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## WANTED: UNIFORM LAW ENFORCEMENT

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Since World War I there have been no fewer than forty major crime study commissions of one sort or another in the states and cities of the Nation. The range of subjects for inquiry has encompassed the entire field of criminal law enforcement and the agencies and officers engaged in the administration of justice. These commissions have published much from their inquiries and have made many recommendations. Many of them have found their way into the statute books and thus have become a part of public policy in matters of crime control.

Whatever the original purpose of inquiry, research and the use of findings, one feature is common to most of them: the laws defining certain actions as crimes are applied unequally within a state by the several agencies engaged in law enforcement. This reported lack of uniform application of the criminal laws ranges from complacency (through ignorance or design) to the most strict application of the law.

This is an unhealthy situation and one which, through failure to correct it, has contributed unquestionably to increased lawlessness, and encouraged the growth of organized crime and criminal syndicates in various forms. These conditions have made many headlines and have provoked much discussion in the various public forums. But there is perhaps a greater evil than the knowledge of lawlessness and one which may not be so widely discussed or publicized. The failure to enforce the laws whether by corruption or difficulty of enforcement means that some officers and agencies of government actually may be contributing to a breakdown in public respect for law and order.

Much of the blame for unequal application of the criminal laws is traceable to the nature of the federal system. Our high purpose in supporting and maintaining the dual system of government has been to prevent concentration of authority which might lead to abuses of our liberties. If enforcement were the responsibility of a central authority only, such as a national police force, then fears, justifiably raised, would be renewed about the evils of central authority. It could mean the beginning of the end of an era in local and regional self-government. To suggest that change should require an extended and careful look into the probable consequences of the action proposed.

Most of the criminal laws of the nation are state laws. These formal utterances of state legislatures are presumed to apply equally throughout all of the state. Officials, state and local, subscribe to oaths to observe and enforce these laws. In interpreting the metes and bounds of laws the courts follow the rule of a single meaning for an entire state.

Throughout the years of development of state criminal codes greater attention

has been given to methods for enforcement but with less attention to the *extent* of enforcement or the possibilities of successful enforcement.

It has been traditional in the United States that state criminal laws are enforced (i.e., the function of detection, apprehension, and prosecution) by local officials, local in the sense that these officials are selected either by the voters or through local executive action in the various local subdivisions of the state—the townships, counties, and cities. Thus, most criminal law enforcement is under the control of a variety of local governmental units.

A feature common to most all law enforcement continues to be the complete absence of any reliable means of determining the degree to which laws are being observed, or the extent to which controls of some kind might be instituted over the multitude of locally selected officials who are charged with enforcement.

Some states long ago found a partial answer to some of these problems in the establishment of the state patrol or state police or the state constabulary. Indeed, these state-wide forces may be the “best yet” method of controlling intrastate crime, still preserving a high degree of local independence. Unfortunately, however, many of the state police and patrol forces are limited by law or administrative order to criminal activities arising from use of the state highways, restricting them primarily to the more rural areas of the state. Obviously if the state forces were to attempt enforcement of state laws within the municipalities it would mean substantially increased forces and would serve to duplicate some of the municipal police organization. The conflicts which might arise under such conditions are obvious also, and the political considerations would probably prevent the extension of the state’s police arm into the cities on a mandatory basis. Additionally, the financial and personnel problems involved would be substantial.

Other means have been introduced to insure some measure of cooperation as a substitute for centralization and to correct, partially, the lack of any central supervision or control over the various municipal enforcement agencies. Since, for example, most small cities cannot support identification laboratories of any consequence, state facilities have been extended to them upon local request. Similarly, most of the state police and patrols respond, upon call, to assist local officials in the problem of identification and the evaluation of evidence and the apprehension of persons involved in crime. Furthermore, assistance in prosecution by the state attorney general is no longer a rarity.

These relationships, mostly on an informal basis, have meant better enforcement of the criminal laws. But they have not produced as much as the public demands or should require—not if the reports of crime commissions are a reliable gauge.

More than twenty years ago, the New York Crime Commission recommended that the several systems of police in that state be simplified and the various officers and agencies such as “constables, sheriffs, city and village police might be so brought together in one unit under one head making for greater efficiency in administration and better results in the apprehension of criminals.”

But would such a proposal not seriously cripple local-self government? Would unification of all enforcement agencies in the state, county, township, city, under state control mean a stronger medicine for the disease than the public would accept?

Are we ready to eliminate reliance upon local officers? If so, unification for the state would mean that we have reached the point of a complete breakdown in local law enforcement. There is no justification for such a drastic step, despite some evidences here and there to the contrary.

