

perform (arrest and crime control), deny the reality of functions they frequently perform, and do not take credit for many of their functions which are in fact very significant to their public—incidental help, finding lost children, supplying information, assisting at accidents, and so forth. In practical terms, then, the ways in which the English mandate has been transformed in America results in a narrowing of the function of the police, a restriction of their symbolic claims, and a more uneasy and politically volatile mandate. It cannot be said, of course, that the police have intentionally sought this outcome on their own, but certainly many of their best efforts have resulted in the present paradoxical situation.

The Police: Mandate, Strategies, and Appearances

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I. INTRODUCTION

All societies have their share of persistent, chronic problems—problems of life, of death, problems of property and security, problems of man's relationship to what he consecrates. And because societies have their quota of troubles, they have developed ways in which to distribute responsibility for dealing with them. The division of labor that results is not only an allocation of functions and rewards, it is a moral division as well. In exchange for money, goods, or services, these groups—such as lawyers or barbers or clergymen or pharmacists—have a *license* to carry out certain activities that others may not. This license is a legally defined right, and no other group or groups may encroach upon it.¹

The right to perform an occupation may entail the permission to pick up garbage or to cut open human bodies and transfer organs from one to another. What it always involves, however, is a series of tasks and associated attitudes and values that set apart a specialized occupational group from all the others. Further, the licensed right to perform an occupation may include a claim to the right to define the proper conduct of others toward matters concerned with the work. The claim, if granted, is the occupation's *mandate*. The mandate may vary from a right to live dangerously to the right to define the conditions of work and functions of related personnel.

The professional mandate is not easily won, of course, for clients are often unwilling to accept the professional definition of their problem. Professions claim a body of theory and practice to justify their right to discover, define, and deal with problems. The medical profession, for example, is usually considered the model of a vocation with a secure license and mandate. Yet even in medicine the client may refuse to accept the diagnosis; he may change physicians or fail to follow doctor's orders or insist upon defining his troubles as the product of a malady best cured by hot lemonade or prayer. The contraction and expansion of an occupation's mandate reflects the concerns society has with the services it provides, with its organization, and with its effectiveness. In times of crisis, it is the professions that are questioned first.²

¹See Everett C. Hughes, *Men and Their Work* (New York: The Free Press, 1958), chap. 6; idem, "The Study of Occupations," in *Sociology Today*, ed. R. K. Merton, Leonard Broom, and L. S. Cottrell (New York: Basic Books, 1959), pp. 442–458 (footnotes renumbered—eds.).

²Hughes, *op. cit.*

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Some occupations are not as fortunate as others in their ability to delimit a societal "trouble" and deal with it systematically. The more power and authority a profession has, the better able it is to gain and maintain control over the symbolic meanings with which it is associated in the public's mind. As we have become less concerned with devils and witches as causes of mental illness, clergymen have lost ground to psychiatrists who have laid claim to a secular cure for madness; in this sense, mental illness is a product of the definitions supplied by psychiatry. A profession, therefore, must not only compete with its clientele's definitions, it must also defend itself against the definitions of competing groups. Is a backache better treated by a Christian Scientist, an osteopath, a chiropractor, a masseuse, or an M.D.? Professional groups whose tools are less well-developed, whose theory is jerry-built or unproved, and who are unable to produce results in our consumer-oriented society will be beset with public doubt, concern, and agitation. In other words, these are the groups that have been unable to define their mandate for solving social "troubles" in such a way that it can be accomplished with ease and to the satisfaction of those they intend to serve.

The police have trouble. Among the many occupations now in crisis, they best symbolize the shifts and strains in our changing socio-political order. They have been assigned the task of crime prevention, crime detection, and the apprehension of criminals. Based on their legal monopoly of violence, they have staked out a mandate that claims to include the efficient, apolitical, and professional enforcement of the law. It is the contention of this essay that the police have staked out a vast and unmanageable social domain. And what has happened as a result of their inability to accomplish their self-proclaimed mandate is that the police have resorted to the manipulation of *appearances*.

We shall attempt to outline the nature of the police mandate, or their definition of social trouble, their methods of coping with this trouble, and the consequences of their efforts. After developing a sociological analysis of the paradoxes of police work and discussing the heroic attempts—*strategies*—by police to untangle these paradoxes, we shall also consider the recommendations of the President's crime commission³ and assess their value as a means of altering and improving the practical art of managing public order.

To turn for the moment to "practical matters," the same matters to which we shall return before concluding, the troubles of the police, the problems and paradoxes of their mandate in modern society, have become more and more intense. Police today may be more efficient in handling their problems than were the first bobbies who began to patrol London in 1829. Or they may not be. There may or may not be more crime. Individual rights may or may not be greatly threatened by crime or crime-fighters, and the enforcement of law in view of recent Supreme Court decisions may or may not be a critical issue in crime control. The police may or may not have enough resources to do their job,

³The President's Commission on Law Enforcement and Administration of Justice (hereafter cited as President's Commission). *The Challenge of Crime in a Free Society* (Washington, D.C.: U.S. Government Printing Office, 1967); and idem. *Task Force Report: The Police* (Washington, D.C.: United States Government Printing Office, 1967).

and they may or may not be allocating them properly. Peace-keeping rather than law enforcement may or may not be the prime need in black communities, and the police may or may not need greater discretionary powers in making an arrest. But however these troubles are regarded, they exist. They are rooted deeply in the mandate of the police.

Some Sociological Assumptions

This essay makes several assumptions about occupations, about people as they execute occupational roles, about organizations as loci or structures for occupational activities, and about the nature of society. Not all activity taking place "on the job" can be construed as "work"; goldbricking is not unknown in American society and some professionals have even been known to use their places of work to conduct business somewhat outside the mandate of their organization. An individual's "organizational" behavior varies with what the organization is said to require or permit, with his particular place in the organizational hierarchy, and with the degree of congruence between the individual's personal definition of his role and the organization's definition of his role. In a given situation, then, organizational rules and regulations may be important sources of meanings ("He's working hard"), or other criteria may provide more relevant meanings of behavior ("He can't be expected to work. His wife just had a baby"). The ways in which people explain or account for their own organizational activities and those of others are problematic. How do people refer to their organizational roles and activities? How do they construct their moral obligations to the organization? What do they think they owe the organization? How does this sense of obligation and commitment pattern or constrain them in another role—the role of golfer or father or politician?

People as they perform their roles are actors. They are alert to the small cues that indicate meaning and intention—the wink, the scowl, the raised eyebrow. Those who attend to these behavioral clues are the audience. All actors try to maximize the positive impression they make on others, and both experience and socialization provide them with a repertoire of devices to manage their appearance.

People as actors in roles must also make assumptions about their audience. The politician, for example, must make certain assumptions about his constituency, the lawyer certain assumptions about clients. Assumptions are an important part of urban life. Some actors with white faces, for instance, may make certain assumptions about others with black faces, that they will be ill-mannered or badly educated and that any request for directions is a prelude to a holdup. Assumptions are not simply individual in nature; they are shared, patterned, and passed on from one social group to the next.

One of the most important aspects of assumptions, however, is that they are the basis for strategies.⁴ Strategies arise from the need of organizations and individuals to cope with persistent social problems about which assump-

⁴The important, sociological notions of "strategy" and "tactics" come from military theory and game theory. See, for example, Erving Goffman, *The Presentation of Self in Everyday Life* (Garden City, N.Y.: Doubleday, 1959).

tions have been made. Strategies are often a means of survival in a competitive environment; they can be inferred from the allocation of resources or from the behavior and pronouncements of an organization. In short, strategies assist any organization within the society in managing its appearance and in controlling the behavior of its audience.

