit, Los Angeles, Oakland, Newark, Pittsburgh, and Seattle. Bills have been introduced in the California, Massachusetts, and New York legislatures to require large cities or the State to form such boards.⁵³⁷

But civilian review boards have had a stormy history. The boards in Philadelphia and Rochester have been the subject of court suits with injunctions against their operation during part of their lives. The board in Washington, D.C., was severely criticized for inaction and was thoroughly reorganized in 1965. The boards in Minneapolis and York never actually operated, and the board in New York City after a very heated campaign, was rejected by the electorate and has been replaced by a board composed of civilian police employees.

While those boards which have gone into operation differed somewhat in organization and detail, their basic concept has been the same. They have been advisory only, having no power to decide cases. The New York City and Washington, D.C., boards have even lacked the power to indicate their views on the merits of the case, being limited to recommending whether a police trial was necessary or not. The details of operation of four such boards are described in the following chart:⁵³⁸

Civilian Review Board, Organization and Procedures

	New York	Philadelphia	Rochester	Washington
1. Number of members	7 (3 police)	8 (including 2 former police officers)	9	7 (2 attorneys)
2. Staff	Civilian executive director, deputy director and assistant director, 2 civilian hearing officers and staff of police officers	Full-time executive secretary	Part-time executive secretary	None
3. Jurisdiction	Any misconduct concerning community relations	Any misconduct concerning community relations	Excessive or unnecessary force	Any misconduct
4. Who may complain	Any person or group including anonymously	Victim or interested person or organization	Victim or his representative	Victim only
5. Who investigates	Board staff	Police board can also investigate	Police, but board can supplement	Police (internal investigations unit)
6. Informal settlement	Unknown	Adjustment encouraged if no "substantial physical injury"		
7. Hearing held	At discretion of board	If complainant requests unless "no cause whatsoever for citizen's complaint"	If complainant requests	At discretion of board
8. Hearings open to public	No	Yes	No	No
9. Representation by counsel allowed	Yes	Yes	Yes	Yes
10. Counsel provided	Both sides if indigent	Indigent complainant	Indigent complainant	No
11. Evidence rules apply	No	Yes	No	Unknown
12. Cross-examination	Yes	Yes	Yes	Unknown
13. Subpoena power	Yes	No	Yes	Yes
14. Power to decide	No	No	No	No
15. Can recommend punishment	No, can recommend only police trial board	Yes	Yes	No, can recommend only police trial board or summary punishment
16. Recommendation made public	No, parties notified	Unknown	Board's discretion	Not until Commissioners act
17. Miscellaneous	Unknown	Can recommend expunging of record	Unknown	

Prior to its reorganization in 1964, the Washington, D.C., board handled only 54 cases. Twenty-three complaints were disposed of without formal action, 8 referred for police action, no disposition was made of 14, and 9 dispositions are unknown. The board did not explain the basis for its findings even to the police.⁵³⁹

After its reorganization, the board assumed jurisdiction in 39 cases prior to June 1966. Of the cases returned to the board in which the police found no mis-

conduct, the board took no further action in five because of the difficulty of resolving the facts, dismissed six, recommended trial boards in four, and asked the police for more information in three.⁵⁴⁰

The Philadelphia board has received and disposed of by far the largest number of cases. Its case load has steadily increased from 32 the first year to 75 the second and 131 in 1965. The character of the complaints re-

⁵³⁶ Supra, note 352 at p. 488; supra, note 1 at pp. 224-225.

⁵³⁷ Supra, note 490 at pp. 511-512.

⁵³⁸ Philadelphia Police Advisory Board, Rules of Practice, published in Philadelphia Police Advisory Board, "Seventh Annual Report," Dec. 31, 1965, exhibit A; Philadelphia Police Advisory Board first through sixth annual reports; District of Columbia Executive Office, Order No. 65-798, June 11, 1965, quoted in supra, note 77 at pp. 77-80; Rochester Municipal Code, ch. 10; Rochester Police Advisory

Board, first and second annual reports; New York Police Department, "Civilian Complaints—Revised Procedures," General Order No. 14, May 2, 1966.

⁵³⁹ Supra, note 77 at p. 77.

⁵⁴⁰ District of Columbia Complaint Review Board, Statement to the Board of Commissioners, May 19, 1966; Harrison Young, "Review Board Asks Trial in 2 Charges of 'Police Brutality,'" the Washington Post, Aug. 5, 1966, sec. C, p. 1, cols. 6-8.

ceived from 1958 until the middle of 1966 were as follows:⁵⁴¹

Brutality (presumably including verbal abuse).....	239
Illegal entry and search, etc.....	108
Harassment.....	125
Other.....	99
Total.....	571

Almost two-thirds of the complaints were filed by Negroes, although the city is almost three-fourths white. Over 50 percent of the complainants had no prior arrest record.⁵⁴²

In Philadelphia, the disposition of complaints for the period October 1958 through December 1965 was as follows:⁵⁴³

	October 1958 to December 1965
Number of complaints.....	704
Number withdrawn, closed, settled without hearing or complainant failed to appear.....	320
Suspensions recommended.....	15
Reprimands recommended.....	23
Improper police action (no discipline taken and record of complainant expunged).....	49
Cases undecided.....	174

In many cases, citizens sought an explanation of police powers or other information. Some cases were settled by an apology by the officer or by modification of some police activity. Most cases, through the middle of 1966, have been settled without a hearing. Board actions have included commendation of the police officer, recommendations for psychiatric examination, disciplinary action or dismissal (2 cases), suspension of 1 to 30 days (23 cases), and reprimand (19 cases). In a number of cases, the board recommended discipline stronger than that recommended by the original police investigation.⁵⁴⁴

During its first 28 months, the Rochester advisory board received 50 complaints:⁵⁴⁵

Unnecessary or excessive use of force.....	21
False arrest.....	12
Harassment.....	9
Refusal to allow accused to telephone his lawyer or family.....	4
Indignities.....	3
Loss or destruction of personal property.....	2
Denial of medical attention.....	2
Discourtesy.....	2
Illegal search.....	1
Others.....	6

Of these, only 16 were within the narrow jurisdiction of the board—physical abuse. Forty percent of the complaints were filed by Negroes. Of the 16 complaints within the board's jurisdiction, 6 were dismissed on procedural grounds or withdrawn, 1 decided in favor of the police and 1 against, and 8 had not been decided at the time an injunction was issued against the board.⁵⁴⁶ In

the case decided in favor of the police, the board questioned "the propriety of the police procedures employed on this occasion" and the chief of police said that "the conduct of the police at the scene is being reviewed in its entirety."⁵⁴⁷

In New York, approximately 100 complaints were filed per week during the board's operation. In contrast, an average of 200 complaints were filed per year under the earlier procedure from 1960 to 1964.⁵⁴⁸ Of the first 300 complaints to the review board, 158 alleged unnecessary force, 61 abuse of authority, 67 discourtesy, and 14 ethnic abuse. More complainants lived in middle-class white neighborhoods than poor ghetto areas. Of the first 407 complaints, 140 came from whites, 113 from Negroes, 38 from Hispanic persons, and the race of 116 was unknown. Of the 146 cases disposed of by the board during its existence, the charges in 109 were found to be unsubstantiated after investigation, 21 were conciliated, 11 were outside the board's jurisdiction and referred elsewhere, disciplinary action was recommended to the Commission in 4, and in 1 the officer received a reprimand. In none of the cases did the board split between the police and civilian members.⁵⁴⁹

In addition to handling individual cases, civilian review boards have been concerned about police policies affecting police-community relations. The Philadelphia board, for example, has recommended special training on the use of handcuffs, formulation of policies on the use of force, and prohibition of the arrest of persons at interracial gatherings or interracial couples merely for being interracial. The police department, as a result, did forbid arrests based on the interracial composition of a group.⁵⁵⁰

In Washington, D.C., after a case where a woman alleged that an off-duty officer shouted obscenities at her, the board suggested that the Commissioners consider specific rules of conduct for off-duty policemen. On the basis of three cases, it asked for study of the "move on" statute, including the development of policies as to how policemen should handle inquiries from third persons concerning why arrests are made and how to address persons they are urging to move on.⁵⁵¹

Civilian review boards have many of the same weaknesses which exist in internal police machinery in many departments. Citizens have had difficulty in obtaining complaint forms, the procedures of the board have not been widely known, and the boards have been slow in their determination of cases. For example, in Philadelphia, only 8 percent of the cases were concluded within a month and 31 percent in less than 4 months; 12 percent took over a year.⁵⁵²

A considerable portion of the boards' problems have also been due to lack of staff and delays in receiving reports from police departments. For example, in Philadelphia, less than half the police investigations are finished in under three months even though the University of California study concluded that the investigations could have been completed much more quickly. The

⁵⁴¹ Supra, note 21 at vol. II, p. 236.

⁵⁴² Id. at vol. II, pp. 231, 248, 266, 267. In addition, the existence of prior arrests was not ascertained for 19 percent of the complainants. Id. at p. 267.

⁵⁴³ Philadelphia Police Advisory Board, "Seventh Annual Report," Dec. 31, 1965, exhibit B.

⁵⁴⁴ Supra, note 21 at vol. II, pp. 230-231.

⁵⁴⁵ Rochester Police Advisory Board, second annual report, Oct. 1, 1965, pp. 3, 5. The total includes more than 50 allegations because some complaints involve multiple allegations.

⁵⁴⁶ Id. at pp. 3-4.

⁵⁴⁷ Cited in Prentiss L. Pemberton, "Rochester's Police Advisory Board—After Eighteen Months," November 1964, p. 3.

⁵⁴⁸ New York City Council, "Report to the Committee on City Affairs from its Subcommittee on Proposed Civilian Complaint Review Board," May 18, 1965, p. 963.

⁵⁴⁹ Bernard Weinraub, "Few Poor People Accusing Police," New York Times, Oct. 21, 1966, p. 1, col. 7; Bernard Weinraub, "Leary Reports Anti-Police Verdict in 3 of 113 Review Board Cases," New York Times, Oct. 17, 1966, p. 1, col. 4; "Few Complaints Against Police Result in Charges, Board Finds," New York Times, Mar. 4, 1967, p. 24, col. 1.

⁵⁵⁰ Philadelphia Police Advisory Board, fourth annual report, Sept. 30, 1962, p. 4; Philadelphia Police Advisory Board, third annual report, Sept. 30, 1961, pp. 4-5; Philadelphia Police Advisory Board, first annual report, Sept. 15, 1961, p. 5.

⁵⁵¹ District of Columbia Complaint Review Board, "Statement to the Board of Commissioners," May 19, 1966, p. 1. Subsequently, the Corporation Counsel issued an opinion limiting the scope of the "move on" statute.

⁵⁵² Supra, note 21 at vol. II, pp. 246, 247.

investigations in Philadelphia have also been of uneven quality.

Despite these difficulties, the boards have had some success. The Philadelphia Police Commissioner has shown a willingness to voluntarily follow the civilian review board's recommendations in most cases.⁵⁵³ In 1959, Police Commissioner Gibbons testified in court, in answer to a question whether the board had harmed morale, that "the board has not only aided me, but has aided the police department."⁵⁵⁴ The board works in close cooperation and constant contact with the top echelons of the police department so that complaints can be frequently settled quickly and informally without a hearing. And while the rank-and-file officers generally oppose the board, the University of California study concluded that morale had not been perceptibly impaired.⁵⁵⁵ The Rochester director of public safety has also said that the board had not impaired the efficiency or morale of the police in that city.⁵⁵⁶ The President's Commission on Crime in the District of Columbia concluded that the Washington board "has impressed the Commission with its desire to be fair and thorough."⁵⁵⁷ The members of the boards generally have been distinguished citizens and the procedures adopted appear to be fair.

The attitudes of minority and civil liberties leaders have been generally favorable but not enthusiastic. For example, in Rochester, three Negro leaders are reported to have said that the board does not "solve tensions over law enforcement" but it is "a constructive step;" it has "done some good" and "given the police a more positive name;" it has "helped both the police department and citizens by preventing emotional reactions from beclouding issues."⁵⁵⁸ In Washington, D.C., the procedure has been criticized by Negroes because it has attracted so few complaints and has its investigative work done by the police.⁵⁵⁹ In Philadelphia, the Michigan State study found that the public is more confident of obtaining a fair hearing and that some believe that the police board of inquiry has been led into conducting its proceedings more fairly.⁵⁶⁰ The University of California study found that some minority leaders believe that the board is ineffective and a few even believe that it has no value. However, most find that the board does alleviate tensions at least to some extent and show confidence in it by referring complainants. But perhaps most important, the University of California study found that the complainants themselves were favorably impressed with the treatment they received.⁵⁶¹ The study concluded that the board "has worked as an avenue of redress for civilian grievances against members of the police force."⁵⁶²

Ombudsman

The first ombudsman was appointed in Sweden in 1809. The idea has since been adopted in Finland in 1919, Denmark in 1955, Norway and New Zealand in 1962, and Great Britain and Nassau County, N.Y., in 1966.⁵⁶³

In Sweden, the ombudsman is chosen by Parliament

and is usually a jurist. He has eight lawyer assistants. He does not have the power to order administrative officials to take action except that he can order prosecutions. However, this power is now seldom used; he usually makes a public reprimand or criticism. He also helps complainants to obtain compensation for damages either from the official or the government and recommends appropriate interpretations of law or changes in it. Jurisdiction over municipal officials was added in 1957 to that over all national officials, including judges, except for Ministers of the Government.⁵⁶⁴

The ombudsman receives complaints in writing. The complainant need not have first complained or appealed to the administrative agency. The ombudsman asks the appropriate administrative agency for all relevant documents and for an explanation. If he needs further information, he can ask the police to investigate or hold a hearing of his own. He also initiates investigations without a complaint being filed, often on the basis of regular inspection tours.⁵⁶⁵

During the 19th century, most cases involved the courts, prosecutors, police, and prisoners.⁵⁶⁶ Matters stemming from acts of these same agencies are still being considered. But a review of the yearly reports reveals "the insignificant number of really flagrant violations of the law which have caused intervention."⁵⁶⁷ The ombudsman in Sweden has "kept up a constant defense of the rules guaranteeing personal security from abuse of police power" for almost 150 years.⁵⁶⁸ In recent years the growth of other administrative agencies has produced a shift of emphasis:⁵⁶⁹

The Swedish Ombudsman: Administrative Scope of Cases, 1960-63

	1960	1961	1962	1963
Courts.....	210	171	178	241
Public prosecutors.....	123	171	81	108
Police.....	190	101	168	213
Execution of verdicts.....	40	35	44	55
Prison administration.....	111	123	106	146
Care of mental cases.....	91	110	123	102
Other health and welfare.....	80	76	93	99
Public utilities.....	8	13	14	17
Ecclesiastical authorities.....	20	32	14	19
King in Council and Parliament.....	10	8	6	6
Private associations and persons.....	56	38	22	59
Inquires, unclear complaints, etc.....	52	71	58	65
Others.....	314	322	373	395

During these same years, the ombudsman disposed of cases as follows:⁵⁷⁰

	1960	1961	1962	1963
Dismissed.....	263	190	217	287
Transferred or canceled.....	20	29	19	22
Investigated, no direct action.....	669	592	620	746
Criticisms, etc.....	273	208	194	276
Prosecutions.....	8	7	4	6
Proposals to government.....	5	16	2	14
Pending.....	240	278	385	430
Total Cases.....	1,478	1,320	1,441	1,781

⁵⁵³ Philadelphia Police Advisory Board, Second Annual Report, Sept. 30, 1960, p. 5.
⁵⁵⁴ Transcript, Court of Common Pleas No. 2, December term 1959, No. 207, pp. 75-76.
⁵⁵⁵ *Supra*, note 21 at vol. II, pp. 258-260.
⁵⁵⁶ *Supra*, note 548 at p. 559.
⁵⁵⁷ *Supra*, note 77 at p. 79.
⁵⁵⁸ Quoted in *supra*, note 547 at p. 6.
⁵⁵⁹ Leonard Downie, Jr., "Complaint Board Criticized," the Washington Post, Oct. 31, 1965, sec. K, p. 1, cols. 5-8.
⁵⁶⁰ *Supra*, note 22 at pp. 215-216.
⁵⁶¹ *Supra*, note 21, vol. II, pp. 100, 111, 217, 249, 253-254.
⁵⁶² *Id.* at p. 271.
⁵⁶³ Alfred Bexelius, "The Ombudsman for Civil Affairs," in Donald C. Rowat, ed., "The Ombudsman, Citizen's Defender," (London: George Allen and Unwin

Ltd., 1965), p. 24; Paavo Kastari, "The Chancellor of Justice and the Ombudsman," in Donald Rowat, ed., op. cit., p. 61; I. M. Pedersen, "Denmark's Ombudsman," in Donald Rowat, ed., op. cit., p. 97; J. F. Northey, "New Zealand's Parliamentary Commissioner," in Donald C. Rowat, ed., op. cit., p. 127. James H. Sikes, "L. I. Ombudsman Is a Busy Adviser," New York Times, Nov. 20, 1966, p. 53, col. 1.
⁵⁶⁴ Alfred Bexelius, *supra*, note 563 at pp. 21-22, 25-28.
⁵⁶⁵ Alfred Bexelius, op. cit., pp. 28-29.
⁵⁶⁶ *Id.* at p. 36.
⁵⁶⁷ *Ibid.*
⁵⁶⁸ Stig Jagerskiold, "The Swedish Ombudsman," University of Pennsylvania Law Review 109: 1076-1099, 1098.
⁵⁶⁹ Donald C. Rowat, ed., *supra*, note 563 at p. 330.
⁵⁷⁰ *Id.* at p. 329.

