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POLICE SENSITIVITY AND RESPON-SIVENESS TO MINORITY COMMUNITY NEEDS: A CRITICAL ASSESSMENT

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INTRODUCTION

It is a generally accepted proposition that the police are administrators and enforcers of regulations and laws developed by legislative bodies and that, as such, they are compelled by law to deal with legal infractions in ways carefully designated by law. A corollary of this proposition is that individual police officers as well as police agencies exercise little or no autonomy in their day-to-day activities and that, accordingly, the law is necessarily implemented in an even-handed fashion. Nothing could be further from the truth. In actuality, individual police officers exercise wide discretion in their everyday operations. The decision as to whether a particular drunk should be arrested and detained or delivered to his doorstep without formal sanctions, the decision as to whether a wife-beating husband should be locked up or simply warned about the illegality of his misdeeds, and the decision as to whether an illegally parked vehicle should be ticketed and towed rather than simply ticketed are all examples of judgments wherein the patrol officer enjoys considerable discretion. Similarly, police departments have substantial leeway in developing policy to enforce laws. The decision as to whether a police department needs to spend its budgetary allocations on more weaponry rather than on more communications equipment, the decision as to whether prosecution of prostitutes, as opposed to polluters, has a higher priority, and the decision as to whether a police community relations program should or should not be established are also illustrations of matters over which the police, as a unit, have virtually total control.

While the police, both individually and collectively, enjoy tremendous discretion in decision-making and law enforcement, the decision, priorities, and policies that result do not suffer the scrutiny of review by community citizens. While the public is provided with opportunity to contribute to the decision-making of its local

school board, citizen input in the policy-making of the community's law enforcement agency is non-existent. This situation becomes problematic when this body exercises its discretion in such a way that it is at odds with licit community interests. This problem is aggravated when the decision emanates, or appears to emanate, from the particular prejudices or partisan views of the individual police officer or the police department.

The objective of this article is to study one facet of the police-community problem: the interaction between ethnic minority communities and the police and the effects of such interaction. Specifically, it examines the police — individually and as a unit — to determine whether the police actually provide for community needs and whether police operatives create problems in the community in the exercise of this discretion. Furthermore, this article reviews and examines various suggested alternatives which are aimed at making the police more responsive to minority community needs. In the process of this examination, it is important to note that much of what is established may have bearing on police responsiveness to community groups other than racial minorities.

POLICE AND THEIR BACKGROUNDS AND PERSPECTIVES

A comprehensive study of the urban police force in urban society must consider the background of those who are on the first rung of our criminal law enforcement ladder. A study of who they are and what they believe is a valuable tool in assessing any departmental and community-planned alternative programs.

Generally, policemen are white, Anglo-Saxon,[1] and very often Catholics[2] of Irish descent.[3] Most have a high school education or

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1. D. BAYLEY AND H. MENDELSOHN, MINORITIES AND THE POLICE: CONFRONTATION IN AMERICA 3 (1969). *See also* A. BENT, THE POLITICS OF LAW ENFORCEMENT: CONFLICT AND POWER IN URBAN COMMUNITIES 92-95 (1974), in which a 1972 study of the Memphis Police Department revealed 92.6 per cent of the police officers to be white while a representative civilian sample was 74.5 per cent white; TASK FORCE ON LAW AND LAW ENFORCEMENT, THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE, LAW AND ORDER RECONSIDERED: REPORT OF THE TASK FORCE ON LAW AND LAW ENFORCEMENT, THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE 291 (1969) (hereinafter cited as TASK FORCE REPORT: LAW ENFORCEMENT). *See generally* B. Ward, *The Need for Black Police Officers* in THE ADMINISTRATION OF CRIMINAL JUSTICE: A VIEW FROM BLACK AMERICA 3 (L. Brown ed. 1974).

2. *See, e.g.,* A. NIEDERHOFFER, BEHIND THE SHIELD: THE POLICE IN URBAN SOCIETY 142 (1969).

3. *See, e.g.,* W. TURNER, THE POLICE ESTABLISHMENT 39 (1968). *But see* BENT, *supra* note 1, at 97 (police in Memphis study mostly Protestant).

some college.[4] Their parents usually worked as manual laborers, as skilled tradesmen, in small businesses or in modest positions in service occupations. Many young police applicants are dissatisfied with the prospect of those occupations and view law enforcement as a logical career alternative.[5]

When the recruits arrive on the job, they bring their working class views and biases with them. Politically, they tend to be more conservative than the community as a whole.[6] For example, a Memphis study found that the policemen's "warm" feelings toward the Ku Klux Klan were unparalleled in a sampling of the general

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4.   BAYLEY AND MENDELSOHN, *supra* note 1, at 3. *See also* BENT, *supra* note 1, at 96 (46.25 per cent of police in Memphis study had some college education).

5.   BAYLEY AND MENDELSOHN, *supra* note 1, at 32. In a study of 109 police officers, most of whom were of patrolman rank, 59.6 per cent ranked their socioeconomic status as officers as higher than their parents and 35.6 per cent as about the same as their parents. R. SULNICK, CIVIL LITIGATION AND THE POLICE: A METHOD OF COMMUNICATION 120 (1976). *See also* Comment, *Reviewing Civilian Complaints of Police Misconduct—Some Answers and More Questions*, 48 TEMP. L.Q. 89, 103 (1974).

6.   BAYLEY AND MENDELSOHN, *supra* note 1, at 18. *See also* J. SKOLNICK, JUSTICE WITHOUT TRIAL 82 (1967); A. BLACK, THE PEOPLE AND THE POLICE 39 (1968); TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 291.

7.   BENT, *supra* note 1, at 98-99, where a study of Memphis police personnel indicated they were most positive towards policemen, the American Legion, whites, the John Birch Society, blue collar workers, conservatives, Republicans and the Ku Klux Klan while being especially unsympathetic towards Blacks (particularly Black Panthers), women's liberation and liberals. *See also* TURNER, *supra* note 3, at 258-76. Such attitudes do not appear, however, to be intrinsic to a police mentality. *See, e.g.,* Footlick, *G-Men and Klansmen,* NEWSWEEK, Aug. 25, 1975, at 74-75, describing the Federal Bureau of Investigation's "spirited and often imaginative counter-intelligence program . . . against right-wing outfits like the Ku Klux Klan and the American Nazi Party."

8.   J. WILSON, VARIETIES OF POLICE BEHAVIOR: THE MANAGEMENT OF LAW AND ORDER IN EIGHT COMMUNITIES 33-34 (1968). Perceived "disrespect" is the most likely cause of most police misconduct. E. CRAY, THE ENEMY IN THE STREETS, POLICE MALPRACTICE IN AMERICA 169 (1972); A. REISS, THE POLICE AND THE PUBLIC 47 (1971); TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 298; Comment, *supra* note 5, at 102. One commentator examined a potential reason for this correlation:

> Having been delegated the authority and responsibility as society's foremost agent in social control, and given the ambiguity of their mission, the police have come to confuse legal infractions with personal disrespect (absence of citizen deference and humility). The police officer not only sees this citizen denial of police authority as a personal affront, but he confronts it with—or at least he reacts to it as though it were—a legal infraction.

R. WINTERSMITH, POLICE AND THE BLACK COMMUNITY 60 (1970). A different reason entirely may be underlying this concern, however: "Because their status is insecure, because they are not even sure if they respect themselves, policemen feel compelled to demand respect from the public." Balch, *Police Personality: Fact or Fiction?* 68 J. CRIM. C.L. & P.S. 106, 114 (1972). *See also* Black and Reiss, *Patterns of Behavior in*

civilian population.[7] They likewise bring with them "a preoccupation with maintaining self-respect, proving one's masculinity, 'not taking any crap,' and not being 'taken in.'"[8] This attitude merges with their naive attitudes toward minority groups and the latter's living habits and social problems.[9] The combination of the cultural background and political predisposition of the typical policeman results in a lack of sympathy for the plight of the minority and, to a lesser extent, for the poor in general.[10]

Can we simplistically state that the police, as an institution, are prejudiced against minority groups? Bayley and Mendelsohn state unhesitantly "yes," although they assert that the prejudices of the police officer are not significantly different from those of the population in general.[11] For example, in his study of the police, Westley found evidence of police prejudice towards minorities:

> Of the 50 men interviewed, 38, or 78 per cent, expressed ideas indicating that they had a prejudice in this area. Most conservatively, this prejudice can be expressed as the feeling that relationships between whites and Negroes should be kept to a minimum and that Negroes should keep to themselves. Many opinions were much more

Police and Citizen Transactions in 2 STUDIES IN CRIME AND LAW ENFORCEMENT IN MA-JOR METROPOLITAN AREAS 81 (1967), which indicated the police in black areas are more likely than police in white areas to emphasize fear, dislike or distrust of police as a reason why citizens withheld information.

    9. BLACK, *supra* note 6, at 35; C. LIENWALD, THE POLICE 43 (1972); TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 291. It has been contended that police officers believe blacks expect and need force. CRAY, *supra* note 8, at 173.

    One author questions the value of examining cultural differences between police and minorities in that it ignores the dynamics of power and nature of role relations in police-minority contacts. Spitzer, *Conflict and Consensus in the Law Enforcement Process: Urban Minorities and the Police*, 14 CRIMINOLOGY 189 (1976).

    10. *See* BAYLEY AND MENDELSOHN, *supra* note 1, at 148-54. Being poor may be the chief cause for the lack of sympathy. *See, e.g.,* INSTITUTIONAL RACISM IN AMERICA 58 (L. Knowles & K. Prewitt ed. 1969); TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 291. Indeed some contend that disproportionality of treatment by police officers may be due more to the position of blacks at the lowest socioeconomic level than to their race. Goldkamp, *Minorities as Victims of Police Shootings: Interpretations of Racial Disproportionality and Police Use of Deadly Force*, 2 JUSTICE SYS. J. 169, 171 (1976).

    11. BAYLEY AND MENDELSOHN, *supra* note 1, at 144. *See also* SKOLNICK, *supra* note 6, at 81, where Prof. Skolnick points out that "[t]he average policeman does not like Negroes, and since most policemen are straight forward and outspoken, few would deny such a generalization." *See also* BENT, *supra* note 1, at 99; TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 298. "If the average workingman is bigoted, that is his business, but if a policeman's bigoted, that is everyone's business." Balch, *supra* note 8, at 117.

violent, however. . . . 61 per cent of the men felt that the
Negro was somehow inherently (biologically) inferior and
possessed characteristics that would lead to criminal ac-
tivity.[12]

And while most policemen concede that minority members "have
right on their side as a theoretical matter, they still resist en-
croachments entailed by minority demands."[13]

Policemen generally believe crimes emanate from the disadvan-
taged, particularly minority group members. In fact, after studying
the police in Denver, Bayley and Mendelsohn stated:

Minorities . . . especially Negroes, in the eyes of police
personnel, demand the most, raise the greatest amount of
anxiety about personal safety, pose the greatest criminal
threat, are the most hostile, and on top of it all are as likely
to be truculent in their appeals against officers as pros-
perous Dominants.[14]

Police likewise believe that the young people in general are more
likely to participate in criminal activity.[15] Accordingly, these

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12. W. WESTLEY, VIOLENCE AND THE POLICE 100-01 (1970). Whether this prej-
udice alone actually motivates police misconduct is difficult, however, to determine.
Reiss, *Police Brutality . . . Answers to Key Questions* in LAW AND ORDER: POLICE EN-
COUNTERS 57, 74 (M. Lipsky, ed. 1970), Goldkamp, note 10 *supra. But see* TURNER, *supra*
note 3, at 65.

13. BAYLEY AND MENDELSOHN, *supra* note 1, at 151. Some contend that there
exists two kinds of law enforcement; one for black communities and one for white com-
munities. *See* TURNER, *supra* note 3, at 60, 63; CRAY, *supra* note 8, at 270-83. This may
be reflected in a study in Seattle in which it was noted that there was no significant
difference among white citizens who were recent victims of crime and those who were
not in their positive and negative attitudes towards police whereas recent victims who
were black were more negative than non-victims who were black. Smith and Hawkins,
Victimization, Types of Citizen-Police Contacts, and Attitudes Toward the Police, 8
LAW AND SOCIETY REV. 135, 140, 142-43 (1973). There are some indications that black
citizen attempts to cooperate and assist the police as to the citizens' true concerns,
such as arresting major drug pushers, are ignored by police. WINTERSMITH, *supra* note
8, at 97-102.

14. BAYLEY AND MENDELSOHN, *supra* note 1, at 108. The authors refer to the
non-minority general public as "Dominants." *Id.* at 8. A belief that blacks are unap-
preciative of the service efforts of police in black communities has been noted as
prevalent among officers by one commentator. Rubin, *Police Identity and the Police
Role* in THE POLICE AND THE COMMUNITY 12, 26 (R. Steadman ed. 1972). It has long been
true that the minorities "who felt they most needed the police trusted them the least."
Milner, *Conventional Police Reform and Racial Hostility* in RACISM AND INEQUALITY:
THE POLICY ALTERNATIVES 161-62 (1975).

15. E. BITTNER, THE FUNCTIONS OF POLICE IN MODERN SOCIETY 10 (1975). Per-
sons who deviate or fail to conform to the police officer's perceptions of the norms of

segments of society become preferred targets of the police. Given this perspective, it is apparent that, all things being equal, the young poor black person and the older, more affluent white person will trigger different reactions from the police, even when each has committed the same crime.[16] This may result partly from the increased anxiety that police officers must have towards blacks and youths, an anxiety which flows from the belief held by police that these two groups of citizens are prone to criminal activity.[17]

POLICE: SERVANTS, MERCHANTS OR OCCUPATION FORCES?

The police are not alone in making invidious distinctions between minority and majority. As Bittner pointed out, the differential treatment the police accord the minorities "reflects only the distribution of esteem, credit and deserts in society at large."[18] Furthermore, the police were created to perpetuate a civil order defined by middle class terms.[19] All that exists apart from that order or that which is incompatible with it tends to be viewed as suspect if not outright deviant.[20] Enhancing the problem is the fact that the police,

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society are equally suspect. *See* P. CHEVIGNY, POLICE POWER: POLICE ABUSE IN NEW YORK CITY 131 (1969). Police officers are likely to believe the general public concurs in this judgment. WILSON, *supra* note 8, at 40. Discriminatory treatment is likely to be the greatest for deviants who are also poor. INSTITUTIONAL RACISM IN AMERICA, *supra* note 10, at 58. Police officers believe young people especially to be the most difficult to police and the most leniently handled by the courts. REISS, *supra* note 8, at 137.

16. BITTNER, *supra* note 15 at 11; WILSON, *supra* note 8, at 40. Although Albert Reiss, Jr. cites examples of extreme discrimination in treatment between poor young blacks and older "substantial" white people (*see* Reiss, *supra* note 12, at 66-67, 70-71), he notes that the incidence of excessive force was actually almost twice as high for white suspects as for black suspects. Reiss, *supra* note 12, at 74. On the other hand, black citizens appear to believe police harass them on the basis of their race more than white citizens. *See, e.g.,* WINTERSMITH, *supra* note 8, at 93. Age appeared to be a significant variable in the percentage of positive and negative attitudes towards the police among whites but not among blacks. Smith and Hawkins, *supra* note 13, at 138. However, a sample of black citizens indicated they believed some blacks were subjected to more mistreatment than others. WINTERSMITH, *supra* note 8, at 96. *See also* M. Katz, *Violence and Cruelty in a Suburaban Milieu* in POLICE: PERSPECTIVES, PROBLEMS, PROSPECTS 23 (D. MacNamara ed. 1974) for a discussion of the comparatively lower rates of excessive force and brutality by police in a suburb north of Chicago.

17. Lipsky, *Introduction* in LAW AND ORDER: POLICE ENCOUNTERS 4 (1976). *See supra* notes 9-16 and accompanying text.

18. BITTNER, *supra* note 15, at 11. *See also* TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 298, Black and Reiss, *supra* note 8, at 135.

19. TURNER, *supra* note 3, at 15; M. BANTON, THE POLICEMAN IN THE COMMUNITY 146 (1964) (police governed by public morality more than by law); Chwast, *Value Conflicts in Law Enforcement* in THE AMBIVALENT FORCE: PERSPECTIVES ON THE POLICE 113-20 (A. Niederhoffer & A. Blumberg ed. 1970).

20. BITTNER, *supra* note 15, at xiv.

as a group, have "become quite vulnerable to the tastes and values of the wealthy managerial class of American society."[21] Hence, they are more likely to reflect by their attitudes and their actions the values of the majority as, for example, when they systematically "underenforce" those laws which the dominant forces in the community disdain.[22]

One need not look too deeply into the political and social structure of our society to see that the concepts of "law," "order" and "crime" are generally a reflection of the opinions of the majority and of the powers that be.[23] Moreover, Americans have a tradition of obeying only those laws that they perceive as valid, as convenient or as worthy of compliance.[24] Thus, although racism and poverty are great wrongs, society refuses to view them as crime.[25] Instead, what

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21. Chwast, *supra* note 19, at 119. *See also* BENT, *supra* note 1, at 97, which indicates most police view themselves as part of the middle class. Sulnick reports most police in his sample believed themselves to be higher than their parents in social standing. SULNICK, *supra* note 5, at 120.

22. WINTERSMITH, *supra* note 8, at 97-102. An excellent example is the prosecution of the prostitution laws against lower-class, mostly black, streetwalkers compared to the non-prosecution of call girls, who service the sexual needs of more affluent members of society than the streetwalker's customers. *See* Roby, *Politics and Criminal Law: Revision of the New York State Penal Law on Prostitution,* 17 SOC. PROB. 83, 99 (1969); Haft, *Hustling for Rights,* 6 CIV. LIB. REV. 1, 14 (1974); Olmstead and Flannery, *'76 Crackdown on Streetwalkers a Partial Success,* CHI. SUNDAY SUN-TIMES, July 17, 1977, at 11. *See, e.g.,* WILSON, VARIETIES OF POLICE BEHAVIOR, *supra* note 8, at 49; TURNER, *supra* note 3, at 132; G. BERKLEY, THE DEMOCRACTIC POLICEMAN 119 (1969); J. SKOLNICK, THE POLITICS OF PROTEST 251-52 (1969) (underenforcement to maintain "peace" in black community).

23. E. CLEAVER, SOUL ON ICE 121 (1968). *See also* P. DEVLIN, THE ENFORCEMENT OF MORALS 125-126 (1965); H. HART, LAW, LIBERTY, AND MORALITY 65-66 (1963); R. PERKINS, CRIMINAL LAW 4-9 (1969).

24. Commanger, *The Roots of Lawlessness,* SATURDAY REVIEW, February 13, 1971, at 17. *See also* A. KINSEY, W. POMEROY AND C. MARTIN, SEXUAL BEHAVIOR IN THE HUMAN MALE 392 (1948) (more than 95 per cent of total male population violating various sexual prohibitions of the United States); Gerstein, *The Practice of Fidelity to Law,* Feeley, *Coercion and Compliance: A New Look of an Old Problem,* Tapp & Levine, *Persuasion to Virtue: A Preliminary Statement* and Salem and Bowers, *Severity of Formal Sanctions as a Deterrent to Deviant Behavior,* in COMPLIANCE AND THE LAW: A MULTI-DISCIPLINARY APPROACH 35, 51, 181, 313 (S. Krislov, K. Boyum, J. Clark, R. Schaefer & S. White ed. (1972).

25. Casey, *Which Crime on Target* in THE WITNESS, August 15, 1968, at 5. *See also* Delany, *The White American Psyche—Exploration of Racism* and Coles, *Public Evil and Private Problems: Segregation and Psychiatry* in WHITE RACISM: ITS HISTORY, PATHOLOGY AND PRACTICE 155, 189 (B. Schwartz and R. Disch ed. 1970); INSTITUTIONAL RACISM IN AMERICA, note 10 *supra;* Forman, *Housing and Racial Segregation* and Bullock, *Expanding Black Economic Rights,* in RACISM AND INEQUALITY: THE POLICY ALTERNATIVES, *supra* note 14, at 37, 75; N. KOTZ, LET THEM EAT PROMISES: THE POLITICS OF HUNGER IN AMERICA (1971); H. MILLER, RICH MAN/POOR MAN (1964); URBAN

the majority may view as crime control may, in reality, constitute the suppression of racial protest or the tackling of a complex social revolution in our urban centers through the use of force alone.[26]

Of course, the police as agents of the "power structure" are not to assume all the blame for the shortcomings of the law. As Bittner has indicated, there is a

> general reluctance of our administration of justice to move against people about whom it is [generally] believed that, though they have transgressed, they are not really criminal. . . . Thus, it could be said that from the policeman's point of view it does not matter whether a crime is committed by a wealthy white person or a poor person of color. If the former happens to be involved in purse-snatching he will be, if at all possible, pursued, caught, and charged; and if it happens that the latter is

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RENEWAL: PEOPLE, POLITICS AND PLANNING (J. Bellush and M. Hausknecht ed. 1967); J. FREID, HOUSING CRISIS U.S.A. (1971); D. SCHOOR, DON'T GET SICK IN AMERICA (1970); THE EMERGENCE OF DEVIANT MINORITIES: SOCIAL PROBLEMS AND SOCIAL CHANGE 121-39 (R. Winslow ed. 1972). The unwillingness of our society to provide remedies for these inequities becomes apparent in our varying restrictions on speech perceived to be harmful. Whereas "pornography" and "obscenity" regarding sexual matters are outlawed and suppressed (*see* THE REPORT OF THE COMMISSION ON OBSCENITY AND PORNOGRAPHY (N.Y. Times ed. 1970)) severely damaging racial slurs are tolerated even when they may have caused the death of a youngster. *See* Rutherford and Zionek, *6 are Arrested Outside Bogan*, CHI. SUN-TIMES, Sept. 15, 1977, at 3, col. #7; CHI. TRIB., Sept. 14, 1977, § 1, at 3, col. #4; Magnus, *PUSH Fights Rumors: Transfer Pupil, 7, Dies of Infection*, CHI. SUN-TIMES, Sept. 15, 1977, at 3 (black girl dies of infections complicated by sickle-cell anemia resulting from reactions to racial jeers and taunts of anti-busing demonstrators).