All organizations and individuals, we assume, are bent on maximizing their impressions in order to gain control over an audience.⁵ The audience for the police is diverse; it should be considered many audiences. For the police must convince the politicians that they have used their allocated resources efficiently; they must persuade the criminals that they are effective crime-fighters; they must assure the broader public that they are controlling crime. Rather than a single rhetoric—the "use of words to form attitudes or induce actions in other human agents"⁶—directed toward convincing one audience, the police must develop many rhetorics. Linguistic strategies to control audiences are only one of many ploys used by the police organization to manage its impression. Not all the results of the use of rhetorics are intended; the consequence of the rhetorical "war on crime" in Detroit in the fall of 1969, to cite one example, was a continued advance in the city's downtown crime rate. Moreover, rhetoric can take on different meanings even within the organizational hierarchy. To patrolmen, the term "professionalism" means control over hours and salary and protection from arbitrary punishment from "upstairs"; to the chief and the higher administrators, it relates to the public-administration notions of efficiency, technological expertise, and standards of excellence in recruitment and training.

Tactics are the means by which a strategy is implemented. If the strategy is to mount a war on crime, then one tactic might be to flood the downtown area with scooter-mounted patrolmen. Tactics, in other words, are the ways in which one group of people deals with others in face-to-face encounters. How does the policeman handle a family quarrel in which the wife has the butcher knife and the husband already knows how sharp it is? Strategies pertain to general forms of action or rhetoric while tactics refer to the specific action or the specific words used to best meet a specific, problematic situation.⁷ The tactic of flattery may be far more effective—and safer—in wresting the butcher knife than a leap over the kitchen table.

All occupations possess strategies and tactics, by means of which they attempt to control their most significant audiences. However, our analysis must do more than describe the existence of such means of creating impressions. So far as the police are concerned, impression management, or the construction of appearances, cannot substitute for significant control of crime. To maintain the dramaturgic metaphor, we suggest that there are significant flaws and

⁵*Ibid.*

⁶Kenneth Burke, *A Grammar of Motives and a Rhetoric of Motives* (New York: Meridian Books, 1962), p. 565.

⁷D. W. Ball makes this distinction between rhetoric and what he terms "situated vocabularies" in "The Problematics of Respectability," in Jack D. Douglas, ed., *Deviance and Respectability* (New York: Basic Books, 1970).

contradictions in the performance of the police that cast a serious doubt on the credibility of their occupational mandate.

The mandate of the police is fraught with difficulties, many of them, we shall argue, self-created. They have defined their task in such a way that they cannot, because of the nature of American social organization, hope to honor it to the satisfaction of the public. We will argue that the appearances that the police create—that they control crime and that they attain a high level of efficiency—are transparent on close examination, that they may, in fact, be created as a sop to satisfy the public's impossible expectations for police performance. By utilizing the rhetoric of crime control, the police claim the responsibility for the social processes that beget the illegal acts. They cannot control these social processes that are embedded in American values, norms, and cultural traditions. Creating the appearance of controlling them is only a temporizing policy; it is not the basis for a sound, honorable mandate.

The police mandate and the problems it creates in American society are our central concern. We will rely on the concepts of actor, organization, and audience, of mandate, and of strategy and appearances. We will show that the police mandate, as presently defined, is full of contradictions. We will further demonstrate that the strategies and tactics of the American police are failing in a serious way to meet the need of controlling crime.

The Occupational Culture of the Police

Before beginning an analysis of the police mandate, a brief comment is necessary about the occupational culture of our law enforcers. The American police act in accord with their assumptions about the nature of social life, and their most important assumptions originate with their need to maintain control over both their mandate and their self-esteem. The policeman's self is an amalgam of evaluations made by the many audiences before whom he, as social actor must perform: his peers, his family, his immediate superiors and the higher administrators, his friends on and off duty. His most meaningful standards of performance are the ideals of his *occupational culture*. The policeman judges himself against the ideal policeman as described in police occupational lore and imagery. What a "good policeman" does is an omnipresent standard. The occupational culture, however, contains more than the definition of a good policeman. It contains the typical values, norms, attitudes, and material paraphernalia of an occupational group.

An occupational culture also prompts the *assumptions* about everyday life that become the basis for organizational strategies and tactics. Recent studies of the occupational culture of the police allow the formulation of the following postulates or assumptions, all of which are the basis for police strategies to be discussed later:

1. People cannot be trusted; they are dangerous.
2. Experience is better than abstract rules.
3. You must make people respect you.
4. Everyone hates a cop.

5. The legal system is untrustworthy; policemen make the best decisions about guilt or innocence.
6. People who are not controlled will break laws.
7. Policemen must appear respectable and be efficient.
8. Policemen can most accurately identify crime and criminals.
9. The major jobs of the policeman are to prevent crime and to enforce laws.
10. Stronger punishment will deter criminals from repeating their errors.⁸

Some qualifications about these postulates are in order. They apply primarily to the American noncollege-educated patrolman. They are less applicable to administrators of urban police departments and to members of minority groups within these departments. Nor do they apply accurately to nonurban, state, and federal policemen.

We shall now describe the paradoxes of the police mandate, the strategies of the police in dealing with their troubles, and some of the findings and recommendations of the President's crime commission as they bear on the current attempt by the police to make a running adjustment to their problems.

II. THE "IMPOSSIBLE" MANDATE

The police in modern society are in agreement with their audiences—which include their professional interpreters, the American family, criminals, and politicians—in at least one respect: they have an "impossible" task. Certainly, all professionals have impossible tasks insofar as they try to surmount the problems of collective life that resist easy solutions. The most "successful" occupations, however, have managed to construct a mandate in terms of their own vision of the world. The policeman's mandate, on the other hand, is defined largely by his publics—not, at least at the formal level, in his own terms.

Several rather serious consequences result from the public's image of the police. The public is aware of the dramatic nature of a small portion of police work, but it ascribes the element of excitement to all police activities. To much of the public, the police are seen as alertly ready to respond to citizen demands,

⁸These postulates have been drawn from the work of Michael Banton, *The Policeman in the Community* (New York: Basic Books, 1965); the articles in *The Police: Six Sociological Essays*, ed. David Bordua (New York: John Wiley & Sons, 1967), esp. those by Albert J. Reiss and David Bordua, and John H. McNamara; Arthur Niederhoffer, *Behind the Shield* (Garden City, N.Y.: Doubleday, 1967); Jerome Skolnick, *Justice Without Trial* (New York: John Wiley & Sons, 1966); and William A. Westley, "Violence and the Police," *American Journal of Sociology*, 59 (July 1953), 34–41; idem, "Secrecy and the Police," *Social Forces*, 34 (March 1956), 254–257; idem, "The Police: Law, Custom and Morality," in Peter I. Rose, ed. *The Study of Society* (New York: Random House, 1967). See also James Q. Wilson, *Varieties of Police Behavior: The Management of Law and Order in Eight Communities* (Cambridge, Mass.: Harvard University Press, 1968); idem, "The Police and Their Problems: A Theory," *Public Policy*, 12 (1963), 189–216; idem, "Generational and Ethnic Differences Among Police Officers," *American Journal of Sociology*, 69 (March 1964), 522–528.

as crime-fighters, as an efficient, bureaucratic, highly organized force that keeps society from falling into chaos. The policeman himself considers the essence of his role to be the dangerous and heroic enterprise of crook-catching and the watchful prevention of crimes.⁹ The system of positive and negative sanctions from the public and within the department encourages this heroic conception. The public wants crime prevented and controlled; that is, it wants criminals caught. Headlines herald the accomplishments of G-Men and F.B.I. agents who often do catch dangerous men, and the reputation of these federal authorities not infrequently rubs off on local policemen who are much less adept at catching criminals.

