

POLICE EMPLOYEE ORGANIZATIONS AND ACCOUNTABILITY PROCEDURES IN THREE CITIES: SOME REFLECTIONS ON POLICE POLICY-MAKING

STEPHEN C. HALPERN

State University of New York at Buffalo

AUTHOR'S NOTE: I would like to thank J. Woodford Howard, Jr. and David Goodwin for their comments on an earlier draft of the paper.

James Q. Wilson (1971: 4-5) has observed that militant police unions may constitute the greatest obstacle to reform and innovation in contemporary American police practice. To date, most social science studies of the police have focused on the analysis and consequences of individual officer behavior and not on collective actions by policemen to influence law enforcement policy. The absence of in-depth studies of police from a group perspective is significant in view of research (Horton, 1970; Kaufman, 1969) which indicates that municipal agencies in larger cities are moving toward a joint management-labor determination of goals and administration under the prodding of activist employee associations.

This paper examines the role played by police associations in formulating and implementing police accountability procedures in Baltimore, Philadelphia and Buffalo. My hope is not to record isolated case histories of police review efforts, but to analyze how the presence and actions of employee organization leaders may affect the behavior and policies of department leaders.

The Scope of Inquiry

Michael Lipsky (1972) has noted that the accountability of such "street level bureaucrats" as policemen, teachers and social workers is tenuous. Since they are rarely dependent upon the approval and satisfaction of their clients, they are inclined to misperceive client needs, motives and capabilities. Review of police behavior is particularly important because police are the most visible representatives and enforcers of the legal order and because they maintain a near monopoly on the lawful use of domestic force. The controversy over police accountability reflects concern for civilian control of the military arm of local communities.

I have focused on the impact police employee organizations have had on two methods of attempted regulation of the police—internal departmental review and civilian review boards. Internal review consists of procedures departments have established to evaluate charges of misconduct initiated either by superior officers or civilians. Typically, a civilian review board is a publicly constituted committee of citizens empowered to accept civilian complaints, review the disposition of those complaints by the department, and recommend remedial action to the commissioner. Civilian review does not preclude departmental disciplinary procedures; it supplements them by having the evidence and department decision reviewed in a non-police setting.

Research Approach

Where possible, I sought access to participants in police organization activities, spending four months in late 1971 in open-ended interviewing and examining data and documents made available by police departments and associations.¹ To supplement direct access, organizational publications, professional police journals, and newspaper and magazine accounts were examined. The availability of departmental and association files and data was uneven, ranging from extensive access in Baltimore to minimal entrée in Philadelphia. The differing levels of access are undoubtedly reflected in the case reports.

Some of the information is dated because police bureaucrats and association leaders perceive less threat in the release of older information. Discussing matters of recent history, however, permitted me access to individuals who were no longer active in department or police association affairs and who, consequently, discussed more freely the politics of police accountability. Hard, quantifiable data was difficult to secure. Generally speaking, the data I could get varied at the whim of department and association leaders. Nevertheless, it was my conviction from the outset, when forewarned of the inevitability of such difficulties, that the matter of police organizations merited what research I could practicably do on the basis of the data I could collect or cajole from informed sources.

Civilian Review Boards

In October 1958, Philadelphia became the first city in the nation to establish a civilian review board. The Police Review Board (P.R.B.), created by an executive order of Mayor Richardson Dilworth, was authorized to accept citizen complaints

of police misconduct and, after study, to make recommendations to the commissioner concerning the innocence, guilt and possible punishment of officers involved.² The Philadelphia lodge of the Fraternal Order of the Police (F.O.P.), a loose national association of policemen, disapproved of the civilian review idea from the outset. One year after the board's creation, F.O.P. attorneys filed a complaint-in-equity in the Philadelphia courts in behalf of seven men awaiting hearings before the Board (*Conway v. Dilworth*, 1959). The F.O.P. maintained that, because the police commissioner invariably followed the Board's recommendations, in effect, the Board disciplined department personnel in violation of the city charter which stipulated that civilian boards created to oversee city agencies were to be merely advisory (*Philadelphia Charter*, Art. III, Ch. 9, § 3-917, 1951).³ Shortly after the city filed an appeal of an initial court decision favorable to the F.O.P., the members of the Board announced an out-of-court compromise with the police group. Though the agreement did not seriously affect the Board's ability to function, it did enhance the position of the F.O.P. because it expressly acknowledged the F.O.P.'s right to represent officers before the P.R.B.⁴ Because most policemen either could not afford or were unwilling to retain a private attorney for such appearances, membership in and amicable relations with the lodge took on increased significance.⁵ The right to represent policemen at hearings meant partial F.O.P. access to the operations of the Board, renamed the Police Advisory Board (P.A.B.), and the opportunity to provide a critical service for Philadelphia policemen.

Following the settlement of February 1960, the Board remained in the background of Philadelphia politics and F.O.P. priorities for nearly four and one-half years. The fight against the Board was revived by John Harrington, a sergeant in Philadelphia's elite Highway Patrol unit, who headed a victorious insurgent slate in lodge elections in 1964. Harrington, having run unsuccessfully for the F.O.P. lodge presidency in 1960 and 1962, argued that the defensive and unaggressive posture of the incumbent F.O.P. leaders had contributed to declining respect in Philadelphia for law and law enforcement officers.

