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Neighborhood Patrols and the Law: Citizens' Response to Urban Crime

NEIGHBORHOOD PATROLS AND THE LAW: CITIZENS' RESPONSE TO URBAN CRIME

I. INTRODUCTION

In the wake of case law which has held that public authorities have a virtual monopoly over the prevention of crime,[1] and at the same time has limited severely the right of citizens to carry weapons for self-defense,[2] to compel the authorities to provide better municipal services,[3] or to recover under tort principles for lack of protection,[4] citizen fear of violent crime has prompted an enormous growth in the number of private police and citizen self-help groups.[5] There

1. See, e.g., Goldberg v. Housing Authority, 38 N.J. 578, 186 A.2d 291 (1962); Note, Private Assumption of the Police Function under the Fourth Amendment, 51 B.U.L. Rev. 464, 471 (1971).

2. Riss v. City of New York, 22 N.Y.2d 579, 584-85, 240 N.E.2d 860, 862, 293 N.Y.S.2d 897, 900-01 (1968) (dissenting opinion); see N.Y. Penal Law §§ 265.00-.35, 400.00 (McKinney 1967).

3. Although plaintiffs have prevailed on the ground of a denial of equal protection where it was shown that the municipality discriminated between the plaintiffs and others on the basis of race, as in Hawkins v. Town of Shaw, 437 F.2d 1286 (5th Cir. 1971), and Hadnott v. City of Prattville, 309 F. Supp. 967 (M.D. Ala. 1970), in the more usual case, where municipal facilities in the poorer sections of town are in bad and even dangerous condition due to repeated vandalism, citizens have no cause of action against the city for failure to keep the facilities in good condition. In the recent case of Beal v. Lindsay, 468 F.2d 287 (2d Cir. 1972), the court found no cause of action for denial of equal protection where wide disparities existed between the condition of plaintiff's neighborhood park in a predominantly black and Puerto Rican area and adjacent parks in predominantly white areas because the city had made substantially the same commitment to all the parks in terms of funds and personnel. The court noted that "[i]n a case like this, the City has satisfied its constitutional obligations by equal input even though, because of conditions for which it is not responsible, it has not achieved the equal results it desires." Id. at 290-91 (footnote omitted). Thus, short of unconstitutional discrimination in the allocation of city resources, citizens cannot require a city to improve municipal services. See also San Antonio Indep. School Dist. v. Rodriguez, 93 S. Ct. 1278 (1973), which held that the Texas ad valorem property tax to finance public education bore a rational relationship to legitimate state purposes and did not violate the equal protection clause.

4. Simpson's Food Fair, Inc. v. City of Evansville, 272 N.E.2d 871 (Ind. App. Ct. 1971); Bass v. City of New York, 38 App. Div. 2d 407, 330 N.Y.S.2d 569 (2d Dep't 1972). See generally 2 C. Antieau, Municipal Corporation Law § 12.05 (1971).

5. During the 1960s, the number of contracts between property owners and private companies providing security guards nearly doubled; annual revenues of such companies grew 11-12 percent per year. 1 Rand Corp., Private Police in the United States: Findings and Recommendations 13 (1972) (prepared for the Department of Justice). Because of the ad hoc nature of civilian patrols, the growth in the number of such groups is more difficult to measure. According to the New York City Police Department, the number of such groups has more than doubled in the past three years. Interview with Capt. Arthur J. McNevin, Commanding Officer, Community Affairs Division, N.Y.P.D., in New York City, Feb. 7, 1973 [hereinafter cited as Police Interview].

are now more than 7,000 block associations in New York City alone, many of which engage in some form of block security program.[6]

The courts of this state have consistently denied relief to citizens seeking to impose a duty of protection against criminal acts on municipalities[7] and on urban landlords.[8] Although such holdings have worked a tremendous injustice on certain individual plaintiffs, it is questionable whether, had these cases been decided differently, the imposition of liability on either the municipality or the landlord would have helped to create a safer city.[9]

The very purpose, however, of civilian patrols and private security guards is to prevent crime rather than to secure indemnification after the fact. As these groups grow in numbers, and neither the fear of crime nor the minimal duty of protection owed the citizen changes, there is reason to believe neighborhood patrol action in some form will become a lasting feature in New York City. Citizen patrols have benefited from active police support for at least two years,[10] and groups whose programs meet with police approval will soon receive financial support from the City.[11]

Although it is contended that the task of enforcing the laws must remain exclusively in the hands of government, the assumption that the police force should also pre-empt the field of crime prevention may no longer be true.[12] The police themselves in New York City do not view this as desirable, both because complete police domination of the job of preventing crime in a complex society does not foster a good relationship between the public and the police, and because police pre-emption does not prevent crime as well as a coordinated effort between the police and the neighborhood.[13]

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6. N.Y. Times, Mar. 23, 1973, at 41, col. 1.

7. See, e.g., Riss v. City of New York, 22 N.Y.2d 579, 240 N.E.2d 860, 293 N.Y.S.2d 897 (1968), discussed at text accompanying notes 16-21 infra; Bass v. City of New York, 38 App. Div. 2d 407, 330 N.Y.S.2d 569 (2d Dep't 1972), discussed at text accompanying notes 24-28 infra. One of the few New York cases which allowed recovery to an injured plaintiff was Schuster v. City of New York, 5 N.Y.2d 75, 154 N.E.2d 534, 180 N.Y.S.2d 265 (1958), where plaintiff acted as an informant in response to police solicitation and, as a result of police negligence in protecting him, was murdered. The Court of Appeals held that since plaintiff had responded to a specific police request, the police had a duty to protect him. Id. at 80-81, 154 N.E.2d at 537, 180 N.Y.S.2d at 269-70.

8. See, e.g., Hall v. Fraknoi, 69 Misc. 2d 470, 473, 330 N.Y.S.2d 637, 640 (Civ. Ct. 1972), discussed at text accompanying notes 36-37 infra. See also Smith v. ABC Realty Co., 71 Misc. 2d 384, 336 N.Y.S.2d 104 (Sup. Ct. 1972) (per curiam), discussed at text accompanying note 39 infra.

9. But cf. Riss v. City of New York, 22 N.Y.2d 579, 587, 240 N.E.2d 860, 864, 293 N.Y.S.2d 897, 903 (1968) (dissenting opinion).