The Swedish ombudsman's primary function is securing sounder government for the future, as well as reviewing current complaints. In resolving pending cases, the ombudsman often recommends that the government or the individual official right the wrong which was done, such as by returning private property, granting a license, or paying damages.⁵⁷¹

The Finnish ombudsman has essentially the same functions. The ombudsman's investigations are often conducted by police officers even if the conduct of other officers is at issue. In 1963, the complaints made to him consisted of:⁵⁷²

Courts:

Sentences too severe or wrong	215
Other procedural faults	51
Public prosecutors and police	82
Execution of punishments	102
Prison administration	105
Ordering into institutional care	18
Other health and welfare	11
Other administration	96
Conduct of military officials	5
Private associations and persons	72
Other	30
Total	787

In Denmark, the ombudsman, who has a staff of ten, has jurisdiction over the ministers of the government but not the courts. Although he has the power to order prosecution or administrative disciplinary proceedings, these powers have never been used. Instead, he reports to the complainant and, if the matter is important, to the appropriate Minister or Parliament. His major power is the ability to provoke public criticism, although he sometimes recommends particular administrative or legislative changes.

The ombudsman may consider substance, procedure, delay, inconvenience, or impoliteness. The action under review need not have been illegal; he can criticize "mistakes" or "unreasonable" exercise of discretion.⁵⁷³

In Denmark, far fewer cases are initiated *sua sponte* than in Sweden. Complaint investigation ends (or is not commenced at all) the moment it appears to be baseless. The Danish ombudsman is concerned more with future general consequences of governmental activity than with the effect on the complainant. Formal hearings are not usually held; instead, the parties are generally interviewed separately.⁵⁷⁴

Danish cases were disposed of in the following manner from 1960 to 1963:⁵⁷⁵

	1960	1961	1962	1963
Dismissed without investigation	603	584	689	725
Dismissed after summary investigation	288	307	239	254
Formally investigated (including direct action)	209	174	152	151
Total	1,100	1,065	1,080	1,130
Criticisms, etc.	49	48	36	53
Recommendations, etc.	12	16	14	10

Very few cases involve the police. From 1960 to 1963, 35, 32, 9, and 15 cases out of a total of 209, 174, 152, and

151 respectively, which were formally investigated, involved either the police or prosecution.⁵⁷⁶ The police cases investigated by the ombudsman have included: a citizen who claimed that he was held unduly long without trial, which was not upheld since he was being examined for mental illness; several cases involving allegedly illegal searches, in one of which a technical violation of the requirement of written consent to a search was found; and two cases involving alleged abusive language where the ombudsman found lack of evidence.⁵⁷⁷ The scope of the ombudsman's province even included action in a 1957 case involving the handcuffing of a woman while being taken to the police station. In this case the ombudsman, who had no objection to the use of cuffs in this specific case, found that the Danish police were generally uncertain about when they might be used, so he recommended some guidelines. In another case, the ombudsman told the police that they had no right to keep the fingerprints of an arrested person who was subsequently absolved.⁵⁷⁸

In matters concerning the police, the citizen may complain directly to the ombudsman without first going to the local chief constable or Ministry of Justice. If he deems the matter worthy of inquiry, the ombudsman asks for a report from the Ministry which may ask in turn for a report from the local constable. The ombudsman may then decide the matter or may himself make a further investigation. The subsequent determination is sent to the complainant, Ministry of Justice, and others principally concerned.⁵⁷⁹

In New Zealand, local authorities are not within the ombudsman's jurisdiction. Sixteen of 585 cases decided in an 18-month period ending in 1964 involved the police; in contrast, 106 involved the social security, 52 the inland revenue, and 36 the education departments.⁵⁸⁰ During 1965, the ombudsman received 34 complaints concerning the police, found 13 worthy of full investigation, and concluded that 4 complaints were justified. For example, the ombudsman criticized police procedures in committing a man for mental observation; criticized an officer for remarks made during an interrogation; and explained to a woman the propriety of the police questioning suspects in making investigations.

The ombudsman of Nassau County, N.Y. (formally called the Commissioner of Accounts), received 172 complaints from July 1, to December 31, 1966. Only 16 of these concerned the police. None involved brutality and only two police discourtesy. The others related to police protection, the issuance of permits, traffic control signals, and the like.⁵⁸¹

In other countries, the ombudsmen's recommendations have not always been followed. Often the ombudsmen have to temper their recommendations to take into account the likelihood of support from the government or Parliament. They have not always vigorously defended citizens against invasion of basic rights.⁵⁸² Nonetheless, they have had a substantial impact on public administration in most of the countries where they have existed. For example, a police chief in Finland was proud of the fact

⁵⁷¹ Walter Gelhorn, "Ombudsman and Others" (Cambridge, Mass.: Harvard University Press, 1966), pp. 213-214.

⁵⁷² *Id.* at p. 70.

⁵⁷³ *Id.* at pp. 433-434.

⁵⁷⁴ I. M. Pedersen, "Denmark's Ombudsman," in Donald C. Rowat, ed., op. cit., pp. 78-81; Kenneth Culp Davis, "Ombudsman in America: Officers to Criticize Administrative Action," *University of Pennsylvania Law Review* 109: 1057-1076, 1059-1060; Bert Christensen, "The Danish Ombudsman," *University of Pennsylvania Law Review* 110-1126, 1110-1116.

⁵⁷⁵ Donald C. Rowat, *supra*, note 563 at p. 333.

⁵⁷⁶ *Id.* at p. 334.

⁵⁷⁷ Thomas A. Aaron, "The Control of Police Discretion: The Danish Experience" (Springfield, Ill.: Charles C. Thomas, 1966), pp. 51-95.

⁵⁷⁸ *Supra*, note 571 at pp. 37-38.

⁵⁷⁹ *Supra*, note 577 at pp. 51-95.

⁵⁸⁰ Donald C. Rowat, ed., *supra*, note 563 at pp. 336-337.

⁵⁸¹ Samuel Greason, report from the Office of Commissioner of Accounts to County Executive Eugene H. Nickerson, July 1, 1966, to Dec. 31, 1966 (Jan. 3, 1967), pp. 1-2.

⁵⁸² *Supra*, note 571 at pp. 37-41, 87-90.

that the ombudsman had not criticized his force in 11 years. However, he went on to say:⁵⁸³

[W]e have had inquiries about matters that had been sent to the * * * Ombudsman, and so we are well aware that complaints can be made. Of course, too, we have all heard about the prosecution of K. [a police chief in another city] for unnecessarily keeping a sick man in jail. That is very much on our minds because we have not in the past had any system for dealing with sick prisoners. After what happened to K. we can't continue to be easy going. We are working on that problem right this minute.

And another senior official said "Don't let anyone tell you that police officers don't care about those fellows in Hel-sinki. * * * [W]e know they can and do concern themselves with us, and that makes us careful."⁵⁸⁴

In addition, as the Swedish ombudsman has noted, the ombudsman has helped protect administrative officials as well as the public:⁵⁸⁵

One important aspect of the ombudsman's activity that is frequently overlooked is the rejection of unwarranted complaints. Obviously it is of great interest to the official attacked that accusations of abuse are not left open, and that it is made evident by an impartial agency that the complaints were not justified. Also, it is of great importance that accusations made in the press, or otherwise, regarding abuse by the authorities are taken up for investigation by an agency free of bureaucratic influence, and that these investigations are available and the true facts made known to the general public. Since the ombudsman gives the grounds for decisions rejecting complaints, the petitioner will receive an explanation of what to him appeared to be wrong. By the rejection of unwarranted complaints after proper investigation and on grounds clearly stated, the ombudsman contributes to strengthening public confidence in the authorities and thus to the feeling of well-being in the society.

Similarly, an official in New Zealand said that "when [the ombudsman] goes over something we have done and says he finds nothing wrong, he takes the wind out of the sails of the Doubting Thomases."⁵⁸⁶ In addition, the same official noted that "people will complain to him when for one reason or another they won't complain to me, and this gives me an added opportunity to police my own department."⁵⁸⁷ At the same time, most complainants are apparently satisfied even when their position has been rejected.⁵⁸⁸

In summary, both citizens and government officials are generally enthusiastic about the ombudsmen in the countries where they now exist.⁵⁸⁹

Local Human Relations Commissions and Other Local Agencies

Local human relations commissions and other local agencies exist in many cities around the country to assist the community with problems involving racial or religious discrimination. In some communities these agencies handle citizen complaints against the police.

In Pittsburgh, a human relations commission conducts investigations of any case which might affect intergroup relations, including those involving brutality or other police misconduct. The board makes findings and recommendations as to discipline in each case. These are

transmitted, with the investigative report, to the director of public safety.⁵⁹⁰ During 1965, the Pittsburgh Commission processed 18 such cases:⁵⁹¹

Disposition	Number of cases	Number of officers
Misconduct and physical abuse found, suspension recommended	2	5
Misconduct and physical abuse found, reprimand recommended	4	8
Complaint dismissed:		
Failure of complainant to proceed	2	
Lack of jurisdiction	1	
Lack of evidence to support complaint	6	
Pending	3	
	18	

Some human relations Commissions which do not regularly process civilian complaints are asked to investigate particularly serious incidents. For example, in New Haven, the local commission was asked by the mayor and the police to investigate two disturbances involving arrests. Finding some of the actions justified and some not, the Commission recommended disciplinary action against six officers and made extensive recommendations concerning the establishment of a community relations program and training.⁵⁹²

In New York City, the department of investigation can conduct an inquiry into any aspect of any department of the city government, including the police, and, in doing so, may subpoena witnesses and hold hearings. Unlike an ombudsman, the department does not purport to be independent; rather it investigates on behalf of the mayor. It maintains a complaint bureau and, in addition, investigates complaints sent to Box 100, the address of the widely publicized complaint bureau of the mayor. Writing to that address guarantees the writer that he will be free from harassment. While the 150 letters sent weekly to Box 100 generally concern pleas for assistance such as for housing and complaints about other agencies of government, some—about 100 a month—have been allegations that police officers were corrupt, discourteous or unresponsive to pleas for assistance. The department of investigation frequently acts privately, but a study of its files in 1965 showed positive consequences in many cases.⁵⁹³

In Baltimore, the Complaint Evaluation Board—composed of the State attorney general, the Baltimore prosecutor and city solicitor, a representative of the police commissioner, and the executive secretaries of the State and city interracial commissions—considers all citizen complaints against the police. It can either accept the police department's recommendation or recommend other action such as independent investigation by the State police. The board does not hold hearings or make investigations itself.⁵⁹⁴

In Denver, a six-member Mayor's Committee on City-Citizen Relationships was established in 1965 to receive citizen complaints involving any city department, and investigate and make specific recommendations to the mayor concerning the merits of the complaint and possible punishment. It has no staff and does not hold hear-

⁵⁸³ Id. at p. 74.

⁵⁸⁴ Ibid.

⁵⁸⁵ Alfred Bexelius, *supra*, note 563 at p. 42.

⁵⁸⁶ Quoted in *supra*, note 571 at p. 153.

⁵⁸⁷ Ibid.

⁵⁸⁸ Id. at pp. 436-438.

⁵⁸⁹ Id. at pp. 45, 87, 91, 152-153, 192.

⁵⁹⁰ Pittsburgh Commission on Human Relations, "Procedure for Processing Complaints of Civilians Against City of Pittsburgh Police Officers Charging

Misconduct or Brutality," June 16, 1965, pp. 1-3; Pittsburgh Commission on Human Relations, "Working Together," 1965 annual report, pp. 4-6.

⁵⁹¹ Id. at p. 6.

⁵⁹² New Haven Commission on Equal Opportunities, "Report Based On Its Investigation of Police Activity on December 10, 1965, and December 25, 1965," Apr. 20, 1966, pp. 19-21.

⁵⁹³ *Supra*, note 528 at pp. 166-170; editorial, "Another Reason for a 'No' Vote," *New York Times*, Oct. 29, 1966, p. 28, col. 1.

⁵⁹⁴ Ralph G. Murdy, "Civilian Review Boards in Review," *FBI Law Enforcement Bulletin*, July 1966, pp. 14-18.

ings. In the first year, it received 25 complaints, including 22 involving the police, 1 the welfare department, and 2 the city hospital.⁵⁹⁵

Michigan Civil Rights Commission

The Michigan Civil Rights Commission was established by the new 1963 State constitution. Unlike most State civil rights commissions, which have no authority over local government affairs, it has jurisdiction over all cases of social or religious discrimination involving local and State government agencies as well as fair housing, employment, and public accommodation statutes. The eight-member Commission investigates the cases and holds hearings. It does not simply render advisory opinions; it can seek court enforcement of its orders.⁵⁹⁶ Although its jurisdiction includes review of complaints against law enforcement agencies, the Commission, in order to avoid interference with legitimate police activities, has attempted to resolve problems through "cooperation rather than by coercion."⁵⁹⁷

The Michigan Commission received 478 cases during 1964 in the following categories:⁵⁹⁸

	Number	Percent
Employment.....	286	59.8
Housing.....	60	12.6
Law enforcement.....	77	16.1
Public accommodation.....	47	9.8
Education.....	8	1.7

Over 88 percent of the complainants were Negroes.

During its first 2 years, 1964 and 1965, the Michigan Commission handled 161 cases involving law enforcement agencies. The complaints were resolved in the following fashion:⁵⁹⁹

Probable cause—adjusted [settlement with police department]	33
Probable cause—order [to comply]	1
No probable cause—dismissal	45
Lack of jurisdiction	5
Withdrawn by claimant.....	4
Under investigation.....	73

Only one of these cases required issuing a formal order to comply and in none were the courts involved. Of the first 77 law enforcement cases filed, 74 involved the police, 2 the prosecutor, and 1 the courts; 76 alleged discrimination on the basis of race and 1 on the basis of religion.⁶⁰⁰

One hundred and fourteen of the first 168 complaints against law enforcement agencies through March 30, 1966 involved the Detroit Police Department:⁶⁰¹

Physical abuse.....	62
Harassment.....	48
Verbal abuse.....	29
False charges.....	16
Failure to take complaints.....	9
Property damage.....	4

Examples of the kinds of cases where the Commission found probable cause and followed through until the cases were settled include the following:⁶⁰²

In one case a citizen complained to officers and was himself struck and charged with an offense. The responsible officers were reprimanded and transferred, and the department apologized to the claimant. In another instance, a citizen was stopped on suspicion and was injured in the scuffle that followed. The citizen was released on bond a few hours later, and the same officers again stopped the citizen for investigation. One officer was warned, one was reprimanded, and the charges against the citizen were dropped.