Barely three months after the election of 1964, Harrington began a series of harsh public criticisms of the P.A.B., claiming that, while it had failed to uncover much police misconduct, the Board had succeeded in lowering the morale and efficiency of the department. The renewed campaign against the Board

gathered momentum in August 1964, when three days of rioting and looting in North-Central Philadelphia caused property damage estimated at \$3,000,000 and injuries to one hundred policemen and more than two hundred civilians (Lohman and Misner, 1966: 14). The new lodge president explained the connection between the civilian board and the riot in these blunt words: "If it hadn't been for the P.A.B. we would have grabbed them [the rioters] and if they resisted hit them with our black jacks" (Turner, 1968: 214). The rioting persisted for nearly four days, F.O.P. leaders claimed, only because Philadelphia policemen were reluctant to use adequate force for fear of being brought before the board.⁶

Harrington used his well-publicized battle against the Philadelphia Board successfully in his bid for the F.O.P. national presidency in 1965. Citing the creation of a civilian review board in Rochester and the efforts to introduce one in New York, he promised that, if elected, the struggle against all such boards would be his first priority.

A month after the F.O.P. national election, an F.O.P. suit was filed, once again seeking to have the courts abolish the P.A.B. (*Harrington v. Tate*, 1965). In March 1966, the Philadelphia Common Pleas Court decided in favor of the F.O.P., holding that the Board was "created for purposes and functions not authorized by law" because it operated to review, not merely advise the police department (*Harrington v. Tate*, 1965, at 37). The Board was restrained from scheduling hearings on complaints until the city's appeal was decided. Without making public the reasons for his decision, Mayor James Tate advised the city solicitor to delay appeal.

For nearly two and one-half years the Board languished. Only after some members of the Board threatened to appeal independently in mid-1968 did the city solicitor's office proceed. In 1969, the Pennsylvania Supreme Court reversed the lower court and upheld the authority of the Philadelphia mayor to establish a civilian review board (*Harrington v. Tate*, 1969). Inadequate staffing, the lack of budgetary funding, and the inability to hold hearings for nearly three years proved insurmountable obstacles in the effort to reconstitute the Board. In December 1969, while attending a promotional ceremony at police headquarters, Mayor Tate announced that as a "Christmas gift" to the men of the department he was issuing an executive order disbanding the Board.

The F.O.P. review board fight in Philadelphia, the first

police association challenge to a civilian review board, presaged numerous other such fights in American cities. The Philadelphia struggle may be especially instructive because it suggests that the revived attack on the Board in 1964 derived, in part, from internal organizational strife as Harrington exploited the issue in his quest for the presidency of both the local lodge and national organization. Richard Murphy (1970: 126) has suggested that vying leadership factions in public employee unions may be forced to seek new issues and demonstrate increasing militancy in order to develop or retain a constituency. Harrington's fight against the review board may have grown out of such needs.

In 1960, 1962 and 1964, Harrington ran for the lodge presidency as an insurgent candidate against the chosen successor of a former lodge president.⁷ The review board emerged as an issue which could be profitably utilized by Harrington. There are data indicating that less than one-third of a group of Philadelphia patrolmen with five years experience thought that the public viewed them "favorably" or "very favorably" (Savitz, 1970: 696). Evidence from a number of other studies also indicates that policemen are especially sensitive to threats to their authority (Westley, 1970: 21; La Fave, 1962: 231; Wolfgang, 1966: 52; Toch, 1965: 24). The low estimate police have of public support, their sensitivity to the deference shown police authority, wide discretion in police work situations (Wilson, 1969: 21) and unattainable role expectations (Manning, 1971) make policemen insecure bureaucrats and civilian review boards attractive issues for leaders (or would-be leaders) of police associations to dramatize and exploit.

Baltimore

Similar considerations may explain the intense reactions of leaders of the two police employee organizations in Baltimore when the prospect of a civilian review board arose in that city. Even before the idea was proposed, the attorney for the Baltimore F.O.P. wrote Maryland Governor Marvin Mandel, informing him that the organization "irrevocably denounces and vigorously opposes the formation of any such boards in the state of Maryland or in the city of Baltimore."⁸

One week after he took office in 1966, Commissioner Donald Pomerleau announced that a civilian review board was unnecessary because the department's Internal Investigation Division would investigate all complaints (*Baltimore Evening Sun*, September 29, 1966). In June of 1970, however, the Baltimore Urban

Coalition (B.U.C.) called for the establishment of a Community Relations Board. The Board, to be comprised of fifteen persons — one citizen from each of the nine police districts, two appointees each by the mayor and governor, one by the police commissioner and one by the B.U.C. — was to give “priority consideration” to improving the handling of civilian complaints against the police (B.U.C., 1970: 18).

The Urban Coalition suggestion fostered a rare instance of cooperation between the police commissioner and the two police groups in Baltimore. The commissioner called an unpublicized meeting with leaders of the American Federation of State, County and Municipal Employees (A.F.S.C.M.E.) police union and the Baltimore F.O.P. lodge to air reactions to the proposal and to prepare a common front against it. The commissioner’s action was prudent and tactful. Though the department’s opposition to civilian review was well known (Murdy, 1966), the commissioner’s personal involvement in a public debate on the matter would have been fraught with potentially serious costs. He had already been attacked by the city’s Community Relations Commission for alleged insensitivity to demands of black citizens. In order to minimize his personal participation in a review board fight laden with racial overtones, he preferred that the employee organizations lead the opposition to civilian review. They did.