It is true that the very establishment of the state police indicated a lack of confidence in local self-government and reflected to the discredit of some local law enforcement officials for their failure to enforce the laws of the state or their inability to enforce them. Many of the laws not enforced are the so-called "unpopular laws" particularly those concerning liquor regulation, gambling, prostitution, Sunday closing, certain forms of "amusement" and even the state's traffic and motor vehicle codes.

The inability or unwillingness of local governments to enforce these and other areas in the state criminal code therefore gave strong support to the state police movement particularly where the evidence showed not only no enforcement policy but no pretense of enforcement. It has been reported that some members of the Illinois legislature opposed the establishment of the state police in that state because they were openly opposed to the uniform enforcement of certain state laws.

Some sheriffs opposed the establishment of state police because they had convenient arrangements for "winking" at some types of violations in exchange for favors or even financial stipulations, a practice in itself a violation of the criminal laws. The Uniform Crime Reports continue to record increases in numbers and scope of violations. Have we become a nation of the lawless? To obtain enforcement are we to be reduced to a population of violators and enforcers somewhat evenly divided? Or, do we need to recast some of our criminal code? Do we need to undertake some different administrative arrangements, particularly at the local level to ensure a greater degree of enforcement? What can be done about the fact that some laws are unpopular in some areas of a state, not in others, or more unpopular in some than in others?

We cannot accept any sort of local option to determine whether certain criminal laws will be observed in one community and not in a neighboring one. Equally it is inconceivable that we should tolerate a society in which two standards prevail; one where the law specifies that an action is subject to criminal penalty yet where in neighboring cities or counties the law is enforced in one, ignored or given token enforcement at most in the second. Of course, the problem is acute between adjoining states because of differences in the state's criminal codes, and particularly so where metropolitan areas cut across state lines.

We do need some revisions of the criminal codes. A magazine with a national circulation has made mockery of the criminal codes through its publication over many years of some of the archaic and ridiculous laws in the states and ordinances of cities. All criminal codes should be revised periodically and pruned where social conditions have changed. Otherwise, to enforce many of them would make the police and prosecuting officials a laughing stock and thereby increase further the disrespect for law and enforcement officials.

The penalties prescribed by some codes need to be altered, too. Public opinion is such in some areas that prosecutors, juries and judges may not "find" defendants

guilty if brought before them by the police for claimed violations. They do this on occasion because they believe to do so would impose injustices.

What is the result of such malefactions? The police, state and local, including sheriffs, will employ "selective" law enforcement methods, enforcing those laws which they think the public will accept (and this includes prosecutors, judges and juries). And where there is any degree of corruption between police and prosecutors and violators a more marked degree of selection will appear. If the provisions of the criminal law of a state are found to be so unpopular or unacceptable, or unjust in operation, the remedy is not that of the discretion of the police. The solution is to have law enforcement officials put these conditions in the form of reports to executive and legislative bodies for possible solution. A legislative body would not long overlook the recommendations of sheriffs, county attorneys, or police departments and state-wide associations of law enforcement officials. To continue to have law without observance is to extend crime. It is another link in the chain of discrediting law itself. It does not take long for the word to circulate that this or that law is not observed in this or that town or country, or that the penalties will be imposed rarely.

We cannot accept the prospects of an insoluble dilemma. Rather we can look to the adoption of one or more of a number of possible solutions and reforms, some of which are suggested below. Admittedly, however, they would not erase crime, but the adoption of several of them should raise the standards of performance and reduce crime rates substantially.

1. The state police and state patrols should extend formal and informal assistance to all local enforcement officials. This does not mean supplanting local officials however valid some of the arguments for eliminating most of the criminal law enforcement functions of the county sheriff. During the last decade several states have increased the personnel of their state police and patrols. These were the result not so much because of increased highway mileage or new and added functions, but as a partial answer to public demands for more extensive enforcement of the motor vehicle codes, the prevention and detection of crimes arising from the use of the highways, and for more extensive facilities in investigation and detection and the analysis of evidence. The addition of these officers should mean more extensive cooperation with local officials, too. It is possible that increased cooperation would form the medium for training programs under state supervision.

2. The recruiting and training programs of substantial numbers of towns and cities is hardly a credit to good law enforcement. These cities, especially some of the smaller ones, do not have the means for pre-service or in-service training worthy of the names. Training of recruits and retraining could be undertaken by the state under the direction of the state police or patrol. Indeed, this training could be incorporated into the already existing state programs and should strengthen them. Some arrangements could be worked out for payment by the local governments participating.