10. Police Interview.

11. The proposal would authorize an expenditure of $5 million for block security. Mayor Lindsay outlined the program as one which "will focus for the first time on the crime problems and security needs of single blocks . . . . It will provide technical and financial support for those local residents and community groups that are willing to make their blocks and homes safe." N.Y. Times, Mar. 23, 1973, at 41, col. 1.

12. But cf. Johnston v. Harris, 387 Mich. 569, 576-77, 198 N.W.2d 409, 411-12 (1972) (dissenting opinion).

13. B. Ward, The Search for Safety: A Dual Responsibility (1972) (unpublished Justice

It will be assumed that there should be a legitimate role for the private citizen in crime prevention. This comment will discuss the continued efforts of individual citizens to impose liability on the city and landlord for failure to provide protection against crime, and at the same time, the emergence of neighborhood patrol groups in New York City, and whether or not this form of citizen participation is a desirable one. It will also attempt to discern what the proper function of neighborhood groups should be, and finally, whether there should be any change in the legal status of such groups in light of significant government support. The emergence of neighborhood patrol groups is a nationwide phenomenon, and although the discussion of this phenomenon will be limited to New York City and to New York law, the applicable law varies little from state to state[14] and the conclusions reached are not limited to any one jurisdiction.

II. Private Suits Against the City

If liability for failure to provide adequate protection is implicit in a duty to protect against street crime, then no one is under a duty to protect the urban citizen in this state.[15] The New York courts have consistently interpreted the municipal obligation to provide police protection to the public, which obligation is often set forth in a city's charter, as a duty which runs to all and admits no cause of action by an individual member of the community against the city for failure to protect him.

In *Riss v. City of New York*,[16] the court of appeals refused to hold the city liable for its police department's failure to provide plaintiff with special protection after a rejected suitor had repeatedly threatened her with physical injury. Plaintiff's subsequent injuries were held not to be the city's responsibility. Intimating that municipal liability would place an overwhelming financial burden on the community, the majority was unwilling to "foist a presumed cure" for crime on the city by "judicial innovation of a new kind of liability in tort," and argued that any expansion of the general rule must be made by the legislature.[17]

Department Report) [hereinafter cited as Ward]; Police Interview. See generally The President's Comm'n on Law Enforcement and Administration of Justice, Task Force Report: The Police, ch. 9 (1967) [hereinafter cited as President's Commission].

14. The limited powers of private citizens to effect an arrest and justifiably use force are similar in all states. See, e.g., Ill. Ann. Stat. ch. 38, §§ 7-1 to 7-14 (Smith-Hurd 1972); N.J. Stat. Ann. §§ 2A: 113-6, 2A: 161-1 (1972). See also Note, Private Police Forces: Legal Powers and Limitations, 38 U. Chi. L. Rev. 555 (1971). A refusal to impose liability on the municipality is also the general rule, see text accompanying note 4 supra. However with respect to landlord liability, several jurisdictions, unlike New York, have allowed recovery by the tenant for the landlord's failure to take reasonable security measures. See, e.g., Kline v. 1500 Mass. Ave. Apt. Corp., 439 F.2d 477 (D.C. Cir. 1970); Harris v. Johnston, 387 Mich. 569, 198 N.W.2d 409 (1972).

15. New York is not unique in this respect; the policy of no liability is applied throughout the country. See, e.g., Campbell v. State, 284 N.E.2d 733 (Ind. 1972) (dictum); Simpson's Food Fair, Inc. v. City of Evansville, 272 N.E.2d 871 (Ind. App. Ct. 1971).

16. 22 N.Y.2d 579, 240 N.E.2d 860, 293 N.Y.S.2d 897 (1968).

17. Id. at 582, 240 N.E.2d at 861, 293 N.Y.S.2d at 899. See also Motyka v. City of Am-

Although one commentator[18] has criticized *Riss* and like decisions for "luxuriating in nightmares"[19] which the courts have no right to entertain once the legislature has waived governmental immunity to suit,[20] and despite the obvious counter-argument that the imposition of a duty to protect the individual calls for a standard of reasonableness rather than one of strict liability,[21] the rule of no liability persists.

Notwithstanding the illogic of the principle that a municipal duty to all citizens runs to no one citizen in particular,[22] the principle has been applied both in New York and throughout the country, especially with respect to police protection.[23] So well entrenched is this policy that it prevailed in *Bass v. City of New York*,[24] where plaintiff sought damages for the death of his nine-year-old daughter on the ground that the Housing Authority's police force, by its wholly inadequate protection of plaintiff's high-rise project, had allowed his child's rape and murder.[25] Once the appellate division determined that the

sterdam, 15 N.Y.2d 134, 204 N.E.2d 635, 256 N.Y.S.2d 595 (1965); Murrain v. Wilson Line, Inc., 296 N.Y. 845, 72 N.E.2d 29 (1947); Steitz v. City of Beacon, 295 N.Y. 51, 64 N.E.2d 704 (1945); H.R. Moch Co. v. Rensselaer Water Co., 247 N.Y. 160, 159 N.E. 896 (1928).

18. 2 C. Antieau, Municipal Corporation Law § 12.05, at 122 (1971).

19. Id.

20. In 1929 the legislature waived the state's immunity to suit by § 8 (then § 12) of the Court of Claims Act, N.Y. Ct. Cl. Act § 8 (McKinney 1963). In Bernardine v. City of New York, 294 N.Y. 361, 62 N.E.2d 604 (1945), this waiver was held to be applicable to the state's subdivisions. But the courts have left the door open to the creation of a new immunity through recognition that police protection is a distinctly governmental function for which a unique defense is applicable. See Weiss v. Fote, 7 N.Y.2d 579, 586-88, 167 N.E.2d 63, 67, 200 N.Y.S.2d 409, 415 (1960). Such a principle of law would be consistent with the general rule that the duty to provide police protection runs to the general public and not to any individual. Riss v. City of New York, 22 N.Y.2d 579, 240 N.E.2d 860, 293 N.Y.S.2d 897 (1968); Steitz v. City of Beacon, 295 N.Y. 51, 64 N.E.2d 704 (1945); H. R. Moch v. Renssalaer Water Co., 247 N.Y. 160, 159 N.E. 896 (1928).

21. 22 N.Y.2d 579, 240 N.E.2d 860, 293 N.Y.S.2d 897 (1968): "[T]he underlying assumption of the argument is fallacious because it assumes that a strict liability standard is to be imposed and that the courts would prove completely unable to apply general principles of tort liability in a reasonable fashion . . . ." Id. at 586, 240 N.E.2d at 863, 293 N.Y.S.2d at 902 (Keating, J., dissenting).

