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# POLICE SCIENCE

## CRIMES OF NATIONAL SIGNIFICANCE

WILLIAM P. BROWN

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The killing of Lee Harvey Oswald was an important incident in and of itself, for Lynch Law is an abomination in a civilized land. One is revolted and stunned by the thought that a man could be shot down while manacled, under immediate guard, and in a police building. Oswald—if he had been convicted—would have merited death, but it was a bitter travesty on our tradition when a private citizen could substitute for judge, jury, and executioner.

But there is far more than the conventional mob injustice represented here. The bullet that dispatched Oswald made an eternal mystery and a lynch victim out of a singularly important criminal. An intensive study of this man might have given much information which we now can never get. Most important, that murder and the events of the two days that preceded it caricatured American justice at a time when the attention of the whole world was focused on Dallas.

President Kennedy's death had evoked a great, worldwide outpouring of positive emotion. Everything that was connected in any way with the tragedy was seen in a magnified and intense fashion. Well handled, the Oswald case could have reflected an image of American justice worthy of the memory of a high and great spirit. Instead, November 24 tarnished and shadowed the memory of November 22. Throughout the World the great sympathy reaction chilled. *Isvestia* commented:

We have seen the grief of the American nation and profoundly sympathize with it. We have seen a mad detective thriller and we reject it with contempt and anger.

### THE ISSUE—A CRIME OF NATIONAL SIGNIFICANCE

Between November 22 and November 24 we lived through a nightmare, but we will miss a valuable lesson if we do not recognize that the events of those days highlighted an important problem that has not been generally considered or even recognized. The assassination of the President was a crime of great significance to the entire Nation. The handling of that event was as important to the United States as the handling of a major international incident. Unfortunately, however, the resources of the Dallas Police Department, an organization that has earned a good reputation, were not adequate to the task. That failure raises a sobering question. How many police organizations could have risen to the demands occasioned by a crime of this magnitude? The answer seems to be—very few!

The national image, of course, is affected by the handling of many police tasks. It has been pointed out, for example, that the policing of interracial incidents in some cities has had an adverse effect on the image of the United States for large parts of the world. However, the desegregation issues are part of a great swelling movement, and the conflict of forces within the country is worthwhile in gradually working out a solution that does have a democratic basis.

Crimes such as the President's assassination and its aftermath represent another type of emergency; that in which the lightning strikes rather than where some long smoldering issue emerges into our consciousness. They are the isolated cases, the wounds rather than the diseases of our society, and

emergency measures of the highest quality are called for.

If we accept this distinction it is possible to separate, from amongst the many issues which do affect the national image, some crimes which seem to merit the special consideration that is here being argued. They would include assaults directed at certain high Federal officials and involving in some way their official capacity, and crimes where representatives of foreign governments or important foreign movements are concerned as victims, witnesses, or defendants. In Dallas we were given a sad example of the first type. The 1956 disappearance of the Dominican refugee, Dr. Jesus Galindez<sup>1</sup>, might illustrate the second possibility.

This problem of the foreign dignitaries deserves some elaboration for it has taken on new dimensions which have not been thrust into the spotlight in recent days. The United States has always been a haven for the displaced of the World. Now with the United Nations in New York City it increasingly serves as the headquarters of the World.

The displaced bring with them their hates. Then since our shores must be open to the new ruling groups as well as to those they have forced out, the actual conflict is thrust upon us. The writer has seen large numbers of Iron Curtain refugees—American citizens by then—crowding the police barricades outside the Russian or Hungarian or Polish consulates. He has talked with exiles from dictator-controlled countries who were fearful of being assassinated in the middle of Manhattan.

It must be recognized that an incident much less serious than the assassination of some foreign personage might begin the chain of events which could severely damage our international position. During that 1960 UN meeting, for example, an attempted assault on Krushchev or any of a score of his cohorts here might have had severe repercussions.

Similarly, it is not only Soviet bloc notables whose involvement might affect us. We are hosts now to the representatives of all nations, including many that are very new. There have been incidents in which some of these diplomats have already been involved as perpetrators or victims of, or as witnesses to, crimes. The issue has been

<sup>1</sup> Dr. Galindez, a prominent anti-Trujillo Dominican refugee who was teaching at Columbia University in New York City, disappeared under circumstances suggesting that he had been kidnaped, returned to the Dominican Republic, and murdered there. No proven solution to this case has been established.

complicated because, although many of these gentlemen are diplomats of long standing, others are new to the responsibilities and honors of diplomatic office. This strangeness has and will be reflected in some instances in rather non-diplomatic behavior. Often we are or will be in a position where just being right is insufficient. Our police and our other official representatives can be entirely correct and still appear as the bullying representatives of a big and hostile power if wisdom and diplomacy are not combined with rectitude. It is quite conceivable that our interest in a major issue before the United Nations might be affected by the mishandling or the unfavorable reporting of a single situation involving one of these individuals, even if only as a witness or complainant.

