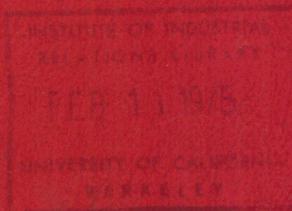


Police men  
(1974)

*Guidelines and Papers*  
*from the*

**NATIONAL SYMPOSIUM  
ON  
POLICE LABOR RELATIONS**



**INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE**  
**POLICE FOUNDATION**  
**LABOR MANAGEMENT RELATIONS SERVICE**

*[International Association of Chiefs of Police.]*

*Guidelines and Papers  
from the*

**NATIONAL SYMPOSIUM  
ON  
POLICE LABOR RELATIONS,**

**June 9-12, 1974,  
Washington, D.C.**

*[Sponsored by]*

**INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,**

**POLICE FOUNDATION** *[and]*

**LABOR-MANAGEMENT RELATIONS SERVICE** //

*[M.P.] Police Foundation, 1974*

The Guidelines and Papers from the National Symposium on Police Labor Relations are published by the Police Foundation as a service. The views and policies are solely those of the authors and symposium participants and do not necessarily reflect the views and opinions of the Police Foundation, International Association of Chiefs of Police, or Labor Management Relations Service.

## ACKNOWLEDGMENTS

The National Symposium on Police Labor Relations was sponsored by the International Association of Chiefs of Police (IACP), the Police Foundation, and the Labor-Management Relations Service (LMRS) of the National League of Cities, United States Conference of Mayors and the National Association of Counties. The Symposium was conducted in recognition of the significant impact unions and collective bargaining have had on local government and on law enforcement in particular. It was a unique experience in that mayors, city managers, county executives, police chiefs and union officials from selected areas across the country were gathered together for the first time to discuss fundamental issues in police labor relations. Even more importantly, these deliberations resulted in a set of guidelines designed to improve police labor relations policies and practices nationwide.

Many people were responsible for the success of the Symposium and for the contents of this report. The IACP, the Police Foundation, and LMRS would like to thank the participants for their cooperation and assistance in developing the labor relations guidelines contained herein. Our sincere appreciation is also extended to Steven May, John Nichols, David Callison, Thomas DeCotiis, Edward Hamilton, Harold Melnick, and William McCarthy for contributing their expertise and concept papers to aid the participants in their deliberations. Finally, we are grateful to the staffs of the IACP Public Safety Labor Relations Center, the Police Foundation, and LMRS for their valuable assistance in setting up and conducting the National Symposium on Police Labor Relations.

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## INTRODUCTION

During the last decade and a half public employment has become the most highly unionized sector of the American economy. Police are the second most highly organized employee group in the public sector. Originally, police organizations were formed for social and fraternal purposes and were designed to impact upon civil service systems. Now many have been transformed into unions which represent their membership not only before state and local legislatures but also across bargaining tables.

Recently enacted state and local laws have vastly increased the potential for collective bargaining in law enforcement. Thirty-six states currently have such laws. About twelve of the laws are comprehensive, covering all public employees in the state. Furthermore, within a year there may be Federal legislation providing similar rights and administrative machinery for public employees nationwide.

Through collective bargaining police unions have sought higher wages, improved benefits and, increasingly, a voice in departmental policy-making. Several unions have adopted a militant posture, and occasionally work stoppages have been used to dramatize grievances and achieve employment goals. Given this background, it is readily apparent that police unions and collective bargaining have become an integral part of public sector labor relations.

The International Association of Chiefs of Police, the Police Foundation, and the Labor-Management Relations Service sponsored the National Symposium to develop guidelines that would enable labor and management officials to accommodate fundamental changes in the concept of police labor relations. Four key issues were discussed:

- (1) The role of labor and management in the labor relations process;
- (2) Professionalization and unionism in law enforcement;
- (3) Productivity in law enforcement; and
- (4) Key issues in police unionism—national unions, strikes, discipline and corruption.

Objectives of the Symposium were to provide a relaxed and private atmosphere in which the participants could exchange ideas on these issues and develop labor relations policy guidelines with respect to the issues.

Four discussion sections corresponding to the issues were selected. Each section was composed of three sub-groups: (1) mayors/city managers/county executives, (2) police chiefs and (3) police union officials. Each discussion section benefited from the interchange of views, attitudes and experiences among participants who fulfill different roles in the labor relations process. Since the goal of the Symposium was to develop policy guidelines, all viewpoints received consideration.

The discussion sections met for one-and-a-half days. The proposed policy recommendations were then prepared through the joint efforts of the section moderator, resource person(s), and a representative of each sub-group in the discussion section. These proposals were then reviewed by all the Symposium participants at a plenary session. Members of the session approved, disapproved or modified the proposed recommendations. The labor relations guidelines contained in the first part of this report represent the consensus of the plenary session on the recommendations developed by the discussion groups.

The second section of this report contains the concept papers prepared by seven knowledgeable practitioners in the field of police labor relations. These papers were used as a guide for the discussions that took place at the National Symposium on Police Labor Relations.

## **SECTION I—GUIDELINES**

### **GUIDELINES DEVELOPED AT THE NATIONAL SYMPOSIUM ON POLICE LABOR RELATIONS\***

The National Symposium on Police Labor Relations had police chiefs, mayors, county executives, city managers and union officials as participants. These individuals discussed fundamental issues in police labor relations, and their deliberations resulted in a set of guidelines. The guidelines developed do not necessarily indicate the official opinion nor the policies of the various agencies represented by the sponsors or participants. Rather, these guidelines are a consensus statement of the participants. The policy statements have been arrived at after each individual viewpoint received appropriate consideration.

The guidelines were developed in four discussion groups and are reported in the following sections.

#### **PART I: THE ROLE OF LABOR AND MANAGEMENT IN THE LABOR RELATIONS PROCESS**

The discussion section on The Role of Labor and Management in the Labor Relations Process represented views of employee organization leaders, local management officials and chiefs of police. Ten key issues were delineated by the section as having a major impact upon the roles labor and management have in police labor relations. The thrust of these issues was "How are harmonious relationships among chiefs, other management officials and employee organizations brought about within the context of collective bargaining?"

##### **Recognition**

**Recognition is the foundation of a collective bargaining relationship. We believe that the right to recognition should no longer be an issue in police labor relations, given the rapid spread of employee organization and collective bargaining in the public sector. We feel, therefore, that employees have a right to form and be represented by responsible labor organizations of their choice, and that management should not interfere in the choice of an organizational representative.**

##### **Unit Determination**

**The question of unit determination in police agencies is an important factor in organizing as well as in managing. We believe that the question of broad units or narrow units is critical to both parties. We recommend that the specific boundaries for determining bargaining units in police agencies be determined on a case by case basis.**

**We further recommend that in the absence of a stipulated procedure the parties use the mechanism of negotiation to determine the bargaining unit, and consider the use of voluntary arbitration if this question cannot be resolved in negotiation. It is also recommended that jurisdictions that are formulating public sector labor legislation include as a provision the establishment of an administrative agency, which among other things should decide the question of unit determination.**

##### **Union Security**

**Another important question is whether all employees in a unit should be required to support the employee organization designated as bargaining agent for that unit. This type of requirement is called an agency shop provision. It was decided that agency shop issues should be determined by the parties within the context of collective bargaining.**

##### **Bargaining Teams**

**We agree that strong, experienced bargaining teams are more likely to reach agreement through the bargaining process and to negotiate contracts which are equitable to both sides. Continuity of membership on the union and management**

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\*National Symposium on Police Labor Relations; Washington, D.C.; June 9-12, 1974.

bargaining teams and labor relations training for these members are felt to be two important factors in achieving a workable bargaining relationship. Furthermore, we believe that a collective bargaining relationship can flourish only in a climate where the roles of each participant are clearly defined, and the teams have obtained sufficient authority from their respective constituents prior to negotiations to conduct meaningful and viable discussions.

We also recommend that the chief of police take an active role in the collective bargaining process, but not necessarily as a participant on the management bargaining team. We feel the chief should participate as a key decision-maker in pre-negotiation sessions to establish contract guidelines. This recommendation is based on the reasoning that negotiated terms and conditions have a major impact upon the chief's ability to manage the department after an agreement has been signed. It is also recommended that the chief act as an advisor and/or expert witness to the management bargaining team.

#### Impasse Procedures

Collective bargaining does not always result in a mutually agreed upon settlement. We are opposed to granting police officers the right to strike as a dispute settlement technique. Instead, we recommend that disputed issues be resolved by using third-party procedures including the maximum use of mediation and the considered use of fact-finding, mediation-arbitration and/or arbitration.

#### Public Negotiations

A few of the laws regulating public sector labor relations stipulate that negotiations must be open to the public. The rationale for this type of provision has generally been that citizens are entitled to observe negotiations, the outcome of which can have an impact upon the provision of public services and the expenditure of tax dollars.

We strongly oppose opening negotiations to the public or press. Public involvement inhibits free collective bargaining and encourages negotiators to play to the galleries rather than addressing themselves to contract issues. It is recommended that provisions for public negotiations be excised from existing legislation, and that this practice be excluded from the realm of public sector labor relations.

#### Parity

The concept of police parity with other groups of public employees in pay, working conditions and fringe benefits is controversial in numerous jurisdictions. Resolution of this issue hinges on a thorough and objective examination of such factors as job qualifications, scope of responsibility, risks and the exercise of authority at any given rank. We feel that linking police to other employees is detrimental to the evolution of workable bargaining relationships in law enforcement. Moreover, we believe that the process of unionism is not served if gains made by police through the negotiating process automatically flow to other employee groups that are totally different in terms of qualifications, work requirements, and other characteristics.

#### Relation of Chief of Governmental Structure

The chief of police is a top manager and must function in that role as the principal adviser to the chief executive on law enforcement matters. Therefore, chiefs of police must have authority from the highest level of government to carry out their responsibilities in the labor relations process.

#### Contract Administration

In a bargaining relationship, contract administration is as important and essential a function as negotiation. The terms and conditions embodied in an agreement are transformed into a working labor-management relationship by contract administration. Two requirements in the process of contract administration are training in grievance handling for labor and management personnel, and monitoring of contract provisions by both parties during the life of the contract.

The grievance procedure is the heart of a collective bargaining agreement. The purpose of a grievance procedure is to avert a show of strength over the problems of individual employees, and to minimize disputes over the applications and interpretation of contract terms. We feel that sound labor-management relationships in police agencies can develop only where procedures exist for the prompt and equitable handling of grievances. The procedures must allow for the informal resolution of grievances at the lowest level of administration, must spell out a number of clearly defined steps and must provide for the prompt resolution of grievances.

#### Informal Labor-Management Communication Procedures

These procedures have a role in law enforcement as a way of resolving labor-management problems outside the

bargaining process, facilitating change in a department and developing new concepts to assist in law enforcement. We recommend that opportunities for informal communication be provided, to include the highest ranking labor and management officials in the police department.

The following ground rules for these sessions were also established by the participants:

- (1) The parties should understand from the outset that the meetings are a communications device to be used for the exchange of information and not as collective bargaining sessions;
- (2) Agendas for the meetings will be prepared by one or both of the parties; and
- (3) Both labor and management representatives should be trained to maximize the two-way flow of communication.

## **PART II: PROFESSIONALIZATION AND UNIONISM IN LAW ENFORCEMENT**

A point of mutual interest to labor and management is the continued improvement in the quality of police services provided to the citizens served. An important facilitative aspect of this interest is the professionalization of law enforcement in general and of the occupation of police officer in particular. With reference to the latter, questions can be raised about (1) the current professional status of the occupation, (2) methods of improving that status and (3) the role of labor and management in the process of professionalization.

The current status of the police officer occupation lies somewhere between professional and non-professional. The occupation is a semi-profession in the sense that its members are not, in general, characterized by professional-level training and education, and by subscription to a unifying code of conduct and system of ethics. It should be clear that this conclusion in no way suggests that there are no professional-level police officers. On the contrary, most jurisdictions no doubt have officers who perform and are trained at the level of professionals and who therefore deserve to be called professionals. What is suggested is that the *occupation* itself cannot yet be accorded full professional status.

More important than any label that might currently be attached to the occupation is the conclusion that the job of a police officer is now emerging and moving toward the status of a profession. However, we cannot allow ourselves to become complacent, letting the occupation solidify at its present level. What we must do is remove the roadblocks to professionalism and increase the rate of professionalization.

It may be that one of the primary roadblocks to professionalizing police services is a lack of direction and coordination in the process of professionalization. Because of their shared interest, it seems clear that labor and management can jointly do a great deal both to direct and coordinate that process. However, joint efforts are likely to be inefficient in the absence of agreed-upon information about what a professional police officer "looks like." Even when that information is known, joint efforts may fail in the absence of a coordinating mechanism in the professionalizing process. Moreover, if that process is successful, the result will be problems heretofore not encountered in police labor-management relations.

With this discussion in mind, an initial definition of a professional police officer is suggested. In addition, certain problems incumbent to the process and results of professionalization are singled out for consideration. Finally, a joint labor-management mechanism for facilitating the process of professionalization is described and recommendations are made for its implementation.

### **What Is A Professional Police Officer?**

Discussed below are some of the most important characteristics which must be included in the composition of police officers in order to insure the delivery of high-quality police services. Each of these characteristics is a prerequisite to movement of the occupation toward the status of a profession.

First, police officers must have a full time commitment to their chosen calling. They must place a high value on their work. They must subordinate extra-occupational activities (e.g., off-duty work) to their primary occupation. Commitment goes beyond just reporting to duty and leaving at the end of a tour. It requires complete dedication to the police objective and the motivation to do more than is required.

Second, police officers must competently perform the entire spectrum of police functions and must improve in those areas of the job where performance is less than satisfactory. In order to do so, they should receive the best technical training available. In addition, they must expand their knowledge through job-related education. Moreover, they must be willing to draw upon the experiences of other police officers, as well as their own, in order to properly carry out their functions.

Third, police officers must satisfy minimum job-related standards prior to entry into the police service. These standards should be set at as high a level as possible within the constraints imposed by the labor market and external actions such as Federal and state legislation and recent court decisions.

Fourth, police officers must subscribe to and abide by a code of conduct and system of ethics composed and consistently administered by those within the occupation—police officers. The code should guide not only the officers' job conduct but also their off-duty behavior when such behavior might impair the efficiency or integrity of the service.

In conclusion, these characteristics are vital to the continued improvement of police services and to furthering the goal of professional status. The discussed characteristics are only suggestions and are not all-inclusive. Other characteristics should also be identified, considered and possibly adopted. Moreover, improvement of police services is, and should be, the concern of both employee organizations and management working in unison.

#### **What Are The Possible Consequences of Professional Status?**

As the police service moves toward the status of a profession, certain consequences might be anticipated. One of these may be a change in traditional labor and management roles and relationships. As police officers reach true professional status they may demand and be afforded an increased degree of self-determination in the fulfillment of job assignments. The need for direct supervision of police activities may be eliminated to a great degree. Management's role may thereby become increasingly oriented towards supplying resources, developing broad policy guidelines, defining police objectives, and coordinating efforts towards these objectives.

Job mobility at all levels is a possible outcome of professional recognition on a national scale. Job mobility may become viable with the standardization of hiring and promotion qualifications, the acceptance of lateral entry and the institution of pension portability.

With professional status, an individual's primary loyalty will be to the standards of the profession. Police officers may become less tolerant of organizational failures and less accountable to the public for their conduct. It can also be anticipated that management may have to defend its policies more frequently when questioned by the professional police officer.

Many functions now performed by the police are not directly related to the police role. Those functions include traffic direction, ambulance staffing, animal control and voter registration checks. Such functions may be unacceptable to the professional officer, and the use of an officer in them may be economically unfeasible to the community, due to the salary level which professional status may command.

The self-policing of the profession through peer-group pressure and sanctions is another consequence of professional status. The implication of this consequence is a lessening of management's influence in the discipline process.

#### **What Can Labor and Management Do To Facilitate The Process of Police Professionalization?**

Professional status for police officers can be achieved only through a long-term process. The process of professionalization will undoubtedly create a strain on employer-employee relationships. In order to alleviate this strain and to facilitate the process of professionalization, a joint effort by union and management officials must be made. A mechanism should be instituted in each local unit of government to deal with issues pertinent to professionalization.

It is recommended that each local unit of government establish a Committee On Professional Services (COPS) which will be charged with the responsibility of facilitating the process of professionalization. This Committee should establish guidelines including, but not limited to, the following:

- (1) Labor and management should jointly support and maintain a Committee on Professional Services.
- (2) The Committee should define and make recommendations for the accomplishment of goals and objectives leading to the improvement of police services.
- (3) The Committee should consist of employee representatives selected by the employee organization or employees in the absence of an employee organization, and an equal number of management representatives selected by management. Management representatives may consist of both departmental personnel and governmental representatives. The total number of management designees should at no time be greater than the total employee representation so designated.
- (4) The Committee should operate outside the collective bargaining process to raise issues not in the collective bargaining agreement. There should be no negotiation on the issues raised, and matters subject to the grievance procedure should not be considered by the Committee.

COPS will allow labor and management representatives mutually to discuss and recommend changes in police services which relate to professionalization. This recommendation raises several questions that must be resolved before it can be successfully implemented in police agencies.

An obstacle to a successful Committee will be the attitudes of labor and management representatives toward a mechanism that allows mutual discussion and development of new concepts in professional police service. Traditional management attitudes of rejecting employee participation in decision-making will have to be discarded. Equally important, the traditional view that a union's role is limited to improved wages and working conditions will have to be revised to recognize the union's responsibility as a major force in police professionalization. In addition, labor and management representatives in collective bargaining will have to recognize that COPS is *not* a negotiating committee, but a mechanism for joint formulation of police professionalization goals and procedures. Moreover, the selection of COPS representatives should be left to the respective labor and management principals.

Once COPS representatives have been designated, an important key to the success of the Committee's efforts is the *continuity* of its membership. If membership remains stable, the Committee will be more likely to develop positive programs.

The nature of the issues that COPS addresses will vary with police agencies. However, the issues that should generally be discussed and resolved by the Committee will relate to the development of law enforcement as a profession and of professional police officers. Such issues might include, but not necessarily be limited to, education, job rotation, team policing, vocational training and education, career ladders, work rules (e.g., a code of ethics), lateral entry and secondary employment.

The process by which the Committee develops new programs in police professionalization should be left up to individual law enforcement agencies. Varying local conditions make it impracticable to recommend the number of meetings the Committee should hold, the number of Committee members (except that labor and management representatives be equal), the formality of the agenda and length of the meetings.

Once COPS has recommended a new program for improving police services, representatives should take the recommendations back to their respective principals for consideration (i.e., the union membership, city executive and legislative officials). This step takes cognizance of the political environment under which both police union and city management officials operate. It is *not* imperative that the principals ratify the recommendations, but some type of informal approval should be sought.

Once approval by the principals is attained, the recommendations should be carefully considered by the governmental entity having the power to implement them. When that entity approves the recommendations, it will be incumbent on Committee representatives to effectively communicate the recommendations to all members of the police department.

### PART III: PRODUCTIVITY IN LAW ENFORCEMENT

As municipal costs escalate steadily, productivity becomes not a luxury or casual objective but an absolute necessity. In law enforcement the initiative for improving productivity has been slowed by difficulty in defining objectives and concern for the validity of measurements. For example, a mechanism resulting in a paper record of arrests and clearances may result in increased quantity but will have a devastating effect on quality and, in the end, will fail to advance the effectiveness of the law enforcement process.

Objective productivity measures and the power of arrest often do not mix. Extreme caution must be utilized in applying specific productivity measures to the performance of individual officers or groups of officers, particularly in the misdemeanor and traffic areas. Part of this concern has been based on the premise that it is difficult to measure a negative—the amount of crime deterrence achieved in law enforcement.

While we recognize these honest concerns, it is our belief that it is possible to improve productivity when measured by the standard of quantity and/or quality of value received for each unit of resources invested. For example, if we can put more police officers on the street in the areas and times where experience indicates crimes are likely to occur, we can make a better match between resources and needs. If we can shorten the response time on an emergency call, or reduce paper work, or attract and promote capable personnel, we can improve productivity. If we can develop effective supervisors who will help the people in their charge attain their fullest capability, or if we can harness the technology of the electronic age and make some new breakthroughs, we can improve productivity.

This combination of people, strategy and hardware can mean dividends for all: the public, which will be better served; the police force, which will be secure in the knowledge that it is effectively carrying out a difficult and crucial assignment; and the individual police officer, who will have the pride of the true professional, the ability to do the job well.

## Productivity and Police Personnel

Law enforcement, since it is in the business of human relations, relies most on people. The morale of police personnel from bottom to top is a first consideration and necessarily demands the fullest possible communication and participation in planning and developing.

- *Recruitment and Promotion*

We recommend broadening opportunities for lateral entry into the police force by sworn police personnel. This will provide an input of new ideas and experience. A police officer should be able to demonstrate his or her capability in competition with an "outsider." Qualification should be the prime consideration.

We recommend the implementation, wherever needed, of an effective affirmative action program. Such an effort, which could include pre-examination training and greater flexibility of appointment, would make a substantial contribution to making the police force more reflective of changing urban populations. Such correlation could contribute to effective police work.

We recommend the continued re-examination and validation of the civil service testing process, or equivalent procedures, so that employees will have a truly fair opportunity to match their qualifications against those actually required for the position.

We commend such techniques as the development of community service officers, a corps of paraprofessionals, as a way of building a reservoir of potential police officers.

We commend those communities that have built an educational improvement standard into their promotion structure.

- *The Role of Supervisors*

We believe that supervisors and managers have a role as an arm of management. We believe that elected officials have a responsibility to provide adequate recognition, both materially and organizationally, for supervisory personnel. For obvious reasons, supervisory personnel should not be dependent on the achievements of rank-and-file police unions for their own wage and benefits packages.

We recommend continuing studies of internal staffing to make sure that police departments have a proper ratio of supervisors to rank-and-file.

We encourage civilianization, with protection for uniformed personnel. Civilianization should largely be employed in the recruitment of experts who do not have command responsibilities, and for clerical personnel who will not enjoy as high a level of pay and benefits as uniformed officers.

We commend consideration of the establishment of police auxiliaries, but caution that members should be carefully selected and trained, and that their use be limited to ceremonial activities such as parades, park concerts or funerals. Auxiliary members can also be of substantial assistance in neighborhood situations and in on-site follow-ups to telephone complaints of a minor nature. Auxiliary members should not have a power-of-arrest nor authority to carry weapons.

## Productivity Strategy

Police department priorities vary from community to community, depending on the emphasis upon which local officials decide. Additionally, labor relations will vary from community to community, from non-existence to highly organized efforts. These variables must be taken into consideration in planning a productivity strategy.

In a community where a labor union or employees' association is in existence, it is recommended that departmental leadership recognize that sound labor relations require a bilateral, continuing dialogue as a first step toward cooperation and willingness to make change. While productivity bargaining has demonstrated its value in several communities, it is important to recognize that in a labor-management situation there is really bargaining taking place 365 days a year, and that there is much more to be gained in a bilateral approach than in a unilateral relationship.

- *Analytic Capability*

We recommend that departments develop an in-house capacity to collect information in a systematic way, and to

provide the personnel to assist departmental leadership and employees in carrying out indicated changes.

- *Utilization of Personnel*

We urge that departments consider their deployment strategy after reviewing the demonstrated needs for work force and equipment.

- *Organizational Improvement*

Formal structures with tightly defined sub-units may inhibit productivity by creating autonomous units with little communication among them. It is recommended that ways be developed for greater interchange and joint cooperation. In this connection, the team concept was considered but rejected as not yet demonstrating sufficient value.

- *The Role of the Courts*

It is recommended that a study be sponsored on how better to coordinate court scheduling and police availability. In some jurisdictions courts now require police officers to spend many hours waiting for cases to be called. The use of computers or depositions offers two possible routes to relief of this serious personnel problem.

- *Productivity Measurements*

We recommend that, rather than spin wheels on the development of overall productivity standards or standards universally applicable, individual jurisdictions focus on the question, "How well are we doing what we believe we should be doing?" If this approach is taken, it is believed that performance indicators can be developed that will give managers, supervisors and departmental personnel a continuing index of actual performance.

#### **Productivity and Equipment**

While these two factors are not as important as personnel, it is clear that a heavy investment in human resources suggests that there be available adequate back-up capability in the form of facilities and equipment. Indeed, poor facilities can be a morale factor since police officers spend a large part of their time in police buildings and poor facilities affect the officers' professional pride.

- *New Buildings*

Particularly in our larger, older cities, we recommend that police buildings and furnishings be studied, and appropriate steps taken to provide law enforcement personnel with the quality of facilities that will match the quality of service expected.

- *Equipment*

We recommend that modern technology be aggressively pursued to assist and expedite police work. Such equipment as mobile remote transceivers have already proven themselves, but testing is needed of other prototypes currently being demonstrated. We recommend that consideration be given to convening an appropriate conference of police officials and police unions to determine research needs and provide a sound basis for the research, development and manufacture of indicated hardware.

### **PART IV: KEY ISSUES IN POLICE UNIONISM**

There are a number of issues in police labor relations that have been the focus of much concern and often emotional debate. For example: Would a national police union pose a threat to our democracy? Should police officers have the right to strike? Is police service essential? Should police unions have a role in the development of departmental rules and regulations and the disciplinary procedures used to enforce those rules and regulations? How do we respond to the problems of corruption in police agencies?

#### **National Police Union**

We recommend that all non-managerial sworn personnel have the right to organize into unions, and that those unions which speak for the majority of the police personnel, and have democratically chosen leadership, should be granted collective bargaining status.

At the same time, it is recognized that factors exist in our society which may stimulate the development of a national union. While some believe there may be inherent dangers in the development of a national union with policy control over local unions, it is our view that legal sanctions or administrative opposition are not likely to be effective in preventing the development of such a national union.

It is our view that national unions representing the sworn police officers should be separate and apart from other employee organizations or unions, and they should not directly or indirectly affiliate with such groups.

It is also our view that local police unions constitute a positive force for effective labor relations, which is a key to good police administration.

#### **Police Strikes**

We believe that police strikes, including job actions, are unconscionable, and that the full services of all police personnel must be provided on a continuing basis to insure the safety and general well-being of the public. It is incumbent upon both management and labor to work together to avoid situations that might lead to strikes.

Additionally, appropriate dispute resolution machinery must be available to avoid those situations that have led to strikes in the past—e.g., recognition, bargaining impasses and unresolved grievances. Appropriate dispute resolution machinery might include mediation, fact-finding, advisory arbitration and final and binding arbitration.

#### **Discipline**

We believe that good discipline exists when there is voluntary compliance with departmental policies by all personnel. Consequently, police unions, as representatives of employees, must be involved in the formulation of department policies and procedures. Such involvement includes full participation in the construction of a disciplinary process to deal with alleged violations of departmental policies and procedures.

Departmental management must have the responsibility and authority for enforcing established rules and regulations. However, police personnel, with the assistance of their representatives, must have an opportunity to appeal management action which in their view is arbitrary or unfair. Such appeal procedures should include an opportunity for neutral third party review of management decisions.

Administrative actions taken as a result of police officers being charged with violations ought to be swift and positive, but not necessarily punitively severe. Wherever possible, sanctions should be directed at re-educating the individual to accept and comply with the policies of the department in the future performance of duty.

#### **Corruption**

We recognize that corruption is a serious problem in many segments of our society, and that corruption is more than the acceptance of money or other tangible gains that may compromise police officers in the execution of their duties. In many police agencies the subject of corruption has traditionally been “taboo,” and has not been adequately responded to in many jurisdictions.

Police agencies must closely examine, on a continuing basis, their existing policies and practices for “corruptive influences” that create an atmosphere which is less than open and honest. Such influences must be identified and dealt with. Additionally, it is recognized that certain of these corruptive influences emanate from areas beyond the immediate control of the police agency—e.g. the passage of unenforceable laws; or court decisions that encourage, through misplaced priorities, unethical or illegal behavior in the accomplishment of law enforcement objectives. These too must be addressed by the appropriate forums.

As a positive first step to spotlight this critical area, it is recommended that police agencies, with cooperation and support of labor, conduct continuing corruption assessment programs to determine the extent and pattern of corruption in their agencies.

## SECTION II—KEYNOTE ADDRESS

### POLICE LABOR RELATIONS: THE CHALLENGE

*An address by W. J. Usery, Jr., Special Assistant to the President and Director, Federal Mediation and Conciliation Service; delivered June 9, 1974.*

I am honored that you have asked me to deliver the keynote address.

This National Symposium on Police Labor Relations is important, not only to all of us here today, but to citizens everywhere who depend on their police to protect them and to insure order in their communities.

It is a far-sighted symposium. The problems of police labor relations are only beginning to emerge. By exploring today what will be happening tomorrow, we are preparing for the future.

I have heard it said that the only thing we learn from history is that we never learn from history. I don't agree! Experience—the school of hard knocks—is the best teacher I ever had. And history, when you think about it, is collective experience. It's the school of hard knocks we share in common. And it's a tough teacher. And patient. If we don't learn its lessons the first time, it usually repeats them. And the second lesson is frequently tougher than the first.

History teaches us a lot about labor-management relations in this country—lessons that can help us understand what is happening in police labor relations today.

In the beginning—when labor unions were first organizing and literally fighting for their lives—they were targets of hatred, suspicion and mistrust. Employers saw organized labor as a threat, not only to their traditional powers as owners and managers, but to free enterprise itself. Workers saw in their union one chance of getting a fair slice of the economic pie. To them, management was the villain.

Clashes between labor and management frequently led to violence and bloodshed. And deep emotional scars lingered long after the clashes faded into the folds of history.

The hangover from those early days clouded our perception of labor-management relations for many years. People were polarized—some pro-union, some anti-union.

The realization that labor and management share overlapping interests and the idea that they could work together in an atmosphere of mutual respect and cooperation emerged only gradually and after much soul-searching by both sides. As reasoning replaced rioting, the nation began to see collective bargaining in its true light, as an integral part of our free democratic economic system.

A milestone occurred in 1935. Congress passed the National Labor Relations Act (NLRA). The act guaranteed all private-sector employees the right to organize and engage in collective bargaining. It meant acceptance, recognition and status for organized labor.

But while the NLRA guaranteed the rights of organized labor in the private sector, it did nothing for labor in the public sector—nothing for the Federal, state, and local government employees who make up almost 20 percent of the nation's workforce. There were reasons.