22. Id. at 585, 240 N.E.2d at 862, 293 N.Y.S.2d at 901 (Keating, J., dissenting).

23. See, e.g., Gerneth v. City of Detroit, 465 F.2d 784 (6th Cir. 1972), cert. denied, 93 S. Ct. 913 (1973); Simpson's Food Fair, Inc. v. City of Evansville, 272 N.E.2d 871 (Ind. App. Ct. 1971).

24. 38 App. Div. 2d 407, 330 N.Y.S.2d 569 (2d Dep't 1972).

25. The appellate division did not reach the question of whether the defendant had caused the child's death by its negligence. Both the majority and dissent were concerned primarily with the issue of a Housing Authority duty of protection. The lower court decision, which was reversed, found that the defendant's negligence was the proximate cause of the child's death. "Defendant created and maintained a climate in which vice and crime flourished . . . ." 61 Misc. 2d 465, 473, 305 N.Y.S.2d 801, 809 (Sup. Ct. 1969), rev'd, 38 App. Div. 2d 407, 330 N.Y.S.2d 569 (2d Dep't 1972). Moreover, the intervening criminal acts of the assailant were not "unrelated to the total failure of . . . police protection . . . ." Id. at 474, 305 N.Y.S.2d at 810, rev'd, 38 App. Div. 2d 407, 330 N.Y.S.2d 569 (2d Dep't 1972).

Housing Authority was authorized by statute[26] to operate a police force, and was therefore performing a governmental rather than a proprietary function, it was of no importance that defendant had failed in its duty to a particularly outrageous degree.[27]

Although results such as that in *Bass* may appear particularly harsh, it is difficult, putting aside any theory of risk-spreading,[28] to criticize them for their effects on crime prevention. Such criticism would presuppose that the fear of liability works as an effective deterrent to future negligence, and that the lack of culpable negligence would reduce crime. But this argument assumes that a city police department has sufficient control over criminal activity to lessen positively its effects on the public by greater diligence.

This may be true in certain limited factual situations. For example, in *Riss*, which involved a single, known individual[29] against whom the city refused to protect the plaintiff, a different result by the court might have led the police to inquire more carefully into such threats to citizens in the future, and if they were substantiated, to take reasonable precautions to protect such individuals.[30]

The rule of no liability does not completely foreclose recovery to injured plaintiffs, because it does not apply to ministerial, as opposed to discretionary, police functions. For example, municipalities have been held responsible for careless gun play by a policeman on duty which caused injuries to a bystander.[31] Victims of crime may also recover from the state for medical expenses and loss of earnings under the Crime Victims Compensation Act, but recovery is limited and explicitly awarded "as a matter of [legislative] grace" rather than as a legal right.[32]

26. N.Y. Pub. Hous. Law § 402(5) (McKinney Supp. 1972).

27. Plaintiff's nine year old daughter was seized on her way back to school after lunch by another resident of the project, and was taken to the roof of her building. There she was raped, dangled over the side and finally thrown 14 stories to her death. One security guard was assigned to the ten-building, 16-acre project, and he was on his lunch hour at the time of the incident. The defendant took no issue with the project's astoundingly high crime rate and "[did] not deny that it was the recipient of notice of these conditions in embarrassing abundance." 61 Misc. 2d at 469, 305 N.Y.S.2d at 806, rev'd, 38 App. Div. 2d 407, 330 N.Y.S.2d 569 (2d Dep't 1972).

28. See Calabresi & Hirschoff, Toward a Test for Strict Liability in Torts, 81 Yale L.J. 1055, 1078 (1972); Van Alstyne, Governmental Tort Liability: A Public Policy Prospectus, 10 U.C.L.A.L. Rev. 463, 510 (1963).

29. 22 N.Y.2d at 587, 240 N.E.2d at 864, 293 N.Y.S.2d at 903 (dissenting opinion).

30. Id.

31. See, e.g., Meistinsky v. City of New York, 309 N.Y. 998, 132 N.E.2d 900 (1956) (mem.); Goldman v. City of New York, 278 App. Div. 770, 103 N.Y.S.2d 505 (2d Dep't 1951) (mem.).

32. N.Y. Exec. Law § 620 (McKinney 1972). Limitations on recovery include provisions disallowing recovery for minimal claims, injuries caused by intra-family crimes and crimes which were not promptly reported to the police, and a maximum compensation limit of $15,000 for lost earnings. Only expenses and losses not covered by insurance are compensable. Other states have enacted similar statutes. See, e.g., Mass. Ann. Laws, ch. 258A, §§ 1-7 (1968); Cal. Gov't Code §§ 13960-66 (West Supp. 1972).

The police department is presumably able to train its officers not to endanger the public through ministerial negligent acts, such as shooting after a fleeing suspect in a crowded area. A rule which imposes liability for such ministerial acts, like the exclusionary rule for illegal searches and seizures,[33] can be an effective deterrent to controllable police misconduct. It should be noted, however, that such a rule would not always further criminal law enforcement, since it recognizes that in some situations protecting the rights of citizens is more important than catching the criminal.

The more typical situation, however, is presented in *Bass*, where the assailant was a stranger to plaintiff's child, no threat of injury was ever received, and no ministerial negligence was at issue. To make a municipality liable here may produce a more just result, but only by way of compensating the victim, because the deterrent value of such liability might be quite insignificant. The municipality might in fact determine that it is more feasible to pay tort claims than to staff a public housing project with enough policemen and equipment to provide adequate protection to citizens who live in high crime areas.[34] The question of how best to protect the public, when ministerial police negligence is not involved, is a more complex problem, which the courts apparently will not seek to resolve by imposing municipal liability.

III. Private Suits Against the Landlord

Just as the New York courts have refused to find a duty on the part of municipalities to protect the individual citizen, they have been adamant in denying recovery to tenants who seek to hold their landlords to a duty of reasonable care in providing protection against criminal assault in the common areas of their apartment buildings.[35]

In the recent case of *Hall v. Fraknoi*,[36] where plaintiff landlord sued for non-payment of rent, the court refused to allow defendants' affirmative defense and counterclaim for the landlord's repeated failure to " 'take even minimal steps' "[37] to make defendants' building secure from muggers. Although acknowl-

33. See Mapp v. Ohio, 367 U.S. 643 (1961).

34. 22 N.Y.2d at 589, 240 N.E.2d at 865, 293 N.Y.S.2d at 904-05.