26. *See* BENT, *supra* note 1, at 13. It is intriguing that many of the major racial riots of the 1960's were precipitated by police abuse or misconduct. Lieberman and Silverman, *The Precipitants and Underlying Conditions of Race Riots*, in THE AMBIVALENT FORCE, *supra* note 19, at 193-204; Milner, *supra* note 14, at 161-62. Perhaps more on point is the fact Chicago police prior to the 1968 Democratic Convention actively and quite successfully suppressed any thoughts the black community might have had of joining the anti-war protestors. The methods utilized included stopping and searching blacks on a massive basis for two weeks prior to the convention, intimidating through police brutality, telling black militant leaders they would be well advised to leave the city during the convention, and utilizing military and police force to prevent anti-war demonstrators to march any farther south than 18th Street during the Convention. RIGHTS IN CONFLICT: THE VIOLENT CONFRONTATION OF DEMONSTRATORS AND POLICE IN THE PARKS AND STREETS OF CHICAGO DURING THE WEEK OF THE DEMOCRATIC NATIONAL CONVENTION OF 1968 at 41-42, 305 (1968). As a result of this intimidation, black organizations advised blacks to "stay cool" to avoid a massacre by police, militant leaders left town, and few blacks joined the demonstrators. *Id.*

suspected of fradulent tax evasion, he will be left alone by the police.[27]

Other laws, because of "societal" pressures, are not enforced. This is implicit in Ramsey Clark's comment:

> It is imperative that we move to enforce ordinances that can protect safety and health. We recoil in horror at violent crime that kills thousands annually, but we largely ignore violations of law, as inexorably murderous as the gun, that condemn hundreds of thousands annually to death in fires, home, industrial and automobile accidents, and by disease and poisoning. We then tell the slum dweller that he must obey the law, that all progress depends on law and order. We send police to maintain order, to arrest, to jail — and to ignore vital laws also intended to protect life and to prevent death both slow and violent.[28]

Indeed, there exists an entire institutional basis in law which perpetuates the status of the poverty-stricken.

> We have not only a law about the poor, which seeks to deal with their condition, but a law of the poor, based on police powers. . . . [I]t is "designed to safeguard health, safety, morals, and well-being of the fortunate rather than directly to improve the lot of the unfortunate." The goal is the protection of society against the poor rather than safeguarding the poor from an indifferent or callous society.[29]

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27. BITTNER, *supra* note 15, at xiii. *Consider generally* O. DEMARIS, DIRTY BUSINESS (1974), for a sketch of lawlessness in business circles. *See also* J. LIEBERMAN, HOW THE GOVERNMENT BREAKS THE LAW (1973), for a discussion of the lawlessness of government operatives.

28. R. CLARK, CRIME IN AMERICA 136 (1970). *See* note 25 *supra* and studies therein cited regarding the housing crisis affecting the poor and disadvantaged. Some believe the era of programs designed to aid the black poor may have passed. "Black people have passed at least temporarily from the center stage of history, and with them the short-lived national majority that legislated the Great Society and three major civil-rights acts in the space of five years. . . . 'The whole mood has changed,' a white movement veteran in San Franciso says glumly. 'People used to say everybody deserves a fair shake. Now all you hear is, "What about crime?" or "What about my job?" ' " Goldman, *Black America Now,* NEWSWEEK, Feb. 19, 1973, at 29, 31. *See also* THE UNITED STATES COMMISSION ON CIVIL RIGHTS, RACISM IN AMERICA: HOW TO COMBAT IT (1970).

29. Rein and Miller, *Poverty Programs and Police Priorities* in SOCIAL SCIENCE AND NATIONAL POLICY 101 (Harris ed. 1970). *See* note 25 *supra* and studies relating to the poor cited therein. *See also* M. HARRINGTON, THE OTHER AMERICA: POVERTY IN THE UNITED STATES (1964). Nearly one-third of all blacks (31.4 per cent) are

Many laws demean the dignity of the individual. Accordingly, "[i]t is no use telling a Mississippi Negro to revere the law that is palpably an instrument of injustice to him and his race."[30] Thus, it can be said that the entire criminal justice system fails to adequately represent minority groups or their interests:

> The written standards of conduct and the police and judicial apparatus set up to enforce them are established and administered by persons with interests and perspectives similar to those of the majority of white Americans. But for those who differ substantially in economic status or culture from the white middle-class norm, the apparatus breaks down. Not only are these people arrested and prosecuted under laws they had no hand in making, but they are also tried by judicial institutions which exclude them both from structural mechanisms and from personnel rolls.[31]

Finally, many unenforceable laws have been created which increase the occasions of police-citizen friction.[32]

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below the poverty line compared to 11.6 per cent among the general population. THE WORLD ALMANAC AND BOOK OF FACTS 1977 at 238 (G. Delvry ed. 1976). Nearly half of the blacks are bordering on poverty. Goldman, *supra* note 28, at 31.

30. Commanger, *supra* note 24, at 64. *See also* WHITE JUSTICE: BLACK EXPERIENCE TODAY IN AMERICA'S COURTROOMS (S. Blackburn ed. 1971); L. DOWNIE, JR., JUSTICE DENIED: THE CASE FOR REFORM OF THE COURTS (1971); Burns, *Racism and American Law* in LAW AGAINST THE PEOPLE: ESSAYS TO DEMYSTIFY LAW, ORDER AND THE COURTS 38 (R. Lefcourt ed. 1971); CRIMINAL JUSTICE IN AMERICA: A CRITICAL UNDERSTANDING (R. Quinney ed. 1974).

31. INSTITUTIONAL RACISM IN AMERICA, *supra* note 10, at 58. This exclusion can cause resentment which is focused on the most visible form of the exclusion and of the short shrift given minorities generally, the police officer. BLACK, *supra* note 6, at 25-26. The hostility of police towards blacks (*see* J. SKOLNICK, THE POLITICS OF PROTEST at 242-44) increases this resentment. The general attitude of police officers may cause resentment beyond the ghetto:

> The people see a police force that exhibits arrogantly and at every opportunity its power and authority: uniforms, badges, .38 revolvers, nightsticks and handcuffs; law-abiding citizens are often snarled at; average citizens and particularly members of the so-called disadvantaged minorities encounter police officers who shoot first and then ask questions; Caucasian members of the force move through black communities as if they were military police in conquered territory; all of us see the police protecting scoundrels among their numbers, no matter how brutal they have been. How could the police expect cooperation and support from the community?

Wright, *If I Were Chief of Police of Gotham City*, 8 CIV. LIB. REV. 29, 30 (1976).

32. *See* J. AHERN, POLICE IN TROUBLE: OUR FRIGHTENING CRISIS IN LAW ENFORCEMENT (1972). *See also* H. Hart, *The Use and Abuse of the Criminal Law* in CRIME, LAW AND SOCIETY 283 (A. Goldstein and J. Goldstein ed. 1971); N. MORRIS AND G. HAWKINS, THE HONEST POLITICIAN'S GUIDE TO CRIME CONTROL 1-28 (1969).

> Legislatures blandly pass and retain such laws, knowing
> they are honored most in the breach. Our hypocrisy in
> refusing to face the truth catches police in the middle.
> The alcoholic, the bookie, the whore, the homosexual, the
> unmarried pregnant teenager and the addict fear — and
> come to hate — the police. Society sends the police against
> them to do what cannot be done by force.[33]

In this sense, the police are forced to deal with problems which
police agencies are not designed to resolve.

Because of these various difficulties, the police in the minority
community are often viewed as occupational forces who impose cer-
tain standards and values that are not necessarily supported by the
citizenry themselves.[34] Stokely Carmichael and Charles Hamilton
view this system in the context of a ghetto environment as a form of
colonialism.[35] The ghetto dwellers are "[c]olonial subjects [who] have
their political decisions made for them by the colonial masters; and
those decisions are handed down directly or through a process of 'in-
direct rule'."[36] This problem is complicated by the development of
large, centralized police agencies and the demise of neighborhood
precinct control of the day-to-day operations of the police, as well as
the elimination of such institutions as foot patrols which traditionally
made the police more accountable to the immediate area they

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33. CLARK, *supra* note 28, at 135. *See also* Hart, note 32 *supra;* MORRIS AND
HAWKINS, note 32 *supra.*

34. INSTITUTIONAL RACISM IN AMERICA, *supra* note 10, at 58; LEINWALD, *supra*
note 9, at 43; COMMUNITY RELATIONS SERVICE UNITED STATES DEPARTMENT OF JUSTICE,
ANNUAL REPORT: 1976 at 10 (1976). At times similarities between the ghetto and the
battlefield manifest themselves. For example, two days after Huey Newton was con-
victed, two Oakland California policemen, apparently drunk, opened fire on an unoc-
cupied Black Panther headquarters. The day after their dismissal from the force, 200
police officers failed to show up for work. Mulhern, *Stalking the Panthers* in WHITE
RACISM, *supra* note 25, at 240. A more graphic and lethal example involved the deaths
of Fred Hampton and Mark Clark in Chicago. *See* THE COMMISSION OF INQUIRY INTO THE
BLACK PANTHERS AND THE POLICE, SEARCH AND DESTROY: A REPORT BY THE COMMISSION
OF INQUIRY INTO THE BLACK PANTHERS AND THE POLICE (R. Wilkins and R. Clark ed.
1973). *See also* J. BALDWIN, NOBODY KNOWS MY NAME 65 (1962), where he cynically notes
that the "only way to police a ghetto is to be oppressive." One author contends that
police and blacks are both minorities, very similar to one another in many ways, who
are at war with one another. Toch, *Cops and Blacks: Warring Minorities* in LIENWALD,
supra note 9, at 195-204.

35. S. CARMICHAEL AND C. HAMILTON, BLACK POWER: THE POLITICS OF LIBERA-
TION IN AMERICA 5 (1967).

36. CARMICHAEL AND HAMILTON, *supra* note 35, at 6.

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serve.[37] Accordingly, the policeman is becoming increasingly withdrawn from the community he serves, even when patrolling a white civilian community.

Unquestionably, tensions between the citizens and the police emanating from such problems are greatest in the black community:[38]

> The major urban centers of today are torn along the lines of black and white over the administration of the law and the enforcement of order. The beat patrolman reflects the white community; he is a product of it and enters the black and brown communities with increased fear, anger and confusion. He receives little support from the ghetto in exchange for dangerous service. His major source of support comes from his own community and as a result there [in contrast] he is prone to provide "service with a smile."[39]

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37.   Though some feel such decentralization could lead to other problems such as inefficiency, graft and corruption, (*see* G. ASTOR. THE NEW YORK COPS: AN INFORMAL HISTORY 239 (1971)), others believe centralization leads to insensitivity on the part of authorities. BERKELEY, *supra* note 22, at 21. Carey McWilliams, editor of NATION, for example, believes "[e]ach neighborhood has a different problem for which a different approach is necessary." McWilliams, *If I Were Chief of Police of Gotham City*, 8 CIV. LIB. REV. 17 (1976). As a result, it would perhaps be advantageous for police depart-ments to have in their employ neighborhood specialists who study crime and social conditions in a particular neighborhood. Milton, *If I Were Chief of Police of Gotham City*, 8 CIV. LIB. REV. 9, 10 (1976). The widely accepted practice of patrolling by automobile has been criticized because, among other reasons, "police can do something about crime [normally] only when someone tells them it has been committed. . . . Do we send doctors around in a car marked "Medical Services" and tell them to spend eight hours finding people who need them?" *Id.* Indeed the National Institute of Law Enforcement and Criminal Justice recently suggested a reinstatement of foot patrols, despite their "extremely high cost," in high-density commercial and residential areas because of its "favorable impact on the community." NATIONAL INSTITUTE OF LAW EN-FORCEMENT AND CRIMINAL JUSTICE, ANNUAL REPORT: FY 1976 at 10 (1977). The Institute also recommended bicycles be utilized, referring to the experience of European police officers who have found them useful against burglary because they are silent and quick. *Id. See also* Gourley and Bristow, *Methods of Patrol,* in READINGS IN CRIMINAL JUSTICE 337, 346-47 (E. Eldefonso ed. 1973), regarding such bicycle patrols.

38.   BENT, *supra* note 1, at 43. Blacks are more likely to consider police brutal and abusing than whites. Terris, *The Role of the Police* in THE AMBIVALENT FORCE, *supra* note 19, at 41. In white suburban areas, such activity is not as frequent. Katz, note 16 *supra.*

39.   D. Perry and P. Sornoff, *Politics at the Street Level: The Select Case of Police Administration and the Community* (a paper prepared for delivery at the 1972 annual meeting of the American Political Science Assoication, Washington, D.C., 1972, at 2), quoted in BENT, *supra* note 1, at 42. As a result, a 1970 Harris poll found 67 per cent of the whites surveyed approved of the job done by their local law enforcement

In response, the black community views the police as the authoritarian symbol of the entire white establishment that keeps the black person under its thumb.[40] One student of police-minority relations put it this way:

> Negroes may feel resentment and rage against the landlords and storekeepers who exploit them, against the school officials who offer their children inadequate schooling, against the welfare workers whose decisions can be vital to family survival. Regardless of the good or ill of police performance, the police are a scapegoat for all other ills, for the police represent the entire system of confinement in the ghetto, the denial of opportunity, the deprivation which means poverty and the discrimination and segregation which make for inferior status and humiliation. To the people in the ghetto, the police should represent justice. But the police are the instrument through which injustice is imposed and sustained. By their presence they are party to the imposition of the whole ghetto imprisonment. The police, by their presence alone, are a constant reminder of powerlessness.[41]

The problem of "colonialization" in any ghetto area, whether its residents are black, brown, white or mixed, is exacerbated by the disparity in values between the police and the policed.[42] Although racial prejudice of individual police officers is readily perceived in some police-citizen encounters, a social class bias also contributes to attitudes and problems in policing. The lower class (as distinct from

officials as opposed to only 43 per cent of the blacks polled. M. HINDELAND, PUBLIC OPINION REGARDING CRIME, CRIMINAL JUSTICE AND RELATED TOPICS 10 (LEAA ed. 1975). In a 1973 Harris poll, blacks and whites indicated a vast difference in the confidence they had in the people in charge of running the police department. SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS OF THE COMMITTEE ON GOVERNMENT OPERTIONS, UNITED STATES SENATE, CONFIDENCE AND CONCERN: A SURVEY OF PUBLIC ATTITUDES, part 2, December 3, 1973, at 90. (Hereinafter cited as CONFIDENCE AND CONCERN).

40. G. KIRKHAM, SIGNAL ZERO 169 (1976). The author, a university professor who became a street patrolman for several months, reveals that "for too many people [being a cop] meant being the most readily visible symbol of a hated establishment, the imagined cause of all the misery and frustration in their lives." *See also* TURNER, *supra* note 3, at 120 who quotes a former Sheriff of Cook County, Illinois to the effect that, although the "police are today . . . less brutal [physically] than they have even been . . . what people are objecting to is that they reinforce a social order that can be more brutal than the worst physical force."

41. Black, *supra* note 6, at 25-26.

42. *See, e.g.,* Rokeach, Miller and Snyder, *The Value Gap Between Police and Policed,* J. SOCIAL ISSUES no. 2, 1971, at 155.

the lower income group),[43] the undereducated, the unemployed, and the welfare recipient all share a desperation common to those who see no end to the miserable life that engulfs them in the seething urban ghettos. The more visible problem of the non-white citizen apparently provoking a racially prejudicial response from the police may in actuality entail, as an underlying basis, a class-prejudice reaction.[44] Thus, it appears the sense of "colonialization" that transcends the urban ghettos exists because of a *combination* of minority-majority prejudices and majority sanctioned activities which inadvertently flow from class bias.

POLICE INSTITUTIONS AND INSTITUTIONAL ACTIONS

Not only do individual biases and preferences as well as class prejudices play a part in a policeman's on-the-job performance, but, additionally, several institutional biases and pressures exacerbate any weaknesses in and/or diminish many hopes raised by the injection of "fresh" police recruits into police organizations. The following analysis will consider the police and their relationships within institutional confines as well as their potential affects on the police role and activities within the ghetto communities.

The Socialization Process and Its Impact on Police Behavior

It was noticed over twenty-five years ago that "[t]he exigencies of the occupation form the police into a social group which tends to be in conflict with and isolated from the community; and in which the norms are independent of the community."[45] Charles Rogovin noted that "we have some fragmentary evidence that perhaps the real socialization of the man as the police officer takes place in the first three years of service."[46] This socialization process begins the day the recruit enters the academy. He may enter idealistic, but

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43. Members of the lower class may possess a set of norms and values which is the opposite of those of the dominant social class, whereas members of the lower income group may possess either set of values and, accordingly, may attempt to assume or may assume the "middle class" way of life.

44. J. WILSON, THINKING ABOUT CRIME 27-29 (1975); Goldkamp, *supra* note 10, at 171; WINTERSMITH, *supra* note 8, at 96.

45. W. WESTELY, THE POLICE: A SOCIOLOGICAL STUDY OF LAW 294 (unpublished Ph.D. dissertation, University of Chicago, 1951) quoted in BANTON, *supra* note 19, at 215; SKOLNICK, *supra* note 6, at 52.

46. Rogovin, *The Need is Now* in THE POLICE AND THE BEHAVIORAL SCIENCES 17 (J. Steinberg ed. 1974). *See also* KIRKHAM, *supra* note 40, for an examination of how a university professor's attitudes can be transformed by several months of service as a policeman.

soon realizes that the "professionality" of a policeman is a sham.[47] Through innuendos made by his instructors, or the demeaning restrictions on his private life,[48] he already is cognizant that the policeman's lot is hardly idyllic.[49] The critical point, however, occurs when he is turned out into society; the great disparity between the academy curriculum — which emphasizes the ideal — and his initial patrol — reality — is shocking.[50] His cynicism increases when the veterans on the force advise him to assume a pragmatic attitude if he wishes to survive. He learns, "You gotta be tough, kid, or you'll never last."[51]

When the new policeman is the subject of criticism he becomes beset with self-doubt. Perhaps it is an impression that the community does not respect him. Nevertheless, he becomes defensive, and sometimes his reaction is aggressive in nature. The pressures of his office to "produce"[52] only add to this aggressive nature. The combination of his suspicion, anxiety, and pragmatic feelings tend to

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47. NIEDERHOFFER, *supra* note 2, at 46. *See also* E. DROGE, THE PATROLMAN: A COP'S STORY 23-29 (1973), for a detailed description of "training" at police academies. Changes in the structure and curriculum have been suggested as well as schemes of continuing education as in other professions. *See, e.g.,* Bimstein, *Sensitivity Training and the Police,* POLICE, May-June, 1970, at 75; McEvoy, *Training for the New Centurions* in THE POLICE AND THE BEHAVIORAL SCIENCES, *supra* note 46, at 5.

48. "Once the [police] candidate enters the department, he is immediately presented with information that supports the ascendancy of the organization over the individual." MacNamara, *Uncertainties in Police Work: The Relevance of Recruits' Backgrounds and Training* in READINGS IN CRIMINAL JUSTICE 184, 207 (E. Eldefonso ed. 1973).

49. NIEDERHOFFER, *supra* note 2, at 46.

50. NIEDERHOFFER, *supra* note 2, at 52-53; DROGE, *supra* note 47, at 32-33. Droge notes that with his severely limited training at the academy, he was not prepared for the first occasion of bribery — which occurred two weeks out of the academy. "Had I been better trained and familiar with what I should legally do on the street, had I been instructed thoroughly on the *problem* of corruption and how to combat it, had I been with a patrolman with a similar background, I would never have taken that money."

51. NIEDERHOFFER, *supra* note 2, at 56. "When police recruits leave their sheltered academies, experienced patrolmen begin to re-socialize them. . . . [it was discovered] that police supervisors took special delight in debunking what rookies had learned in school — in fact, they considered it an important part of their job." Balch, *supra* note 8, at 115.

Prof. Kirkham, when he became a street patrolman, was told to forget 75 per cent of what he had learned at the police academy by an experienced police captain before beginning his assignment to one of the toughest areas of a large American city. KIRKHAM, *supra* note 40, at 48. *See also* NIEDERHOFFER, *supra* note 2, at 47. Survival, as emphasized in the academies, on the other hand, depends on following the departmental rules. *See, e.g.,* MacNamara, *supra* note 48, at 207-21.

52. SKOLNICK, *supra* note 6, at 231.

drive him to adopt a hard-nosed approach to law enforcement.[53] The nature of his position dictates a desire for conformity and order.[54] When the untidy, disorderly or unusual confronts him, he becomes suspicious; only when all is regular and predictable does the policeman find comfort.[55]

Police feel they deserve respect which they have not always received.[56] Professor Kirkham, a criminologist-turned part time policeman, noted the condescension accorded him as a police officer by fellow conversationalists.[57] Embittered by the lack of respect, the police draw together to give each other support and assurance,[58] and learn that each policeman has only his/her fellow officers to call on in time of trouble.[59] Feeling isolated, ironically not unlike minority individuals, they become cynical[60] and callous. They may create a new set of values to meet the exigencies of the situation.[61] It is this

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53. Police tend to be pragmatists, a characteristic related, no doubt, to the exigencies of their calling. Much of a policeman's work calls for action — now. . . . Small wonder, then, that he values "common sense" more than theory, successes more than ideals.

W. WATSON AND J. STERLING. POLICE AND THEIR OPINIONS 6 (1969). These experiences explain why so many police become cynical and suspicious of others. *See, e.g.,* Rubin, *supra* note 14, at 19. Of course, both of these qualities may be essential to good police work. One author has stated that the "mark of a good police officer is not only his arrest record, but his unquestioned loyalty to his comrades, his staunch advocacy of isolationism and even secrecy, and his general cynicism directed at the public at large." WINTERSMITH, *supra* note 8, at 58.

54. SKOLNICK. *supra* note 6, at 47-48. Some contend that police appear to require "exciting" situations. *See, e.g.,* WINTERSMITH. *supra* note 8, at 50.

55. SKOLNICK. *supra* note 6, at 48. Considering the danger and the nature of the danger intrinsic to police work, such an attitude should not be surprising. A police officer's danger is not similar to that of other high risk professions since it is difficult to determine when or from where it will come. WINTERSMITH. *supra* note 8, at 56. This apprehension of the unpredictable combined with the necessity for noting the unusual in detecting potential criminal activity *(see* note 53 *supra)* make the desire for regularity and predicability understandable.

56. *See* note 8 *supra.*

57. KIRKHAM. *supra* note 40, at 90.

58. SKOLNICK. *supra* note 6, at 58. *See also* AHERN. *supra* note 32, at 14. *But see* Balch, *supra* note 8, at 112.

59. KIRKHAM. *supra* note 40, at 112. *See also* DROGE. *supra* note 47, at 134. However, in some areas such as the black community, lack of cooperation and assistance may very well be due to insulting and degrading approaches by the police. *See, e.g.,* P. CHEVIGNY. COPS AND REBELS: A STUDY OF PROVOCATION 23 (1972).