First, Congress did not care much for the idea of Federal employees' organizing. Second, Congress respected the constitutional sovereignty of the states by excluding state, county and city employees from coverage under Federal law. Third, Congress balked at the concept that public servants, sworn to protect public health, safety and welfare, should have the power to organize and gain the inevitable right to strike.

Public employee strikes had already earned officials' wrath. In 1919, police in Boston went on strike. Rioting ensued.

Calvin Coolidge, who was governor of Massachusetts at that time, departed from his legendary silence and declared: “There is no right to strike against the public safety by anybody, anywhere, anytime.”

That was the spirit of 1919 and Prohibition. But it was also the spirit of 1935 and the New Deal. President Roosevelt, who backed the NLRA and the right of private workers to organize and strike, sniffed contemptuously at the thought that the same rights should be given to public employees. Public strikes? “Unthinkable,” he said.

Through the remainder of the Depression, most public employees were satisfied just to have a job. And during World War II, the nation had other problems to think about.

Charles Rhyne found in 1946, and published in his book, *Labor Unions and Municipal Employee Law*, that for all practical purposes there was no collective bargaining by public employees.

President Kennedy, in 1962, opened the door to Federal employee unions when he signed Executive Order 10988. The right of Federal employees to organize spurred organization efforts among state and local employees.

By 1968, according to a survey conducted by Hervey Juris for the book, *The Legal Status of Municipal Employee Organizations*, 45 percent of the U.S. cities surveyed had engaged in some form of labor negotiations with police unions. A 1971 survey by the International Association of Chiefs of Police found that 26 states had laws authorizing collective bargaining by police unions.

Significant, too, is this prediction by James Q. Wilson, author of *The Future Policeman*:

Large cities that do not have police unions (under whatever name) will get them; those that do have them will probably grant them, sooner or later, quasi-official bargaining status; and unions themselves will broaden their interests beyond merely wage and benefit matters to include a number of aspects of substantive police policy . . . . In virtually every large bureaucracy, the employees eventually organize . . .

Although 45 percent of the cities surveyed by Mr. Juris in 1968 were already engaged in collective bargaining with police, the percentage of police agencies with unions was even higher. According to a 1969 report by the Advisory Commission on Intergovernmental Relations, 73 percent of police employees in 1500 cities belonged to some type of employee organization:

- 45 percent to the fraternal order of police;
- 41 percent to a local independent organization;
- 9 percent to the American Federation of State, County and Municipal Employees; and
- 2 percent to the International Brotherhood of Teamsters.

If Mr. Wilson’s prediction is true—that even those organizations that are not now true labor organizations are destined to become so, and eventually will seek the right of collective bargaining—the trend is clear and unmistakable. Police union activity will continue to rise.

There is no question that police have the right to organize. That question was settled years ago by Federal and state court decisions. What remains in doubt is the power of these unions, especially the power to strike. Currently, 31 states have legislation prohibiting police strikes.

A Gallup Poll conducted in the 1960’s found that although most of the public support the right of public employees to organize, nearly two-thirds opposed the right of public employees to strike.

A survey in 1972 of police in Suffolk County, New York, found that police, too, shared this opinion: 591 against police strikes, 193 in favor. But remember, this poll was taken three years after the Montreal police strike—three dead, \$1 million in damages in 24 hours—when anti-police strike sentiment was high. Sentiment can change, especially when wages, working conditions and benefits hang in the balance.

Whether laws that prohibit police strikes can even work is another unanswered question.

A landmark decision by the New York State Supreme Court two weeks ago is worth noting. In that decision, the court held that leaders of the firefighters and police officers unions could be prosecuted under the state’s criminal statutes “when human lives are placed in immediate peril by the strike of a vital government service . . . .”

The decision means, in effect, that police union officials could go to jail for calling a strike. Also, by making police strikes unfair labor practices, states have the power to impose heavy fines on unions in the event of a strike.

I don't want to take issue with the wisdom of the courts, or second-guess state legislators, but I do think it important to note that jail terms and fines have historically failed as strike deterrents. For example, teachers have been jailed and teachers' unions fined in recent years, yet we are seeing more teacher strikes than in any period in history.

There is no reason to believe that sanctions will be any more effective against police strikes than against strikes by teachers or any other group of workers.

And even where anti-strike provisions are strictly observed, police have gotten around the letter of the law by mass resignations, mass sick calls—the “blue flu”—and other means.

In Suffolk County—where police opposed the right to strike by more than 3 to 1—the same technique was used, but with an added twist. Public agency vehicles were ticketed at every opportunity. Other police have “struck” by enforcing every conceivable violation from jaywalking to spitting on the sidewalk, and disrupting normal police service by doing so.

Not all authorities oppose police strikes. Some argue that most police strikes do not endanger public safety, that they are short-lived and that manpower from nearby cities, the county or the state can protect the public during the strike. Still others say the right of police to strike is essential if both sides are to face reality in a true collective bargaining situation.

But whether or not police have the legal right to strike, one thing is clear. Police unions can be tough negotiators, and procedures to negotiate with police unions must be thought out and established in advance if they are to work.

To put it another way, police labor relations are becoming more like industrial labor relations. It follows then that effective techniques that are used to keep industrial labor peace can be used to keep police labor peace, insure smooth agency operations and guarantee continuous public protection.

What are those techniques, and how can they be used?

First—and here's where history is looking over our shoulder—police unions must be recognized and accorded their legitimate rights. Opposing police unions, ignoring police unions or, worse yet, insulting police unions in the hope that somehow they'll just go away is asking for trouble. Such tactics put the police union and the police agency straight-away in an adversary relationship. The hatred, suspicion, and mistrust that darkened earlier private labor and management relations can take hold and make it difficult for either side to compromise.

Second, good communications are vital, not just at contract time, but all the time. One third of all strikes occur, not because the two parties fail to agree to a new contract, but because of grievances that arise in the course of the contract. A standing labor committee composed of management and union representatives is a good starting point. Let me also stress how important it is that contracts include agreed-upon means for settling grievances. Even when they don't cause strikes, unsettled grievances can fester for months or years and come back to haunt both parties at contract time.

Third, let me point to a recent trend in private industry and commend it to you. The trend is to start contract talks well in advance—six months or more—with the understanding that the purpose is to avoid going down to the wire.

Finally, let me stress the value of an outside third-party neutral.

There are a number of organizations of professional peace-makers—the American Arbitration Association, the National Academy of Arbitrators, the Society of Professionals in Dispute Resolutions and the Association of Labor Mediation Agencies. All of them have in common the purpose of helping resolve labor-management differences.

The Federal Mediation and Conciliation Service's role in labor-management disputes is to provide skilled mediators to assist the two parties to reach terms. FMCS has 79 offices located all across the country staffed by more than 280 professional mediators, all of them with extensive experience and the highest professional qualifications.

Mediators have no authority to impose solutions. Their only power is the power of reason. Their job is to act as peacemakers. Because the mediators are impartially interested in the positions of both sides, they also can be of value in improving communications between the two parties.

In private industry negotiations, we have the power to assign a mediator to the scene if we think it necessary. Usually, however, we are invited by both parties. Our mandate in public employee negotiations is not so clear. If invited, we attend. And in some cases we may offer our services if we think they can help.

Approximately half of the states also have some form of mediation service. Eleven of these are extremely well staffed and highly qualified. In public employee negotiations at the state and local level, we suggest that a state mediator be invited if one is available and acceptable to the two parties. If not, then we will help.

There is, of course, but one reason for FMCS to exist: to further the cause of labor-management peace. Therefore, we are always looking for new ways to do this.

In recent years, arbitration has been used with increasing frequency by employers and employees in settling disputes. Arbitration is the process of turning over a dispute to an agreed upon third-party neutral, and making that third party's decision binding.

Arbitration has two important applications. The first is to settle disagreement when a deadlock has been reached during contract negotiations. The second is to resolve grievances during the course of a contract. Many contracts in force today contain provisions for arbitration. It has advantages. It's quicker and cheaper than taking the contract to court. And it's a lot better than a strike!

FMCS maintains a computer list of approximately 1,200 qualified arbitrators across the country. We routinely furnish a list of seven possible arbitrators to labor-management disputants that request this service. There is no charge. And it's up to the two parties involved to make the final choice.

FMCS also serves as a clearinghouse for data on labor-management peace. The report of the National Commission for Industrial Peace was published just last month, and the continuing studies and programs of the commission were turned over at that time to FMCS.

I'm not sure what this means, except more work. But it points up the confidence the commission had in this agency. And it gives us a mandate to continue to explore, to seek and to fight for better ways to serve the collective bargaining system.

A word of caution! The easiest way is not always the best.

There is no substitute for good, hard collective bargaining. It's at the heart of our free economic system. And the purpose of FMCS is not to change it, but to oil it.

Bearing this in mind, I urge you to explore all the ways that you can help the collective bargaining process in police negotiations.

I recognize, as I'm sure you do, that the problems of police labor relations are as varied as there are police agencies. And the most current estimate I could find says that there are more than 25,000 police agencies in the United States today. Obviously, the three-person agency in a town of 500 has different labor problems than a large city agency employing thousands. Entrance qualifications, the ability of a jurisdiction to pay for the caliber of protection it seeks, the history of the agency and its involvement with organized labor—all are factors to be considered.

Inflation is another one. The officers on the beat feels the chill wind of economic uncertainty just as surely as the steelworkers, the truck drivers or the machinists. And they want security.

Benefits are still another. Today's police officers are looking ahead to the day they retire. They are concerned about their own health and the health of their families. They want to know that their families will be taken care of if something should happen to them. In short, they want protection.

Job conditions are another factor. Police today are better educated, concerned about their public image, interested in advancing themselves and their careers. In large agencies employing hundreds, or even thousands, police seek recognition. The goal is dignity.

These are all legitimate wants and today's police officers will use their power—individually or collectively—to try to obtain them.

The role of the police agency, obviously, is not to thwart the officers, but to try to accommodate them—within reason.

But what is within reason?

I read in the *Wall Street Journal* recently where a New York police local is asking for, among other things, 17 paid holidays each year, including Valentine's Day and Halloween. The local is asking for something else, too—free abortions!

What is right and reasonable, what is acceptable to the police employee—these are the determinations that are hammered out in the collective bargaining session.

The important thing is that there must be a system, a process for coming up with the right answers, a system that works, a system that enhances the overall police effort.

The system must enable both sides to give and take, and it must make it possible for the two sides to reach a common ground. And—especially in the police service—it must, to the best of its ability, insure labor peace.

Each agency must make its own determinations, based on its own situation and existing state and local law. But I am confident that the skills and knowledge that you—the delegates to this symposium—possess will enable you, during the next two days, to explore new avenues, and in doing so, find new ways to improve police labor relations.

The organizers of this symposium have given us all a worthy challenge. And you, the delegates, by your attendance here, have accepted it.

I will be following the course of this symposium, not just for the next two days while it is in session, but into the future when the seeds that are planted here have a chance to take root and bear fruit.

History and experience, I might add, have taught me one lesson, and that is that I don't know all the answers. In fact, just when I think I do know an answer, someone comes up with a better one!

I hope that you come up with some good answers—some better answers.

I urge you to be imaginative in your thinking. But I caution you to be practical in your approach.

For if my years in labor-management relations have taught me one thing, it is that this is a very real world peopled by very real men and women—a world of work, sweat and reward.

But it's a very human world. And because it is, coming up with answers to its challenges is as satisfying as it is exciting.

I know that this will be a satisfying and exciting symposium for all of you, and one that will have an impact for years to come.

In closing, one thought comes to mind. You in the police service and we at FMCS are both involved in keeping the peace.

I've known many police officers and police chiefs throughout the years. But I've never known one who wasn't proud of the job or proud of the profession.

You have a right to that pride. Police work is not the glamorous profession portrayed on evening television. It's long hours, hard work, risk and, too frequently, criticism—a lot of it undeserved.

In many countries, police work is one thing—enforcement. But in this country, with our heritage of freedom, it's a lot more.

Police are frequently mediators—in family fights, in neighborhood disturbances, in community affairs. Police give more than their fair share of their time to help others.

As “top cop” at FMCS, I know what it means to have a staff of loyal, hard working, involved peace-keepers under me. I know you feel the same about the men and women who work for you.

This bond of brotherhood between us makes tonight especially meaningful for me—not just because I have been given the opportunity to contribute to this symposium, but because you have also given me the opportunity to share in your fellowship.

I've heard it said that there is no higher praise to be given a police officer than the words, “He's a damned good cop.” From my observations this evening, there are a lot of damned good cops here. And I'm proud to be among them.

## SECTION III – WORKING PAPERS

### THE ROLE OF UNION AND MANAGEMENT IN THE POLICE LABOR RELATIONS PROCESS\*

STEPHEN MAY  
Former Mayor  
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#### INTRODUCTION

Few developments affecting municipal governments have created greater internal and public anguish in recent years than the emergence of police unions. Militant police union activities in the last decade have earned bold headlines and have aroused widespread comment and concern among the media, the public, local government officials and the police themselves.

Misinformation and misunderstanding, exacerbated by law-and-order sentiment and the near bankruptcy of city governments, have characterized public perception of police unions and have perplexed city officials who must deal with this emerging phenomenon. Inexperience on both sides of the bargaining table, fragmented municipal decision-making structures and the unique and essential nature of the service performed have added to consternation and confusion among the parties themselves, as well as among taxpayers.

While it was once common practice for police administrators to denounce and oppose the police union movement, the right of police to organize and bargain collectively for the benefit of union members has been decisively guaranteed in many jurisdictions by legislation, executive orders and judicial decisions. More than half the states have enacted laws sanctioning the right of police employees to organize and bargain collectively, and these rights have been granted *de facto* recognition in numerous other jurisdictions.

As arguments about governmental sovereignty and delegation of authority have been swept aside by statutory or judicial edict, some militant police organizations have utilized a variety of “job actions” to slow the delivery of law enforcement services. “Blue flu” cases, the 1969 strike by Montreal police and other work interruptions have raised the specter of the 1919 Boston police strike.

To some observers it has seemed that the worst possible consequences of police unionism were coming true. Some feel police unions threaten the management authority of police chiefs, undermine the policy directions of city administrators and thwart the platforms of elected officials. They contend that police unions, which were originally organized to improve police pay and benefits, have grown into powerful ogres committed to militancy, violence, illegal strikes, lobbying and political pressure tactics.

Municipal officials, who must depend on political support for survival, have found themselves sandwiched between a public demanding more safety on the streets with no increase in taxes, and police groups employing a range of bargaining, political and public relations pressures to achieve their objectives.

The police, on the other hand, contend that they should have the same rights as other working people to organize for their own benefit, and that unionism offers the best means for them to catch up with other segments of the economy in terms of wages, benefits and working conditions. They feel they have too long been grossly underpaid, and they are anxious to make up quickly for lost ground.

Almost overlooked in the excitement provoked by a few militant police employee groups has been the steady growth of other police unions which have more quietly organized and begun to negotiate for improvements. Law enforcement is today the second most extensively organized sector among public employees.

Generally utilizing normal labor-management channels, many police unions have pursued traditional goals of organized

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\*The author acknowledges the valuable information in the IACP/Police Foundation monograph, *Critical Issues in Police Labor Relations*, in preparing this paper.

labor such as higher wages, improved benefits and upgraded working conditions. They have also sought a voice in departmental decision-making in such areas as discipline, uniforms, personnel and shift assignments.

As union and management have faced each other across the negotiating table with increasing frequency, each side has discovered that it lacks the trained personnel and expertise necessary to devise and implement intelligent labor relations programs. As a result, hostility generated by early miscalculations and frictions has had long-term detrimental effects on the development of workable bargaining relationships.

In this sour atmosphere, strong advocacy on both sides has often tended to make the negotiating table a veritable battleground. Each side has tended to forget that bargaining is an advocacy, not adversary, relationship, and that basic trust, mutual respect and joint commitment to fundamental ground rules are essential to a long-range, productive relationship.

Confusion has also resulted from failure to appreciate distinctions between collective bargaining in the public and private sectors. In the private sector, labor and management operate in an economic environment, with labor disputes decided on the basis of the most economically feasible agreement for each side in terms of costs or benefits. Public sector relations operate in a political environment, with costs to management and union closely linked to potential voter reaction.

Make no mistake about it, police unions are here to stay and bilateral involvement in decision-making, at least with regard to wages, hours and working conditions, is a present and future reality. It should now be clear to police unionists and municipal administrators that there is an urgent need for education and development of policies which are responsive to the new unionized environment in which each side must function.

It is now time to get on with the task of evolving realistic guidelines and providing educational opportunities for labor and management in the police field, so that mature, constructive relationships can be developed for the good of all concerned—including the general public.

#### MUTUAL PROBLEMS AND SOLUTIONS

Both police unions and police administrators can learn much from problems experienced in various jurisdictions when police-municipal bargaining was still in an embryonic stage. Unions have frequently been represented by part-time local members who were amateurs at labor negotiations, unsure of their backing, and ready to resort prematurely or unnecessarily to militant tactics.

In addition, many municipalities responded ineptly to early union efforts. Collective bargaining requires significant changes in personnel policy, and inexperienced officials simply were not geared to this new challenge. When initially confronted with police unionism, municipalities all too often entrusted full responsibility for handling the problem to regular personnel, such as the city attorney or personnel director, who were often completely inexperienced in labor relations and responded in ways which insured future problems.

Some were half-hearted or downright antagonistic about recognition and bargaining. Thus they increased union militancy for no valid reason, since in most jurisdictions a non-recognition policy cannot be sustained in the face of any substantial local pressure. Other city officials were unwilling to run political risks and saw little to lose by going overboard in cooperating with police union movements. They wanted to be agreeable and cooperative and thus often recognized inappropriate units, permitted supervisory personnel to be included in such units and recommended lavish contracts.

Optimal labor-management relationships are most likely to develop where both parties are strong, understand their own interests, have information and data to support those interests and have the capability to present a strong advocacy position. Police unions, with ties to national or international unions or organizations, can often benefit greatly from access to training programs, written materials and the use of business agents or experienced attorneys to strengthen their position in labor negotiations.

Local governments, lacking ready access to such educational, informational and professional assistance, must build their own advocacy capability. It is vital for municipalities to seize the initiative in this regard early, lest badly-negotiated contracts come back to haunt them later.

As municipalities and police unions have gained experience, they have looked increasingly to professional help to rationalize and organize their labor relations policies. The hiring of outside labor relations specialists, on a full or part-time basis, and the establishment of formalized procedures have become more common and represent major steps in the right direction.

Jurisdictions which have experienced troublesome police-management relations and have been unable to develop sufficient in-house expertise, as well as those negotiating their first police-management contracts, would be well advised to consider retaining outside professional help to supervise their labor relations program. The length of time such outside

expertise needs to be retained will depend on a number of factors including the size of the municipality, the speed with which it can develop its own labor relations capability and the complexity of local issues.

It is generally inadvisable for larger jurisdictions to utilize regular staff to handle collective bargaining. In addition to their lack of professional knowledge in this field, city attorneys or personnel directors simply do not have the time to do the task justice. Labor relations, particularly in large cities, is a time-consuming assignment requiring the year-round attention of a full time official. Regular staff officials are hard pressed to devote sufficient time and attention to labor matters during the negotiation of contracts. They have even less time for the lengthier tasks of administering contracts through grievance procedures and supervision to insure that negotiated standards are maintained.

Most importantly, such delegation of authority further fragments management's authority in the labor relations field. When the chain of command for labor relations decisions is unclear, unions have greater flexibility in choosing which sectors of management to negotiate with on each issue. The whipsawing potential of such decentralized authority structures is clear.

As a result, most municipalities of any size have found that they need to centralize management authority in one place and have full-time, year-round expertise. Thus it is wise in the long run to remove bargaining authority from outside consultants and/or staff officers, and assign it to a full time city labor relations specialist or even an agency. Depending on the size of the community and the complexity of the union situation, this may require one management negotiator or a central labor relations bureau.

#### THE UNION'S ROLE

In order to put up the strongest front, it is important for the police union to be represented in collective bargaining by a team which has centralized authority mandated by the membership. Also critical are a commitment to overall union goals, expertise and continuity.

Police organizations are usually represented by their elected officials or by a negotiating team specially selected by the membership. As indicated, these representatives are often assisted by an outside attorney or labor relations specialist, possibly supplied by the larger union or organization to which the local union belongs.

Police negotiators must avoid the tendency to represent special interests. Examples of this problem are detectives who use the process to further their own objectives, or a leader nearing retirement who overstresses the need for increased retirement benefits in the contract. Negotiators should also try to establish some guarantees of stability and continuity on the team, avoiding the potential for turnover every time new union officers are elected.

Police unions would be well advised to plan their negotiating strategy well in advance and with the fully-informed assent of their membership. Union leadership should check frequently with the membership during negotiations to insure continuing support for the bargaining team's efforts.

There should be agreement on the overall goals to be sought, and the team should be representative of the membership and committed to loyally seeking its objectives. Efforts should also be made to insure that team members serve at least several years to gain experience and provide stability and continuity. Retention of an expert labor relations counsel is also highly desirable.

#### MANAGEMENT'S ROLE

Organizing and selecting the management team can be a more complex matter than undertaking the same process for the union. This is true whether collective bargaining duties are assigned to a previous management structure, or whether a labor relations specialist heads the municipal team. The diversity of decision-making and power centers which characterize local governments, the size of the municipality and the type of governmental structure influence the composition of the management bargaining team.

Specific steps must be taken to overcome weaknesses which often impede effective management representation at the bargaining table. Management's representatives often lack the political authority and labor relations expertise to negotiate a contract. Thus they tend to adopt a reactive rather than a positive or aggressive posture in negotiations. Such tactics can be costly in the face of an assertive, well-organized union bargaining effort.

Some problems can be avoided by careful selection of team personnel. While there is no magic formula for a successful management team, it is suggested that persons with the following backgrounds be included:

- (1) the chief negotiator and spokesperson, presumably an experienced labor relations expert, who will also supervise administration of the contract;

- (2) a finance expert, presumably from the budget office;
- (3) a representative of the police administrator, preferably drawn from middle management, who will carry out nonmonetary terms and conditions of the contract and will interact on a daily basis with the employees, and
- (4) a representative of the city attorney with a specialized knowledge of municipal and labor laws.

In some cases it may be desirable to include a representative of the chief executive officer, whether a mayor or city manager, although it may be assumed that the team will have ready access to such officials whenever necessary.

It is axiomatic that management must do its homework thoroughly, in full consultation with police authorities, before approaching the bargaining table. Long before negotiations commence, representatives of the executive and legislative branches of government should meet with the police administrator to pool information and ideas. They should establish priorities and policy guidelines, and decide how much authority the management team has to make commitments at the bargaining table. They must also coordinate efforts to prevent legislative or executive end-runs.

There should be thorough discussions with supervisory personnel to learn areas of concern or issues which may be raised by the police union. Grievances which have arisen in the past or under an existing contract should be reviewed and determinations made as to what changes are needed.

Management should assemble comparable data on salaries, benefits, work rules, working conditions and law enforcement contract provisions in other jurisdictions. Such data can be persuasive not only at the bargaining table, but with legislators and the general public, in evaluating proposed contractual agreements.

There should be exhaustive examination of the potential financial implications of anticipated union demands and possible final agreements. It is particularly important to include input from elected officials on this point, since they will bear the direct consequences of taxpayer reactions. To as great a degree as possible, the negotiating team should know how far it can go in monetary terms, since this will undoubtedly be the heart of the union demands.

It is important to gauge the municipality's ability to bear the consequences if a settlement is not reached. The team can be much more assertive if it knows how far it can go before the costs of disagreement become unbearable, politically or otherwise. Again, elected officials should be consulted in advance.

The importance of establishing and trying to adhere to a bargaining timetable is often overlooked. Such factors as release of the new municipal budget and local elections should be considered in setting a time frame for negotiations.

Because the police are denied the right to strike and there is no tradition of not working without a contract, police bargaining has often been characterized by a lack of pressure to reach agreement. In the private sector, on the other hand, all-important contract deadlines tend to dictate agreement on terms unless both sides are prepared to incur the costs of a strike.

It is generally advisable for management to press for timely resolution of issues, especially to avoid involvement in election campaigns, where police political pressure can be potent. Speedy resolution can also prevent management from succumbing to the solution of providing generous, retroactive benefits long after contract expiration.

In addition, the timing of the release of new budget figures can have an impact on the pace and relative positions in police negotiating. In these cases a contest may develop involving the ingenuity of municipal budget officials in hiding contingency or other funds to cover expected wage increases, and the ingenuity of union accountants in estimating how much is hidden and where.

Some municipalities have successfully employed delaying tactics as a means of reducing rank-and-file expectations and pressures. As negotiations dragged on well beyond contract expiration dates, union members yearned for lump sum retroactive checks and increases in their weekly paychecks. Thus their demands became less militant and their monetary expectations were reduced. Eventually the city reached agreement on lower figures than originally sought. However, it appears to be sounder management policy to establish a bargaining timetable and adhere to it as firmly as possible.

Based on all this information, management must clearly identify its priorities, and its team should establish at the outset those points on which it can be flexible and those on which there can be no accommodation. There should be advance understandings about potential trade-offs and periodic consultation about other possible compromises as negotiations develop.

Spelling out guidelines in the abstract is inexact at best, and each municipality must evolve its own style and techniques to fit its precise situation. Suffice it to say that adequate guidance must be provided the team so that it can actually negotiate

in a manner which inspires good-faith confidence on the union side. Only one person should speak for the team, with the others concentrating on supplying information and advice.

#### THE POLICE ADMINISTRATOR'S ROLE

The role of the police administrator—whether a chief or commissioner—is crucial throughout the collective bargaining process and needs to be thoroughly understood by management. To leave this person out of preparations for negotiations can be fatal, as some jurisdictions have learned.

Once unions have been recognized, administrators must be prepared to give more time and attention to labor relations in general and the union in particular. They must be prepared to educate themselves about what is undoubtedly an unfamiliar field, and they must be willing to work for rapport with employee representatives. This is best achieved by openhanded dealings which fully recognize the union's right to exist and represent its members' desires, and by a commitment to a harmonious relationship—bearing in mind that the union members are still employees.

Most police administrators have found it difficult to define their role in the labor relations process. This difficulty can be traced to the newness of the process itself; to the fact that most administrators have risen through the ranks and tend to identify with the rank-and-file; and frequently to the distance between city hall (which is generally the hub of collective bargaining activity) and police headquarters.

It is clear that police administrators must participate fully in pre-bargaining decision-making. Well before negotiations are launched, the police administrator should meet with pertinent public officials such as the chief city negotiator, the mayor or city manager, the city council or its representatives, the budget director and perhaps the personnel director. They should work together to formulate broad guidelines for the negotiator, and to develop offers and counterproposals to be advanced at the bargaining table.

The police administrators' input into pre-bargaining decision-making is vital because they must inform other public officials about the potential impact of city proposals and union demands on their ability to run their departments. For example, other management representatives may not be aware of the direct relationship between provisions relating to overtime, seniority, accumulation of sick leave or personnel requirements and the ability of the law enforcement agency to respond to the needs of the community.

In addition, management representatives may be tempted to stress their own interest in "holding the line" on wages—thus minimizing budgetary and tax implications—by unwisely trading off concessions affecting management rights and departmental operations. Their eye may be on the ballot box while administrators must focus on departmental morale, performance and their own prerogatives.

Involvement of police administrators in pre-bargaining decision-making is vital also after the first contract has been negotiated. Police administrators can provide valuable feedback concerning the workability of the existing contract, so that management can formulate an intelligent position with regard to subsequent negotiations.

This feedback provides the rationale for excising or altering provisions which have had a detrimental effect on departmental operations and/or labor-management relations, and for altering the contract to meet the changing needs of the police agency. Records of grievances, for example, provide valuable guidance for needed changes in future contracts.

The precise role each police administrator should play in actual negotiations will vary with tradition, agency size, local politics, the background and personality of the administrator, the quality of support service available and the status of labor relations in the municipality. Nevertheless, some guidelines have emerged from past experience.

First, it is preferable that the police administrator not be directly involved in the bargaining process. Most administrators simply do not have the time and it is not in their best interest to be members of the negotiating team. Most department heads have risen through the ranks and tend to identify closely with the rank-and-file, thus offering a potential obstacle to the united front which management must present at the table. The cohesiveness among most police officers of all ranks could put unfair strains on the administrator. Further, as negotiators, administrators would likely find themselves in adversary relationships with their employees, a role which might hinder their authority and ability to effectively manage the department over the long run. These dangers are particularly great in early years of union-management relations, when inexperience and adversary sentiments tend to dominate the proceedings.

However, it is imperative that police administrators serve as expert witnesses and as sources of information and advice for the negotiating team. They should be available to caucus with the team at all stages of negotiation.

Wherever it is feasible, administrators should select and help train aides to represent them in the labor relations process. Since middle managers bear primary responsibility for enforcing contracts, it is wise to utilize them for this role. They should

be chosen well in advance of the negotiations and should be given sufficient time and assistance to acquire knowledge and skill in the field of collective bargaining. In larger departments, it will probably be necessary to form a labor relations unit to administer the contract and resolve day-to-day labor relations problems.

If the agency is small or other considerations rule out delegation of authority, police administrators may have to involve themselves directly in negotiations. It is far preferable, however, if administrators do not have to act as management negotiators and spokespersons, but rather limit their participation to that of expert advisors.

#### THE LEGISLATIVE END-RUN

One of the problem areas in establishing clear and definitive labor-management procedures in the police field is the multilateral nature of public sector bargaining. There is no escaping the fact that municipal politics and police-union bargaining are inseparable, thus increasing the maneuvering and posturing which accompany negotiations, and the tendency to make a number of short-run considerations excessively important. This inseparability also increases the number of groups or constituencies whose demands or interests must be considered as part of any settlement.

It is helpful, in this regard, to bear in mind differences in the structure of management in the public and private sectors. Private sector management is usually unified, whereas there are multiple centers of authority in public administration. In the latter, authority is dispersed among legislative, executive and judicial branches of government as well as among local, county, state and Federal levels of government.

The development of workable bargaining relationships has unquestionably been inhibited by the vulnerability of municipal management to the array of tactics police can utilize. These include political pressure, appeals for citizen support, referenda and lobbying, as well as collective bargaining to achieve their objectives.