3. Local crime identification laboratory facilities should be improved for many are less than adequate. Many hardly qualify being so labeled. Much equipment is sub-standard. Improved techniques in laboratory science and the gathering and preserving of evidence make it mandatory that the most skilled technicians are

staffed. Furthermore, every officer in the police arms of the state (including local subdivisions) should have more than a basic knowledge in this vital area. The state police and patrol facilities should be enlarged and made readily available to local officers, particularly for those whose facilities or abilities may not reach a minimum standard.

4. State control of local officers could be extended. One kind of control is provided where the governor appoints the local police commissions. Presumably a governor would have power to require the uniform application of the state's criminal laws through his commissioners, a power similar to that which he may enjoy in directing the work of the state police or patrol. Missouri is an example of this kind of control, but the experience in Missouri is not equal to the theory. A governor desiring to do so, could, it would appear, make use of his appointive power and insure compliance with the state's laws even though it be limited in scope geographically. It could be extended to other cities, especially the larger ones, and might become a pattern for other states. It is recognized that this recommendation has limited political possibilities since the experience of state executive control was unsatisfactory and virtually has been abandoned. The failure was not the arrangement, rather it was a failure in administration.

5. Central state supervision of local enforcement agencies could be extended or created where none exists. This can be accomplished in a number of ways. In addition to the extension of personnel and laboratory services, the state could require periodic reports on centrally prescribed forms, thereby providing the means for periodic analysis of enforcement programs. The success of it would depend upon the information required and the degree of compliance. Inspections by some state agency—by a department of justice, for example—could accompany the reporting. Reports and inspections could be combined. The results should show those areas of laxity, inefficiency, and perhaps corruption wherever it exists.

6. Another form of control already legally possible in many states is to lodge power in a state official, such as the governor or attorney general, to suspend or remove local officials who are not enforcing the law or who are guilty of any kind of misfeasance or malfeasance in office. Could not this power be used to include most of the criticisms against failure to enforce the laws? The record shows, however, that governors have used the removal or suspension power sparingly and usually only in the most flagrant cases. In fairness to the governors, it should be recalled that they may not have a staff either adequate or qualified to determine whether the criminal laws are being observed or the extent of observance and enforcement.

7. The California Special Crime Study Commission on Organized Crime recommended in its 1950 report that "organized crime in California can be abated or eliminated only by making the rackets both unprofitable and unsafe. This can be accomplished by sustained coordinated effort on the part of all branches of government, civil as well as criminal." The Commission found systematic evasions of tax payments in the operation of illegal businesses, and considered the state's statutes inadequate to insure successful enforcement. The Commission also recommended that income tax laws (state and national) be so amended that expenses and losses in criminal enterprises cannot be deducted for income tax purposes. These recommendations, if

feasible, could take some of the profits out of crime perhaps to dry up the attractive features of many criminal activities. If such a program were made a part of public policy through enabling legislation, it would require increased national-state-local cooperation of all interested agencies of government whose jurisdictions are over civil and criminal matters.

8. Dean O. W. Wilson wrote recently that one possible solution of the English system of grants in aid is a system which could require the maintenance of minimum acceptable standards as a condition for qualifying for money grants. According to J. M. Hart in his "The British Police", the English system applies to standards of organization, such as "the strength of the force, with particular regard to its adequacy; the allocation of the work and the responsibilities given to the various ranks; police buildings and houses; methods of communication . . . ; the maintenance of discipline; training; equipment; uniforms; and last, but not least, the methods and success of the force in preventing and detecting crime." Certainly this is a broad area for supervision. Hart says that the Home Secretary may exert rather extensive control over the local police. "If they refuse to comply with the Home Secretary's regulations, if they choose a chief constable who is not acceptable to him, if they fail to appoint enough policemen, or to maintain discipline impartially and properly, [then] in the last resort when all other methods have failed the Home Secretary can withhold the Government grant in aid of police expenditure." The monetary grants in England and Wales to these police authorities is equal to one-half of all their approved expenditures on police purposes. Hart warns us, however, that "it is not easy for an outsider to get a complete picture of the occasions on which grant has been used as an instrument of persuasion as there is no systematic method of publishing the facts. In some cases, they come out in parliament or the press, in others for no apparent reason, they do not. But the number of occasions on which the Home Office has applied this sanction during the last 20 years does not probably exceed ten or twelve."

The grant in aid has been used successfully in the United States in many functions of government. The impact on local government is real, but whether it is adverse is not easily determined. If extended to the administration of the criminal laws it might serve to improve local standards and provide greater uniformity without producing the evils of centralization. It is worthy of attention.