In an effort to gain the public's confidence in their ability, and to insure thereby the solidity of their mandate, the police have encouraged the public to continue thinking of them and their work in idealized terms, terms, that is, which grossly exaggerate the actual work done by police. They do engage in chases, in gunfights, in careful sleuthing. But these are rare events. Most police work resembles any other kind of work: it is boring, tiresome, sometimes dirty, sometimes technically demanding, but it is rarely dangerous. Yet the occasional chase, the occasional shoot-out, the occasional triumph of some extraordinary detective work have been seized upon by the police and played up to the public. The public's response has been to demand even more dramatic crook-catching and crime prevention, and this demand for arrests has been converted into an index for measuring how well the police accomplish their mandate. The public's definitions have been converted by the police organization into distorted criteria for promotion, success, and security. Most police departments promote men from patrol to detective work, a generally more desirable duty, for "good pinches"—arrests that are most likely to result in convictions.¹⁰ The protection of the public welfare, however, including personal and property safety, the prevention of crime, and the preservation of individual civil rights, is hardly achieved by a high pinch rate. On the contrary, it might well be argued that protection of the public welfare could best be indexed by a low arrest rate. Because their mandate automatically entails mutually contradictory ends—protecting both public order and individual rights—the police resort to managing their public image and the indexes of their accomplishment. And the ways in which the police manage their appearance are consistent with the assumptions of their occupational culture, with the public's view of the police as a social-control agency, and with the ambiguous nature of our criminal law.

⁹Although the imagery of the police and their own self-definition coincide on the dangers of being a policeman, at least one study has found that many other occupations are more dangerous. Policemen kill six times as many people as policemen are killed in the line of duty. In 1955, Robin found that the rate of police fatalities on duty, including accidents, was 33 per 100,000, less than the rate for mining (94), agriculture (55), construction (76), and transportation (44). Between 1950 and 1960, an average of 240 persons were killed each year by policemen—approximately six times the number of policemen killed by criminals. Gerald D. Robin, "Justifiable Homicide by Police Officers," *Journal of Criminal Law, Criminology and Police Science*, 54 (1963), 225–231.

¹⁰Niederhoffer, *Behind the Shield*, p. 221.

The Problematic Nature of Law and Order

The criminal law is one among many instrumentalities of social control. It is an explicit set of rules created by political authority; it contains provisions for punishment by officials designated with the responsibility to interpret and enforce the rules which should be uniformly applied to all persons within a politically defined territory.¹¹ This section discusses the relationships between the laws and the mores of a society, the effect of the growth of civilized society on law enforcement, and the problematic nature of crime in an advanced society. The differential nature of enforcement will be considered as an aspect of peace-keeping, and will lead to the discussion of the police in the larger political system.

A society's laws, it is often said, reflect its customs; it can also be said that the growth of the criminal law is proportionate to the decline in the consistency and binding nature of these mores. In simpler societies, where the codes and rules of behavior were well known and homogeneous, sanctions were enforced with much greater uniformity and predictability. Social control was isomorphic with one's obligations to family, clan, and age group, and the political system of the tribe. In a modern, differentiated society, a minimal number of values and norms are shared. And because the fundamental, taken-for-granted consensus on what is proper and respectable has been blurred or shattered, or, indeed, never existed, criminal law becomes a basis of social control. As Quinney writes, "Where correct conduct cannot be agreed upon, the criminal law serves to control the behavior of all persons within a political jurisdiction."¹²

Social control through the criminal law predominates in a society only when other means of control have failed. When it does predominate, it no longer reflects the mores of the society. It more accurately reflects the interests of shifting power groups within the society. As a result, the police, as the designated enforcers of a system of criminal laws, are undercut by circumstances that accentuate the growing differences between the moral order and the legal order.

One of these complicating circumstances is simply the matter of social changes, which further stretch the bond between the moral and the legal. The law frequently lags behind the changes in what society deems acceptable and unacceptable practice. At other times, it induces changes, such as those pertaining to civil rights, thereby anticipating acceptable practice. The definition of crime, then, is a product of the relationship between social structure and the law. Crime, to put it another way, is not a homogeneous entity.

The perspective of the patrolman as he goes about his daily rounds is a legalistic one. The law and the administrative actions of his department provide him with a frame of reference for exercising the mandate of the police. The of crime, then, is a product of the relationship between social structure and the

¹¹See Richard Quinney, "Is Criminal Behavior Deviant Behavior?" *British Journal of Criminology*, 5 (April 1965), 133. The material in this section draws heavily from Quinney. See also R. C. Fuller, "Morals and the Criminal Law," *Journal of Criminal Law, Criminology and Police Science*, 32 (March-April 1942), 624-630.

¹²Quinney, *op. cit.*, p. 133.

citizen, on the other hand, does not live his life in accordance with a legalistic framework; he defines his acts in accordance with a moral or ethical code provided him by his family, his religion, his social class. For the most part, he sees law enforcement as an intervention in his private affairs.

No matter what the basis for actions of private citizens may be, however, the patrolman's job is one of practical decision-making within a legalistic pattern. His decisions are expected to include an understanding of the law as a system of formal rules, the enforcement practices emphasized by his department, and a knowledge of the specific facts of an allegedly illegal situation. The law includes little formal recognition of the variation in the private arrangement of lives. Even so, the policeman is expected to take these into account also. No policeman can ever be provided with a handbook that could tell him, at a moment's notice, just what standards to apply in enforcing the law and in maintaining order. Wilson summarizes the difficulty inherent in law enforcement as follows:

Most criminal laws define *acts* (murder, rape, speeding, possessing narcotics), which are held to be illegal; people may disagree as to whether the act should be illegal, as they do with respect to narcotics, for example, but there is little disagreement as to what the behaviour in question consists of. Laws regarding disorderly conduct and the like assert, usually by implication, that there is a condition ("public order") that can be diminished by various actions. The difficulty, of course, is that public order is nowhere defined and can never be defined unambiguously because what constitutes order is a matter of opinion and convention, not a state of nature. (An unmurdered person, an unraped woman, and an unpossessed narcotic can be defined so as to be recognizable to any reasonable person.) An additional difficulty, a corollary of the first, is the impossibility of specifying, except in the extreme case, what degree of disorder is intolerable and who is to be held culpable for that degree. A suburban street is quiet and pleasant; a big city street is noisy and (to some) offensive; what degree of noise and offense, and produced by whom, constitutes disorderly conduct?¹³

The complexity of law enforcement stems from both the problem of police "discretion" and the inherent tensions between the maintenance of order and individual rights. The law contains rules on how to maintain order; it contains substantive definitions of crime, penalties for violations, and the conditions under which the commission of a crime is said to have been intended.¹⁴ Further, the law contains procedures for the administration of justice and for the protection of the individual. The complexities of law enforcement notwithstanding, however, the modern policeman is frequently faced with the instant problem of defining an action as either legal or illegal, of deciding, in other words, whether to intervene and, if so, what tactic to use. He moves in a dense web of social action and social meanings, burdened by a problematic, complex array of ever-changing laws. Sometimes the policeman must quickly decide very abstract matters. Though a practitioner of the legal arts, his tools

¹³Wilson, *op. cit.*, pp. 21-22.

¹⁴Skolnick, *op. cit.*, pp. 7-8, 9.

at hand are largely obscure, ill-developed, and crude. With little formal training, the rookie must learn his role by absorbing the theories, traditions, and personal whims of experienced patrolmen.

