

citizen complaints, warranted and unwarranted, about treatment by the police. How such complaints should be handled has been the subject of perhaps the fiercest of the many controversies about the police that have raged in recent years.

Formal machinery within every police department for the investigation of complaints against police activity or employees is an absolute necessity. It is also important that the complainant be personally informed of the results of the investigation and the disposition of the complaint. Every large department has machinery of some kind for dealing with charges of misconduct by its members, whether those charges originate inside or outside of the department. It typically consists of a board of high-ranking officers or, in some cases, nonsworn departmental officials, that investigates the facts of alleged dereliction and makes a recommendation to the departmental administrator. He properly has the authority and responsibility to take disciplinary action. When this kind of machinery is fully and fairly used it succeeds both in disciplining misbehaving officers and deterring others from misbehaving.

If the complainant remains dissatisfied with the disposition of the case, there are other avenues of appeal outside of the police agency: The local prosecutor; the courts; elected officials such as councilmen, or the mayor; the States' attorney general; the U.S. Department of Justice; and various civil rights or human relations commissions. While all of these are traditional institutions of legal redress they are frequently too formal, awesome, or geographically far removed from the often bewildered citizen. Some of them lack the machinery or resources to process grievances. Some can take action only if a criminal law has been violated. But many of the grievances that constitute acts of misconduct will not qualify as a basis for criminal action.

In going beyond the established legal procedures, the Commission finds it unreasonable to single out the police as the only agency that should be subject to special scrutiny from the outside. The Commission, therefore, does not recommend the establishment of civilian review boards in jurisdictions where they do not exist, solely to review police conduct. The police are only one of a number of official agencies with whom the public has contact, and in some cases, because they are the most visible and conspicuous representatives of local government, they may be the focus of more attention than they deserve. Incompetence and mistreatment by housing, sanitation, health, and welfare officials can be as injurious to citizens as mistreatment by the police and should be equally subject to public scrutiny. These officials, like policemen, are public servants. In view of the increasing involvement of government officials in the lives of citizens, adequate procedures for the consideration of such individual grievances as citizens may have against such officials are essential to effective government. So far as possible, it is desirable that such procedures be established within the governmental agency involved. To the extent such procedures are ineffective or fail

to inspire general public confidence including the confidence of those who may have legitimate grievances, further recourse is essential. The form that such further recourse should take is dependent on local needs and governmental structure.

The Commission recommends:

Every jurisdiction should provide adequate procedures for full and fair processing of all citizen grievances and complaints about the conduct of any public officer or employee.

THE DEVELOPMENT OF GUIDELINES FOR POLICE ACTION

In view of the importance, complexity, and delicacy of police work, it is curious that police administrators have seldom attempted to develop and articulate clear policies aimed at guiding or governing the way policemen exercise their discretion on the street. Many police departments have published "general order" or "duty" or "rules, regulations, and procedures" manuals running to several hundred pages. They deal extensively, and quite properly, with the personal conduct of officers on and off duty, with uniform and firearms regulations, with the use of departmental property, with court appearances by officers, with the correct techniques of approaching a building in which a burglary may be in progress. They instruct an officer about taking a suspect into custody and transporting him to the station, or about dealing with sick or injured persons, or about handling stray dogs, or about cooperating with the fire department, or about towing away abandoned automobiles—with, in short, dozens of situations in which policemen commonly, or uncommonly, find themselves. What such manuals almost never discuss are the hard choices policemen must make every day: whether or not to break up a sidewalk gathering, whether or not to intervene in a domestic dispute, whether or not to silence a street-corner speaker, whether or not to stop and frisk, whether or not to arrest. Yet these decisions are the heart of police work. How they are made determines to a large degree the safety of the community, the attitude of the public toward the police and the substance of court rulings on police procedures.

No doubt there are several reasons for the failure of the police to set forth consistent law enforcement policies. One is that it is an extremely hard thing to do. For example, defining the amount of objectively based suspicion that justifies a "stop," in such a way that the definition will be of some help to a patrolman on his beat, takes much thought and much expertise. However, it is by no means impossible. The bulletin of the New York State Combined Council of Law Enforcement Officials affords the patrolman practical guidance for his actions, including examples, factual variables, and guiding principles. In effect, this carries a New York "stop and frisk" statutory provision into the street situations in which it is ad-

ministered. The administrative guidance supplements the general legislative policy.