The F.O.P. prepared an extensive legal brief summarizing the history of civilian review boards and posing the legal questions that could be raised in the event a board were established in Baltimore. A lodge officer explained the purpose of the brief:

We could be in court in a matter of hours. With the brief we let the organizations and politicians that might be interested in a review board know that it wouldn’t be easy sledding, that we’d fight every inch of the way in the courts and with all the money in our treasury. We let them know that we’d get backing from our national organization as well.⁹

The union also indicated that it, too, was prepared to move against a review board. Its executive director commented that there seemed to be greater interest in overseeing the police than in punishing criminals and unruly demonstrators. Proposals to establish outside police review, he said, exemplified how thoughtless and ungrateful citizens could abandon the men who protected them.

Though the responses of both organizations were quick and

unyielding, the review board issue was especially prominent in F.O.P. internal politics. The F.O.P.'s president explained that the struggle against a review board was three-fourths of his responsibility in fighting for policemen's rights in Baltimore. The union's executive director, though unwilling to admit that the review board was of any less concern to him, believed that providing material benefits and resolving grievances about specific job problems were his primary concerns.¹⁰ The different perspectives of the two leaders may have derived from the nature and structure of the organizations they led.

The union, affiliated with the A.F.L.-C.I.O., was run by a non-elected executive director with experience in union organizing. The F.O.P. was run by elected policemen who thought of their organization as a professional association. To police administrators and the public, F.O.P. officials took pains to indicate that monetary benefits were of secondary interest. They emphasized that Baltimore policemen needed the F.O.P. to help "at all times present to the public a picture of professionalism" (*Baltimore Police Journal*, 1970 Annual Issue: 7). An observer familiar with the F.O.P.'s lobbying activities suggested that, unlike the bread and butter focus of the police union, the F.O.P. attempted "deliberately or otherwise to be a junior International Association of Chiefs of Police."¹¹ The question of establishing a civilian review board, involving as it does issues of self-evaluation and public confidence in the police, was a direct threat to an F.O.P. lodge preoccupied with police professionalism and public relations.

The lower priority of the civilian review issue in union affairs may also reflect the method by which leaders were selected. Because the union executive director was neither a policeman nor an elected official, but a labor organizer chosen by A.F.S.C.M.E. national officials, he may have felt less need to dramatize conflict in order to maintain his position with his constituency. It might be expected, then, that F.O.P. officers, as active policemen and elected officials, would more readily perceive and publicize the dangers of civilian review to their fellow officers than would a labor organizer appointed by a distant national organization.

The impact of the two employee organizations in the Baltimore review board debate is difficult to assess. We do know that no board was established; while a host of civil liberties and civil rights groups favored a board, the burden of opposition fell almost exclusively on the two police associations. No other

major civic or interest group joined the police associations in publicly opposing the review board idea. At least one political leader involved in the effort to establish greater police review indicated that firm police resistance, signaling to him that a difficult and perhaps counter-productive fight lay ahead, convinced him of the wisdom of abandoning the effort.¹²

The proclivity of heads of municipal agencies to seek autonomy for themselves and their organizations is well established (Sayre and Kaufman, 1960: 429-30). The evidence in Baltimore suggests that police employee associations may be utilized to aid and augment that effort. Indeed, they may be especially helpful because they are free to act where it may be injudicious for department administrators to do so.¹³

Buffalo

In Buffalo, the police department and its two employee groups have resisted civilian review, but cooperation among the three has not been as calculated as in Baltimore. Both the Buffalo Policeman's Benevolent Association (P.B.A.), recognized as the bargaining agent and open to policemen through the rank of chief inspector, and the Silver Shields, a group exclusively for patrolmen, have opposed civilian review boards. In their newsletter, the Silver Shields agreed with the late J. Edgar Hoover that civilian review boards are "sidewalk kangaroo courts" (*The Blue Line*, February 1971). Opposing review boards primarily on the grounds that they are professionally intolerable, the P.B.A.'s president declared:

I would oppose civilian review as an unpractical thing. Would the medicine or law profession want a review board of non-professionals? With civilian review boards you take people who haven't the slightest idea of what the problems are, of what the law is and have them run the police department.¹⁴

No civilian review board has ever existed in Buffalo. The P.B.A. raises the specter of civilian review when any outside investigation of the police is attempted. After the investigation by the city's Commission on Human Relations of the fatal shooting of an unarmed black youth by a Buffalo policeman in August of 1966, the P.B.A., accusing the Commission of acting as though it were a civilian review board, asked the City Council to reexamine the purpose and powers of the Commission (*Buffalo Evening News*, September 12, 1966). The president of the P.B.A. maintained that the commission had gone far beyond its power when it directed a patrolman to appear before it to review his actions (*Buffalo Evening News*, September 12, 1966).

Two city councilmen also promised investigations of the Commission's "illegal attack on a Buffalo policeman." Taking his cue from the police group, one of the councilmen charged that the Commission was acting like a police review board. The Crime and Corrections Committee of the Buffalo Niagara Business Federation also announced that it was launching an investigation of the "intent and purposes of the Commission on Human Relations" (Commission on Human Relations, 1965-66: 43).

Though the investigations did not result in the abolition or weakening of the Commission's powers, critics of the investigation later did cooperate to defeat legislation to empower the Commission to subpoena witnesses. The executive director of the Commission contended that the subpoena power was never really necessary for the Commission's effective operation and insisted that the Commission had not retreated in response to the attacks. Nonetheless, the Commission has not initiated or made public an independent investigation of a complaint against a police officer since the 1966 report. It continues to accept complaints against Buffalo police officers, but when informal efforts to resolve a dispute do not satisfy the complainant, the matter is referred to the police department for investigation.