60. NIEDERHOFFER. *supra* note 2, at 9; Rubin, *supra* note 14, at 19; WESTLEY, *supra* note 12, at 107; Balch, *supra* note 8, at 111-13. Toch believes police and blacks are quite similar in their plights and reactions to their plights. Toch, *supra* note 34, at 195-204.

61. CHEVIGNY. *supra* note 15, at 141. Droge indicates he rapidly changed his views towards blacks during the first few years as a policeman despite extremely strong prior views to the contrary. DROGE, *supra* note 47, at 82.

cynicism that contributes to the hardened attitude and behavior that creates many of the problems of and for today's police.[62]

Police scientists state that a socialization process and the occupational role of the policeman bring forth a feeling of anxiety on the part of most officers. Even the most seemingly insignificant things take on a new kind of importance for the patrolman.[63] One of the principal catalysts is interpersonal violence directed against policeman.[64] Since violence against a police officer is considered by police to be more likely in a minority neighborhood, the officer's anxiety level is likely to be higher on patrol in a minority neighborhood.[65] Race is an important perceptual cue for policemen when they gauge the possibility of harm coming to themselves.[66] As

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62. NIEDERHOFFER, *supra* note 2, at 10. *See* Bard, *The Unique Potentials of the Police in Interpersonal Conflict Management* in POLICE & BEHAVIORAL SCIENCES, *supra* note 46, at 140:

> It appears . . . that people in conflict [the major source of police-citizen contact] want an objective, skillful and benign authority who can successfully negotiate, mediate or arbitrate a constructive outcome.

Police are unlikely to be able to fill this need with a cynical and hardened attitude towards people. Most police officers believe the main advantages to their profession over others are abilities to understand others and to keep a "cool head" in handling intense situations. TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 300-01.

63. KIRKHAM, *supra* note 40, at 104. "[A] good policeman has an intuitive ability to sense the unusual. He pays close attention to normal everyday routines so he can spot anything out of the ordinary. He notices when stores open and close, which houses are vacant, which lights are left on." Balch, *supra* note 9, at 111, citing to SKOLNICK, JUSTICE WITHOUT TRIAL, *supra* note 6.

64. SKOLNICK, JUSTICE WITHOUT TRIAL, *supra* note 6, at 44; AHERN, *supra* note 32, at 23. The policeman "is aware he is most likely to be injured when he least expects it." *See also* WINTERSMITH, *supra* note 8, at 56. Of 1,023 police killed from 1966 through 1975, the Federal Bureau of Investigation characterized 157 as resulting from responding to disturbance calls, 105 as resulting from traffic stops and 82 as resulting from ambush. THE WORLD ALMANAC & BOOK OF FACTS 1977, *supra* note 29, at 268. The danger of police work may be overexaggerated, however. "The fact is that *being a New York policeman is about the safest job you can have.* . . . Over the last 20 years the fatality rate for New York policemen averages out to .9 per 10,000 workers. According to nationwide statistics of various occupations, it's eight times more dangerous being a miner and four times more dangerous being a farmer. The average citizen's chance of getting killed in New York is 2.1 per 10,000, so a cop is half as likely to get himself killed as the average citizen." Fleetwood, *They Shoot Ten-Year-Olds, Don't They?* NEW YORK TIMES, Sept. 20, 1974, at 27, col. 7, (emphasis in original).

65. BAYLEY AND MENDELSOHN, *supra* note 1, at 91. WESTLEY, *supra* note 12, at 99-105. *See* SEARCH AND DESTROY, *supra* note 34, for an examination of the state of affairs between blacks and police in Chicago prior to the shootings of Fred Hampton and Mark Clark.

66. BAYLEY AND MENDELSOHN, *supra* note 1, at 95, 107. Goldkamp, *supra* note 10, at 173-77, discusses several authors who believe that a higher death rate among blacks from police force utilized against citizens is due to a higher involvement of minorities in violent crime. *Compare* note 150 *infra* and accompanying text.

a result, the police may be more naturally inclined to use stronger methods when dealing with the minority group citizens.[67] Coming to the job with predispositions about minority members and the minority community, the young white policeman is inclined to believe that minority people require stricter enforcement than the white majority. And thus, he naturally discounts the charges made against police by the minority groups.[68]

Representation of Minority Groups in Police Agencies

Not only do the predispositions of individual police officers coupled with the socialization processes within the reference group present a formidable obstacle to change, but the police institution itself seems to inherently raise problems of police responsiveness to minority community needs. It would seem that a better understanding between the police and the minority community would develop if minority group members were well represented on urban police forces.[69] Unquestionably, this is not the case today. Although some steps have been taken to ameliorate the situation, the percentage of minority police officers no where nearly approximates the percentage of minority citizens in the total population.[70] The picture for

67. BAYLEY AND MENDELSOHN. *supra* note 1, at 165. Ed Cray has said police believe blacks expect and need relatively more force. CRAY, *supra* note 8, at 173. *But see* REISS, *supra* note 8, at 147; Goldkamp, *supra* note 10, at 171. *Compare* Katz, *supra* note 16, at 75.

68. BAYLEY AND MENDELSOHN. *supra* note 1, at 169. *See* DROGE. *supra* note 47, at 94-96.

69. THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS. REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 316-17 (N.Y. Times ed. 1967). *See also* Ward, *supra* note 1, at 3, where a top police official in New York City, who is black, advised a group at Howard University that "[u]nless Black people enter the system, and move it from within, it will remain ineffective and threatening." *See* Ferrebee, *Black Recruiting in Detroit* in THE POLICE AND THE BEHAVIORAL SCIENCES, *supra* note 46, at 124, 127.

70. THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, *supra* note 69, at 321. *See also* N.Y. TIMES, August 11, 1974, at 1, col. 6. In a recent nationwide report, police departments for cities over 50,000 responding to questions indicated only seven per cent minority membership in mean per cent in 1973. M. HINDELANG. M. GOTTFREDSON, C. DUNN AND N. PARISI, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS: 1976, at 104 (1977). In 1970, six per cent of the male policemen and detectives in the country were black. BUREAU OF THE CENSUS. UNITED STATES DEPARTMENT OF COMMERCE. STATISTICAL ABSTRACT OF THE UNITED STATES: 1976 (97th ed. 1976). Scattered reports of more recent statistics are available. *See, e.g.,* Longhini, *Black Man's Burden: Heavier Crime Workloads in Black Police Districts; 52 Per Cent of Black Officers in Black Districts,* CHICAGO REPORTER. February 1977, at 3, which determined, from an internal Chicago Police Department report entitled "Desk Strength" that "[i]n 1975, black officers comprised 16.3 per cent of the Patrol Division; Latino officers 1.7 per cent; and white officers 81.9 per cent of the division." However, whereas the patrol division in 1975 comprised 7,689 officers (*id.*), the *total* police force, excluding civilian emplyees, constituted 13,039 officers. THE WORLD ALMANAC & BOOK OF FACTS 1977, *supra* note 29, at 968.

supervisory personnel is more serious with non-white sergeants, lieutenants and captains occupying proportionately fewer positions than even their already restricted numbers in the nation's police departments would indicate.[71] Thus, past recruitment practices in police agencies have done little to eliminate the sense of "colonialism" in minority neighorhoods.

The rise in police "standards" has contributed to the lack of minority participation in law enforcement. With the attempts towards increased police professionalism,[72] the standards for acceptance into candidacy as a policeman have become more stringent. For example, this effort has brought about an injection into police departments of officers with more extensive educational backgrounds, including some with college.[73] In some respects, the

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71. INSTITUTIONAL RACISM IN AMERICA, *supra* note 10, at 60-61. *See also* N.Y. TIMES, August 11, 1974, at 1, col. 6 which reported that, in 1974, 22 per cent of the patrolmen in Detroit were black while only 7 per cent of the supervisory personnel were black. *But see* Ferrebee, *supra* note 69, at 127. The most recent nationwide report uncovered indicates only one per cent of the 1973 membership of the departments responding in cities over 50,000 at the rank of sergeant or above were members of minority groups. HINDELANG, GOTTFREDSON, DUNN & PARISI, *supra* note 70, at 104. Disparities are also apparent at the higher ranks among non-supervisory personnel. Harold Saffold, president of Chicago's Afro-American Patrolmen's League indicated that, since most serious crime occurs within the black police districts in Chicago, most detective work must be done within those districts. Longhini, *More Crime, Fewer Solutions: City's Clearance Rates Decline, National Rates Down; Few Minorities Assigned to Detective, Tactical Units*, CHICAGO REPORT, February 1977, at 5. Even so, "[i]n 1975, of the [Chicago Police Department's] 1,228 detectives, 122 were black (10 per cent) and nine were Latino (0.7 per cent). * * * Eight per cent of the homicide detectives were black, five per cent of the robbery detectives were black, 14 per cent of the burglary detectives were black and 9 per cent of the auto theft detectives were black." *Id.* Tactical units, in which police officers in civilian clothing in unmarked cars attempt to blend into an area giving them "an edge over the criminal element" were made up of six per cent black officers, one per cent Latino officers and 93 per cent white officers. *Id.* As Saffold pointed out "it is difficult for tactical unit officers, 93 per cent of whom are white, to 'blend' into Chicago's black and Latino neighborhoods." *Id.*

The disparities in police departments regarding minority employment may not be extremely different than in the United States labor market generally. In 1975, only 16 per cent of the labor market was comprised of minorities (10.5 per cent black) with ten per cent of the white collar jobs occupied by minorities (six per cent black) and 20.5 per cent of the blue collar jobs occupied by minorities (13.7 per cent black). S. WESTERMAN, THE CBS NEWS ALMANAC 1977 at 180 (1976).

72. *See, e.g.*, McEvoy, *supra* note 47; Rogovin, *supra* note 46; Bimstein, *supra* note 47; Rubin, *supra* note 14, at 21-23.

73. WILSON, THINKING ABOUT CRIME, *supra* note 44, at 113. *See* McEvoy, *supra* note 47, at 14, who suggests police officers be given sabbatical leaves with full pay for up to a year of university study. The United States Civil Rights Commission found in 1971 that most of the police departments examined required a high school diploma or an equivalent degree of their applicants. U.S. Commission on Civil Rights, *Police*

heightened standards for personnel appear attractive to those in-
terested in a more responsive police. The departments following
such standards would theoretically be composed of educated,
motivated individuals who might also possess a certain civility and
ability of self control.[74] But, at the same time, the chances for adding
minority candidates to the force are reduced. Thus, minority under-
representation in the universities insures their continued under-
representation in the police departments. The ultimate result is
apparent. It is now,

> even more difficult for a significant number of black men
> to find work as police officers. The inferior educations of
> those who attended ghetto schools makes it more difficult
> for blacks than whites to pass written tests. Physical
> fitness is often lacking because of improper nutrition or
> deficient medical care; and those white police ad-
> ministrators and other white professionals who interview
> the applicants are usually looking for the personality
> traits that reflect their own middle-class backgrounds.[75]

Recruitment: Who Will Wear the Badge?, in POLICE-COMMUNITY RELATIONS 268, 272 (P.
Cromwell, Jr. & G. Keefer ed. 1973). The Commission believed such a requirement
"eliminates a disproportionately large number of minority group members." *Id.*
Niederhoffer believes the search for college-educated officers is likely to prove mean-
ingless to actual reform. NIEDERHOFFER, *supra* note 2, at 40-43. Berkley, however,
believes education to be "vital" to creating what he calls "the democratic policeman."
BERKLEY, *supra* note 22, at 74-87. See the excellent discussion of the educational issue
in H. GOLDSTEIN, POLICING A FREE SOCIETY 283-306 (1977). In 1973, an overwhelming
number of police departments required at least a high school degree or its equivalent.
SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 1976, *supra* note 69, at 103.

    74.   WILSON, THINKING ABOUT CRIME, *supra* note 44, at 113. *See also* BERKLEY,
supra note 23, at 74-87, for a glowing recommendation of education as a means to
"civilianize" the police.

    75.   INSTITUTIONAL RACISM IN AMERICA, *supra* note 11, at 61. *See also* U.S. Com-
mission on Civil Rights, *supra* note 73. Of 138,798,000 whites above fourteen years of
age, 34,414,000, or 24.8 per cent were at an educational level higher than twelfth grade
in 1974 while of 18,486,000 blacks above fourteen years of age, only 2,926,000, or 15.8
per cent, were past the twelfth grade in 1974. THE WORLD ALMANAC & BOOK OF FACTS
1977, *supra* note 29, at 224. These figures reveal nothing as to the quality of education,
or lack thereof, in black communities. Nonetheless, one finds situations where, even in
attempting to eliminate racial discrimination in hiring practices, the educational bar ac-
tually perpetuates racial imbalance. *See* Morrison, *Hundreds Line Up to Get Applica-
tions for Police Test,* CHI. DAILY NEWS, March 13, 1975, at 1, which reported a new re-
quirement of the Civil Service Commission in Chicago—that applicants be high school
graduates—which accompanied a test for prospective Chicago police officers rewritten
due to a 1971 federal court ruling finding the old test discriminatory against blacks,
Latinos and women.

    It cannot be doubted that rank in police departments is often directly related
to educational attainment. *See* Weiner, *The Effect of Education on Police Attitudes,* in
CLASSES, CONFLICT, AND CONTROL: STUDIES IN CRIMINAL JUSTICE MANAGEMENT 504, 507
(J. Munro ed. 1976).

If a minority member does make it on the force the odds are stacked against any promotion.[76] His poorer educational background will mitigate the possibility of advancing through the promotion exams.

Assignments and the Authoritarian Circle

The police are empowered with a great deal of authority under our system of government. "The specific form of their authority — to arrest, to search, to detain, and to use force — is awesome in the degree to which it can be disruptive of freedom, invasive of privacy, and sudden and direct in its impact upon the individual."[77] Two police policies require attention here. Niederhoffer asserts that the police system places the most authoritative men where they have the most opportunity to demonstrate their authoritarianism.[78] Since the department sees no other short-range answer to the problem of establishing "law and order" in tough, crime-ridden areas, the policy of superior officers is to assign the toughest cops to these locations. Thus, "a high percentage of authorization types becomes concentrated in situations permitting unrestrained use of force."[79] Here we see subjection of minority group neighborhoods to the greatest police abuse through this definitive policy decision.

On the other hand, Goldstein, in his recent analysis of police systems, determined that the authority to make ultimate decisions regarding individual rights has been delegated to the individuals at

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76. TURNER. *supra* note 3, at 176. *See also* Carter, *Many Black Police Charge Racism Blocks Advancement*, THE WASHINGTON POST. June 1, 1971 at A3, describing lawsuits brought alleging discrimination in the promotion tests which prevent black officers otherwise qualified from rising in rank.

77. GOLDSTEIN. *supra* note 83, at 1.

78. NIEDERHOFFER. *supra* note 2, at 137. *But see* Balch, *supra* note 8, at 115, for an examination of whether such authoritarian personalities do in fact exist.

79. NIEDERHOFFER. *supra* note 2, at 139. *See, e.g.*, Longhini, *Black Man's Burden*, *supra* note 70, at 3:

> According to a 1975 [Chicago Police Department] manpower report, the department assigned 52.3 per cent of its black Patrol Division officers to the five black districts; 4.6 per cent to the eight white districts; 18.7 per cent to the four black-Latino districts; and 24.4 per cent to the five other districts.

A black district is populated with over 75 per cent blacks, a white district with over 75 per cent whites, a black-Latino district with over 55 per cent black and Latino, and an "other" district with less than 55 per cent blacks and Latinos and less than 75 per cent whites. CHICAGO REPORTER. February, 1977, at 4. Though it was reported in 1973 that black and Latino policemen are more likely to kill criminals (*see* Goldkamp, *supra* note 10, at 177), the survey upon which this finding was based could well have been tainted by the extremely disproportionate assignment of blacks and Latinos to high crime areas. *See* Goldkamp, *supra* note 10, at 180-81.

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the lowest level of the police bureaucracy, the patrolmen.[80] Accordingly, this authority is exercised without prior review or control.

The Niederhoffer and Goldstein models both carry adverse ramifications for minority community residents. The community suffers from the generational transmission of "tough cop" patterns under the first model, and is exposed to the unsophisticated, potentially volatile behavior of an anxious novice under the second.

Police Discretion

Until recently, police departments, legislatures and the courts have been reluctant to recognize the broad discretion exercised by the police at all levels of activity.[81] The avoidance of the problems of police discretion emphasizes the establishment's misgivings about its propriety, its scope and its control.

Discretion, pervasive within the entire police system, takes various forms. At the top levels, the administrators must decide upon the objectives of the department.[82] The allocation of resources and the priorities between conflicting objectives are often made without any one individual articulating the rationale for the decisions or policies.[83] At the street level, the police officer must deter-

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80. GOLDSTEIN, *supra* note 73, at 1. *See also* Johnson, *Police: An Analysis of Role Conflict*, POLICE, January-February, 1970, at 47; Ward, *The Police Role: A Case of Diversity*, 61 J. CRIM., C.L. & P.S. 580 (1970).

81. GOLDSTEIN, *supra* note 73, at 12. *See also* POLICE POWER AND INDIVIDUAL FREEDOM: THE QUEST FOR BALANCE (C. Sowle ed. 1962); TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 286; NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS, *supra* note 60, at 105; MORRIS AND HAWKINS, *supra* note 33, at 87, 91.

82. GOLDSTEIN, *supra* note 72, at 96. *See also*, TASK FORCE ON THE POLICE. THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE TASK FORCE REPORT: THE POLICE 71-86 (1967); NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS, A NATIONAL STRATEGY TO REDUCE CRIME (117-37 1967); R. Mitchell, *Organization as a Key to Police Effectiveness*, 4 J. CRIM. & DELIN. (1968).

83. Although individuals sometimes accept direct responsibility for particular questionable policies, such accountability may be of small benefit. For example, a Chicago Police Department policy of assigning patrolmen resulted in the subtraction of officers from high crime black districts and the addition of officers to safer white districts. A first deputy superintendent, who has authority to deploy patrol officers, was located and asked for further information designed to confirm or refute this trend. He refused to answer, stating: "[i]f we told community groups how many police officers were in their districts . . . then groups would want to know why some other police districts had more manpower. I have more important things to do with my time then get mixed up in that." Longhini, *Deploying Our Blue Knights: Chicago Police Department Adds Police Officers In White Districts; Black Districts Losing Officers Despite Much Higher Threat of Crime*, CHICAGO REPORTER, February, 1977, at 1, col. 7.

mine the appropriate method of intervention with various elements of the citizenry in order to gain control of situational encounters.[84] Discretion under these circumstances is an inherent element of the profession, but without guidelines and rules as to its exercise, it can be a fluid concept frequently determined by the personal prejudices and anxieties of individual officers.[85]

Police discretion can manifest itself through selective enforcement. One estimate places the number of laws in force in the United States at over 2,000,000.[86] Because of the overwhelming number of laws, the police rather than the legislators are deciding whether the criminal justice system should be invoked.[87] The problem of selective enforcement is exacerbated because:

> [l]ittle can be observed at the administrative level of a police agency to provide insight into the way this form of discretion is exercised. This is understandable, for if the discretion is a matter of selective enforcement, it is difficult to acknowledge it because it conflicts with the pretense that police enforce all of the laws all of the time. And if the discretion involves using the criminal justice system without adequate basis or without intent of prosecution, acknowledgement would be tantamount to pleading guilty to misuse of authority.[88]

Such discretion in the patrol officer, unfettered by consistent, definitive or authoritative rules, results in unequal treatment of individuals in similar situations on a massive scale, and a decision-making process often dictated by prejudices or convenience.

However, in contrast, Kenneth Culp Davis has stated that "[t]op officers seem to have little to do with the making of enforcement policy . . . most of it is made at the bottom of the organization by ordinary patrolmen. Much of the enforcement policy is not known by top officers, and some of it is at variance with what the top officers think it should be." K. DAVIS, POLICE DISCRETION 38 (1975).

    84. GOLDSTEIN, *supra* note 73, at 97. *See also* H. PACKER, THE LIMITS OF THE CRIMINAL SANCTION 174-226, 258-59, 282-92 (1968); DAVIS, POLICE DISCRETION, *supra* note 83, at 62-66, 82-88; SKOLNICK, JUSTICE WITHOUT TRIAL, *supra* note 6, at 71-90.

    85. *See* DAVIS, *supra* note 83, at 98-163.

    86. Estimate reported in the Creighton University Law School Docket, January 14, 1969, at 9.

    87. MORRIS AND HAWKINS, *supra* note 32, at 91. This is true in spite of the explicit requirement in most statutory schemes that all laws and statutes be enforced to the fullest by law enforcement personnel. *See* DAVIS, POLICE DISCRETION, *supra* note 83, at 52-58.

    88. GOLDSTEIN, *supra* note 73, at 98. *See also* DAVIS, POLICE DISCRETION, *supra*, note 83, at 52-62, who decries this lack of acknowledgement and concomitant controls. *Id.* at 98-162.

Pragmatically, the police cannot and do not enforce all of the laws. Due to the many imperfections and absurdities in our criminal and municipal codes and in order to prevent the swelling of the county jails with petty offenders, only certain laws are deemed enforceable in certain situations. Indeed, many administrative judgments "are influenced primarily by a desire to placate special-interest groups, to bend to highly partisan political pressures, and to become aligned with the most powerful segments of the community, with the result that minority interests tend to be ignored."[89]

Police Practices and Tactics

There are various institutional police practices which may result in abuses, neither overt nor physical, which are disproportionately felt by minority and poor communities. These abuses may be quite subtle, but may have potential for greater harm than the more visible abuses.

In some instances, police, desperate to find a culprit, utilize their power of interrogation in a very repugnant manner. They may use sympathy, cajolery, flattery or trickery combined with an oppressive atmosphere[90] and in this manner produce an incriminating

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89. GOLDSTEIN, *supra* note 73, at 102. Other factors are, of course, at play as well. For example,

> while the welfare of the individual and the achieving of some social good may be dominant considerations, individual officers are often influenced by the degree of cooperation they receive and by such irrelevant factors as the desire to get by with a minimum amount of work, to please superiors, to avoid filing forms, or to be paid overtime for appearing in court. The worst abuses of discretion occur when decisions are based primarily on personal prejudices, upon partisan political considerations, upon a desire for personal power, or, in a corrupt setting, to realize personal gain.