35. Limited recourse for the New York City tenant is provided by article 7-A of the N.Y. Real Property Actions and Proceedings Law which permits tenants of a "multiple dwelling" (see N.Y. Mult. Dwell. Law § 4(7) (McKinney Supp. 1972)) to bring a special proceeding "for a judgment directing the deposit of rents into court and their use for the purpose of remedying conditions dangerous to life, health or safety . . . ." N.Y. Real Prop. Actions and Proceedings Law § 769 (McKinney Supp. 1972). See also Tynan v. Willowdale Commercial Corp., 69 Misc. 2d 221, 329 N.Y.S.2d 695 (Civ. Ct. 1972), where the court construed the statute finding that to the extent that a bell and buzzer communications system acts as a deterrent to crime in an apartment building, the landlord is obligated to keep the system in reasonable repair. However, the court explicitly disclaimed any intention on its part to find "a landlord is accountable for the criminal and violent trespasses committed against the person and property of his tenants." Id. at 223, 329 N.Y.S.2d at 698.

36. 69 Misc. 2d 470, 330 N.Y.S.2d 637 (Civ. Ct. 1972).

37. Id. at 472, 330 N.Y.S.2d at 639.

edging that cases in other jurisdictions, notably *Kline v. 1500 Massachusetts Avenue Apartment Corp.*,[38] had imposed such a duty on the landlord, the court stated that this duty was a bald judicial device to achieve a desired end, the greater safety of the tenant, which could not be said to derive from the landlord-tenant relationship. In another New York decision, *Smith v. ABC Realty Co.*,[39] without discussing the question of duty, the court simply held that defendant landlord's negligence was not the proximate cause of plaintiff tenant's injury, where defendant had failed to repair a broken window in plaintiff's apartment through which an intruder entered before attacking her. For the present, with respect to the landlord-tenant relationship, courts appear hesitant to enlarge the scope of the landlord's duty to the tenant, whether based on contract or tort, to include protection against the criminal acts of third parties.

This judicial reluctance may reflect more than fear of a "crushing burden" on either municipalities or landlords, hesitancy to usurp the legislative function,[40] or mere intransigency.[41] The very complexity of the relationship between crime prevention on the one hand, and law enforcement and liability to the victims of crime on the other, may explain the unwillingness of the New York courts and legislature to allow a member of the general public to recover from the city or the landlord for their failure to protect him.

The most basic problem of urban crime is not that of negligent police behavior, the situation set forth in *Riss*, or even the negligence of city landlords in failing to make repairs, but the alarming frequency of unforeseen criminal attacks on city streets and apartment corridors where a policeman cannot always be present.

Indeed, the police themselves in New York City feel that they lack sufficient control over street crime to single-handedly transform a dangerous area into a safe one, even if they were provided with the funds to hire many more policemen. In this respect, the police view private citizens actively interested in making their own blocks or building complexes safer, not only as a tremendous untapped source of labor for the police, but possibly as the *sine qua non* for a significant decrease in the amount of street crime.[42]

IV. The Emergence of Neighborhood Patrol Groups

Law enforcement and crime prevention have not always been the exclusive domain of the police. In the early part of this century, town sheriffs compelled the aid of citizens in local emergencies under pain of criminal penalties for

38. 439 F.2d 477 (D.C. Cir. 1970).

39. 71 Misc. 2d 384, 336 N.Y.S.2d 104 (Sup. Ct. 1972) (per curiam).

40. See text accompanying note 17 supra. See also Comment, The Landlord's Emerging Responsibility for Tenant Security, 71 Colum. L. Rev. 275 (1971).

41. See Motyka v. City of Amsterdam, 15 N.Y.2d 134, 140, 204 N.E.2d 635, 637, 256 N.Y.S.2d 595, 599 (1965) (dissenting opinion).

42. Police Interview. The emphasis on public cooperation may be contrasted with the now repudiated notion, popular several years ago, that the problem of preventing crime could be solved merely by increased funding. Id. See also R. Clark, Crime in America 151-63 (1970).

refusal.[43] However, with the professionalization of the police, citizen involvement in fighting crime greatly diminished; in the view of the police and, in fact, the citizenry police departments became largely apolitical bodies preempting the field of crime prevention.[44] Consequently, it has been argued, the mushrooming of private security police and citizen patrol groups, whose function is essentially protective, reflects a public concern that the police are not providing adequate protection: to some degree, the emergence of these groups is "an indictment of the police."[45]

To a limited extent, the New York State Legislature has encouraged citizen involvement in crime prevention. The "Good Samaritan Law"[46] seeks to insulate the volunteer from personal tort liability under certain circumstances, and the Crime Victim's Compensation Act, albeit to a limited extent,[47] indemnifies one who seeks to prevent a crime, as well as the intended victim.[48] Furthermore, a recent amendment of the Penal Law extends the privilege of self-defense to defense of a third person who is reasonably perceived by the volunteer to be in danger.[49] But the legislature and the courts have not imposed an affirmative duty on the citizen to prevent or even to report crime, nor have they significantly enlarged the citizen's traditionally limited power to use force in self-defense, and to make "citizen arrests."[50]

Until very recently, the neighborhood or block group itself has been the primary initiator of citizen patrols. This is not surprising, since the ordinary citizen has the greatest interest in a safe neighborhood: "Every day in our cities the police or the victims of crime must depend on the willingness of strangers and onlookers to summon aid, render emergency services, and even help subdue assailants."[51]

For purposes of this comment "neighborhood patrol groups" and like terms refer to the estimated 75 organized groups in New York City, consisting of a total of approximately 3,500 persons, who patrol their neighborhoods on foot

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43. See Monterey County v. Rader, 199 Cal. 221, 248 P. 912 (1926).

44. See Weistart, Foreword, 36 Law & Contemp. Prob. 445 (1971).

45. Marx & Archer, The Urban Vigilante, Psychology Today, Jan. 1973, at 45-46.

46. N.Y. Educ. Law § 6527(2) (McKinney 1972). For example, the law protects physicians from ordinary negligence claims if they treated accident victims without the expectation of pay.

47. N.Y. Exec. Law § 620-35 (McKinney 1972). Although no ceiling is placed on the recovery of medical expenses, as opposed to lost earnings, see note 32 supra, the largest award to date has been $35,000 to the family of a French exchange student who was robbed and killed in New York City two years ago. N.Y. Times, Mar. 15, 1973, at 45, col. 1, 2.