Civilian Review and Police Associations: An Assessment

Opposition to civilian review boards has been one of the major rallying points in efforts to organize policemen. In the three cities studied, police associations strenuously objected to civilian review boards, challenging them in the courts, in the political arena, in the professional literature and through public relations campaigns. The reaction of police associations forewarned citizen groups, police administrators and politicians who favored civilian review, that, if raised, the issue would be strongly contested.

In each city, association leaders claimed that review boards constituted grave threats to policemen. They asserted that policemen possess unique skills, training and experience which make it impossible for civilians knowledgeably to evaluate police performance. Civilian review, they argued, undermined their professionalism. This attitude is evident in the testimony of an F.O.P. official during the Philadelphia review board case that the amount of force justifiable in making an arrest could only be evaluated by policemen, not civilians, lawyers or judges. Whatever one's opinions about the desirability or effectiveness of civilian review boards, one must understand that the opposi-

tion of police associations to those boards reflects far more than objection to one method of civilian input into police departments.

Employee organization leaders in each city expressed a desire to achieve the type of professional control exercised by medical and legal associations. This study describes the beginnings of identifiable influence by police associations in affecting the nature of civilian accountability procedures. Through the International Association of Chiefs of Police, police administrators have long sought professional status and autonomy for policemen. With the appearance of employee organizations, administrators and line officers have cooperated in pursuit of a common interest — departmental autonomy.

Internal Review

Because efforts to maintain a civilian review board were defeated in Philadelphia and quashed in Baltimore and Buffalo, what review there was of police behavior in the three cities was carried on internally by each of the police departments. In each city the employee organizations helped to determine procedures for processing complaints and administering punishment for police misbehavior. In Buffalo, the P.B.A. had long criticized a City Charter provision for dealing with charges of incompetence, misconduct or insubordination by municipal employees. The accused could either have a formal hearing before his agency head or a Board of Review, consisting of the mayor, president of the city council and comptroller. Guilt or innocence and punishment, when appropriate, were decided at such hearings. P.B.A. officials believed that politicians, knowing little about police work, were unlikely to make informed judgements. They also claimed that hearings before either the Board of Review or police commissioner involved considerable uncertainty for the accused. Prior to the hearing he often had no notice of the nature of the charges against him, the type of evidence the department had or the likely punishment should he be found to blame.

The P.B.A. succeeded in revising the disciplinary procedures for police in a contract negotiated with the city in January 1969. The new arrangement provides that, when the department initiates disciplinary action, both the accused officer and the P.B.A. are to receive a written copy of the charges.¹⁵ The commissioner is to conduct an informal hearing into the charges within ten days of his receipt of the policeman's written response to the

accusations (*Agreement*, Art. XII, § 2(b)). At the hearing the commissioner may dismiss the charges, withdraw them or accept a plea of guilty and set punishment. If charges are not withdrawn or dismissed and the officer does not plead guilty, a formal hearing will be held before an independent arbitrator selected by agreement between the officer and department.¹⁶ At the conclusion of the formal hearing, the arbitrator makes a finding of guilt or innocence which is binding on the commissioner and, where appropriate, a non-binding recommendation of punishment.¹⁷

The P.B.A. fought hard to establish the informal hearing before the commissioner prior to formal arbitration. At the hearing, the accused typically presents his explanation of the matter and indicates any extenuating circumstances. The men are thus given an opportunity to explain their actions in a setting in which final judgement of guilt or innocence will not be made and before a commissioner who has invariably come up through the ranks. The commissioner apprises the officer of the case against him and the likely punishment should he plead guilty. Accused officers understand that an admission of fault, accompanied by a statement of some mitigating circumstance, may result in lenient treatment or even a reduction of the charges. It is also understood that, when the commissioner decides on punishment after an arbitrator has found a man guilty, he is not inclined to be lenient.

There are a number of advantages to the commissioner in encouraging guilty pleas and deciding on punishment at the informal hearing. He can retain control over the internal disciplinary process — the findings of an arbitrator are binding on him and recommendations of punishment difficult to ignore. Formal hearings require opening the department to the scrutiny of a civilian arbitrator, on whom few constraints operate to hinder his unfavorable evaluations of the men implicated and of the department generally. Use of an arbitrator also tends to focus public attention on police misbehavior, something few commissioners wish to happen. When the commissioner disciplines a man who has pleaded guilty at the informal hearing he still retains the support and confidence of others who serve under him by their awareness that he has likely been more lenient than an arbitrator would have been. Though the department did not make specific statistics available, one police official, familiar with disciplinary proceedings in Buffalo, estimated that in nearly three years of operation under the arrangement nego-

tiated by the P.B.A., only four of fifteen men brought up on charges had chosen not to settle at the informal hearing.¹⁸

Complementing the new disciplinary process, the Buffalo P.B.A. also succeeded in negotiating a "Policeman's Bill of Rights," regulating the time, place and manner of interrogation of policemen facing departmental or criminal charges. The "Bill of Rights" established an officer's right to counsel in a departmental investigation, and the right to know the nature of the charges and the identity of the complainant. Point 8 of the "Bill" even provides that policemen charged with crimes be given *Miranda* warnings.

Baltimore

Reform of the Baltimore department's disciplinary process will be completed in 1974, largely in an effort to forestall union criticism of current procedures. Presently, there are three three-man trial boards and a larger fifteen-man board composed of officers of at least the rank of lieutenant. These men judge cases in which formal charges have been brought against an officer. In an effort to preempt the issue from the employee organizations, the commissioner planned to include patrolmen and sergeants on all boards.¹⁹ Union leaders in Baltimore had long been unhappy about what they thought were the commissioner's overly broad powers to affirm, reverse, or modify the recommendations of a trial board (Baltimore *Charter*, Ch. 203, § 536(d), 1967). They claimed the commissioner changed trial board decisions only to make them more severe, never more lenient.