Id.

90. S. RAAB. JUSTICE IN THE BACK ROOM 178, 180 (1967). All of these tactics other than an oppressive atmosphere are rather blissfully recommended to interrogators by Professors Fred Inbau and John Reid in their treatise on interrogations and confessions in criminal cases. F. INBAU AND J. REID. CRIMINAL INTERROGATION AND CONFESSIONS 25-119 (2nd ed. 1967). These recommendations are apparently justified by the same rationale Inbau and Reid suggest to interrogators with moral scruples and reservations over utilizing such tactics:

> Of necessity, criminal interrogators must deal with criminal offenders [or suspects] on a somewhat lower moral plane than that upon which ethical, law-abiding citizens are expected to conduct their everday affairs. That plane, in the interest of innocent suspects, need only be subject to the following restriction: Although both "fair" and "unfair" interrogation practices are permissible, nothing shall be done or said to the subject that will be apt to make an innocent person confess.

Id. at 218. The words enclosed in brackets were included in the quotation of this state-

statement from all but the most resilient of suspects.[91] By patient and persistent questioning of a suspect, they can drive and prod him until they hear what they want — not necessarily the truth but an answer that satisfies them.[92] At times, the police will delay in bringing a suspect before a magistrate so as to extract a confession.[93]

In some instances, police may conduct illegal intrusions into the lives of the citizenry in their pursuit of physical evidence. "Probable cause" to conduct an arrest or search may be abrogated.[94] Similarly, officers often forego procuring a warrant to arrest or search or install a wiretap even though an opportunity to secure one existed.[95]

Another device periodically utilized by police in "their ultimate abuse of police authority lies in the power to arrest and cover up

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ment in F. INBAU, J. THOMPSON, J. HADDAD, J. ZAGEL AND G. STARKMAN, CASES AND COMMENTS ON CRIMINAL PROCEDURE 458 (1974). The caveat regarding innocent persons, often repeated in the 1967 volume, contrasts poorly with the actual recommendations, many of which propose tactics *quite* apt to psychologically coerce innocent persons to confess in order to end persistent and wily questioning.

91. RAAB, *supra* note 90, at 178. *See also* Reiss and Black, *Interrogation and the Criminal Process — Boston, Chicago, Washington* in WHO RULES THE POLICE? 115 (L. Ruchelman ed. 1973). Ed Cray estimates that 80 per cent of the convictions in our criminal justice system are primarily based on confessions (*see* CRAY, *supra* note 8, at 98), although he notes that some believe the importance of confessions to be far less significant. *See id.* at 156.

92. RAAB, *supra* note 90, at 158. *See* SKOLNICK, JUSTICE WITHOUT TRIAL, *supra* note 6, at 184-85, for an excellent detailed account of such a situation.

93. CRAY, *supra* note 8, at 100-06.

94. As former federal prosecutor Irving Younger put it:

Every lawyer who practices in the criminal courts knows that police perjury is commonplace.

The reason is not hard to find. Policemen see themselves as fighting a two-front war against criminals in the street and against "liberal" rules of law in court. All's fair in this war, including the use of perjury to subvert "liberal" rules of law that might free those who "ought" to be jailed.

Younger, *The Perjury Routine*, THE NATION, May 8, 1967, at 596. *See also* Sevilla, *The Exclusionary Rule and Police Perjury*, 11 SAN DIEGO L. REV. 839 (1974). Ed Droge reported that, while he was a New York police officer, the practice of keeping narcotics from prior arrests in one's locker in order to "plant" the narcotics in the belongings of future arrestees was pervasive. DROGE, *supra* note 47, at 178-79.

95. CHEVIGNY, *supra* note 15, at 144-45. Some laws are perceived by police officers simply as means to the end of "checking someone out." For example, Jesse Rubin observed that "[o]ver and over again I heard the remark [from police officers], 'If you follow anybody for three minutes, he's going to break some kind of law, and then you can check him out.' Examples of this were legion." Rubin, *supra* note 14, at 35-36. Ed Cray noted that warrants are seldom sought by the police. CRAY, *supra* note 8, at 65, 69.

the assault."[96] A rude response to, or a refusal to answer a policeman, may be enough of a catalyst to set off the arrest procedures, and a slight overt reaction from the suspect may be met with "force in furtherance of the arrest."[97] A minor incident which results in the use of physical force by the officer may be covered by an arrest and evidence subsequently manufactured to uphold the arrest.[98]

Other methods such as "harassment by frequent questioning; arrests for trifling offenses, or even no offense at all; constant surveillance; or calculated attempts to frighten away a business firm's clientele" are often utilized systematically by the police without check.[99] In any event, it appears that these illegal investigations are far more common instances of police deviancy than misuse of physical force and constitute a much greater problem.[100]

By reason of the police organization's adherence to a crime control model that emphasizes *factual* guilt, as opposed to a due process

96. CHEVIGNY, POLICE POWER, *supra* note 15, at 98: "There is no more embittering experience in the legal system than to be abused by the police and then to be tried and convicted on false evidence." *Id.* at 41. *See also* BERKLEY, *supra* note 22, at 123.

97. CHEVIGNY, POLICE POWER, *supra* note 15, at 141-42. It has been pointed out that the more "professional" a police officer is, the less likely that force will be utilized to counter someone who "looks or talks tough." Walsh, *Professionalism and the Police: The Cop as Medical Student* in POLICE IN URBAN SOCIETY, *supra* note 2, at 225, 233.

98. CHEVIGNY, POLICE POWER, *supra* note 15, at 131. *See also* Reiss, *Police Brutality . . . Answers to Key Questions, supra* note 12, at 63. Elsewhere Reiss notes, however, that police officers generally do *not* write such cover charges. REISS, THE POLICE AND THE PUBLIC, *supra* note 8, at 55. Ed Droge relates some of his experiences as to escalating reactions between himself as a police officer and a citizen resulting in his use of physical force and later willingness to fabricate evidence to make his arrest of the citizen "stick." DROGE, *supra* note 47, at 178-79.

Any actual physical resistance is usually met with extreme police retaliation. As a New York City police detective told Gerald Astor, " '[a]n attack on a cop is viewed by the police as the most serious thing in the world.' " ASTOR, *supra* note 37, at 225.

99. CRAY, *supra* note 8, at 60. *See id.* at 13-157 for detailed examples of the utilization of these methods. *See also* SKOLNICK, JUSTICE WITHOUT TRIAL, *supra* note 6, at 96-111; PACKER, *supra* note 84, at 176-79; Pilcher, *The Law and Practice of Field Interrogation,* in READINGS IN CRIMINAL JUSTICE, *supra* note 48, at 288.

100. REISS, *supra* note 8, at 142. For examples of constant and persistent harassment of a black family over a period of years, *see* CHEVIGNY, COPS AND REBELS, *supra* note 59, at 8-9, 53-54, 58. *See also* Campbell and Schuman, *Racial Attitudes in Fifteen American Cities* in SUPPLEMENTAL STUDIES FOR THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 1, 42-43 (July, 1968) (reporting a greater frequency of citizen perceptions of verbal and authoritative police abuse than physical abuse by the police); CRAY, *supra* note 9, at 5.

model that emphasizes legal guilt, police abuses are legitimized.[101] The police "will break the law to support it."[102] Hence, arrest procedures can and are used in a manner akin to summary punishment.[103] Thus, police discretion provides a broad authority within which all but the most bizarre police actions can be justified as actions consistent with keeping public order.[104]

Most often, it is the young, the blacks and the Latinos who feel the brunt of police abuse of authority.[105] This conclusion is supported by various empirical studies which have attempted to gauge the impressions members of our society have toward the police. For example, a study in Denver revealed that nearly three-fourths of the

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101.   SKOLNICK, *supra* note 7, at 182. *See also* PACKER, *supra* note 84, at 153-73. A recent study funded by the LEAA indicates the severe detriment the "crime control" outlook of many police officers has had on their ability to be successful in bringing law violators to justice through the courts' system. The study determined that "[t]he number of suspects arrested, rather than convicted . . . not only has little effect on crime but actually undermines the law by making it 'difficult for many persons to see how justice is done.'" TIME, Sept. 26, 1977, at 60. Others have long believed that unnecessary police violence—one aspect of the "crime control" model—can only defeat the legitimate role of the police. SKOLNICK, THE POLITICS OF PROTEST, *supra* note 22, at 249. *See also* Janeksela, Deming and Nida, *Attitudes Toward Police*, POLICE L.Q., July, 1976 at 15-16; Wright, *supra* note 31, at 30.

102.   Westley, *Secrecy and the Police*, SOCIAL FORCES, March, 1956, at 34. *See also* WESTLEY, *supra* note 12, at 121-36; Weintraub and Pollack, *Acquitting the De Facto Guilty: Some "Stop and Frisk" Problems*, in THE AMBIVALENT FORCE, *supra* note 19, at 256; LIEBERMAN, *supra* note 27, at 113-21; CHEVIGNY, COPS AND REBELS, *supra* note 59, at 3-220.

103.   *See, e.g.*, DAVIS, POLICE DISCRETION, *supra* note 81, at 16-20 where several incidents of purposeful harassment through utilization of police authority with no intent of prosecution are described.

104.   *See, e.g.*, DAVIS, POLICE DISCRETION, *supra* note 83, at 16-20; CRAY, *supra* note 8, at 13-96; CHEVIGNY, POLICE POWER, note 15 *supra;* SKOLNICK, THE POLITICS OF PROTEST, *supra* note 22, at 241-92; Hersey, *The Algiers Motel Incident—Detroit*, in WHO RULES THE POLICE?, *supra* note 91, at 141.

105.   CHEVIGNY, POLICE POWER, *supra* note 15, at 98. Of a total of 5,853,000 arrests in 1974 in the United States, 1,561,781, or 27 per cent, of the arrestees were black. HINDELANG, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, *supra* note 70, at 527. Black citizens constituted only 12.7 per cent of the total population in the United States. WESTERMAN, *supra* note 71, at 240. This disparity is often explained by referring to the "innate" tendencies of blacks to commit crimes. However, as Whitney North Seymour Jr. has so well pointed out:

Certainly there is no support for the contention that blacks are more prone to commit crime than whites. That theory has been recently exploded. In the military establishment, where whites and blacks are treated as equally as possible, with integrated housing, training, eating and working conditions, the offense rate is *lower* for blacks than it is for whites. Yet the fact remains that, while only 12 per cent of the nation's population is black, blacks make up over 40 per cent of the nation's prison population.

white majority viewed the police treatment as "always or usually fair" while less than half of the blacks and one-quarter of the Latinos shared this attitude.[106] Likewise, approximately one-quarter of each minority group in Denver felt that police treatment was unfriendly or prejudiced whereas only four per cent of the whites therein so viewed the police.[107]

A national study also corroborated the proposition regarding the tendency of police to treat young and minorities more harshly than the average citizen. According to a supplemental study prepared for the Kerner Commission which surveyed nearly six thousand persons, both black and white, the strongest criticism of the police came from those aged sixteen to nineteen.[108] When these

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W. SEYMOUR, JR., WHY JUSTICE FAILS 44 (1973). A major factor causing this disparity, says Seymour, involves differing police practices with whites and blacks. *Id.* at 49-51. A similar disparity can be seen in that fact that 49 per cent of those arrested for property crimes in 1974 were under eighteen years of age (*see* HINDELANG, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS, *supra* note 71, at 527), although it is difficult to determine to what extent, if any, such arrests were unjustified. Some indication can be deduced from the recent LEAA funded report (*see supra* note 101) which determined that "more than half the felony arrests [made by police] were either rejected by prosecutors — who found the evidence too flimsy to bring to court — or subsequently dismissed by judges for similar reasons." TIME, *supra* note 101, at 59. Declaring oneself to be a Black Panther by way of a bumper sticker can increase dramatically one's chances of being the subject of selective harassment. *See* Heussenstamm, *Bumper Stickers and the Cops,* TRANS-ACTION, Feb. 1971, at 32-33, cited in CRAY, *supra* note 8, at 273-74.

106. BAYLEY AND MENDELSOHN, *supra* note 1, at 112. *See also* Ennis, *Crime, Victims and the Police* in LAW AND ORDER: POLICE ENCOUNTERS, *supra* note 12, at 97; Terris, *supra* note 38, at 41; TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 298; Smith and Hawkins, *supra* note 13, at 137 (Seattle study showed majority of nonwhites held negative attitudes and large majority of whites positive attitudes towards police); HINDELANG, PUBLIC OPINION REGARDING CRIME, *supra* note 39, at 10 (1970 Harris poll found 67 per cent of the whites polled and 31 per cent of the blacks polled "favorable" to the job done by local law enforcement officials); CONFIDENCE AND CONCERN, *supra* note 39, at 90 (1973 Harris poll found blacks have a substantially lower level of confidence in police than whites or any other category therein described).

107. BAYLEY AND MENDELSOHN, *supra* note 1, at 117. It should be noted that nearly half of the minority persons in the Denver survey had significant personal contacts with the police, and half of these contacts were recent. *Id.* at 116. *See also* Smith and Hawkins, *supra* note 13, at 137-39; Ennis, *supra* note 106, at 97; Terris, *supra* note 39, at 41; TASK FORCE REPORT: LAW ENFORCEMENT, *supra* note 1, at 298; WINTERSMITH, *supra* note 8, at 93 (14 of 33 in sample from black community organizations believed *most* police officers partook in harassing practices, although none believed that all did); COMMUNITY RELATIONS SERVICE, *supra* note 34, at 10. Intriguingly, one researcher found that positive attitudes towards police were much higher in urban areas (63.6 per cent) than in rural communities (40.3 per cent) perhaps due to the greater need for police protection in the former areas. Janeksela, *supra* note 101, at 18.

108. Campbell and Schuman, *supra* note 100, at 44.

Similarly, a Seattle study showed that the majority of white persons between 16 and 34 years of age held positive attitudes towards police. The percentage increased

participants were asked if they believed that police used insulting language, searched unreasonably or roughed people up, twice as many blacks as whites responded affirmatively.[109] A similar pattern emerged when they were asked if they actually experienced such police behavior.[110]

While minorities tend to be more concerned about improper harassment and illegal police action than outright use of force, police brutality — the excessive use of force in situations where the police have a justifiable reason for taking *some less* extreme legal actions — is also a problem disproportionately experienced by these groups.[111] The alarming fact about the police brutality phenomenon is the indication that the slightest amount of defiance may set off police overreaction. In Paul Chevigny's investigation of cases involving alleged police brutality, he found that in 61 per cent of the cases, "nothing more than the use of speech" instigated the brutality.[112] Moreover, he discovered that the "man who asserts his constitutional rights is just as likely to be treated as a 'wise guy' as the man who openly insults a policeman."[113] Some police even apparently view the speaking of a foreign language as an indication of disrespect for authority.[114] With the large numbers of foreign speak-

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among older white persons surveyed, but the study revealed that the majority of black persons between 16 and 34 held negative attitudes towards police which did not appear to change with age. Smith and Hawkins, *supra* note 13, at 138-39. Since such a wide age disparity is represented in this study as "youths," its apparent qualifications of the finding by Campbell and Schuman is inconclusive.

109. Campbell and Schuman, *supra* note 100, at 44.

110. *Id.* More youths, both black and white, had negative experiences with the police than elders. *Id.* Past the age of fifty, a great difference existed regarding negative experiences between blacks and whites. *Id.* Aging produced a greater reconciliation between beliefs and experience among whites than blacks. *Id.* Much of this difference resulted from a decrease among whites in anti-police beliefs with age while blacks retained such beliefs and actual experiences decreased among both. *Id.*

111. BAYLEY AND MENDELSOHN, *supra* note 1, at 128. *See also* WINTERSMITH, *supra* note 8, at 93, 96; CHEVIGNY, COPS AND REBELS, *supra* note 59, at 8-9, 53-54, 58; CRAY, *supra* note 8, at 161.

It should be noted that when a minority group member makes a complaint about police abuse of power, there is significant evidence he is not exaggerating. In Los Angeles, in a 10-year period studied, 35 per cent of the complaints — the majority of which alleged brutality — were sustained. H. MANES, A REPORT ON LAW ENFORCEMENT AND THE NEGRO CITIZEN IN LOS ANGELES 14 (Publication available through author at 1680 Vine Street, Suite 700, Hollywood, California).

112. CHEVIGNY, *supra* note 15, at 71. *See also* CRAY, *supra* note 8, at 161. This finding is bolstered by the fact that lack of respect is the main cause for police abuse towards citizens. *See supra* note 8.

113. CHEVIGNY, *supra* note 15, at 81. *See also* CRAY, *supra* note 8, at 161.

114. Comment, *Reviewing Civilian Complaints of Police Misconduct—Some*

ing residents of the urban centers, this forebodes potentially explosive situations for such citizens.

One additional point emerges from the preceding data. Generally, youth have more negative attitudes towards police and undergo more bad experiences with police officers than older members of society. This undoubtedly is due in part to the large extent of time which young people spend outside the home, where they are more likely to be on the street. For the minority youth, the streets are even more central to their daily existence. The dearth of recreational facilities, coupled with the closeness of tenement living and high unemployment among the minority youth, leads minority youth to the streets for escape, for action and for entertainment, and consequently to more contact with the police than is experienced by youths of the white majority. Thus, it is imperative that our society closely examines the reasons why minority youths seem to manifest such a relatively negative attitude toward the police by studying police behavior toward this population group. We must also inquire as to what extent police action toward this group—which raises the specter of the stigma of arrest, criminal prosecution and the like—emanates from the dire environmental conditions suffered by minorities.

POLICE RESPONSIVENESS TO MINORITY NEEDS

With crime rates high in the urban slums and ghettos,[115] the police are needed there continually.[116] As a consequence, they have become the institution of government that is the most constantly present and most visible in the life of the poor.[117] But, there is a

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Answers and More Questions, supra note 5, at 106-07; COMMUNITY RELATIONS SERVICE, *supra* note 34, at 14-17; SKOLNICK, JUSTICE WITHOUT TRIAL, *supra* note 6, at 48.

115.   *See* notes 126 and 127 *infra.*

116.   SUMMARY OF THE NATIONAL CONSULTATION ON SHAPING SAFER CITIES, May 4-5, 1970, at 149 quoted in Newberg, *Building Local Citizen Alliances to Reduce Crime and Create a Fairer and More Effective Criminal Justice System,* 49 J. URBAN L. 443, 453 (1971). One study, however, showed that deployment of police officers in Chicago, while not perhaps consciously racist, effectively placed far more policemen in the safer white districts than in the high crime black and Latino districts. Longhini, *Deploying Our Blue Knights, supra* note 83, at 1, 8. This practice, among other effects, has resulted in a far heavier workload in the black districts (*see* Longhini, *Black Man's Burden, supra* note 70) and far less service to black communities. *See* Longhini, *Minutes Turn to Hours, High 'No Car Available' Recorded in Black Districts,* CHICAGO REPORTER, Feb. 1977, at 7, col. 7.

117.   SUMMARY OF THE NATIONAL CONSULTATION ON SHAPING SAFER CITIES, May 4-5, 1970, at 149 (quoted in Newberg, *supra* note 116, at 453); TURNER, *supra* note 3, at 120; BLACK, *supra* note 6, at 25-26.

divergence of opinion on whether police are able to overcome their police attitudes, prejudices and practices and deliver crucial law enforcement services in minority neighborhoods.

The consensus of most minority citizens is that the need for more police protection should have high priority in governmental policy.[118] For the ghetto resident, the need is articulated in the President's Commission on Civil Disorders:

> The strength of ghetto feelings about hostile police conduct may even be exceeded by the conviction that ghetto neighborhoods are not given adequate police protection.[119]

The difficulty of obtaining such protection in the ghetto was well understood by the late Dr. Martin Luther King Jr.: "Because no one, including the police, cares particularly about ghetto crime, it pervades every area of life."[120]

It is useful to compare non-minority populations' satisfaction with police responsiveness and protection and determine how such satisfaction or dissatisfaction affects their attitude toward the police. First, the lower middle class white — those who live above the poverty line but not above the struggle for daily existence — share with the blacks a basic distrust of governmental institutions although they maintain a *support* for the police.[121] This may be true because of the greater susceptibility of this group to the views of extremist groups, such as the John Birch Society, which promise simplistic solutions to the every day frustrations of the lower

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118. WILSON, THINKING ABOUT CRIME, *supra* note 44, at 32; TASK FORCE REPORT: POLICE, *supra* note 82, at 148; Campbell and Schuman, *supra* note 100, at 42. A 1973 Harris poll ascertained that police protection ranked as the main way in which blacks felt local government affected their lives personally. CONFIDENCE AND CONCERN, *supra* note 39, at 65.

119. THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, *supra* note 69, at 307. Wintersmith observed that the contradictory demands for removal of the police *and* increased police protection in the ghetto results from the ambiguity of police department policies and practices as well as ideological differences among blacks. WINTERSMITH, *supra* note 8, at 49. *See also* Block, *Support for Civil Liberties and Support for the Police* in POLICE IN URBAN SOCIETY, *supra* note 2, at 119.

120. King, *Beyond the Los Angeles Riots: Next Stop: The North*, SATURDAY REVIEW, Nov. 13, 1965, at 34, (quoted in NIEDERHOFFER, *supra* note 2, at 66). Police officers are particularly susceptible to callousness. George Kirkham found he "was approaching the point in my brief career as a policeman where very little shocked me anymore. I was becoming numb in the special way that policemen become numb from regularly confronting the extremes of depravity." KIRKHAM, *supra* note 40, at 188.

121. Newberg, *supra* note 116, at 458; THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE, TO ESTABLISH JUSTICE, TO INSURE DOMESTIC TRANQUILITY: FINAL REPORT OF THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE 152 (1969).

middle-class white.[122] In any event, they seem to be more prone to accept such slogans as "support your local police" as a panacea for all their problems and an enticement to the police to frequent those communities. Meanwhile, the upper middle class whites have pur-chased new locks and watchdogs to protect their property and themselves. At the same time, they have called for more and more police protection to insulate themselves from any criminal activity.[123] Thus, it can be said that there exists a general desire for more police protection amongst all three of these non-minority groups. However, the differing perceptions between blacks and whites of the *quality* of present police protection may explain why the minority groups generally are more dissatisfied than the other two with police performance.