Police Work as Peace Keeping¹⁵

The thesis of two recent major works on the police, Wilson's *The Varieties of Police Behavior* and Skolnick's *Justice Without Trial*, can be paraphrased as follows: the policeman must exercise discretion in matters involving life and death, honor and dishonor, and he must do so in an environment that he perceives as threatening, dangerous, hostile, and volatile. He sees his efficiency constrained by the law and by the police organization. Yet, he must effectively manage "disorder" in a variety of unspecified ways, through methods usually learned and practiced on the job. As a result of these conditions, the policeman, in enforcing his conception of order, often violates the rights of citizens.

Many observers of police work regard the primary function of a policeman as that of a *peace-keeper*, not a *law enforcer*. According to this view, police spend most of their time attending to order-maintaining functions, such as finding lost children, substituting as ambulance drivers, or interceding in quarrels of one sort or another. To these observers, the police spend as little as 10 to 15 per cent of their time on law enforcement—responding to burglary calls or trying to find stolen cars. The large-scale riots and disorders of recent years accounted for few police man-hours. Wilson illustrates the peace-keeping (order maintenance) and law-enforcement distinction this way:

The difference between order maintenance and law enforcement is not simply the difference between "little stuff" and "real crime" or between misdemeanors and felonies. The distinction is fundamental to the police role, for the two functions involve quite dissimilar police actions and judgments. Order maintenance arises out of a dispute among citizens who accuse each other of being at fault; law enforcement arises out of the victimization of an innocent party by a person whose guilt must be proved. Handling a disorderly situation requires the officer to make a judgment about what constitutes an appropriate standard of behavior; law enforcement requires him only to compare a person's behavior with a clear legal standard. Murder or theft is defined, unambiguously, by statutes; public peace is not. Order maintenance rarely leads to an arrest; law enforcement (if the suspect can be found) typically does. Citizens quarreling usually want the officer to "do something," but they rarely want him to make an arrest (after all, the disputants are usually known or related to each other). Furthermore, whatever law is broken in a quarrel is usually a misdemeanor, and in most states, an officer cannot make

¹⁵This perspective on police work is emphasized by Wilson *op. cit.*; Banton, *op. cit.*; and Skolnick, *op. cit.* In addition, see the more legally oriented work of Wayne R. LaFave, *Arrest*, ed. F. J. Remington (Boston: Little, Brown, 1965); Joseph Goldstein, "Police Discretion Not to Invoke the Legal Process: Low-Visibility Decisions in the Administration of Justice," *Yale Law Journal*, 69 (1960), 543-594; and Herman Goldstein, "Police Discretion: The Ideal Versus the Real," *Public Administration Review*, 23 (September 1963), 140-148.

a misdemeanor arrest unless one party or the other will swear out a formal complaint (which is even rarer)¹⁶

The complexity of the law and the difficulty in obtaining a complainant combine to tend to make the policeman underenforce the law—to overlook, ignore, dismiss, or otherwise erase the existence of many enforceable breaches of the law.

Some researchers and legalists have begun to piece together a pattern of the conditions under which policemen have a tendency not to enforce the law. From a study of police in three Midwestern states, LaFave has concluded that two considerations characterize a decision not to arrest. The first is that the crime is unlikely to reach public attention—for example, that it is of a private nature or of low visibility—and the second is that underenforcement is unlikely to be detected or challenged.¹⁷ Generally, the conditions under which policemen are less likely to enforce the law are those in which they perceive little public consensus on the law, or in which the law is ambiguous. LaFave found that policemen are not apt to enforce rigorously laws that are viewed by the public as dated, or that are used on the rare occasions when the public order is being threatened.

There is a certain Benthamic calculus involved in all arrests, a calculus that is based on pragmatic considerations such as those enumerated by LaFave. Sex, age, class, and race might also enter into the calculus of whether the law should be enforced. In a case study of the policeman assigned to skid row, Bittner illustrates the great degree of discretion exercised by the policeman. Yet the law, often reified by the policeman, is rarely a clear guide to action—despite the number of routine actions that might be termed "typical situations that policemen perceive as *demand conditions* for action without arrest."¹⁸

In the exercise of discretion, in the decision to enforce the law or to underenforce, the protection of individual rights is often at stake. But individual rights are frequently in opposition to the preservation of order, as a totalitarian state exemplifies in the extreme. The police try to manage these two contradictory demands by emphasizing their peace-keeping functions. This emphasis succeeds only when a consensus exists on the nature of the order (peace) to be preserved. The greater the difference in viewpoint between the police and the public on the degree and kind of order to be preserved, the greater will be antagonism between the two; the inevitable result of this hostility will be "law breaking."

The resolution of the contradictions and complexities inherent in the police mandate, including the problems of police discretion, of individual rights, of law enforcement and peace-keeping, is not helped, however, by the involvement of police in politics. Politics only further complicates the police

¹⁶James Q. Wilson, "What Makes a Better Policeman?" *Atlantic*, 223 (March 1969), 131.

¹⁷LaFave, *op. cit.*

¹⁸Egon Bittner, "The Police on Skid-Row: A Study of Peace-Keeping," *American Sociological Review*, 32 (October 1967), 699-715.

mandate. The law itself is a political phenomenon, and at the practical level of enforcing it, the local political system is yet another source of confusion.

The Police in the Political System

In theory, the American police are apolitical. Their own political values and political aims are supposed to be secondary to the institutional objective of law enforcement. In practice, however, police organizations function in a political context; they operate in a public political arena and their mandate is defined politically. They may develop strategies to create and maintain the appearance of being apolitical in order to protect their organizational autonomy, but they are nonetheless a component of American political machinery. There are three reasons why the police are inextricably involved in the political system, the first and most obvious being that the vast majority of the police in this nation are locally controlled.

[Among the 40,000 law-enforcement agencies in the United States], there are only 50 . . . on the federal level . . . 200 on the state level. The remaining 29,750 agencies are dispersed throughout the many counties, cities, towns, and villages that form our local governments . . . Only 3,050 agencies are located in counties and 3,700 in cities. The great majority of the police forces—33,000—are distributed throughout boroughs, towns, and villages.¹⁹

In 1966 there were 420,000 full- and part-time law-enforcement officers and civilians employed by police agencies in the United States. Most of them—371,000—were full-time employees; about 11 per cent—46,000—were civilians. Of the full-timers, 23,000 served at the federal level of government, 40,000 at the state level, and the remaining 308,000, or 83 per cent of the total, were divided between county and local political jurisdictions. Of the 308,000, somewhat more than 197,000 were employees of counties, cities under 250,000, townships, boroughs, and villages; the balance of 110,500 served in the 55 American cities with populations of more than 250,000. The number of police personnel in any one type of political division varied widely, of course. For example, on the county level of government, the roster of the 3,050 sheriff's offices in the United States ranged from a one-man force in Putnam County, Georgia, to a 5,515-man force in Los Angeles County.

What all these figures indicate is the massive dispersal of police authority—and political authority—throughout the nation. What these figures also indicate is the existence of overlapping laws governing law enforcement. Further, they show that the responsibility for maintaining public order in America is decentralized, and that law-enforcement officers are largely under the immediate control of local political authorities.

The second reason why the police are an integral part of the political system is this: law is a political entity, and the administration of criminal law unavoidably encompasses political values and political ends. The police are directly related to a political system that develops and defines the law, itself a

product of interpretations of what is right and proper from the perspective of different politically powerful segments within the community.

The third reason why the police are tied to the political system emanates from the second: the police must administer the law. Many factors pattern this enforcement, but they all reflect the political organization of society. The distribution of power and authority, for example, rather than the striving for justice, or equal treatment under the law, can have a direct bearing on enforcement.