On February 20, 1970, the union's executive director informed the commissioner that the union planned to sponsor legislation amending the state statute granting the commissioner discretion to modify trial board decisions. Union attorneys had rewritten the statute to stipulate that a man have the choice to be tried before the commissioner or a five-man disciplinary board. Under the union's proposal, the five men would be chosen by the commissioner from among the sixteen members of the department's Personnel Services Board, elected by department employees to evaluate job grievances. Both the union and the F.O.P. ran slates in elections to the Board and, at the time the union made its suggestion, twelve of the Board members had been elected from a union slate.

Despite the vehement opposition of the commissioner, during the 1969 state legislative session the union had successfully

sponsored bills dealing with vacations and holidays. The incident left the commissioner sensitive to and respectful of the union's political leverage. When the police group again threatened to go to the legislature, the commissioner agreed, in the words of a union leader, "to cut a deal." He made it plain that if the union reconsidered using its political influence, the department would re-evaluate the dismissal of a patrolman in one instance and forego filing departmental charges against another officer in a second case (3 *Baltimore Union Matters* 194).

The union's willingness to bargain to save one man's job and forestall departmental charges against another reflects the significance it placed on protecting individual policemen from disciplinary actions leading to loss of pay or job. The two Baltimore police organizations often competed to defend officers in departmental and criminal investigations and disability retirement hearings. The organizations have been quick to point out that the provision of counsel affords policemen a leverage they never had in those forums. Emphasizing the better position policemen enjoyed as a result, the F.O.P. newsletter of December 1971 advised men facing charges against pleading guilty and accepting punishment, advice often given by department veterans in the past. It stressed a man's right to counsel at departmental investigations and the F.O.P.'s desire and ability to provide it. Officers were encouraged to contact F.O.P. attorneys if they became involved in departmental investigations or were asked to submit to a polygraph test.²⁰ Not to be outdone in the provisions of procedural protections, the union printed wallet-sized cards containing the phone number of union attorneys and summarizing a policeman's rights should he be involved in a departmental or criminal investigation. Notwithstanding their vocal opposition to Warren Court decisions increasing the rights of criminal defendants, police organizations seem to take a different view of legal safeguards when applied to themselves.

Philadelphia

The F.O.P. lodge in Philadelphia has also had an impact on the internal disciplinary process. The F.O.P. brought a successful lawsuit voiding a police regulation which compelled department personnel to submit to all polygraph tests administered in departmental investigations. Following the court decision, submission to tests was made voluntary. The use of a lie detector in those investigations became totally unfeasible, however, because of a strictly enforced F.O.P. policy denying free counsel to any man who agreed to the test.

Internal methods of reviewing police misconduct in Philadelphia date back to 1891. Originally, the Police Trial Board judged only complaints of superior officers against men under their command for violation of departmental regulations. In October 1963, in an effort to counteract criticisms of the department, Commissioner Leary announced that the Police Trial Board would be replaced by a new Police Board of Inquiry (P.B.I.) which would receive complaints by citizens as well as commanding officers (Philadelphia Police Manual: 39).

P.B.I. Boards generally consist of three men — a captain, a lieutenant and a man of the rank of the accused. Officer members of the board are chosen by the commissioner from a list of fifteen captains and as many lieutenants. The third man is chosen by the F.O.P. from a list of ten men, each of whom is selected by that organization. The F.O.P. gained that prerogative through contract negotiations with the city. The recommendations of the P.B.I. are passed on to the commissioner who retains authority to make a final decision.

F.O.P. leaders and department administrators both claim that the P.B.I. deals more harshly with police indiscretions than did the civilian review board. Deputy Commissioner Fox indicated, for instance, that in the 61 P.B.I. cases which were initiated by civilians in 1970, the policemen involved were disciplined by the department in 95% of the cases. The comparable figure for review board hearings from 1958 through 1965 was 24%. Over 40% of the men involved in P.B.I. hearings in 1970 were fired; another 45% were temporarily suspended without pay.²¹ Though empowered to do so, the P.A.B. never once recommended that a man be fired and only occasionally recommended suspension.²²

Internal Review and Employee Associations: An Assessment

Employee associations have succeeded in winning internal disciplinary reforms not because they and the commissioners shared a common goal and interest, but because agreement on new disciplinary procedures usually involved a mutually satisfactory exchange between the commissioner and association leaders. Employee organization leaders wish to enhance their reputations as aggressive protectors of policemen's rights. Their constituents may especially appreciate representation and protection in disciplinary proceedings in which sanctions may include temporary suspension without pay, transfer to an undesirable unit or shift, or dismissal.

Commissioners, in turn, are sensitive to criticism by employee organizations that the disciplinary process produces unfair judgments and punishments. They accede to reforms permitting employee organizations to influence and participate in disciplinary procedures in order to decrease resentment of the process, cultivate the good will of line personnel and their leaders, and help legitimize disciplinary decisions. If a police association has helped formulate disciplinary procedures, influenced the selection and composition of trial boards and provided legal counsel for those accused, grumblings about the fairness of procedures and decisions are less likely to occur and more easily dismissed.

The procedural safeguards won by police associations create incentives for police administrators either to resort to informal negotiations on a discipline problem or to forbear taking any action at all. In Buffalo, for example, a policeman's "Bill of Rights," more formalized internal accountability procedures, and the presence of a police association able to provide legal counsel to officers, combined to produce a situation comparable to plea bargaining. The two sides often agreed not to invoke formal adversary or arbitration proceedings, instead negotiating mutually satisfactory resolutions on an informal basis.