Empirical studies have shown that the white citizen *is* more satisfied with police service than the black citizen.[124] Although there is no evidence that a significant majority of minority citizens are *ex-tremely* dissatisfied with police services as they exist,[125] the disparities of concern between black and white belie any claim that all is well with police-minority relationships. The cause for concern with the quality of police services in minority neighborhoods is grounded in several factors. First, recent intensive studies con-ducted by the Law Enforcement Assistance Administration clearly reveal that blacks are far more likely than whites to be victims of both violent and property crimes.[126] The studies also revealed that

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122. Newberg, *supra* note 116, at 458; To ESTABLISH JUSTICE, To INSURE DOMESTIC TRANQUILITY, *supra* note 121, at 152. Though their plight is not as dire as it is for blacks, it is getting worse. The white unemployment rate in urban poverty neighborhoods, for example, rose from 5.3 per cent in 1974 to 8.3 per cent in 1975 while the black unemployment rate in urban poverty neighborhoods rose from 11.6 per cent in 1974 to 16.0 per cent in 1975. WESTERMAN, *supra* note 71, at 241. *See also* Hamill, *The Revolt of the White Lower Middle Class* and Schrag, *The Forgotten American* in THE AMBIVALENT FORCE, *supra* note 19, at 209, 215; Blumberg, *American Working Class Today: Comment: Law, Order and the Working Class*, SOCIETY, Nov./Dec. 1972, at 82.

123. Newberg, *supra* note 116, at 459. *See also* Aldrich and Reiss, *Police Of-ficers as Boundary Personnel: Attitude Congruence Between Policemen and Small Businessmen in Urban Areas* in POLICE IN URBAN SOCIETY, *supra* note 2, at 59.

124. *See* McCaghy, Allen and Colfax, *Public Attitudes Toward City Police in a Middle-Sized Northern City*, 6 CRIMINOLOGICA 14, 17-18 (May, 1968); Smith and Hawkins, *supra* note 13, at 137; HINDELANG, PUBLIC OPINION REGARDING CRIME, *supra* note 39, at 10; CONFIDENCE AND CONCERN, *supra* note 39, at 90.

125. *See* Reiss, *Public Perceptions and Recollections About Crime, Law En-forcement, and Criminal Justice* in 1 STUDIES IN CRIME AND LAW ENFORCEMENT IN MA-JOR METROPOLITAN AREAS 55 (1967); CONFIDENCE AND CONCERN, *supra* note 39, at 90.

126. NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE, CRIMINAL VICTIMIZATION IN THE UNITED STATES: A COMPARISON OF 1973 AND 1974 FIND-

the poorest persons, regardless of race, are more likely to be victims of rape, robbery, assault, personal larceny and burglary than persons in higher income brackets.[127] Although the incidence of crime is much higher among minorities than the non-minority general public, the proportion of people who contact the police as victims of crime is about the same in both groups.[128] This evidence points to a second, and more important, factor which explains the attitudinal differences between ethnic groups mentioned above. Bayley and Mendelsohn believe this is "presumptive evidence that minority people are less willing to request police assistance"[129] and further believe this reluctance is based on ethnicity.[130] Black citizens are

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INGS 12-13 (1976) (rates of victimization by "personal crimes of violence"—rape, robbery and assault—by both strangers and nonstrangers higher for blacks than whites); *id.* at 14 (rates of victimization by "personal crimes"—rape, robbery, assault and personal larceny—higher for blacks and persons of Spanish origin than for whites); *id.* at 26-27, 30 (rates of victimization by "household crimes"—burglary, household larceny and motor vehicle theft—higher for blacks and persons of Spanish origin than for whites). Studies of individual cities have revealed similar patterns. *See* NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE, CRIMINAL VICTIMIZATION IN 13 AMERICAN CITIES 19, 37, 57, 75, 93, 111, 131, 151, 171, 191, 209, 229, 247 (1975); NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE, CRIME IN EIGHT AMERICAN CITIES: NATIONAL CRIME PANEL SURVEYS OF ATLANTA, BALTIMORE, CLEVELAND, DALLAS, DENVER, NEWARK, PORTLAND, AND ST. LOUIS: ADVANCE REPORT 12-19 (1974); NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE, CRIME IN THE NATION'S FIVE LARGEST CITIES: NATIONAL CRIME PANEL SURVEYS OF CHICAGO, DETROIT, LOS ANGELES AND PHILADELPHIA: ADVANCE REPORT 11-15 (1974); NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE, CRIMINAL VICTIMIZATION SURVEYS IN THE NATION'S FIVE LARGEST CITIES: NATIONAL CRIME PANEL SURVEYS OF CHICAGO, DETROIT, LOS ANGELES AND PHILADELPHIA 96-100 (1975). *See also* WILSON, THINKING ABOUT CRIME, *supra* note 44, at 32-34. It is no surprise, then, that 49 per cent of non-whites polled, as opposed to 39 per cent whites, feared walking within one mile of their home. HINDELANG, PUBLIC OPINION REGARDING CRIME, *supra* note 39, at 9.

127.   Indeed, other than for the rates of burglary household larceny and motor vehicle theft, the likelihood of becoming a victim of crime rather perversely appears to increase or decrease in direct inverse ratio to the amount of money one has. NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICES, CRIMINAL VICTIMIZATION IN THE UNITED STATES, *supra* note 126, at 21, 28. In other words, those least able to afford victimization are the most frequently victimized. Goldkamp, *supra* note 10, at 179. *See also* BAYLEY AND MENDELSOHN, *supra* note 1, at 79. This is reflected in the fact 58 per cent of persons earning less than $3,000 polled in 1972, as opposed to 28 per cent of persons earning $15,000 or more, feared walking within one mile of their home.

128.   BAYLEY AND MENDELSOHN, *supra* note 1, at 59-60. *See also* REISS, *supra* note 8, at 68.

129.   BAYLEY AND MENDELSOHN, *supra* note 1, at 79. *See also* REISS, *supra* note 8, at 68.

130.   BAYLEY AND MENDELSOHN, *supra* note 1, at 85. *See also* REISS, *supra* note 8, at 68; Smith and Hawkins, *supra* note 13, at 142-43; Wright, *supra* note 31, at 30; Black and Reiss, *supra* note 9, at 81.

aware that police respond more slowly to calls from black neighborhoods[131] and allow illegal activities such as prostitution and gambling to flourish in ghetto areas but not in contiguous white areas.[132]

There are additional reasons why minority groups tend to be relatively less satisfied with the quality of police responsiveness. Minorities often call the police for different reasons than whites. Where others may go to marriage counselors, psychiatrists or lawyers, the slum dweller tends to depend more on police help in troublesome family situations.[133] The police, reluctant to become involved in what they see as a private matter, do not always provide

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131. WILSON, THINKING ABOUT CRIME, *supra* note 44, at 103. A study in Chicago indicated this belief is more than justified. Longhini, *Minutes Turn to Hours*, *supra* note 116, at 7. Periodic intervals occur when the volume of calls for service outnumber the police officers available to respond, which are referred to as "no car available" time. "According to [Chicago Police Department] records for the 10th, 11th and 12th police periods (from Sept. 15, 1976 to Dec. 8, 1976) black police districts experienced 45 per cent more 'no car available' time than white police districts." In two black police districts there was, from Sept. 15, 1976 to Oct. 13, 1976, approximately one out of every 14 hours in accumulated time during which no police cars were available to respond to calls for service. In the same period, two of the white districts experienced respectively one out of 279 hours and one out of 833 hours in accumulated time during which no police cars were available for service. It should be noted that some white districts also experienced extremely high rates of "no car available" time during this period. *Id.*

The shocking lack of service to black communities which this study discloses contrasts poorly with the fact that blacks and the poor are far more frequently victimized in Chicago (NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE, CRIMINAL VICTIMIZATION SURVEYS IN THE NATION'S FIVE LARGEST CITIES, *supra* note 126, at 96) and in the rest of the nation. *See* notes 126 and 127 *supra.* As might be expected, the workload of police officers in black districts is much higher than for those in white districts resulting in poorer service if and when it is received by blacks. Longhini, *Black Man's Burden, supra* note 70, at 30.

132. Newberg, *supra* note 116, at 454. *See* note 22 *supra.*

133. BITTNER, *supra* note 15, at xiii. These calls for police service are, in the long run, far more important, perhaps, than the police function of controlling crime. *See, e.g.,* Bercal, *Calls for Police Assistance: Consumer Demands for Governmental Service,* and Cummins, *Police and Service Work* in POLICE IN AN URBAN SOCIETY, *supra* note 2, at 267, 279; Bard, *supra* note 62, at 136, 140. The National Institute of Law Enforcement and Criminal Justice recently recommended the utilization of a split-force patrol in which 65 per cent of the officers on patrol respond solely to citizen calls for service and 35 per cent of the patrol officers responding solely to criminal control. NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE, *supra* note 37, at 10. The Commission also recommended that police officers be regularly assigned to particular neighborhoods. *Id.* at 9. This recommendation, which could allow officers to receive greater communication and cooperation from citizens, has been made by others as well. Milton, *supra* note 37, at 10. McWilliams, *supra* note 37, at 17. *See generally* Gourley and Bristow, *supra* note 37, at 337.

the assistance and support the slum dweller seeks.[134] In this respect, the class structure of our society contributes to the minorities' feelings about the quality of police service.

However, police prejudice — personal and institutional — has its effect here as well. Most segments of society are demanding more police protection, but because the ghetto areas are more crime ridden than the more affluent neighborhoods, the need there is more apparent and more desperate. Yet the police appear to view situational conflicts in the ghetto less seriously than equivalent conflicts in white middle class neighborhoods:

> In the administration of justice, the poor, the minorities, and the deviants need all the protection possible. They suffer most when the police fail to take proper action. In busy precincts covering sections inhabited by Negroes or Puerto Ricans, this sphere of inaction is large. Incidents that would cause commotion and consternation in quiet precincts seem so common in ghetto neighborhoods that they are often not reported. The police rationalize this avoidance of duty with theories that the victim would refuse to prosecute because violence has become the accepted way of life for his community, and that any other course would result in a great loss of time in court, which would reduce the efficiency of other police functions. These decisions are rarely subjected to review, a particularly disturbing situation to men who are interested in creating a better system of justice.[135]

The police rationalize their inaction by perceiving such situations as private problems, with no discernible harm to the public when both assailant and victim are minority group members.[136] The underpin-

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134. Bard, *supra* note 62, at 140. *See also* R. LANGLEY AND R. LEVY, WIFE BEATING: THE SILENT CRISIS 153-85 (1977) which describes the poor handling by most police of domestic beating situations.

> The first cry for help by most battered women is to the police. Many expect a modern version of the white knight in shining armor to arrive, sweep her up, and defend her from her tormentor. What she gets falls drastically short of this romantic notion. A battered wife's first experience with the police is likely to put her in a state of shocked disbelief.

Id. at 159.

135. NIEDERHOFFER, *supra* note 2, at 65. GOLDSTEIN, *supra* note 73, at 161-62. *See* Bimstein, *supra* note 47, at 165; Newman, *Police and Families: Factors Affecting Police Intervention,* POLICE CHIEF, March, 1972, at 25.

136. Goldstein, *Police Discretion Not to Invoke the Criminal Process: Law-Visibility Decisions in the Administration of Justice* in CRIME, LAW AND SOCIETY 145,

nings of this rationale are beliefs that blacks have a lower level of morality, an unwillingness to cooperate with the police, and more of a tendency to partake in criminality.[137]

Obviously, the problem of police unresponsiveness has a cyclical effect on the quality of service a minority person comes to expect. The ghetto dweller is fully cognizant of the lack of police responsiveness to his problems. Consequently, the poor and the minorities have become hesitant to summon the police for assistance.[138]

Minorities perceive (and empirical studies suggest) the existence of a substantial and disproportionate amount of police abuse in their communities.[139] This problem is complicated by the reluctance of police agencies to admit to their failings in this area. Police

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161 (A. Goldstein and J. Goldstein ed. 1971). *See* Newman, note 135 *supra;* WESTLEY, *supra* note 12, at 99-105. *See also* Pouissaint, *Why Blacks Kill Blacks,* EBONY, Oct. 1970, at 143, 145.

> [The prevalent attitude] among white police officers is, at best, one of indifference and, at worst, one which holds black life cheaply. All too frequently are black crimes against blacks dismissed as unworthy of the white man's lofty attention. White law enforcers were not greatly concerned with drug addiction until it spread beyond the ghettoes to the suburbs. Likewise, when a black woman charges a black man with rape, she will often not be believed and the case will not be reported. Commonly, when blacks hurt blacks, they are given a light sentence or released. Many white police officials countenance flagrant police corruption in the ghetto and disregard black violence since, after all, "It's only niggers cutting each other up."

Id.

137.   WILSON, VARIETIES OF POLICE BEHAVIOR, *supra* note 8, at 141. *See also* J. LINDSAY, THE CITY 82 (1969); HARRINGTON, *supra* note 29, at 23:

> In almost any slum there is a vast conspiracy against the forces of law and order. If someone approaches asking for a person, no one will have heard of him, even if he lives next door. The outsider is "cop", a bill collector, investigator (and, in the Negro ghetto, most dramatically, he is "the Man").

138.   A graphic demonstration of the belief among blacks that the police are not to be counted on is found in the fact that only 24 per cent of a 1968 sample of blacks, as opposed to 41 per cent of the whites sampled, believed that they could depend on the police to defend their homes. Feagin, *Home-Defense and the Police,* in POLICE IN AN URBAN SOCIETY, *supra* note 2, at 101, 103.

139.   Terris, *supra* note 39, at 41; INSTITUTIONAL RACISM IN AMERICA, *supra* note 10, at 58; RIGHTS IN CONFLICT, *supra* note 28, at 41; CHEVIGNY, COPS AND REBELS, *supra* note 59, at 8-9, 53-54, 58-59; SKOLNICK, THE POLITICS OF PROTEST, *supra* note 22, at 242-44; Smith and Hawkins, *supra* note 13, at 142-43; WINTERSMITH, *supra* note 8, at 93, 96; SEARCH AND DESTROY, *supra* note 34; G. BLISS, E. GEORGE, P. ZECHMAN AND W. MULLEN, POLICE BRUTALITY (1973); COMMUNITY RELATIONS SERVICE, *supra* note 34, at

officers "generally feel that the great bulk of their practices com-
plained of by the black community nevertheless constitute fair and
legitimate methods of law enforcement."[140] Officers consider the com-
plaints of the black community to be unfair.[141] Instead, they perceive
themselves as a " 'beleaguered army' fighting apathy and evil — the
nation's sole barrier against crime."[142]

While many police departments regret the offensive nature of
some police practices, they nevertheless regard such practices as a
necessary means of effecting crime prevention.[143] Yet the problem of
crime prevention is exacerbated when the police abuse some
members of the citizenry they have interaction with and, there-
after, systematically cover their tracks with further police im-
proprieties.[144] Thus, after a policeman overreacts to a minimal threat

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10; Goldkamp, *supra* note 10, at 171; Ward, *supra* note 1, at 5; McEvoy, *Games
Policemen Play*, in THE POLICE AND THE BEHAVIORAL SCIENCES, *supra* note 47, at 143.
Compare Katz, note 16 *supra. But see* REISS, *supra* note 8, at 147; E. GARDNER, COPS ON
CAMPUS AND CRIME IN THE STREETS 52-60 (1970).

    140. Newberg, *supra* note 116, at 455. *See also* Comment, *Reviewing Civilian
Complaints of Police Misconduct—Some Answers and More Questions*, *supra* note 5;
GARDNER, *supra* note 139, at 52-60. Even during legitimate inquiries, however, the tone
and attitude of the police officer can cause resentment, hostility and complaints.
Edwards, *The Conflicts Between Negroes and Police*, in POLICE-COMMUNITY RELATIONS,
supra note 73, at 256, 261. Of course, some vehement complaints about "brutality" and
"mistreatment" may very well be directed against indignities perpetrated by the
police on blacks in the course of performing *otherwise* legitimate law enforcement
functions. *Id. See* definition at note 111 *supra* and accompanying text; *see also* O'Brien,
Brutal Cops? Depends on Viewpoint, CHI. TRIBUNE, June 27, 1976 § 1, at 37.

    141. Newberg, *supra* note 116, at 455. *See also* BLACK, *supra* note 6 at 25-26;
REISS, *supra* note 8, at 147; GARDNER, *supra* note 139, at 52-60; Groves and Rossi, *supra*
note 60, at 180-85.

    142. Newberg, *supra* note 116, at 455.

    143. Newberg, *supra* note 116, at 455. *See also* Edwards, *supra* note 140, at
262-63; NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, *supra* note 69, at 304-05
(criticizing "aggressive preventive patrols"); O'Connor and Vanderbosch, *Aggressive
Patrol* in READINGS IN CRIMINAL JUSTICE, *supra* note 48, at 349 (praising aggressive
patrols); Kohn, *Detroit's Super Cops: Terror in the Streets*, RAMPARTS, Dec. 3, 1973,
at 38 (reporting on Detroit's STRESS unit); Goldstein, *Police Policy Formulation: A
Proposal for Improving Police Performance* in THE AMBIVALENT FORCE, *supra* note 19,
at 85, 93-99 (proposals for police formulation taking into account social practices of the
police as well as crime preventive possibilities). *See also* GOLDSTEIN, *supra* note 73, at
163, 179-81.

    144. KIRKHAM, *supra* note 40, at 159-63. The author, a professor of criminology
who joined a police department for several months, found himself covering for another
police officer concerning injuries received by an arrestee. "I was lying . . . to protect
another policeman who had committed what amounted to a felony assault. I had always
said, had always believed, that a free society is lost once those charged with enforcing

against him, he may then arrest the allegedly threatening person with a cover charge, a false charge of criminal conduct even though this alleged "threat" came from a person who may have actually requested police service.[145] If the arrestee is physically injured, the policeman merely asserts that the abusive act was necessary, and alleges that the arrestee himself physically resisted the arrest or attacked the officer.[146] It is the minority group member who proportionately feels the bite of this type of police "response" most often.[147]

Probably the chief basis of paranoia of minority citizens which results in their interaction with the police, and which explains why most tend to avoid the police even when in need, is that most outrageous and irreversible form of police misconduct—the unjustified killing by a police officer.[148] Nothing divides police and community more dramatically than a death caused by police which the citizenry doesn't accept as justified. Yet, critical examination of examples of this phenomenon are made particularly difficult by, not

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its laws begin to step outside them. Dammit I still believed it. Yet I was lying just the same." *Id.* at 161. *See supra* note 98.

145. *Cf.* CHEVIGNY, POLICE POWER, *supra* note 15, at 73. *See supra* note 98. *See also* McCabe, *Crowd Supports Victim of Alleged Police Beating,* CHI. TRIB., Oct. 12, 1977, § 3, at 6, for a report on a demonstration outside a courthouse during the appearance of an alleged victim of severe police beating on nine charges arising out of a minor traffic accident. The alleged victim, a black, was hospitalized for 39 days thereafter and later filed a civil claim in federal court. *Id.*

146. R. KNOOHUIZEN, R. FAHEY AND D. PALMER, THE POLICE AND THEIR FATAL USE OF FORCE IN CHICAGO 57-60 (Chicago Law Enforcement Study Group 1972). *See supra* note 98.

147. KNOOHUIZEN, FAHEY AND PALMER, *supra* note 146, at 20, 27-28; Terris, *supra* note 39 at 41; RIGHTS IN CONFLICT, *supra* note 26, at 41; CHEVIGNY, COPS AND REBELS, *supra* note 59, at 58-59; SKOLNICK, THE POLITICS OF PROTEST, *supra* note 22, at 152 (it is revealing that the Black Panther Party originated in a Community Action Patrol designed to monitor police conduct during arrests. *Id.*); POLICE AND THE BLACKS: U.S. CIVIL RIGHTS COMMISSION HEARINGS (Arno Press ed. 1971); SEARCH AND DESTROY, note 34 *supra;* Goldkamp, note 10 *supra;* Testimony of Edward Charles Davis, HEARING BEFORE THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS OF THE COMMITTEE ON THE JUDICIARY, UNITED STATES SENATE, 94th Cong., 2nd Sess.: CAUSES OF POPULAR DISSATISFACTION WITH THE ADMINISTRATION OF JUSTICE, May 19, 1976, at 5-8. *Compare* Katz, *supra* note 16, at 75.

148. Police officers in the United States kill more than a thousand people each year. Fleetwood, *supra* note 64, at 28. The contention of self-defense in all such cases is somewhat belied by the fact that, from the statistics, American police are six times as likely to kill as be killed. BERKLEY, *supra* note 22, at 113. These figures may result from the centrality of the gun to the policeman's image in the United States. *Id.* at 111-13. In a 1976 study, 83.7 per cent believed their weapon as essential to their job. SKOLNICK, *supra* note 6, at 128.

surprisingly, cover charges and a presumption on the part of the *general* public that deadly force would not have been utilized by the police unless it were necessary.[149] Again, minority members are by far the more frequent victims of police killings.[150] The role of white police officers in the significant amount of questionable shootings by policemen in minority communities drives a lasting wedge in the already tenuous ties between the police and minority community, and irreparably injures the opportunity for reconciliation and cooperation between the two.[151] The problem is compounded by the comparatively light treatment police officers may receive even when shown to have murdered another without justification.[152]

In summary, when the relationship between police and community is poor, negative ramifications can be observed, not only in the law enforcement community, but also in the community which it exists to serve. In the law enforcement agency, the officer feels

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149. KNOOHUIZEN, FAHEY AND PALMER, note 146 *supra;* Fleetwood, note 63 *supra;* Goldkamp, note 10 *supra;* Takagi, *A Garrison State in Democratic Society,* CRIME AND SOCIAL JUSTICE, Summer, 1974, at 29; Kobler, *Police Homicide in a Democracy,* 31 J. SOC. ISSUES 163, 164 (1975); Comment, *Deadly Force to Arrest: Triggering Constitutional Review,* 11 HARV. CIV. RTS. – CIV. LIB. L. REV. 361 (1976); Robin, *Justifiable Homicide by Police Officers,* 54 J. CRIM. L., C. & P.S. 225 (1963). *See also* Editorial, CHI. SUN-TIMES, April 18, 1972, at 35, col. 3 (questioning official defense of police killings); CHI. SUN-TIMES, Sept. 6, 1971, at 3 (reporting a finding that more than 50 per cent of American males believe police should shoot, but not to kill, in controlling hoodlums, student protest and ghetto riots).