It has become established practice for police unions to try to use their political skills and influence to obtain from legislative bodies additional benefits which their representatives are unable to gain at the bargaining table.

This legislative end-run is a blatant effort to solicit the support of elected officials on a political basis. It often involves demands which are politically sensitive, particularly to a public inclined to support law-and-order. Fearful of the consequences of a disruption in law enforcement, the public will often press for a quick resolution with little concern for its cost.

The integrity of the labor-relations process depends on all issues being aired simultaneously and exclusively in one arena. Then various trade-offs can be worked out which leave each party relatively satisfied for the duration of the resulting agreement. Every effort must be made to discourage tactics which seek elsewhere benefits which should be negotiated openly as part of the regular bargaining process. Only in this way can the cost of those benefits be included in the total management package, and their impact be evaluated by the police administrator. Only then can the bargaining process deal meaningfully with the total police employment picture.

End-runs are generally successful where there is an absence of or a breakdown in the coordinated working relationship between management and the city council. Because the latter is made up of admittedly political persons, susceptible to public pressures and generally sympathetic to the police, there are no foolproof means for preventing such bargaining.

As indicated previously, it is certainly helpful for the mayor or city manager to obtain clear guidelines at the outset as to the city council's objectives and limits with regard to forthcoming police negotiations. With some discretion, the council should be kept informed of progress at the negotiation table, and must be reminded of the importance of its disassociation from the collective bargaining process.

Council members must understand that the union will take as much advantage as city council or management or any other source will permit, and that the collective bargaining process will work effectively only if contained. They should also be aware that excessive contract agreements, with heavy tax consequences, are often the result of successful legislative end-runs.

With experience, police union leaders may well come to recognize that end-runs do not serve their interests in the context of developing sound labor-management relations. If negotiations are stalemated at the bargaining table, there are usually statutory channels for breaking the impasse within the collective bargaining framework. Both sides should adhere to those requirements.

Once an agreement has been reached at the bargaining table, it is incumbent on the union leadership to sell that agreement to the membership and insure its ratification. All too often, however, through inexperience, ineptness or an effort to demonstrate their political "pull," police unions have chosen the end-run route or permitted membership rejection of contracts. Such tactics only discourage the development of mutually satisfactory collective bargaining relationships and should diminish with time and experience.

## CONTRACT ADMINISTRATION

Proper administration of the negotiated contract is a key function of the collective bargaining process. The terms and conditions contained in the agreement shape the work situation of the police through implementation by management.

It is the primary responsibility of management to initiate policies, programs and procedures to see that contract provisions are properly executed. Union leaders, who negotiated the contract and presumably sold it to the membership, also have important responsibilities to insure that union members play their part in living up to the provisions.

Management initiatives to implement contract provisions, along with union leadership cooperation, are particularly important in the early stages of unionization and contract development. The potential for labor-management conflict is usually greatest at that point.

Among the techniques management should consider in developing proper contract administration procedures are these:

- (1) information dissemination programs;
- (2) managerial training programs;
- (3) delegation of implementing responsibilities to departmental subordinates;
- (4) establishment of consistent and fair grievance procedures;
- (5) continuous monitoring efforts by the top administrator; and
- (6) informal contacts with the union and its membership throughout the year.

### 1. *Information Dissemination*

It is of crucial importance that both union and management be fully informed about the provisions of the contract and their obligation to honor them.

Police administrators should instruct management representatives to maintain checklists to insure that all police personnel receive a copy of the contract. Administrators should encourage union leaders to meet with their members to explain the contract in detail, and the administrators should be available to answer any questions about it.

In concert with labor relations or personnel directors, administrators should conduct similar meetings with supervisory staff to explain top management's expectations with regard to contract implementation. It should be made clear to supervisors that utilization of *ad hoc* employment practices thwart the intent of the negotiating process, and can open management up to grievance proceedings by the union.

From time to time it may be advisable to supplement these meetings with written memos to insure consistent application of the contract by all supervisory personnel.

### 2. *Managerial Training*

All too often, supervisors, middle managers and even top administrators have never been formally trained to perform their managerial functions. It is neither fair nor reasonable to simply promote police employees to managerial posts and automatically expect them to become able administrators.

In cooperation with city officials and probably outside agencies, police administrators should develop training courses for managerial personnel. Such training could include a combination of on-site seminars and discussion groups and formal instruction at universities or workshops. The latter are often sponsored by the International Association of Chiefs of Police, the Labor-Management Relations Service of the National League of Cities and United States Conference of Mayors and other agencies.

This training should include: (a) basic instruction in management roles and functions within the police organization; (b) instruction on how to respond to grievances both orally and in writing; (c) explanation and exercises in motivating personnel; (d) familiarization with the rules and regulations of the department and details of the collective bargaining agreement; (e) instruction in fundamentals of the collective bargaining process; and (f) understanding of the role of supervisors and middle managers with regard to discipline.

Of course, police administrators should set a good example by being fair in dealing with employees, consistent in

applying contract terms and responsible in delegating authority to administer the contract. Such behavioral patterns are likely to be emulated by other management personnel in the department.

### *3. Delegation of Responsibility*

Because considerable administrative effort is often required to implement contract provisions, police administrators should delegate this responsibility to specific staff members. In many cases, it may be advisable to designate the same person who represents the administrator in collective bargaining.

Provisions relating to such detailed matters as leave time, vacations and clothing and cleaning allowances are appropriate for such delegation. Administrative action may also be required to implement economic terms of the contract, such as adjusting employee compensation which is linked to a cost of living escalator.

The designated management representative can act as a liaison to city officials in administering these provisions.

### *4. Grievance Handling*

A grievance may be a violation of the contract, of established procedures, of rules or regulations, or of a person's rights. The equity and promptness with which such complaints are handled will do much to determine the viability of the collective bargaining process and its potential for serving the welfare of union members and the department alike.

Typical private sector grievance procedures include union representation for the accused; procedures for carrying the complaint to higher levels in the organization; time limits for management and the union; and some final, binding step, usually arbitration by an outside, neutral third party.

Similar grievance procedures are relatively rare today among police departments, but they should be developed and their number is increasing. As a step in that direction, police administrators should provide managerial training in grievance handling for all affected personnel.

Such training should stress (a) interpretation of contract language, past practices and precedents; (b) the importance of documenting facts as the basis for management's position in grievance proceedings; (c) the desirability of settlement at the lowest possible level in order to minimize costs and antagonism between the parties; and (d) means for responding effectively to grievances, both orally and in writing.

As the last step in most grievance procedures, the police administrator will probably be required to evaluate and respond to the grievance within time limits established in the contract. Before accepting this responsibility, the administrator should verify that management's position has been properly documented by subordinate managerial personnel.

Administrators must also guard against efforts by individual employees or the union to bypass immediate supervisors and appeal directly to them. Condoning such circumvention will undermine the authority of supervisors and middle managers and sabotage prospects for orderly work relationships within the purview of the contract.

To the extent the facts so justify, police administrators should support managerial personnel in responding to grievances. If subordinates have made mistakes, however, it is usually in the best interest of all parties to return grievances to the responsible individuals and allow them to make amends. This procedure can help minimize the potentially deleterious effects of the mistakes for managers and the employees or unions involved.

Administrators should keep careful and complete records of the types of grievances which have been contested and settled. This information is vital to their role as feedback agents in pre-bargaining decision-making. Armed with this data, administrators can identify provisions which may need to be clarified or changed to remove tensions from the work relationship.

The union leadership can also play a pivotal role in making grievance handling an effective ingredient in a constructive labor-management relationship. Often the filing of numerous insignificant or unmerited grievances has been used by unions as a harassment tactic around the time of contract negotiations, or soon after a department has been organized.

Such irresponsible use of grievance procedures will have a detrimental effect on labor-management relationships, both at the job site and at the collective bargaining table. Therefore, responsible unions will screen grievances to make sure there are valid causes for bringing them to the attention of management personnel. The union can gain credibility in management's eyes and save face with its own members in the long run by not losing at various steps in the grievance procedure, or in arbitration, over phony issues mistakenly pushed through the process.

The union must also insure that all employees are fairly represented in grievance handling and other labor-management problems at the job site. Care must be exercised by union leadership not to favor special cliques or interest groups, since such tactics can divide the union and undermine its bargaining potential.

Properly utilized, a good grievance procedure will protect the rights of every employee, regardless of position or rank, without the need for a show of strength to resolve problems. When thus employed, a grievance procedure can greatly increase employee morale, demonstrating that everyone can get a fair deal within the accepted procedures, and can contribute significantly to labor-management tranquility.

#### 5. *Monitoring*

Police administrators should continually oversee the execution of contracts, to insure that they are being consistently administered by supervisory personnel. This personal involvement in monitoring is important to minimize grievances and boost morale.

Through effective monitoring, relations in the work place can be enhanced and the collective bargaining process strengthened. Monitoring provides the means to collect information on operational problems which should be corrected in future negotiations. As previously indicated, data on grievances and other problem areas should be collected and shared with the bargaining team in preparing for the next round of negotiations.

#### 6. *Working With the Union*

Both labor and management have a mutual interest in upgrading the quality of law enforcement. This shared interest provides the basis for closer communications and working relationships to achieve the organizational goals of police agencies. There are a number of communications techniques which can improve union-management relations within police departments.

As the collective bargaining relationship matures, both police administrators and union leaders often find that through informal meetings they can develop rapport without sacrificing the specific interests they represent. Through such off-the-record gatherings both parties may find a means to anticipate problems and work out solutions before conflict develops. The success of this type of interaction depends to a large extent on the personalities involved, the level of communications skills they possess and the security of their positions with their respective constituencies.

Occasional invited appearances by police administrators at union meetings may be successful if the discussion is limited to a single issue. Many factors determine whether such a forum can be an effective means to stop disruptive rumors and air controversial issues which could result in labor-management conflict. Those factors include the personality of the administrator, the timing of the meeting and the receptivity of union members.

Some police administrators have found that periodic round-table meetings with rank-and-file employees have been useful in developing positive labor-management relations. Such gatherings can have a cathartic effect on employees, who are encouraged to voice their gripes and problems. They also provide a valuable source of information to the administrator about the effectiveness of supervisors and middle managers.

In a collective bargaining environment, prior union approval should be obtained before scheduling meetings, in order to avoid an unfair labor charge. Administrators should also make clear from the outset that no commitments will be made nor actions taken outside established departmental and labor-management channels. In addition, employees must know that there will be no reprisals for statements made during meetings. Meritorious employee suggestions should be acted on in visible ways to encourage continuation of the dialogue.

Some police administrators have also experimented with various forms of participatory management in an effort to engender professional pride, improve labor-management relations and elevate departmental performance. Consultation with union committees on such issues as uniform changes, officer safety, crime control and job enrichment appears to have provided stimulation and challenge for police officers working with top management.

However, such undertakings should be approached with caution, and police administrators should carefully evaluate the status of employee relations in their departments before launching such programs. They must judge the potential effect such projects will have on the unions, on employee morale and on the prerogatives of the administrators' positions.

#### CONCLUSION

While reasonable people can differ as to whether the onset of police unions has been a plus or minus for American

society, there is no question that law enforcement unionism has left its mark. At this stage, it is probably not productive to argue the merits of permitting police unionism.

The police have clearly won the right to organize, negotiate and secure structured consideration of grievances. As a result of police union activities, police wages have caught up with the rest of the economy, individual officers are better protected against arbitrary or inconsistent treatment, management's discretion has been narrowed, and police administrators have learned that they need to deploy better efforts to the labor relations front.

Critics have argued with merit that police union successes have been due less to any great collective bargaining skill than to the willingness of union leaders to exploit law and order sentiment to gain economic concessions for their membership. Police unions have achieved relatively easy gains because of broad public concern about safety on the streets and the need to back law enforcement. This has meant in many cases that police unions have failed to develop and utilize real collective bargaining skills. On the other hand, many police departments have spent so much effort denouncing police unionism and resisting the inevitability of collective bargaining that they also have failed to hone their labor relations tools.

Now is the time for both sides to bring their collective bargaining skills, knowledge and reservoir of trained personnel up to standards required of mature labor-management relations in the 1970's. The educational means for achieving this new level of competence are today readily at hand.

As this new era in police labor relations begins, it should be possible to develop within the bargaining framework trade-offs which will satisfy union members' needs for welfare and security, in return for progress toward a degree of professionalization as defined by police management. The time is ripe for both sides to recognize the potential for promoting professionalism and improving the quality of law enforcement within the collective bargaining process.

As younger individuals begin to claim positions of police union leadership, their interest in professionalization should make itself felt at the bargaining table. While unions must, of course, continue to stress bread-and-butter issues, they can also begin to expand their concerns beyond those traditional goals to include professional law enforcement matters.

Management, for its part, must begin to play a more aggressive role in the collective bargaining process, and stop resorting to a defensive strategy in responding to union demands. Municipalities should begin to bargain for increased productivity, improved work quality and rules encouraging efficiency.

Traditional union resistance to changes in the status quo, such as programs aimed at improved agency or employee performance, can be reduced by the management team placing these programs on the bargaining table and pressing for their inclusion in the contract. Management can, of course, seek to tie its productivity and professionalization demands to high priority union demands.

Management can make it clear that the union can achieve its priority objectives only by accepting management's proposals. In other words, if the union expects economic rewards for its membership, management expects in return an improvement in the performance quality of employees.

All can benefit from the increased expertise and sophistication of both union and management in the police labor relations field. Police administrators can gain by reducing the level of conflict with their employee organizations and increasing the effectiveness of their departments' performance. Unions can benefit from developing legitimate professional skills to better satisfy member needs and increase pride in the police profession.

Certainly the general public would be more receptive if union demands were tempered by support for innovation and improvement in law enforcement services. There could well be a resurgence of support for the police from the public, secure in the expectation that it will receive quality law enforcement in return for its tax dollar.

The coming of age of police labor relations can thus spur the much needed movement for change and innovation in American law enforcement. In the long run, police unionism can thus stimulate better law enforcement services for the community and increased public respect for and professionalism of police personnel.

## AN OVERVIEW OF THE POLICE LABOR MOVEMENT IN DETROIT

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It is not surprising that the strongest labor movement in the world was born in this country. We are the freest people on earth in terms of individual liberty and informal associations. The concept of unionism is not a distinct element, nor a unique one. It is merely an extension of the democratic philosophy. Unionism, in simplest terms, is an attempt to realize the state of self-determination. The operating principles are essentially the same as those utilized in the formation of the republic—common identification, cohesion based on common tenets and united effort based on common goals.

Perhaps this definition tends toward generalization and oversimplification. However, the point to be made is basically a simple one. Labor unions are not strange and unique creations which require new forms of communications or special environments for existence. They are organizations of human beings with a given set of operating principles, and they have many of the same strengths and weaknesses as any other bureaucratic organization.

While I prefer to leave philosophy to the philosophers, the context in which unions are viewed is important to police administrators who must deal with them, and to other people and organizations, including the rank and file membership. Administrators must not look on unions as their personal nemeses, nor should individual members view the union as the panacea in their vocational lives. We find these two extreme views at the inception of any collective movement, and it is through the process of reasonable, objective planning and intelligent foresight that the polarization is diminished.

### EVOLUTION OF THE D.P.O.A.

The history of the Detroit Police Officers Association (D.P.O.A.) is representative of the evolution of police unions wherever enabling legislation has permitted them. For the D.P.O.A. is among the oldest, strongest, and most active of those organizations.

Police unions generally have evolved from loose associations resembling social or fraternal groups. These groups lacked bargaining rights and, more often than not, even the privilege of speaking, however informally, as a collective unit. However, time is a great conciliator and gradually associations have gained “unofficial” access as spokespersons for their members to city managers, mayors, commissioners, and common councils. Their influence or effectiveness during the formative years is moot. Important to note, however, are current roles of power and position, which did not develop overnight.

Union organization and power have developed over a period of years. One aspect of unionism came forth prematurely and laid the groundwork for future management-union confrontations. This was the discovery of the uses of union power and the realization of its existence by many local police administrators and city officials. The event that triggered this discovery and brought the D.P.O.A. to prominence was the 1967 epidemic of the “Blue Flu”—an epidemic that attacked during a period of early development and caused a rapid maturation of its “victims.”

The D.P.O.A. had earlier emerged from a social group to the status of a union with the passage of the Michigan Public Employees Act #379 in 1965. This historic piece of legislation, aided by the powerful lobbies of public employees, re-affirmed their right to bargain collectively. This right had existed for many years, but now there was a requirement for mandatory recognition on the part of governments.

As a result, many governmental employees unions, including the D.P.O.A., were in a position to gain bargaining rights and a voice in areas where heretofore they were mute. But the full force and significance of the Act was unrealized. Collective bargaining was indeed taking place, but its effectiveness was certainly in doubt. That fact was evident by the growing number of illegal strikes and slowdowns among government employees from various cities and governments. Such was the history of the D.P.O.A. and the bulk of police unions in Detroit to that time. What followed was the event I alluded to earlier, which brought unionism to the forefront as a significant force that could no longer be ignored.

### THE “BLUE FLU” JOB ACTION

During the early summer of 1967, the term “Blue Flu” was coined in Detroit when we experienced the first major city police strike in the modern history of this country. After Detroit’s Blue Flu, many cities across the country experienced similar police strikes or, as some preferred to call them, “Job Actions.” The Blue Flu in Detroit did not actually precipitate other strikes, but I believe it did act as a catalyst. Policemen everywhere were reaching for a true “union organization” status, and the time was right.

Because Detroit was the first, we could neither borrow nor benefit from any other department’s experience in this area.

Consequently, we made many mistakes – some of which, in retrospect, were quite serious. I cannot be certain that the alternatives I now offer would have been successful, but I think most will agree, that they might have been preferable to those employed.

The central issue from which the 1967 Blue Flu evolved was wages. The city refused to make a wage offer for the impending fiscal year and the officers' reaction, as voiced by Association officials, was a unanimous rejection of that decision. The D.P.O.A., while not a union in the traditional sense, attempted to function as one and took an adamant stand. Similarly, the city administration felt secure within the framework of Michigan's Act #379, which prohibits strikes by public employees. The city felt that its wage offer of the previous year was a sufficient amount to carry over into the new fiscal year. (It should be pointed out that the \$1,000 increase granted patrol officers in the 1966-67 budget was substantially above that given to other employees of the city. However, this point, although well taken, resolved nothing.) City administrators and D.P.O.A. officials remained deadlocked. It was at this time that the Association's members began to explore means to add muscle to their position.

It soon became evident that a ticket slowdown was occurring. Supervisory officers reported drastic reductions in violation citations. During a thirty-day period from mid-May, 1967 to mid-June 1967, traffic citation issuance fell 71%. This concerted effort signalled the first attempt by association members to gain leverage in their effort to force city administrators to capitulate.

The D.P.O.A. membership, in the face of recent gains by labor unions and city factions, felt a moral right to persist in its actions. In addition, the Association was well aware that these actions lent new prestige to the organization. Until this time, notwithstanding Act 379, the D.P.O.A. was thought of by many department executives and city officials as a semi-social organization with little influence in matters of decision. Now recognition and its accompanying status were suddenly within D.P.O.A.'s grasp. Thus, while its officials voiced ostensible opposition to work stoppages and slowdowns, they covertly signalled the "go-ahead" to all members.

Had the city and the department foreseen this development, many oversights—if not plain errors—might have been avoided. We might have peacefully negotiated their demands while the D.P.O.A. was yet inexperienced and loosely knit. It must be remembered that at no previous time did the city or the D.P.O.A. ever really bargain collectively over wages, hours and working conditions. A mutual lack of experience in this area contributed greatly to the breakdown.

What Detroit officials should have recognized was the determination in those officers' efforts and the inevitability of unionism. Truly, that moment of emergency was the best time to establish a workable relationship with union officials. The primary goal of a new union is recognition; that is what management has that the union wants most. Had Detroit officials been perceptive enough to analyze the situation, they might have granted that recognition in exchange for concessions that could have significantly affected all subsequent relations. But such is hindsight.

The administration, however, opted not to conciliate but to fight—not wisely but traditionally. Orders were issued threatening disciplinary action if the ticket slowdown was not immediately ceased. The orders were ignored. Mass transfers of patrol officers followed, particularly those assigned to traffic enforcement units. While many transferees were reassigned to precinct duties, punitive transfers also were the word of the day. It was not unusual to see former motorcycle officers walking the beat in breeches, leather boots, Sam Browne equipment, and the helmets that made up their uniform on a motorcycle.

The reaction of the uniformed force was immediate and massive. The union now had the "martyrs" with which to convince its members that the city did not intend to talk. The city had thrown down the gauntlet, humiliated union leaders, and must be brought to its knees. Thus on a city-wide basis, officers on the first shift (midnight) began calling in sick. In one precinct, only two officers reported for duty. The others were victims of the Blue Flu or "Bluebonic Plague." The sick calls continued and spread into all departmental units. The department was forced to order all leaves and furloughs cancelled. Thus was the official birth of the "Job Action" by a major city police union.

The city took to the courts and gained a restraining order and temporary injunction for twenty-four hours. The court action was read at all roll calls. In addition, the department ordered all officers who called in sick to report directly to the police medical section. This served a dual purpose. It discouraged most members by forcing them to wait a long period of time for a mandatory examination. Secondly, it gave the department an opportunity to determine if an officer was actually sick. Of 112 officers reporting, sixty-eight were found healthy and ordered to report immediately for duty. The examination also produced acting worthy of academy awards, as officers choked, swooned, gasped and wheezed to impress the medical doctor with their grievous illnesses.

Other officers attempted to circumvent reporting to the medical section by requesting emergency days to care for sick wives or children rather than reporting themselves sick. This maneuver resulted in the immediate suspension of the emergency leave policy.

The following day, the Wayne County Circuit Court reaffirmed the restraining order. In addition, it threatened each

member with contempt of court by stating that all officers were expected to comply with the court order. As a result, a written statement by the President of the D.P.O.A. was distributed to all precincts and bureaus; this statement urged members of the association to comply with the court order and return to duty.

Although picketing began at several precincts, a semblance of normal routine began to appear. A sharp decrease in the sick call report indicated that the strike had been temporarily checked. As tensions lessened and personnel began reporting for duty, the commissioner ordered the department back to an eight-hour shift.

All these indications were but a temporary respite. Twenty-four hours later, police officers began picketing the headquarters building. As the day progressed, sick calls suddenly increased sharply. Again orders were issued to cancel members' leave days and furloughs. Another appeal by the President of the D.P.O.A. was taped and played at all roll calls, but picketing continued through the next day.

Ultimately more than one third of the department's 3,300 patrol personnel were on sick leave or under suspension. The Mayor was being pressured by civic and political groups as well as union advocates. The D.P.O.A. President was being scathed by the media, and was leading an organization becoming more factionalized by the hour. The two finally sat down to talk, and from this meeting evolved a ten-day truce in which suspended officers were restored to duty and transfers rescinded. The word went out, the "plague" ended and one of the most dramatic events of modern police history was over.

#### THE "BLUE FLU" SEEN IN RETROSPECT

From these initial events, it is clear that the philosophical stance of the administration was one of authoritarian rigidity, and that the officers' association had not gained a sophisticated union status. Certainly the city did not understand the need to negotiate, and department officials had a similar mental block.

In retrospect, a less absolute approach might have been more responsive to the situation. The proper posture to take in such circumstances depends first upon the legality and nature of the strike, then upon the issues involved. Other factors that must be evaluated are departmental dynamics, internal controls and sanctions, political considerations and the administrator's ability to immediately and summarily discharge officers.

*The ultimate objective, of course, must always be to maintain the fulfillment of the police mission with some degree of normality in operations, while attempting to satisfy the needs of the organization and its personnel. If the issues are valid, it may not be wrong to concede their validity. But an administrator should never condone or tacitly endorse all illegal work stoppage, regardless of the issues.*

To permit or condone the failure of police officers to report and perform their sworn duty is to yield the streets to the unlawful and to abandon the control of the organization to a vociferous minority or non-professionals. In a great many if not most police strikes, slowdowns or job actions, emotional manifestations and involvements rather than the issues provide the greatest difficulty for the administrator.

Perhaps a word of caution and observation is in order regarding the tactics utilized by administration to provide delivery of police service on a twelve-hour day, seven-day week duty. In reality, how long the department could function in a "no-leave, twelve-hour" posture is questionable. A few days and the wear begins to show. Tempers flare, patience with co-workers and citizens wears thin, and when coupled with the "divided loyalty" syndrome, operations are at best a powder keg.

As to the impact of court action, the use of injunctions is imperative. While compliance does not always immediately result, a court order citing an illegal act does have an effect, in that it enunciates the illegality of the act and may provide the basis for further contempt action. Where police officers are concerned, we can only appeal to their sense of duty when legal compliance is involved. Where labor organizations are concerned, the vulnerability of their treasuries is well known. A \$1,000,000 lawsuit is an attention-getting device second to none.

Although normal operations were restored within a day or two, there was much unfinished business. Those members who had been suspended still had departmental charges pending, and it was the avowed intent of administration officials to follow through with strong disciplinary action. They were well aware that the union would try to make total amnesty part of any negotiated agreement. But at that time this demand had *not* occurred and it was "anybody's ballgame."

The pending threat of discipline, as well as the entire conflict, had left some terrible open wounds on the department. It was our first experience with an organized labor action, and both management and labor became deeply involved on an emotional level. Far too many individuals took the issues personally, and bitter feelings existed between ranks and even within the same ranks. This was true particularly among the patrol officers, many of whom were victims of harassment and threats for non-participation. These wounds do not heal easily. The impact on the public, even in a pro-union city, could not be measured. Suffice to say that there were deep scars and a tarnished image.

The situation would have probably taken many years to heal were it not for the riot of 1967, which followed almost immediately. One of the few benefits of those bleak days was that the disorder served to mend most of the rifts created by the Blue Flu. The urgency of reality brought the entire department together with a clear, common objective and forced everyone to lay aside all other issues, at least temporarily.

By the time the disorder was winding down, the administration saw fit to dismiss all charges resulting from the Blue Flu on the basis of the dedicated performance during those most trying days. In that particular circumstance, there was no question about the propriety of granting total amnesty. The department was in a bad position for conducting trials. Several of those involved were cited for outstanding heroism; others were wounded or injured in action. Department morale was suffering from adverse riot publicity, and the city needed no more grief.

However, I do not suggest total amnesty as a standard procedure in the negotiation of any labor dispute, though it is a standard item that most unions will seek. We have all seen, I'm sure, many instances where striking workers resort to criminal acts that can hardly be overlooked. So once again, it is a matter of weighing circumstances before granting amnesty or considering discipline. In the case of the latter, I find it hard to conceive of a situation where blanket discipline would be called for. Selective, decisive action, based on documented incidents, would seem to be the most effective yet prudent approach.

#### A NEW RELATIONSHIP AND ITS IMPACT

After June of 1967, I don't think any police official in Detroit doubted that we were truly into a labor-management relationship. The presence and impact of police unions in Detroit have been constant since that time. The impact has been good and bad depending upon one's perspective on a given issue at a given time. The primary issues have been economic or related to management control. Other areas include department morale, police service to the public in general or the impact of police/community relations. I will discuss some of these here.

In a general sense, many of the strides made by unionism have possibly been good for management quite by accident. For example, I think we all have been forced to become better managers and to develop a better organizational climate for leadership. Because of the existence of a working grievance system and the "meet and confer" rules, management is forced into better planning with greater consideration given to the possible ramifications of policy changes. If there is a central problem for management, it lies not in the mere existence of a union force, but in the need for management, at all levels, to know and understand the rules of the game—the contract.

On economic matters, the gains have been enormous. In July, 1965 a patrol officer's maximum rate was \$7,335. Today, through arbitration, that figure has reached a maximum of \$15,000. Patrol officers have also gained fully-paid overtime at a time and one-half rate, as well as remuneration for off-duty court appearances at the same rate, with a guaranteed minimum of three hours. While it is certainly true that the general economic development of the country would have created some gains without the aid of the union, it is most doubtful that the progress would have been nearly as great or as rapid.

Communication between union and management is a crucial issue. Management has always had a degree of difficulty in communicating with all the elements of an organization. The rank-and-file rarely gets all the rationale which goes into a policymaking decision, and unfortunately far too many members conclude that there is no rationale and that many decisions are capricious. Needless to say, there are also members of management who are quite willing to draw the same conclusion. And of course I realize that there are union members who view their role as that of a nemesis, whose task is to foment such beliefs. This additional dimension to the communications problem has created a demand for training in the area of labor relations.

First and second line supervisors probably have the most important role in maintaining good relations. But, because they are furthest from top management and the closest management elements to the rank-and-file, they represent the extreme in the communications problems. They also form the group that needs the greatest degree of training. As a result, labor relations should become a basic element in all supervisory training plans.

The problem is not simply a management concern for the union has its communications concerns too. For example, a great many of the rank-and-file have never read their contract and certainly a large proportion do not understand it.

In any case, lest I lead you by implication to the notion that management no longer needs to communicate with the rank-and-file, let me complete the circle. The need for exchange between employer and employees is not diminished by the presence of a union. On the contrary, that need is magnified. The presence of a labor-management relationship dictates that management leave as little as possible to the imagination or interpretation of those who are not its spokespersons. Notwithstanding the regular channels of communication, there is a constant need for additional ones—both informal and formal. One method is to include rank-and-file and all levels of management in discussion of mutual concerns. Another might include a written communique that comes directly from the top.

On the matter of control and the union's impact, little can be said in concrete terms. The major area of management control is difficult to define at best, and it is this enormous grey area in which most of the serious controversy takes place. The union's approach is obviously simple—gain a voice in as many areas as possible. On occasion this approach borders on intimidation. Management's position is equally simple—give up as little control as possible. In the final analysis, the public answerability rests with management.

Currently, the issue causing the greatest strain on police departments is that of internal investigations. No one can dispute the right of management to conduct such investigations, but the ground rules can be subjected to a great deal of abuse. Some union people, for instance, would have us treating routine investigations as criminal matters to the extent that people are advised of their rights. At any rate, this is an area on which the whole concept of discipline is founded, and there should be little need to point out the critical importance of discipline in the effective operation of any organization, especially police departments.

The general topic of discipline is one in which the union has had considerable impact. While union concern has caused management a notable amount of consternation, police administrators are, as mentioned previously, becoming better managers because of it. In specific terms, management has learned the importance of documentation in disciplinary cases. Many disciplinary cases were lost initially or on appeal simply because supervisors failed to build their case through documentation of progressively severe disciplinary measures.