Accountability: Conclusions

By cooperating with commissioners, police associations have helped to defeat or forestall proposals for civilian review boards, and can be counted on to oppose other civilian accountability schemes. Through their access to departmental hearings, employee associations have increased the cost to administrators of initiating disciplinary action and rendered suspect the objectivity and independence of that process. The result has been to further insulate and isolate line officers from independent review by both civilian authority and police supervisors. If the men in blue are alienated from nearly all segments of the population, as so much of the literature suggests (Banton, 1964: 267; President's Commission, 1967: 144-207; Campbell, 1965: 210; Skolnick, 1969: 279; Westley, 1970: 48-108; Toch, 1965: 24), we may conclude that police employee organizations serve to increase that estrangement.

On occasion, police associations have extended their activities beyond either internal or civilian accountability procedures to such matters as police candidate selection, training, promotional criteria, patrol procedures and other police policy issues. The relationships between the departments and the employee

organizations in the three cities could not generally be described as adversarial. When the associations have sought to limit or infringe on a highly regarded management prerogative, such as the assignment and distribution of manpower, administrators have demurred and attempted to retain unilateral control.

The struggle of police associations for access to departmental policy-making is not without its irony for police officials. Administrators who make the strongest initiatives to professionalize their departments begin a process which ultimately serves to limit their prerogatives because of the demands of the better trained, educated, professionalized and organized men who consequently serve under them. In Baltimore, Commissioner Pomerleau arrived on the heels of a major scandal in 1966. He reorganized the department, raised educational requirements, lengthened the training period, increased starting salaries by 40% and doubled the department budget. Incentives were established to encourage men to gain college credits and to take in-service training courses. An unusual program was established to attract college graduates.

Having achieved these changes, Pomerleau did not entirely appreciate that other traditional characteristics of police work might become casualties of such reform. The legitimacy of the authoritarian organizational ethos may well have been a victim, succumbing to the combined weight of the new professionalization and unionization. Men who are better educated and trained than their predecessors, indoctrinated to think of themselves as professionals and organized to pursue their goals, find it contradictory to then be subjected to the authoritarian accountability and disciplining procedures of police superiors.²³

Accordingly, we find that in each of the three cities the employee organizations have assiduously attempted to establish and elaborate the rights of policemen not only in accountability procedures, but also in such matters as transfers, promotions, assignments, dress codes and the use of weapons. Through litigation and the threat of litigation, such civil liberties as the right to criticize department policy or superiors, to join unorthodox organizations and to participate in political affairs, are being developed. Law suits were initiated in Philadelphia to establish the rights of policemen before a civilian review board (*Harrington v. Tate*, 1969), in Baltimore to secure the right of union officers to criticize department policy and superiors (*Brukiewa v. Police Commissioner*, 1969), and in Buffalo to establish the rights of policemen in line-up identifications (*Biehunik v. Fel-*

icetta, 1971). Such litigation, in combination with collective bargaining and informal negotiation, have secured a number of procedural and substantive rights, creating a new relationship between line officers and superiors. This new relationship is most clearly reflected in the decreased dependence on authoritarianism in the formulation and implementation of police department policy and in the increasing formalization of policemen's civil and criminal rights.²⁴

Looking to the future, we are likely to see a tapering off of militant confrontation tactics, less litigation about policemen's rights and disciplinary actions, fewer strikes and threats of strikes and more private and informal negotiation between the commissioner and association leaders on departmental policy and actions.²⁵ Police association and department leaders are drawn together by many forces. Powerful informal ties exist between policemen of all ranks. Though the police are a quasi-military organization, in many ways there are fewer distinctions between line and supervisory personnel in the police bureaucracy than there are in other municipal agencies or private organizations. The limited lateral entry into police service often means that the commissioner and his top aides are veterans of the department they lead and are apt to feel a kinship with the beat patrolman and sergeant in their city. Department leaders invariably develop long-standing relationships with each other over the years as they move up department ranks. Similar relationships are likely to exist between department and employee organization leaders. These men may have joined the department during the same years, been patrolmen together, and then pursued their respective careers to leadership positions within the department and employee organizations. The distinctions between ranks should become even less significant as those involved in law enforcement come to think of themselves as professional colleagues.²⁶

Even more important than these informal ties are compelling organizational and constituency needs of both commissioners and association officers which, in the long run, are best satisfied through a cooperative working relationship. Both the employee organization leaders and police commissioner have conflicting constituency demands and organizational needs which they must resolve. Association leaders are typically elected and thus have an interest in appearing to be outspoken, vigilant protectors of policemen and their rights. They are sensitive to charges that they have sold out or been cowed by management.

Victor Gotbaum, the union leader who engineered the "bridge-out" which tied up nearly all arteries leading into Manhattan in 1971, has written that criticism of a union leader's militancy and aggressiveness may seriously jeopardize his standing with members. Gotbaum explained that fear of such attacks may often provoke leaders of public employee unions to militant action or rhetoric (Gotbaum, 1970).

However necessary it may be for leaders of police employee organizations to maintain an aggressive posture for internal political reasons, they must also establish and preserve a working relationship with department administrators in order to serve the members of their organization. Most problems union leaders hear involve small favors and minor job grievances which usually can be resolved informally without major policy initiatives or revisions. Lenience in discipline, desk jobs for injured officers, transfers, a change in an inconvenient uniform regulation, informal efforts to ease a tense relationship between a sergeant and his patrolmen — all of these are the types of routine favors employee leaders ask of department administrators. Organizational stability and strength may depend, to a considerable degree, upon the ability of employee leaders to provide these individualized services. A strained, adversarial relationship with management obviously makes delivery of such services difficult, leaves members unsatisfied, and places employee leaders in a politically precarious position.