150. Goldkamp, note 10 *supra;* Takagi, *supra* note 149; Kobler, note 149 *supra;* KNOOHUIZEN, FAHEY AND PALMER, note 146 *supra.* One 1973 study indicated that the officers involved are more likely to be minority members themselves (N.Y. TIMES, Aug. 26, 1973 cited in Goldkamp, *supra* note 11, at 177), but this study was tainted by its failure to take into account the tendency to assign minority member officers to high crime districts. Goldkamp, *supra* note 11, at 180-81; Longhini, *Black Man's Burden, supra* note 70, at 5. A better indication is provided by the fact that in New York City, "'[w]e have had eight incidents in recent years where a black policeman was shot by a white policeman, and there is not one incident of a black policeman shooting a white policeman. . . . If it happens to black police officers, *what do you think happens to civilians?'*" Sergeant Howard Sheffey, president of the Guardians, quoted in Fleetwood, *supra* note 64, at 20, 29 (emphasis in original).

151. The killings sometimes appear to be akin to premeditated summary executions. *See, e.g.,* SEARCH & DESTROY, *supra* note 34; Hersey, *The Algiers Motel Incident—Detroit,* in WHO RULES THE POLICE? 141 (L. Ruchelman ed. 1973). Police officers are subject to the same danger, of course. *See, e.g.,* N.Y. POST, May 22, 1971, at 1; Gentry, *Complacency Often Fatal, Studies of Police Assault Show,* CHI. SUN-TIMES, Mar. 10, 1974, at 70.

152. *See, e.g.,* CHI. TRIB., Oct. 7, 1977, § 1, at 11, col. 7. According to the Tribune's report, two policemen, indicted for murder of a Latino, faced a maximum one year in prison and $2,000 fine after being convicted by an all-white jury of criminal negligent homicide.

serious problems of morale, which in turn often results in despair and/or hostility.[153] He may become less judicious and less discreet in his actions.[154] Police sympathy toward community problems is not enhanced as the chasm between the police and policed becomes wider.[155] Poor community relations may increase the danger he faces,[156] possibly resulting in greater fear and animosity. Recruitment becomes difficult, whereupon the quality of the police candidate decreases. A vicious circle results, with police taking more abuse and responding with a harder line. Polarization between the police and the minority community results, and the attitudes of each contribute to perpetuating the enmity between them.[157] Meanwhile, the polarization translates itself into more minority group members becoming subject to more mistreatment, harassment, and brutality than members of the white majority. In fact, they become "doubly alienated from the police: they are both more exposed to police brutality and more in need of police protection."[158] The Kerner Commission indicated it was the "abrasive relationships between police and Negroes and other minority groups that have been a major source of grievance, tension and, ultimately, disorder."[159] Finally, "[p]ublic suspicion and hostility . . . bring unjust charges, the impeding of sound and progressive programs, the undermining of

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153. TASK FORCE REPORT: POLICE, *supra* note 82, at 144-45. WESTLEY, *supra* note 12, at 107; Toch, *supra* note 34, at 195; Rubin, *supra* note 14, at 19, 26; WINTERSMITH, *supra* note 8, at 55 (many emotionally unstable whites are attracted to police work); Black and Reiss, *Patterns of Behavior in Police and Citizen Transactions, supra* note 8, at 81.

154. TASK FORCE REPORT: POLICE, *supra* note 82, at 145; Janeksela, Deming and Nida, *supra* note 39, at 15-16; Gentry, note 148 *supra.*

155. TASK FORCE REPORT: POLICE, *supra* note 82, at 144; Rubin, *supra* note 14, at 19, 26; KIRKHAM, *supra* note 40, at 168: "Nobody really gave a damn what happened to us: not the courts, not the people we were trying to protect, nobody. I slammed a fist against the steering wheel in frustration. How different everything was now." DROGE, *supra* note 47, at 176-77.

156. TASK FORCE REPORT: POLICE, *supra* note 82, at 145; DROGE, *supra* note 47, at 134; Knopf, *Sniping . . . A New Pattern of Violence* in LAW AND ORDER: POLICE ENCOUNTERS, *supra* note 12, at 103.

157. TASK FORCE REPORT: POLICE, *supra* note 82, at 145. *See also* NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, *supra* note 69, at 305; Groves and Rossi, *Police Perceptions of a Hostile Ghetto* in POLICE IN URBAN SOCIETY, *supra* note 2, at 189-90.

158. Lipsky, *supra* note 17, at 6; Edwards, *supra* note 140, at 264-65; WINTERSMITH, *supra* note 8, at 49.

159. THE NATIONAL ADVISORY COMMITTEE ON CIVIL DISORDERS, *supra* note 69, at 299; Lieberson and Silverman, *supra* note 26, at 193-204; Milner, *supra* note 14, at 161-62.

morale, . . . a hesitation to initiate constructive action for fear of ridicule and derision,"[160] and poor police protection.

REFORM PROPOSALS

Various proposals have been presented to solve the problem of poor police-community relations. A perusal of selected proposals, institutionally-directed and community-directed, reveals their respective strengths and weaknesses. The following analysis should offer insight into how a workable design aimed at eliminating police-minority group tension can be accomplished.

Increased Minority Representation: A Critique

As a consequence of hiring pressures in the sixties, an increasing, though still insignificant, number of minority-group members have joined the ranks of the police.[161] Although minority policemen are no longer a complete rarity, their presence nevertheless does not reflect their presence in the general population.[162]

With this change in the racial composition of the police force has come a significant reduction in racist behavior and harassment and brutality towards blacks.[163] The minority group officer is likely to be more sympathetic to the concerns of minorities.[164] Thus, "when Negro urban neighborhoods are policed by Negroes, the moral consensus makes possible cooperation and mutual control."[165] Likewise,

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160.   R. CALDWELL, CRIMINOLOGY 315 (2nd ed. 1965). *See also* GOLDSTEIN, *supra* note 73, at 329; Toch, *supra* note 34, at 193-204.

161.   *See* note 70 *supra* and accompanying text.

162.   Blacks in 1970 constituted 12.7 per cent of the population. WESTERMAN, *supra* note 70, at 240.

163.   Stevens, *Black Policemen Bring Reforms*, N.Y. TIMES, Aug. 11, 1974; McMullen and Palmer, *Seek Easing of Minority Tensions*, CHI. DAILY NEWS, May 3, 1972, at 1; Rubin, *supra* note 14, at 38-39. ("It is unquestionably true that black officers move more comfortably in ghetto areas in Miami than white officers do." *Id.* at 39.) *See also* Ferrebee, *supra* note 69; UNITED STATES COMMISSION ON CIVIL RIGHTS, note 28 *supra.* Additionally the "presence of increased numbers of minority police officers on a police agency and the interrelationships which it fosters can be the most effective means the agency has for developing understanding, combatting prejudices, and curbing practices offensive to minority groups. No training program can possibly work as well as this day-to-day contact among peers to break down the barriers and hostilities between different cultures." GOLDSTEIN, *supra* note 73, at 271.

164.   Rubin, *supra* note 14, at 38-39; N. ALEX, BLACK IN BLUE: A STUDY OF THE NEGRO POLICEMAN 133-70 (1969); Ferrebee, *supra* note 69; BANTON, *supra* note 19, at 173.

165.   BANTON, *supra* note 19, at 175. This appears to be particularly true where the black officer is familiar with the neighborhood being patrolled. "Our most striking finding . . . was that those black police officers who knew the neighborhood were even markedly more at ease and accepted than were their black fellow officers from outside the neighborhood. Rubin, *supra* note 14, at 39.

the older black middle-class segments of the community appear to have more confidence in the black policemen[166] and consequently in the police as a whole.

Despite these positive aspects, the increased recruitment of black officers may have little or no effect on improving police-community relations to anywhere near the degree necessary. Some note that black officers may tend to be stricter with black offenders than white officers.[167] Putting blacks in police uniforms may not erase the victimization of blacks by police generally, or the memory and fear of that victimization.[168] Futhermore, although attitudinal changes may be occurring with the older and middle class blacks, the young—those indicating the most distrust for the law enforcement system—and the lower-income blacks still view the black officer as a traitor.[169] To large segments of the black community, he is more "cop" than black.[170]

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166.   Stevens, note 163 *supra;* ALEX, *supra* note 163, at 141-44, 148. This is very likely due to a recognition of mutual interests between black police officers and the black middle class, *(Id.* at 144), and an acceptance of police authority among older blacks. *(Id.* at 148).

167.   BANTON, *supra* note 19, at 174; BAYLEY AND MENDELSOHN, *supra* note 1, at 193-94; ALEX, *supra* note 160, at 156-60. One police officer explained a possible motivation: "'A Negro police officer may be like a reformed drunk. . . . [He may see in an offender] his own reflection of something that he has been trying to get away from . . . [and that the offender is] perpetuating the stereo type image of the Negro which he has been trying to lessen, either through education or other means.'" *Id.* at 157. *See also* TURNER, *supra* note 3, at 67. A 1973 report that black officers killed more civilians than whites failed to take into account the deployment of most black officers in high crime districts. *See* note 150 *supra.* Some believe black officers look down on blacks. Black and Reiss, *Patterns of Behavior in Police and Civilian Transactions, supra* note 8, at 113. The "strictness" observed, however, may be merely enforcement of the laws without discrimination as opposed to how white police view crime in the black community. *See, e.g.,* Morton, *Black Cops: Black and Blue Ain't White,* RAMPARTS, May, 1972, at 20, 22.

168.   Hall, *Dilemma of the Black Cop,* LIFE, Sept. 18, 1970, at 60; Morton, *supra* note 164, at 24-25; Ferrebee, *supra* note 69, at 127. An intermediate solution, which also has the potential of allowing persons with less than the educational requirements of police departments *(see* note 85 *supra)* to study on the job and later become officers, is the creation of "community service officers" who could perform service functions but not law enforcement functions. NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, *supra* note 69, at 317. Although the Commission recommends these officers be uniformed, they might be far better accepted without uniforms. *See also* WINTERSMITH, *supra* note 8, at 105.

169.   ALEX, *supra* note 163, at 144-46, 148; Hall, *supra* note 168, at 63. A black police officer remarked that "'[t]o most black people . . . "a pig is a pig is a pig" and I'm just a *black* pig. A traitor. A Tom. A sellout. An Oreo nigger—black on the outside, white on the inside.'" *Id.* Morton, *supra* note 167, at 20; Rubin, *supra* note 14, at 37-38. The southern black who has recently migrated to the North may be particularly unappreciative of the black police officer. ALEX, *supra* note 163, at 146-48.

170.   ALEX, *supra* note 163, at 133-70. The black police officers may also have

The employment of more minority officers is clearly not a panacea to the problem of police-community relations. First, the minority member has a serious personal conflict between his ethnic and occupational role;[171] in the majority of instances, his occupation demands primary allegiance. Part of this adherence to occupational demands is mandated by departmental orders formulated by the white police leadership which the minority officer is obliged to effectuate.[172] Thus, what has been described as the "black in blue" phenomena might sometimes be better characterized as "black in white."[173]

Secondly, this effort toward dissipation of police-minority community polarization is undermined by the socialization forces experienced by the minority officer.[174] Not unlike his white counterpart, the minority patrolman becomes hardened by the day-to-day experiences and unpleasantness peculiar to the occupation. Furthermore, the pressure from white peers to adhere to a "crime control" perspective is quite conducive to becoming "tough" toward all elements of the community. Not wanting to seem lax towards "his own kind" in the eyes of his peers and his white superiors, he may feel compelled to assert his authority in situations where he may personally feel such an assertion inappropriate.[175]

Aggravating the minority police officer's problems within the police department are the motivations behind his being accepted by the department. "[T]he recruitment of Negroes for police work is not simply a technical matter of manpower needs and allocation best left to specialists in the department to solve. It is necessarily a political question governed by the needs of city governments to create a wider base of community support for the police."[176] It is an effort at

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severe difficulties associating with white police officers. ALEX, *supra* note 163, at 85-113; Darton, *Color Line a Key Police Problem*, in THE AMBIVALENT FORCE, *supra* note 19, at 72; Rubin, *supra* note 14, at 37.

    171.   ALEX, *supra* note 163, at 67-78, 85-113, 133-70; Rubin, *supra* note 14, at 37-38; Hall, *supra* note 168; Darton, *supra* note 170; Morton, *supra* note 167.

    172.   For example, the United States Commission on Civil Rights concluded, in 1971, that "[b]efore the black recruit enters the academy he is told, in effect, to look white." UNITED STATES COMMISSION ON CIVIL RIGHTS, *supra* note 28, at 281.

    173.   *But see* Morton, *supra* note 167, describing the differing and rebelling responses of some black police officers to pressures to become officers first and blacks second, if at all. *See also* Darton, *supra* note 170.

    174.   NIEDERHOFFER, *supra* note 2, at 193; ALEX, *supra* note 163, at 57-84. *See also* TURNER, *supra* note 3, at 67; Toch, *supra* note 34, at 195-204; Goldkamp, *supra* note 11, at 177, 180-81.

    175.   *See, e.g.,* TURNER, *supra* note 3, at 67; ALEX, *supra* note 163, at 157.

    176.   ALEX, *supra* note 163, at 24. This motiviation becomes obvious by the

"bringing the community into the department,"[177] not at bringing the department into the community's grasp. Because of his potential rapport with the community residents, the black policeman "is recognized as a policeman to the extent that he can be used as a Negro."[178] Obviously, these political games have a negative effect on both the minority recruit and the community he serves.

The foregoing is not to suggest that all efforts at minority recruitment should cease. It is imperative that the nation's police departments reflect the populations they serve, especially when minority communities are those in which most street crime—and thus most police-citizen contacts— take place.[179] However, increased minority representation certainly cannot, by itself, be the remedy for police community tensions.

To make increased representation a viable, albeit limited, solution, minorities *must* be included in the upper echelons of the police department so as to truly affect departmental policy.[180] Accordingly, an internal impetus for change and equalization will gradually permeate the law enforcement establishment. Over time, the hostility and distrust expressed towards the minority officer by both the minority community and his fellow officers should decrease in intensity. Consequently, the minority policeman will be relieved of the

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overwhelming tendency to assign black police officers to black communities. *See, e.g.,* Longhini, *Black Men's Burden, supra* note 70, at 3; Hall, *supra* note 168, at 64-65; Morton, *supra* note 167.

177. ALEX, *supra* note 163, at 27. *See also* GOLDSTEIN, *supra* note 73, at 270 where the author outlines the best means of bringing the community within the *department's* grasp:

> The single most important step a police administrator can take toward recruiting more members of minority groups is to demonstrate in unequivocal terms that he is working vigorously to ensure that the personnel of his agency do not, in their daily contacts with members of the minority community, discriminate against them. He must further provide clear evidence that members of minority groups employed by the agency will have equal opportunities regarding assignments and promotion. Once credibility is established in this fashion, a straight-forward recruitment drive that communicates to potential applicants that they are really wanted will have a much greater chance of succeeding.

178. ALEX, *supra* note 163, at 89; Ferrebee, note 69 *supra;* GOLDSTEIN, *supra* note 73, at 269-71. Blacks are hardly being utilized to the fullest potential, however, of even this ulterior motivation. *See, e.g.,* Longhini, *supra* note 83, at 5.

179. *See* notes 126 and 127 *supra.*

180. *See* Rider, *Study Police Selection and Promotion Criteria,* COMMENTATOR, April 18, 1972, at 3; Carter, *supra* note 75; GOLDSTEIN, *supra* note 73, at 270; UNITED STATES COMMISSION ON CIVIL RIGHTS, note 28 *supra;* ALEX, *supra* note 163, at 109-13.

anxiety which emanates from his dual roles — as an ethnic member of society and as an intruder into the white police structure.

Although positive achievements *are* occurring regarding racial imbalances in police departments, the more pressing problem of institutionalization remains. The powers of the police department, be they black or white, will continue to be alienated from the people they serve until steps are taken which change the exigencies of the department from an "order" orientation to a "service" orientation. Likewise, the present socialization process — minus its negative racial overtones — may remain, to the detriment of all police officers. Unless some community *involvement* in police policy-making is instituted, the gains in quality might quickly be negated by outdated institutional practices and procedures.

Improving Police Standards

(1) *Psychological Screening*

William Turner contends "[t]he badge and the authority it represents have inevitably been a magnet for gun-happy swaggerers, pathological bullies, sadists and others with severe personality defects."[181] Ten years ago the President's National Advisory Commission on Civil Disorders suggested that:

> Screening procedures should be developed to ensure that officers with superior ability, sensitivity and the common sense necessary for enlightened law enforcement are assigned to minority group areas. We believe that, with proper standards for recruitment of new officers, in the long run, most policemen can meet these standards.[182]

Such screening patterns would hopefully result in recruitment of only those individuals who have respect for the community and display restraint and good sense in the performance of their duties.

It does not appear that the fault lies, however, with the quality of the recruits.[183] As has been noted, the strong socialization process common to police organizations hardens even the most idealistic and

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181.   TURNER, *supra* note 3, at 40.
182.   NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, *supra* note 69, at 306. *See also* BITTNER, *supra* note 15, at 83-87; Shimberg, *The Role of the Behavioral Scientist in Police Recruit Testing* in THE POLICE AND THE BEHAVIORAL SCIENTIST, *supra* note 46, at 117; Birnstein, *supra* note 47.
183.   CHEVIGNY, POLICE POWER, *supra* note 15, at 272. *See, e.g.,* DROGE, *supra* note 47; KIRKHAM, *supra* note 40.

socially conscious police recruit.[184] While most police departments already screen applicants for signs of emotional disturbances,[185] a more useful screening test might incorporate a search for blatantly prejudiced individuals even though "there is more than enough prejudice in our society and culture to make it 'normal' in the sense that most bigots may be typical Americans with no unusual emotional disturbance."[186] In any event, it will take more than psychological screening to root out police prejudice and end brutality.[187] What is sorely needed is some institutional change which will undermine the *development* of the "tough cop" personality, with its derision of the young, poor and minority and its absolute handling of these groups.

(2) *Improved Education*

It has been maintained that better education of the police, particularly those working in the tense neighborhoods, will help establish a more congenial relationship between the police and the individuals living in the community.[188] This theory presupposes that studying in a university complex might minimize the policeman's hostility to unorthodoxy.[189] Theoretically, he would learn not only of the basic nature and causes of crime but also how verbal abuse and discourtesy, as well as physical misconduct, can only serve to in-

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184.   *See, e.g.,* DROGE, *supra* note 47; KIRKHAM, *supra* note 40.

185.   *See, e.g.,* CHI. SUN-TIMES, July 29, 1977, at 46, col. 3, describing a new psychological screening program developed by the Chicago Police Department by which patrol specialists who normally train rookies on the street will observe the rookies for psychological problems. If problems are detected, the rookies are referred to the department's Psychological Advisory Board. This program is an extension of the existing one which was criticized after charges of police brutality. *Id.*

See also Bimstein, *supra* note 47; Reddy, *The Cincinnati Human Relations Training Program,* in THE POLICE AND THE BEHAVIORAL SCIENCES, *supra* note 47, at 96; Shimberg, *supra* note 182, at 117-23; Kuykendall, *Police and Minority Groups: Toward a Theory of Negative Contacts,* in POLICE-COMMUNITY RELATIONS, *supra* note 73, at 211, 212-14.

186.   NEIDERHOFFER, *supra* note 2, at 190-91. *See* note 11 *supra* and accompanying text.

187.   *Id.*

188.   BERKLEY, *supra* note 22, at 74-87; GOLDSTEIN, *supra* note 73, at 283-304. Brown and Johnson, *The UCLA Community-Police Relations Training Program,* in THE POLICE AND THE BEHAVIORAL SCIENCES, *supra* note 46, at 61; Reddy, *supra* note 185; Locke and Smith, *Police Who Go to College,* in THE AMBIVALENT FORCE, *supra* note 19, at 144; BITTNER, *supra* note 15, at 83-87.

189.   Locke and Smith, *supra* note 188, at 144. *See also* Arnold, *Police: Diplomas To Go With the Nightsticks,* N.Y. TIMES, Oct. 10, 1974, § 4, at 10; Brown and Johnson, *supra* note 188, at 67 (programs must be keyed to needs of patrol officers); BERKLEY, *supra* note 23, at 76. *But see* GOLDSTEIN, *supra* note 73, at 288-89.

crease tense relations and further complicate the police officer's job.[190] Discriminatory attitudes would thereby be minimized as a negative factor in the police mentality.[191] Hence, through education might come changes in police attitudes, policy and actions and, ultimately, police "professionalization."

On the other hand, by recruiting more college educated individuals, the dichotomy between the police and the policed widens. Not only does the inability of the police to empathize with minority citizens increase, but this inability is also extended to the relationship between the working class and now college-educated police.[192] Additionally, higher educational requirements have a tendency to exclude minority group members from being eligible for police work.[193] Moreover, police work has generally proven unattractive to the college educated.[194] However, the most important variable which minimizes the value of improved education is the socialization process. Indeed, one study showed that "patrolmen with a college eduation display a higher degree of cynicism and a greater sense of deprivation than those with less education."[195] The simple fact is that those who view improved education as the cure for police-community problems overlook the tremendous "educational" powers of the socialization experience. Accordingly, some view the benefits of higher education as merely speculative.[196]

(3) *On-the-Job Traning: Developing Human Relations Expertise*

There is little question that training now received by recruits

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190. BERKLEY, *supra* note 22, at 76. *See also* F.B.I. LAW ENFORCEMENT BULLETIN, Jan. 1970, at 7, regarding explosive words and phrases utlized by the police; GOLDSTEIN, *supra* note 73, at 288.

191. *See* Walsh, *supra* note 97, at 235-37; GOLDSTEIN, *supra* note 73, at 288; Brown and Johnson, note 188 *supra.*

192. WILSON, THINKING ABOUT CRIME, *supra* note 44, at 113.

193. GOLDSTEIN, *supra* note 73, at 289; Arnold, *supra* note 189; NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, *supra* note 69, at 316-18. *But see* AHERN *supra* note 32, at 194. "There shall be no room in a police department—at least not among the ranks of patrolmen—for recruits who do not meet certain standards of intelligence." *Id.*

194. WILSON, THINKING ABOUT CRIME, *supra* note 44, at 113; GOLDSTEIN, *supra* note 73, at 289. James Ahern believes this problem will not be solved until police departments become more professional. AHERN, *supra* note 32, at 196.