The Michigan Commission has not limited its concern to a case-by-case approach. It has developed with city officials and police chiefs programs for the recruitment of minority group officers and community relations instructors for senior police personnel. It has reviewed a series of disciplinary actions by the Detroit Police Department and encouraged the imposition of punishments more consistent with the severity of the offense. Following recommendations made after specific cases, the Detroit police force issued an order discontinuing arrests for investigation in liquor and gambling cases and distributed a memorandum and amended manual concerning proper procedures for handling complaints about violations of equal accommodations laws. After members of a civil rights group were arrested and abused, meetings with civil rights organizations were started in the precincts.⁶⁰³

CONCLUSION

The purpose of this chapter has been to review the problem of police-community relations in the United States and to recommend numerous possible ways to meet it. It is well, in conclusion, to reemphasize the basic principles which must underlie any meaningful community relations program.

1. No police-community relations program can be effective without the full and complete support of the chief of police and other ranking police officers. Unfortunately, many lower ranking policemen have sensed that the strong statements of their superiors on police-community relations were not really meant—that they were intended to placate minority groups and civilian officials. They often see that action is taken only in times of crisis. If police officers know that other objectives are given far higher priority, they will continue to operate as in the past. Consequently, police-community relations programs have generally received inadequate support from middle level commanders and from officers on the street.

2. Improved community relations is not merely the job of police-community relations units or of citizens organizations. Instead, as a distinguished group of citizens advised Mayor Lindsay:⁶⁰⁴

Community relations is not a part-time task of the Police Department, or a mere postscript to its traditional work. We believe that community relations is essential to all law enforcement and therefore an integral part of all police work. Im-

⁵⁹⁵ American Civil Liberties Union, "Police Power and Citizens' Rights" (New York: American Civil Liberties Union, 1966), p. 45.
⁵⁹⁶ Michigan State Constitution, art. I, sec. 2, art. V, sec. 29; Michigan Civil Rights Commission, rules, Aug. 11, 1964.
⁵⁹⁷ Office of Attorney General Frank J. Kelly, statement of Dec. 22, 1964, p. 2; memorandum of agreement between the Michigan Civil Rights Commission and the Detroit Police Department on "Procedural Steps in Investigations of Civil Rights Complaints," Apr. 22, 1966.
⁵⁹⁸ Michigan Civil Rights Commission, "1964 Annual Report," p. 14.

⁵⁹⁹ Michigan Civil Rights Commission, "Law Enforcement Cases Handled by the Michigan Civil Rights Commission," Jan. 1, 1964 through Dec. 31, 1965, p. 1.
⁶⁰⁰ *Supra*, note 598 at pp. 14, 16.
⁶⁰¹ *Supra*, note 382 at pp. 1, 2.
⁶⁰² *Ibid.*
⁶⁰³ *Id.* at pp. 4-5; *supra*, note 598 at pp. 11-12.
⁶⁰⁴ Law Enforcement Task Force of New York City, "Report to Mayor-Elect John V. Lindsay," Dec. 31, 1965 at p. 15.

proving community relations is a full-time assignment of each man on the force. * * * [Healthy community relations] * * * can only be achieved by inculcating an attitude—a tone—throughout the force that will help facilitate a creative rapport with the public.

3. The commitment of the chiefs of police must result in more than honest, hard work to improve community relations. Many of the things which may need to be done will seem to interfere with other objectives and needs of the department. For example, harsher penalties for officers who engage in serious misconduct, increased promotion of qualified Negro officers to higher ranks, and even discussion with the more aggressive civil rights leaders may alienate some police officers and perhaps, at least temporarily, lower morale. Restricting use of certain minor crime statutes, of dogs, and of field interrogations may mean that police officers will have somewhat less control over occurrences on the street or even lead, in the short run, to apprehending fewer criminals. However, if these measures help to improve community relations, the result will probably be to improve considerably the ability of the police to control crime.

The solution is not, of course, to choose any policy merely because it results in more support by the public, or a portion of the public. A chief of police has to consider other objectives. Nevertheless, since police-community relations create serious problems in cities throughout the country, such relations must be one of the principal criteria in evaluating any policy or activity of the department. Indeed, in view of the extremely serious problems and the possibility that police relations with certain segments of the community may worsen, it may often be the most important factor.

4. An effective police-community relations program requires simultaneous efforts in many areas. Otherwise, any individual effort, no matter how well conceived, is likely to be ineffective. For example, neighborhood advisory committees will work well only if, in response to committee discussion, the police department is genuinely willing to reevaluate its policies concerning the activities of officers on the street and its methods of handling civilian complaints. Similarly, more Negro police officers, particularly as superior officers, are needed to gain the confidence of the Negro community. Yet, qualified Negroes are unlikely to join the force as long as the police are strongly disliked by much of the Negro community and as long as present Negro officers believe that they are discriminated against in promotion and assignments or that other officers are hostile to them. Consequently, the recruitment of more Negroes requires a concentrated effort to improve the practices of patrolmen on the street, to open communications between the police and the Negro, and to end all forms and appearances of discrimination within the department.

5. Police-community relations will probably not improve substantially unless policing as a whole improves. More educated policemen are essential, which means, in turn, higher salaries and better working conditions. Police morale must be raised. Yet, morale is affected by

almost everything occurring within the department, from salaries to the caliber of supervision. Consequently, while police-community relations is treated separately in this chapter, this subject cannot in fact be separated from the rest of the problems in policing today.

6. Police-community relations is not merely a problem of a particular police force. The public tends to see the police as one group just as they view lawyers, doctors, or the members of any other profession. Consequently, when the police in one area are abusive, for example, to peaceful demonstrators, respect and support for police officers everywhere is weakened. It is even more true that when one of numerous police agencies within an area engages in acts which offend the public, other police departments in the area are significantly harmed.

7. The problem between the police and the community, particularly the minority community, is not merely a product of lack of communication or information. It will not be solved merely by having the police and the community talk together or by having the police educate the community concerning their role and activities. Instead, the conflict concerns real points of disagreement, such as how the police treat citizens on the street, whether they discriminate in applying the law, and how citizen complaints are handled. Discussion and education can only help if the police (as well as citizens) address the serious problems and attempt, where necessary and possible, to change their policies and activities to meet citizen objections.

8. Police officials and officers often adopt a defensive attitude toward those who criticize and are hostile to them. Many of the people most hostile to the police are ordinary citizens acting honestly out of firm belief. It is therefore essential that the police explore problems openly—that, indeed, the police seek out their critics so that problems can be met together.

9. The movement toward the professionalization of the police must include a professional approach towards community relations problems. As the Michigan State study concluded:⁶⁰⁵

In their rapid movement toward professionalism, the police have sometimes overemphasized crime suppression to the detriment of the police and community relationship. Many aspects of the police's traditional public service goal are now shunted aside as being nonprofessional or unprofessional.

Professionalization within the police world has, in considerable part, meant greater attention to efficiency. One-man patrol cars are becoming more common; field interrogations are made more systematically; officers are expected to spend more time in patrol and less time talking to citizens; and the number of precinct stations is being reduced. These and other changes may improve police effectiveness against crime. Yet, they may also interfere with the development of friendly and informal contacts between police officers and the public which are so necessary to community relations. Consequently, many of these new trends may have to be adapted or compensated for, if police-community relations are not to be harmed.

⁶⁰⁵ *Supra*, note 22 at pp. 30-31.

Professionalism must mean more than mere efficiency.

The problem of police in a democratic society is not merely a matter of obtaining newer police cars, a higher order of technical equipment or of recruiting men who have to their credit more years of education. What must occur is a significant alteration in the ideology of police, so that police "professionalization" rests on the values of a democratic legal order, rather than on technological proficiency.⁶⁰⁰

10. The police must be willing to adapt to change. One area of change, which is the concern of a large part of the Commission's report, concerns new technology. Perhaps, even more important, however, there have been extremely significant social changes in this country since World War II. The proportion of juveniles has risen and they have increasing freedom; citizens of all ages are rejecting conformity and challenging accepted ideas and institutions; the poor are seeking to be treated with dignity and to receive their fair share of America's wealth; and minority groups, particularly Negroes, are demanding both the end of all forms of discrimination and equal opportunity in all aspects of American life.

These groups are becoming increasingly sensitive to being frequently stopped and questioned or arrested for minor crimes. They are increasingly sensitive to police disrespect whether real or imagined. They are increasingly willing to challenge slum landlords, unscrupulous merchants, other agencies of government, and particularly the police as the symbol of the law.

The police cannot ignore these changes. Nor can or should they stop them. If the police—from the chief to the patrolman—learn to understand the way of life and aspirations of the Mexican-American juvenile, the poor white, or the middle-class Negro, they will be able both to enforce the law and to improve relationships with the entire community.

11. For too long, the public has either ignored or even increased tensions between the police and portions of the community. While it is the responsibility of police departments to improve community relations, the public too must bear its share of the responsibility. Besides paying the financial cost, the public must forego the temptation, to which it has too often succumbed, to use the police *against* minority groups, to encourage the use of methods which are illegal or offensive. The public must be willing

to have the police serve equally and fully all segments of the community. It must demand that elected civilian officials exercise responsibility and control over the police as well as over all other government agencies. It must be willing to participate in community relations activities such as neighborhood and citywide advisory committees. It should, through a variety of civic organizations, investigate the reasons for police-community tensions in their localities, support constructive police activities to improve community relations, and work for the reforms which are necessary. Unless interest is shown in these and many other ways, progress in police-community relations is likely to be slow and inadequate to meet this serious problem.

12. While many suggestions have been made in this chapter, there is no pat answer to improving police-community relations. The problem, particularly between the police and minority groups, is a deep and complex one involving many other issues and institutions of our society. The problems and therefore the remedies are different in different localities. Experimentation with new ideas is therefore essential.

Yet, as the surveys and other information described in this chapter show, the problem exists—particularly in our cities—throughout the country. At least some of the causes and some of the remedies are clear. There can be no excuse if the police and the community do not begin to meet the problem before them in frank fashion.

13. Finally, much has been said about the ineffectiveness of existing community relations programs. It must be remembered, however, that 10 years ago, there were almost no such programs. Today police departments are generally aware of the problem and are beginning to take serious action. Programs exist in many places and new or expanded programs are constantly being announced. Therefore, the weakness of the programs must be considered in the light of the substantial progress.

Unfortunately, however, progress is not nearly fast enough. Impatience, frustration, and now violence are growing quickly in minority communities and these trends are likely to accelerate. Consequently, if the problem is not to get worse, to the serious detriment of both the police and the community, drastic and creative action is urgently needed.

⁶⁰⁰ *Supra*, note 1 at p. 239.

Police Integrity

THE NEED FOR ETHICAL CONDUCT

Exactingly ethical standards and a high degree of honesty are perhaps more essential for the police than for any other group in society. Because the police are entrusted with the enforcement of the fundamental rules that guide society's conduct, a policeman's violation of the law or his corrupt failure to enforce it dishonors the law and the authority he represents. Dishonesty within a police agency can, almost overnight, destroy respect and trust that has been built up over a period of years by honest local government and police officials. Nothing undermines public confidence in the police and the process of criminal justice more than the illegal acts of officers. Support for the police in their work, and the bringing about of crucial changes such as those recommended by the Commission to strengthen the police, can easily be impaired by a belief that the police themselves are not taking every possible measure to eradicate corruption and unethical conduct.

As this chapter will point out, the dishonest policeman is, in many cases, strongly influenced by the corruption of others—politicians, businessmen, and private citizens. Although he is inherently no more resistant to temptation than anyone else, his position exposes him to extraordinary pressures. In many cases practices that are accepted in other fields and occupations—such as tipping and doing favors—are particularly difficult to avoid in police work. Conflicting pressures are often placed upon the police. For example, police are required to enforce parking and gambling laws, though most of the community might prefer them not to. Public resistance to the enforcement of such laws greatly increases the temptation to accept favors, gratuities or bribes, or simply to ignore violations. Police dishonesty is, of course, a series of private tragedies for the officers who become involved. It also affects the morale of thousands of honest policemen who suffer from popular identification with those involved in corruption or misconduct. When the "dishonest cop" headline appears, honest police officers throughout the country are adversely affected, "the feeling of pride slips and * * * a hint of shame takes hold."¹

Field studies undertaken by the Commission and the work of its consultants have revealed that at least in some cities a significant number of officers engage in varying forms of criminal and unethical conduct. The Com-

mission's limited studies afford no basis for general conclusions as to the exact extent of police dishonesty or the degree to which political corruption affects police service today. But these studies have shown that even in some of the departments where the integrity of top administrators is unquestioned, instances of illegal and unethical conduct are a continuing problem—particularly in slum areas, where the most incompetent officers tend to be assigned in some cities. Administrators with whom the Commission has consulted acknowledge that dishonesty is a problem that must be frankly confronted if their objective of eradicating such misconduct is to be achieved.

PATTERNS OF DISHONESTY

The violations in which police are involved vary widely in character. The most common are improper political influence; acceptance of gratuities or bribes in exchange for nonenforcement of laws, particularly those relating to gambling, prostitution, and liquor offenses, which are often extensively interconnected with organized crime; the "fixing" of traffic tickets; minor thefts; and occasional burglaries. The Commission's work also revealed some instances of police officers in high-crime neighborhoods engaging in such practices as rolling drunks and shake-downs of money and merchandise in the very places where respect for law is so badly needed.

POLITICAL CORRUPTION

Government corruption in the United States has troubled historians, political reformers, and the general public since the middle of the 19th century.² Metropolitan police forces—most of which developed during the late 1800's when government corruption was most prevalent—have often been deeply involved in corruption.³ The police are particularly susceptible to the forms of corruption that have attracted widest attention—those that involve tolerance or support of organized crime activities. But the police, as one of the largest and most strategic groups in metropolitan government, are also likely targets for political patronage, favoritism, and other kinds of influence that have pervaded local governments dominated by political machines. Against both forms of corruption,

¹ Mort Stern, "What Makes a Policeman Go Wrong," *Denver Post*, Oct. 8, 1961, sec. A, p. 1, col. 1.

² See e.g., Lincoln Steffens, "The Shame of the Cities" (New York: McClure, Phillips, 1904), 306 p.

³ Charles Reith, "The Blind Eye of History" (London: Faber & Faber Ltd., 1952), p. 83.

responsible police leaders have fought a continuing battle—one that appears to be steadily gaining.⁴

The remnants of corrupt political control allied with organized crime and vice operations have, however, continued to plague some cities—as evidenced by widely publicized incidents during the past 10 years, particularly concerning organized crime activities. In Newport, Ky., for example, city officials and police were indicted in 1963 for permitting organized vice and gambling activities to flourish.⁵ In 1961, corruption in Boston was exposed through a nationwide television documentary which showed 10 policemen entering and leaving a book-making establishment in a locksmith's shop. Prior to release of the film, the Internal Revenue Service, acting upon complaints originating from the New England Citizens Crime Commission, raided the shop; but when State police raided the shop 4 weeks later it was again operating openly. As a result of this scandal, a survey of the department was ordered, and the police commissioner was replaced.⁶

In May 1961, a raid by agents of the Internal Revenue Service on a gambling establishment in New Kensington, Pa., uncovered corruption there. The subsequent election of a reform mayor and the appointment of an honest chief of police ended a regime that "was so closely controlled by organized crime that the community seemed helpless in its grip."⁷

Perhaps the most notorious such incident was the gangland-type murder of State Attorney General-elect Albert L. Patterson, resulting in a cleanup of Phenix City, Ala., in 1955. Both the sheriff and the mayor resigned their offices, were charged, and paid fines for wilfully neglecting their duties. Scores of gamblers went to prison.⁸

Another form of political corruption—where police appointments are considered a reward for political favors and police officials are consequently responsive primarily to the local political machine—is still a fairly open and tacitly accepted practice in many small cities and counties. It recurs too, from time to time, in larger cities, though generally in less conspicuous form.

Even in some cities where reforms have ended open political control of the police, policemen who make trouble for businessmen with strong political influence may still be transferred to punishment beats, and traffic tickets may still be fixed in some places through political connections. Honest and conscientious police chiefs often have an extremely difficult time eliminating these practices.

Such assignment practices may be present in the lower ranks of individual precincts or bureaus, and, if detected, are often difficult to prove with the certainty needed to take action under cumbersome civil service regulations. Appeal to a mayor, city council, or prosecutor may of course be fruitless, since they themselves may be involved in or condone such practices. The general public often accepts this style of city government as simply "the way things are," and the policeman who tries to buck such a system is likely to be ostracized by his companions and lose any chance he may have had to advance in his career. Political corruption in police personnel practices, al-

though rarely dramatic enough to make headlines, can in itself destroy the morale of the honest and conscientious officer, and deter able men from careers in law enforcement.