48. N.Y. Exec. Law § 621(5) (McKinney 1972). See also Cal. Gov't Code §§ 13970-74 (West Supp. 1972), which provides for recovery for private citizens who come to the aid of victims of crime, and thereby suffer financial or physical injury "as a direct consequence of such meritorious action to the extent that they are not compensated . . . from any other source." Id. § 13970.

49. N.Y. Penal Law § 35.15 (McKinney Supp. 1972).

50. Note, Private Assumption of the Police Function, supra note 1, at 471.

51. President's Commission 224.

or in private cars, generally in groups of two, and who report suspicious activity to the police, often with walkie-talkie equipment. Although there are groups in all five boroughs in the city, the majority are located in the Bronx and Queens, where many members are homeowners or long-standing residents of their communities.[52]

To be distinguished from neighborhood patrol groups are the Auxiliary Police[53] who, like the neighborhood groups, are volunteers, possess no greater powers than the ordinary citizen and serve near their own homes, but who are uniformed, undergo a short police training course and are authorized to act as policemen in emergencies. Also to be distinguished are participants in the city's Blockwatch Program, which enlists the aid of the elderly and the housebound who, from inside their homes, can watch their streets and apartment hallways for criminal activity.[54]

The police for their part have traditionally viewed neighborhood patrol groups both as a threat to their authority and a possible danger to society.[55] Recently, however, police opposition to many of these groups has cooled, although police still discourage groups which carry weapons or otherwise attempt to enforce the law themselves.[56] The police perceived the need for more active civilian participation a number of years ago, but until the last year or two found themselves in the peculiar position of seeking to become involved with citizen groups well after they were formed. Police now view patrol groups as an essential aid to crime prevention in many areas and, at the same time, as a challenge to their leadership which they must meet or suffer "a complete loss of citizen confidence in the police or the rise of vigilante-type organizations."[57]

Civilian groups actively guarding their neighborhoods presently enjoy not only the support of the police but considerable political favor. Pending likely approval by the legislature a new city program will offer financial support and guidance to block associations which secure police approval of their plans to make their neighborhoods safe. The program, which is scheduled to begin in the spring of 1973, would provide city funds of up to $10,000, for blocks which put up matching funds of $3,825, to finance security equipment such as lighting and gates, improvements in common areas of multiple dwellings, such as hallways, elevators and lobbies, and alarm systems for local merchants, as well as uniforms for patrol members.[58] In addition, the program calls for one resident, named by his association, to be "block security officer," who will receive training

52. Police Interview.

53. N.Y. Unconsol. Laws § 9185 (McKinney 1961).

54. Police Interview; see Training Manual for Blockwatchers (N.Y.C. Police Dep't, Community Affairs Div. 1972), which advises program members who to call in emergency and non-emergency situations and how to give descriptions of suspects and escaping vehicles. The Blockwatch program assigns each participant a code number for reporting purposes, on the theory that anonymity will increase citizen participation.

55. Marx & Archer, supra note 45, at 46.

56. Police Interview.

57. Ward, supra note 13, at 2.

58. N.Y. Times, Mar. 23, 1973, at 41, col. 1.

from the Police Department on security systems, and who will act as a liaison between the block and the police on crime prevention programs.[59] Although the program is to be managed by the Police Department, city funds will be distributed by private institutions, such as banks, if approved by the City Board of Estimate.[60]

V. The Proper Function of Civilian Patrol Groups

It is generally agreed that civilian patrol groups ought not become vehicles for "vigilante justice."[61] At the same time, the city government as well as citizens themselves feel that the public ought to be more actively involved in crime prevention. The choice of a proper function for these groups should, it seems, be determined by the choice of goals which one wishes them to serve, balanced by the need to preserve other values which such groups' actions may endanger. The prevention of crime is, of course, a primary goal, but it necessarily must be weighed against the protection of the rights of suspects, the safety of all citizens, the reservation to the police of the primary responsibility for law enforcement, and other values.

The city police consider the function of civilian patrol groups to be little more than serving as additional "eyes and ears of the police";[62] persons who because of their peculiar knowledge of the block or neighborhood are able to report crimes and suspicious events quickly and accurately to the police.[63] However, the fact that police-organized meetings with patrol groups invariably include explanations of the citizen's arrest powers and the criteria for lawful use of force suggests that some groups may view their function as a more active one.[64]

Although civilian patrol groups and private security guards are more likely to understand and to make use of their rights and powers than are ordinary citizens, they are currently in the same legal position with respect to those rights and powers.[65] The question thus becomes whether civilian groups which enjoy extensive municipal encouragement should be granted greater powers. Under present New York law any enlargement of rights would necessitate a change in legal status.

The laws governing the use of force and the power to make an arrest are excellent examples, since these rights vary with the status of the person seeking to exercise them. The law recognizes three distinct classes of persons in this regard:

59. Id.

60. Id.

61. Police Interview. The New York Police Department denies that the groups which it has helped to organize or supervise are vigilantes, and maintains that few such groups actually exercise their citizen arrest powers.

62. Id.

63. Id.

64. Id.

65. E.g., N.Y. Crim. Pro. Law § 140.30 (McKinney 1971), which deals with citizen arrest powers, does not distinguish between private guards and ordinary citizens. Both groups are given greater arrest powers only when they are directed to assist a police officer. N.Y. Crim. Proc. Law § 1.20(33) (McKinney 1971).

police officers, peace officers and all others. (All police officers are peace officers, but the converse is not true; peace officers include various court officers, parole officers, certain tax inspectors and other government employees charged with enforcing particular sections of the criminal code).

One major difference between police and peace officers is that the latter may make arrests only for those crimes and infractions which they are specifically authorized to enforce. But within the scope of their authority, peace officers' powers to arrest and use force are no different than those of police officers. Either kind of officer may arrest on probable cause and may use the force necessary to do so.[66]

The arrest powers of a private citizen have traditionally been more restricted.[67] He may not arrest on probable cause, but only when a felony has in fact been committed by the person arrested, and in the case of an offense, only when it has been committed in his presence.[68]

These differences in powers reflect a legislative judgment that the use of force should, whenever possible, be reserved to government. At least two reasons seem implicit in that judgment: private citizens lack the training and capability of peace officers and may, in addition, be less accountable for their negligence and misconduct. However, these considerations may not apply as strongly to the block association member patrolling his own neighborhood. Although he probably lacks the requisite training, he is in a sense more socially accountable than the police officer who lives in the suburbs and commutes to his job in the city. In addition, his familiarity with his home area may make him more effective on patrol than a police officer, especially if the latter is cruising in an automobile.