Another area that I suggested may feel the impact was police morale. Here, too, it is difficult to construct absolutes. Certainly, most officers can and should feel some degree of comfort in the knowledge that a large, resourceful organization is constantly ready to protect them from both internal and external forces. On the other hand, many officers have expressed the idea that much has been lost through unionization in the areas of informal communication, camaraderie, and benefits that management could heretofore render without contractual limitations, obligations or precedent-establishing activities.

Morale has also been affected by the delays necessitated by arbitration processes. Compulsory arbitration has caused lengthy delays in wage adjustments, and payments are almost constantly in arrears. However, as pointed out earlier, wages might not have reached the current levels without union efforts.

Finally, union rank-and-file must realize that the union itself is a bureaucratic organization subject to the same problems as any other organization. One of those problems is internal strife. While an association presumably expresses the concern of all its members, some do not believe this is so. They feel that the good of the majority doesn't sufficiently reflect their needs. This is so of many of our Black officers, who have organized associations for the betterment of their group. They do not demand full recognition or monetary gains, but neither did the D.P.O.A. initially.

Another example of internal union strife is noteworthy. Only a short time ago, the former President of the D.P.O.A. saw fit to double the dues of his members with the approval of only a portion of the membership (significantly less than 50%). The purpose was ostensibly to build a "war chest" for a battle with management over a number of issues that quickly became lost in the rank-and-file's reaction to the "war chest" levy. The cry was loud and clear and well heard by the union bosses. Union members circulated petitions demanding a vote. The union quickly capitulated.

A much more subtle opposition of union members to the decrees of union management is presently occurring in the area of formal education. For several years the Detroit department has encouraged officers to attend college and has provided tuition reimbursement. Promotional consideration is being given for this college training. The latter step has been vigorously opposed by union officials, who prefer a promotional system based on nothing more than seniority. Yet many patrol officers have been and are taking advantage of this means of professionalization, and are actively pursuing curricula leading to degrees.

This situation has several interesting ramifications. First, patrol personnel recognize the need for higher education in their professions, and second, they are *not* opposed to college credit being made an essential element of the promotional rating. Third, the stance of union management is actually exaggerating the differences not only between the rank-and-file and supervision, but *among* the rank and file.

#### CRITICAL UNION ISSUES

Two other areas that should be mentioned are compulsory arbitration and grievance procedures. These elements have been particularly meaningful in reducing the possibility of further police strikes, but at some cost. The greatest impact of compulsory arbitration has been in the area of economic and wage benefits—the same issue that precipitated the Blue Flu. Thus far, it has worked to the benefit of the union members. However, there may very well come a time when police unions would prefer strike power to compulsory arbitration, I don't think it is any secret that trade and industrial unions would not care to trade their strike power for compulsory arbitration law.

The first compulsory arbitration law in Michigan was passed in 1969, and the D.P.O.A. has evoked it every year to its

ultimate benefit. It was initially enacted for a three-year period, but has been replaced by a new law. Thus, it would appear that for the next few years, major police strikes will be unlikely, unless for causes beyond the control of the arbitrators.

The role of arbitrators has also grown in non-economic matters. Except for formal litigation, arbitration has been the ultimate step in the grievance procedure. Prior to the union contract, we in Detroit had a grievance procedure that was rarely used, which of course means that its effectiveness was questionable. With the first union contract came a formalized grievance procedure.

Certainly a formalized and effective grievance machinery can be as much of an asset to management as it is to labor. The difficulty, however, lies in the context in which the system is viewed. It is not and cannot be an effective means of communication in itself. Too many people are prone to use the grievance system as a primary means of communication. The spirit of any labor-management agreement on grievance procedures usually dictates that the grievance mechanism should be used only when issues cannot be resolved on an informal basis. When employees appeal directly through the grievance procedure, the system is likely to become quickly overloaded with matters that can and should be resolved in an informal verbal process and general relationships can break down.

Another general tendency that encumbers a formal grievance procedure is the willingness of first and intermediate echelon managers to pass the buck. In most grievance procedures, there are several levels at which the grievance may be resolved; and once a grievance enters the machinery it is easy to kick it upstairs for "their decision." However, a better approach would be one that says, "*The principal objective should be to resolve the grievance at the lowest level possible.*"

Needless to say, there are many grievances that involve major policy and must be resolved at the higher levels. When they reach that stage, top level managers usually realize the importance of resolution without going to arbitrators. But when a grievance issue goes that last step, it is normally beyond control of the top managers either because they cannot yield, or the union feels it cannot yield, or the two sides cannot find enough common ground for compromise.

I don't think it is unrealistic to compare a grievance system to the judicial system, in that negotiation and compromise are essential elements. Plea bargaining in the judicial realm often produces a mutually beneficial outcome that appeases judiciary, police and the public. This activity has been in existence far longer than the grievance procedures afforded D.P.O.A. members, and that fact could offer a hopeful outlook to the complications we are experiencing. Perhaps the mere newness of the procedure is the greatest foe, and both employees and supervisory personnel must actually *learn* the techniques of using a grievance procedure.

What is the cost of which I spoke earlier? Very simply, the erosion of control. For example, some contracts provide for arbitration in the matter of police disciplinary boards, which, in itself, may not be particularly distasteful. However, the arbitration panel not only can review such cases, but without any additional testimony can set aside penalties, reduce sentences and thus dilute discipline. One local case, for example, involved arbitration between disobedience of a direct order in the field and one in the station. The arbitration panel has more power than our Circuit Court, which can only overturn a verdict. Needless to say, all Trial Board cases now go to arbitration. *The union has a new weapon in its arsenal.*

A second cost to pay is in the "philosophy of fairness" manner in which the arbitration board is empaneled. One member is selected by the union, one by management, and one from the outside by mutual agreement. The result: policies and procedures are now being ultimately decided by single individuals who often have no police arbitration experience nor police background. Such persons are frequently sympathetic to the plight of the working person, but are unaware of the impact of their decisions on future operations.

More importantly, these people can fade into the anonymity of non-public figures when their work is done. A recent example of an issue decided in this manner was a pay schedule that flew in the face of the existing ability to finance it. Hopefully as police unions become more widespread the experience level of arbitrators may improve, and there will be fewer decisions of this kind.

There is also some hope in the posture of arbitrators, as reflected in some of the language of decisions. This is important since arbitration, much like court cases, is based on precedent. Thus simple definitive statements are important in decisions. Examples of this are provisions in our one-person car arbitration case; they state that "One may not seek at arbitration that which has been denied at the bargaining table," and "The department has the power to determine how the personnel assigned by the department are to be deployed and assigned."

Any number of areas may be discussed in terms of union impact. I have mentioned only a few for the purpose of example. There have been no extensive studies, to my knowledge, to measure the effect of unions in areas such as community or race relations, police ability to respond to crime situations or police response in the general sense.

## CONCLUSION

The future of police unionism is certainly assured for a number of years to come. I can see nothing on the horizon that indicates any lessening of the role unions will play. On the contrary, the struggle for power will no doubt continue and strengthen. The union organization leans and gains proficiency just as the management group does. The only uncertainty lies in what direction police unionism will move. Almost all major city police departments have a legally recognized association to which its members belong. Generally speaking, these associations all possess the inherent potential of unionism. If they are not active in this area, they soon will be.

Now that the precedent is set, it appears that the trend is unavoidable. It is too early in the history of current police administration to project and comment on the ultimate effect of unions—whether they are beneficial or a cumbersome cross that administrators as well as police officers must bear. But the potential is certainly present that can lead them into any direction.

It would be most unfortunate for police unions to follow the pattern of ascendancy by other labor unions. In the private sector, we have seen property damage, harassment of non-participating employees, enforcement squads, sporadic work slowdowns, bitter strikes and control of organizations by a well indoctrinated and vociferous few. I have also seen elements of all of these factors in police unions.

The power struggle will be constant. As I said earlier, the union's goal is a simple one: Control the organization. I am sure that someone at this moment is saying, "Why not? Why shouldn't the union share the power and control of the organization? Aren't the union's constituents most affected by the organization's policies?" My answer is *NO*. Power and control are half of the issue. Responsibility and accountability are the balancing factors. To have the former without the latter is to have the ingredients of tyranny. It is management that is duly appointed and charged with the responsibility of maintaining the organization, and where the responsibility lies so must the power.

But the future need not be bleak. I see, too, the potential for mutual benefit. Unquestionably, the union force is a potent one with greater latitude in its areas of endeavor. A union can easily embroil itself in political issues and other controversies forbidden to a public organization. The point I am trying to make is not a complex one. There are many areas of mutual concern to both union and management, some internal and many external. Very often, the position of management and the union is identical. If the two organizations can maintain a good working relationship, there is the potential for a force far greater than the sum of the factors.

Another dimension now seems to be manifesting itself: the question as to national affiliation and recognition. Here local union leaders are split into diametrically opposed camps. One proposes affiliation with existing national labor unions—AFL-CIO, UAW, Teamsters, UMW, etc. The other favors the formation of a national police union to which all local and state organizations would belong. The issue is yet to be resolved. There is little room for speculation as to the divisive effect this debate will have on the solidarity of the union posture, since the advantages and disadvantages of each affiliation are manifold and will soon be exploited by their proponents. Unless there is strong, reasonable and mature leadership, emotionalism may supersede common sense and judgment, with a resultant depreciation of police effectiveness and a possible loss of public esteem.

It is far too early to do more than watch and hope for the best. What will develop, however, will depend largely upon the caliber and competence of those who lead both union and management into the future of police labor relations.

# THE POLICE LEADER'S ROLE IN THE LABOR RELATIONS PROCESS

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## INTRODUCTION

This essay deals with questions that are of concern to both police department administration and union leadership. Many problems that arise at a management level in this particular public service are not resolvable by either of these two groups alone, but are most effectively dealt with in a combined effort—by union and department administration together.

In a fair atmosphere, one combining informed negotiators from both groups, I believe that settlements and agreements can be more easily reached, and will have significance for morale within the police force generally. I am not suggesting that the negotiators be so chosen as to actually represent only one group. Conflicting interests will develop along with agreement in a healthy police department. Those interests should not be ignored or stifled, as such action may lead to greater dissention in the long run, due to misunderstanding and frustration.

It seems to me that the best results in bargaining and governance of a police union are attained when the union leadership is not only well informed about both sides of issues, but keeps efforts directed toward the goal of a superior police force—one with high morale and one in which effective, professional work standards are maintained.

My main considerations in this report will be

- (1) responsible union leadership;
- (2) the union leader's maintenance of a good working relationship with police and public officials;
- (3) good techniques of collective bargaining;
- (4) the union's role in contract administration.

Each of these concerns is complex and cannot be handled by prescriptive or normative approaches. I hope my opinions will be understood as suggestions, somewhat oversimplified, rather than as final directives.

## RESPONSIBLE UNION LEADERSHIP

The characteristics of responsible union leaders would be defined differently by different people. Police chiefs want union leaders who will restrict their efforts to negotiating higher pay without causing conflict or criticizing the administration. Citizens want union leaders who will strive for improving community security and police services at the lowest possible costs. Police officers want aggressive leaders who will force the administration and public officials to provide good working conditions, fair treatment and an excellent salary.

The fact is that union leaders are elected officials who must satisfy a very specialized clientele in a manner that is in the best interest of the community and citizens served. As a recent article on unions pointed out,

Too many administrators fail to recognize that both the city legislators and the union officials are political figures. They are elected and, in order to maintain their positions, they must satisfy their constituents . . . (Igleburger and Angell, 1971, p. 53)

Police union leaders are subjected to the same political pressures that all elected officials feel, and they will retain their positions of leadership only if they adequately deal with the conflicting pressures. To determine whether union leadership will act in a responsible or irresponsible manner, one must look to the leadership's constituency. At present, that constituency is composed primarily of police officers with less than ten years' service.

As elected officials are beset by demands from their constituents for better streets, lights and sewers, and for better fire and police service, the police union leader is also pressured to obtain better pay, fringe benefits and working conditions. Membership attitudes, whether supportive, apathetic or dissenting, affect union leadership in a subtle but critical way. Even when financial or benefit demands are met, rank-and-file membership continues to shape the leadership according to the members' general moods and morale.

Within police unions today there is a struggle for power occurring between two kinds of police who might be characterized as either “traditionalists” or “activists.” The “traditional” police officers seem to fulfill the majority of their needs by belonging to a sub-culture within a police agency. Often this sub-culture involves corrupt behavior, and the only way to be admitted is to become corrupt.

For such corruption to exist, it must have been condoned and participated in by those in power. James Vorenberg, Harvard law professor and chief aide to former Special Prosecutor Archibald Cox, spoke recently about Watergate and said that, “In a sense, the corruption at the top reflects too great a trust on the part of the people in the leaders they place in power.” (Vorenberg, 1974)

The “traditional” police officer has grown and matured in a political system that rewarded the bagman for the politician and the bully boy for the establishment with money, promotion and job security. The present police union leadership often comes from the same traditional group as most of the chiefs of police and sheriffs throughout the United States. Until that generation passes, there will be no significant changes in the way police officers are directed to function by the chief, nor in the way they actually behave. And corrupt police conduct will remain until the insatiable appetite of politics for money is satisfied by some other means.

There is a breeze of fresh air, however, fanned by the “activist” police officers. These officers are different, in that they have generally never wanted for the comforts of life. Some fought in a war whose legitimacy they may have questioned and one which did not have popular support. These officers have been encouraged to continue their education, and they often take an active interest in their communities. The activists have seen first hand, and with the instant communications of television, the effectiveness of group protest. In some cases they are adopting similar methods to obtain more of the comforts of life. Very often these younger, “activist” officers look to the concept of unionism to fulfill their needs and desires.

Meanwhile, many police officers hired prior to and immediately after World War II have reached retirement age. Replacements have not been brought into the inner sanctum that feeds on corruption, simply because it takes time to add the fine edge of sophistication to corruption.

Daniel Bell says the following in his book *The Coming of Post-Industrial Society, A Venture in Social Forecasting*:

In modern society, few groups remain for long. The professionals in the United States—engineers, doctors, teachers—are organized. These are primarily professional organizations, though in the case of teachers in the large urban centers, a number of these unions are affiliated with the AFL-CIO. The major question in the next two decades will be the character of these organizations: Will they retain their traditional guild form, or become more militant and aggressive labor unions? . . . One force that will seek to turn these organizations or newly formed professional groups in a more militant direction is the younger professionals, particularly in medicine and community affairs activities, many of whom learned their organizational skills in the student protest movements of the 1960s. In addition, these professionals are increasingly subject to budgetary constraints, and while the income of professionals rose steadily in the 1960s, in the next decade that rise will be leveling off. Much depends, in this instance, on government policy, particularly its willingness or unwillingness to fund social programs . . . (Bell, 1973, p. 144)

Whether we have responsible or irresponsible union leadership depends on whether the politicians and police administrators reject the use of unethical methods in dealing with police officers, and adopt a more sympathetic view of the police function. Today’s developing police unions are afflicted with the same malady that all organizations suffer, the need for effective management. Until police unions are legitimized, accepted and become mature, there will be no responsible leadership.

The “activist” police officers who serve responsibly must be encouraged more than those who behave in traditional ways. There is often only reaction to the unfeeling, irresponsible leadership of politicians, police administrators and unions, which often tend to become as self-serving and conservative as the politicians and police administrators with whom they deal.

New “activists,” tempered in the fires of social protest, are more resistant to old-time corruption and the traditional pecking order of police service and politics. Union leadership will become as tempered and dynamic as its new, emerging constituents if their methods achieve the expected results.

In his book *The Crisis of American Labor*, Sidney Lens describes the “continuous . . . process of radicalization and de-radicalization in the labor movement”. He believes that “not every union leader is a business unionist, pure and simple. Most are in the process of moving to one pole or the other, subject to the pressures of many sorts for moderation on the one hand and radicalism on the other. Yesterday’s radicals in America have been whittled down to the reformer level, on occasion to business unionism.” However, Lens adds, “Militant workers whose ‘sights’ are raised toward radicalism” are always present, “though their radicalism may be subdued during times of prosperity, because the ranks are not receptive . . . The voice of

radicalism becomes more articulate . . . in periods of recession and depression, as the restive rank-and-file begins to look for panaceas . . .” (Lens, 1959, p. 174)

*Responsible* union leadership? It often depends on one’s point of view, or where one’s vested interest lies. Certainly, management—the public employer, elected officials and administrators—would have one view of responsible union leadership. The public would have another view, which is greatly influenced by the news media. But the prime responsibility of union leaders is to serve the needs of the members of their organization, for those members elected them for this purpose and determine their tenure in office. Inter-union politics is little different from partisan or non-partisan politics for public elective office. Failure of a leader to respond to the demands of members results first in members’ loss of confidence in that union official’s ability to lead, and ultimately to defeat in the next election.

Indeed, union leaders temper both the negotiation demands and the calls for action that members want. This is the essence of responsible union leadership—to *reconcile what is achievable against what may be folly*.

Public announcements by union leaders aimed at management; picketing; slow-downs; blue flu and, finally, strikes are invariably denounced by public officials as evidence of irresponsible union leadership. But these methods are used only after the members themselves decide that such strategies are necessary to achieve union goals.

#### COOPERATION WITH POLICE ADMINISTRATORS AND PUBLIC OFFICIALS

In establishing a good working relationship with city officials and police administrators, union leaders must satisfy two conditions. First and foremost, they must maintain a well organized and united union in which they are trusted by the members. “Tacit leadership” of a disorganized union is never followed or respected.

Second, but still very important, is the union’s contract. It may be called a collective bargaining agreement, a memorandum of understanding or whatever, but it must be written and should be thoroughly understood to be legally binding on both union and city officials. Such a comprehensive, *signed* contract facilitates the working relationship between administrators and union leaders. In making more specific what each party is responsible for, the contract eliminates many contentious aspects of day-to-day relationships.

With these factors in mind, city officials and police administrators must deal with reality: that there is a union, whose leadership speaks for the members; that there is a contract, and both parties are legally and morally obligated to abide by it. Neanderthal attitudes (e.g., management, or the union be damned) must give way to a viable working relationship between the parties.

According to Kenneth O. Warner, Executive Director of the Public Personnel Association in Chicago, Illinois, “Management must recognize that unions would probably not exist if management were perfect. Since management is not perfect, then common sense says management should keep an open mind and be willing to experiment with new methods of conducting public business.” He further states, “Realistically, the concept of sovereignty is dead; it just doesn’t exist in practice.” (Warner, 1967).

#### COLLECTIVE BARGAINING TECHNIQUES

The collective bargaining arena is characterized by Igleburger and Angell (1971, p. 52) as “an ill-defined, ambiguous area where the exercise of political knowledge and power is essential.” They recommend that the chief of police not sit in on contract negotiations in most cases, but train and use a knowledgeable, small team made up of city and police administrators to assist in negotiations. This arrangement will allow the chief to keep the employer bargaining unit from developing irreconcilable differences with the union, while insuring that the concessions of the management team are kept reasonable. (Igleburger and Angell, 1971, p. 52) Unfortunately, in most cases at present negotiations are conducted by a negotiator for the city who knows little about police work, and by a union team composed primarily of officers.

The selection and make-up of the union negotiating team spotlight a serious problem, still growing, between the unions and public employers. That is the concerted effort, nationwide, to separate captains, lieutenants and sergeants from the bargaining unit. This management tactic is certainly not a new one in the private sector. Although it is not necessarily “divide and conquer” strategy, it generally is designed to “play one group off against another.”

Traditionally, in police service almost every member of the department was a member of the fraternal association, which functioned as a social group. In the evolution of these groups into bargaining units most of the leadership came from officers with many years of service. Naturally, many of these officers are captains, lieutenants and sergeants. To remove these people, with their experience and dedication, from the bargaining unit would seriously erode the leadership of the association or union and might result in a less organized and more “irresponsible” union.

Now the argument is advanced that these positions are supervisory and therefore ought to be part of management. Not true. Despite the para-military organization of police departments, their command structure does not follow military lines. On the street, captains, lieutenants and sergeants have no greater authority than patrol officers in solving problems, enforcing laws, making arrests and using discretionary judgment. They do serve as advisors. At other times their duties are clerical, and I mean this in no dismeaning sense. However, captains, lieutenants and sergeants cannot hire, fire, promote, demote or suspend; so they are technically not the equivalent of industrial managers.

As to the assertion that there might be a conflict of interest between the obligations of "management" and union affiliation, there is far more community than conflict of interest between these ranked personnel and other sworn officers.

Sergeants, lieutenants and captains first of all are still police, charged with the same professional duties and responsibilities as all other sworn personnel on the force. It is interesting to note that the on-the-beat patrol officer, the man or woman on the lowest rung of the police hierarchy, exercises the greatest discretion of law enforcement and crime prevention. As one goes higher up the ladder, the use of discretionary judgment in the performance of duty becomes more limited.

Credibility and communication are improved among police when the bargaining team and pre-negotiations committees are representative of both union membership and the police department. Either by vote or acquiescence of the membership, patrol officers and ranked personnel should be on the team. I also recommend very strongly that new team members be groomed for the role and added on a regular basis whenever appropriate. My most effective bargaining team was composed of two patrol officers and a captain. Those experienced in negotiations know that it is usually a grueling, time-consuming and exhausting process.

It is easier to "deplore" than to "explore" the major problems unions have in dealing with management at the bargaining table. But I think that Kenneth O. Warner summed up the major problem—the greatest obstacle during first-time negotiations: "Perhaps public officials themselves stand as the largest single roadblock to smooth union traffic on the road ahead. So far as bargaining is concerned, they are often uninformed, unprepared and uncooperative." (Warner, 1967)

In their article on "Dealing with Police Unions," Igleburger and Angell (1971, p. 52) state: "Police administrators have traditionally taken rigid, nominative stances against police unions. Their position has been strikingly similar to that taken by industrial managers during the early portion of the twentieth century. Currently, however, society is accepting the legitimacy of such unions and, increasingly, police administrators are finding that they have no choice but to deal with them." This means that administrators must adopt new philosophies and learn new techniques if they are to maintain their power and effectiveness.

After these hurdles are surmounted, the next major problem is an inept and/or inexperienced negotiator for the public employer. In all fairness, the same problem may exist with the union negotiator.

If one party or the other, or both, don't know what they are talking about, the negotiations result in nothing, and a crisis situation usually develops. Earlier it was pointed out that chiefs are generally not involved in direct negotiations. However, one of their chief deputies ought to sit in on the sessions, to advise the management negotiator about police procedures, practices and other details. If union negotiators were ever compensated for the hours spent in educating government negotiators, they could retire from public service.

Further, it is crucial that negotiators from both sides have the power to negotiate—that is, to shift or change objectives within guidelines specified by their principals, subject to final approval of those they represent.

Issues vary from jurisdiction to jurisdiction, but generally the most contentious everywhere are money matters and "who is running the police department"—an extremely emotional issue.

Negotiators for any public employee union are invariably told that their demands are excessive and that, even if they are not, the city or county can't afford them. To paraphrase a negotiations guide designed for public administrators, union leaders must continue to produce evidence of economic progress. Easy negotiations for a modest settlement by a union leader who wants to pay off past political favors—"cutting a deal" in negotiations parlance—are most likely to result in the leader's being voted out in the next election. Unions and associations know that government officials and politicians come and go. While the goal of current negotiations is a settlement, it is also a building block for future settlements with the public employer long after the current officials are gone.

We all know that municipal and county budgets are strained to provide all the services demanded by the citizenry. We also know that public expectations dictate that police be "professionals," and that police fit the U.S. Department of Labor's definition of the term, in that their work requires the exercise of discretion and judgment, yet salaries for most police are below the average level nationally. A research group called the Conference Board recently publicized figures showing that "A

family of four must now have an income of \$10,500 to equal the amount of spendable money that \$5,000 would have provided them in 1949.” (United Press International, 1974)

As a result of negotiations over the past several years, Portland police now have a base, gross salary of \$14,496, but many police departments offer salaries well below this figure. Public employers must adjust their budget priorities to insure that they have a dedicated, efficient, professional police department, and decent salaries have a lot to do with this.

Daniel Bell says:

In the nature of post-industrial society, the government has become the single largest employer in the society. But winning wage increases from the government is a far different problem from winning increases from private industry. Increasingly there looms what James O'Connor has called 'the fiscal crisis of the state.' He states that this 'fiscal crisis' is caused by the multiplying of government functions, which creates the need for new revenues. As the government bureaucracy expands, costs increase. But government budgets are subject to constraints far different from those of private corporations, which can try to pass on their costs through price increases.

Bell then adds that government revenues can increase in three ways:

One is to step up the rate of economic growth and use the resulting gains in GNP for government purposes rather than private consumptions. (This was how the government social programs were financed in the early 1960's.) But such acceleration risks inflation, and at the moment no western society seems to know how to bring inflation under control. The second is to increase productivity in the government and service sectors, but while some gains are possible, intrinsically these will always lag behind the 'progressive' industrial sectors.

Bell notes that a third method of increasing government revenues is by raising taxes, but he cautions:

There is an increasing public outcry against raising taxes. The alternative is to cut government programs and hold down spending, but given the multiple pressures from different groups—business wants to cut social programs but maintain subsidies; labor wants higher budgets in all areas; reform groups want to cut the defense budget but expand social programs—this is not easy. And in all likelihood the fiscal problems will increase. This may well be an intractable problem of post-industry society. (Bell, 1973, p. 157)

#### UNION ROLE IN CONTRACT ADMINISTRATION

Now looking at the highly charged issue of "Who's running the police department," what we're really talking about is whether the city administration or the union administration is determining policy. Perhaps in New York former police union president John Cassese did usurp the power of the city and police administration in behalf of his union, by means of very effective tactics using public pressure on city officials. In his book *The Police Rebellion, A Quest For Blue Power*, William J. Bopp deals with such situations. In the chapter, "Who's in charge here?," he says:

The "police position," rather, has reflected the view of rank-and-file police officers and has been voiced by the spokesmen for their organizations. The position which they advocate—one of the more direct use of police authority and resources in coping with current problems—is often in conflict with that of their superiors and almost always in opposition to the policies and practices that have been advocated in recent studies. (Bopp, 1971, p. 48)

Most police union leaders do not want to run the department or the city. What they want is to do their own job as professional police and union leaders, and to insure that the members they represent are allowed to do the same under the protection and compensation of a good contract.

The Portland Police Association has a key provision in its contract with the city that protects both union and administration. This provision states, "Changes in existing conditions of employment relating to wages, hours and working conditions shall be subject to mutual agreement of the parties before becoming effective." (Goldschmidt and Callison, 1973) This provision eliminates capricious actions by the administration that might lead a union organization to circumvent management.

Failure to achieve major goals at the bargaining table produces action by the unions or associations to go elsewhere to secure an equitable settlement. Again, this is a membership mandate to its leaders to accomplish necessary gains. Controversial? No doubt, but "irresponsible"? Not likely.

Again, Kenneth O. Warner (1967) put it very succinctly, "Like it or not, it is a fact that public sector bargaining ultimately depends on the political clout of unions and associations."

Throughout this paper the word “political” surfaces again and again. Union leaders without political savvy, both internally and externally, cannot and will not survive, nor will their organizations survive with them at the helm. Police are not second-class citizens. They have all the constitutional rights of their countrymen. Free speech, right of assembly and the right to petition the government for redress of grievances belong to all public employees. The fact that public officials are upset when these rights are exercised is irrelevant.

Although the ultimate pressure tactic—the strike—is being covered by another discussion group, I would like to touch on it briefly, for other tactics, and bargaining strategies always precede it.

An appropriate comment on strikes was made in “Work Stoppages, A Tale of Three Cities,” published by the Labor-Management Relations Service (LMRS) of the United States Conference of Mayors, National League of Cities, and National Association of Counties. The introduction to this study states:

Strike causes are recognizable long before they occur. They can be, if not avoided, at least mitigated by proper communications with an adequate knowledge of the city employee organizations, by developing skilled personnel within the city administration, and establishing effective machinery for dealing with such situations. Settlements with employee organizations may be costly, but so are strikes. (LMRS, 1970)

In another publication of LMRS, Jerry Wurf, President of The American Federation of State, County and Municipal Employees, AFL-CIO, commented: “Nobody ever prints this but I say it to our staff and I say it to our membership: I am opposed to strikes. I don’t want strikes. They’re bad. They’re hard on the city but they’re harder on the workers. I fight bitterly for the *right* to strike.” Wurf adds that he doesn’t think there is any principle involved in striking. “Striking is a tactic to persuade an employer to deal with us. If it can be avoided, almost any price ought to be paid in order to avoid a strike.” (Eaton, 1970)

For the word “price” substitute “tactic.” When negotiations break off without a satisfactory settlement, why not go public and tell the citizens of police problems—the police serve citizens and they pay for that service. What’s wrong with getting prominent persons and organizations to support and speak out for the police? If the union and its leadership have friends in high places (for political or whatever reason), it’s a matter of common sense to call on those friends to assist the police organization.

If the situation can be resolved at the polls, the matter should be taken to the voters. Let the citizens decide what kind of police service they want. Further, if a change in the law is required from a legislative body at any government level, the police organization and its leadership are obligated to present the union case and try to secure legislative changes.

Once settlement is reached and the contract is signed, how is the contract best administered on behalf of the union membership? This process starts before negotiations, when the union proposals are hammered out by the bargaining team and discussed at membership meetings. Needed changes in the contract don’t appear out of thin air. They evolve from the workaday problems of the members. In most cases the changes, proposals and financial demands are ratified by the membership before they ever go to the table. Certainly the interested members of the organization should know what they are trying to accomplish in the new contract.

Periodically throughout the bargaining sessions, the negotiations team holds briefing sessions for the union members to keep them informed as to what has been gained, given up or lost, and what remains to be negotiated.

After a tentative settlement has been reached, the union team brings it back to the members for a thorough explanation and discussion. It is then either rejected or ratified by the membership. Throughout this entire process all available information on the contract should be disseminated to the membership.

The key to good contract administration by the union is a simple, concise, easy-to-read contract without the legalized and bureaucratic language of which public officials and their negotiators seem fond. A collective bargaining agreement, agreeable to all parties concerned, need not be a wordy, complicated mishmash of verbage that is hard to understand. Copies of the agreement should of course be distributed to the members, along with explanations and discussion in the union publication.