NONENFORCEMENT OF THE LAW

Chapter 2 has discussed the problems that confront the police when they are faced with enforcement of laws in such areas as gambling, prostitution, liquor, and traffic. In many cases there are strong community pressures against enforcement of such laws. In others neither the police nor the rest of the criminal justice system have the resources or ability to attempt full enforcement and in these cases a pattern of selective nonenforcement prevails. Some prosecutors and judges react to selective enforcement problems by dropping cases or imposing fines low enough to be accepted as part of the overhead of illegal business. This can create an environment in which dishonesty thrives.

Sometimes enforcement policies are decided openly and rationally by such means as chapter 2 suggests; in such instances selective enforcement is properly regulated. But in others, nonenforcement may become the occasion for bribery or other corruption. Thus, in the prohibition era, millions of people sought and found ways to disregard the ban on liquor, and police attempts at enforcement were met with citizen condemnation and offers of payment for tolerance of community norms.

While the wholesale corruption of prohibition days has passed, illegitimate nonenforcement remains a problem. One west coast police official described in this fashion how a bookie once attempted to influence him:

These people really work on you. They make it seem so logical—like you are the one that is out of step. This bookie gave me this kind of a line: "It's legal at the tracks, isn't it? So why isn't it legal here? It's because of those crooks at the Capitol. They're gettin' plenty—all drivin' Cads. Look at my customers, some of the biggest guys in town—they don't want you to close me down. If you do they'll just transfer you. Like that last jerk. And even the Judge, what did he do?: Fined me a hundred and suspended fifty. Hell, he knows Joe citizen wants me here, so get smart, be one of the boys, be part of the system. It's a way of life in this town and you're not gonna change it. Tell you what I'll do. I won't give you a nickel; just call in a free bet in the first race every day and you can win or lose, how about it?"⁹

The corrupt offer may come from the law-violator, as in the previous example. But initiation of such offers is not confined to people so clearly involved in illicit enterprises. A patrol division commander in one city described another common situation:

This fellow was president of his local service club and he was always shoving something into the officer's hand saying, "here's a little trinket for the wife!" He did the same thing with delivery men and others in return for small favors. In our case it was in appreciation for the officer not tagging overparked or doubleparked customers' vehicles in front of the shop. He really didn't see any harm in what he was doing.¹⁰

In another city it was common practice for a detective to provide a list of names of selected police officers to

⁴ Ralph Lee Smith, "The Tarnished Badge" (New York: Thomas Y. Crowell Co., 1965), p. 230.

⁵ "Challenge to Morality," *Christian Science Monitor* (Boston), Jan. 9, 1963, p. 9, col. 3.

⁶ *Ibid.* Also, see Dwight S. Strong, "New England: The Refined Yankee in Organized Crime," *The Annals*, 347: 40-50, 48 (May 1963).

⁷ *Supra*, note 5 at col. 2.

⁸ *Supra*, note 5 at col. 1.

⁹ This example was one of many provided to the staff of the Commission by police officials from various cities in the United States.

¹⁰ *Ibid.*

leading law firms and large hotels for distribution of liquor at Christmas time. In the same city it was customary for detectives assigned to the pawn shop detail to receive special Christmas gifts from each of the downtown pawnbrokers.¹¹

These practices may be little different in kind from exchanges that commonly occur in the business world, but they have a far more ominous implication when they involve public officials. And they may lead to far more serious misconduct.

Certain traffic accidents provide the setting for another form of mutual consent bribery:

In an accident situation where the officer can cite either party, he may stall, maybe give a slight hint—or the citizen may take the initiative. The citizen generally tells the officer a sad story, walks over to the officer's car and leans over the front door. This is the cue. What actually happens is that money is dropped onto the floor of the car. The officer then decides not to issue any citation and leaves in his car—after he has also secretly collected a reward from the tow-car operator. When he “discovers” the money on the floor of his car he now has money from two sources. These cases are very difficult for internal investigations units to make, but it can be done if enough manpower is made available.¹²

In some cities corruption has been so highly organized within a precinct or department that there are regular fees for permitting various activities, collected at set intervals by a “lieutenant's man.” In one large eastern city, for example, contractors who wished to unload materials at curbside had to pay a given per diem to the precinct captain—ostensibly to cover the cost of a patrolman to supervise traffic, though in fact there was no basis for such a charge for police services, and no special assistance was given. In another city, workmen at construction sites have been known to line up during their morning coffee break each day to pay a dollar to the beat patrolman for not ticketing their illegally parked cars.

THEFT

The problem of theft by police officers sometimes takes a form less blatant than the occasional, well-publicized burglary such as the Summerdale incident, which resulted in the reorganization of the entire Chicago police department in 1960, and the 1961 apprehension in Denver of a ring of police burglars, which resulted in dismissal of 52 men. In some cities, the Commission determined that some officers kept stolen property recovered by investigation, stole small items from stores when a patrol inspection disclosed an unlocked door, or emptied the pockets of drunks before they were taken to the stationhouse.

A ranking police official from a southwestern city illustrated the problem with this example:

One night one of our men discovered an unlocked jewelry store. He flushed out the building for a possible burglar, and when he discovered all was secure he checked the safe. It was also unlocked and contained several trays of diamond and ruby rings. He yielded to temptation and took a ring for his wife. He rationalized by thinking the owner would collect insurance when he discovered the loss and that way nobody would really lose.¹³

¹¹ Ibid.
¹² Ibid.

A pattern that was described by more than one police official was that of storekeepers who also take the attitude that insurance will cover losses and, as a mark of appreciation when policemen discover an unlocked door or investigate a burglary, invite them to help themselves to merchandise that can be reported as having been stolen.

Some officers have also been known to take building material and actually transport it in police vehicles. In one city officers picked up nails, tools, bundles of shingles, roofing paper and other items from the “midnight supply company” while working their shift. They were remodeling their houses and rationalized their act on the basis of numerous reports of stolen property from building contractors presumably much of it taken by workmen on the job. One of the officers was a former building trade worker and looked upon this form of “toting” as an accepted practice.

KICKBACKS

Particularly in the case of traffic offenses there is also an opportunity, which has sometimes resulted in publicized incidents, for policemen to receive payments for referring business to others such as towing companies, ambulance companies, garages, and lawyers who specialize in traffic accident damage suits. In one large city, for example, lawyers' “runners” with radio-equipped cars sometimes showed up at accidents. The result was an automatic \$25 for the police officer handling it if the victim could be influenced to accept the attorney.¹⁴ Licensing, inspection, and truck weighing duties also have afforded opportunities for this sort of unethical conduct.

THE BACKGROUND OF THE PROBLEM

Since such conduct continues to be a problem of concern for police officials, inquiry is required into the underlying factors that contribute to dishonesty and violation of ethics. A number of these are apparent from the incidents used in previous examples.

POLITICAL DOMINATION

The problem of old-style domination of the police by political machines has attracted the most intensive reform efforts from the police themselves. As a result, the effort to establish independent, professional law enforcement has made considerable headway over the past 30 years. This movement has not been without its own problems, however; the tradition of improper political interference is deep-rooted.

Further, civil service regulations in many jurisdictions have sometimes restricted the reform attempts of honest police executives. In many cities, for example, it is extremely difficult to remove officers who have engaged in serious acts of misconduct.

It is obvious that improper political interference contributes to corruption. Patronage appointments lower the quality of personnel and encourage all officers to

¹³ Ibid.
¹⁴ Ibid.

cooperate with politicians, even in improper circumstances. Although a man might withstand this temptation for himself, it may be impossible or even pointless for him to separate himself from the practices of his superiors or partners.

DISHONEST SUPERIORS AND FELLOW OFFICERS

Not long ago, the police commissioner of a large city expressed publicly his pessimism about the ability of training to protect new recruits from the pressures of improper conduct. He preferred to assign his best young officers to a tactical force that operated as a unit entirely separate and apart from the traditional organization. In that way, he said, it kept them out of "the system," where a new man was sometimes subjected to heavy pressures to conform to unethical practices, such as splitting tow-truck rebates and accepting gifts from merchants.

In many cases, of course, an honest recruit if properly trained and motivated will decide to report a matter to his superiors and assist in prosecuting disciplinary action.

For example, proper action was taken by the officer in the following case:

Nothing is more despised by honest policemen than the corrupt officer who leads younger men into a pattern of graft. If this kind of an officer is part of a two-man motor patrol, he must convince his partner to go along with the shakedown or he can't operate. This happened to me when I was a young officer. But I avoided involvement. Instead we made a case against him and he was fired. My sergeant backed me all the way.¹⁵

But this is often not easy. In some cases superiors, too, may be involved in dishonesty. When this is known to the officer he should report the incident to a superior he trusts, even if he must go as high as the chief himself or to an outside agency. To protect the officer supervisors can, in most instances, develop a case without revealing the identity of the reporting officer.

All police officers have taken an oath to uphold the law and to support the regulations of their department. While in some cases proper action may be difficult and require considerable fortitude, the general problem cannot be overcome until there is a strong determination within all law enforcement agencies to rid the profession of the "rotten apples." Failure to do so by withholding information should be cause for severe disciplinary action. This rule is firmly enforced within the Federal Bureau of Investigation and may be one of the strong influencing factors responsible for its outstanding record of integrity.

Whenever a number of dishonest officers are tolerated by other officers within a police organization, an atmosphere of mutual support and protection may develop, and eventually it may taint the entire police system. This was illustrated in the 1961 Denver scandal when it became apparent that there were varying degrees of involvement. The illegal practice centered about a small group of corrupt officers. The majority of the officers involved were passive participants; their grave error was only the failure to recognize a sworn obligation to report the activity to officials who could have taken proper action.

The personal ethical standards of police supervisors and executives exert great influence in establishing an agency's attitude toward dishonest police behavior. If an officer suspects that others support or simply condone dishonesty, his own definition of what comprises proper conduct may shift to accord with his concept of departmental norms.

Supervisors may create an atmosphere that supports corruption if they place popularity among patrolmen above their supervisory responsibilities. Such an official may be willing to excuse infractions of departmental rules. He may keep from the police chief information that an officer accepted a number of small items from a local merchant. He may realize that a patrolman is engaging in misconduct, but to avoid controversy and to maintain what he considers a good working relationship, he may remain silent.

Chiefs of police who are suspected of improper action can exert an even more serious influence. Such men may symbolize to young officers the standard for reaching the top. When the chief is known to be responsive to improper political pressure or even to take orders from criminal elements, corruption can be considered a necessary route to promotion. At the least, the existence of dishonesty at the top levels of command may influence an officer to accept favors.

PUBLIC PARTICIPATION

One major reason why police dishonesty continues is that large sections of the public contribute to it or condone it.

It is not merely the professional gambler offering a patrolman a free bet who promotes corruption, but the motorist, who thinks little of offering a traffic officer \$5 to avoid a ticket, or the businessman who presses gifts and gratuities on police in return for indulgences or other favors.

Even where such practices seem relatively harmless in and of themselves, they may easily establish an atmosphere wherein it becomes impossible to resist more serious bribery. More generally, it is unrealistic to expect a police force to maintain absolute integrity in a city where petty corruption and political favoritism is accepted by the public.

The widespread practice among other segments of the community of using positions of authority to elicit small gifts or favors may similarly influence the police. Police executives have often compared a businessman's accepting gifts from manufacturers and salesmen with an officer's accepting gratuities from merchants in his patrol area. While such conduct by the police is clearly unethical, the fact that the practice is accepted in the business world understandably leads some officers to question the harm of accepting small gratuities.

LACK OF ENFORCEMENT POLICY

A considerable number of the most serious and persistent kinds of unethical conduct are connected with failure

¹⁵ Ibid.

to enforce laws that are not in accord with community norms. Among these are laws concerning gambling, prostitution, liquor, and traffic. The failure of police administrators and other law enforcement officials—and ultimately of legislators and the general public—to acknowledge frankly the paradoxes confronting enforcement officials, has meant that only rarely have explicit policies and guides to enforcement in these areas been developed and enforced.

RECRUITMENT, TRAINING, AND COMPENSATION

The inability to attract and retain men of higher character and the failure to screen applicants carefully enough contribute to the problem of dishonesty. A failure to confront in training the various ethical dilemmas that may be faced by a policeman can compound this situation. Recruits may get the idea that a department's command really does not care about ethics in borderline situations. Or they may simply never realize that some practices constitute ethical violations, especially if they have not been so informed, and if they see other officers engaging in such practices.

Low salaries may also contribute to police dishonesty, both by making it more difficult to recruit able men and by providing a convenient rationale for illegal enrichment.

ISOLATION

The climate of isolation between police and community that exists in some places, particularly in slum neighborhoods, has a pervasive influence in supporting misconduct. In such neighborhoods a policeman tends to see only the bad and to have contact with residents only when they have committed an offense. He may come to feel that the problems he is to deal with are insoluble and that he has no support or cooperation from the community. It is easy for the man who feels himself to be an outcast to react by disregarding standards of ethics and law.

A dishonest officer in such precincts may also, in fact, be less liable to exposure. In too many such cases there is little formal contact between responsible police officials and residents. The latter may feel with justification that to protest dishonest police behavior is futile.

These neighborhoods are characterized as undesirable assignment districts, and, in fact, many officers have been transferred there because of past misconduct. Often too, these neighborhoods have a history of being ignored not only by the police but by the many agencies of government. Consequently, when a department contains a few dishonest officers, and when the story heard is of police tolerance of misconduct, the slumdweller who wants to rely upon the police for protection and counsel may eventually become seriously disillusioned not only with the police but also with all branches of government. This is one important reason why it is recommended in chapter 5 that the most highly qualified officers be assigned to high crime areas and to areas of social unrest.

This same isolation tends also to close off discussion of progressive ideas of law enforcement. Outside surveys and research that would analyze organizational structure, personnel, and other important police matters might also uncover dishonest practice. Therefore, corrupt officers, especially those who might hold supervisory positions, will seek to discourage such research. As a result, lax departments may continue with practices that have been discredited and replaced years before in other cities by responsible police officials.

MAINTAINING POLICE INTEGRITY

It is the police themselves, in the vast majority of cases, who are ridding their profession of the unethical and the corrupt. An ever-increasing number of law enforcement leaders are realizing that vigilance against such practices is a continuing part of their responsibilities. For over 40 years Director J. Edgar Hoover and his associates throughout the FBI organization have set an outstanding example of integrity within a law enforcement agency. Through the influence of its special agents throughout the country, working in close contact with local police officers, and through its training programs at the FBI National Academy and local training schools, the FBI has encouraged thousands of police officers to emulate its standards.

National, State, and local police associations have also done a great deal to encourage police integrity. The Law Enforcement Code of Ethics has been adopted by all major police associations and agencies throughout the Nation. In California, for example, State law requires that police ethics be taught and that the code be administered as an oath to all police recruits training in the 45 police academies certified by the State Commission on Peace Officers Standards.¹⁶ In 1955, the International Conference of Police Associations¹⁷ developed a lesson plan for the teaching of ethics within police organizations. The California Peace Officers Association and the Peace Officers Research Association maintain highly active committees on police standards and ethics and are responsible for most of the high ethical standards established throughout the State. And the International Association of Chiefs of Police constantly strives to establish and maintain honest police leadership. Other police consulting firms have made similar recommendations. Through numerous surveys of police departments, it has pointed up the need for maintaining police integrity through the establishment of internal investigation units. The Fraternal Order of Police has stressed the need for attracting high caliber police recruits through adequate salaries, sound retirement systems and other benefits.

Such groups should increase their activity in this field. Local police associations especially must be alert to the problem, recognizing the relationship between maintaining integrity and good conduct and improving the public image of the police. This can lead to more adequate pay and equipment, along with improved working conditions. Associations that come to the aid of dishonest

¹⁶ Admin. Code of Cal., tit. 2, ch. 2, sec. 1003.

¹⁷ Until 1955, known as the National Conference of Police Associations.

officers render an obvious disservice, not only to themselves, but to the entire police profession.

There are a number of specific directions in which action to ensure integrity should be taken.

POLITICAL ACCOUNTABILITY

Political accountability of the police should be resolved solely at the executive level. The police chief should be responsible to only one executive, and not to minor officials. These officials should bring their suggestions and questions about law enforcement problems to the attention of the political executive. If he considers the matter appropriate for police action, it should be his responsibility to communicate it to the chief of police. General enforcement policies should be discussed among police, prosecutors, and community groups. These should be approved by the political executive and given full publicity in the community, especially with those directly affected.