Conceivably, a citizen on patrol might be a far more effective deterrent to crime in his neighborhood if he, like a peace officer, could arrest on probable cause. Indeed, the effectiveness of citizen groups derives largely from their continuous presence in the neighborhood, which facilitates the accurate determination of probable cause, and the possibility that they could stop a fleeing suspect who might have escaped before the police arrived. It thus seems that granting full arrest powers to citizen groups could aid in the deterrence of crime and the apprehension of suspects.

But even assuming that ordinary citizens are prepared to assume such duties, would the grant of greater powers endanger the other values of insuring the safety of all citizens and preserving the role of the police as society's law enforcers? This question becomes crucial when it is recognized that greater arrest powers, to be effective, must be accompanied by the power to use force in making arrests, and perhaps even by the authorization to carry weapons. This seems undesirable, for the very reason such groups were formed in the first place: the streets of the city are apt to be very dangerous, and

66. Compare N.Y. Crim. Proc. Law §§ 140.10, 140.15 (McKinney 1971), with id. §§ 140.25, 140.27.

67. Note, Private Assumption of the Police Function, supra note 1, at 470.

68. N.Y. Crim. Pro. Law § 140.30 (McKinney 1971).

the patrolling citizen will rarely be met by suspects who will quickly defer to the citizen's newly-enlarged arrest powers and wait for the police to arrive.

It is, of course, possible to expand the powers of patrol members without giving them full arrest powers—for example, by authorizing them to stop and detain suspects for questioning. But such a measure would be subject to the same objections. Although the idea may seem attractive for a reason independent of crime prevention, since it would relieve patrol members of liability for certain acts which would otherwise be tortious, such immunity from traditional tort sanctions might promote carelessness and vigilantism.

In short, the grant of greater arrest or even detention powers might lead citizen patrols to endanger their own safety and the safety of others, or might encourage such groups to travel in large numbers or carry weapons, thus increasing the chances of vigilante-like activities.

With respect to private guards, there is even less reason to tamper with the traditional difference between the powers of police and private citizens. A recent study revealed that private guards tend to be less well trained and educated than public police[69] and often do not understand their legal powers and responsibilities.[70] Thus, if private guards were given the powers of public police, to allow a neighborhood to hire guards might not only encourage abuses but it would, in effect, provide that neighborhood with superior municipal protection. Although, as a matter of fact, the most crime ridden areas may receive less police protection that safer ones,[71] to further this inequity by granting private guards full arrest powers may be unconstitutional. But aside from this consideration, private guards, unlike civilian patrol groups, are neither socially accountable to, nor as interested in the problems of, the communities which they patrol.

As civilian patrol groups and private guards grow in number in New York City, and the task of preventing crime becomes a shared responsibility between the public and the police, courts and the legislature ought not to expand the powers of private citizens and hired guards patrolling the streets. The necessary restrictions imposed on the goal of preventing crime appear to preclude more active roles for such groups. Furthermore, even assuming the utmost good faith and conscientiousness on the part of such groups, in the interest of all, private citizens should not function as policemen for the simple reason that their contribution as civilians is more desirable. It is the particular and limited advantage of civilian patrols, and to a lesser extent private guards, that they are able to maintain a continuous vigil of their own neighborhoods and can report suspicious activity to the police before a crime occurs.

69. 4 Rand Corp., The Law and Private Police 143-44 (1971) (prepared for the Department of Justice).

70. Id. at 100-01.

71. N.Y. Times, Nov. 13, 1972, at 1, col. 2 (report on a study planned by Professor Peter Salins, Urban Research Center, Hunter College). For example, the Morrisania section of the Bronx has the highest per capita crime rate in the borough, but ranks seventh of the fourteen Bronx planning districts in the allocation of city funds for police services. Id. at 44, col. 7.

VI. The Legal Status of Citizen Patrol Groups

It is readily apparent that general tort liability would attach for private patrol misconduct.[72] In organizing such groups a primary legal question then becomes, would their conduct also constitute state action? The discussion of this question will be divided into two parts: the first concerns the various indices of state action and their application to neighborhood patrols; the second treats the consequences and desirability of finding state action with respect to such groups.

A. *Indices of State Action*

A traditional hallmark of state action is the sanctioned exercise of powers not ordinarily granted to a private citizen. For example, in *Hill v. Toll*,[73] the District Court for the Eastern District of Pennsylvania found that special powers granted by statute to bail bondsmen, enabling them to arrest bail violators, placed the imprimatur of state action upon their conduct. The abuse of this expanded authority was analogized to a policeman's abuse of his authority for which the state is liable. The court buttressed its argument with the general proposition that the state has, in the past, discouraged self-help, and the grant of special powers beyond those possessed by the general public was, at the very least, an official encouragement to use such powers.[74]

Similarily, in the earlier case of *DeCarlo v. Joseph Horne & Co.*,[75] another district court reasoned that because the state's Professional Thieves Act, as interpreted by the Pennsylvania courts, had authorized private watchmen and guards to exercise arrest powers "which did not . . . exist at common law,"[76] any action taken pursuant to the statute was action under color of state law.

But not every grant of "police" powers results in state action. For example, many states have enacted "shoplifting statutes,"[77] which create a defense against false imprisonment and false arrest suits to retailers who detain suspected thieves for a reasonable time in order to make an investigation. The line between private and state action is not a clear one.[78] No doubt the more

72. See The Law and Private Police, supra note 69, at 107-16.

73. 320 F. Supp. 185 (E.D. Pa. 1970).

74. Id. at 187.

75. 251 F. Supp. 935 (W.D. Pa. 1966).

76. Id. at 936.

77. E.g., N.Y. Gen. Bus. Law § 218 (McKinney 1968), which gives the retail merchant who reasonably detains a suspected shoplifter, either to investigate or to call the police, a defense to a civil action for false arrest, false imprisonment, unlawful detention, defamation, assault, trespass, or invasion of civil rights. One indication that such detention would be considered private action is provided by holding that the merchants and their private guards need not warn a suspect of his rights, as a police officer must. See, e.g., People v. Frank, 52 Misc. 2d 266, 275 N.Y.S.2d 570 (Sup. Ct. 1966). See also N.J. Stat. Ann. § 2A:170-100 (1971).