Because law enforcement is for the most part locally controlled, sensitivity to local political trends remains an important element in police practice. Since the police are legally prohibited from being publicly political, they often appeal to different community groups, and participate sub rosa in others, in order to influence the determination of public policy. Community policy, whether made by the town council or the mayor or the city manager, affects pay scales, operating budgets, personnel, administrative decisions, and, to some extent, organizational structure. The police administrator must, therefore, be responsive to these controls, and he must deal with them in an understanding way. He must be sensitive to the demands of the local politicians—even while maintaining the loyalty of the lower ranks through a defense of their interests.

There are several direct effects of the political nature of the police mandate. One is that many policemen become alienated; they lose interest in their role as enforcers and in the law as a believable criterion. The pressures of politics also erode loyalty to the police organization and not infrequently lead to collusion with criminals and organized crime.

The policeman's exposure to danger, his social background, low pay, low morale, his vulnerability in a repressive bureaucracy all conspire to make him susceptible to the lures of the underhanded and the appeals of the political. Studies summarized by Skolnick²⁰ reveal a political profile of the policeman as a conservative, perhaps reactionary, person of lower-class or lower-middle-class origin, often a supporter of radical right causes, often prejudiced and repressive, often extremely ambivalent about the rights of others. The postulates or assumptions of the police culture, the suspiciousness, fear, low self-esteem, and distrust of others are almost diametrically opposed to the usual conception of the desirable democratic man.

Thus, the enforcement of some laws is personally distasteful. Civil-rights legislation, for example, can be anathema. Or truculence can be the reaction to an order relaxing controls in ghettos during the summer months. It is the ambivalence of policemen toward certain laws and toward certain local policies that fragments loyalty within a department and causes alienation.

There is another consequence of the political nature of the police mandate: the police are tempted. They are tempted not to enforce the law by organized crime, by the operators of illegal businesses such as prostitution, and by fine "law-abiding," illegally parked citizens. All too frequently, the police submit to temptations, becoming in the process exemplars of the corruption typical of

¹⁹President's Commission, Task Force Report: *The Police*, pp. 7, 8-9

²⁰Jerome Skolnick, ed., *The Politics of Protest* (New York: Simon & Schuster, 1969), pp. 252-253.

modern society, where the demand for "criminal services" goes on at the station house.²¹

Police and politics within the community are tightly interlocked. The sensitivity of the police to their political audiences, their operation within the political system of criminal justice, and their own personal political attitudes undermine their efforts to fulfill their contradictory mandate and to appear politically neutral.

The Efficient, Symptom-Oriented Organization

The Wickersham report, the Hoover administration's report on crime and law enforcement in the United States, was published in 1931. This precursor of the Johnson administration's *The Challenge of Crime in a Free Society* became a rallying point for advocates of police reform. One of its central themes was the lack of "professionalism" among the police of the time—their lack of special training, their corruption, their brutality, and their use of illegal procedures in law enforcement. And one of its results was that the police, partly in order to demonstrate their concern with scientific data gathering on crime and partly to indicate their capacity to "control" crime itself, began to stress crime statistics as a major component of professional police work.

Crime statistics, therefore—and let this point be emphasized—became a police construction. The actual amount of crime committed in a society is unknown—and probably unknowable, given the private nature of most crime. The *crime rate*, consequently, is simply a construction of police activities. That is, the crime rate pertains only to "crimes known to the police," crimes that have been reported to or observed by the police and for which adequate grounds exist for assuming that a violation of the law has, in fact, taken place. (The difference between the *actual* and *known crimes* is often called the "dark figure of crime.") Of course, the construction of a crime rate placed the police in a logically weak position in which they still find themselves. If the crime rate is rising, they argue that more police support is needed to fight the war against crime; if the crime rate is stable or declining, they argue that they have successfully combated the crime menace—a heads-I-win-tails-you-lose proposition.)

In spite of their inability to control the commission of illegal acts (roughly, the *actual* rate), since they do not know about all crime, the police have claimed responsibility for crime control, using the crime rate as an index of their success. This use of the crime rate to measure success is somewhat analogous to their use of a patrolman's arrest rate as an indication of his personal success in law enforcement. Questions about the actual amount of crime and the degree of control exercised are thus bypassed in favor of an index that offers great potential for organizational or bureaucratic control. Instead of grappling with the difficult issue of defining the ends of police work and an

²¹There are several popular treatments of police corruption, none of them very good. Ralph L. Smith *The Tarnished Badge* (New York: Thomas Y. Crowell, 1965); Ed Cray, *The Big Blue Line* (New York: Coward-McCann, 1967).

operational means for accomplishing them, the police have opted for "efficient" law-enforcement defined in terms of fluctuations of the crime rate. They have transformed concern with undefined ends into concern with available means. Their inability to cope with the causes of crime—which might offer them a basis for defining their ends—shifts their "organizational focus" into symptomatic concerns, that is, into a preoccupation with the rate of crime, not its reasons.

This preoccupation with the symptoms of a problem rather than with the problem itself is typical of all bureaucracies. For one characteristic of a bureaucracy is goal-displacement. Bureaucratic organizations tend to lose track of their goals and engage in ritual behavior, substituting means for ends. As a whole, bureaucracies become so engrossed in pursuing, defending, reacting to, and, even, in creating immediate problems that their objective is forgotten. This tendency to displace goals is accelerated by the one value dear to all bureaucracies—efficiency. Efficiency is the be-all and end-all of bureaucratic organizations. Thus, they can expend great effort without any genuine accomplishment.

The police are burdened with the "efficiency problem." They claim to be an efficient bureaucratic organization, but they are unable to define for themselves and others precisely what it is they are being efficient about. In this respect, they do not differ from other paper-shuffling organizations. The police's problem is that the nature of their work is uncertain and negatively defined. It is uncertain in the absence of a consensus not only between the police and the public but also among themselves as to what the goals of a police department should be. It is defined in the negative because the organization punishes its members—patrolmen—for violating departmental procedures but offers no specifications on what they should do or how they should do it.

What do the police do about the problematic nature of law, about the problems arising from their involvement with politics, about their preoccupation with the symptoms of crime rather than the causes? Do they selectively adopt some strategies at the expense of others? Do they vacillate? Are the roles of the organization's members blurred? Before answering these questions, let us examine how the police, through various strategies, manage their appearance before the public. The questions will then be easier to answer.

III. MAJOR STRATEGIES OF THE POLICE

The responsibilities of the police lead them to pursue contradictory and untenable ends. They share with all organizations and occupations, however, the ability to avoid solving their problems. Instead, they concentrate on managing them through strategies. Rather than resolving their dilemmas, the police have manipulated them with a professional eye on just how well the public accepts their dexterity. Thus, law enforcement becomes a self-justifying system. It becomes more responsive to its own needs, goals, and procedures than to serving society. In this section, we will show the ways in which the police have followed the course of most other bureaucratic institutions in society, respond-

ing to their problems by merely giving the appearance of facing them while simultaneously promoting the trained incapacity to do otherwise.

The two primary aims of most bureaucracies, the police included, are the maintenance of their organizational autonomy and the security of their members. To accomplish these aims, they adopt a pattern of institutional action that can best be described as "professionalism." This word, with its many connotations and definitions, cloaks all the many kinds of actions carried out by the police.