“After the contract has been signed,” maintain Igleburger and Angell in the article cited earlier, “the chief administrator has the responsibility for insuring that his subordinates understand and abide by it.” They recommend that the administrator “use negotiating team members to distribute the document and explain it to other managers and supervisors. In some instances union officials may be useful in explaining the contract. Questions raised should be answered as precisely and accurately as possible.” These authors further suggest:

Even after the initial introduction of the contract, assistance should be available to supervisors who do not

understand its provisions. Supervisors may misinterpret the contract and establish an understandable precedent that would not be in the best interest of management; avoiding such an occurrence is particularly important. (Igleburger and Angell, 1971, p. 55)

Violations of contract provision due to honest misinterpretations, personal conflicts or other reasons lead to grievances. Generally grievances are brought by members of the union to the grievance committee. The committee then initiates appropriate settlement procedures with police or city management. It is the duty of the union leadership to examine each grievance closely, for a contract that is not enforced is not worth the paper it is printed on. Most grievances are legitimate complaints, but all are not resolvable under the current contract. These types of grievances must be held in abeyance until the next contract talks. A few grievances are either frivolous or personal.

The union leadership must screen grievances so as to conserve both resources and time in the best interest of the membership. Pursuing a grievance to its last step is a lengthy and expensive process. Another factor is the degree to which a grievance may influence other members. The wider the effect the more likely it is to be pursued. A chief of police would be wise to permit the union to solve and filter out as many grievances as possible, because this not only reduces the work load of the staff, but also reduces conflict between the chief and street-level officers.

## CONCLUSION

Police unions are here to stay, and the most important determination that must be made involves how they will play their roles. If they are not dealt with in mature, professional ways, they will not behave as mature professionals. Responsible union leadership is to a large extent the result of responsible public officials and police administrators. Immature, corrupt and unprofessional treatment of unions by management will result in similar responses from the union leadership.

In those jurisdictions where traditional techniques have become entrenched as union tactics and continue to reap benefits for the union, it will be difficult to change the situation. However, if changes are to be made, police and public officials must take the initiative and deal with the situation realistically and fairly.

In negotiating, both police administrators and union officials must face the situation with open-mindedness and recognize the problems of each side. The tactics utilized should facilitate solutions that are in the best interest of the officers, with a minimum of lasting damage to future union and management relations.

Once the contract has been formally accepted, the union and management leadership should cooperate in administering the provisions agreed upon. Police officials must recognize that the union is an essential partner in the efficient operation of a police department. Without such a relationship, police work stands little chance of becoming a truly professional endeavor.

Some recommendations are in order, and they closely parallel those in the *Report on Police and Fire Classification and Pay Studies* for the city of Los Angeles (1970). I will not elaborate on these recommendations, but they certainly are of great concern to police and their organizations:

- (1) Regulation of private security police;
- (2) Elimination of reserves and auxiliaries;
- (3) Statewide pensions with portability between states;
- (4) Uniform mandatory state standards;
- (5) Lateral transfer with reciprocity;
- (6) Regional bargaining;
- (7) Breaking of parity with fire departments;
- (8) Political action;
- (9) Higher education standards;
- (10) Redefinition of the role of the police officer.

I close with the concluding remarks of Kenneth O. Warner in his 1967 address in my home state at the University of Oregon:

In conclusion, as management and employee organizations press forward in the bargaining area, they have an unsurpassed opportunity to act intelligently in the public interest. The task on both sides of the bargaining table is to approach it objectively and well prepared . . . otherwise the result could be disastrous. This is the challenge of collective bargaining in the public service. (Warner, 1967)

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## PROFESSIONALIZATION AND UNIONS IN LAW ENFORCEMENT

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The purpose of this paper is to present a semantic framework for discussing the impact of police unionism on the professionalization of law enforcement in general, and the occupation of patrol officers in particular. We will begin our discussion by considering the concepts of "profession," the process of "professionalization" and the adjective "professional." Following the introduction to the concepts, we will apply them to certain relevant questions bearing on the professionalization of law enforcement.

### PROFESSIONS AND PROFESSIONALS

First, it can be argued that a profession exists only in the minds of its occupants. This point is not tautological; it suggests that a profession is an "ideal type" or normative goal that many occupational groups organize toward, but attain only to one degree or another (Vollmer and Mills, 1966). Thus, the accolade "professional" is only an indication that an occupational group has moved toward its ideal type relative to its prior occupational status.

Implicitly then, we should be concerned with the extent of movement of an occupational group toward the status of a "profession"; that is, where the group is *in the process* of professionalization. A concern for the process of professionalization and its prerequisites is required if professional status is to be accorded to an occupational group. Moreover, a lack of understanding of what professionalization really means may have led some people to label law enforcement a profession.

As Juris and Feuille (1973) note, the process of professionalization assumes that at least three prerequisites have been met. First, there is an underlying specialization at the occupational level rather than at the individual or organizational level. Second, the occupation stresses the process of job performance rather than its product. Third, there exists a unique, codified body of occupational knowledge that is abstract and subject to both investigation and verification. Subsequent to meeting the prerequisites, an occupational group can begin to organize itself toward the status of a profession. This process of organization is labeled professionalization.

There is a rich body of literature on the process of professionalization. The essence of this literature is that there are at least four components in the process (Jackson, 1970; Pavalko, 1971; Wilensky, 1970). The first component is the full-time "doing" of an activity of the "staking out" of an occupational jurisdiction. A conspicuous example of this first component is the medical profession's claim to the field of "health" and its vocal resentment of non-medical intrusions into its established jurisdiction.

The second component of the process is the establishment of formal training for certification of group members or professionals. With reference to the latter, certification most often takes the form of occupation-specific academic degrees (e.g., an M.D. or a Ph.D. in a specified field) and state licensing. As a result of this codification, the required training for the occupation usually gets longer, more rigorous, and increasingly specific as the occupation matures toward professional status.

The third component of the process is the formation of an association that engages in political activity to gain legislative support for the protection of the group and its occupational jurisdiction. The fourth component, usually concomitant with the formation of an association, involves the self-conscious development of a code of ethics designed to control the behavior of that organization's members in both intra- and extra-occupational relations.

The capstone to the process is recognition by the public that the group knows more about what is good for its clients than either the public in general or the clients themselves. The latter is, in effect, a grant of "professional authority." The key point is that this authority is not granted to the group by itself, but by the society it serves (Hickson and Thomas, 1969).

From this description of the prerequisites and the process of professionalization, it can be concluded that a "professional" is any member of an occupational group who has met the group's prerequisites in terms of training, certification and practice. The latter statement may not be as glib as it first appears, as it leads us to a rather comprehensive definition of a professional.

A professional is a member of a recognized occupational group whose job performance is clearly technical, but not necessarily scientific. This characteristic suggests that job performance is based upon an abstract, systematic body of

knowledge or doctrine. In addition, professionals are in concert with their colleagues that individuals not certified in the underlying job technology should be excluded from both membership in the occupational group and practice in its job domain. Thus, for example, a physician is most reluctant to recognize the right of chiropractors to deal with problems of physical health.

From this example another characteristic of professionals can be derived: they feel that they are providing services to clients that they alone or others like them are qualified to provide. Implicit in this orientation is the perception of professionals that their work is a calling they approach with a quasi-religious sense of mission and life-long commitment to its practice. All of these characteristics add up to professionals feeling a sense of community with one another. This feeling among professionals results in a common identity with their work, manifested in terms of shared values, norms and the possession of a distinctive culture.

#### PROFESSIONALIZATION AND LAW ENFORCEMENT

Up to this point, the discussion has been intended to provide a common core of terminology and understanding. With this common understanding, if not acceptance, we can begin to consider six issues that seem to bear upon the professionalization of law enforcement.

- (1) Are police officers professionals?
- (2) What are the implications, if any, to attaching profession-oriented labels to law enforcement?
- (3) Is there an identifiable movement to professionalize law enforcement?
- (4) What are the manifestations of police professionalization?
- (5) What are the positive and/or negative aspects of professionalization in law enforcement?
- (6) What are the implications of police unionism for the professionalization of law enforcement?

#### ARE POLICE OFFICERS PROFESSIONALS?

First, the generic term "police officer" is too general, given that it applies to all sworn personnel from patrol officers to chief. Therefore, our remarks will focus upon the occupational group commonly labeled "patrol officer." In that context, our response to the first question posed above is "no," patrol officers are not professionals. Several reasons why these officers cannot currently be viewed as professionals will be outlined below.

First, among police officers in general, and patrol personnel in particular, there appears to be no agreement on the boundaries and responsibilities of the occupation (DeCotiis, 1973). For example, there is consensus among patrol officers that a legitimate part of their total responsibilities is law enforcement or "crime fighting." However, beyond this commonality consensus does not exist, especially when one considers the "community service" aspects of the job. Despite the fact that social services and civil-law matters constitute more than half the work activities of typical patrol officers, they and their fellows often fail to formally recognize these responsibilities. Hence, many patrol officers perceive community service units as a waste of personnel (DeCotiis, 1973).

Second, certification is not required before a person may enter the occupation (Becker, 1970). This does not mean that many patrol officers do not have professional-level educations. What it does mean is that such education is not prerequisite to entry. In fact, as a survey reported by Pavalko shows, only 3.5 percent of the departments surveyed required more than eight weeks of formal training. In addition, unlike other workers who have earned the right to be called professionals, patrol personnel are not licensed by either a professional association or the state within which they practice (Harvie, 1971). It is hard to think of a professional (e.g., lawyer, doctor, accountant) who is not licensed and subject to censure by a professional association. Indeed, for patrol officers there is no such thing as a national association.

Third, patrol personnel must share the right to engage in certain job activities with other occupations. For example, a patrol officer shares the right to bear arms and make arrests with many other law enforcement personnel within his jurisdiction.

Fourth, perhaps the most convincing arguments against the classification of patrol officers as professionals are: (1) the lack of public recognition of their right to decide for their "clients" (Harvie, 1971); (2) the lack of a uniform code of ethics (Becker, 1970); and (3) an over-responsiveness to local political pressures (Niederhoffer, 1967).

The widespread use of civilian review boards, public suspicion of internal review procedures and restrictive court

decisions can be taken as a reflection of the public's reluctance to grant professional authority and autonomy to law enforcement in general and patrol officers in particular (Reiss, 1971).

The lack of a uniform code of ethics which governs the behavior of all patrol personnel, regardless of locale, follows from the fact that there exists no national/international association of patrol officers. Even though a department may have its own code of ethics, the point stands. For as Juris and Feuille (1973) note, the ethics governing the behavior of a professional are *not* institution- or region-bound. Rather, control of the behavior of professionals is from within their occupation, wherever they may practice it.

With reference to political responsiveness, one could argue that patrol officers' job behavior should reflect the political realities of their jurisdictions. However, that point is moot in the context of professionalism because the definition of a professional includes impartial service to the client and loyalty to the profession, not to the political realities of the employing jurisdiction.

#### THE IMPACT OF "LABELS" ON LAW ENFORCEMENT

There seems to be little doubt that whatever professionalism does exist in law enforcement is largely self-ordained and has its origins far up in the command structure. With the coming of Federal funds, police managers began applying the label "professional" not only to themselves but also to patrol personnel. The greater stress police managers have placed on professionalization is likely to result in changes in the occupational group and in the organizational structure of police departments (Kelling and Kliesmit, 1971). However, this rash of using the professionalism label may have opened a Pandora's Box of epidemic proportions.

The first symptom of this labeling is the change in entrance requirements for patrol officers, especially those requirements pertaining to educational level. If this form of "professionalization" is successful (i.e., if patrol officers accept their new designation as professionals), it seems reasonable to expect that conflict will develop as the bureaucratic structure of most police departments is confronted by patrol officers desiring an organization more in accord with their perception of themselves as professionals.

Consider for a moment what might happen when a new set of skills, a new value system, and a new level of knowledge are introduced into an occupational group which heretofore has been comparatively comfortable with the "old order." The most obvious and initial result is a threat to the methods, performance levels and opportunities of relatively long service patrol personnel. Their past methods and standards have resulted in high performance ratings and promotion, but those methods are no longer the criterion for advancement. However, this is only one potential problem in the new educational requirements for police.

In addition to their social science approach to policing, the better educated officers will likely draw higher entry pay and, perhaps more important, be in an advantageous position *vis a vis* promotion compared to less educated, long-service officers. Obviously, the advantages that accrue to the new recruits as a result of their education should and will be resented by the long-service incumbents.

Although this problem will disappear as the less educated patrol officers leave the department, while it exists it may manifest itself in the formation of hostile cliques and resistance to further change of any kind. As Kelling and Kilesmit (1971) note, the stress will be most acute for those officers who aspire to promotion, but suddenly find that they no longer qualify. Parenthetically, one must wonder at the ethics of changing the rules in mid-game. One current result of this change may well be the growth of police unionism and hostility toward management.

If at some point patrol officers generally begin to perceive themselves as their superiors label them, i.e., as professionals, it is reasonable to expect that a national organization will eventually emerge. Such an organization has the potential of great power, as it stands to represent the patrol personnel in the 40,000 or more law enforcement agencies in the United States (Quinney, 1970). It is reasonable to expect that, as this national organization of patrol officers grows in strength, it will seek to influence not only the structure of the occupational group itself, but the structure of the police agencies its members serve.

Police agencies are generally characterized as highly bureaucratic, quasi-military organizations. There is evidence that the structure of an organization can have a considerable impact on the extent to which its members, whether management or otherwise, can professionalize. Bureaucracy is the "organization form identified as least conducive to professionalization" (Juris and Feuille, 1973, p. 107), and is also the form characteristic of police agencies. Hence there is good potential that patrol officers' efforts to professionalize will result in conflict between the group and the current structural form.

As patrol personnel engage in the process of professionalization, establishing their jurisdiction over "public safety," they will want to shift the focus of their accountability from the agency and its hierarchy toward a body of developing knowledge, as interpreted and applied by the occupational group. (Kelling and Kliesmet, 1971). It is quite natural that this shift in loyalty will be resisted by those in the command staff, by seats of political power impacting on the agency and by

various external interest groups who seek to limit the power of police in the community. This does not mean that anarchy will be rampant in the "ranks." Rather, it suggests that the bureaucracy will have to accommodate itself to the occupational group's changed self-perception and accountability.

That this shift is possible is perhaps best illustrated by the relationships between university faculties and the institutions they serve. Like university faculty, professional police officers will insist that they do not have a twenty-four-hour-a-day obligation to the employing organization. In a mode contrary to traditional police practices, officers will want to engage in extra-organizational activities (political or otherwise) which serve the vested interest of the profession. Again, as the insightful paper by Kelling and Kliesmet (1971) suggests, this means that police managers will have to accept their officers in differentiated roles. The first role will be as representatives of a profession, and the second as representatives of a police bureaucracy.

What our discussion implies is that the impact and potential impact of labeling on law enforcement are great. If police managers and others insist on the mantle of professionalism, they should prepare themselves for the consequences.

#### THE MOVEMENT TO PROFESSIONALIZE LAW ENFORCEMENT

Perhaps the hardest task in preparing this paper has been to define the "movement to professionalize." We know it's there, we can see it, but we cannot draw a picture of it. This problem in identification suggests that the movement is everywhere, but at the same time nowhere.

Enormous amounts of Federal funds have been made available for improving the quality of police services. Is that a movement? More officers than ever before are enrolled in institutions of higher learning. Is that a movement? Entrance standards have changed. Is that a movement? In response to these points we would have to say, "We don't know, could be." If these factors constitute a movement, that movement is one where the left hand doesn't even know where the right hand is, let alone what it is doing.

In short, if a movement is conceptualized as some cohesive coordinated change toward a goal, then there is no movement. Law enforcement has only labeled the goal (i.e., professionalization), but has not defined the steps to reach it. On the other hand, if a movement is thought of as some drift or change from a prior status, then perhaps there is such a phenomenon in the law enforcement field.

In 1967 the President's Commission on Law Enforcement and the Administration of Justice suggested that one of the most urgent needs in law enforcement was professionalization. As a result, law enforcement agencies, each with its own definition of the word "professional," jumped on the bandwagon and applied for funds to professionalize their agencies. However, the question was and remains, "What is professionalization?" The word can be defined in as many ways as there are grants. For one department professionalization is larger supplies of more sophisticated equipment; for another agency it is more officers; for still another it is educational funding. All of these activities may lead to increased professionalism, but only accidentally. What the movement to professionalize needs is direction, improved understanding of the process of professionalization and someone to object when that process is violated or abused.

#### MANIFESTATIONS OF POLICE PROFESSIONALIZATION

One of the defining characteristics of a profession is that it is a full time occupation. Although by and large most patrol officers work full-time at their occupation, there are some discrepancies. For example, the police have many part-time helpers (e.g., reserve officers, auxiliary and honorary positions), and some full-time "cops" moonlight (Becker, 1970).

Another characteristic of a profession is a *required* course of specialized study. Even though some rather sophisticated training facilities and university curricula have emerged, there is no consistency across agencies. That is, while some departments require a college education and processing through elaborate basic training programs, other departments require only a high school education and no basic training. The fact that a given state may require training cannot be attributed to the professional outlook of law enforcement.

In addition, beyond the existence of the IACP for the elite of each department, there exists no national association for the rank-and-file. Thus, another prerequisite to professionalization is missing. The list could go on to include the omission of state licensing and a unifying code of ethics. But this evidence is negative and has been reviewed before. What about the positive side of the issue?

We disagree with both Goode (1960) and Niederhoffer (1967) in their definitions of police forces. The former refuses to classify police officers as even a semi-profession, while the latter equates the occupational group with the "clergy" and therefore labels police officers as professionals. We are more in accord with Pavalko (1971), who believes that although the police are not now professional, they are at the same time not non-professional. Rather, they are "marginal." The marginality of an occupational group is most evident where the attempt to attain professional status involves a highly self-conscious effort

to move to the profession-end of the occupational continuum. Marginality is also apparent when that movement requires the occupational group to cover a great distance on the continuum in order to reach its goal.

Efforts to professionalize law enforcement are examples of this kind of marginality (Pavalko, 1971). The movement from marginality is manifest in an increasing concern for the education level of officers, a gradual formal acceptance of the community service role and a move toward opening up police agencies to scientific study by "outsiders." An indication that this movement is succeeding will be the acceptance by police agencies of the fruits of scientific inquiry as legitimate inputs to the police system.

#### THE PLUSES AND MINUSES OF PROFESSIONALIZATION

Professionalization, like most other forms of change, has both advantages and disadvantages. Therefore, professionalization in law enforcement will have some advantages. For example, professionalization usually is accompanied by higher status and remuneration relative to some other occupational group. As a result, police officers may no longer have to moonlight.

In addition to increased prestige, the authority of the professionals will also increase, and this change need not be negative. Increased authority could, for example, result in greater public acceptance of police officers because of their generally high quality and (hopefully) public-centered decisions. In short, public objections to the apparent arbitrariness of police officers' discretion may be replaced by understanding and acceptance of their right to exercise discretion.

Moreover, professionalization implies improved standards not only of performance but of entry as well. Therefore, applicants to the profession who do not meet its entry standards or professionals who do not meet its performance standards will be denied membership. The sense of identity incumbent in a profession may also be a plus, as it encourages and enables its members to exchange ideas on a relatively free basis (Baerwald, 1970).

Obviously, however, professions are not without their disadvantages. For example, there is always the danger of elitism (Taylor, 1959). This is partially the result of a profession's tendency to become inbred and resist challenges to the *status quo* (Baerwald, 1970). In addition, there is always the potential for "ivory towerism" where, as the profession becomes more and more specialized and abstract, it loses touch with the "real world." Consider, for example, the skill with which professional economists have manipulated the economy. Finally, there is the tendency among professionals to develop "tunnel vision," thereby failing to see the ramifications of their recommendations on areas outside their professional competency.

In terms of quantity, there seem to be as many disadvantages to professionalization as there are advantages. However, when one considers the pluses and minuses in terms of quality, it seems that the advantages far outweigh the disadvantages.

Ultimately, any increased grant of professional authority to patrol officers will have to be carefully evaluated for its impact on their clients—the public. There simply is no concrete evidence to indicate that granting police greater control over the process by which they perform their tasks will automatically result in improved service to the public. It would be somewhat ironic if we were to accept this assumption about police in an era when some are beginning to question its validity in the well established professions of medicine, law and social services.

#### POLICE UNIONS AND PROFESSIONALIZATION

So far we have not discussed the potential impact of a major organizational development that has occurred within the ranks of police departments in the past decade, namely the growth of police unions. Thus the remainder of our discussion will focus on the potential impact these organizations may have on the professionalization of police officers.

In a comprehensive study of unions and professionalization, Kleingartner (1965, p. 349) concluded that "in assessing the professional capacity of a protective organization the place to begin the analysis is with its effectiveness in dealing with problems at the work place." This is the basic assumption upon which the analysis to follow is based. This is also the premise that is most fundamental to a reasoned and pragmatic assessment of the role of unions in the process of professionalization.

This premise is often overlooked by practitioners and partisans who cope with the manifestations of an organization that mixes basic union concerns with professional organizational issues. The fact remains, however, that the fundamental purpose of a union, whether it represents blue collar manufacturing workers, police or teachers, is to represent the interests of its members on the job-oriented issues that affect wages, hours and conditions of employment.

Juris and Feuille (1973) have suggested that police unions can have an impact on professionalization in two ways: (1) indirectly, by attaining certain outcomes through collective bargaining; and (2) directly, through their involvement as interest groups in extra-bargaining attempts to influence policy. Unions in the U.S. have relied primarily on collective bargaining as the mechanism for representing the interests of their constituents at the work place. Thus it is not surprising

that one important way that police unions have affected the process of professionalization is by attaining certain substantive and procedural rights through the collective bargaining process.

The public sector environment in which police unions operate adds another dimension to the task of representing the interests of employees on job related issues. That dimension is the need to take an active role in political decision-making processes that either become intertwined with the formal bargaining process, or fall outside the scope of bargaining. This is essential since policy-making power in city governments is shared by a number of decision-making bodies and tends to take on a highly political nature. Thus, if a police union is to effectively represent the interests of its members in the major forums of decision-making, it must also function as an *interest group* that seeks an active role in the broader decision-making processes affecting the interests of police officers.

The major thrust of union attempts in the past decade has been to expand the scope of collective bargaining, and to include many of the issues important to police in the appropriate decision-making forums. The first part of our discussion will center on the implications of this development for the process of police professionalization. However, we believe that the movement toward greater police professionalism fundamentally affects the interests of a variety of groups that share power within the city. Therefore, that movement can more appropriately be handled in a consciously structured, multilateral decision-making process that supplements formal negotiations. Thus a final section of this paper will outline some possible strategies for shaping such a program.

#### COLLECTIVE BARGAINING AND PROFESSIONALIZATION

To adequately understand the way police unions approach the issue of professionalization and the factors influencing their position, one must first understand the general factors that shape the policies a union will advocate in collective bargaining.

The essential role of a union in collective bargaining is to represent the *collective* interests of its members. This means that the bargaining process works best on issues where the rank-and-file union members (1) share common interests and perceptions of the desirability of certain outcomes and (2) attach relatively similar degrees of importance to the issues.

In practice this has meant that unions have tended to focus mainly on issues relating to the economic and job security interests of their members, and on issues affecting the degree of influence the employees and the union have over the conditions of employment. These are tangible issues that meet the two criteria noted above.

Issues on which a good deal of individual or sub-group differences exist are less likely to be dealt with in a collective decision-making process, since it is more difficult for the union to reach an internal consensus on the appropriate position to advocate. It is even more difficult for the union to amass sufficient support among the rank-and-file to pursue these issues vigorously in negotiations. Thus, the most fundamental question that one must ask in trying to understand the way police unions will view professionalization is: What is the view of the rank-and-file union members/employees on this issue? Specifically, in light of the dimensions of professionalization discussed above, we might ask what the ideology is among police officers concerning (1) the definition of their role and (2) the process orientation best suited to carrying it out.

It has already been noted, based on the work of DeCotiis (1973), that there is no general agreement among police officers on these issues. Similarly, Kelling and Kleismit (1971) have suggested that one source of opposition to professionalization may come from those constituents within police organizations who (1) lack both the educational requirements that greater professionalization will demand and the motivation to attain them or (2) view any suggestions for change as an implicit criticism of their past job performance. Without such an agreement among police officers, police unions are not likely to push for these types of goals in collective bargaining.

Some of the employee goals that a union will pursue through collective bargaining are incompatible with the goals of management (Barbash, 1964; Walton and McKersie, 1965; Fox, 1971). Thus collective bargaining has normally been conceptualized as a power relationship between two organizations. Therefore, in addition to simply pursuing the substantive bargaining issues of interest to the rank-and-file, unions must also pursue strategies that protect and enhance the long-run power position of the union *vis a vis* management.

This concern for union security and power often interacts with a comparable concern on the part of management for limiting the union's power and scope of influence. Because of each party's concern for the institutional power of its organization, attempts by either party to make major changes in the relationship will be perceived as a threat to (1) hard-fought contractual rights and (2) the power position of each group.

This situation becomes problematic when one realizes that almost every issue with a bearing on the professionalization process also is relevant to issues within the traditional scope of bargaining over wages, hours and other conditions of employment. For example, any redefinition of the police role that requires greater formal education will affect not only the

selection criteria for future recruits, but also promotion criteria for existing officers. Thus such an issue bears directly on the job security interests and equity concerns of the rank-and-file.

Common bargaining issues are affected by professionalization efforts. Examples of those issues are the role of seniority versus merit and educational qualifications, lateral entry versus promotion from within and salary increments for education versus longevity credits. It is not surprising, therefore, that police unions may view efforts to change policies on these issues as a threat to their hard-fought rights under the bargaining agreement.

Since unions are also political organizations (Ross, 1948), union leaders are greatly concerned with pursuing goals that do not threaten the stability of their political position with the rank-and-file, or jeopardize any aspirations they may have for attaining higher political office within their organization. This concern will normally lead union leaders to seek issues in bargaining that have immediate short-run, visible and tangible payoffs to the rank-and-file. It will also lead them to avoid becoming involved in issues that are perceived to entail a high degree of risk or uncertainty, or promise only long-run benefits. To the extent that the issue of professionalization requires a commitment to longer-run change, union leaders are not likely to see any political gain for taking the lead in moving in this direction.

In summary, when issues come up in collective bargaining that involve economic or job security and professionalization, police unions are likely to place a higher priority on the security interests of their members than on professional interests. The reasons for this priority are as follows: First, rank-and-file police officers are likely to share common goals regarding the economic and job security aspects of the issues, while there is likely to be greater internal difference of opinion on the professionalization aspects.

Second, outcomes on the economic and job security dimensions of these mixed issues are more tangible, produce results that are easily measured, provide short-run satisfaction and therefore involve greater political returns to the union leaders.

Third, union leaders are likely to perceive efforts to make major changes in policies that affect issues covered under their bargaining agreements as a threat to the institutional power and security of the union. All of these factors suggest that a union leader that actively promotes professionalization issues will do so only with considerable political risk.

#### MANIFESTATIONS OF UNION POLICIES TOWARD PROFESSIONALIZATION

The most comprehensive empirical study of police unions to date is the Juris and Feuille (1973) book cited several times previously. Their work provides empirical support for the notions advanced here. The book illustrates the positions police unions have taken when confronted with issues impinging on both professionalization and the traditional wage, hour and working conditions interests of the police officers. For example, the authors cite instances of union opposition to management efforts to

- (1) make greater use of civilians in administrative jobs previously held by sworn personnel;
- (2) place undetachable name tags on officer uniforms;
- (3) change departmental policies regarding the use of force, or place other restrictions on the use of coercive tactics;
- (4) change departmental firearm guidelines;
- (5) introduce civilian review boards;
- (6) establish the classification of master patrol officers for high performers; and
- (7) permit lateral transfers.

These results led Juris and Feuille to conclude that the impact of police unions on these issues was, on balance, negative in terms of moving toward greater professionalization. In short, the authors found that "For all their talk of professionalization, the police are conceptually indistinguishable from steelworkers or auto workers in their on-the-job concerns, a finding consistent with Kleingartner's analysis of the unionization of professional employees in bureaucratic organizations generally." (p. 146)

It should not be concluded on the basis of our discussion that police unions will always oppose moves toward professionalization. On the contrary, Juris and Feuille (1973) report a number of examples of union support for certain changes consistent with this objective. Rather, what we are essentially hypothesizing here is that, on balance, the organizational and bargaining pressures under which police unions currently operate will discourage them from taking the initiative in promoting professionalization, and at times will lead them to resist substantive changes designed to further professional goals.

Unfortunately there is simply insufficient empirical evidence to conclusively evaluate the validity of the hypotheses advanced here. Such evidence is urgently needed if we are to take the discussion of this issue beyond the level of speculation.

The foregoing discussion appears to result in a dilemma. On the one hand, it was argued that unions are unlikely to promote professionalization through collective bargaining. On the other hand, most changes that would be consistent in the drive toward greater professionalization involve key issues that are central to most bargaining agreements.

The situation becomes even more problematic when one understands that unions in occupations that are in the process of professionalization are likely to be concerned with the *process* by which the changes are considered and implemented as with the substance of the changes (Kleingartner, 1965). This implies that police unions will certainly seek to have an important role in decision-making processes that deal with professionalization. Thus, the key policy problem is not whether police unions should play a role in professionalizing the police, but rather the problem of how a professionalization process can be structured to build in a role for police unions.

Up to this point we have focused on the police unions' stake in professionalization, and we may have unintentionally furthered what Kelling and Kleismet (1971) discussed as one of the myths regarding police organizations—that they are so powerful they can block any efforts at changing department policies. Juris and Feuille (1973, pp. 146-147) also argue that such a view clearly overstates the power of police unions. They concluded that a more realistic appraisal of the impact of police unions in resisting changes would be somewhere between “hysteria” and “whitewash.” In other words, unions have been successful in resisting some, but not all, efforts at policy changes suggested by management in the name of greater professionalization.

As Kelling and Kleismet suggest, a more realistic view of the situation is to view police organizations as simply one interest group that has a stake (albeit a major one) in these issues. This view is also consistent with previous research that views public sector employment relationships as multilateral in nature, i.e., characterized by the interplay of multiple and diverse interests, all of which are infused into the decision-making processes over conditions of employment (McClennan and Moskow, 1968; Kochan, 1971; Juris and Feuille, 1973).