The contention is, then, that crimes involving certain high Federal officials or representatives of foreign powers or interests are so possible and so important to the national welfare that special provisions should be made for the official response to them. This potential imposes a two-fold obligation on us. First, we must prevent any such crime if it is within our power to do so. Second, we must respond properly if such a crime does occur. Prevention is an important area for study although it deals with remote possibilities. It has received much attention, particularly as concerns dignitary protection. Official response, although it treats of an accomplished fact, has not been given the same study. This paper deals with the latter problem, of assuring that if a crime of national significance does occur, official response will be adequate and proper.

Standards for adequate official response to a crime of national significance are of crucial importance, and they can be developed. Such standards would be of particular value in protecting the image we present to foreign observers who sometimes assume that official action on any level—municipal, state, or national—follows a national government's dictated pattern.

#### THE PROBLEM ANALYZED

It may be helpful to consider at this point some of the components of this problem. The first consideration and one of great importance stems from the issue of jurisdiction. A local or state police agency has control over most criminal investigations of violence or theft regardless of their importance to the Nation; the Federal agencies participate more or less by sufferance. President Kennedy's death—certainly one of the century's most serious crimes—involved dimensions and

degrees of complexity that are difficult to imagine, let alone for an ordinary police agency to cope with. Still, according to the rules, the President's death had to be dealt with by the local department in the same way as any other murder.

The local jurisdiction problem is complicated by the fact that there are great differences in the quality and the resources of local police agencies. Some have acquired considerable experience and ability in dealing with their federal and diplomatic clients, but in many cities low salaries, long hours, and undermanned and underequipped forces lead to a struggle for existence rather than the pursuit of excellence. In short, even the best locally derived solutions must vary in quality, and "the best" is a distinction attained by very few. But over and above all these important variances, there is the basic fact, a crime of national significance represents problem dimensions for which almost any local agency is poorly equipped.

Conventional police procedures—the kind that departments must get along with if they are to handle the volume and variety of situations with which they must cope—are shaped to conventional police problems. They are not tight enough to guard against the bizarre possibilities that can make a serious incident a national nightmare. In Dallas it was the killing of an accused assassin; in some other city on some future day it may be the mishandling of the case against some exile who has assassinated a Communist dignitary here on official business. In the event that did occur it was our national pride and image that was at stake; if we ever meet that hypothetical incident the results may be a great deal more grim.

Extraordinary pressures are created by a case such as the assassination. Suddenly, the police department which has been stunned by the initial incident is deluged by forces paralytic to its proper functioning.

Immediately, there is the frightening awareness that the incident may trigger off other acts of violence by those paranoids and frustrates of whose existence every police official is painfully aware. The possibility of a widespread plot must be considered. Of course the highly respectable who crowd into the picture may be even more of a problem than are those who would perpetrate further violence. A host of high-powered people appear on the scene—federal and state officials, representatives of civil rights or other special interest groups, and the press and television reporters and cameramen—and they stay and they

question deeply and interminably and they watch for anything out of which they can wring a report, a recommendation, or a story. The police usually react nervously and defensively in their recognition that these probing and often volatile people can do them much good or harm.

Strong local pressures are evoked. The local power structure may want a conviction, a cleared name, and a gubernatorial candidacy for the district attorney; it may want minimal action taken so those "outsiders" will not get any idea that they can meddle. In either case, there is little sentiment for the high-quality, civil rights-observing police practice that should be followed if the national interest is to be served.

There is also the matter of experience. Conventional police work does not prepare a man to meet the kind of problems we are discussing here. The average police official will spend an entire lifetime without encountering one such incident; it will be the rare man who must deal with two of them. The experience that is important here is not that of investigating a murder, or taking a complaint, or interrogating or guarding a witness; it is doing any of these things well under strange and great pressure, and with an eye for the judgment of history and of the World.

#### WHAT CAN BE DONE?

Prompt, proper, and adequate official response is needed if a crime of national significance is to be minimized in its effect on our welfare. More specifically, the requisites include clear and general agreement on:

1. What is involved in the concept of a crime of national significance? Here there is a difficult problem for it is obviously impossible to state a simple definition at once acceptable to all and, at the same time, inclusive of all possible incidents in which the national interest would clearly outweigh the values of our traditional system of local control over criminal investigation. The whole issue can be reduced to an absurdity if the position is taken that any crime may, through some unusual circumstance, assume national significance and therefore that every such crime must be included in the definition.

The argument advanced in this paper is that it is possible to make practical distinctions which will allow us to begin the process of improving our police practice in an area that is of vital concern to all. The suggestion has been offered here that the crimes considered to be in this category might

include "assaults directed at certain high federal officials and involving in some way their official capacity, and crimes where representatives of foreign governments or important foreign movements are concerned as victims, witnesses, or defendants." This proposal is offered merely as a starting point for discussion. It could well be modified or changed. The important point is to begin the discussion.