The guise of professionalism embodied in a bureaucratic organization is the most important strategy employed by the police to defend their mandate and thereby to build self-esteem, organizational autonomy, and occupational solidarity or cohesiveness. The professionalization drives of the police are no more suspect than the campaigns of other striving, upwardly mobile occupational groups. However, since the police have a monopoly on legal violence, since they are the active enforcers of the public will, serving theoretically in the best interests of the public, the consequences of their yearnings for prestige and power are imbued with far greater social ramifications than the relatively harmless attempts of florists, funeral directors, and accountants to attain public stature. Disinterested law enforcement through bureaucratic means is an essential in our society and in any democracy, and the American police are certainly closer to attaining this ideal than they were in 1931 at the time of the Wickersham report. Professionalism qua professionalism is unquestionably desirable in the police. But if in striving for the heights of prestige they fail to serve the altruistic values of professionalism, if their professionalism means that a faulty portrait of the social reality of crime is being painted, if their professionalism conceals more than it reveals about the true nature of their operations, then a close analysis of police professionalism is in order.

Police professionalism cannot be easily separated in practice from the bureaucratic ideal epitomized in modern police practice. The bureaucratic ideal is established as a means of obtaining a commitment from personnel to organizational and occupational norms. This bureaucratic commitment is designed to supersede commitments to competing norms, such as obligations to friends or kin or members of the same racial or ethnic group. Unlike medicine and law, professions that developed outside the context of bureaucracies, policing has always been carried out, if done on a full-time basis, as a bureaucratic function.

Modern police bureaucracy and modern police professionalism are highly articulated, although they contain some inherent stresses that are not our present concern. The strategies employed by the police to manage their public appearance develop from their adaptation of the bureaucratic ideal. These strategies incorporate the utilization of *technology* and *official statistics* in law enforcement, of *styles of patrol* that attempt to accommodate the community's desire for public order with the police department's preoccupation with bureaucratic procedures, of *secrecy* as a means of controlling the public's response to their operations, of *collaboration* with criminal elements to foster the appearance of a smoothly run, law-abiding community, and of a *symbiotic relationship* with the criminal justice system that minimizes public knowledge of the flaws within this largely privately operated system.

IV. THE EFFECTIVENESS OF POLICE STRATEGIES

The police have developed and utilized the strategies outlined above for the purpose of creating, as we have said, the appearance of managing their troublesome mandate. To a large extent, they are facilitated in the use of these strategies, in being able to project a favorable impression, by a public that has always been apathetic about police activity. Moreover, what activity the public does observe is filtered through the media with its own special devices for creating a version of reality. The public's meaning of police action is rarely gathered from first-hand experience, but from the constructed imagery of the media—which, in turn, rely upon official police sources for their presentation of the news. The police for their part, understandably, manipulate public appearances as much as they possibly can in order to gain and maintain public support.

The specific strategies used by the police to create a publicly suitable image were described in Section III: the guise of professionalism; the implementation of the bureaucratic ideal of organization; the use of technology, official statistics, and various styles of patrol; secrecy; collaboration with corrupt elements; and the establishment of a symbiotic relationship with the courts. This section will present evidence by which to evaluate these strategies. The term "effectiveness" is used only in the context of how well these devices accomplish the ends which the public and the police themselves publicly espouse; the recommendations and evaluations of the President's crime commission will be central in making judgments of police effectiveness. This appraisal of how well the police manipulate their appearance will also be a guideline for evaluating the recommendations of the commission's task force report on the police.

Professionalism and the Bureaucratic Ideal

The assumptions of professionalism and of a bureaucratic organization include a devotion to rational principles and ends that may then be translated into specific work routines having predictable outcomes. The police are organized in a military command fashion, with rigid rules and a hierarchy governing operations. However, the patrolman, the lowest man in the hierarchy—and usually the least well-trained and educated—is in the key position of exercising the greatest amount of discretion on criminal or possibly criminal activities. Especially in his peace-keeping role and in dealing with minor infractions (misdemeanors), the patrolman has wide discretionary power concerning if, when, why, and how to intervene in private affairs.

Police work must both rely on discretion and control it. Excessive inattention and excessive attention to infractions of the law are equally damaging to a community. However, the complexity of the law, its dynamic and changing properties, the extensiveness of police department regulations, policies, and procedures, and the equivocal, relativistic nature of crime in regard to certain situations, settings, persons, and groups make it impossible to create a job description that would eliminate the almost boundless uncertainty in police patrol.

Neither professionals nor bureaucrats, however, have yet found an effective means of controlling discretion. If an organization cannot control those of its members with the greatest opportunity to exercise discretion, it flounders in its attempts to accomplish its stated purposes. Two general principles suggest why the police have not been able to control discretion. The first has to do with the general problem of control and the second with the specific nature of police work.

Men are unwilling to submit completely to the will of their organizational superiors. Men will always attempt to define and control their own work. Control means the right to set the pace, to define mistakes, to develop standards of "good" production and efficiency. But as surely as superiors seek to control the quality and the extent of work performed by their subordinates in a hierarchy, just as surely will they meet with attempts to reshape and subvert these controls.

In the specific instance of police bureaucracies, the patrolman conceives of himself as a man able to make on-the-spot decisions of guilt or innocence. He does not think of himself as a bureaucratic functionary nor as a professional. Further, since the police organization itself has become far more interested in efficiency than in purpose, since it is unable to specify its overall objectives, the patrolman finds it difficult, if not impossible, to demonstrate that necessary devotion to rational ends required of professionalism and bureaucratic organizations. Until police departments are able to control the amount and kind of discretion exercised by their members, and until the police are able, with the help of lawyers and other citizens, to develop positive means of motivation and reward in line with clear, overall policy directives, the failure of what we have called the professionalism-bureaucracy strategy is an absolute certainty.

Technology, Statistics, and the Crime Rate

This section will evaluate the strategy of technology in the control and prevention of crime, the use of statistics, and the significance of the so-called crime rate. Given the sociological nature of crime, let it be said immediately that present technology deals with unimportant crime and that the F.B.I. index of crimes, by which we base judgments of police effectiveness, is biased and an unrealistic reflection of the actual crime rate.

One of the striking aspects of the President's crime commission report is the thoroughly sociological nature of the document. The discussion of the causes of crime in the first two chapters points to the growth of urbanism, anonymity, the breakdown in social control, and the increasing numbers of frustrated and dissatisfied youth who have always constituted the majority of known lawbreakers. There are no labels such as "evil people," "emotionally disturbed," "mentally ill," or "criminally insane." The first set of recommendations under prevention in the summary pages of the report are "sociological": strengthen the family, improve slum schools, provide employment, reduce segregation, construct housing. All these matters are patently and by definition out of the control of the police.

There is every evidence that the police themselves subscribe to a thoroughly social, if not sociological, definition of the causes of crime—that is,

that crime is the manifestation of long-established social patterns and structures which ensnare and implicate the police and the criminals as well as the general public. And they are doubtless correct.

Surveys done by the President's crime commission revealed that there are always contingencies in the information police receive about a crime even before they are able to investigate it. These contingencies involve such matters as the nature of the relationship between the victim and the offender and whether or not the victim believes the police are competent to investigate and solve the crime. Computer technology depends on informational "input." On that point, the police seem both unable to define what sort of information would be useful and unable to obtain, and probably never can obtain in a democratic society, information that would make them better able to enforce the law.

The facts in the problem of "crime prevention" overwhelmingly doom the present professionally based notion that the application of science and technology will begin to ease the distress the police feel as they face the escalating demands of their audiences. Also, it would be easier to assess the value of the technology strategy if we were able to define exactly to what end the technology would be applied and in what ways it could be expected to work.