78. What constitutes action "under color of any statute, ordinance, regulation, custom, or usage, of any State" is not delineated in the Civil Rights Act, 42 U.S.C. § 1983 (1970), and so "each case must depend on its background, facts and circumstances in applying the Act." DeCarlo v. Joseph Horne & Co., 251 F. Supp. 935, 936 (W.D. Pa. 1966).

closely the rights of private citizens resemble those of the police, the more likely courts will be to find state action. The rights granted by "shoplifting statutes" are quite limited—in time, place and in the nature of the offenses for which retailers may detain suspects.[79] The rights granted to bail bondsmen and private watchmen by the Pennsylvania statutes discussed above not only authorized arrest, rather than detention, but respectively appear to have been designed to protect the entire bail system and were not limited to a single class of criminal offenses.[80] In addition, private watchmen would be more likely to arrest for crimes of violence than would retailers.

Another criterion of state action is a partnership between private individuals and state officials. Several Supreme Court cases have found a cause of action for deprivation of civil rights acting under authority of state law could be maintained against a private individual who is "a willful participant in joint activity with the State or its agents."[81] Although the concept of a partnership between state officials and private citizens in cases such as *Williams v. United States*[82] and *United States v. Price*[83] arose in the context of an insidious coordinated effort between policemen and a few private persons, it would seem to extend to the situation of a municipality's close association and cooperation with a neighborhood organization.[84]

79. The defense may be maintained only for detentions in the defendant's store or its immediate vicinity, and only for a reasonable time to investigate the ownership of the goods involved. N.Y. Gen. Bus. Law § 218 (McKinney 1968). In Wolin v. Abraham & Straus, 64 Misc. 2d 982, 316 N.Y.S.2d 377 (Sup. Ct. 1970), the court interpreted § 218 to cover "larceny by trick"—i.e., by the use of stolen credit cards, bad checks and the use of counterfeit money—as well as the more traditional forms of shoplifting.

80. See Hill v. Toll, 320 F. Supp. 185, 186 (E.D. Pa. 1970); DeCarlo v. Joseph Horne & Co., 251 F. Supp. 935, 936 (W.D. Pa. 1966).

81. United States v. Price, 383 U.S. 787, 794 (1966).

82. 341 U.S. 97 (1951). In Williams, petitioner was a private detective who held a special police officer's badge issued by the City of Miami, Florida and had qualified and taken an oath as such an officer. The Court held that by brutally forcing a confession from a suspect, petitioner had acted " 'under color' of law within the meaning of § 20 [of the Criminal Code, now 18 U.S.C. § 242 (1970)], or at least that the jury could properly so find." Id. at 99. Citing NLRB v. Jones & Laughlin Co., 331 U.S. 416 (1947), the Court held that Miami had vested petitioner with a policeman's powers. The case was, however, made easier for the Court by the facts that a Miami policeman had been "sent by his superior to lend authority to the [interrogation]. And petitioner, who committed the assaults, went about flashing his [own special] badge." 341 U.S. at 99.

83. 383 U.S. 787 (1966). There, the Court held the district court had erred in dismissing an indictment against 15 private citizens, which alleged that they had acted "under color" of state law in conspiring with the state police officials to release several prisoners from jail and then intercept and kill them. The fact that defendants were not state officials was not dispositive, it being enough that they were wilful participants with state agents. 383 U.S. at 794.

84. Price and Williams dealt both with the question of whether or not state action was involved and with whether a constitutional right was violated. Although a finding of state action in the work of civilian patrols may be justified, it does not necessarily follow that the requisite constitutional violation will be present, for example, by the mere carelessness of patrols which results in injury to plaintiffs.

Ironically, by closely supervising the initial organization of patrol groups in New York City to avoid the abuses of power, real or imagined, the Police Department may be forming a loose type of partnership with civilian groups. Because this cooperation between police and patrols is only now beginning, it is impossible to predict how extensive any partnership will be, or whether a court would be justified in finding state action in the activities of these groups. But if, for example, the police were to follow up an initial organizational meeting with a neighborhood patrol group with periodic meetings and visits to the area for the purpose of supervising such groups, the case for state action becomes stronger.

The question is where to place civilian patrols, as they currently function in this spectrum of private action to state action. If a member of such a group were granted the full arrest powers of a police or peace officer, no doubt the exercise of such powers would constitute state action. If, on the other hand, such groups were accorded no additional powers and received no government funding or active police support beyond that typically given to all citizens to encourage them to cooperate with the police, their activities would not be state action. However, the proposed city program, which apparently will provide equipment to, and which will fund out-of-pocket expenses of, those neighborhood groups whose patrol activities receive police approval[85] (as well as the current police drive to form such groups), has promoted the organization of patrol groups which fall somewhere in between the two extremes discussed above. Even though these groups possess no more power than the ordinary citizen, their very banding together as groups and their enjoyment of official support may lend their actions the color of state authority. Moreover, other citizens may perceive them as arms of the police, as well as "eyes and ears," especially if they are given badges, cards or other special identification. On the other hand, the police, as discussed above, do not envision patrols as representatives of the police department in any respect. Identification cards issued to citizen groups acting under police guidelines explicitly state that the bearer is not a peace officer and is authorized only to cooperate with the police.[86] Since presumably everyone is "authorized to cooperate with the police," the card serves as a disclaimer of any additional powers or any change in legal status. Although the police may lecture groups on the lawful scope of their arrest powers, clearly they do not encourage the use of these powers, but would have organized groups increase the effectiveness of the police by learning who to call and how to get help quickly for neighborhood emergencies.

There is however more to the job of neighborhod patrols than serving as a communications link from the streets and apartment corridors to the precinct house. The police themselves speak of the efficacy of patrols "making their presence known" on the streets.[87] They believe that several persons regularly patrolling the block, operate as a positive deterrent to crime in the area, similar to the effect of a city patrolman. The police are not encouraging patrol groups

85. Police Interview.
86. Id.
87. Id.

to use the arrest powers granted them under the common law,[88] but they are at the same time, encouraging organized groups to regularly supplement their protection of the public.[89]

In sum, although the powers of neighborhood patrols have not been enlarged beyond those possessed by ordinary citizens, such groups perform functions which are among those traditionally performed by the police, and they have received and will continue to receive police support, guidance and encouragement. Moreover, they will, under the current plan, receive substantial city funding. Members of patrol groups carry police-issued identification which, while of no legal effect in itself, may together with growing public recognition of such groups as partners or even arms of the police, identify their actions to other citizens as police action. These factors suggest that a finding of state action would not be inappropriate.