2. The procedures to be followed in meeting such crimes include:

a. The tactical considerations that are involved. A crime that might fit all the characteristics indicating that it was of national significance may involve little in the way of emergency control. Most incidents involving foreign dignitaries, for example, make very little impact on the public consciousness at the time of their occurrence. However, other crimes of importance to the nation—the assassination of President Kennedy being a prime example—demand prodigious official effort to meet the immediate emergencies created. The provision of emergency medical services, the protection of other important personages, the need for immediate intelligence evaluation of the incident, the re-deployment of personnel; these are only a few of the considerations that should be carefully thought through in general terms by police officials long before an incident takes place. Such measures form an important, often crucial, part of the necessary background for adequate official response.

b. The determination and provision of the best possible investigative staff and director, if investigation is a factor. The problem here is to establish a definite mechanism whereby a specified individual, group, or agency is determined as best able to conduct and accomplish the investigation, and then assigned the responsibility and the necessary authority. The "who" depends largely upon the area basis for which a program is established and upon the very fundamental consideration of whether the program is a voluntary cooperative effort or one established by statute and requiring this cooperation.

A statewide arrangement might call for the creation of zones, each with its specified director of such investigation. Alternatively, it might provide that one individual or office in the state would have this duty. Regional arrangements might follow the same pattern.

A countrywide program to meet the problem

of crimes of national significance might use a zone arrangement or might be developed around the existing organization of some Federal investigative agency. The Federal Bureau of Investigation comes in mind as a source of such talent for it has the extraordinary disciplinary standards needed for proper response under pressure and it can quickly provide investigators with relatively high and uniform standards almost anywhere. Another consideration is that it has devoted great effort to the development of effective working relationships with local police. It could establish, just as it has with its famous identification teams, specially trained and organized investigation squads to work with and in the framework of a local law enforcement agency.

c. The development of ethical, legally correct, and maximally effective standards for the treatment of complainants, prisoners, and witnesses; and some mechanism for making sure that these standards are achieved.

d. Guidelines for dealing with the press and public information media. As previously noted, the disruptive power of a large and news-hungry group of newspaper or television reporters and cameramen can be very great. Here, above all, the public interest could benefit if the official spokesman had:

(1) Maximum protection from interference with proper official response.

(2) A recognized standard detailing exactly what and how cooperation with the news media should be effected.

Even if no other action were to be taken in terms of meeting the problems posed by crimes of national significance, the clarifying measures that have been proposed to this point would have great importance. They would give the harassed police officer suddenly faced with such an emergency two things he needs most of all, a blueprint and support for proper action.

But something more should be done. Even if one could assume the absence of local limitations, pressures, or prejudices, more would be needed. These freedoms plus a clearer understanding of what is involved and a general professional consensus as to what should be done are still insufficient to yield the kind of cooperation that comes only from a definite ordering of the powers needed to accomplish the task. This objective can only be achieved through the adoption of legally binding standards and rules for law enforcement action in

such an emergency. Most local officials would welcome a fair and sound compulsory pattern, but it would be even more valuable in dealing with the supreme individualists or those who see personal or political gain in going their isolated ways.

The "how" of providing a statutorily defined pattern for dealing with crimes of national significance raises some thorny issues but several alternatives seem possible.

A state could act entirely on its own. It could adopt the standards here discussed and impose them on its own localities by requiring that any local jurisdiction facing such a case follow a prescribed course that would include the immediate notification of the person designated as having responsibility for dealing with such an incident. This official might then assume charge of the incident armed with definite powers and obligations. Such an alternative has disadvantages in that it still does not mesh in the state and federal forces, but it would allow for a full mobilization of available resources and could protect against action controlled by inadequately equipped and staffed agencies.

Unilateral action by the National Government has also been proposed. New laws have been suggested which would make an assault on or the assassination of certain national officials, a violation of the Federal code and therefore enforceable by Federal law enforcement personnel. This solution may be adopted, but it is limited and involves the conflict between the State and Federal power advocates, and actually provides Federal intervention rather than Federal-State cooperation.

Voluntary cooperation between Federal and State law enforcement officials would seem to offer

better possibilities than isolated action by either. An agency such as the Advisory Commission on Intergovernmental Relations would be in a unique position to lead in the development of a program of mutually acceptable legal formulas adequate to the task. This could be implemented by a Federal law and a complementary model State Act which, in the sad light of recent events, might achieve passage in most states. Security measures, the investigation of nationally significant crimes, and the detention and/or treatment of prisoners, witnesses, or complainants important to the national interest could be covered under such statutes.

In the 48 hours that followed the death of President Kennedy, a crude picture of American justice was presented to a shocked and attentive world. The events which culminated in the shooting of Lee Oswald highlighted the problem of exclusive and undirected local jurisdiction over crimes which have great significance to the welfare and the world image of our Nation. Crimes having this kind of importance will be committed again. Our national interest can only be safeguarded by adopting standards and legal provisions governing official response when these tragedies occur.

John Fitzgerald Kennedy personified the confluence of intellect and principle. Intellect and principle, experience, and effort could be combined to produce a plan to meet crimes of national significance with efficiency, legality, and propriety. Such a construct would be an appropriate tribute to that great American whose death has brought to our attention this flaw in the administration of American criminal justice.