Another reason that law enforcement policies are seldom stated is that many of them would turn out to be, if clearly set forth, highly controversial. For example, if the police announced publicly that nondisorderly drunks would be arrested only if they had no home to go to, they might be accused of discriminatory treatment.

Probably the most pervasive reason that the police do not articulate policy formally is that they usually do not realize that they make policy informally every day. The police are not accustomed to thinking of themselves as employees of an agency that much more often enforces laws administratively than by invoking the formal criminal process through arrest. Yet a decision by a policeman to order a sidewalk gathering to "break it up," or to take a delinquent youth home rather than arrest him, or to "cool off" a drunk in a precinct lockup rather than formally charge him, is an administrative decision. Not only should policemen be guided by departmental policy in the making of such delicate decisions, but the people who will be affected by these decisions—the public—have a right to be apprised in advance, rather than *ex post facto*, what police policy is.

The Commission recommends:

Police departments should develop and enunciate policies that give police personnel specific guidance for the common situations requiring exercise of police discretion. Policies should cover such matters, among others, as the issuance of orders to citizens regarding their movements or activities, the handling of minor disputes, the safeguarding of the rights of free speech and free assembly, the selection and use of investigative methods, and the decision whether or not to arrest in specific situations involving specific crimes.

The issuance of orders to individuals regarding their movements, activities, and whereabouts relates particularly to the common police practice of ordering many street gatherings to "break it up" and "move on." Considerations that might govern the issuance of such orders are the time of day, the amount of disturbance the gathering is causing, whether or not the members are intoxicated, whether or not they are unduly obstructing traffic, and whether or not they are people known to the police as offenders or troublemakers.

Also involved are cultural considerations that are more complex. Some people ordinarily conduct their social lives on the street, particularly if they live in neighborhoods where the housing is dilapidated and overcrowded and where there are few parks or other recreational facilities. Breaking up such groups, rather than contributing to public order, is likely to have the reverse effect. Moreover, formulating and executing policy in this field could make the police more conscious of neighborhood problems and could, therefore, make the police more effective servants of the community.

Handling minor disputes is an activity that is regarded as of small importance by most police administrators. Yet it occupies a great deal of the time of many policemen. To the disputants themselves, who are more often than not law-abiding citizens, the manner in which the police intervene in their affairs is a matter of great importance. Disputes, particularly domestic disputes, as discussed earlier, are a subject about which it would be difficult to formulate policy without first engaging in considerable research. The police should seek to accumulate information about families that cause repeated disturbances, to discover whether certain kinds of disturbances are more likely than others to lead to serious assaults or to homicides, to compile statistics on the typical effects of having one of the parties swear out a complaint against the other, to become familiar with the social-service agencies, if any, to which troubled families can be referred. For the police to mediate, arbitrate or suppress each dispute that they encounter as if it were unique—or as if all disputes were alike—contributes little, in the long run, either to law enforcement or to community service.

Chapter 3 has discussed at some length the intimate street relationships between policemen and juveniles. Because juveniles frequent the streets so much, because they are usually in groups, because they are sensitive to real or imagined slights, and because the line between natural and relatively harmless conduct and threatening or injurious behavior is often hard to draw, the police must exercise great discretion in dealing with them. Clear police policies about ways of handling various juvenile situations would be of great help to policemen on the street. There is a trend toward articulating policy about this part of police work. For example, the Chicago Police Department has issued a particularly lucid set of prescriptions for dealing with juveniles.

Safeguarding the rights of free speech and free assembly has become in recent years an increasingly important police duty, and one that can, on occasion, divert large numbers of police from patrol or investigative duties. During 1 month in Philadelphia, for example, there were 15 major demonstrations that needed police protection or at least police presence. This figure does not include dozens of street corner meetings and other minor forms of propagandizing or protest—each of which required the continuous attention of at least one policeman, while it was underway. These demonstrations were either for or against police brutality, a strike of California grape pickers, the Pennsylvania divorce laws, rock and roll music, slum landlords, draft classification examinations, black power, a movie about the Battle of the Bulge, a "rape sentencing" bill, equal rights for homosexuals, low wages at a convalescent home, more post office promotions for Negroes, and the war in Vietnam.