B. *The Consequences of Finding State Action*

Ideally, whether or not such a finding should be made, should depend not only on the application of reasonable indices of state action but also upon the consideration of its consequences and desirability.

With respect to municipal liability for failure to adequately supervise patrol groups, the recent Sixth Circuit case of *Gerneth v. City of Detroit*[90] is illustrative. The city had undertaken to investigate private guard applicants before issuing them licenses. The ordinance provided that a license be denied if the applicant be adjudged insane or a convicted felon. The plaintiffs sued the city for damages from personal injuries sustained when they were shot by a guard employed by a private agency as a watchman at the Greyhound Bus Terminal. The guard had been convicted in 1963 of the felony "careless use of firearms." Apparently, the city's investigation had not turned this up, and plaintiffs maintained that, because the city had undertaken to investigate the guard—the private agency might have done so itself, but instead relied on the city to screen its employees—therefore the city was liable to the plaintiffs for its negligence.

Obviously, the City of Detroit, by means of the ordinance had assumed a very active role in regulating the private security industry. Not only were guards required to be licensed, but the city also was taking preventive measures by investigating guards *before* licenses were granted. But the court stated that if Detroit were held liable in cases such as this, the finding would "substantially interfere with the licensing and investigatory functions"[91] of the city. In so

88. See text accompanying notes 67-68 supra.

89. It has been suggested that the routine participation of private police in certain areas of law enforcement may in certain instances supplant the public police, and that to this extent, private police perform a public function. Thus, where this routine participation is coupled with the active cooperation of the public police and a mutual dependence of the two groups, the activities of private police may become state action. Note, Private Police Forces: Legal Powers and Limitations, 38 U. Chi. L. Rev. 555, 581 (1971).

90. 465 F.2d 784 (6th Cir. 1972), cert. denied, 93 S. Ct. 913 (1973).

91. Id. at 787.

doing, the court seized upon the traditional argument that despite the waiver of sovereign immunity, the municipality when performing a governmental function whose benefits ran to all, would not be liable to the individual for its negligent performance of that duty.[92] The doctrine is well established, as discussed earlier, and is seemingly permanently supported by arguments that liability would impose a crushing burden on the state and open the floodgates of litigation.[93]

Almost at the outset, then, it would seem, one can put aside all effects upon the municipality's liability properly to supervise the actions of neighborhood groups. Despite the fact that in *Gerneth* the City of Detroit was merely regulating private action,[94] and the New York City police are actually encouraging private action, under present New York law as set forth in a virtual "unbroken chain of decisional law,"[95] police supervision of patrol groups, whether or not performed properly, would be deemed a governmental function. Barring police conduct intended to deprive a citizen of his civil rights or to inflict harm upon him, such supervision would not be actionable by the injured individual.

However, a finding of state action would subject members of neighborhood patrol groups to suit in the federal courts under title 42, section 1983 of the Civil Rights Act[96] for action which deprives others of rights secured by the Constitution. Traditional tort remedies, except perhaps those for failure to provide protection, would also be available for patrol misconduct, but the existence of a federal claim may be particularly desirable. For example, problems of vigilante conduct—most likely to arise in areas which are racially mixed or of changing racial composition, where patrol groups may seek to exclude a particular racial group or may be overzealous in their protection of property—seem well suited for resolution in federal courts, where plaintiffs may escape local prejudices and find a friendlier forum for constitutional issues.

Whether or not patrols are held to fall within the bounds of state action, they will be insulated from suits for failure to protect the neighborhood adequately; if they are state action, they are immune under the general principles applicable to the police, and if they are private action they would be liable only under a theory that they assume a duty of protection on which plaintiffs relied, a result which seems unlikely. Conceivably, however, a patrolling citizen may stand in a

92. Id.; see Bryant v. Mullins, 347 F. Supp. 1282 (W.D. Va. 1972); note 15 supra and accompanying text. See also Campbell v. State, 284 N.E.2d 733, 737 (Ind. 1972), which brings into question all vestiges of sovereign immunity but holds fast to the rule that there is no liability for failure to provide police protection.

93. Riss v. City of New York, 22 N.Y.2d 579, 582-83, 240 N.E.2d 860, 861, 293 N.Y.S.2d 897, 898-99 (1968); cf. Tobin v. Grossman, 24 N.Y.2d 609, 620, 249 N.E.2d 419, 425, 301 N.Y.S.2d 554, 562-63 (1969) (dissenting opinion). See generally 2 C. Anticau, Municipal Corporation Law § 12.05 (1971).

94. 465 F.2d 784 (6th Cir. 1972), cert. denied, 93 S. Ct. 913 (1973).

95. Bass v. City of New York, 38 App. Div. 2d 407, 415, 330 N.Y.S.2d 569, 577 (2d Dep't 1972).

96. 42 U.S.C. § 1983 (1970).

different position to a person in need of help than the ordinary citizen who is not charged with the duty to render assistance.

Although it is contended that the powers of neighborhood patrols ought not to be enlarged, there are currently sufficient facts to find that state action is involved because of municipal organization and support of patrol groups. Furthermore, a finding of state action would give injured plaintiffs a remedy in federal courts which may be distinctly preferable to suit in state court under tort law, with respect to the type of misconduct most likely to occur.[97]

VII. Conclusion

Neighborhood patrol groups fill a recognized need for greater security. These groups as they now function are enthusiastically regarded both by the public and the police as a sound and efficacious means of preventing crime. However, given the present trends, and the possibility that neighborhood patrols may continue to operate with public and official acceptance, it may be reasonable to find that state action is involved. However, no matter how effective neighborhood action may become, it is argued that to protect the rights of suspects and the safety of all, the powers of such groups to effect arrest and exercise force should not be expanded beyond those traditionally recognized as civilian powers. The mere possibility of untrained citizens acting as policemen and dispensing rough justice in their neighborhoods is very undesirable; it must remain a characteristic of our society that the law is enforced by the more impersonal and presumably more reasoned arm of the state than that of the local citizenry. What is needed and what should be encouraged are local groups which fill the limited but important role of deterring crime by their presence on the streets and by reporting criminal and suspicious activity to the police.

97. See generally Herzer, Federal Jurisdiction over Statutorily-Based Welfare Claims, 6 Harv. Civ. Rights-Civ. Lib. L. Rev. 1, 10 (1970).