Styles of Patrol

Police strategy is subject to many contingencies. It is a basic principle of public administration that policy made at the higher echelons of an organization will be effective only if each successively lower level of the organization complies with that policy and is capable of carrying it out. It is also a truism that participants at the lowest level in the hierarchy are the most "difficult" to mobilize and integrate into the organization. A style of patrol is basically the manner in which an administrative police policy is executed. The policy may prescribe that the patrolman overlook certain types of illegal acts; it may order that he minimally enforce particular laws or be sensitive to and strictly enforce others. If the administrative order setting a patrol style does not win the cooperation of the patrolman it is certain to fail. Thus, the success of any high-echelon policy that involves the performance of the patrolman is contingent upon his compliance with that policy. If the administrator's orders are not binding on the patrolman, no distinctive style of patrol will result; all that will be demonstrated will be the responses of the patrolman to other aspects of his social environment, especially, how his fellow patrolmen perform.

The success of this strategy is dependent upon the capacity of the administrator to create loyalty to his internal policies. With the rise of police unions, the discontent of the black patrolman, low pay, and relatively less security for the policeman, organizational control is a major problem in all the large police departments of the country—with Los Angeles possibly the single exception.

The effectiveness of the watchman, legalistic, and service styles of patrol will also depend on the degree of political consensus among the community groups patrolled, the clarity of the boundaries of community neighborhoods, competition between the police and self-help or vigilante groups, and the relative importance of nonoccupational norms in enforcement practices—that is, the importance of racial or ethnic similarities between the patrolman and the

people in his neighborhood. If a clear social consensus on the meaning of the law and what is expected of the police can be established within a community, a well-directed policy of control over police patrol is the most logical and rational approach to police work. In some communities, largely suburban and middleclass, the police can carry out what their public demands and a degree of harmony exists. This consensus is absent in our inner cities.

Secrecy and Collaboration

The use of secrecy by the police is, as we have pointed out, a strategy employed not only to assist them in maintaining the appearance of political neutrality but to protect themselves against public complaints. Secrecy also helps to forestall public efforts to achieve better police service and to secure political accountability for police policy. Police collaboration with criminal elements—corruption, in other words—has much the same effect since it decreases the pressure to enforce “unenforceable” laws against certain segments of the police’s clientele.

These two strategies were among the major concerns of the President’s crime commission task force on police. The task force’s report devoted major attention to the fact that political forces influence police actions and policies. The report affirmed the political nature of police work; what concerned the writers of the report was the nature and type of political influence on police actions. Their recommendations, furthermore, were based on their recognition of the fact that the police have been fairly successful in managing the appearance of being apolitical.

There are several reasons why the police strategies of secrecy and collaboration will continue in force: (1) as long as the client—the public—is seen as the enemy, the police will treasure their secrecy and use it to engineer public consent to their policies and practices; (2) as long as a new political consensus is not formed on the nature and type of police control necessary in society as a whole, the organized, self-serving survival aims of police organizations will emerge victorious. Any well-organized consensual, secretive organization can resist the efforts of an unorganized public, managed by rhetoric and appearances, to reform it; (3) as long as there remains a lack of consensus on the enforcement of many of our “moralistic” laws, police corruption and selective law enforcement will continue. Collaboration to reduce adversary relationships with the criminal segment of society will always be an effective strategy—providing a sudden upsurge in public morality doesn’t temporarily subject the police to a full-scale “housecleaning.” Replacements would, of course, be subject to the same pressures and would, in all likelihood, eventually take the same line of least resistance.

One solution to corruption is said to be better educated, more professional policemen. By recruiting better educated men, the more professionalized police departments also seek to diminish the expression of political attitudes on the job and the tendency of policemen to form political power groups based on their occupation. These are also assumptions made by the crime commission’s task force on police. There is, however, no evidence that college-educated or better-paid policemen are “better policemen”; nor is there any evidence that “better

men” alone will solve the essentially structural problems of the occupation.

We can tentatively conclude from this review that corruption will remain with us as long as laws remain which stipulate punishments for actions on which a low public consensus exists. It will remain when there is likely to be a low visibility of police performance, and it will remain while there is a high public demand for illegal services—gambling, prostitution, abortion—and the concomitant need of the police for information on these services from the practitioners themselves.

Symbiosis and Justice

Although the police have the principal discretion in the field with reference to the detection, surveillance, and appraisal of alleged offenders, the final disposition of a criminal case must be made in the courts. The police are thus dependent on the courts in a very special way for their successes. The ideal model of the criminal-justice system makes the police essentially the fact gatherers and apprehenders, while the courts are to be the decision-makers.

The police attempt to appear efficient has led them as we have noted before, to seek the good pinch, the arrest that will stand up in court. With victimless crimes, such as those involving gambling or drugs or prostitution, the police control the situation since they alone decide whether an offense has been committed and whether they have a legal case against the offender. To control the success rate in these cases, the police create a gaggle of informants, many of whom are compelled to give the police evidence in order to stay free of a potential charge against themselves for a violation similar to the one they are providing information about. In the case of more serious crimes, the problems are more complex; in these cases the police must rely on other informants, and their discretion on arrests and charges are more often exercised by administrators and prosecuting attorneys.

In the prosecution stage, the bureaucratic demands of the court system are paramount. Abraham Blumberg describes these demands and the tension between efficiency and “due process”:

The dilemma is frequently resolved through bureaucratically ordained shortcuts, deviations and outright rule violations by the members of the courts, from judges to stenographers, in order to meet production norms. Because they fear criticism on ethical as well as legal grounds, all the significant participants in the court’s social structure are bound into an organized system of complicity. Patterned, covert, informal breaches, and evasions of “due process” are accepted as routine—they are institutionalized—but are nevertheless denied to exist.²²

The net effect of this strain within the court system is to produce a higher rate of convictions by means of encouraging a plea of guilty to a lesser charge. As far as the police are concerned, then, the strategy of symbiosis is sound.

There are several undesirable effects of this symbiosis. First, it encourages corruption by permitting the police to make decisions about the freedom of

²²Abraham Blumberg, *Criminal Justice* (Chicago: Quadrangle Press, 1967), p. 69.

their informants; it gives them an illegal hold and power over them, and thus it undercuts the rule of law. Second, many offenders with long criminal records are either granted their freedom as informants or allowed to plead guilty to lesser charges in return for the dismissal of a more serious charge. Skolnick calls this the "reversal of the hierarchy of penalties," because the more serious crimes of habitual criminals are prosecuted less zealously than the minor violations of first offenders. Third, it helps blur the distinction between the apprehension and prosecution aspects of our criminal-justice system.

V. CONCLUSIONS AND PROPOSED REFORMS

The allocation of rewards in a society represents both its division of labor and its configuration of problems. Ironically, the allocation of rewards is also the allocation of societal trouble. Societal trouble in a differentiated society is occupational trouble. The ebb and flow of rewards emanating from the division of labor becomes structured into persistent patterns that are sustained by continuous transactions among organizations and occupational groups. Occupational structures reflect societal structures, but they reflect them in ways that have been negotiated over time. The negotiation is based upon the universal human proclivity to differentiate roles, organizations, and occupations. The more dependent an organization is upon its environment for rewards, the more likely it is to rely on the management and presentation of strategies to establish the appearance of autonomy.

Organizations without a high degree of autonomy in the environments in which they operate are greatly constrained by the internal pressure of competing aims and roles of members. The agreement on problems, goals, values, and self-concepts that emerges from occupational socialization and functioning is a strong basis for influencing organizational direction. The occupational standards in this case subvert the rule of law as a system of norms outside the informal norms of the occupation. The policeman's view of his role and his occupational culture are very influential in determining the nature of policing. The basic source of police trouble is the inability of the police to define a mandate that will minimize the inconsistent nature of their self-expectations and the expectations of those they serve.