The need to structure a change process that involves all of these interests is even more important when a long-run policy issue of importance to multiple interest groups (e.g., professionalization) is involved. Given this need, the remainder of our discussion will attempt to suggest a change process that is responsive to both the basic union concerns discussed previously and the objective of professionalization.

#### STRATEGIES FOR CHANGE\*

To be successful, we would suggest that any joint union and management change program at the work place level must meet the following basic preconditions:

- (1) The union must be accepted as a legitimate interest group that has a stake in representing the interests of its constituency and in protecting its organizational security;
- (2) The roles played by the union and management representatives in the change process must be differentiated, so that the union rank-and-file do not perceive the leadership as being co-opted into serving as an arm of management or as simply another control mechanism to contend with;
- (3) The union must be perceived by the rank-and-file as playing an instrumental role in achieving the goals of the change program, so that membership attachment to the union is not undermined;
- (4) The change effort must be structured as a supplement to the basic collective bargaining process, and must not be perceived by the rank-and-file as a replacement for collective bargaining;
- (5) Most importantly, the substance of the changes implemented must provide outcomes that are positively valued by all the parties involved, so as to maintain the commitment of all participants in the program.

These are basic preconditions for the success of joint programs that attempt to introduce greater professionalization within police departments. Each precondition will be explained in detail, in an effort to suggest some implications for those interested in initiating this type of experiment.

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\*For a more thorough discussion of union-management change strategies see Lee Dyer and Thomas A. Kochan, “Labor Unions and Organizational Change: A New Frontier for LD?” A paper to be presented at the Annual Meetings of the Academy of Management, Seattle, Washington, August 20, 1974.

First, it was suggested that the union must be viewed as having a legitimate interest in participating in and influencing the substance of the change effort. This implies that police management officials must adopt a posture that does not view any union involvement outside of the area strictly delineated in the collective bargaining agreement as an encroachment on their management prerogatives. A hard-line management rights philosophy is simply incompatible with the goal of moving toward greater professionalization of police officers in a unionized relationship.

Previous research has shown that department heads in city governments—police chiefs in this case—are quite likely to take such a hard line *vis a vis* union participation in decision-making (Kochan, 1973). Thus some external pressures may be required from other executive or legislative officials within the city, in order to get chiefs to move off this position. This tactic suggests that representatives of the executive and legislative branches of city government will have to be built in as key participants in any change process. The involvement of these representatives is consistent with the idea that changes in police department policies involve important political issues, and that various power-holding bodies within the city government must be represented within the process if any of the changes are to be accepted.

It was also suggested previously in this paper that police union representatives should be expected to act as partisans for their constituents in the change processes. By defining the union role as representing the union members' particular interests in the process, the political risks to union leaders that are inherent in such a program are minimized.

In addition, some of the interests of union members may not be entirely consistent with the interests of other groups participating in the discussions. Thus the change processes will experience a certain degree of conflict. It is imperative that these conflicts be allowed to surface openly and be resolved in a manner that insures continued commitment to the change process. Failure to do so risks the loss of support by some interest group that may hold sufficient power to block acceptance of the changes, either by the officers or by various key community groups.

In earlier sections of this paper it was stressed that unions often perceive any efforts by management or other groups to change some condition of employment outside the collective bargaining process as an overt threat to that process, and to the institutional security of the union. Thus, it is important that any change program be structured from the start as a supplement to the collective bargaining process. Such structuring will prevent the change program from being perceived as a substitute or a way of avoiding the obligation to deal with the union on key bargaining issues.

This structuring process has often been effected in private sector situations by including a clause in the bargaining agreement that establishes the mandate of the joint program. If necessary, this type of clause can also limit the scope of the joint program by specifying certain issues that the parties agree *not* to discuss. This tactic helps to protect key provisions of the existing bargaining agreement that one or both of the parties wish to safeguard.

In general, the more clearly and narrowly the mandate of the joint program is defined, and the more the jurisdictional overlaps between the bargaining process and the joint program are minimized, the more likely such a program is to succeed. As the change program progresses through time, provisions must be made for minimizing the jurisdictional problems that develop between the joint program and the formal negotiation or grievance process. Ultimately, the parties must find a means for integrating the changes that have been implemented with the provisions found in the bargaining agreement. This is a potential problem area that the parties should be aware of from the start. The two sides can then attempt to take steps to minimize any jurisdictional conflicts.

Ultimately, the test of success for any joint program is that the outcome of any changes implemented is positively valued by *all* the parties. Union leaders and their rank-and-file constituents will take a highly instrumental view toward involvement in this type of endeavor. Unless the program provides a means to attain goals they value, and unless the program involves them in an important way and at minimum political risk, they are not likely to give long-run support to that program. Therefore, it is not enough to simply speak in general terms about the value of greater professionalization. To maintain the commitment of the rank-and-file and their representatives, tangible valued outcomes must result from moving in this direction.

#### SUMMARY

In this paper we have defined the term professional and its application to the role of the police officer. It was concluded that the police officer role presently does not conform to the definition but that there are some emerging pressures to move toward greater professionalization. A major part of our effort addressed the issue of the role of police unions in fostering or deterring this move. Rather than simply applauding or berating their behavior to date, an effort was made to develop an understanding of why unions take certain positions on these issues. Once the issues central to such an understanding were established, a number of suggestions were made for developing a joint change program that is responsive to the obstacles to greater involvement by police unions in the professionalization process.

One question that has not received much attention in this paper concerns the implications of greater or less union support for moving toward professionalization as a means of improving the quality of law enforcement. This is fundamentally

an empirical question which, like many of the other issues raised in this rather speculative paper, should be addressed in systematic research. Such research could be carried out if police unions and management begin to experiment with some of the ideas suggested here. We hope that we have stimulated some interest in thinking through the issues and experimenting with the fruit of these thoughts.

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## PRODUCTIVITY BARGAINING AND THE POLICE

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It is a measure of the still recent change in the American perception of the obligation of governments—and or law enforcement agencies in particular—that the words “police” and “productivity” are now occasionally found in the same sentence. For “police productivity” implies that it is possible to define at least some of the objectives of police work, that some measures of performance can be made and that there are real trade-offs between priorities that can and should be made explicit as an aid to sensible decisions. Nothing could be more foreign to our traditional patterns of thought where military and para-military agencies are concerned.

During most of this century, simply categorizing an activity as necessary to “security” or its domestic cognate “safety” effectively forestalled serious debate about the value received for the tax dollar invested. It is no accident, for example, that there are fifty appropriation categories to authorize some \$78 billion in defense spending, while there are 100 categories to authorize only \$14.5 billion in the Department of Health, Education, and Welfare.

The same relationship usually appears in state and local governments between police appropriations and those for social services. That relationship reflects the belief that security matters are of a different order or urgency than other governmental activity, that such matters require judgments which can be made only by career professionals, that the constraints on government resources—so critical to the scale and content of other programs—should not be permitted to exert a major influence upon security matters. Attempts to rationalize the allocation and improve the productivity of public investments in security have, therefore, met with even more resistance than such efforts in other program areas.

The outward form of this resistance is typically the charge of “interference” by “political” authorities in the “internal” affairs of the military on the one hand or the police on the other. The charge, of course, is founded upon the presumed public consensus that any management of security agencies by elected authorities is illegitimate, that the security forces are essentially outside the political process and that their inner workings are at the same time so efficient and so technically arcane that there is neither need nor external capacity to examine them.

With respect to national defense, these presumptions began to be seriously eroded in the 1960's. The application of systems analysis and other techniques in the Defense Department, largely by civilians at first, has made substantial and probably irreversible changes in the character, style, analytic basis and public visibility of national security decisions. Whatever their partisan identification, citizens have come to expect a much fuller, more cost-conscious and tightly-reasoned explication of defense policies and investments than has ever before been required of the military. The magic quality of the label “security,” though still potent in some quarters, is significantly reduced.

For the most part, however, this change in attitude has only recently begun to affect local security forces. In large part the lag reflects the simple and for most purposes highly desirable fact that police forces *are* local, and therefore not easily subject to basic change through national action. But there are other important differences.

First, local security involves a different psychology—and therefore a different politics—than national security. Particularly in crime-ridden urban areas, citizens consider the police the vital guardians of their immediate physical well-being (a role which, it could be argued, the military more nearly shared at the height of Cold War tensions). Thus citizens are on the one hand more suspicious of system-wide examination and reform of police deployment and methodology, and on the other hand more willing to tolerate or even participate in narrowly conceived or even illicit means to distort the overall system so as to better serve their perceived special interests. (Considered on a national scale, it might be said that most middle-class citizens tend to behave toward police policy the way residents of an area surrounding a major military base behave with respect to Defense Department policy on physical facilities.)

Moreover, the fragmentation of police forces means that many are unable to afford the overhead investment in new analytic talent and/or the training of existing staff necessary to rationalize operations; in small departments it is often difficult to argue that the benefits will exceed these costs.

Finally, the intense pressure of urban politics in a period of rapid change is combined with the cumulative effect of decades of unsystematic, privileged operations and the unreasoning fear rampant in many urban areas. That combination provides a formidable basis for concern that the short-term political interests of present and would-be local officials could lead to even worse distortions of police priorities if those officials were given more effective control over the police.

In major urban areas, however, it seems clear that these obstacles to systematic examination are receding. As with the military, we seem to be approaching a common understanding that (1) elected officials (or lay appointees responsible to elected officials) must, if they are to fulfill their mandates, concern themselves with police management; (2) these officials or

appointees have a legitimate, technically defensible role therein; (3) to keep the police “apolitical” is usually to make them even more receptive to pressure from special interests; and (4) police internal operations—which now cost Americans seven billion dollars per year—sorely need the same concentrated analysis and productivity improvement required by all other government operations.

This is not to say that sensitivity to frivolous or narrowly self-serving influence by elected officials upon police should be reduced. A limited presumption against detailed administrative control from governors’ offices, city halls, city managers’ offices or budget bureaus is amply justified on both professional and experiential grounds. But the days of total separation of elected authorities from police administration in large urban areas (a separation maintained by such devices as separate and non-coterminous terms of office for mayors and police commissioners) seem clearly numbered.

Even where such terms persist, as in New York and Atlanta, they are increasingly ignored as a practical matter, giving way to widespread public support for the right of elected executives to appoint police commanders acceptable to them. This trend has not extended to support for appointment of inexperienced or unqualified commissioners; it has simply meant that elected officials charged with maintaining public safety have increasingly been conceded the right to make their own choices among persons generally considered qualified.

One of the fringe benefits of this trend is a healthy convergence of image and reality. In most areas there neither can nor has been a genuine divorce between elected and police leadership; the day-to-day operation of urban government is far too dependent upon the use of police powers and resources. Police commissioners or chiefs who regard themselves as totally independent are usually given a rude and early awakening. If credibility with the public and/or their command requires chiefs to nourish the pretense of total disconnection from elected authority, the effects are likely to run the gamut of harmfulness, ranging from distorted policy to a misinformed and therefore helpless electorate.

In the current wave of concern about crime, police executives have ample political standing in their own right to counter any illegitimate in-roads on their administrative discretion. No useful purpose is served by fostering an image of total separation from the officials chosen by the people to look after their overall interests.

Having begun to overcome the barriers presented by the mythology of total independence, the movement for greater police effectiveness encounters a problem with no analogy in national defense: the fact that most urban police are organized into unions and that their wages, hours and working conditions—including many vital work rules—are fixed through collective bargaining. Formal collective bargaining agreements now affect 73 percent of all police personnel in the nation, including most of our large urban areas. Even in such states as Texas, where overt bargaining and the signing of contracts are prohibited by law, police “associations” have been formed and conversations with management precede budget decisions in a manner that closely resembles bargaining.

It seems safe to predict that most of the large jurisdictions that have not yet adopted the collective bargaining approach will do so, either *de jure* or *de facto*, within the next five years. This transition will have the single most significant impact upon the capacity of their police departments to increase productivity. After a brief discussion of the nature of productivity and its improvement, this paper will focus upon the special opportunities and problems that this era of collective bargaining is likely to bring with it.

#### WHAT IS PRODUCTIVITY?

Many otherwise promising efforts to improve governmental effectiveness bog down in an overly pedantic effort to achieve a precise definition of productivity. Because assessment necessarily incorporates subjective judgments, unanimity on the exact benefit of a particular change is impossible. In the abstract, however, it should be possible to assert that productivity is the ratio of quantity and/or quality of value received for each unit of resources invested. Productivity improvement, therefore, is an increase in that ratio.

This definition does not deny that qualitative improvement is in the eye of the beholder. Neither does it ignore the value of the job enrichment or employee upgrading to the extent that these investments are eventually reflected in a better quality of service. The definition simply addresses itself to the final equation of service returned per dollar invested, with no illusion that every term can be reduced to an objective, quantitative form, but with equal certainty that in most systems the limits of quantifiability have yet to be approached.

#### THE LIMITS OF QUANTITATIVE ANALYSIS

In the writer’s view, the first approximation of wisdom with respect to police productivity is to understand the grave dangers associated with a naive, simplistic assumption that all of the relevant variables are simple and quantifiable. We must start with the recognition that urban police officers are in many ways walking magistrates. They are sworn to enforce an awe-inspiring panoply of laws, but as a society we attach very different values to each law—values which are not, for the most part, expressed in the relevant statutes. Put more simply, police officers must recognize that there is a cost/benefit calculation

we expect them to make when deciding to enforce the great majority of our laws. In a typhoid epidemic, for example, we expect them to be very strict about the law forbidding spitting in public places. On the other hand, on a hot summer day in Harlem with no such epidemic, we find it absurd that a white police officer finds it necessary to arrest a black citizen for spitting on the sidewalk. The results of such an arrest could, for reasons totally apart from the particular act in question, have repercussions out of all proportion to the scale of the offense.

We expect police to be aware of these risks. Though we seldom admit it, we expect them to enforce most of our laws selectively; to vary their severity with such ephemera as the level of social tension and the likelihood of the present offense leading to more serious ones; to allocate their time according to shifting and often unstated priorities and to generally regulate the engagement of the criminal justice system according to a calculus heavily dependent upon such intangibles as common sense.

It is foolish and dangerous to maintain that there is a quantitative indicator or set of such indicators which, taken together, provide a reliable total measure of the degree to which a particular police officer or an entire force is succeeding in the performance of all these subtle functions. In the bluntest terms, we can often agree on what satisfactory policing is in a precise set of circumstances. But we cannot yet—and we may never be able to—define satisfactory policing in sufficiently general and timeless terms, to permit evolution of quantitative standards and generation of corresponding data that constitute an adequate measure of the real total output of an individual, a unit or an entire force.

Recognition of this limitation is critical. Without it, the best of intentions can produce disastrous incentives. Consider for example, the results if, as is sometimes suggested, the arrest rate were the the accepted measure of performance on that hot day in Harlem. Suppose this standard had been linked to the collective bargaining system so that the white police officer's salary—past, present, or future—were related to the number of arrests made per day. All of that officer's experience, sensitivity to priorities and common sense could be negated by the unsubtle and economically reinforced imperative to make as many arrests as possible. It is hard to imagine a more destructive and self-defeating system.

In the present state of the art, the proper attitude of the designer of police productivity programs is humility. Arrogance or overconfidence in these matters can exact a tragic social cost.

#### CATEGORIES OF IMPROVEMENT

The absence of complete measures of output does not eliminate the possibility of effective productivity improvement. Indeed police systems are, by and large, so irrational that it usually takes years of effort simply to reach the point where the weakness of output measures is a constraint. It is not the purpose of this paper to discuss any particular program or project in detail. However, an understanding of the principal kinds of action is essential to comprehension of the challenge to collective bargaining.

(1) *Analytic Capacity.* The first prerequisite for effective work on productivity is the development of data on workload and current operations. Yet few police departments collect even the most critical information in a systematic way, and even fewer have the trained personnel to use it, for example, to design sophisticated, computer-aided scheduling systems. Most departments are not yet in the habit of recruiting management analysts and there are few incentives or training arrangements in most systems to upgrade existing personnel. All of the substantive categories of productivity improvement depend upon a reasonable threshold of basic analytic capacity—a threshold most departments have yet to reach.

(2) *Deployment.* Deployment work does not address the question of the productivity of the individual officer; it simply tries to maximize the probability that the officer will be at the place where the problem occurs when it occurs. Three principal kinds of effort are involved: those efforts designed to adjust the profile of the available force to the probable profile of the workload during any given time period; those efforts designed to change work rules and procedures to reduce the time consumed by elements of the workload (e.g. waiting before court appearances) which do not contribute to anybody's definition of acceptable output; and those efforts designed to develop and use new techniques to address priority problems (e.g. street crime). These programs range from simple changes in organization and scheduling procedure to the most advanced forms of mathematical modeling and probability analysis. Taken alone, they probably make up the most promising single category of effort.

(3) *Personnel Reform.* Police are almost invariably organized in corps-type personnel systems. Rank is primarily in officer, not in job; lateral entry or transfer to other systems is rare. Specialization in analytic or other support skills is discouraged; advancement is largely determined by a written examination and/or other factors largely insensitive to a rigorous review of job performance.

Educational requirements for entry are usually low in relation to the complexity of the professional judgments expected, training opportunities are limited (though generally greater than in other agencies of local government) and discipline is internal to the department and often more animated by concern for obedience than for justice or sensitive performance.

Racial and ethnic prejudice and discrimination against the entry of non-whites are still rife. Salaries, while rising rapidly in recent years, are still modest for the responsibility assumed. Dismissal is next to impossible in most ranks except for personal excesses or corruption. Bureaucracy and the bureaucratic attitude are carried to implausible extremes. Cynicism is widely shared, admired and expected; and the entire system is shielded from public view by a closely guarded and nearly impenetrable layer of official secrecy.

With the exception of racial prejudice and discrimination, it is impossible to produce deductive proof that any of these conditions have a specific, measurable effect on the quantity or quality of output. Similarly, it is impossible to measure with precision the advantages (e.g. career professionalism, military discipline, etc.) conferred by the current system. Even without precise measures, however, the weight of the evidence suggests that many of the most generally perceived flaws in police performance trace to these and other failings of the personnel system. Thus the wide variety of corrective programs aimed at them.

(4) *Civilianization*. Like most corps-type systems, police forces generally reflect the notion that a trained police officer is necessary to perform every function, from leadership to clerical. Many of the largest productivity efforts are aimed at reducing the number of police hours spent on tasks that can be accomplished by civilians (usually much lower-paid) in order to maximize the hours available for professional policing. Police resistance to these efforts is not wholly grounded in pride of profession; much of it reflects a conscious effort to retain as many tasks as possible that avoid the stress and risk of street service.

(5) *Technological Improvement*. Much police equipment, particularly communications and dispatch systems and weaponry, is clearly not the quality or level of innovation consistent with a technological economy that can take people to the moon (although here again police technology tends to be of a markedly higher order than that available in other areas of state and local government). The computer is increasingly used, but has yet to approach the theoretical limits of its usefulness in any department. Technological advances usually pay off in reasonably measurable productivity efforts (e.g. reduced response times). Opportunities for improvement abound, starting with development of a common nationwide research agenda for major hardware.

(6) *Modernization of Physical Facilities*. Like the rest of the urban physical plant, police facilities suffered severe neglect during the thirty years ending in the mid-1960's, when cities invested very little in construction or renewal of capital assets. Here again it is difficult to make a direct link between investment and return—except for the effect of the new communications equipment usually associated with a new or renovated building (though it is often possible to achieve measurable economies of scale by combining police and fire facilities that would otherwise be built separately). However, the visible effect on morale, both in the police and the communities they serve, seems likely to improve the quality of service.

(7) *Use of Auxiliaries*. Many urban forces supplement their strength by recruiting, training and dispatching uniformed volunteers who perform many of the duties of regular officers that are not likely to require the use of weapons. The usefulness of these units depends on the degree to which they free the regular force from routine duties for assignment to higher priority activity, and the value the community assigns to the street presence of uniformed personnel as a deterrent to crime.

The difficulties of measurement in this field are exemplified by the problem of determining the extent of mechanics of deterrence. Success is represented by a non-event, the non-commission of a crime. Measuring a negative is as difficult as proving one. Use of crime rate statistics as measures is risky because other variables may be more controlling. Moreover, deterrence may actually be accomplished indirectly, e.g. by the increased number of people who venture onto the street during high-crime hours because of their perception that the presence of uniformed auxiliaries will deter criminals. The more manageable indicator is the amount of regular officer time that is freed.

#### PRODUCTIVITY AND COLLECTIVE BARGAINING

The existence of bargaining—whether overt or disguised—affects the limits of choice in all of these categories of improvement. But it affects them quite differently in different jurisdictions. The fundamental and universal effects of bargaining are:

- (1) to formalize the process of managerial change in police forces (even for those changes that are not formally bargainable but where common sense requires notification of the union leadership);
- (2) to make the entire process of change much more explicit and probably more public;
- (3) to enlarge greatly the role of the courts and the likelihood of recourse to legal and quasi-legal process;
- (4) to provide a natural channel (the union) and natural spokespersons (the union leaders) for formulating and transmitting the reaction of the rank-and-file to proposed or adopted changes;

- (5) to confirm the virtual irreversibility of policies and practices regarded by the rank-and-file as benefits or protections;
- (6) to create a new political force (the union leadership) in local affairs;
- (7) to create a possible vehicle (the union) for training, motivation and other upgrading of personnel;
- (8) to introduce new factors—intra- and inter-union relations and parity arrangements—into the politics and economics of urban government; and
- (9) to create a more unified and organized style and rhythm to management-employee relations.

These basics are nearly universal. Beyond them, however, there is great diversity in the effect of bargaining on managerial change. The major variables seem to be as follows:

(1) *What is bargainable?* The bargainability of an issue is a function of four factors: the relevant state or local collective bargaining law, the phrasing of the “managerial prerogative” (the section of the contract that reserves to management some or all rights of managerial change), past practices and the capacity of the union to obstruct changes whether or not such obstruction is consistent with law or contract.

All four factors vary enormously from area to area. From the management standpoint, the ideal is usually the strongest and broadest possible managerial prerogative. Even if the fourth factor still forces bargaining, it can be, as in New York City, aimed at securing the *cooperation* of the union in steps that can still be taken unilaterally should bargaining fail. (Note that in this situation the managerial changes themselves are not formally on the bargaining table at all, although talks proceed as though they were.) The bargainable issue is whether the union will cooperate in a step that management is legally authorized to take regardless of the union’s posture. Most union leaders, on the other hand, feel that it best serves their interests to have every possible issue declared bargainable.

(2) *What is the historic temperature and style of employer-employee relations?* The effect of bargaining is greatly influenced by the general context of labor relations—whether the tradition is basically one of cooperation (as, for example, in Eugene, Oregon) or one of adversary relations (as in most older northeastern cities). Steps can be taken in cooperative systems (e.g. use of one-person patrol cars) that would cause immediate strikes in adversary systems. However, in difficult economic times, there is an inexorable change in the movement from cooperative traditions to adversary ones.

(3) *What are the politics of management?* Many real-world limits are defined by the degree to which a workable level of political support for management depends upon the support of the police union and/or the public employee union movement in general. But this is not a simple equation; management elected with union support can often get agreement in steps which no avowedly “anti-union” leadership could bring off. There are no general rules in this area; judgment must be based on the particular issues and personalities involved, and the capacity for change through individual leadership is very great indeed.

(4) *What are the politics of the union?* Most established police unions are now at least as torn by factional and generational hostility as the jurisdictions they serve. Union leaders face a brutally difficult political problem, born principally of rapid evolution in the younger officers’ perception of their obligations to the public interest. Leadership turnover is often rapid and tenure uncertain. No matter how militant their own election platforms, most leaders confront even more militant factional leaders campaigning hard for their jobs.

The essence of militancy is excoriation of management, coupled with a campaign pledge of total opposition to the latter’s dark designs. Whatever the leaders’ personal views on the substance of the issues, therefore, it is frequently impossible to make their positive stance on a productivity measure consistent with a solid future in office. At best this creates a need for elaborate, even devious scenarios to make it appear that the measure is being forced upon them. At worst the pressure can lead union leadership to outright and automatic opposition to all such changes.

Union leaders must recognize that much of their capacity to lead and further the interests of their constituents rests upon the skill with which they handle their political position in the city at large. The ability of bargaining adversaries to resist the leaders’ demands is primarily a function of public opinion. If opinion leaders are totally out of sympathy with union positions, the union leaders are in serious trouble. This broader political concern tends to move union heads in precisely the opposite directions from those dictated by intra-union politics.

(5) *Who are the bargainers?* Very different results are achieved for management with central bargaining as against bargaining by commissioners or chiefs. In general, central bargainers run fewer risks of creating the operational disruptions caused by “getting tough” with the union, and they are in a better position to calculate the system-wide effects of concessions. Such bargainers can also devote more time and attention to the total bargaining process. On the other hand, the productivity changes negotiated must originate with the substantive experts in the department, and any modification of those

productivity changes must be carefully reviewed with these operational personnel. On the union side, most purposes seem best served by a relatively small negotiating team with a fairly general mandate from the membership.

(6) *How many relevant independent bargainers are present?* Next to past practice in one's own jurisdiction, the most influential factor in any bargaining situation is the practice of one's neighbors. Such neighbors may include either sister police forces in nearby or comparable areas, or other large local unions. The latter often achieve benefits that whet the police union's appetite regardless of the comparability of operations.

In general, the path to productivity bargaining is much easier if area unions other than those for police are also involved. In most systems it is probably impossible to carry on productivity bargaining with respect to the police union alone. Thus effective work on police productivity in a bargained system almost invariably requires that the police program be part of a comprehensive effort in all major agencies of government.

(7) *How is the force organized?* The capacity of management and the public to withstand the rigors of productivity bargaining is heavily dependent on whether the union represents both rank-and-file and superior officers. If so, the threat of strike takes on a wholly different character. A few years ago New York City survived a week-long wildcat strike of 26,000 patrol officers (on non-productivity issues) without noticeable damage. The city survived primarily because twelve-hour duty tours for sergeants and superior officers sufficed to keep a reasonable force on the street. What would happen under similar circumstances in a city such as Detroit, where all officers are members of the same union, is harder to predict and thus a greater risk for management.

(8) *What is the mechanism for ultimate settlement of disputes?* The stakes at issue in productivity bargaining depend greatly on the type of arbitration provided by local law and practice. The principal types are compulsory arbitration (*de jure* or *de facto*); "final offer" arbitration (in which the arbitrator cannot fashion a solution but must accept the final offer of one of the parties); or no finality procedure, which increasingly means brinkmanship that too often ends in actual strike.

In general, a definite and effective mechanism of resolution tends to brighten the prospect for productivity bargaining. Few if any arbitrators can ignore the strength of management's case for productivity improvements as fair exchange for salary increases, and credible settlement mechanism brings the talks out from under the shadow of strike. On the union side, it is often easier to accept productivity measures imposed by an impartial authority than in direct negotiations. As in other matters on the table, arbitration will compromise the productivity issue to some degree, but in the current absence of *any* improvement in most jurisdictions, half a loaf is considerably better than none.

This by no means exhausts the variables that condition the effect of bargaining on productivity improvement, but it suggests a few of the most generally applicable variables. Perhaps the most discernible cumulative effect on both parties is to force them to careful concentration on both strategy and tactics. In short, productivity bargaining puts a high premium on doing one's homework.

#### MANAGEMENT PREPARATION FOR PRODUCTIVITY BARGAINING

The most important principle for management to establish at the outset is that the public expects to get something in return for any pay increase to public employees. In many places this is still a revolutionary thought. But in a period of growing tax squeeze, there is no other justification for any increase beyond that necessary to maintain real purchasing power. This principle signals the end of the traditional, unstructured "annual improvement" or "longevity increment" still provided by many jurisdictions. Henceforth any pay increases other than those needed to offset inflation must be based upon union cooperation in specific measures to increase the quantity or quality of output received per marginal dollar invested.

This policy can be carried out in a number of ways, tailored to the peculiar conditions of the area. Broadly, however, the process includes:

(1) *Establishment of a top-level coordinating body to provide central direction and information to the agencies and individuals conducting and/or material to the negotiation.* Generally, this should be an in-house committee chaired by the chief executive or his/her designate, and should include the officers responsible for budget, personnel, legal counsel and collective bargaining. For police negotiations, the committee should be expanded to include the police leadership or other agency heads when their employees are involved. This committee should be the source of police guidance to the negotiators and the point of assignment for staff analyses or other work relevant to the talks.

(2) *Careful analysis of the most advantageous placement of bargaining responsibility.* The jurisdiction concerned should look at the merits of a central labor office as opposed to placing the bargaining function in the Personnel Department, the Budget Bureau or in another existing agency. There is much experience to review in this matter; the stakes are too high for hasty decision. There is also a need for explicit ground rules governing the role of the operating agency head vis-a-vis the central negotiator and the union.

(3) *Examination of the division of labor and responsibility for staff work supporting the negotiators—who develops cost data, comparative data on neighboring jurisdictions and the like.* For some particularly complex negotiations, it is useful to consider an on-line computer capability to translate any possible package into short- and long-term costs. (Many expensive settlements in police negotiations result from inability to calculate quickly the effects of complex changes in work rules, pension rights, welfare and annuity funds and other fringe benefits.)

(4) *Careful framing of the “managerial prerogative” clause, and institution of a legally sound position whereby union cooperation in productivity improvement is bargained for without giving up management’s rights to take unilateral action should bargaining fail.*

(5) *A fully-defined process beginning many months before the start of negotiations to develop measures to cut costs, change work rules, alter deployment patterns and make other changes to offset the cost increases to be caused by the pay increases negotiated.* This task must largely be performed in the police department, with the support of central budget analysts and such other relevant staff as may be available.

(6) *Development of constructive responses to likely union counter-demands for programs of job enrichment, staff training, guaranteed promotion opportunities and the like.*

#### THE UNION REACTION

New York City is the only major, highly unionized area in which police negotiations have been carried through to a contract (actually two successive contracts) in the light of management insistence that no contract would be signed without union agreement to cooperate in productivity improvement measures. The first such process took more than eighteen months to negotiate and resulted in a number of significant steps. It included the following clause:

The union recognizes the city’s right under the New York Collective Bargaining Law to establish and/or revise performance standards or norms notwithstanding the existence of prior performance levels, norms or standards. Such standards, developed by usual work measurement procedures, may be used to determine acceptable performance levels, prepare work schedules and to measure the performance of each employee or group of employees . . . . The union may . . . assert to the City and/or the Board of Collective Bargaining during the term of this agreement that the City’s decisions on the foregoing matters have a practical impact on employees (within the meaning of a previous Board of Collective Bargaining decision). The City will give the Union prior notice of the establishment and/or revision of performance or norms hereunder.