LAW ENFORCEMENT CODE OF ETHICS

As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

ARTICULATION OF POLICY

Police departments should establish policies that outline in detail proper and improper police practice. As discussed in chapter 2 such policies should be stressed in training, reviewed fully with all officers, and publicized in the community at large. The public should be expressly informed of its duties in helping prevent corruption. It should be stressed that prompt action will be taken against persons who participate in violations. Departments should define as unethical the acceptance of gifts, gratuities and favors by police officers, and should outline the common situations in which temptations to engage in dishonest conduct may arise. And such a rule must be enforced. The Oakland Police Department rules and regulations provide the following:

Section 310.70 Gifts, Gratuities, Fees, Rewards, Loans, etc., and Soliciting

Members and employees shall not under any circumstances solicit any gift, gratuity, loan, or fee where there is any direct or indirect connection between the solicitation and their departmental membership and employment.

Section 310.71 Acceptance of Gifts, Gratuities, Fees, Loans, etc.

Members and employees shall not accept either directly or indirectly any gift, gratuity, loan, fee, or any other thing of value arising from or offered because of police employment or any activity connected with said employment. Members and employees shall not accept any gift, gratuity, loan, fee, or other thing of value the acceptance of which might tend to influence directly or indirectly the actions of said member or employee or any other member or employee in any matter of police business; or which might tend to cast any adverse reflection on the department or any member or employee thereof. No member or employee of the department shall receive any gift or gratuity from other members or employees junior in rank without the express permission of the chief of police.

Section 310.74 Rewards

Members and employees shall not accept any gift, gratuity, or reward in money or other consideration for services in the line of duty to the community or to any person, business, or agency except lawful salary and that authorized by Section 96.4 of the Charter of the City of Oakland which reads as follows:

"The Board of Trustees may on notice from the chief of police reward any member of the department for conduct which is heroic or meritorious. The sum or amount of such reward shall be discretionary with the Board of Trustees but it shall not exceed in any one instance one month's salary and may be paid only out of funds provided by the Council and the Council may on application of the Board of Trustees provide money for such purposes." (Commission note: No reward has been granted since 1950.)

Section 310.80 Free Admissions and Passes

Members and employees shall not solicit or accept free admissions or passes to theatres and other places of amusement for themselves or others except in the line of duty.¹⁸

Assignments which represent particular opportunity for extortion or bribery should receive special attention in both written policy and spot checking by an internal investigation unit. Particular attention should be given to department assignments that offer unusual opportu-

¹⁸ Oakland Police Department "Manual of Rules and Regulations," (Oakland, Calif.: Oakland Police Department, 1960).

nities for dishonesty. Vice or gambling squads are obvious examples. Some of the most routine assignments, such as traffic enforcement and inspection duty, may also contain leverage for extortion.

Reasonably precise procedures should be established to govern individual decisions where the exercise of discretion may be bargained for, such as the policing of bars, the assignment of wrecked or illegally-parked automobiles to towing companies and the removal of sick and injured persons by ambulance. Departments should also establish policies and regulations governing situations in which officers may take advantage of their position of authority in nonduty situations such as off-duty employment which conflicts with police interests and the acceptance of price concessions from businessmen. And procedures should be formulated which adequately control the care, custody, and release of property and evidence held by the police, especially money, liquor, jewelry, and firearms.

INTERNAL INVESTIGATION UNITS

Internal investigation units should be established in all medium-sized and large police departments. These should serve in the dual role of general intelligence and investigation of specific reported cases of police misconduct.

In small departments, the chief, or at least a ranking officer, should be responsible for a planned program to ensure integrity. These units should also give attention to causes and manifestations of misconduct, and they should suggest to the police executive appropriate ways to prevent corruption. Such an internal investigation unit should operate separately from the law enforcement intelligence units, which have been established in many larger departments to provide information for attacks on organized crime. Otherwise, it might be impossible for the intelligence unit to gain the confidence and trust of officers and informants.

By broadening their responsibilities beyond investigating reported cases for prosecution, internal investigation units can keep the police administrator aware of various activities within the department that are most vulnerable or have the potential of becoming vehicles of dishonesty. They may also detect unreported instances of unethical conduct.

The problem of misconduct should not be treated as a series of isolated incidents. As an example, one department may discover officers who accept money or goods from local merchants in exchange for nonenforcement of traffic violations of customers or supply companies. The investigation unit may be able to discover the identity of most of the officers responsible, prove the charge, and have them dismissed from the department and prosecuted. At that point, the case is closed.

To stop here, however, leaves unsolved the question of why these officers become involved and others did not, and why some districts were especially prone to have dishonest officers and others were not. Analysis of the information gathered by the investigation unit may provide a variety of answers. One may be that officers who have turned dishonest have pressing debts, or supervision

is lax. Or again, such officers may have remained in one assignment for periods greater than others.

Such information is of obvious value in preventing further dishonesty. Unless the study is carried this far, there is at least some reason to suspect that these contributory factors eventually may bring about a reappearance of dishonest practices.

Where cities do not have the resources to maintain adequate internal investigation units, the chief of police should seek assistance from the State attorney general or the State police in attacking internal integrity problems. State governments should provide the necessary trained investigators to assist local authorities. Chapter 4 suggests that police manpower should be pooled in a metropolitan area or among a cluster of cities, to provide the internal investigation support necessary to maintain police integrity. In some areas where professional police organizations exist at the county level it may be possible to provide an internal investigation unit to serve the entire county. In those States where the attorney general has responsibility to move against police dishonesty at the city and the county level this responsibility should be vigorously carried out by him.

PROSECUTION OF CASES OF DISHONESTY

Police officials have sometimes argued that instances of police misconduct should be quietly resolved within a department itself. Evidence seems to indicate, however, that a department achieves greater respect from the community when dishonest officers are openly and vigorously prosecuted.

Similarly, private citizens and businessmen who offer bribes should also be prosecuted to discourage people who presently feel that only the most serious corruption is considered important enough to investigate or prosecute.

PERSONNEL SELECTION

Perhaps the most fundamental method of maintaining integrity in law enforcement is through careful selection of personnel. All of the selection techniques available today must be used, including comprehensive background investigations and reliable tests to determine aptitude and emotional stability. As pointed out in chapter 5, personnel testing experts recognize that it is much more difficult to predict latent dishonesty than to predict some other forms of deviant human behavior. Research in depth is needed to devise adequate testing procedures which will provide the police with more reliable screening techniques than now exist.

TRAINING

Officers should be taught the importance of ethics in law enforcement. Training should fully delineate the pitfalls that an officer will face and explain how he can avoid them.

It should clearly indicate the types of action to be taken by the officer under different circumstances, including, for instance, how he should proceed when he witnesses or

learns of dishonest acts on the part of another officer. Training should also cover departmental policies for proper decisionmaking and should emphasize proper conduct as a factor in maintaining good community relations.

Training should especially emphasize the obligation of all officers to rid the profession of the unethical, and it should instill in the trainee a feeling of pride in his important work. In this regard FBI Director J. Edgar Hoover has stated: ¹⁹

If every officer and law enforcement agency must suffer in some degree from charges made against other officers, we cannot afford to take a passive view, shrugging the matter off as none of our business.

I believe it is the duty of every officer in every law enforcement agency to take a personal interest in maintaining a high standard of conduct with his organization. To do otherwise invites public disgrace. The traitor to ethical standards of law enforcement will be discovered, but often not until he has brought a great deal of harm to both the public interest and the reputation of his organization and fellow officers. We should separate such elements from the profession at the earliest opportunity.

No matter what laws are passed or rules made, public service still demands the highest in personal integrity. We must demonstrate that the men of law enforcement have it in abundance.

PRIVATE POLICE

Traditional police tasks are not always performed by governmental police agencies alone. In order to reduce the threat of vandalism and theft, for example, industrial

plants and department stores, among others, often hire private security agencies to provide protective services above and beyond that provided by a local police department. Although the right of these agencies to arrest, to search, or to question is no different from that given to any private citizen, their presence can serve as an added deterrent to persons who are seeking an opportunity to commit crimes. When someone is caught in the act of violating the law, security personnel typically either release the offender after a warning—if the misconduct is minor—or turn him over to the local police.

Recently the Governor of Florida hired a private security agency for quite a different purpose—to uncover facts about crime conditions and corruption within his State. The agency, which is responsible to the Governor alone, has been soliciting information about organized crime and reviewing books and records of selected public officials. As a result, it has accumulated files on individuals and has made at least one arrest.

Any agency that assumes responsibility for law enforcement must be held to high standards of integrity and respect for individual rights. Since it is not possible to subject private agencies to the necessary controls and safeguards that are imposed upon public police agencies, private police agencies should not be used to perform essential public law enforcement tasks, such as the gathering of criminal intelligence, for any branch or agency of government or for any elected or appointed official.

¹⁹ J. Edgar Hoover, "Message from the Director." FBI Law Enforcement Bulletin (Washington: U.S. Department of Justice, December 1951).

Implementation Through State Commissions on Police Standards

ROLE OF POLICE STANDARDS COMMISSIONS

A State Commission on Police Standards can do much to improve local law enforcement. Without removing control of law enforcement from local agencies, a Commission can help to establish adequate personnel selection standards, to strengthen training procedures, to coordinate recruitment, and to improve the organization and operations of local departments.

Commissions on Police Standards and Training now exist in several States. Some of them are more effective than others; all could be significantly improved. In most States, the Commissions do not have the power either to establish mandatory standards or to give financial assistance to local departments. This lack of authority limits their impact. If properly constituted and empowered, however, State Commissions on Police Standards could play a significant role in the process of upgrading police effectiveness.

STATE STANDARDS

A Commission should begin its work by selecting a strong and active full-time staff with access to a wide network of experts in law enforcement agencies, the rest of the criminal justice system, and colleges and universities. The Commission should then evaluate the current situation in its State through studies and hearings. The Crime Commission's work disclosed that the qualifications of police officers were generally lower in small departments than in large ones. It also found that small communities suffered because their resources to train, equip, and compensate personnel could not compare with those of larger cities. The Commission's research revealed that recruitment and promotion in many departments is governed by inflexible standards that are often unrelated to the real needs of law enforcement. A State Commission could help resolve many of these problems.

MINIMUM SELECTION AND PROMOTION STANDARDS

An important early step for State Commissions is to set basic minimum selection standards applicable to all departments. The recommendation in chapter 5 of this volume that all future police officers be required to have a high school diploma and proven ability to do college work could be one such standard. A requirement that an extensive background investigation and an oral interview be conducted of all potential officers is another. It would be a mistake, however, for a state-level body to establish minimum standards of residence, height, weight

and age; the Commission recommends flexibility in such standards, so that individual departments can meet their own recruitment needs. The role of the State Commission here should be to encourage civil service reforms to achieve such flexibility and to promote programs and services that can help departments adjust to more flexible standards. Frequent physical fitness and medical examinations, for example, might replace rigid physical requirements. An example of existing minimum standards for recruitment is contained in the regulations of the California Commission on Peace Officer Standards and Training:

Minimum Standards for Recruitment

(a) The minimum standards shall be the following:

- (1) Citizen of the United States.
 - (2) Minimum age of 21 years.
 - (3) Fingerprinting of applicants with a search of local, State and national fingerprint files to disclose any criminal record.
 - (4) Shall not have been convicted by any State or by the Federal Government of a crime, the punishment for which could have been imprisonment in a Federal penitentiary or a State prison.
 - (5) Good moral character as determined by a thorough background investigation according to specifications entitled, "The Personal History Investigation" published by the Commission.
 - (6) Graduation from high school or a passing of the General Education Development test indicating high school graduation level, or a score on a written test of mental ability approved by the Commission and equivalent to that attained by the average high school student.
 - (7) Examination by a licensed physician and surgeon. Only those applicants who are found to be free from any physical, emotional or mental condition which might adversely affect performance of his duty as a peace officer shall be eligible for appointment. The applicant's declaration of medical history and the physician's findings upon the examination shall be recorded on forms which shall include but are not limited to all of the items set forth in the specification entitled, "Physical Examination" published by the Commission.
 - (8) An oral interview shall be held by the hiring authority or his representative, or representatives, to determine such things as the recruit's appearance, background, and ability to communicate.
- (b) It is emphasized that these are minimum entrance standards. Higher standards are recommended whenever the availability of qualified applicants meets the demand.

It might be desirable in some situations to set different basic standards for departments in communities of different sizes, to ensure that incentive for improvement is given to large cities as well as to smaller towns. Organizational criteria or recommended educational standards for supervisors, for example, will often vary according to department size; clearly the chief of a force of 20

men does not need qualifications as broad as the chief of a 2,500-man force.

An important and difficult problem that State Commissions should also consider is the screening and evaluating procedures for recruitment, retention, and promotion of police personnel. Some departments may need advice about how to conduct adequate background investigations, how to structure personnel interviews, or how to evaluate officers during a probation period. In addition to determining methods for assessing applicants' character, aptitude, and career potential, State Commissions could suggest ways of assessing applicants' attitudes in order to keep prejudiced persons out of police service and to aid in assigning men to duties for which they are best fitted by temperament and background.

There is also a definite need to set standards for promotion and retention, on the basis of educational achievement and on-the-job performance. Here again, a State Commission could suggest appropriate means for such evaluation. And when departments encounter difficulties in implementing reforms, the experience and resources of a State Commission would be invaluable.

Chapter 5 discusses the advantages of permitting lateral entry of qualified persons into all positions within a police department. Few departments permit this today because of rigid civil service regulations, retirement requirements and other restrictions. State Commissions could be especially effective in suggesting ways of removing impediments to lateral entry.

Not the least of the responsibilities of a standards commission would be convincing local governing bodies and law enforcement officials of the desirability of undertaking innovations of all sorts, and helping to put these innovations into effect.

TRAINING STANDARDS AND PROGRAMS

Strengthening recruit, inservice, and career development training is the area in which a State Commission can be of most immediate help. With some exceptions, only the largest departments have been able to conduct independent training programs adequate to meet the needs of today's police service. And even large departments in many cases need help in developing specialized programs on subjects such as riot control, community relations, legal developments, ethics, discretionary decision-making, and implementation of policy. Regardless of size, all departments should be afforded the opportunity to use programs prepared and presented by qualified instructors. Commissions could encourage the use of talented civilian instructors from other disciplines to teach specialized subjects such as law, psychology, or race relations.

The first step in establishing training programs is to develop a curriculum and to determine the minimum number of classroom hours required for each subject. Standards should be set for facilities, course materials, classroom and field techniques, training aids, and qualifications of instructors. State Commissions could help recruit and orient instructors, and provide grants for developing better teaching materials and methods.

The two States which have the most extensive programs in training for policemen are California and New York.¹ Although these programs have the same objective of establishing statewide minimum standards for training, the procedures for accomplishing this end differ. In New York, all recruits must satisfactorily complete a prescribed training program of 240 hours before they are qualified to serve as policemen in the State. Under the law, the Municipal Police Training Council must approve police training schools, certify instructors, and certify police officers who have satisfactorily completed a basic training program. The State of New York, however, does not provide financial assistance to local departments to help them comply with the mandatory standards.

California, on the other hand, has enacted a statewide program of police training which is voluntary in nature. The Commission on Peace Officer Standards and Training is empowered to establish minimum standards for training and is authorized to reimburse all qualifying jurisdictions in an amount not to exceed one-half of the necessary living expenses incurred by the policeman if he is required to take his training away from his home. The State Commission now requires recruits to receive a minimum of 200 hours of prescribed basic training and first line supervisors a minimum of 80 hours of supervisory training before a department can qualify for State aid. During 1966, 98 percent of the population was served by police agencies which adhered to minimum standards for police training. The 2,700 recruits for California departments received an average of 370 hours of basic training. The New York and California programs each have their advantages, but it would seem that higher training standards could be accomplished more quickly if a State provided financial assistance to local departments.

A State Commission might also initiate continuing education programs for potential officers who meet all department qualifications except the educational requirement. Courses could be provided through the Department of Education or through government grants. Commissions could also be instrumental in developing training programs along new lines, such as a program designed to fulfill the needs of the community service officer.