Policing demonstrations is a particularly sensitive job, not only because of the occasional difficulty in distinguishing between the legitimate exercise of constitutional rights, and trespass or incitement to riot, but because policemen have views of their own about the issues that are being vociferously debated. When spontaneous or

surprise demonstrations take place the policemen on the scene have to decide rapidly whether to protect the demonstrators or to put an end to the demonstration in order to keep order. In such situations they especially need the guidance of clear policies about which ways of demonstrating are permissible and which are unlawful.

The selection of investigative methods is probably the most important field in which police policy is needed. This chapter has already discussed the restrictions that the courts have placed on police practices, due in part to the fact that neither police officials nor legislatures have defined clearly when and how those practices were appropriate. The chapter has also discussed the effects on community relations that can result from police insistence on using certain kinds of aggressive law enforcement techniques in certain neighborhoods. Among police procedures that need definition are surveillance, undercover techniques, the use of informants, the common vice squad practices of giving suspects the opportunity to commit offenses in the presence of policemen, and especially field interrogation.

Finally, the police should openly acknowledge that, quite properly, they do not arrest all, or even most, offenders they know of. Among the factors accounting for this exercise of discretion are the volume of offenses and the limited resources of the police, the ambiguity of and the public desire for nonenforcement of many statutes and ordinances, the reluctance of many victims to complain and, most important, an entirely proper conviction by policemen that the invocation of criminal sanctions is too drastic a response to many offenses.

But while the Commission believes strongly that it is not only appropriate, but necessary, for policemen to exercise discretion about arrests, it also believes that it is both inappropriate and unnecessary for the entire burden of exercising this discretion to be placed on individual policemen in tumultuous situations. It is incumbent on police departments to define as precisely as possible when arrest is a proper action and when it is not.

THE POTENTIAL BENEFITS OF POLICE POLICYMAKING

Some of the advantages the police would gain by taking the responsibility for formulating guidelines are readily apparent and have been indicated above. It would bring the important street decisions, now made only by patrolmen, up to the level of the chief administrator and his staff, who would formulate policy much in the way a board of directors serves a corporation. This would remove from individual policemen some of the burden of having to make important decisions ad hoc, in a matter of seconds. It would create a body of standards that would help make the supervision and evaluation of the work of individual policemen consistent. It would help courts understand the issues at stake when police procedures are challenged and lessen the likelihood of inappropriate judicial restrictions being placed on police work. Police administrators would then have more freedom to meet the changing needs of law enforcement.

Other advantages would be less immediate but no less important. A commitment to policymaking by the police would compel them to inquire far more deeply than they have so far into both the social and the technical aspects of law enforcement. It would force the police to ponder the nature of deterrence and the best ways of achieving it. It would suggest experiments with various techniques of patrol and investigation, and indicate the kinds of equipment and management systems that might make police work more efficient, including, perhaps, a computerized data bank of policy information that would permit instant response to queries by line officers and their supervisors. Policymaking would result in a codification of police expertise that could be used in training programs and that would be available to all policemen everywhere. It would involve the police in the programs of social betterment to which the community as a whole is dedicated. It would, in short, do much to professionalize police work in the most meaningful sense of the word.

Finally, recognition by the police and by the community that policymaking is a legitimate and essential part of the police function would tend to involve the rest of the community in law enforcement in a more helpful way. Mayors and city councils are nominally possessed of the ultimate responsibility for police work, but it is difficult for them to exercise their powers to influence police policy when that policy is informal and inexplicit. By the same token, prosecutors and judges find it difficult to evaluate how well the police are doing their job and to help them do it better when police policy is unexpressed. Legislatures will be unable to make informed statutory policy in the law enforcement field until the police articulate their problems and their needs. The citizen grievance procedures and the neighborhood advisory committees that have been recommended in this chapter's section on community relations could be helpful to the police in the formulation and evaluation of policy. The Commission has found that a certain kind of isolation from many currents of community life is a serious police problem. The Commission can imagine no better way for the police to end that isolation, which inhibits both law enforcement and service to the community, than by the police taking the responsibility for formulating policy and discussing it with the community.

POLICE PERSONNEL

There is impressive evidence that in many cities there are too few policemen. The current police-population ratio of 1.7 policemen per thousand citizens obscures the many differences from city to city and region to region. Even the big-city ratio of 2.3 per thousand is misleading, for in San Diego there are 1.07 policemen per thousand citizens and in Boston 4.04.

There appears to be no correlation between the differing concentrations of police and the amount of crime committed, or the percentage of known crimes solved, in the various cities.