Employees who work at less than acceptable levels of performance may be subject to disciplinary measures in accordance with applicable law.

In the New York case and most others, the union’s bargaining position was greatly affected by the initial stand of the union leadership when the management commitment was first announced. There were three major options: the union leaders could denounce the management demands as a sham and an insult; they could congratulate management on the belated discovery of one of its major functions and pledge full but wary cooperation; or they could bide their time and gauge public reaction to the postures adopted by their union colleagues (assuming that the productivity drive also embraced agencies other than police).

In every case known to the writer, the first option has been an unrelieved disaster for the leaders who adopted it. Public employee labor negotiations are necessarily main line politics in most urban areas, and present-day politics do not deal kindly with those who declare against the principle of productivity.

Nor do the courts; I am unaware of any successful legal challenge of the right of management to make productivity demands, despite the absence of specific authorization for such demands (or any other management demands) in most state statutes governing collective bargaining. Thus outright opposition to the introduction of productivity to bargaining simply won’t work. And failure to take a viable stance eventually undermines the union leaders with their members, who find themselves the objects of even greater taxpayer resentment.

However, only a venturesome union leader will take a straightforwardly positive stance. The few examples that have surfaced thus far have largely come from unions other than police. (Perhaps the best example is the position of the powerful head of the New York City Sanitation Workers, John DeLury.) In part the police attitude reflects caution, but it also reflects technical difficulty in arriving at reasonable measures of police productivity—a difficulty that is substantially greater than in other uniformed services. Finally, the police attitude reflects the fear that, in subscribing to the productivity principle, leaders may commit themselves to a subsequent list of specifics with which they cannot live.

In general, therefore, police union leaders have adopted the initial stance taken by the New York leadership in 1970 when the productivity commitment was first announced by management. Today’s police union leaders are relatively quiet on

the principle, avoiding incendiary denunciations. These leaders are prepared to negotiate specifics as long as they are persuaded that acceptable settlements will result, and that they, as leaders, will not be forced to agree to measures spelling certain defeat at the next union election (e.g. one-person patrol cars in New York). For the most part, the leaders are still in this watchful posture, waiting to see whether the productivity fervor endures, whether their members will support a positive attitude and whether management can devise real and workable productivity programs that the leaders, as professionals, can support.

#### PROSPECTS FOR THE FUTURE

There is much reason for caution in predicting the fate of the productivity effort in police. After all, O. W. Wilson's original hazard scale, the first notable effort at systematic criteria for police deployment, was fashioned in a period of less intense but similar concern—a period long since passed. However, it is this writer's feeling that the factors underlying the current preoccupation with productivity—rising tax rates, fear of crime and diminishing reverence for the inviolate specialty of security judgments—will continue along present lines for some time. Thus, the political demand and the base for productivity improvements will, I think, be with us for the foreseeable future.

How well we, as a society, make use of this consensus will largely depend upon two factors. On the management side, the stakes ride on the degree to which we invest in the analytic capacity necessary to monitor and improve the efficiency of our police service. We will then have to suffer the inevitable slings and arrows involved in installing the measures and carrying out the improvements they help to identify.

On the union side, the critical need is to evolve affirmative positions on productivity that are acceptable to a volatile and often disgruntled membership. The secret to this strategy probably lies in "counter-programs" that emphasize job enrichment, training rights, enlarged promotion opportunities and greater flexibility to move between titles.

Success on both sides will require leadership of a very high order. Because of the urgency of productivity in the public mind and the technical difficulty of developing valid measures, police will certainly be in the forefront of the productivity struggle.

## KEY ISSUES IN POLICE UNIONISM

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### NATIONAL POLICE UNIONISM

Periodically, some widely known person will call a Washington press conference and announce that the time is "right and ripe" for a national police union. An effort is made to seek support and membership from among the various police associations throughout the nation. The claim is that militancy among police officers is at its peak, and the cry is: "Let's get together, the time is now."

In spite of this rhetoric, the movement toward police unionism is not currently at its zenith, nor is a national police union imminent. What has been interpreted by some as the impetus for national police unionism is largely a response to the fact that police associations or unions have become big business—not only for police but also for such support services as publications, insurance, investment advisors and attorneys. However, several significant logistical, psychological and emotional hurdles must be overcome before national police unionism can be said to have a potential for success.

In my candid opinion, the clarion call is being heard but not heeded by any means, at least not yet. There are many who would lead the way toward total police unionism but far fewer who want to follow. There is no single individual who has openly come forth with the ability, acceptability and platform to rally all or most police organizations for merger into a national police union. Moreover, although police officers in California may respond emotionally to attacks upon officers in Ohio, they do not now have the desire to cast their lot with the other officers where the determination of wages, hours and working conditions is concerned. There are significant regional, social and even ethnic characteristics that differentiate police officers even though they are employed in the same occupation.

It might well be that the formation of a national police union at this time is premature. Police officers must first become fully union-oriented. The fact that many police officers still do not have a strong union orientation and have not demanded the establishment of a national union is probably the greatest impediment to success. Instead, these officers have clung to the antiquated belief that unionism is incompatible with police professionalism.

Also inherent in police distrust of unionism is fear of adverse public opinion and of diluting the local administrator's authority. Additionally, police have often patrolled the cutting edge of labor-management conflict in the private sector and have developed an abhorrence for unions as "radical" manifestations of dissident elements in society.

Even where local police associations or unions exist, many of the leaders are reluctant to give up the guise of non-controversial organizations, such as the Sergeants Benevolent Association or the Fraternal Order of Police and identify themselves with a national police union. Only when these obstacles have been overcome will police officers thoughtfully consider the merits and advantages to be gained from a national merger.

The seed of national police unionism has been nurtured and grown despite the forces working against it. In recent years, police have begun to recognize the advantages of banding together to achieve economic improvements and to resolve other job-related problems. The previous emphasis on fraternal associations is giving way to organizations primarily concerned with wages, hours and working conditions.

This transformation from association to union has been facilitated by the widespread availability of instantaneous mass communication. Benefits achieved by one police group are readily made known to and sought by other police groups similarly situated. An extensive, informal system of communication exists among various police organizations and has been used to improve the standing of police. These channels of communication can provide the framework for a national police union.

What are the other factors providing the impetus for a national police union? Obviously, a cohesive, national police union could potentially wield substantial economic and political power, and the collective goodwill generated by such a union could also do a great deal for the individual police officer. Some examples of services provided by my union, the Sergeants Benevolent Association (SBA) are maintenance of medical benefits for members who are suspended without pay; the opportunity to share similar problems and concerns and seek assistance in resolving these matters; and legal counsel for suspended members. The services of a national police union would presumably be similar to those of SBA, but multiplied many times.

Another consideration is that police, by reason of their unique occupation, are restricted in their conduct as public employees. Collective bargaining rights are still limited or non-existent in several jurisdictions. The right to strike is prohibited, in many instances police are not afforded any alternative dispute settlement procedures. Police officers may not

engage in political activity except under certain circumstances. There are restrictions on personal liberty such as the manner of dress, haircut or lack thereof, the right to wear a mustache, moonlighting work, indebtedness, residence and even associates.

Moreover, the legislative impact of police organizations could be greatly strengthened through the collective muscle of a national union, to be exercised either on a national or local level. A national union would also have the resources to provide support services for the specialized needs of local affiliates, such as assistance at the bargaining table, research, legal advice and financial aid. A national police union could provide all police with an opportunity to advance an unpopular position or cause with which a local union might pragmatically be unable to identify itself with.

The similarity of police interests preordains the coming of the national police union now in its prenatal stages. Unfortunately, the strains of childbearing are already evident and many diverse interests are now competing and coveting the role of midwife (e.g. Teamsters, S.E.I.U. and others).

In summary, it can be said that while the police association leaders of the major cities recognize the awesome power that could be obtained through a national body properly led, a fear of assimilation with loss of identity still exists in the minds of many of these leaders. Until the day comes when police officers readily identify themselves as part of labor, only local and statewide groups will suffice and prosper.

#### POLICE STRIKES

For several years I have been lecturing to police administrators and local government officials involved in police labor relations. One of their major concerns has been the police strike and how to deal with it. Police strikes have been referred to by a number of euphemistic terms such as "blue flu," "ticket blitz," "ticketless tours," and "job actions." In more technical terms, a police strike can be defined as the concerted withholding of services in some manner or form.

Let me summarize the attitude of our association concerning police strikes. A case in point and one in which I was directly involved concerns the one and only (I hope) New York City patrol officers' "strike." The year was 1971; the location was metropolitan New York City, inhabited by some eight million people. I was in my office on Broadway when one of my more active and responsible S.B.A. delegates came in. He yelled, "The patrolmen have gone on strike." His face was livid, he was agitated and shook with emotion. "Harold," he said, "we have to support our brothers in blue. The city administration is 100 percent wrong, they have pushed the patrolmen too far this time and we have to support them in their strike."

The moment I had feared so long had finally come. Nevertheless, my response was instantaneous: "A police strike is unthinkable!" Obviously, I did not say this with enthusiasm. I knew my answer would be unpopular with the patrol officers because they wanted all the support they could get. However, while I sympathized with them, my primary duty and obligation was to the people of the City of New York and our membership. This declaration of a no-strike principle was both compelling and paramount. I had no choice, police service came first.

I informed our delegate that he would have to work not eight hours but twelve hours a day until the strike was over, in order to afford the people of our city the best police protection we could muster. (Silently, I prayed for extremely cold weather to keep the public indoors and off the streets.) I also pointed out to my now less-than-enthusiastic delegate that the S.B.A. "no-strike" position was well known, clear and consistent: "We need more and not less police officers on the streets of the City of New York." To deprive the public of complete police service and protection was "unthinkable, unjust and absolutely wrong." We would have no part of it! Why punish the people if a city administration is at fault? Our target should be the city administration whose leadership was attempting to renege on a fiscal commitment, as the courts subsequently held. Our method of protest should be to use any legal means available to us except a police strike.

What I am saying is that, even without striking, police unions can be effective in achieving their goals by applying political pressure on a department or local government administration. The answer lies in obtaining political and economic "clout." In addition, a properly oriented and directed union can solicit and gain community support for its position through the media, as in the New York City Civilian Complaint Review Board fight. Likewise, substantive aid and backing can be obtained from other civil service associations and even on occasion from the private labor sector unions, especially those with national ties (AFL-CIO, Teamsters, etc.). This, of course, presumes that the police associations have not isolated themselves from the community and labor.

In our case, contrary to the popular misconception held by the patrol officers, our membership supported the position we had taken on behalf of our Executive Board (which was in unanimous agreement that "under no circumstances would we join the strike.") This major decision not to strike had been made a long time ago by our association. To their credit, the leadership and membership of the Lieutenants, Captains and Detectives Associations jointly adopted the same position. That position of "no strike" is as firm today, if not more so, as it was at the time of the patrol officers strike. No one gains under a normal strike; both sides lose.

The Sergeants Benevolent Association position of “no strike” is one that has gained greater acceptance over the years. When I first started lecturing on police labor relations, many employee association leaders and representatives spoke loud and clear of their militancy, and “strike” seemed to be their ultimate weapon. As our leaders and representatives turned from labor neophytes into better educated and sophisticated leaders their perspective changed. Today, the talk among responsible police union leaders is mediation, fact-finding and arbitration or, basically, legitimate collective bargaining and certainly not “strike.” One hears the leaders talk of “final and binding” or “last best offer.” Seminars and workshops on Police Labor Relations conducted by the I.A.C.P., Northwestern University and others continue to upgrade the sophistication of both labor and management representatives in our profession.

The day of the police employee association representatives calling for a “police strike,” which would have curried favor and popularity from the troops a few years ago, is gone. From the point of view of the police professional it is incompatible with police thinking and likewise that of the public. The police professional knows that a police strike is self-destructive and would alienate, and properly so, the citizenry we serve.

Where union recognition has been afforded, responsible police association leaders (many with “no strike” clauses in their constitutions) know that strikes by police personnel are the big “no-no.” “Strike” talk and police strikes were unpopular long before the police themselves became unpopular with some citizens. Both the public and the police officer know, undoubtedly, that a strike can be catastrophic—witness the Montreal police strike.

#### DISCIPLINE AND CORRUPTION

Two areas of deep concern to association leaders are discipline and corruption. One has to understand that a fine line exists between discipline and corruption. If a department administration is lax in enforcing discipline, corruption is likely to rear its ugly head. Correspondingly, too rigid enforcement causes morale problems that may result in a lowering of performance. Therefore, great emphasis must be placed on the importance of personnel management which engenders the right degree of discipline and the avoidance of corrupt practices.

Notwithstanding movies like “Serpico,” I am privileged to be here and inform you that the New York City Police Department is alive and well, and *further* that it is not a depository for brutalizing, corrupt, maniacal dropouts from society. In fact, the contrary is true. With rare exceptions, our police officers are sensitive, public oriented and dedicated to the continuing struggle against the corrosive anti-social behavior called crime. In this regard, police find it unpleasant to view and read the distorted stories that have become so popular recently; that is, the caricatures of the evil or wayward police officer as a totally imbalanced view of all police officers. This unrealistic, harsh assessment, nurtured in part by sensationalism, has brought the picture of police discipline and corruption to “front-and-center” as an issue of immediate concern.

Police discipline is an emerging field for management and labor. Both parties have a continuing mutual interest in apprehending criminals, irrespective of their occupation or station in life. In that regard, it is of no consequence if criminals wear blue uniforms. Their apparel will not protect them, for law enforcement is color-blind. Crimes are to be prevented and criminals apprehended. Unquestionably, all police officers are and must be united in that effort.

There is also a course of conduct that is to be prohibited as being in violation of reasonable Police Department rules or constituting universally recognized misbehavior. Examples of such conduct are not doing one’s job or an “overreaction” constituting or bordering on brutality. These actions may merit disciplinary sanctions or remedial education, but do not justify dismissal of the police officer, perpetual punishment or official displeasure manifested by the excessive sanctions of police commissioners or police administrators.

It is my considered opinion that the issue of police misconduct is so important that effective police discipline should not be diluted or eroded by labor-sought managerial concessions. Instead, the effective and positive aspects of police discipline should be re-examined by both. In this regard, I recommend a more humane, compassionate and enduring approach to obtaining and maintaining good police discipline. The present antiquated approach of punishment as being a deterrent (the threat being dismissal and/or loss of pension) is unquestionably a concept rooted to the past.

The time has come to recognize that every variance from good police performance is not to be dealt with harshly, unsympathetically and without the normal civilities available in other areas of public and private employment.

Similarly, it is time for the administrative “transfer” of a suspected miscreant to cease. This is a pretrial conviction of a purported offender under the guise of a ministerial act, in which the alleged offender is shunted to an obviously disagreeable post or activity. The transfer does little if anything to promote good discipline and represents a form of continuing punishment. At the very least, it creates apprehension as well as resentment in the police officer who receives such prejudiced treatment in advance of a trial.

This unjustified instant transfer, as well as similar official manifestations to indicate displeasure with an accused, must come to an end, as must all other not-so-thinly disguised offensive administrative procedures. Issues like this and others

affecting police discipline are and should be bargainable. Obviously the union has a great interest in acts that are not venal and are not covered by a specific rule, regulation or prohibition and yet become the basis of disciplinary actions. The position of the union is and should be that an officer should not be subject to discipline under such a catch-all situation.

Judgment decisions made in good faith should not subject the police officer to disciplinary proceedings simply because the administration determines that the ultimate choice made by the officer is improper and was not justified. Initiative, confidence and self-reliance can exist only in an atmosphere where police officers, acting honestly in accordance with their thought processes, may rely on the confident support of superiors. Obviously 20/20 hindsight should not fault antecedent good faith decisions, yet this type of discipline is always present in one form or another.

The systematic pursuit of excellence is not obtained by punitive measures. Derelictions of duty are often a reflection of incompetent teaching, inadequate training or a combination of both. To *ipso facto* punish the offender with the intent of obtaining an enduring solution to disciplinary problems is a primitive approach. Education and the opportunity to discuss ethical awareness are more likely to produce a permanent change in the police officers' future performance, and at the same time improve their mental attitude.

The "adjournment in contemplation of dismissal" is a criminal justice concept which encourages a criminal offender to avoid any variance from acceptable conduct in the future. This procedure is an example of a modern approach that should be applied in disciplinary matters. If the purported offender is not involved in any further charges of misconduct for a stated period, the complaint is dismissed, *nunc pro tunc* and no visible reference to it appears on the individual's record.

A contemporary example of constructive thinking in this direction can be found in the "Open Door" letter of March 28, 1974, from New York City Police Commissioner, Michael J. Codd. The letter was directed to all department members; in it Codd promulgated this technique. The key portion follows:

FLEXIBLE TRIAL ROOM PENALTIES—The department has recently expanded the range of penalties that may be imposed after department trial by adopting several new types: "suspended," "rebated" and "optional."

A "suspended" penalty is one in which all or any portion of any penalty—monetary fine or days' pay or vacation days—may be held in abeyance for a specified period of time (usually a year). At the end of this period, based on the performance report from the member's C.O., a determination will be made as to whether or not any portion of the suspended penalty will be exacted.

A "rebated" penalty is one in which any penalty—monetary fine or days' pay or vacation days—has been imposed and paid, but any portion of which may be rebated at the end of a specified period of time (usually a year). As in the case of the "suspended" penalty, the determination on whether or not to rebate any portion of the penalty will be based on a performance report from the member's C.O.

An "optional" penalty is one in which an officer is permitted the alternative of working extra duty hours to satisfy the originally imposed penalty of monetary fine or days' pay or vacation days.

I believe that these new variations of our sentencing procedure will allow a more flexible adaptation to individual circumstances, thus making the application of penalties more equitable, practical and realistic.

Full operational details will be published in department orders in the near future. The above "flexible penalties" move by the N.Y.C. Police Department Administration is a giant step forward in the positive discipline area enabling the interested officer to mitigate his penalty by future performance, thereby both the department and the officer gain. Please note that labor is as much concerned with maintaining police integrity as is management, however, labor is concerned with the rights of those it represents.

When I took the oath of office as a police officer, I swore to uphold the Constitution of the United States, the Constitution of the State of New York but nowhere did I swear away my rights guaranteed under the Constitution of the United States. This nation has survived because of many doctrines and one that has stood the test of time "presumes that an individual is innocent until proven guilty." What is tragic, is that where police officers are allegedly involved they are "presumed guilty until they prove themselves innocent."

Therefore, one finds a great concern and desire on both a local and national level for a "Police Officers' Bill of Rights"—one that would guarantee officers the same rights other citizens enjoy upon being advised that they are subjects of an investigation. This recent attempt by police officers to seek their rights reflects on their daily experiences. All over the nation, officers find themselves being advised of the public's rights, which are accentuated through relatively new court decisions and are highlighted by the news media.

In addition, police departments have recently been hiring legal advisors, one of whose major functions is to see that the public's rights are not violated. Social change has thus spotlighted civil and constitutional rights, yet police officers find themselves being semantically deprived of those rights.

On the one hand, officers are cautioned to behave like Caesar's wife and remain above suspicion at all times. On the other hand, they are admonished that they are not above the law. Nor should they be, but what about their rights? Officers are told to become more community involved, and that they play a very important role in society, yet they find themselves arbitrarily and capriciously deprived of basic rights.

Let me cite an article recently appearing in *The Chief* a leading civil service newspaper in New York City. Note the differentiation between the uniform force and other public employees:

Governor Wilson recently said he was pleased with the state's new procedure for handling disciplinary actions against state employees. Under contracts with employee unions a disciplined employee is entitled to an impartial hearing before an arbitrator named by the American Arbitration Association, who is required to make a decision within five days. Many of the city contracts also provide for arbitration in disciplinary cases and the experience also has been encouraging.

For employees, the procedure substitutes an impartial, disinterested third party for that of management in deciding the merits of a case. It negates the role that department heads frequently have assumed as prosecutor, judge and jury. It also avoids long and costly court actions where the review is limited to whether the disciplinary action taken was arbitrary or capricious and whether the penalty was excessive.

While both unions and employers speak well of the procedure, no effort has been made to extend it to the city's uniformed forces. It has been argued that it is inappropriate for a quasi-military force where discipline can be maintained only if final authority rests with a department head. In today's milieu, that reasoning seems outdated. An impartial forum to decide the merits of disciplinary cases is a progressive approach to a thorny problem and its availability should not depend on the wearing of a uniform or not.

While management should have its "Code of Ethics" which we fully subscribe to, labor should have its "Bill of Rights." Therefore, our deep concern is to see that our members receive full due process under the rules and regulations of their departments and consistent with our constitutional rights.

The forum where police officer trials take place, the method of prosecution, the devices utilized in prosecution, and evidentiary requirements are all police discipline matters with which labor representatives must be vitally concerned. It does no good to promote and obtain livable salaries or excellent fringe benefits if police employment can be terminated by the police commissioner or police chief almost at will because of misconduct. Obviously not every act of impropriety is grievous misconduct mandating dismissal from one's position. Rehabilitation and education as well as recognition for good past performance should be considered in determining punishment.

In some police departments, such as New York City, the police commissioners or police chiefs may be the hearing officers. Whether they are the hearing officers or not, the final determination must be theirs in every case. Generally, the charges are heard before officers designated by police commissioners or police chiefs, the intent being to keep the disciplinary process wholly within the police departments. Hearing officers preside at the trials and thereafter make summaries of the evidence, which they submit along with recommendations and full transcripts to the police chiefs or police commissioners, who then must make informed decisions.

The selection of hearing officers (in N.Y.C. trial commissioners) from within police departments has the advantage of choosing people familiar with the rules and workings of those departments and with the general views of the police commissioners, since those views represent police department policy.

Theoretically, since police commissioners have sole responsibility to make the ultimate decisions, the designees should, it is maintained, be persons known to the police commissioners and in whom the commissioners have personal confidence. However, as long as this "closed shop" rationale exists, there is little opportunity for relief from the injustices of the trial room, and the injured party will have to seek justice elsewhere. It is in this direction that labor representatives extend their collective muscle and concern to assist the individual member by providing competent legal counsel both within the trial room and in the lower courts if necessary.

Why should labor representatives involve themselves in the disciplinary procedures of the police department? The reason is obvious; the labor union is obviously interested not only in the economic and physical well-being of its membership, but also in the preservation of those legal rights to which each member is entitled. Union provision for competent legal counsel to represent its members is only the starting step. Within the concept of legal ethics, participation and knowledge of the status of all disciplinary matters is a prerequisite for good internal labor relations.

Time permitting, I personally contribute to the defense of a member wherever possible by making myself available to both counsel and the accused for discussion and resolution of disciplinary problems. In exceptional cases, I would speak to the police commissioner. In all cases, I make myself aware of the nature of the charges, the defense afforded and the result obtained.

What protection is left to police officers if their association abandons them in a moment of need by denying competent legal counsel during an ordeal? To do so would be to pre-judge them or to exhibit cowardice because of disproportionate concern for what others will think. Mere charges are insufficient for the labor representative to refuse counsel or suggest disassociation from purported offenders.

A police union should not be inhibited in providing legal benefits and extending its economic assistance because of fear of public or department over-reaction to that assistance. No responsible association could be expected to do less for its members.

In the highly specialized legal field pertaining to police discipline, the family lawyer is generally of extremely limited value. It is a field for police legal specialists thoroughly familiar with police departments' rules and regulations, police techniques, police performance as well as the intricacies of the trial room and relevant appellate procedures. Counsel must be effective and thoroughly familiar with administrative police trials and police procedures.

In the New York City Police Department legal counsel is retained and paid for through legal assistance programs by the association's membership. Those programs are instantly available at all hours of the day and night in order to respond to the requirements of police exigencies. Our police work around the clock; so do our lawyers, when required.

It is not uncommon for a police officer to request the appearance of adequate legal counsel to represent the police officer at the scene of a shooting at 4:00 a.m. or 5:00 a.m. If, in the performance of police duties, a police sergeant shoots and kills or seriously wounds an individual under circumstances where a district attorney deems it advisable to advise the sergeant of his "Miranda rights," that police officer usually requests and receives legal representation for which he has paid in advance as part of the union dues.

This is just one example of the legal program in existence today under the auspices of the Sergeants Benevolent Association. Our officers are afforded legal representation not only at trial but also at investigations, hearings and interrogations where misconduct or possible misconduct is being investigated by the department. Our members enjoy first-class citizenship in that regard and we go even further.

If a police officer is charged with committing a criminal act allegedly occurring during the performance of and/or by virtue of police duties, we similarly provide legal counsel to that officer. This action is a manifestation of our deep respect for the U.S. Constitution, the integrity of the police officer and the "presumption of innocence." The providing of counsel also shows our firm adherence to the traditional belief of fair play, not only for the community at large but also for the police officers we are privileged to represent.

Monthly attendance at meetings by our delegates provide us with an opportunity to discuss police service as a unique profession available only to those who meet high standards of professionalism.

We stress with pride the community's reliance on us, the benefits of police employment both in terms of personal satisfaction and also economic gain. In many different ways we indicate the advantages of good police performance and the avoidance of mischief, brutality, corruption and other misdeeds.

On occasion our attorneys lecture on the rights available to members, as well as their responsibilities. *In brief, we attempt to educate and inform our membership about matters relating to discipline and corruption.* (Our stance in public and in private is the same.)

Our association has always taken a positive stand against corruption in any form, both publicly and privately. I have stated on television, on radio and in the newspapers our position against corruption. Our members have been informed of the difficulties we encounter from bad publicity when we negotiate a contract or seek public and legislative support for additional benefits.

In addition, for the past ten years I have lectured to every new training class of patrol officers to be promoted to sergeant. I stress what corruption and the headlines that follow accusation mean to them personally, their families and friends—aside from possible incarceration and the financial loss that follows dismissal. Our executive board voluntarily requested and attended the "Ethical Awareness" course sponsored by the department with university cooperation. While I do not offer a defense of corruption, one cannot fail to recognize other areas of corruption in the criminal justice system and the general lack of moral climate that pervades this nation.

## KEY ISSUES IN POLICE UNIONISM: ANOTHER VIEWPOINT

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### INTRODUCTION

This paper represents my personal views on four key issues in police unionism: (1) national unionism; (2) strikes; (3) discipline; and (4) police corruption.

My present status, retirement from the New York City Police Department, is such that I can express my views without in any way visiting upon the IACP or the New York City Police Department any responsibility for the mistakes I may have made, or righteous wrath for the views I have expressed.

I think that however imperfectly I have discussed these key issues, my views ought to be of some assistance to chiefs who will be coping with police unions in the real world of today and tomorrow.

Much as I detest definitions, it is necessary that the reader understand that by the term chief, I mean the chief administrator of the police department, whatever the actual title may be.

By union, I mean any organization of police officers that seeks to speak for the people it represents in any affair respecting the administration of a police department. Recognition for collective bargaining purposes is not requisite to the term as I use it.

### NATIONAL UNIONISM

If, as most modern police chiefs assert, police work merits the title of a profession and police really are professionals, it is difficult to oppose the concept that professionals should have a voice in management decisions, policies or procedures. Therefore, it is difficult to oppose the banding together of police unions into national associations to promote their welfare in matters of common interest. Moreover, in a pragmatic sense, it would be unwise to do so. Opposition by groups of chiefs, including the IACP, would tend to act more as a stimulus than a deterrent to formation, despite the fact that a national union has certain inherent dangers.

One potential danger is this: If the normal process of institutionalism is followed, a national union would tend to expand its power and muscle, implying the surrender of some autonomy by local unions. As a result of this situation, union demands might be influenced by considerations well beyond the power of resolution of the management unit involved in the bargaining.

Another danger is the threat of strike. This paper will argue that no union, regardless of contract, can ever totally abdicate the strike; and the threat of a general police strike is truly one of national menace. The idea of 400,000 armed officers responsive to leaders not put in power by vote of the general public is so frightening that I hope such a union never emerges. I fear a national union of police more than a national police force, despite the little love I have for the latter.

I believe, therefore, that a national police union should be countered at the present time by individual chiefs rather than by an organization of chiefs. The IACP is an association of chiefs, not a union, and cannot speak for any individual chief or community over that chief's objection. However, it may well be that, if national unions begin to emerge as truly viable units, police chiefs will be forced to grant additional power to the Association in order to cope with the national union.

Whether chiefs wish it so or not, there are forces at work today that have launched organizations such as the ICPA, the IBPO, and the NUPO, which may well be the forerunners of a future national union. The factors that I believe are providing the impetus for a national police union are these:

- (1) Police work has become more standardized because of Supreme Court decisions in the field of state and local law enforcement. Those decisions have been accompanied by the trend to professionalization, with the concomitant evolution of a Code of Ethics and common body of knowledge. More and more matters of common police interest have begun to emerge. To the extent that commonality emerges, standardization begins; and the soil is prepared for national spokespersons.
- (2) Policemen are not unaware of the inherent truth of the dictum, "In unity there is strength."
- (3) Improved communications and transportation now make it possible for emerging union leaders to articulate areas

of commonality, seize upon issues of importance and by administrative skill put together a national organization. In my judgment, it is fortuitous that local or national organizations have not yet produced such leaders.

- (4) The vast number of police officers makes it possible to generate a well-financed, powerful organization at insignificant cost to the participating officer. If the sum is small enough, most officers will join on the theory that membership cannot hurt, and may help.
- (5) There is a continuing reluctance of many chiefs to deal with a local union as an equal in collective bargaining, or to accept the concept of collective bargaining at all. If a local unit cannot do the job, police will tend to join a national unit that will.
- (6) In all too many cities the police are still grossly underpaid for the skills required to produce effective police work.
- (7) The Federal government is more and more exercising a voice in the operation of local police forces. While the LEAA has brought with it a thousand blessings, it has also begun to awaken at the national level a recognition that, as the source of money, it reserves the right to allocate it subject to certain stipulations. A foretaste of this process is exemplified in a bill now before the Senate, S.2963, "The Criminal Justice Information Control and Protection of Privacy Act," which will impose a great many Federal restrictions on the exchange of information between local police agencies.
- (8) Police activity is increasingly intra-and inter-state in nature, and requires more coordinated action by officers not subject to one governmental jurisdiction. Police who act together for common purposes will also act together to obtain the best possible working and economic conditions.