The problems derived from a contradictory mandate remain unaffected by the efforts of the institution to solve them; they do, however, take the shape into which they have been cast by institutional functionaries. Cooley long ago discussed the process of institutional ossification, the process by which institutions stray from serving the needs of their members and their publics, thereby losing the loyalty of those within and the support of those without. The consequences of institutional ossification as related to the police are twofold. First, the police begin to search for a so-called higher order of legitimacy; they make appeals to morality, to patriotism, to "Americanism," and to "law and order" to shore up eroded institutional charters and to accelerate their attempts to control and manipulate their members and clients. Second, the police, as they develop a far greater potential for controlling those they serve through their representational strategies, come to serve themselves better than ever before.

The problem of the police is, essentially, the problem of the democratic society, and until the central values and social structures of our society are modified (and I think we are seeing such a modification), there can be no real change in the operation of social control. The needed changes are, by and large, not those dealt with in the crime commission report. And this is telling. For an eminently sociological document, it did not focus on the heart of the problem: our anachronistic, moralistic laws, with which the police are burdened, and our dated political system, which is unable to bring political units into a state of civil accountability. The focus of the report and recommendations was predictably on symptoms of crime, not on causes of crime. The "managerial focus" of the report, or its public-administration bias, outlined needed reforms, but not ways in which to implement them, and the problem of efficiency was never really faced.

Not surprisingly for a political document having a variety of public functions, the report has little to say about the nature of the present criminal laws. It dwells, like the police themselves, on means, not ends. As Isidore Silver points out in a critique of the report, more than one-half the crimes committed do not harm anyone: more than one-third are for drunkenness, and a small but important portion are for other "crimes without victims." Most crimes are committed by juveniles who inexplicably "grow out" of their criminality. In 1965, 50 per cent of the known burglaries and larcenies were committed by youths under 18.²³ The report does note what was a central point of our discussion of the political nature of crime, that police corruption is, in almost every instance, a consequence of trying to enforce admittedly unenforceable laws. The demand for services provided by homosexuals, by gamblers, prostitutes, and abortionists is high, and the supply is legally made unavailable to anyone who wants to remain in the so-called "law-abiding" category. The laws, in effect, create the crime and the criminals.

Changes in laws to reduce their absolutistic element and to free people who deviate with little harm to others from the onus of criminalization cannot be accomplished without a parallel change in the nature of police accountability. As we have seen, the strategies of secrecy and rhetoric used by the police play on the fears of society and provide a basis for police control. The managerial reforms contained in the task force report—more public debate on and greater internal and external control over police actions—are needed. Even more urgently required are specific ways in which the cities can control the police and make them strictly accountable for their actions—methods, that is, which go a good deal further than merely disposing of the chief or convening a judicial review board. To give city governments this kind of control over the police, however, entails the reorganization of police departments themselves so that their goals are clear and defined and so that the occupational rewards within the police organization are aligned with public goals.

²³Isidore Silver, Introduction to *The Challenge of Crime in a Free Society* (New York: Avon Books, 1968), p. 25. The President's Commission, *Task Force Report: The Courts*, discusses substantive criminal law, however, and does make some suggestions for legal change.

Three interrelated organizational changes must be made to insure that police attend to the job of maintaining public order. One is to reorganize police departments along functional lines aimed at peace-keeping rather than law enforcement; the second is to allocate rewards for keeping the peace rather than for enforcing the law; the third is to decentralize police functions to reflect community control without the diffusion of responsibility and accountability to a central headquarters.

Present police departments are organized in a military fashion; orders move down the line from the chief to departmental sections assigned law enforcement functions. These sections usually include such divisions as traffic, patrol, records, detective, juvenile, intelligence, crime-lab, and communications. The principal basis for the assignment of functions, however, is law enforcement;²⁴ what is needed is a new set of organizational premises so that the basis for the assignment of functions is not law enforcement but the maintenance of order. As Wilson explains:

If order were the central mission of the department, there might be a "family disturbance squad," a "drunk and derelict squad," a "riot control squad," and a "juvenile squad"; law enforcement matters would be left to a "felony squad." Instead, there is a detective division organized, in the larger departments, into units specializing in homicide, burglary, auto theft, narcotics, vice, robbery, and the like. The undifferentiated patrol division gets everything else. Only juveniles tend to be treated by specialized units under both schemes, partly because the law requires or encourages such specialization. The law enforcement orientation of most departments means that new specialized units are created for every offense about which the public expresses concern or for which some special technology is required.²⁵

What is called for, then, is a new organizational pattern that will provide a domestic unit (as is now being tried in New York City), a juvenile unit, and a drunk unit with a detoxification center, all with a peace-keeping orientation and peace-keeping functions. Only a felony squad and perhaps a riot squad should be used to enforce the law.

One of the obvious ways in which to improve the morale of the patrolman is to let him do a greater amount of investigative work and to take on the responsibility for "solving" some of the crimes originating with his patrol. Rewards could then be allocated in accord with the more limited ends of peace-keeping—for instance, in rewarding a patrolman for a decline in the number of drunks who reappear in court. Since no comprehensive policy can be imagined to guide order maintenance, limited ends for various departments must be developed and subjected to public review. The key is to allow the policeman to develop judgment about the motives and future intentions of people with whom he comes in contact, and to reward him for peace-keeping, not "good pinches" alone.

This reappraisal of the allocation of rewards means, of course, that there

²⁴President's Commission, *Task Force Report: The Police*, charts on pp. 46-47.

²⁵Wilson, *op. cit.*, p. 69.

must be greater coordination of police and other agencies within the criminal-justice system in order to increase the benefits to the client (the offender or the criminal) and break down the isolation of the police.²⁶ To allow the policeman to assume greater peace-keeping responsibilities would allow him to play a functional role parallel to that of the better general practitioner of medicine: the referral specialist, the coordinator of family health, the source of records and information, and the family friend and counselor. Such an organizational change in the policemen's function would, naturally enough, make community control of the police a greater possibility. It would begin to bridge the chasm between the police and many hostile segments within the public, a process that could be facilitated by the creation of a community-relations division within police departments.

The third needed modification of the present structure of police work is the development of decentralized operations. One of the major social trends of the last ten years has been the increase in the lack of attachment people have for their major institutions. Police today suffer from a crisis of legitimacy, and this crisis is heightened by their failure to promote a sense of commitment to their operations by the citizens they serve. One way in which to introduce commitment and a sense of control over the police by members of a community is to make the police more accessible. St. Louis, for example, has experimented with "storefront" police stations, staffed by a few men who are available as advisers, counselors, protectors, and friends of the people in the immediate neighborhood. If the police should begin to differentiate the role of the patrolman to include the functions of a peace-keeping community agent, the control of these agents should reside in the community. Thus public participation in the decision-making processes of the police would begin at the precinct or neighborhood level; it would not be simply in the form of a punitive civilian review board or a token citizen board at headquarters.

We began with the notion of trouble, police trouble, the troublesome mandate of the policeman. There will be little succor for him as long as our social structure remains fraught with contradictory value premises, with fragmented political power and the consequent inadequate control of the police, with the transformation of public trusts into institutional rights. There will be little succor for him as long as our political agencies resist moving to de-moralize our criminal laws. As it is, we can expect that the management of crime through police strategies and appearances will continue to be a disruptive element in American society.

²⁶See John P. Clark, "The Isolation of the Police: A Comparison of the British and American Situations," in John Scanlon ed., *Readings in Social Problems* (Boston: Allyn & Bacon, 1967), pp. 384-410. See also David Bordua, "Comments on Police-Community Relations," mimeographed (Urbana: University of Illinois, n.d.).