195. NIEDERHOFFER, *supra* note 2, at 235, cited in WILSON, THINKING ABOUT CRIME, *supra* note 44, at 113. *See also* Ford, Meeker and Zeller, *Police, Students and Racial Hostilities,* 3 J. POLICE SCI. & ADMIN. 9 (1975) cited in GOLDSTEIN, *supra* note 73, at 288-89.

196. *See, e.g.,* WILSON, THINKING ABOUT CRIME, *supra* note 44, at 113; GOLDSTEIN, *supra* note 73, at 290-91; Weiner, *supra* note 75, at 511-14.

is inadequate.[197] Initially, the training component stresses practical aspects on how to function as a police officer.[198] Beyond this, the desperate need for additional men has led some departments to place their rookies on the streets before the formal training period has ended.[199]

But, even assuming an adequate training period, instruction regarding human relations normally has a relatively minimal impact on the trainee.[200] Most of what passes for "training" in community relations is designed to teach policemen to cope with effects rather than to understand the alien minority culture in which they must perform their delicate functions.[201] Since police are more often peace officers than law enforcers,[202] they should be educated in the mechanics of properly handling nonenforcement situations and conflicts.[203] But, as James Q. Wilson notes, "management of personal relations in tense situations is not so easily taught" as the law of arrest, first aid, or use of weapons.[204]

Notwithstanding the failures of most of these efforts, the fact is that the police officer *must* possess an understanding of the dynamics of people and an ability to rationally and reasonably deal with exceedingly tense situations.[205] To confront this need, some departments have instituted "sensitivity training" programs, a pro-

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197. BERKLEY, *supra* note 22, at 84-87; R. HARRIS, THE POLICE ACADEMY (1973); McNamara, note 48 *supra*; GOLDSTEIN, *supra* note 73, at 273-75.

198. GOLDSTEIN, *supra* note 73, at 273. BERKLEY, *supra* note 22, at 84. In 1969, Berkley indicated that "[n]o state requires more than eight weeks' education for municipal policemen, the median being two hundred hours, which is one-twentieth of that received by the nation's barbers. . . . Needless to say, with such minimal training time, there is little opportunity for academic courses." *Id.*

199. *See, e.g.*, DROGE, *supra* note 47, at 28-58. *See also* WILSON, THINKING ABOUT CRIME, *supra* note 44, at 113.

200. WILSON, THINKING ABOUT CRIME, *supra* note 44, at 113-14; McNamara, *supra* note 48, at 195-97; BERKLEY, *supra* note 22, at 85-86.

201. GOLDSTEIN, *supra* note 73, at 274-75. BAYLEY AND MENDELSOHN, *supra* note 1, at 158. Catherine Higgs Milton, Assistant Director of the Police Foundation, has suggested that police departments train neighborhood specialists who study crime and social and criminal conditions in a particular neighborhood. Milton, *supra* note 37, at 10.

202. BAYLEY AND MENDELSOHN, *supra* note 1, at 77; Bard, note 62 *supra*; NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE, *supra* note 37, at 10.

203. *See* Bard, note 62 *supra*; Bimstein, note 47 *supra*; Brown and Johnson, *supra* note 188.

204. WILSON, THINKING ABOUT CRIME, *supra* note 44, at 114. *See also* GOLDSTEIN, *supra* note 73, at 274-75.

205. Bard, note 62 *supra*; Bimstein, note 47 *supra*; Brown and Johnson, note 188 *supra*.

cess of group discussion facilitated by a group leader. Through criticism and reexamination of points of view, the participants ostensibly come away with a heightened self-awareness and significant personality changes.[206] However, there is no empirical evidence regarding "sensitivity" programs which conclusively proves that the training results in a long lasting change on the individuals and on the organization.[207] Nevertheless, a variation of this approach remains a viable alternative to abstract classroom lectures on human behavior *if* police departments encourage the participation of *all* members, regardless of rank. Further, progress can only be made *if* the department includes members from the community in these exchanges.[208] Only through *regular* thought-provoking discussions of this type, perhaps bordering on a controlled confrontation, will each participant's orientation bring about an understanding of the others.[209]

Clearly, a departmental requirement, based on the proposal outlined above, which would require regular interaction between all elements of the police and representative members of the community would come closer to overcoming the egregious features of the socialization process than any other heretofore considered. This proposal allows the police to receive community input as to particular problems within the community setting, which in turn, counters the impact the institutional police structure has on shaping the perspective of individual police officers. The drawback of this particular idea, however, is that its implementation would simply feed to the police information regarding the plight of community elements in police-community affairs, without simultaneously compelling the police to consider *and* incorporate into its decision-making the responsible views of those they allegedly serve. In other words, the failure to formalize citizen input to such an extent that it *actually* affects law enforcement policy means human relations training programs will have a limited, albeit important, effect on bringing about a demise of minority-community-police hostility.

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206. Bimstein, note 47 *supra. See also* Bard, note 62 *supra*; Reddy, note 185 *supra.*

207. WILSON, THINKING ABOUT CRIME, *supra* note 44, at 114-15. *See* GOLDSTEIN, *supra* note 73, at 277-79 (reporting on sensitivity experiments in which police recruits are placed on skid row in a strange city to explain presence to police or in jail cell overnight).

208. Bard, note 62 *supra.*

209. Bard, note 62 *supra. See also* GOLDSTEIN, *supra* note 73, at 277-79.

Eliminating Automony and Uncontrolled Authority: A Critique

(1) *Developing Police Managerial Accountability*

As has been noted, autonomy is the norm in the law enforcement establishment.[210] Through the socialization process, the solidarity and secrecy of the force and the benign neglect of local governments, the police departments in the nation have become institutions with few controls from within or without.

Chevigny succinctly describes one proposal to remedy this situation:

> A direct attack should be made upon the monolithic adherence to the police ethic and the unofficial code of secrecy. One way this can be done is by selecting officers for command positions or specialized jobs by different standards than those by which patrolmen are selected. The innovation would not prevent qualified patrolmen from rising in the ranks, but it would require them to obtain proper specialized training in order to do so. Such a reform has been suggested by Professor Richard Blum and enthusiastically expounded by the President's Commission on Law Enforcement. The change would serve a twofold purpose: it would encourage educated men to enter positions where academic training might be useful, and it would tend to reduce the monolithic secrecy of the police. It was earlier suggested that "the system" in police departments by which abuses are covered is sanctioned by officers in command positions, and the ethical judgments which tend to lead to police abuses are encouraged throughout the department. This situation continues partly because there is almost total solidarity in the department; virtually every man in a command position has at one time been a patrolman and has had to accept all the precinct mores. The manner of appointment and promotion must be broken open somewhere to let people who are not thoroughly assimilated filter in.[211]

However, the value of this approach, albeit useful, is also questionable. First, a serious question arises at the outset as to who would assume the onus of bringing these unassimilated, freshthinking commanders into the police structure. Past experience sug-

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210. *See* notes 81-89 *supra* and accompanying text.
211. CHEVIGNY, POLICE POWER, *supra* note 15, at 273-74.

gests those who have worked their way into managerial posts in police agencies are not particularly well disposed to the injection of outsiders into important command posts in police departments. Thus, a major renovation of present departmental recruitment policies concerning the assignment of commanders would have to occur. A second problem is that there is no guarantee built into this proposal that these "fresh" new commanders would *not* be overcome by the exigencies of their post. In other words, if the commanders' superiors are still bent on police efficiency in arrest-clearance rates and are not prone to allow these commanders the autonomy to develop innovative police-community programs, then not much meaningful change can be expected to result. Third, what assurance will these new commanders have that their mandates will actually affect police behavior "on the street" after they filter their way down past traditionalist subordinates to the street patrolman? In summary, this proposal suffers from the problem of its being "too little, too late."

A second alternative conceptualizes the police as an agency of local government rather than solely a part of the criminal justice system.[212] This premise "rids us of the notion that the police are a legal institution created with a function strictly defined by statute, and substitutes in its place a more flexible concept of the police as an administrative unit of local government."[213] Accordingly, the American Bar Association's Project on Standards for Criminal Justice has suggested that police agencies should be allowed rule-making responsibilities with the chief executives of municipalities assuming greater responsibility for the operations of their police departments.[214] Once the community recognizes that the chief executive is responsible for the actions of the department, pressure may result on both he and, through necessity, the police chief, to become more accountable to the people. Thus, through the election processes, the citizens may indirectly be able to express their pleasure or displeasure with the law enforcement establishment.[215]

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212. GOLDSTEIN, *supra* note 73, at 33-34. *See also* Ward, *The Police Role: A Case of Diversity,* in POLICE-COMMUNITY RELATIONS, *supra* note 73, at 81-85.

213. GOLDSTEIN, *supra* note 73, at 33. *See also* DAVIS, POLICE DISCRETION, *supra* note 83.

214. AMERICAN BAR ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE, STANDARDS RELATING TO THE URBAN POLICE FUNCTION, Commentary to § 4.5, at 139 (Tentative Draft, 1972).

215. George Berkley believes the concepts of policing and democracy to be inherently contradictory, but nevertheless, believes they can be reconciled. BERKLEY, note 22 *supra. See also* Sherman, *Middle Management and Police Democratization: A Reply to John E. Angell,* 12 CRIMINOLOGY 363 (1975); Angell, *The Democratic Model Needs a Fair Trial: Angell's Response,* 12 CRIMINOLOGY 379 (1975).

This idea, it should be understood, does not contemplate that the police should lose all decision-making perogatives as to policy. It is feared that if that were to occur, not only might the police become subject to the pernicious whims of certain elements who have influence in city-hall, but also they could be directed by that majority who cast their ballots at the general election. In both instances the police could be influenced to ignore the legitimate demands of minorities[216] while placating the mayor, the majority and the special interests. Thus, this proposal contemplates that "[i]n many situations it is essential that the police are independent of local community interests, responding instead to state and federal laws that preempt local legislation and override local preferences. . . ."[217] It also recognizes that popularity at the polls is not synonymous with correct police actions[218] and that responsiveness to political and popular pressure may be contrary to the ultimate will of the people.[219] Accordingly, this plan would institute police accountability by allowing the citizen to have information as to policies made by the chief executive and the police department as well as meaningful access to police activities. Such access for the citizen would presumably allow him/her to review police operations, as opposed to continuing the general police policy of shrouding police action behind a veil of secrecy.[220]

While this proposal has some merit, it also suffers several shortcomings. First, it seems to suggest police departments are *not* involved in the business of internal rule-making — a view most any police officer will admit is fallacious — and that municipal executives are not involved to some degree in police policy-making — a conclusion that is so devoid of merit that it simply does not require refutation. What the plan does accomplish is that it brings these respective decisions much more into the public eye than is generally the case today. Yet, the critical question here is where is the incentive for a jurisdiction's chief executive in question to open the door to public scrutiny? Indeed, will not the chief executive have some incentive to limit public examination of police operations, except in

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216. GOLDSTEIN, *supra* note 73, at 140. Indeed, some contend the police are already too responsive to the desires of the non-minority, non-disadvantaged part of society. *See, e.g.,* TURNER, *supra* note 3, at 15, 120.

217. GOLDSTEIN, *supra* note 73, at 143.

218. *Id.*

219. AMERICAN BAR ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE, *supra* note 214, § 5.1, at 144. *See also* GOLDSTEIN, *supra* note 73, at 142-43.

220. Jackson, *The Police and the Rest of Us: A Review Essay,* 9 CRIM. L. BULL. 416, 428 (1973). *See, e.g.,* KNOOHUIZEN, FAHEY AND PALMER, *supra* note 146.

relatively meaningless areas, so as to avoid criticism and avoid political entanglements? If not, then why has there been such reluctance in the past on the part of mayors and city managers to enter this sphere? In other words, *legislative* rule-making compelling the chief executive to take such action appears to be a basic necessity. A second major problem with this approach is that there is no provision for forcing the police to develop rules which are in the interests of local communities. Community input is limited to the citizen's ability to support or reject the jurisdiction's chief executive at the next regular election. Nowhere is there opportunity for the policed to object to specific police policies and practices except during the general election. The built-in protections against the input of special interests unfortunately also eliminates the input of any and all legitimate interests. Finally, while this proposal makes the police department more responsive to the jurisdiction's chief executive, it does not envision how the socialized patrol officer will somehow become more responsive to the needs and sensitivities of the citizens with which they deal. The problem here is that once again the minority point of view will likely be lost in the greater shuffle.

(2) *Structuring Police Discretion*

Closely allied to police autonomy is police discretion at all levels in the police hierarchy. "The need for compromise — with the law, with administrative directions, with public expectations, and even with one's personal ethics — has become an important, albeit unarticulated requirement of the police job."[221] As previously discussed, the police decision-making process must be made accessible to the public so that administrative police decisions most closely approximate community interests. Both police administration and other governmental bodies must see to it that "[t]he laws, resources, and procedures with which the police are equipped must be sufficient and appropriate to enable them, within constitutional limitations and subject to proper review, to deal with unusual problems as well as the more common ones."[222]

One alternative aimed at decreasing police discretion is to tighten police procedures when enforcing the law and maintaining order. It is contended that most police:

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221. GOLDSTEIN, *supra* note 73, at 10. *See also* DAVIS, POLICE DISCRETION, *supra* note 83; Nanus, *A General Model for Criminal Justice Planning,* 2 J. CRIM. JUSTICE 345 (1974).

222.   GOLDSTEIN, *supra* note 73, at 15. *See also* DAVIS, POLICE DISCRETION, *supra* note 83, at 139-63.

> can and should be guided by detailed and meaningful
> rules—rules that will be realistic and enforced, not the
> kind of rules now in police manuals that all officers know
> they have to violate. Enforcement policies resting upon
> social values usually should be determined not primarily
> by individual patrolmen but by top officers of the depart-
> ments, as well as by other officers of the local govern-
> ment.[223]

This scheme has limited potential, however. Although more exacting
and realistic rulemaking procedures may be helpful, it is wishful
thinking to assume that police can be straight-jacketed into properly
conducting themselves in the performance of all of their various
duties. Nevertheless, with the adoption of any reform in procedural
policies the department must create "inducements to perform prop-
erly rather than concentrating solely upon penalizing improper
police conduct."[224]

Because discretion is inherent in and essential to police work, it
cannot be structured to the point of reducing the police force to a
group of automatons.[225] Instead, an advisable program might be one
aimed at making officers aware of alternatives available for control-
ling a particular situation, the factors to be considered in the ap-
propriate alternative, and the guidelines for determining ap-
propriate behavior.[226] The rules and guidelines "should be sufficiently

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223. K. DAVIS, DISCRETIONARY JUSTICE 223 (1969). *See also* AMERICAN BAR
ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE, *supra* note 214, § 4.4, at
133; DAVIS, POLICE DISCRETION, *supra* note 83, at 32-51.

224. AMERICAN BAR ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE,
supra note 214, § 5.2, at 147. Among the project's suggestions for such positive
inducements are rewards of improvements in status, compensation and promotion,
combined with education and training oriented to developing professional pride in prop-
er police functioning. *Id.* Yet, emphasis on punishments over rewards may only cause
further entrenchment of police peer loyalty in protecting the errant officer. *See* Savitz,
The Dimensions of Police Loyalty, in POLICE IN URBAN SOCIETY, *supra* note 2, at 213;
KIRKHAM, *supra* note 40, at 157-63. A system of positive reinforcement based on
monetary rewards as suggested by the ABA project, could lead to corruption. Wilson,
supra note 44, at 31. Instead the "reward" can be feedback from the citizenry. "The
officer who can be made to feel, on the basis of tangible results, that he is in fact helping
the people in his precinct is receiving strong positive reinforcement." *Id.* Hopefully, a
decrease in citizen complaints about police misconduct and gradually improving com-
munity relations can provide the external reinforcement required to effectuate and
maintain the changed behavior that would initially cause such a decrease and improve-
ment.

225. GOLDSTEIN, *supra* note 73, at 111; DAVIS, POLICE DISCRETION, *supra* note
83, at 140-41.

226. GOLDSTEIN, *supra* note 73, at 111-12; DAVIS, POLICE DISCRETION, *supra* note
83, at 139-63.

POLICE-MINORITY RELATIONS

specific to enable an officer to make judgments in a wide variety of unpredictable circumstances in a manner . . . that will be free of personal prejudices and biases, and that will achieve a reasonable degree of uniformity in handling similar incidents in the community."[227] Structuring of discretion can occur through legislative budgeting, judicial rule-making, and administrative rule-making.[228] The latter appears to be the favored alternative,[229] and is a potential means for restructuring police policies with recognized inputs from the citizenry.[230]

It is unquestionably imperative that a clear and enforced policy be developed stating that the *standards* of law enforcement in ghetto areas be the same as in other communities.[231] To say this, however, is not to fail to recognize the need for officers to approach varying situations in different ways and to be sensitive to the fact that policies for resolving certain types of conflicts may have to acknowledge differing life-styles in different neighborhoods.[232] In any event, essential to guaranteeing the incorporation of such equitable — yet flexible — policies in police enforcement is some degree of *community direction.*

Community Relations Programs: A Critique

Both the imperativeness of accountability and the ordering of discretion bespeak of the need for community involvement in policy-making and day-to-day operations of police departments. How much and what kind of involvement is open to debate. The following section will discuss several community-based proposals and their ef-

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227. GOLDSTEIN, *supra* note 73, at 112. DAVIS, POLICE DISCRETION, *supra* note 83, at 149. "A rule may provide that the officer must not decide except through the exercise of discretion based on the answers to six designated questions of fact. Such a rule does not replace discretion but it requires the exercise of discretion, and it guides the discretion by requiring answers to the six questions." *Id.*

228. GOLDSTEIN, *supra* note 73, at 114-17. DAVIS POLICE DISCRETION, *supra* note 83, at 152-54, demonstrates how a number of factors presently will structure and influence a single police decision.

229. GOLDSTEIN, *supra* note 73, at 116-24. *See also* DAVIS, POLICE DISCRETION, *supra* note 83, at 100-03; AMERICAN BAR ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE, *supra* note 214, § 4.3, at 125, Commentary to § 4.5, at 125-33; TASK FORCE REPORT: THE POLICE, *supra* note 82, at 25-35.

230. Professor Davis notes a reluctance among even the more progressive portions of the police establishment to invite citizen input in the rule-making itself. *See* DAVIS, POLICE DISCRETION, *supra* note 83, at 106-07.

231. NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, *supra* note 69, at 309.

232. *See, e.g.,* GOLDSTEIN, *supra* note 73, at 148-49.

ficacy in achieving these goals without sacrificing other necessary values.

(1) *Civilian Review Boards*

Civilian review boards have been set up to investigate complaints of police officer's excessive use of force, to insure effective protection and enforcement of constitutional rights, and to create an independent civilian agency with quasi-judicial powers.[233] No action can be taken by these boards until a police officer is charged with wrongdoing.[234] It is an institution which merely reacts to police misconduct after the fact. Such boards are not involved in developing a policy for police which would provide guidelines for the *prevention* of problems between police and community.

Notwithstanding the fact that civilian review boards only deal with police-citizen problems after the fact, civilian review has proven effective in some instances. For example, from 1958-1969, the mayors of Philadelphia appointed a group of prominent citizens to review citizen complaints about alleged police misconduct.[235] The Philadelphia Police Advisory Board (PAB) was concerned primarily with the citizen who had been abused and the negative ramifications for that citizen and for the community at large.[236] The basic assumption was that unresolved police-citizen conflicts increased community tensions.[237] Thus, the PAB's orientation was more towards redressing the grievances of the citizen than towards disciplining the officer.[238]

This program seems to have provided satisfactory redress for those citizen complaints brought to the PAB's attention.[239] However, most civilian review boards are not commonly "community-based" in the true sense of the phrase, for mayors oftentimes select board members from among the upper strata of the community's citizens.

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233. H. MANES, A REPORT ON LAW ENFORCEMENT AND THE NEGRO CITIZEN IN LOS ANGELES 61-62 (n.d.). *See also* CHEVIGNY, POLICE POWER, *supra* note 15; AMERICAN BAR ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE, *supra* note 214, Commentary to § 5.3, at 160-61; BLACK, *supra* note 7, at 77-131.

234. GOLDSTEIN, *supra* note 73, at 142.

235. Hudson, *Organizational Aspects of Internal and External Review of the Police* in POLICE-COMMUNITY RELATIONS, *supra* note 73, at 325; MANES, *supra* note 234, at 68-73.

236. Hudson, *supra* note 235, at 328, 331.

237. *Id.*

238. *Id.*

239. *Id.* at 339; MANES, *supra* note 233, at 68-73. *But see* AHERN, *supra* note 32, at 217.

Review boards should include representatives from minority communities, whose insights into the problems of police-community relations would serve the board in effectively discharging its duties. Even when minority representation is absent, a *civilian* review mechanism is at least preferable to a rubber stamp, internal investigating committee, which is part of the police department itself.[240] In any event, a civilian review board standing alone cannot be considered the total answer to police-community problems; rather, it must be part of a comprehensive scheme which aims to prevent such problems before they have a chance to develop.

(2) *Community Relations Units*

Community Relations Units have been developed by the police departments to "achieve and maintain an ongoing dialogue of views between the police and all segments of society, *especially* those groups whose aggrievement and disadvantage expresses itself in the waves of demonstrations of discontent. . . ."[241]

Two general models of such units have been identified.[242] The first is merely a public relations program, sponsored by the police department, which organizes citizens in various parts of the city to function as a forum for the exchange of ideas. At least one commentator equates Community Relations Units with the PTA.[243] The program generally fails for several reasons: a serious communication blockage caused in part by the defensiveness of the police; police selection of citizens as committee members who are in accord with police policy rather than those at odds with police practice; and routine police attempts "to convince complainants [at the meetings] that the prevailing police practices were in fact beneficial to the community."[244] Under these circumstances, Community Relations Units do not allow the citizenry a meaningful opportunity to affect police policies.

The second model attempts to reach the "grassroots of discontent"[245] by regular interaction and communication between community

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240. Hudson, *supra* note 235, at 330-39; MANES, *supra* note 233, at 61-73. *See also* Chevigny, *The Failure of Police Review*, THE VILLAGE VOICE, Nov. 23, 1972, at 6.

241. BITTNER, *supra* note 15, at 114. *See also* Brodsky, *The Police and the Community: On Taking Sides and Talking* in POLICE-COMMUNITY RELATIONS, *supra* note 73, at 37.

242. BITTNER, *supra* note 15, at 114-16.

243. *Id.* at 115.

244. *Id.* at 115; GOLDSTEIN, *supra* note 73, at 8, 137.