As far as the potential for success of a national police union is concerned, it is my belief that despite the presence of some factors conducive to the emergence of a strong national union, that emergence does not seem likely for the near future.

In many states and localities the police administration has recognized and collectively bargained in good faith with the local union. The local union heads are not likely to surrender their prerequisites to national leadership for the uncertain benefits of that leadership.

Basically, police unions remain fragmented, paralleling the fragmentation of police organizations. The visible goals and problems of police remain unique to the locality, as contrasted with problems capable of solution at the national level.

There is a basic fear in all Americans of a national police force. A national police union conjures up the potential of a national force and a national police strike. This potential, when coupled with the lobbying and political power of such a union, would necessarily bring about a fear of the union. While I do not advocate the standard position of opposition expressed through the IACP—that position would be counterproductive—a national union is, in my opinion, a potential threat to the basic structure of our society.

Diffusion of power through decentralization can be managed. At the present time, the magnitude of the forces arrayed against a national police union seems to indicate that no serious national union will evolve in the near future. However accurate such an assessment may be, it seems to me that the best insurance against the evolution of a viable national union is for chiefs to insure that a national union is unnecessary. Let the chiefs be good enough administrators to recognize that in our society unions and collective bargaining are here to stay, even in police work. Let us treat the unions and their representatives with the dignity and respect that the individual police officer deserves.

#### MANAGEMENT RESPONSES TO PREVENT NATIONAL UNIONS

First, there should be no organized or concerted opposition to national unions by management, though individual chiefs may wish to express their objection to such unions.

Second, management should insure that it does not drive its employees into a national union by neglect or contemptuous behavior towards attempts by employees to band together, select a representative and bring issues before management that require resolution.

Finally, management should accept the reality that there is no sharp delineation between a working condition and a management prerogative. Moreover, management should not discount the fact that effectively policing a democratic society is an incredibly complex job demanding a skilled professional. Management must deal in good faith with local organizations as they emerge, provided they generally represent the officers. Management cannot load the collective bargaining sessions with taboos called management prerogatives. This is not the same as counseling surrender on issues the chief considers vital to effective management. It is simply that my notion is that people are best governed with their consent.

To summarize, dealing with the emergence of a strong, viable national union might best be left to the basic common sense of the average American. Any concerted effort by management is likely to be counter-productive. The best deterrent is a chief who recognizes that there is a role for the individual police officer in effective management.

Management responses to develop a working relationship with a national association are difficult to articulate. No union exists today with any membership power over the principal Federal police agencies, and very little representation of state policing agencies exists. It is true that there are organizations with national pretensions, or perhaps more appropriately, objectives. However, the FOP, the IBPO, the NUPO, the AFSCME and the Teamsters cannot speak in any real sense for police on a national basis. At best they speak for a small number of organizations or provide some services for almost completely autonomous unions.

Those chiefs dealing with locals that are members of the national associations would do well to treat the local leadership with respect. Chiefs may insist that their dealing with the union be limited to elected leaders of the local, but even this response seems to be of doubtful value and reeks more of pique than rational behavior.

In the last analysis, national unions cannot emerge unless the stage and the issues are set for them, and they succeed in obtaining benefits unobtainable by local unions.

## STRIKES

Every chief knows or should know that when a union is effectively run or has generated over a long period general satisfaction of its members, the result is a strong kinship bond between the members. If that leadership is strong enough, and if there is a perceived chance of getting some important demand acceded to, an impasse may result that cannot be handled by normal impasse procedures. At that point some unions will strike—contract and court injunctions notwithstanding. It is not too difficult for union leadership to produce a wildcat strike while purporting to abhor it.

This is not meant to suggest by any means that I recommend avoiding recognition of a police union as a collective bargaining agent. Quite the contrary, I recommend such recognition at the earliest opportunity when a *bona fide* organization emerges.

On the whole, management—specifically police chiefs and city managers—has failed to provide police forces with the status, economic and otherwise, that they deserve. This failure has lost to the police profession a great portion of the skilled and quality personnel the depression of the 1930's made possible.

In the 1940's and 1950's the relative economic status of police slipped, not only in relation to other governmental employees, but in relation to privately employed blue-collar workers. Coupled with the expansion of fringe benefits to private employees is the steady and accelerating inflation that began to erode the purchasing power of the retired. (Retired policemen received considerably less in many cases than those on welfare or relief.) All these factors made a mockery of the fabled security that police were supposed to enjoy.

While in many cases chiefs wield considerable power internally, they are generally weak externally in terms of mustering popular support. However, when a police union emerges that can muster significant voting strength, elected officials begin to take notice. Thus with a few notable exceptions, the police administrator gains a valuable ally capable of generating much more support and weight in the competition for the budget dollar. A union assists the elected official in voting tax increases. Unions are more helpful to police management than those taxpayers who paste "Support Your Local Police" stickers on their auto bumpers while remaining reluctant to part with the additional dollars to give credence to such support.

The pressure by the union for wage boosts at the bottom of the hierarchy creates both a problem and a benefit for chiefs in terms of supervisory, middle and senior management staffs. The problem is that if appropriate increased benefits appear at the lower police levels, the differential between the ranks reduces and lessens the incentive to improvement and management consciousness, unless appropriate increases appear for supervisors and commanders. The benefit to management comes from those "appropriate increases," which are justified on the basis of the argument that supervisors should make substantially more than the people under them.

I take issue with the IACP position that it is unwise to seek fixed salary ratios. Once they are accepted, the ratios leave but one basic salary battle, and that is the issue of economic benefits for the lower police levels. There is seldom disagreement in this area between chief and patrol personnel anyway, and all the forces of the department can unify for maximum impact.

To return now to the thread of my narrative, a strike can take many forms. It is a deliberate and concerted effort by union policy, whether articulated or implicit, to impede the objectives of management through a partial or complete work stoppage. When management accepts a unit for collective bargaining, it provides great power for attracting membership to that unit, as opposed to rival associations. At the same time, the union becomes responsible for wages and working conditions

and must produce satisfactory results for its members. Thus the union's leadership may feel compelled for a variety of reasons, the principal one being retaining leadership, to resort to the ultimate weapon—the strike.

The chief and the city executive cannot take much comfort in the effectiveness of the court injunction to stop a strike once it has begun, nor in the power of the law to administer penalties as a deterrent. Also, once the strike is in effect, a prime issue will be amnesty and there is little likelihood of a settlement without it. An injunction can be served on union leaders, but they have a variety of ways in which to call ostensibly for a return to work while covertly or implicitly approving the strike's continuance.

In summation, therefore, management should insure that any contract requires renunciation of the strike and provides for impasse procedures. However, management should also realize that by recognizing the union for collective bargaining purposes it has made that union powerful enough to conduct an effective work stoppage.

It seems to me that any organization covered by civil service rules and regulations can take little comfort from laws that administer harsh punishments for striking employees. Such laws will prove to be unenforceable. The New York police strike has amply demonstrated that the two-day salary penalty for each day of strike has effectively dampened the average police officer's enthusiasm for work stoppages or strikes. Stronger measures were not needed in that case. The Condon-Wadlin law calling for automatic dismissal was never invoked, despite a great number of strikes. If the punishment is generally perceived as being too harsh, it will probably never be administered. Moreover, in the event a strike occurs, harsh punishment constitutes an insurmountable barrier to settlement.

Police chiefs should also insure that they are ready to cope quickly and affirmatively with a strike, "flu bug" or any other form of work stoppage. Under our legal system there is no such thing as guilt by association. Therefore it will be up to the chiefs or their agents to present evidence against individuals as being voluntarily involved in the work stoppage, and to suspend them until a trial is held or another administrative decision is reached.

In larger organizations, those most likely to be affected by a work stoppage, quick response to a strike can be strangled by bureaucratic red tape. As an example, in the New York police strike the officers came to the muster rooms of the station houses, but would not leave the stations to take up their assignments. Our suspension procedure at that time required the preparation of charges signed by the commander, endorsed by all intermediate commanders, and forwarded to the First Deputy Commissioner, who alone possessed the power to suspend. This system required so much paperwork and approval that management strangled on its own requirements. After the strike, changes were made giving all local commanders the right to suspend for certain offenses, one of which was any work stoppage. All chiefs should insure that departmental procedures permit quick action.

Management officers should offer the following reasons for opposing the right to strike:

- (1) Police duty is a governmental service and no satisfactory alternative to it exists.
- (2) The service is also a vital one; in its absence public safety disappears and the community cannot survive without it.
- (3) In most cases the police are covered by civil service rules and regulations that provide for protection against the whims of management not normally enjoyed by persons employed in the private sector.
- (4) The nature of the police service is such that the demand for service is not likely to disappear or be subject to fluctuations that would cause instability of employment.
- (5) Police officers are at the minimum paraprofessionals and have no more right to refuse their services and those of other officers than do doctors who disagree with the terms under which they are asked to provide services.
- (6) The police have guns, which provide a convenient instrument for the exercise of terror and the inculcation of fear as a device for insuring that management and the community accede to their demands.

In general, management officers would be unwise to rely on strengths derived from a strictly rational or intellectual approach. In this area there are large reservoirs of emotionalism and pride that often have little to do with the rational approach.

The New York City strike was engendered as much by two irrelevant issues as by the relevant ones. First and foremost, the Lindsay administration was on the whole cordially detested by police. Secondly, all the other specialist police forces in the city were being paid substantially equivalent salaries to that of the city police. For example, Department of Sanitation Police used essentially to enforce Sanitary Code violations were making substantially the same amount as the generalists of the Police Department.

Thus in the real world of labor negotiations, there are many gut issues, sometimes intangible and largely emotional, to which the skilled management negotiator must be sensitive and attuned. This sensitivity is often more useful than the value to be attained from intellectual arguments.

#### THE IMPACT ON THE COMMUNITY OF A POLICE STRIKE

When a police strike occurs, it captures the citizens' attention and becomes an issue of critical, immediate importance to the whole community and its environs. The normal tendency will be to seek some immediate resolution of the issues involved. Then, particularly if the strike continues, the public will seek to understand the critical issues and pass judgment. The public will not, contrary to management's conception, lay the blame automatically on either the union or the police.

After a certain time period the strike serves the purpose for which it was intended—that of focusing public attention on the problems, and at the same time securing additional governmental attention as a result of the urgency created by the strike. Then the people and the media, or both, will begin a critical evaluation of the actions of both management and union. The normal reaction to be expected is “a plague on both your houses, settle the damned strike.”

Depending upon the competence with which alternative service is provided, increasing criticism may result. This criticism will focus not only on management and the union, but also on the political leadership. The strike then becomes a major political hazard. It is at this time that one may reasonably expect the political administration and the union to conduct a public relations campaign for community support. Management must prepare itself for this campaign. Past differences between the chief and the administration are likely to be exacerbated, and the chief may become very vulnerable.

To my knowledge no police strike, with the exception of the Boston strike of 1919, has lasted long enough for us to know how one of long duration would impact on the community, and how that impact would affect management and union. There are too many variables to predict these results with certainty.

Strangely enough, there is relatively little impact on the crime rates if the strike is of relatively short duration. It is in the area of calls for service that the police will be unable to manage, and relations between the police and the community will tend to deteriorate. Unfortunately, management is as likely to be included in the blame as is the union.

The black or other minority community normally views the police as middle-class-oriented and predominately white, and they may be hostile towards the police union. Furthermore, the black minority of police are probably latently hostile to the white-dominated union. Police unions have in part richly merited this latent hostility because they, much more than management, have historically acted as a protective society for police against that segment of the population viewed by police as criminally disposed—the lower class. In our urban areas today, that lower class is often predominantly black. The active police union, therefore, will tend to be non-sympathetic to the black community *per se*, a view often reciprocated by that community.

This basic conflict tends to be exacerbated in the daily intervention of the police in conflict situations, and by the police union's tendency to oppose minority hiring programs as a “lowering of standards.” This is a dubious conclusion, since it presupposes that the standards being defended were valid ones. Speaking for myself, I have always thought that, in policing a Spanish-speaking community, fluency in Spanish is more desirable than 110 on the English Otis test.

This general lack of rapport between police unions and minority or ethnic groups in the lower classes tends to generate factors to which every chief ought to be sensitive:

- (1) Sharp conflict and reciprocated feelings of hostility between police and people in minority communities often result in union members requiring their leaders to take positions in areas generally considered to be management prerogatives. Examples of such areas are recruitment and the carrying of shotguns and other heavy armament and protective devices. Thus in minority group communities there is a great deal of fodder for generating flamboyant, unreasonable union leadership and conduct. Both are likely to produce a climate conducive to strike.
- (2) In the event of a strike situation, the union will be less able to generate broad community support because the union may have alienated itself from sizeable segments of the public, especially the minority communities in question. This factor increases the bargaining power of the administration.
- (3) The business, upper and middle classes will tend to support the police in their demands provided the demands are not clearly economically unsupportable.

To sum up, in urban communities where minority groups add up to majorities or near majorities of citizens, there is more chance of a supercharged atmosphere in the bargaining on issues generally consigned to the areas of management prerogatives. The counterforce lies in the probability of greater power by the administration to settle the outstanding issues as they occur, due to the lack of wide community support for the union.

In the event of a strike a chief has these personnel availability options:

- (1) Supervisors and specialists with extra compensation, probationary officers, and people in specialized assignments with extra compensation may be used. It is likely that the personnel most amenable to the strike will come from those with the least to lose and the most undesirable jobs, the patrol force.
- (2) Other police forces including the state police, may temporarily assist as a result of a mutual aid pact, if one exists. These options are not likely to be of very much assistance due to the empathy between police officers, and the political risks of strike-breaking for the responsible political leader.
- (3) The National Guard represents the best option for assistance. However, most governors will be extremely reluctant to commit the Guard to a strike-breaking role.

Whatever personnel device is utilized, the chief may expect the public to resent police from outside the community, and there will be added pressure to settle the issues that resulted in the strike.

Mediation, fact-finding and arbitration are all useful substitutes for a strike when an impasse is reached in collective bargaining. Any contract should provide for at least one of these substitutes, as well as for work continuance beyond the term of the contract in the event that an impasse has been reached. The merits and demerits of each substitute have been aptly summarized in *Critical Issues in Police Labor Relations*, published by the IACP. However, I have some caveats to offer to chiefs in connection with these procedures.

First, the impasse will probably result from a labor demand to which management cannot voluntarily accede, and normally each of these procedures will result in finding a way to solve the problem that both sides can live with. Thus the union can rely on the probability of gaining more of its demands by resorting to these procedures than otherwise is possible, and can make of the collective bargaining process little more than an important preliminary, the prime purpose of which is to more clearly delineate issues.

Second, that part of the management team which represents the city administration will have an incentive to be less defensive about management prerogatives than about money demands. This is in contrast to the chief, whose tendency will be to concede money demands but defend management prerogatives. This natural divergence makes it difficult for management to speak with one voice. While chiefs should not be members of negotiating teams, they should insist on the presence of representatives at each of the bargaining sessions.

Chiefs should also recognize that the political arm of management has a tendency to make settlements that involve deferred costs—those that will not be incurred until after the next election—e.g., pension benefits. The problems that an administration passes on to its successor seldom adversely affect incumbents. However, the impact for chiefs in this instance lies in the probability of adversely affecting their departments by curtailing the sums of money available for services other than personnel, and adversely affecting them personally if they survive a change in the political administration.

Lastly, in discussing this area of impasse alternatives to the strike, chiefs should never forget the realities of union leadership. Once collective bargaining status has been achieved, officers will tend to hold the unions more and more responsible for their economic welfare and the chiefs less and less so. Union leaders will find themselves under constant pressure for increased benefits by members, and under fire from ambitious members seeking to replace these leaders. Thus, it would be a kiss of death for a union leader to be designated as reasonable by the chief.

A certain amount of clash, vituperation and vitriolic comment ought to be anticipated. The extent to which this is to be tolerated by the chiefs is a personal decision. However, when counterattacking they should be aware that open warfare between union leadership and the chief is often the catalyst that insures the union leader's re-election. Chiefs must learn to bite their tongues and respond to union allegations only when they contain matter which, if left unanswered, might be construed as an acknowledgment that the allegations are true.

#### SHOULD ISSUES AFFECTING POLICE DISCIPLINE BE BARGAINABLE?

Since there is no clear line of demarcation between management prerogatives and working conditions, and since disciplinary issues in the broadest sense imply much more than punishment, discipline cannot be made a taboo. The products of good discipline—"esprit de corps," good morale and voluntary obedience—are impossible to achieve if police managers are faced with implacable union resistance to disciplinary policies.

The fairness and reasonableness of organizational sanctions are very much a matter for bargaining. In any event, civil service procedures and court review are more often a barrier to the effective administration of discipline than a police union is likely to be.

The objective of the bargaining, however, should not be the dilution of the chief's power to administer discipline but the formulation of procedures that are just to the employer, employees and public alike. The chief, in my judgment, should seek from the union the acceptance of this general concept in the bargaining on disciplinary matters. If this concept is agreed to, managers and union should discuss the issues with the stated objective held constantly in mind.

At some stage of the bargaining, union positions may seem to be directed at making the application of sanctions more difficult, more time consuming, and more rote-like, instead of discretionary. Or unions may seek to limit investigative latitude and the thoroughness generally accepted in criminal investigations, or to take from the chief in some way the power to make the final decision. Acceptance of such provisions constitutes administrative suicide.

The *Policeman's Bill of Rights* is a model of the kinds of provisions that so limit the investigative and disciplinary power of the chief that, in my judgment, insufficient power remains to insure an effective and honest police department. Nor do I agree with the recommendations contained in the *Critical Issues in Police Labor Relations* as to the portions of the bill that can be accepted, albeit reluctantly. My recommendations include acceptance of those parts that are reasonable and are indicative of an intention to be just, although I do not fully understand why a chief should wait for the bargaining to put such procedures in effect. I understand that the union must be accorded certain victories. Let their victories not be in areas where simple equity to the employees is concerned, especially if the chief already possesses the inherent power to correct the condition.

In my judgment, the only acceptable parts of the *Policeman's Bill of Rights* are the following:

- (1) B1
- (2) The officer shall be informed of the name and command of the officer in charge of the investigation and the names and commands of all interrogators. He shall also be informed of the general nature of the investigation.
- (3) B6
- (4) B9, which is probably required by Miranda.
- (5) B10, as long as it is understood that the lawyer's position is restricted to advising the client as to legal rights.

All of the other positions I find unduly restrictive of investigatory latitude, or they are procedures of discovery that would seal off sources of information. Particularly offensive is B5, which would apparently rule out investigations of anonymous communications from the public. Every seasoned police officer knows that while the majority of anonymous communications are of little or no value, a sizable minority contains information that is of critical value and unobtainable in any other way. Also, there can be no discernible reason as to how the restriction on the place of interrogation can improve the fairness or equity of the disciplinary process.

The long list of other unacceptable provisions in the *Bill of Rights* need not be further detailed here.

To me the Bill is at best a disguised attempt to undermine vital powers of the chief by using as its "cover" a name that is almost sacred to most Americans. At worst, the restrictions will almost certainly insure that no chief, however talented, can excise the corrupt from his organization.

As to the impact of the negotiated grievance procedure on discipline, my experience indicates that this machinery is seldom used; most real grievances affecting discipline are informally explored and resolved. The utility of the negotiated grievance procedure lies in the fact that it sets up a mechanism for exploring the grievance when the informal machinery is inadequate.

Union delegates will generally prefer to launch an inquiry informally, saying that such and so is alleged by a member, and indicating that they would like this matter to receive management attention. Such inquiries in New York generally went to the Employees Relations Section of the Commissioner's office. I believe that in more than 90 percent of the cases this informal communications network sufficed. Of course, if it did not, the matter went to grievance; and in most cases grievance issues were totally unrelated to discipline.

Thus, as I see it, a negotiated grievance procedure has no detrimental effect on department discipline. Moreover, the informal and formal grievance procedures are beneficial in that they insure a review authority on superiors' actions without personal intervention by the chiefs (who must in many cases back up superior officers when they personally disagree with the officers' actions). Grievance procedures tend to insure that superior officer actions are not based on whim, caprice, arbitrariness or vindictiveness. Even in the absence of a union, I think that the chief should take the lead in establishing a formal and informal grievance mechanism. The guidelines published by the IACP appear to be quite adequate to the chief newly embarked on this area.

## CORRUPTION

Assuming that corruption exists in a given police agency, what is management's role in this problem?

Corruption is, at best, endemic in all police organizations and epidemic in some, with an infinite number of variations along the spectrum in others. Those departments with the disease in epidemic proportions have found it highly resistant to known antiseptic measures. Corruption is easiest to dislodge in those organizations where it is not widespread, does not cover a wide diversity of corruption patterns, and does not involve joint or coordinated action by a number of people.

On the other hand, organizations with a history of corruption continue to experience it despite periodic scandals that seem, at best, to only alter the patterns or procedures involved. For instance, in New York during the Gross scandal in the early 1950's, one involving widespread payoffs to police from gamblers, the only result was an increase in monthly payoffs due to the increased risk incurred by corrupt police officers.

It is also a fact that corruption has been very much an unmentionable in polite police circles. For the most part, it remains an unmentionable today—witness the absence of any discussion of the subject until recently in police publications, at police conferences or in police education. Of course, it must be admitted that with the emergence of the police Code of Ethics the subject of corrupt behavior began to be visible. But reciting the Code does not necessarily affect police officers' behavior when they confront the necessity to make unethical compromises from the very first day at work if they are to survive in the organization.

For the most part, chiefs have taken refuge in the bad apple theory, or have indicated that corruption is no problem in their organization. Yet I take issue with the prevailing view. I think that there are hundreds of police organizations with major corruption problems, and in my judgment the responsibility for this condition begins and ends with police management. Widespread and continuing corruption is nothing more than a manifestation of administrative ineptitude. Corruption can be managed and if not eliminated, minimized.

Widespread, continuing corruption requires that there be organization and communication between the corrupt police, and this in turn requires that there be trust among the participants. The management problem is penetration of the corrupt scheme and destruction of the trust between corrupt police.

Widespread corruption, of course, cannot occur until the ethical and moral values of the new entrants into the system are systematically eroded. With some exceptions, in a dominantly corrupt organization the new officers can be corrupted within a relatively short time. The average recruits, assessing the widespread corruption, the value system of the senior patrol officers and the values implicitly communicated by superior officers (products of that system), quickly conclude that they are helpless to change that system. They further conclude that if they are to survive they must conform. If conforming requires compromises they cannot swallow, the only recourse is to quit.

As a general rule it may be said that very little headway has been made in reforming departments historically experiencing considerable corruption. Some of the reasons for that little headway follow.

- (1) In attacking the problem the focus has always been on catching corrupt police, firing them and perhaps sending them to jail. This kind of action misses the mark, for it tends only to arouse sympathy for the jailed member and, as a result of increased perceived risk, may raise the amount of pay-offs. Catching crooked police is not the objective; it is preventing police from becoming corrupt.
- (2) Money corruption can only occur after the ethical resistance of police has been corroded by a series of corrupt acts. Thus can any chief be truly surprised at money corruption when the stage is set by the system's approval of dishonesty? That approval is conveyed either implicitly or explicitly in matters such as the following:
  - a. False crime statistics;
  - b. Improper crime classification and clearance rates;
  - c. Countenancing bad arrests to clear up certain conditions, such as prostitution;
  - d. Countenancing perjured testimony for "good" purposes;
  - e. Investigators being forced to scrounge due to inadequate expense allowances;
  - f. Ticket fixing;
  - g. Obvious political influence involved in the processing of court cases;

h. Promotions based on political considerations.

A host of other obviously corrupt acts set the stage for the recruits, who quickly learn that, among the parameters within which they must work, are those not dictated by integrity factors but quite the converse.

- (3) Perhaps the most important factor militating against the exposure of widespread corruption is that the act of rooting it out may very well result in a spreading stain that will impugn everyone. The resulting political implications may include loss of their jobs by the very people who sought to root out corruption.

To sum up, if widespread corruption exists, it is *ipso facto* proof that the administration has not met its responsibilities; therefore, no attack on the problem can be successful if it is launched from outside the police administration. No police administration can accomplish anything significant unless it is willing to pay the price and accept the political consequences and hazards of eliminating corruption. The best chance for excising corruption lies with a new political and police administration that have no direct ties with or responsibility for entrenched corruption.

Lastly, in eliminating corruption from a police organization, the chief must recognize that the principal thing to accomplish is general attitudinal change, incorporating into the dominant peer group value system an abhorrence of corrupt acts in every form. The average police officer must be ready to designate corrupt officers for what they are—criminals with a license to lie, cheat and steal.

This desired state of mind will not be achieved unless everything that the organization does is characterized by integrity from top to bottom. The system must reward candor, honesty and integrity whatever the consequences, rather than seeking police who will not take a buck but will be dishonest when the administration desires it.

The last two paragraphs constitute the strategy for eliminating corruption, though the tactics will vary in different times and places.

#### HOW HAVE POLICE UNIONS HELPED OR INHIBITED EFFORTS TO ELIMINATE POLICE CORRUPTION FROM POLICE AGENCIES?

I know of no single instance when any police union in this country has taken any kind of effective leadership to expose or attack the corrupt forces that impact on an individual police officer. This is an almost unforgivable failure, because the inducements to corruption inherent in the system turn so many union members into criminals. On the contrary, the union position in general seems to be that defense of every dues-paying member to the utmost of its ability is the extent of its obligation. Complaints by unions there will be, but almost never any about the corruption forces. Yet we have plenty of lip service to integrity by unions and management alike.

Police unions are dominated generally by older persons. If a department has historically tolerated one or more patterns of corruption, the union will tend to tolerate it and defend it with all the weapons available. The union will not publicly condone the corrupt practice itself, but it will publicly attack methods and enforcement emphasis of the chief and those subordinates determined to eliminate corruption. Unions will also attack with all the power at their command any other agency that seeks to root out corruption. Even honest people in honest unions will resent and counterattack any determined program to root out corruption.

To cite but three instances that come to mind: When I informed the line organizations in New York of my intention to order those engaged in gambling enforcement onto lie detectors as an investigative tool, every organization (including the Captain's Endowment Association, which includes officers up to the rank of Assistant Chief Inspector) informed me of their intention to resist my using this investigative tool—despite the fact that no one had ever resisted our using it in a criminal investigation. Within two months, they succeeded in inserting a provision in the labor contract that barred the use of the polygraph in any internal investigation.

Every time an officer is arrested, the police unions in New York are extremely diligent in insuring that the person is well defended. But since 1939, I have never heard the unions cry out against any corrupt practice or corrupt police—except recently with Bill Phillips, the star witness of the Knapp Commission. I can only interpret their interest in insuring that Bill Phillips is fired as stemming from the fact that Bill Phillips was the first policeman to defy the Code of Omerta and turn on his fellow corrupt police officers. Widespread corruption can never be eradicated unless the honest police officers ostracize the corrupt, and until the corrupt are utilized to make cases against each other.

In Louisville, Kentucky the chief recently placed “bugs” in radio cars. Regardless of the questionable legality of the action and the issue of whether it was wise or not, there is little question that such a technique against criminals who were not police would have been at least silently applauded by the police themselves. Nor was there any doubt in this instance that what the chief was looking for was evidence of corrupt behavior, not minor violations for harassment purposes. The union in this case has taken a strong stand and is now engaged in trying to prohibit the chief from using electronic surveillance in any internal investigation including, I believe, a consent recording. If the objective is to insure that management does not succeed

in catching corrupt police, I know of no better way than management's consenting not to use legal electronic investigative methods.

I admit my experience with unions in hundreds of the more honest police departments is limited, and perhaps I should qualify the following generalization. Yet in matters of corruption investigations, the chief who is determined to measure the hazard and eliminate corruption runs the risk of incurring hostility from the unions. I believe it to be the general rule that unions do not concur in investigating corrupt police with the same energy and vigilance employed in other criminal investigations. I can sympathize with the unions' position that they necessarily must seek to insure the best interests of each dues-paying member. This position is especially justified in light of the presumption that the officer charged with corruption is innocent until proven guilty. However, I cannot sympathize with the unions that have generally ignored corruption of their members until an arrest or suspension takes place.

The hazards in the more notoriously corrupt police organizations in this country are not unknown to the officers of the union, and I accuse unions of, at best, having done nothing. If this paper is wrong in this regard, I am eager to know the organization or union officer concerned, and the facts in the case. I am anxious to change my melancholy view.

In conclusion, while police unions will not openly impede or object to disciplinary or criminal action taken against individuals, they will attempt to limit discretionary powers and investigative latitude in internal investigations, and they will bitterly resent any effort to show that corruption is widespread and not limited to a few bad apples.

Those chiefs who estimate that their corruption problems are grave ones, and those who decide to confront rather than bury the issues, would be well advised to seek union support, while realistically expecting at the same time that the best they can really hope for is no opposition.

However, is there not in the collective bargaining process an opportunity for obtaining union concurrence in the measures management will adopt, plus an opportunity to require that unions adopt a positive program to insure that members adhere to only the highest of integrity standards?

#### CONCLUSION

In conclusion, I offer the following judgments that readers may find useful to consider in reaching their own concepts on police unions:

- (1) On balance, police unions have a greater capacity for good than for evil. If their present state of maturity casts them frequently in the role of obstructionists to good police administration, then let us recognize that they will never mature until given the opportunity. The police chief should welcome any police union with democratically chosen leadership that speaks for the vast majority of the officers.
- (2) Any organization that speaks for the majority of the officers and is democratically run ought to be given collective bargaining status; but chiefs, as with any other administrative problem, should not bargain away powers that they need to administer the department effectively.
- (3) The police union with which the chief bargains will never adequately represent *all* the officers. Chiefs must be cognizant of their obligations to the minorities not involved in the union, particularly if they are ethnic or racial minorities. Under no circumstances should chiefs collectively bargain with any union whose officers are not the free choice of a majority of the people represented, or whose procedures are not essentially democratic.
- (4) With the advent of police unions and a more modern and effective set of police administrators, has the time not come to question the value and the necessity for civil service laws as the ideal for tenure, security and job benefits?
- (5) Lastly, I believe that the police chief engaged in administering the affairs of a police department is in effect governing it. And I believe that governing with the consent of the governed, while more troublesome, is in the long run more effective. The authoritarian model was fine for the Gestapo and may work from time to time in a democratic state, but it does not fit into my notions of how to run a police department in America in 1974.

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