Similarly, the police commissioner and his top aides must negotiate their way among conflicting needs and demands. Just as there are factors which encourage police organization leaders to present a combative image in labor relations, there are considerations which prompt department leaders to nurture the appearance that they, too, are aggressive — in fighting corruption, brutality, ineptitude and inefficiency among their men. Commissioners wish to portray themselves as demanding public administrators who hold a tight rein over their men and deal harshly with their transgressions. Simultaneously, department leaders need to be wary that by taking such action they may alienate their men and lose effective control of the department. In granting the favors, concessions and informal interventions that the men request through their employee organization, a commissioner solidifies his relationship with line personnel and leaders of the employee organization. The mutual dependency of the leaders of management and labor causes each to oppose rapid and radical change in the leadership positions of the other

side. Change only upsets established relations, patterns of communications and behavior, and mutually satisfactory understandings. Systematic communication between department and organization representatives may help a commissioner in other ways. In Baltimore, union representatives uncovered and reported to the commissioner serious grievances which line personnel were unlikely to communicate to superior officers through the chain of command. These included, in one instance, racial tensions between certain officers.

The concessions unions have won in accountability procedures and other policies have given policemen reason to believe that the department will not treat them in an arbitrary fashion. In this way, unions enhance the sense of security, dignity, and satisfaction policemen get from their work. By providing outlets for dissatisfaction they also relieve pressures on administrators. In Baltimore, the union's executive director believed that he and other union representatives provided a service to the department by resolving innumerable minor dissatisfactions of line personnel.

The factors I have described motivate association and department leaders to establish routine and amicable relations with each other, while simultaneously retaining a more aggressive *public* posture, dramatizing their combativeness before their constituencies. The result is that, though both sides seek to portray themselves as adversaries, their relationship inevitably tends toward informal cooperation.

It is true that police commissioners must now contend with employee organizations in determining a certain range of police policy. Though the policy-making process has been broadened to allow for input from line officers through formal and informal negotiation between department and association leaders, the struggle over policy still involves only policemen. Indeed, the closed nature of the police system, which has long been a concern of citizens and students of the police, has been strengthened by the combination of the commitment to professionalize American police and the success of the efforts to organize them. The former gives the police a credible justification for their closed system; the latter, an organizational and political leverage which they have never before had, helping to ensure that police policy-making remains the exclusive prerogative of policemen. Though administrators may presently resent and resist the loss of unilateral control over policy, in the long term they are likely to find employee organization leaders outspoken and forceful allies in

fighting to retain departmental autonomy in accountability procedures and other policy-making.

NOTES

- ¹ In order to gain access to information from department and association leaders, it was often necessary to assure anonymity. Accordingly, information received with such stipulations will be attributed to unnamed sources.
- ² The internal operations and decisions of the Board have been treated extensively elsewhere. See Kobus, 1963; Boardman *et al.*, 1966; Morisey, 1964; Turner, 1968: 203-219.
- ³ The specific provision giving the police department authority to discipline police personnel is found in Phila. Charter, Art. V., Ch. 2, § 5-200(b) (1951).
- ⁴ Interview with Martin Barol, former Executive Director of the Philadelphia Police Advisory Board, November 15, 1971.
- ⁵ The Executive Director of the Board, who was involved in negotiating the agreements with the F.O.P., indicated that lodge leaders never suggested that the city provide counsel for police officers on request as was done for complainants. Such an arrangement would have eliminated any direct role for the F.O.P. to play in representing policemen before the P.A.B. and may not have been pursued for that reason.
- ⁶ Interview with Virgil Penn, Recording Secretary of the Philadelphia Fraternal Order of the Police, Lodge #5, December 12, 1971. Harrington testified under oath that the City Solicitor, apparently at the direction of the Mayor, asked him to go down to the riot area and tell the men to use whatever force was necessary to end the rioting and to assure them of the city's pledge that no P.A.B. actions would result. See Notes of Testimony, Vol. II, September 19, 1966: 121-22 and *Harrington v. Tate*, 1965, at 134.
- ⁷ Even the Philadelphia police commissioner opposed Harrington's candidacy in 1960 in a rare instance of overt involvement in internal F.O.P. politics.
- ⁸ A copy of the letter, dated October 7, 1969, was contained in the files of the Baltimore Police Department and was made available to the author. I would like to thank Deputy Commissioner Ralph Murdy for repeatedly making such materials accessible.
- ⁹ Interview with an official of the Baltimore F.O.P. Lodge, October 14, 1971.
- ¹⁰ Interview with Thomas Rappanotti, Executive Director, Baltimore Police Union, Local 1195, A.F.S.C.M.E., October 23, 1971.
- ¹¹ Interview with Janet Hoffman, Chief Legislative Liaison for former Baltimore Mayor Thomas D'Alesandro, October 21, 1972.
- ¹² Interview with David Glenn, Director, Baltimore Community Relations Commission, October 28, 1971.
- ¹³ The F.O.P. Lodge in Philadelphia served such a function for the department by its active lobbying effort in behalf of the police budget.
- ¹⁴ Interview with James Cunningham, President of the Buffalo Policemen's Benevolent Association, November 11, 1971.
- ¹⁵ *Agreement* between the City of Buffalo, New York, and the Erie Club Inc., Art. XII, § 2(a) (January 11, 1969). A copy of the contract was provided the author by William Holcomb, Buffalo's Director of Municipal Personnel.
- ¹⁶ *Agreement*, Art. XII, § 3(d). If the parties are unable to agree upon an arbitrator they are to apply to the New York State Supreme Court which then appoints an arbitrator.
- ¹⁷ The arbitrator's decision is subject to appeal to either the Municipal Civil Service Commission or the Buffalo City Courts, but not both. Art. XII, § 2(c).
- ¹⁸ Anonymous Interview, Buffalo.
- ¹⁹ Anonymous Interview, Baltimore.
- ²⁰ 2(12) *F.O.P.'s Pen* 2 (December 1971). For summaries of F.O.P. and union efforts in representing policemen in criminal or departmental hearings, see *F.O.P.'s Pen*, "Special Edition: An Introduction to the F.O.P.," pp. 3-4; and *The Informer* 3-4 (January, 1972).