245. BITTNER, *supra* note 15, at 115-16.

elements and individual police officers. Although this approach does lead to the establishment of trusting relationships between some policemen and particular members of alienated groups, those "[o]fficers who manage[d] to establish viable and reciprocally understanding ties with people living in ghettos . . . [were] often viewed by their colleagues as having joined 'the opposition.' "[246] While Community Relations Units generally fail for lack of meaningful participation for minority citizens, this latter system most often collapses from the unwillingness of a majority of police officers to actively engage themselves in the program.[247]

Undoubtedly, some creative approaches to the police-community relations problems have emerged in the past several years. These programs, however, appear to be born more from the general fear of rising crime rates and the police inability to control those rates rather than from a desire to respond to the concerns of the ghetto citizenry. More importantly, these programs do not contemplate extending to community elements a serious role in police department policy-making.

(3) *Neighborhood Patrols*

The police in New York City have realized that they cannot single-handedly control the crime in any given area.[248] They thus view citizen patrol groups, formed by block clubs and building complexes, as a source of added manpower.[249] The willingness of the police to not only tolerate but actively support such an endeavor rests on their realization that police preemption of crime control is not desirable since a coordinated effort between citizen and police has proven more effective.[250] Those who are continuously present in a neighborhood are more attuned to the nuances of a neighbor's behavior and changes in street activity than is the officer who commutes to the area for his daily eight hour shift.

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246. BITTNER, *supra* note 15, at 116. In some cases, the meetings failed due to the intransigence of some community elements. *See, e.g.,* WILSON, THINKING ABOUT CRIME, *supra* note 44, at 116-18.

247. BITTNER, *supra* note 15, at 116.

248. Note, *Neighborhood Patrols and the Law: Citizens Respond to Urban Crime,* 41 FORDHAM L. REV. 973, 979 (1973). *See also* Goldstein, *Citizen Cooperation: The Perspective of the Police,* in THE GOOD SAMARITAN AND THE LAW 199 (J. Ratcliffe ed. 1966); Johnston, *Citizens Patrols: Just Folks Fighting Crime,* CHICAGO, Sept. 1975, at 133.

249. Note, *Neighborhood Patrols and the Law, supra* note 248, at 979.

250. *Id.* at 974. *See also San Diego Police Use Senior Citizens in Criminal Apprehension Program,* 6 L.E.A.A. NEWSLETTER 8 (Nov. 1977); M. Johnston, *Just Folks Fighting Crime,* CHICAGO, Sept. 1975, at 133.

Although neighborhood patrols are not community-police rela-
tions programs, they facilitate *some* dialogue between the police and
the citizen. Perhaps more importantly, the citizens patrols allow
members of the citizenry to gain some sense of what it is like to be
an officer on the beat.[251] On the other hand, they do little to in-
culcate into the police mentality some sense as to what problems
community elements encounter in their dealings with the police.

(4) *Ride-Along Programs*

As noted earlier, youth distrust of the police is prevalent.[252] To
alleviate the tensions and to mitigate the possibility of police-youth
confrontations, the police department in Jacksonville, Florida has
developed the Police-Youth Ride Along Program (PYRA).[253] At the
very least, PYRA has provided the participants an opportunity to
ride with, observe, and become acquainted with a patrolman in the
youth's patrol district. Indeed, the thrust of the program is to
enhance understanding between the youth and the police.[254]
Ultimately, not only does this interaction have the potential of
moderating the extreme positions of the parties and bringing the at-
titudes of the participants closer together, but it also assists the of-
ficer in sharpening his professional knowledge of, and human rela-
tions skills with, youth.[255] What PYRA is accomplishing is something
that the limited resources of the law enforcement establishment can-
not do otherwise. "If modern patrol requirements do not allow of-
ficers to leave their cars to meet the people then PYRA can bring
the people to their cars."[256]

Ride-along programs clearly have several advantages: one-to-
one contact between potentially adverse parties; a first hand view of
the patrol officer's work by the participants; a non-structured oppor-
tunity to share ideas and ideals without sanctions from peers or
supervisors; and subtle checks on potential misconduct by the par-
ticipating officer. The disadvantages of such a plan provide for-

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251. One possible problem could be socialization of the patrols equivalent to
the police socialization which creates so many problems. Ford, Meeker and Zeller,
supra note 195.

252. *See* notes 120-23 *supra* and accompanying text.

253. Note, *Police-Community Relations: Police-Youth Ride Along Proposal*, 48
DENVER L.J. 559 (1972).

254. *Id.* at 565.

255. *Id.* at 569.

256. *Id.* at 568. *See also* R. Friedman, *Ride Along Program*, CASE & COMMENT,
Nov.-Dec. 1972, at 28; F. Anderson and A. Gallagher, *Police Ride-Along*, 2 LAW IN AM.
SOC. 17 (Dec. 1973).

midable obstacles to its adoption by the larger police departments. They include personal-injury liability questions, inappropriate intrusions by participants in police action, the processing and handling of numbers of potential participants, and the officer's fear of sanctions by the citizens. While liability can be waived and intrusiveness can be controlled, the barrier the police have placed around themselves must be penetrated to allow a PYRA-like program to thrive. This can best be accomplished through initial encouragement from the administration, with the assurance that the participants are acting in the role of "students" rather than in the role of usurpers or critics of the officer's position. With time and positive experiences on both sides, the ride-along would prove to be an excellent means of enhancing police-community relations. But again, such a program must be viewed as part of a larger, comprehensive community relations scheme wherein police-community interaction encompasses police decision-making. As stated, not only must the citizenry come to an understanding of the police perspective, but also the police must come to grips with the perspectives and needs of the community — as articulated by responsible representatives therein.

(5) *Community Police Boards*

While police-community relations programs that work are desperately needed to improve the present situation, one police scholar cautions the advocates of such programs:

> If the policeman is too much involved in community affairs and loyalties, he lacks the impartiality required of an authority figure. If, on the other hand, he is detached too much from the community, he no longer has the understanding of people's feelings which he needs if he is to exercise his discretion effectively. If the policeman is too involved, he forfeits respect. If he is too detached, people resent his implied claim to be their moral superior.[257]

Today, the problem of detachment — not only of the individual patrol officer but also of the entire police department — is a very real one. Indeed, while respect for police may be undermined by police who become too immersed in local, partisan confrontations, the simple fact is that the present police aloofness from community problems engenders more police disrespect than would be the case if police collectively removed themselves from their pedestals of power and conscientiously attempted to cope with the peculiar difficulties of

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257. BANTON, *supra* note 19, at 188.

citizens who have problems with their policing agencies. Indeed, the typical police officer presently finds that coming to work "is like entering a foreign country, where the natives cannot be trusted, especially if they are poor and black or Hispanic."[258]

This detachment would decrease with the careful introduction of police-community relations programs — as opposed to police department public relations schemes or community programs totally controlled by the police which involve only selected groups of pro-police citizens.[259] In other words, these programs would envision some workable combination of the approaches which have proven successful, such as (1) group discussions between interested citizens and patrol officers from the respective area of the community, (2) "sensitivity training" for the police *and* community elements, which could include the development of community relations units in different locations in the community as well as the adoption of citizen ride-along programs, (3) community "advisory" boards, and (4) public education groups, comprised of police and community educators, who are concerned with law enforcement.[260] If necessary, given limited police resources, auxilliary neighborhood patrols should also be created therein. All of these programs could be encapsulated within a formal police-community relations unit[261] which would aim to bring about a closer liaison between the policed and the police by creating a better understanding of each other's respective problems and an increase in support of each other.[262] These programs standing alone will not suffice, however:

> Police-community relations efforts and activities have basically one common theme; that is, how to make the policeman look like a good guy. . . . At best, traditional police-community relations efforts *may* help polarized groups better communicate with one another, *may* increase their understanding of one another, and *may* result in additional efforts to work toward more productive working relationships. *At the same time, those things are not synonymous with the reduction of police malpractice,*

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258. Hacker, *Safety Last*, N.Y. REVIEW OF BOOKS, Sept. 15, 1977, at 3.
259. *See* TASK FORCE REPORT: POLICE *supra* note 82, at 156.
260. *See id.* at 159.
261. *See* THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE, THE CHALLENGE OF CRIME IN A FREE SOCIETY: THE REPORT OF THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE 100-01 (1967).
262. BANTON, *supra* note 19, at 263.

> *the reduction of unprovoked verbal and physical abuse of*
> *policemen by citizens, or the effective prevention and con-*
> *trol of crime and the delivery of other police services.*[263]

Thus, it is imperative that this comprehensive program include a
civilian review board which deals with allegations of police
misbehavior by making, *at a minimum*, advisory recommendations
as to appropriate sanctions to be suffered by police officers who
have been found, during board hearings, to actually have committed
the infraction alleged. Of course, the rudiments of due pro-
cess — proper notice of charges, right to appear, confrontation of ac-
cusers, introduction of exculpatory evidence and the like — would be
extended to the officer in question at these hearings. But most im-
portantly, this program would extend to the community an oppor-
tunity to become involved in police policy-making.

The late J. Edgar Hoover warned that law enforcement should
not be "'controlled by authorities located at a distance from the
scene, who are thus necessarily insensitive to the pulse of the com-
munity. . . . The results of central supervision cannot be other than
ultimate stagnation and retrogression.'"[264] Goldstein elaborated on
this point when he stated that:

> [w]e have insisted on maintaining the police as a respon-
> sibility of local government in order to assure account-
> ability and an opportunity for local influence over so
> potentially powerful a government activity. Yet at the
> same time we have construed various devices which, in at-
> tempting to protect the police from pernicious influences
> at the local level, effectively shield the police from the
> communities they serve.[265]

For this and other previously discussed reasons, large numbers of
minority group members and youth distrust and feel distanced from
the law enforcement agencies in American society. Recognizing this
situation, a proposal for some degree of community control of police
is believed appropriate.

Any model for community control must begin by enlisting the
aid of community individuals. "Appeals to self interest [are] perhaps

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263.   Eisenberg, *The Collaborative Partnership: Some Obstacles and Frustra-
tions* in THE POLICE AND THE BEHAVIORAL SCIENCES, *supra* note 46, at 21, 23-24.
264.   BERKLEY, *supra* note 22, at 21. *See generally*, D. WISE, THE AMERICAN
POLICE STATE: THE GOVERNMENT AGAINST THE PEOPLE (1976), wherein this argument is
advanced throughout.
265.   GOLDSTEIN, *supra* note 73, at 132.

the most important ingredient in creating motivation for private citizen involvement in the crime problem."[266] But, to encourage *individuals* to cooperate with their officers, the police administration perpetuates the notion that it is solely the police department's responsibility to cope with crime and that they can do their job if they only have each citizen's cooperation.[267] As students of law enforcement, the police must realize that they cannot possibly establish a force that would approximate the collective capacity that the public itself has to deter and control crime.[268]

Unquestionably, the police as a central institution of the community have a significant amount of influence over the community's destiny. As such, it has been recognized that the community must have a hand in police policy-making:

> In its development of procedures to openly formulate, implement and reevaluate police policy as necessary, each jurisdiction should be conscious of the need to effectively involve a representative cross-section of citizens in this process.[269]

Not only must communities have a "sense of involvement" but they must also have the actual ability to formulate and direct *some* police policies. Here it is crucial that the community control model be consistent with the democratic process in its implementation and in its actions. Thus, for example, community boards could be comprised of individuals elected at the precinct level.[270] Their primary

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266. Newberg, *supra* note 116, at 466.

267. GOLDSTEIN, *supra* note 73, at 63. Goldstein well states that "effective social control cannot be achieved by hired hands alone." *Id.*

268. GOLDSTEIN, *supra* note 73, at 62. Some societies attempt to maintain control over crime by utilizing the community's powers to the fullest although this system can be extremely oppressive as well. "The system of criticism and surveillance by the masses is a fundamental part of the Chinese legal system." Munro, *Punishment Doesn't Always Fit the Crime in China's Legal System*, CHI. TRIB., Oct. 12, 1977, § 1, at 14, col. 1.

269. AMERICAN BAR ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE, *supra* note 214, § 4.5, at 139. In its commentary to this section, the project notes: "If the actions of police agencies are to have public support and acceptance, citizens must have a sense of involvement in the formulation of policies which set the tone and character of police services for individual communities." Commentary to § 4.5, *id.*

See R. FOGELSON, BIG CITY POLICE 296-309 (1977), for an analysis of the advantages and disadvantages of community control.

270. It is possible such a ward's jurisdiction could transcend precinct boundaries and encompass several precincts or a large section of a city so long as the ethnic background and cultural styles of these communities were somewhat uniform.

purpose would be to set police policy in the precinct, just as a school board allows community elements an opportunity to develop educational policy.

It would be this board which would establish procedures and guidelines for the police to follow in their day-to-day relations with community residents.[271] Although there might be disagreements among different segments of the community over certain policies, the community can at least hold both the board and the department accountable through these powers. The distinction between responsive policies and accountablity has been well stated:

> . . . [A]lthough the police should not always be responsive to the community in their actions and their policies [because of state or federal preemption], they must always be accountable to the community for whatever they do. . . . It is far more important that a citizen knows who is accountable for a specific decision than that the decision meet with his or her approval.[272]

On April 6, 1971 in Berkley, California, a police-community control proposal was considered by the electorate. This proposal, inspired by a Black Panther Party idea, would have divided the city into three parts along race and class lines—"one dominated by blacks, one by whites, and one encompassing the campus community and downtown." Each division would have its own police department governed by an elected community council, which in turn would appoint a commissioner with broad powers to hire, fire and discipline policemen. All policemen would be required to live within the district.
WASHINGTON POST, April 5, 1971, at A2, col. 1. The proposal was defeated. NEW YORK POST, April 7, 1971, at 5, col. 1.

A problem with boards based on the precinct system will arise if the neighborhood is in the process of change, i.e., an influx of certain ethnic or socio-economic groups not represented on the board. For example, the author is aware of at least one Chicago neighborhood going through a gradual change—from a government-designated Model Cities neighborhood to one attractive to the upwardly mobile young adults. As a result, the community is now an amalgam of white, professional middle class, black, Spanish-surnamed, Native American, etc. Clearly, priorities of each group will vary. *See also,* AHERN, *supra* note 33, at 174. Ahern aptly notes that a "community as a group, with similar values, is extremely difficult to define." *Id.*

271. It must be recognized in the structure of such a board's powers that it is *essential* the police act independently of local community interests when confronted with state and federal requirements preempting local preferences. *See* GOLDSTEIN, *supra* note 73, at 143.

272. *Id.* Ahern believes the problem of majority will and minority rights cannot be solved by community control of the police. AHERN, *supra* note 32, at 174. However, *with* proper care in the division of communities, only minimal problems should be anticipated.

This model of community control will develop the method of enforcement. Among other decisions, the board could decide to opt for the "watchman" style, which emphasizes order and is willing to tolerate minor violations, since it determines the requirements of "order" differently depending on the character of the group in which the infraction occurs.[273] Or the board could instead choose the "legalistic" style, which emphasizes strict law enforcement and maintenance of order, utilizing the formal sanctions, such as arrest, wherever possible.[274] Finally, the community might decide the "service" style — where all legal infractions are handled seriously but informally — is more appropriate to their needs.[275] Similarly, with regard to certain types of problems, such as marital quarrels and spouse-beating, certain procedures for handling such difficulties could be established. In this manner, the community will order the enforcement priorities of the police department. Whatever "style" and policy the community chooses to utilize, it can fit within James Q. Wilson's "communal" model:[276]

> Because most police work is concerned, not with serious crime, but with regulating public conduct, whatever may be the virtues of centralization and expertise when it comes to catching the murderer or rapist, maintaining order on the streets and handling domestic quarrels require different virtues and accordingly a different organizational pattern. Various neighborhoods and subcultures have their own levels of tolerable disorder; what may appear to be weaker norms are only different norms. Nor are the members of such subcultures a threat to persons in other neighborhoods — police statistics show that almost all disorder, tolerable or intolerable, occurs among persons who are likely to share common norms because they are acquainted or related. Justice is not an absolute; it can be rationed, providing more or less of one kind rather than another to different neighborhoods. In any case, law enforcement — like any system of compliance — cannot operate effectively without the support and cooperation of those subject to it. In this regard, community norms need not be changed so much as understood, and they are best understood by police of-

273. WILSON, VARITIES OF POLICE BEHAVIOR, *supra* note 8, at 140-71.
274. *Id.* at 172-99.
275. *Id.* at 200-26.
276. *Id.* at 287.

ficers who are not isolated from them. . . . [M]ost impor-
tant, it requires the officers to be controlled by the
neighborhood.[277]

Some may argue that by allowing a community to dictate its
enforcement policies there will be unequal enforcement of the laws.
But there is little uniformity in the application of the laws today.
Local control of the police will not necessarily produce "widely
varying standards"[278] any more than is the case if one compares the
police practices presently employed in urban America.

One commentator, in arguing against community control, sug-
gests that varying enforcement policies will institutionalize selective
enforcement of the law[279] and ultimately divide cities into closed
communities, void of social interaction and mobility.[280] The present
system of selective enforcement is already "institutionalized" but
with no formal sanctions, and no input from the community.[281] Under
the community control model, the citizens will at last have a say in
the shaping of their destiny in this regard.

Defenders of present police practices argue that the community
control models would lead to chaotic police administration since the
police operating procedures would be directed by several,
sometimes conflicting, community units.[282] However, under the pro-
posed model, statutory dictates would necessarily preempt communi-
ty suggestions. Furthermore, each community board could be
preempted by state legislation to guarantee that all due process
standards would be enforced system-wide to insure individual rights
and liberties. Only in those areas where there is no such preemption
should community control be allowed. Likewise, a check on all direc-
tives from the community could be implemented by a city-wide or
state-wide board, not only composed of residents but also police,
police officials and perhaps an elected city official.

Another criticism leveled at community control models relates
to the possible growth of political "bossism" and corruption by mak-
ing such power available to lower echelon levels. However, inherent
in the "bossism" theory is the assumption that politics is not pre-
sent in today's precincts. This is absurd. Practically everything the

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277. *Id.* at 286-87.
278. Jackson, *supra* note 220, at 429-30.
279. AHERN, *supra* note 32, at 175.
280. *Id.* at 174.
281. *See* DAVIS, POLICE DISCRETION, note 83 *supra.*
282. GOLDSTEIN, *supra* note 73, at 121.

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police does has political overtones. Moreover, politics is a phenomenon that exists in most police department functions.[283] Accepting this reality, it is essential to provide community residents control over this political decision-making. As to corruption, it already exists in most departments.[284] By careful legal and political structuring, including avoidance of conflicts of interests by comprehensive regulatory measures aimed at keeping persons with such conflicts off the boards, most of these shortcomings could be alleviated.

Two serious problems face the development of the community control model. One author noted that "the power of most citizens groups dribbles to sorry impotence before the combined power of the city's bureaucracy and police solidarity."[285] Another foresees the ultimate power in the hands of the special interest groups after community enthusiasm wanes.[286] Both problems are real, but can be tackled, particularly if all elements of the citizenry are assured — as they are presently with regard to school boards — that their voice *is* important.

If, in the first instance, this model is presented to the police departments as a joint venture — one formulated to support the department as well as one designed to lessen the patrolman's awesome burden — the proposal may not be viewed as threatening by the law enforcement establishment. Offensive tactics will only exacerbate already existing tensions. An endeavor aimed at collaboration and cooperation is essential. Secondly, once the model is in effect, the individual citizens will become acutely aware of the need for improvements — whether it be increased courtesy, a need for fewer pushers and prostitutes, or for more officers on walking patrol. They eventually will learn to relate to the police, not as an occupation force, but as a professional group present in the community on a daily basis in order to make that area a better place to live.

Through community control of the policing mechanisms and the policies for their enforcement, law would no longer be imposed for

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283. AHERN, *supra* note 32, at 96-97.
284. *Id. See, e.g.,* THE KNAPP COMMISSION REPORT ON POLICE CORRUPTION (1973). *See also* WILSON, VARIETIES OF POLICE BEHAVIOR, *supra* note 8, at 287:
> Though there may be some risk of corruption, that is not the greatest problem we face; or if it is, the real corruption is that practiced by big-league, downtown interests — racketeers, politicians, businessmen — and not by the corner saloon.
285. Jackson, *supra* note 220, at 429.
286. GOLDSTEIN, *supra* note 73, at 146.

the benefit of a privileged few.[287] The need is clear for changing the present system which almost totally excludes from power the "lower echelons" of the people[288] so that they will have power over their own lives and destiny.

CONCLUSION

The alienation and hostility which has long characterized relations between police and the minority community continues to thrive in present-day urban America. The problem manifests itself in a variety of costly ways, from the unwillingness of minority citizens to cooperate with police to the inadequacy of law enforcement in minority neighborhoods. Lest the mutual frustration of police and minority citizens again erupt in the violent confrontations which marked the 1960's, the problem must be taken off the back burners of public attention and urban priorities and recognized as a critical issue facing our society. It is imperative to the future quality of our individual lives that solutions be found.

The changes envisioned herein will not likely come about, even in interested communities, without legislative leadership. Although particular far-sighted and cooperative communities may impose upon themselves broad police-community reforms, it is probable that the large urban complexes will not act to institutionalize such changes unless compelled.

Hence, it is the opinon of the author that the onus for such reforms must come from state or local legislative bodies. State legislatures must allow local governmental units sufficient latitude in terms of home rule to develop community control changes. State lawmakers should also insure that state police departments conform with community control concepts. Similar to state legislatures, county boards and municipal councils would adopt measures aimed at facilitating community control.

With regard to the specific design of the legislation, the particular features thereof should be molded to meet the needs of the jurisdiction in question. For example, some communities might prefer to model their community control board after the framework of its school board, while others might choose to make it a special arm of its county or urban council. Similarly, in terms of developing the police-community control concept, some jurisdictions might opt

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287.   C. REICH, THE GREENING OF AMERICA 229 (1970).
288.   *Id.* at 291.

for a relatively cautious step-by-step evolution of the reforms sug-
gested, while others might desire to experiment with bold, dramatic
creations in police-community structures. In any event, it would be
simplistic to suggest a design that would somehow be palatable to
all communities. Community control of the police necessarily
assumes that these reforms be a product of the community's *own*
design.

Community control of the police should not be considered the
panacea for all police-community problems. But, in conjunction with
the suggested institutional changes and the community-relations
programs, the community control model can develop into a viable
alternative to the autonomous chaotic law enforcement establish-
ment which exists today.

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