State Commissions should draw heavily on the resources of police science programs in colleges and universities for their work in the training area, as California has done. Since basic college preparation for the police should gradually be directed away from strictly technical or vocational courses, these latter resources could best be used to improve the level of training programs. Police science program coordinators could, for example, be used by a State Commission in setting up a model training school to serve a cluster of smaller departments; in coordinating the annual intensive refresher courses that should serve as a core for continuing training; and in planning curriculum development and instructor training programs.

The challenges in the training area are, in short, enormous, and the need for aggressive, imaginative efforts by State Commissions is urgent. In the training field par-

¹ See Cal. Penal Code secs. 13500-13523; N.Y.S. Exec. Law Art. 19-F, secs. 480-487.

ticularly, such commissions can have a direct impact on the caliber of law enforcement throughout an entire State.

POLICE ORGANIZATION AND MANAGEMENT

Commissions can also help greatly to improve police organization, management, and operations. This is a more difficult task than improving training or raising personnel standards. And while it is not always possible to prescribe exact minimum standards for police organizations, State Commissions can encourage improvements in the organization and operation of departments by sponsoring surveys and by making recommendations for upgrading the operations of individual departments. They can also conduct studies to recommend ways of coordinating or pooling the resources and services of groups of departments. Commissions could provide the kind of foresight and planning that is needed on a statewide basis to permit the establishment of computer systems and the standardization of records and forms to accommodate such systems.

Surveys of police agencies have been undertaken with success for many years by the International Association of Chiefs of Police, the Public Administration Service of Chicago and others, but they have reached only a few of the Nation's 40,000 police departments. In many cases, departments that had been surveyed did not have sufficient expertise to implement the recommendations that were made. If, however, a survey were to be conducted under the auspices of a State Commission, its field representatives could assist a department in adopting recommended changes.

In 1965, the State of New York established a Division of Police Administration Services with the following functions:²

1. To collect, compile and disseminate current information regarding general developments in the field of police administration and operations.
2. To serve as a clearinghouse, for the benefit of police agencies, of information relating to their common administrative problems.
3. To conduct studies and analyses of the administration or operations of any police agency, when requested by the head of such agency, and to make the result thereof available for the benefit of such agency.
4. To refer police agencies to appropriate departments and agencies of the State and Federal Governments for advice, assistance, and available services in connection with particular administrative problems.
5. To encourage the further professionalization of police administration.
6. To do all things necessary or convenient to carry out the functions, powers and duties expressly set forth in this article.

During its first year of operation, the agency received requests for assistance from 36 separate local law enforcement departments in New York on such matters as records surveys; revised rules and regulations; manpower allocations; and organizational charts. The staff for the new agency is not yet large enough, however, to engage in extensive research or survey work.

The objectives of the New York program are worthy ones. Other States are encouraged to create an agency similar to New York's and appoint sufficient qualified

staff. But, as is suggested in the following section, one State agency should assume responsibility for supervising both peace officer training and improving police organization, management, and field operations statewide.

RECOMMENDATIONS FOR ORGANIZATION AND OPERATION OF STATE COMMISSIONS

As early as 1952, the American Bar Association, in conjunction with the National Conference of Commissioners on Uniform State Laws, recognized the need to develop a State Council to serve as a catalyst in improving law enforcement. Together they published a Model Police Council Act. This act, with significant revisions, served as a model for the States of New York and California, which established State Police Standards Commissions in 1959. Since then, many variations of this legislation have been enacted in other States.

It is crucial that legislation creating a Commission on Police Standards be broad enough to authorize the commission to take the following actions:

- To adopt regulations establishing mandatory minimum standards relating to educational, mental, moral, and physical fitness, which shall govern the selection of police officers.
- To establish mandatory minimum training standards with the authority to determine and approve curricula; to identify required preparation for instructors; and to approve facilities acceptable for police training.
- To certify police officers who have acquired various levels of education, training, and experience necessary to perform adequately the duties of the police service.
- To conduct surveys of the administration and operation of police departments or aid governmental units in providing for surveys to be conducted by other agencies or consulting firms, and to assist governmental units in the implementation of recommendations.
- To conduct studies and make recommendations concerning means by which participating police agencies can pool individual resources.
- To conduct and stimulate research by public and private agencies designed to improve police administration and law enforcement.
- To make such inquiries and inspections as may be necessary to determine whether or not the standards established in the regulations are in fact being adhered to.
- To provide such financial aid as may be authorized by the legislature to participating governmental units.

THE IACP MODEL POLICE STANDARDS COUNCIL ACT

In 1966, after considerable research, a Model Police Standards Council Act was drafted by the Advisory Council on Police Training and Education and the Professional Standards Division of the International Association of Chiefs of Police, under a grant from the Ford Foundation. While the language in some of its sections differs slightly from that suggested above, the adoption of this Act, including the broad powers suggested above, and

² See N.Y.S. Exec. Law Art. 20, secs. 550-553.

the provision of adequate financing would permit any State to implement the essential programs described in this chapter. The Model Police Standards Council Act is attached as appendix A.

THE CONTINUING ROLE OF STATE COMMISSIONS

A State Commission can provide the focus that is needed by law enforcement agencies to give greater impetus to their progress. In addition to the areas outlined above, it can, for example, be an effective voice in promoting greater coordination among law enforcement agencies, among agencies within the administration of justice, with community groups, and with other units of government.

Moreover, it can be one of several action agencies in helping the State and local planning units, proposed in

chapter 13 of the "General Report," to develop and carry out its programs. Some States may prefer to make the State Commission on Police Standards an arm of the State planning agency; others may want them to be independent of one another. In either case, a State Commission on Police Standards should provide invaluable information and expertise on police problems and needs to a State planning agency and in return should receive assistance in the development of new programs and standards for local law enforcement.

But the State Commission on Police Standards and Training can also initiate the research that must continually test, challenge, and evaluate professional techniques, procedures and indeed its own minimum standards in order to keep abreast of social and technical change. And though the task is difficult, it can help develop within the ranks of law enforcement the vision, inventiveness, and leadership that is necessary to meet the complex challenges facing the police of our cities.

APPENDIX A

MODEL POLICE STANDARDS COUNCIL ACT OF—

(Title should conform to State requirements. The following is a suggestion: "An act establishing a Police Standards Council; providing certain educational and training requirements for members of police forces; and for related purposes.")

(Be it enacted, etc.)

SECTION 1. FINDINGS AND POLICY

The legislature finds that the administration of criminal justice is of statewide concern, and that police work is important to the health, safety, and welfare of the people of this State and is of such a nature as to require education and training of a professional character. It is in the public interest that such education and training be made available to persons who seek to become police officers, persons who are serving as such officers in a temporary or probationary capacity, and persons already in regular service.

SECTION 2. POLICE OFFICER DEFINED

As used in this Act:

"Police officer" means any full-time employee of a police department which is a part of or administered by the State or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of this State.

SECTION 3. POLICE STANDARDS COUNCIL

(a) There is hereby established a Police Standards Council, hereinafter called "the Council," in the Executive Office of the Governor. The Council shall be composed of 15 members, as follows: Five chief administrative officers of local government police forces, at least 3 of whom shall be from forces maintained by incorporated municipalities; 5 officials or employees of local government who have general executive or legislative responsibilities with respect thereto so chosen as to represent county government and municipal government; [the head of the State police], 1 representative of higher education, 2 public members and the Attorney General.

(b) Except for the Attorney General and the [head of the State police] who shall serve during their continuance in those offices, members of the Council shall be appointed by the Governor for terms of 4 years: provided that no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment. Notwithstanding anything in this section to the contrary, the terms of members initially appointed to the Council by the Governor upon its establishment shall be: three for 1 year, three for 2 years, three for 3 years, and four for 4 years. The Governor, at the time of appointment, shall designate which of the terms are respectively for 1, 2, 3 and 4 years. Any vacancy on the Council shall be filled in the same manner as the original appointment, but for the unexpired term.

(c) The Governor annually shall designate the chairman of the Council, and the Council annually shall select its vice chairman. The chairman and vice chairman shall be designated and selected from among the members of the Council.

(d) Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary, membership on the Council shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

(e) Members of the Council shall serve without compensation, but shall be entitled to receive reimbursement for any actual expenses incurred as a necessary incident to such service.

(f) The Council shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any [five] members of the Council.

(g) The Council shall report annually to the Governor and legislature on its activities, and may make such other reports as it deems desirable.

SECTION 4. POWERS

In addition to powers conferred upon the Council elsewhere in this act, the Council shall have power to:

1. Promulgate rules and regulations for the administration of this act including the authority to require the submission of reports and information by police departments within this State.

2. Establish minimum educational and training standards for admission to employment as a police officer: (a) in permanent positions, and (b) in temporary or probationary status.

3. Certify persons as being qualified under the provisions of this act to be police officers.

4. Establish minimum curriculum requirements for preparatory, inservice and advanced courses and programs for schools operated by or for the State or any political subdivisions thereof for the specific purpose of training police recruits or police officers.

5. Consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of police training schools and programs or courses of instruction.

6. Approve institutions and facilities for school operation by or for the State or any political subdivision thereof for the specific purpose of training police officers and police recruits.

7. Make or encourage studies of any aspect of police administration.

8. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement.

9. Make recommendations concerning any matter within its purview pursuant to this act.

10. Employ a Director and such other personnel as may be necessary in the performance of its functions.

11. Make such evaluations as may be necessary to determine if governmental units are complying with the provisions of this act.

12. Adopt and amend bylaws, consistent with law, for its internal management and control.

13. Enter into contracts or do such things as may be necessary and incidental to the administration of its authority pursuant to this act.

SECTION 5. EDUCATION AND TRAINING REQUIRED

(a) Police officers already serving under permanent appointment on the effective date of this act shall not be required to meet any requirement of subsections (b) and (c) of this section as a condition of tenure or continued employment; nor shall failure of any such police officer to fulfill such requirements make him ineligible for any promotional examination for which he is otherwise eligible. The legislature finds, and it is hereby declared to be the policy of this act, that such police officers have satisfied such requirements by their experience.

(b) At the earliest practicable time, the Council shall provide, by regulation, that no person shall be appointed as a police officer, except on a temporary or probationary basis, unless such person has satisfactorily completed a preparatory program of police training at a school approved by the Council, and is the holder of a bachelor's degree from an accredited institution. No police officer who lacks the education and training qualifications required by the Council may have his temporary or probationary employment extended beyond 1 year by renewal of appointment or otherwise.

(c) In addition to the requirements of subsections (b), (e), and (f) of this section, the Council, by rules and regulations, shall fix other qualifications for the employment and promotion of police officers, including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of police officers, and the Council shall prescribe the means for presenting evidence of fulfillment of these requirements.

(d) The Council shall issue a certificate evidencing satisfaction of the requirements of subsections (b) and (c) of this Section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction

equivalent in content and quality to that required by the Council for approved police education and training programs in this State.

(e) After the effective date of this act, each candidate for employment as a police officer who receives passing scores on his employment entrance examinations shall have credits, as established by the Council, added to his total examination scores for studies which he has satisfactorily completed at an accredited institution of higher learning in a program leading to a degree.

(f) Each police officer who is a candidate for promotion also shall receive educational credits as determined in section 5 on promotional examinations.

SECTION 6. POLICE TRAINING SCHOOLS AND PROGRAMS: GRANTS UNDER THE SUPERVISION OF COUNCIL AND THE STATE

(a) The Council shall establish and maintain police training programs through such agencies and institutions as the Council may deem appropriate.

(b) The Council shall authorize the reimbursement to each political subdivision and to the State 50 percent of the salary and of the allowable tuition, living, and travel expenses incurred by the officers in attendance at approved training programs, providing said political subdivisions or State agencies do in fact adhere to the selection and training standards established by the Council.

SECTION 7. APPROPRIATIONS

(a) Except as otherwise specifically provided in this Section, the Council shall be supported only by appropriations made by the legislature.

(b) The Council may accept for any of its purposes and functions under this act any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. Any arrangements pursuant to this subsection shall be detailed in the annual report of the Council. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any monies received by the Council pursuant to this subsection shall be deposited in the [State treasury] to the account of the Council.

(c) The Council, by rules and regulations, shall provide for the administration of the grant program authorized by this Section. In promulgating such rules, the Council shall promote the most efficient and economical program for police training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication.

(d) The Council may provide grants as a reimbursement for actual expenses incurred by the State or political subdivisions thereof for the provisions of training programs to officers from other jurisdictions within the State.

SECTION 8. SEVERABILITY

The provisions of this act shall be severable and if any phrase, clause, sentence, or provision of this act is declared to be contrary to the Constitution or laws of this State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this act and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.

SECTION 9. REPEALING CLAUSE

All acts or parts of acts not consistent with this act are hereby repealed.

The Community's Role in Law Enforcement

The previous chapters of this volume have detailed the steps, both long and short range, the police should take to increase their effectiveness. However, crime is not the business of the police alone.¹ On an average night in a city of half a million population, 65 police officers will be on patrol duty. No matter how well trained, well organized, and well equipped they are, they cannot be at the scene of every crime when it is committed, and this would be true if they numbered 65 or 650. The police need help from citizens, from private organizations, from other municipal agencies, and from crime prevention legislation. This chapter will give examples of how citizens can aid the police by protecting themselves and by creating new resources for crime prevention and the rehabilitation of criminals.

The role of other municipal agencies working in concert with the police in anticrime planning is examined, along with ways in which private citizens can create a continuing partnership with the police dedicated to preventing crime and solving those crimes already committed. Prevention-oriented ordinances and regulatory action are proposed.

In short, the police need help, all the help the community can give them. Methods proposed in this chapter utilize only a portion of the total community resources which could feasibly be marshalled to aid law enforcement.

The Commission had neither time nor resources to survey and evaluate specific programs for community assistance to law enforcement throughout the Nation. However, in the course of its work it did receive information about such programs, and it was assured by citizens and police officials in a number of communities that such programs were of great value. The intention of this chapter is to report this information, and to urge police departments and citizen groups throughout the country to consider its practical application in their own communities.²

CITIZEN PRECAUTIONS AGAINST CRIME

It is evident that, without significant inconvenience to themselves, citizens can take several commonsense measures that will reduce the threat of crime to

their persons or property. For example, the number of crimes that involve negligence on the part of their victims is needlessly high. Departing homeowners act sensibly when they lock their doors and windows securely; leave automatically activated night lights burning during lengthy absences; lock the garage doors and cancel milk and newspaper deliveries; and alert the neighbors or police to their absence. A survey of housebreakings in the District of Columbia in 1965 revealed that almost three-quarters of all intrusions were made while the owner was gone, 20 percent of them through unlocked windows or doors.³ The kind of property most commonly stolen from homeowners is radios, TV's, tape recorders, cameras, and other salable items. Many homeowners wisely choose to record the serial numbers of goods for later tracing by the police in case of theft or burglary.

Individuals can also maintain a reasonable awareness of danger in other facets of their daily lives. This includes maintaining a healthy alertness in encounters with strangers at the door or on the streets and avoidance of situations which leave the potential victim defenseless to personal attack or powerless to summon aid. These are normal, not hysterical, responses to modern urban life. Similarly, children can be matter-of-factly warned of the dangers of advances from strangers in a way that does not frighten or confuse them.

Simple precautions are particularly important in preventing auto thefts. Car owners should remove the keys from the ignition and lock their cars when they park. The District of Columbia crime survey showed 50 percent of stolen cars in 1 month were unlocked; 19 percent of the owners had left the keys in the ignition.⁴ And a national survey in 1965 showed an even greater degree of owner negligence; 42 percent of the stolen cars had the ignition unlocked or the keys visible!⁵

Storeowners and businesses have an even greater responsibility to make the task of the potential theft, robbery or burglary a more difficult one. They can do so by keeping a minimum amount of cash on hand, varying routines for taking money to the bank, balancing cash registers away from checkout counters, locating safes in well-lit spots highly visible from the outside of the building, and using two-man teams to open and close the stores.

Pyramid telephone warning systems are in operation in some cities among liquor stores, grocery chains, gas sta-

¹ As one commentator has picturesquely put it: "Law enforcement is not a game of cops and robbers in which the citizens play the trees."

² For a provocative article about citizen cooperation with the police, see Howard James, "Wake Up! The Police Need Help!" "The Christian Science Monitor," Apr. 11, 1966, p. 9, cols. 1-4.

³ "Report of the President's Commission on Crime in the District of Columbia" (Washington: U.S. Government Printing Office, 1966), pp. 80-88.

⁴ *Id.* at pp. 97-104.

⁵ FBI, "Uniform Crime Report, 1965" (Washington: U.S. Government Printing Office, 1965), p. 18.

tions, and clothing merchants. For example, upon receiving a report of a check fraud, shop-lifting incident, confidence game, or robbery in one store, the police telephone appropriate merchants and warn them. Those merchants in turn telephone others, giving the details of the crime and if possible, a description of the suspects. Such crimes often are committed in series, and on many occasions pyramid warnings have brought about the apprehension of suspects when they attempted subsequent crimes. And in some places, merchants have rigged a system which sends an alarm to other stores within a four-block radius, and once warned, shopkeepers watch for fleeing suspects from their vantage points. In some instances, this system has resulted in information vital to the later identification of suspects.

Adequate illumination of premises both inside and out, and secure locks are among the most useful anticrime precautions the businessman can take. The Oakland, Calif., police have found that most commercial burglaries occur in establishments with inadequate night lighting. Also, 60 percent of Washington, D.C., commercial burglaries are known to have taken place at night, over half through unlocked or breakable windows, one-third by forcing locks. Also, 64 percent of burglarized businesses are located on the ground floor.⁶

Alarm warning systems seem advisable in many cases, especially if the owner has supplied the police ahead of time with a floor plan of the store so that officers can plan a strategic entry, perhaps in time to surprise the burglar in the act. Also high walls, dead-end driveways, and heavy shrubs or foliage provide protective cover for night intruders. Such barriers should be lighted, shrubs trimmed, and areas generally opened to maximum visibility consistent with usefulness and aesthetics.

EDUCATION IN CRIME PREVENTION

Public education to alert citizens and businessmen on how to avoid becoming victims of crime can be a valuable adjunct to a crime control program. In many cases such campaigns are undertaken by the police, in other cases by interested citizens or by businessmen's groups. The best ones are often a cooperative effort. The American Association of Federated Women's Clubs and the National Auto Theft Bureau have conducted auto theft prevention campaigns in several cities, accompanying the police on their rounds, and leaving pamphlets in unlocked cars and attaching warnings to parking meters on the dangers of leaving keys in the ignition.

Another women's organization, the General Federation of Women's Clubs, has campaigned for better street lighting throughout the country. Businesses ranging from grocery chains to banks to diaper institutes have paid for pamphlets distributed to their customers on precautionary measures citizens may take to avoid crime. The Insurance Institute has made special appeals to clients on safeguarding furs and jewelry. Also the service clubs

in one city bought etching tools so that the police could imprint serial numbers on valuable possessions of willing citizens. In another community, similar groups have provided a film library so that the local police department could supplement their appearances before citizens and school groups with moving pictures on such subjects as vandalism, narcotics, personal defense, and burglary protection. A midwestern sheriff has a "junior posse" of over 25,000 youngsters who distribute crime prevention literature to homeowners and apartment residents.

The police of several European countries, including Finland, Germany, and Sweden, are engaged in special programs which could be utilized by American forces. They have police advisory storefront offices set up in cities for crime prevention exhibits and staffed by police officers ready to offer advice to citizens. An English Home Office report has considered cataloging in central registries the crime prevention exhibits of local police forces to permit interchange of successful techniques.⁷ The report also describes the experience of English police with the crime prevention officer who is especially detailed to call on victims, offer advice and followup services, distribute crime prevention literature, undertake security needs studies, and train police force members in prevention techniques.

In 1967, under a grant by the Office of Law Enforcement Assistance of the Department of Justice, high schools in Des Moines, Iowa, are conducting a special course for 125 seniors on "The Science of Law Enforcement and Citizen Responsibility." In New York, Chicago, and Cincinnati, the police are participating in the development of materials to be used by elementary school teachers in explaining to their pupils how to avoid dangerous situations and when and how to contact the police. And the Des Moines police are running a 2½-month crime prevention course to educate the business community in how to cope most effectively with robberies, larcenies, bad checks, and vehicle thefts. Police in other cities sponsor robbery clinics for banks, savings and loan organizations, and other firms that handle large amounts of money in the routine course of business. In Oakland, the police have distributed weekly bulletins to storeowners, including details about and pictures of bad check artists or shoplifting rings operating around the city.

Crime prevention campaigns, if they involve a substantial segment of the community's residents and business people, in all probability can affect crime rates. To be effective they must, however, be built around up-to-date, accurate, and specific crime prevention advice. Moreover, the specific needs of different groups in the community must be taken into account; for example, old people, young children, nighttime workers, and neighborhood grocers all have different problems vis-a-vis crime. Appeals to each group should be individualized whenever possible; direct personal contact is superior to mere literature handouts. Social and professional groups can be an invaluable asset to the police in making the crime prevention message relevant to the interests of their members, and in turn such groups can help in getting the message over to the community as a whole.

Many members of the community, however, do not

⁶ *Supra*, note 3 at pp. 80-88.

⁷ "Report of Working Group on Crime Prevention Methods" (London: Her

Majesty's Stationery Office, 1956), p. 3.

belong to such groups. The fact is that the most crime-ridden areas in the city are usually both the poorest and the most socially disorganized. For example, in the District of Columbia over one-half of all serious crime areas are in 5 of the 14 precincts. Any campaign that does not make a special effort to include or reach these residents through poverty centers, block organizations, churches, and schools should expect little success.

CITIZEN AID TO LAW ENFORCEMENT

In addition to taking normal precautions against crime, citizens can mobilize to help the police and other branches of the criminal justice system. The ancient frank pledge of medieval villagers can have its counterpart among modern urban dwellers who complement police action in deterring, reporting, and rehabilitating law violators.

CRIME REPORTING PROGRAMS

Several communities have experimented successfully with concerted campaigns to impress upon citizens the urgency of reporting promptly to the police all relevant information about crimes or suspicious incidents. In Chicago a million citizens and 300 citizen-organizations are involved in "Operation Crime Stop." Members are asked to call the police about any suspicious happening and to report the nature of the incident, number, and description of the persons involved, and the license numbers of any cars used. Those citizens whose information leads to the solution or prevention of a crime are publicly honored each month. "Operation Crime Stop," inaugurated on April 13, 1964, is credited by the Chicago Police Department with assisting in 7,000 arrests.

The District of Columbia Police Department launched a "Signal Ten" program in December 1966 to stimulate citizen aid to the police. The first step in this program was specifically directed against robberies. Thirty thousand leaflets were distributed to business firms; they provided the emergency police number, instructions on how to react to an armed robbery, and space on the leaflet in which witnesses could write information on crimes they witnessed and sketch the offender's appearance. Five hundred thousand small cards also were handed out to patrolmen for dispersal to robbery witnesses on the scene. They solicited the witnesses names and requested that relevant information about the crime be noted on the card. Similar programs are now in operation in Chicago and New Orleans. A Florida sheriff's department has had good results with a junior deputy program that encourages youngsters to watch for and report suspicious incidents.

The police of San Diego city and county report that the "Stamp Out Crime Crusade," founded and financed by the Independent Insurance Agents Association of California in 1965, is making a notable contribution to local crime prevention efforts. Pointed toward increasing public awareness of crime problems and encouraging citizens to assist the police, the crusade was introduced state-

wide in California in 1966. After 1 year of operation in San Diego, Police Chief W. S. Sharp noted the program's success:⁸

The type of support and public awareness that the crusade has created is most welcome. Law enforcement in this city has felt its effects. In addition to a number of positive actions by citizens, we detect a swell of public support and cooperation that we have never known before.

In addition, Sheriff J. C. O'Connor of San Diego County noted:⁹

Where once the public all too often turned the other way, there is now a willingness to "stand up and be counted," and frequently in the face of great physical danger.

Some groups have suggested that the common law doctrine of misprision of felony [i.e., concealment of felony] be revitalized to penalize witnesses who fail to report offenses they witness or learn about.¹⁰ At the present time, where this doctrine is in effect, prosecutions usually require that the defendant be charged with active concealment of the crime or criminal rather than with mere apathy or inaction.¹¹ Updating the doctrine to encompass a more affirmative duty to report offenses or aid in police investigations seems worthy of further study. A comparable requirement now exists in some states to report all serious traffic accidents.

CITIZEN PREVENTIVE PATROLS

Groups of citizens in a few communities or neighborhoods complement police preventive patrols. For example, in Washington, D.C., several private citizens with "ham radios" in their cars have formed a "React" program to patrol three high crime precincts on weekends. On Friday and Saturday nights between 8 and 12 midnight, peak hours in the city's criminal activity, they cruise their beats in teams of two, alert to any potentially unruly teenage gatherings or other suspicious activity. Their function is merely to transmit information to a base station, which relays it to the police dispatcher for appropriate police coverage or surveillance. In other cities, radio band operators' clubs perform similarly, watching for stolen cars, suspicious circumstances, runaways, and escapees.

Many cities and counties have civilian police reserve units which, with sworn police officers or in groups of two or more, patrol beaches, parks, and playgrounds. In some instances they are trained to handle crowds during parades and special events, to assist in search and rescue operations, and to direct traffic. In appropriate instances they work alone. One community has stationed civil defense personnel with mobile radio equipment at posts in high hazard areas to report on disturbances or incipient difficulties.

In addition to this kind of citywide help, the residents of many neighborhoods carry on their own watchdog activities, keeping an eye on absent homeowners' property, reporting suspicious incidents and, in some cases, making neighborhood rounds.

⁸ Letter from W. S. Sharp, Chief of Police, San Diego, to Andrew H. Ekern, chairman, Stamp Out Crime Crusade, May 3, 1966.

⁹ Letter from J. C. O'Connor, Sheriff of San Diego County, to Andrew H. Ekern, Chairman, Stamp Out Crime Crusade, Nov. 14, 1966.

¹⁰ Goldberg, "Misprision of Felony: An Old Concept in a New Context," 52 A.B.A.J. 148 (1966). Also see *Sykes v. Director of Public Prosecutions* (1961), 3 Weekly L.R. 371 (H.L.) Lord Denning.

¹¹ See *Neal v. U.S.*, 102 F. 2d 643 (8 Cir. 1939), interpreting 18 U.S.C. 251.

In some cities, taxicab fleets and utility company cars with their own communications systems have stepped forward and offered to serve as extra "eyes and ears" for the police. Kansas City, Mo., has "Operation Barrier," an emergency alert program involving 14 taxi, trucking, and public utility firms with over 700 radio-equipped vehicles. A direct telephone network links police dispatchers with the agency dispatchers. Police emergency broadcasts can be relayed to private vehicles, and their drivers can assist the police in identifying and tracking down offenders, all at no cost to the city. The private vehicles check in periodically with the agency dispatcher for police information. Birmingham, Chicago, Denver, Detroit, Green Bay, Wis., and New Orleans also have routine arrangements for furnishing descriptions of missing or wanted persons by radio to taxicab drivers for lookout purposes. The District of Columbia police furnish descriptions of wanted persons or cars to the mobile equipment of the city's electric and gas companies and to the bureau of traffic engineering and operations. The effectiveness of these local liaison programs inspired a recent congressional resolution to encourage direct radio communication between the police and taxicab drivers on a national scale.¹²

ENCOURAGING THE GOOD SAMARITAN

Every day in our cities the police or the victims of crime must depend on the willingness of strangers and onlookers to summon aid, render emergency services, and even help subdue assailants. In other periods, sheriffs and law enforcement officers could compel citizens in attendance at such emergencies to pitch in and help. Those on the scene were deputized as a "posse commitatus" under pain of criminal penalty for refusal.¹³ There was also a common law duty on the part of citizens to prevent the commission of a felony when possible.

Such doctrines may appear highly unrealistic in today's urban setting of frequently hostile crowds, which often refuse aid or even obstruct the police in making arrests, and sometimes coldbloodedly turn their backs on victims. Improved police-community relations is probably the only long-range solution to this problem, but communities might also give consideration to removing any legal impediments that could inhibit well-motivated citizens from offering aid. For example, good samaritan laws might absolve them from legal liability for any likely consequences of their intervention; crime compensation laws might provide reimbursement for injuries or losses suffered in the incident.

Public education campaigns might well include instructions to witnesses on how best to assist police in need and what kind of aid would most benefit crime victims. Sometimes a citizen is afraid of becoming involved in a prolonged prosecution which can cause him loss of time on the job. Some departments consequently protect the anonymity of emergency callers on behalf of others. Witness fees commensurate with the inconveniences suffered by citizens while doing their legal duties might also aid in crime emergencies.

CITIZEN RESOURCES FOR CRIME PREVENTION

Through group efforts and on an individual basis citizens can provide auxiliary resources for all parts of the criminal process. Many civic groups and businesses have sponsored nationwide and local showings of documentary films like "The Thin Blue Line" or "Every Hour, Every Day."¹⁴ In New Orleans one organization raises money for educational grants to police officers. In Spanish-speaking Harlem, a group of residents is teaching patrolmen their language. Oakland merchants have worked out an arrangement with the police department for handling first offender shoplifters without formal arrest, or in the case of juveniles, by referral to youth officers. In St. Louis unarmed adults guard school entrances at off-hours against unwelcome intruders. El Monte, Calif., has a "block mother" program sponsored by the local PTA in which one specially selected mother in each block has an open house with a sign in the window that she will help children who are lost, troubled by strangers, or hurt. The block mother also identifies children in need of supervision, trouble spots, and suspicious activities going on in the block. Many other cities have introduced similar programs.

Private groups can be especially effective in developing needed services for delinquency prone youths. PTA's can provide volunteer parents, foster homes, remedial tutoring and daytime supervised activities in high delinquency areas. They can see that inner city schools are equipped with adequate numbers of social workers and guidance counselors, and that housing developments have sufficient play space. The YMCA and the American Friends Service Committee pioneered in the detached youth worker field, sending their young men into public housing projects and onto street corners to divert gangs into constructive activities. Organizations like "Big Brothers" work with boys to steer them into constructive growth patterns. Many inner city churches have devoted considerable time and resources into reaching out to the disadvantaged youth in their areas and giving them comfort, counsel, organized recreation, and teenage centers. Washington, D.C., ministers in one precinct have developed a referral service to which youngsters apprehended by the police for minor crimes that do not require court referral can be sent for help in solving their problems. This kind of neighborhood mobilization is an immense asset to the police in underserved or especially troubled areas of the city. Other church groups have opened store-front clinics for narcotics addicts and halfway houses for released prisoners.

Many police forces have formed school safety patrols. These organizations, comprised largely of fifth and sixth graders, provide youths an opportunity to be of service to others and to identify with a worthy cause—safety and order. Some programs offer every participant the chance to attend a summer camp. The internationally known Berkeley Junior Traffic Police, founded by the late Chief August Vollmer, has been functioning since 1923 and has served as the model for hundreds of similar programs

¹² H. Cong. Res. 633, May 4, 1966.

¹³ See *Monterey County v. Rader*, 248 Pac. 912 (1926); 80 C.J.S. Sheriffs and Constables, sec. 34. Cf. Va. Code Ann. secs. 18.1-301; 15.1-79.

¹⁴ The International Association of Chiefs of Police, Inc., 1319 18th Street NW., Washington, D.C., welcomes inquiries about the availability of films of this kind.

throughout the Nation. Automobile associations have been laudably active in backing such programs too.

Another aspect of crime prevention involves citizen help in reintegrating previously institutionalized offenders into the community. Citizen interest is particularly needed in the rehabilitative field as tangible evidence that the community is ready to welcome back an offender into its midst and help him to avoid a return to crime. Private industries and unions make an invaluable contribution to controlling recidivism when they go into the prisons and run training programs that prepare inmates for decent jobs on release, and when they hire releasees. Universities like Harvard or Chicago, which conduct special educational programs in the prisons, also contribute.

For accused or convicted offenders living in the community, private groups, settlement houses, churches and unions can become private sponsors and supervisors helping with jobs, housing, and counsel. Often they can make the difference between successful probation or parole and return to prison, or between a defendant who is allowed release until trial and one who must stay in jail for want of bail. Professionals throughout the institutions of criminal administration carry such heavy case-loads that personal contact with their charges is the exception rather than the rule. Private citizens can provide the kind of individual backup in the community that is critical to the success of the rehabilitative effort.

COMMUNITY PLANNING AGAINST CRIME

Crime prevention can be built into almost every aspect of community planning. Unfortunately it is too often ignored because of the compartmentalization of municipal and county agencies. Crime is looked upon as the exclusive province of the police department and not the concern of those in charge of education, housing, urban renewal, health, welfare, or streets and highways. Both the police themselves and the other municipal agencies are guilty of this type of myopia. One police official described it thus:¹⁵

Community service agencies and law enforcement agencies have become polarized and isolated, each acting as though they are operating at opposite ends of the services continuum.

A Commission-sponsored survey of 95 high ranking public officials in 4 large cities revealed that the police were not significantly involved in community planning. The planning agencies on the one hand were "insular" in their relations with the police department and cautious about information exchange. The police seemed indecisive about what role they should play in any non-law enforcement planning.¹⁶

Increasingly, however, the police must become active participants in all aspects of community planning related to combatting crime. This can encompass almost the entire spectrum of local government. For instance, the police should be aware of public transportation developments insofar as they may relate to crime at terminals or

on public transit conveyances. Divisions within public works department should adopt building designs and lighting provisions that minimize crime hazards. Parks and recreation departments need advice on the location, lighting, and supervision of playgrounds and recreation areas. City planning and development commissions include zone controls, which influence population movements and demands for police service. Building and safety departments should take action to abate attractive nuisances, hazards, abandoned buildings and wells, and lots. Streets and highway departments oversee street lighting, driveway requirements, traffic flow, adequacy of off street parking, and parking lot regulation. The fire department may be needed for emergency use in crowd control, fire prevention at accident scenes and disasters, and arson investigations. Public and parochial schools have problems with vandalism, youth gangs, pervers and narcotics pushers. The health department can be a valuable source of information about changing patterns of drug use, venereal disease, alcoholism, and prostitution.

There are some notable examples of successful collaboration between the police and other agencies in crime prevention. For instance, one police department conducted intensive door-to-door surveys in especially crime-prone areas to determine what the residents thought their chief crime problems were and what the residents thought should be done about them. They received responses along the following lines which confirm that public order is indeed a multidepartmental task:

- The fire department should eliminate fire hazards and burn off lots being used for juvenile misbehavior.
- Schools should provide better perimeter lighting for the schoolyards and structures after hours.
- The recreation department should offer more attractive programs designed to use up idle youth energy.
- Juvenile probation officers should intensify their contact with probationers in the area.
- Public utilities should provide additional street lighting.
- The alcoholic beverage commission should crack down on liquor dealers who sell to minors.

Police officers who compiled the survey's results submitted the citizen complaints to the appropriate agencies for remedial action.

In another city, the police became an integral part of a master plan review team to screen all redevelopment plans for safety and crime hazards. Together with other agency representatives, they drew up a model set of criteria for evaluation of such projects. These criteria included accessibility of buildings to patrol units, proper traffic flow and off street parking provisions, lighting requirements, location and regulation of cul de sacs, playgrounds, common greens, fences, and security entrances. During the course of their combined effort, the team talked to juvenile delinquents in custody to ascertain their

¹⁵ Bruce C. Weller, "The Police Role in Prevention," "The Police Chief," July 1966, 33:54.

¹⁶ Richard Laskin and Margaret G. Oslund, "An Exploratory Study of Inter-

Organizational Contacts, Communication and Coordination" (report to the Office of Law Enforcement Assistance, Department of Justice, August 1966).

patterns of housebreaking and theft so that proper preventive measures could be taken.

In the San Francisco Bay area, subway designs are submitted to the police for personal safety factors and the South San Francisco Police Department also screens building permits for compliance with sound crime prevention principles of lighting, building design, location, and alarm provisions. Regional teams of youth officers, teachers, school nurses, and guidance counselors regularly review youth delinquency problems in another community.

There are other types of collaboration programs. Personnel of Chicago's youth division meet weekly with representatives from the family and juvenile courts, schools, and the welfare department to keep each other abreast of new developments in areas of mutual interest. The Oakland associated agencies program operates out of the city manager's office and brings together representatives of the police, schools, probation and parole departments, health, education and welfare specialists and California Youth Authority personnel to discuss and resolve juvenile problems. A similar coordinating council in Alameda County, Calif., operates to inform participating youth agencies of action and policy changes which may affect each others operations.

Chapter 13 of the "General Report" recommends that the mayor of every city have a special staff, adviser, or committee to coordinate all agencies directly concerned with or potentially useful in crime control. In Los Angeles, the county runs an "Operation Take Hold," which coordinates all crime control activities through the office of the district attorney with the assistance of an advisory council and a crime control coordinator.

Internally, police departments might facilitate broad range liaison with other governmental units through creation of community planning units, headed by officers or civilians skilled in interdisciplinary planning. The community service officers described in chapter 5 could receive citizen complaints or requests for service of all sorts, contact the relevant agencies, and follow up the contacts by attempting to resolve community problems or refer them to other agencies.

Another route to closer integration seeks to end the physical isolation of the police at the precinct level from other agencies that deal with neighborhood problems. Experimental projects have been suggested to house the police, along with welfare, health, probation, parole, housing, and employment officials, in community centers located in the neighborhoods, on the theory that physical proximity alone might have pronounced effects upon exchange of information and coordination. Preliminary efforts have been made in this direction by departments like Atlanta's, which places officers in poverty centers. Those officers participate in weekly meetings to which the neighborhood residents can bring their complaints about police and other government actions. In some European departments, such as in Oslo, police officers give advice and help to unemployed or homeless persons. The Copenhagen police have also devoted considerable effort to helping unemployed miners.

Police participation in municipal policymaking would be especially valuable in regard to adequate illumination on streets, alleys, in the rear of commercial buildings, in parks, playgrounds, and other spots where darkness can make the criminal's task easier.¹⁷ Although no accurate data has been collected on the precise crime deterrence of improved lighting, the presumption that light will impede criminality seems a reasonable one. Better lighting means a victim may become aware of his attacker in time to defend himself or summon help; it also increases the chances of witnesses being able to identify the offender. Or it may deter the criminal from acting at all. Police experience should be available in determining the right kind of lighting, its location and spacing, for different uses and in different parts of the city. The police can keep track of where certain kinds of crimes are committed, how frequently and at what times of the day or night. Any experiments must take into account the myriad of variables which affect the incidence of crime; this information, in great part, is in the exclusive possession of the police.

Cities should also make it easier for citizens in distress to summon police aid. Several cities have opened traditionally locked police callboxes to the public. Others have publicized a direct public telephone contact number for emergency use. Many have installed telephonic police-fire-ambulance emergency reporting callbox systems and placed them at strategic outdoor locations throughout the city. New York City has set callboxes at closer proximity to one another. Surely joint research and planning between the police and other city authorities must continue in order to arrive at the most expeditious communication medium for citizens to use in crime emergencies.

LEGISLATION AND FEDERAL ACTION TO COMPEL CRIME PREVENTION

The alternative to persuasion and public education in the crime prevention field is legislation compelling manufacturers and owners of personal property and real estate to maintain certain basic security standards. The most frequent suggestions are in the area of property security codes and automobile thefts. In addition, suitable firearms control legislation can make an important contribution to reducing the danger of crime in the United States. While the problem of firearms control is highly complex, owing to the American stratification of government, the need for Federal, State and local legislation is urgent, as described in chapter 10 of the Commission's "General Report."

AUTO THEFTS

Many communities already have key ordinances which lead to fines for car owners who leave their autos unlocked or with keys in the ignition. Ordinarily, however, these ordinances are not enforced with sustained vigor. Also, the relevance of automobile title laws to theft has been

¹⁷ Many claims are made that better lighting reduces crime. Claims of a 90 percent reduction in robberies in Fort Wayne; 96 percent reduction in aggravated assaults in Salt Lake City; 85 percent decline in stolen cars in Pittsburgh; 92 percent drop in burglaries in Minneapolis; and in Cleveland, a one-third decline

in assaults and 17 percent reduction in purse snatching are made in Don Murray, "How Bright Lights Reduce Crime," *Coronet*, February 1960. Also see, "Crusade for Light," *United States Review*, Jan. 22, 1966, 196: 3.

noted. States like Massachusetts, without a requirement of proof of ownership before a car can be transferred, presumably make it easier for the thief to sell the stolen car. More far-reaching legislation, probably on the Federal level, has been suggested to compel auto manufacturers to include locating ignition systems in less accessible places than under the hood; making the ignition system connection cable impossible to remove from the ignition lock; increasing the number of ignition key combinations; putting in sturdier housing to enclose the ignition terminals; surrounding ignition wires with heavier metal cables; and providing steering wheel locking devices. The safest control over car theft or unauthorized use seems to be (1) a steering column and/or transmission lock that would render a car motionless when the transmission lever was in proper position and the key removed, so that shorting the wires would not make the car move, coupled with (2) an ignition system which would force the owner to remove the key either by a spring loaded ejection lock, or an engine that will not stop until the key is removed, or a buzzer system that goes off if the key is left in the ignition when the engine is stopped. Compulsory welding of identification serial numbers into the chassis has also been proposed to deter thieves who can now easily unscrew numbers from some expensive models.

Oakland has attacked used car lot thefts and auto thefts from parking lots by a regulation making it compulsory for lot operators to construct sturdy barriers around the parking space. Passage of the ordinance followed a discovery that of all lots from which cars were stolen, 81 percent had no protective barriers. The auto theft inspection service checks the applications and renewals of all parking lot owners for compliance, and has so far reported universal cooperation.

PROPERTY SECURITY CODES

Experience with building security codes has been very limited in this country. Yet they appear to hold a substantial potential for reducing housebreakings and burglaries.¹⁸ The only ordinance now in effect is in Oakland and it relates solely to exterior openings of commercial buildings, prescribing minimum security measures for all such accessible vents. The security code is integrated with fire code requirements for easy exit, and the chief of police can require the installation of photoelectric, ultrasonic or other intrusion detection devices in buildings that have been burglarized frequently or that contain inventory of especially high value.

The Oakland police depend exclusively on voluntary adherence to the code even though the ordinance includes penalty provisions. But no prosecution has yet been instituted for its violation. The code was drawn up after concerted educational efforts by the police with the business community on preventive measures. The police there had found that of the 2,325 commercial burglaries in 1962, 52 percent of the victims had been burglarized more than once in a single year; in 141 cases,

3 or more times. The business community was convinced that basic security provisions should be enacted into law.

The ordinance is now enforced in the following manner: a security section in the police department receives reports on all burglaries and analyzes them to see if security defects are involved. It then sends an officer to talk with the owners and to recommend better security procedures. The case is followed up for compliance. As continuing procedure, patrol officers who spot commercial building security defects also report them to the security section.

The department believes that its burglary prevention approach has been successful. It reports that in 1965 the increase in commercial burglaries was only 3.4 percent as compared to 17.5 and 16.7 percent increases in 1964 and 1963. During 1966, commercial burglaries increased only 2.3 percent over 1965. Since the code was adopted decreases of up to 75 percent in burglaries are reported among complying businesses. Only 15 out of 1,092 businesses contacted for security defects have refused to cooperate.

A successful property security code should ideally include provisions relative to residential as well as commercial property, and deal with lighting and internal security devices as well as with exterior openings. It would have to provide for administrative appeals and for ongoing enforcement checks by local officials familiar with building design, materials, and possible conflicts with other municipal codes relating to such matters as fire, safety, and sanitation. The insurance industry should be intimately involved in its formulation so as to encourage compliance by lowering premiums. New construction should be reviewed and building permits and site inspections should be made to insure compliance. A model code developed for national use by construction experts, architects, municipal planners, fire prevention inspection personnel, police, and insurance representatives would be an extremely worthwhile venture.

Short of legislation, it seems that reasonable security standards could be laid down by Federal loan agencies as a requirement of new building financing. Federal banking agencies could insist on security features and up-to-date systems in all federally insured banks. Security requirements could also be made a standard feature of all public housing or urban renewal projects, Federal or local. Limited experimentation would provide valuable experience for evaluating the efficiency and cost effectiveness of various types of security requirements and devices before they are translated into a universal legal requirement.

FIREARMS CONTROL LEGISLATION

As chapter 10 of the "General Report" indicated, the majority of the American public favors reasonable firearms control legislation. Since laws, as they now stand, do not effectively control the supply of firearms, legislative bodies at Federal, State, and local levels should act to strengthen controls. Any legislative scheme should maximize the possibility of keeping firearms out of the hands of potential criminal offenders, while at the same

¹⁸ On pages 80-88, the "Report of the President's Commission on Crime in the District of Columbia" noted that commercial buildings accounted for 43.7 percent housebreakings, and almost one-half of the commercial firms victimized had been

entered through unlocked windows, another 6 percent through unlocked doors; 30 percent through forcing the locks; one third through breaking windows. One-third of the commercial victims had "burglar resistant" locks.

time affording citizens ample opportunity to purchase such weapons for legitimate purposes.

It is appropriate to ban absolutely the sale of those weapons that no citizen has a justifiable reason for owning. And in addition, dangerous or potentially dangerous persons should be prohibited from purchasing firearms.

Finally, prevention of crime and apprehension of criminals would be enhanced if each firearm were registered with a governmental jurisdiction. A record of ownership would aid the police in tracing and locating those who have committed or who threaten to commit violent crime. Law enforcement officers should know where each gun is and who owns it.

CITIZEN CRIME COMMISSIONS

Direct citizen action to improve law enforcement has become an absolute necessity. In a number of instances, citizen crime commissions have provided forceful vehicles for proper and sustained citizen action.¹⁹

Citizen crime commissions can perform the essential function of coordinating the efforts of private groups within a community. They can work with the police to pinpoint problem areas where public education is most needed. They can see that the message reaches the groups most concerned. Such commissions can also serve as consulting agencies for individual groups or persons with specialized prevention problems.

Crime prevention education must also be sustained. Too often a crash campaign produces short term reductions in certain kinds of crime and then loses momentum. Citizen efforts in this field can be extremely effective but they also need to be coordinated to insure complete coverage and continuing vigor.

It has also been suggested that citizen crime prevention is sufficiently important in community life to justify an official agency, such as a mayor's committee or a crime prevention council, to spearhead citizen efforts. These local councils could then be coordinated on the State level by an official who would maintain a central depository of prevention material and experiences, run a clearing house for the local councils, and evaluate local pro-

grams. Former California Attorney General Stanley Mosk made such a suggestion in 1962:²⁰

We have considered and discussed, for some time, the possibility of a statewide crime prevention coordinator. * * * A formal statewide bureau in the Department of Justice for the dissemination of information and educational materials on crime prevention and to assist in establishing local crime prevention councils could be most advantageous. Right now several agencies are handling this problem. A central depository and clearing house of such information would be most useful, not just for statistics, but for programmatic data, too.

CONCLUSION

To reduce crime in their communities citizens must be prepared to back up their police forces with more than slogans. They need to keep in mind, but in perspective, the possibilities of crime in their daily lives and take reasonable steps to limit criminal opportunities. In emergency situations they must assume the responsibilities of summoning aid for victims or police in distress; they cannot stay free of involvement and yet expect others to protect them. In groups and even as individuals they can supply desperately needed auxiliary resources to the police, the courts, and correctional officers. Much work remains to be done in developing effective and lasting public education campaigns to get citizens to take the few extra precautions that can deter large numbers of crimes. Citizen crime commissions might well take on this new and important task. Compulsory laws to require cars, homes, and business to be adequately protected against invasion offer a promising, if complex, area for further study and experimentation.

Municipal government also needs to adopt a more integrated approach toward crime control; to provide the mechanism for coordination of all the local agencies whose activities and policies can have an effect on crime prevention and on opportunities for the detection and apprehension of criminals after crimes have been committed. The combination of alert and cooperative citizens, prevention-conscious police and crime-conscious local government can become a significant force against the menace of urban crime.

¹⁹ For an authoritative, interesting description of the American crime commission movement and an account of its organization, mission, and history, see: Ralph G. Murdy, "Crime Commission Handbook" (Baltimore: The Criminal Justice Commission, 1965), 119 pp. mimeo.

²⁰ Stanley Mosk, "The Crime Prevention Problem in California," "Crime Prevention in California" (Los Angeles: Digest of a conference sponsored by Town Hall in cooperation with the California State Department of Justice, Mar. 24, 1962), p. 8.

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