- ²¹ Interview with Deputy Commissioner Harry Fox, December 7, 1971.
- ²² James Hudson (1970) has argued that different types of police offenses are likely to be raised in civilian and internal review procedures.
- ²³ One Baltimore police sergeant, an officer in the F.O.P. who is attending law school at night, voiced such frustration when he remarked: "Consider the emotional impact on the employee who, going to college at the urgings of management, is advised that a communication is not worthy of further consideration and in attempting to defend his communication finds the chain of command is closed. In his college classroom this employee learns free and open discussion This attitude by management leads the educated employee to begin considering either education or management a farce."
- ²⁴ In part, this process parallels the de-militarization Janowitz (1969: 7-8) suggests has occurred in the American military establishment.
- ²⁵ Where conflict does erupt between police association and department leaders, it may best be understood in terms of its symbolic value to the constituency and reference groups of both department and association leaders. See Halpern, forthcoming.
- ²⁶ Alan Rosenthal (1969: 10) observed that the professionally oriented National Education Association premised its actions on the assumption that the classroom teacher and educational administrator shared common interests, objectives and professional values.

CASES

- Biehunik v. Felicetta, 441 F.2d 288 (E.D.N.Y. 1971).
- Brukiewa v. Police Comm'r, 263 A.2d 210 (Md. 1969).
- Conway v. Dilworth, No. 367 (Philadelphia Court of Common Pleas, December Term, 1959).
- Harrington v. Tate, No. 6330 (Philadelphia Court of Common Pleas, June Term, 1965); *rev'd*, 254 A.2d 622 (Pa. 1969).

REFERENCES

- BALTIMORE URBAN COALITION (1970) A Report on Police-Community Relations. Baltimore: Baltimore Urban Coalition.
- BANTON, Michael (1964) The Policeman and the Community. London: Travistock.
- BORDMAN, Alice, Marc GALLIHER and Jerome WILSON (1966). The Philadelphia Police Advisory Board: Analysis of a Civilian Complaint System. Unpublished Master's Essay, Bryn Mawr College.
- CAMPBELL, James S., Joseph R. SAHID and David P. STANG (1969). Law and Order Reconsidered, Staff Report 10 to the National Commission on the Causes and Prevention of Violence. Washington: Government Printing Office.
- COMMISSION ON HUMAN RELATIONS (1966) Annual Report, 1965-66. Buffalo: Commission on Human Relations.
- GOTBAUM, Victor (1972) "Collective Bargaining and the Union Leader," in Sam ZAGORIA (ed.) Public Workers and Public Unions. Englewood Cliffs, New Jersey: Prentice-Hall.
- HALPERN, Stephen C. (forthcoming) Police Association and Department Leaders: The Politics of Cooptation. Lexington, Massachusetts: D. C. Heath.
- HORTON, Raymond D. (1970) "Municipal Labor Relations in New York," 30 Proceedings: The Academy of Political Science 68.
- HUDSON, James (1970) "Police-Citizen Encounters that Lead to Citizen Complaints," 18 Social Problems 179.
- JANOWITZ, Morris (1969) The New Military: Changing Patterns of Organization. New York: Norton.
- KAUFMAN, Herbert (1969) "Bureaucrats and Organized Civil Servants," 29 Proceedings: The Academy of Political Science 41.
- KOBUS, Thomas (1963) The Philadelphia P.A.B.: A Substantive Analysis Relative to the Handling of Specific Complaints. Unpublished Master's Essay, Fels Institute, University of Pennsylvania.
- LA FAVE, Wayne (1962) "The Police and the Non-enforcement of the Law," 1962 Wisconsin Law Review 231.

- LIPSKY, Michael (1972) "Street Level Bureaucracy and the Analysis of Urban Reform," in Virginia ERMER and John STRANGE (eds.) *Blacks and the Bureaucracy*. New York: Thomas Crowell.
- LOHMAN, Joseph and Gordon MISNER (1966) *The Police and the Community, Field Surveys IV, Volume 2, The President's Commission on Law Enforcement and the Administration of Justice*. Washington: Government Printing Office.
- MANNING, Peter (1971) "The Police: Mandate, Strategies and Appearances," in Jack DOUGLAS (ed.) *Crime and Justice in America*. New York: Bobbs-Merrill.
- MORISEY, Alexander (1964) *The Philadelphia Police Advisory Board. Unpublished Master's Essay, Fels Institute, University of Pennsylvania*.
- MURDY, Ralph (1966) "Civilian Review Boards in Review," 21 *Criminal Law Bulletin* 3.
- MURPHY, Richard (1970) "The Politics of Public Employee Relations," in Richard MURPHY and Morris SACKMAN (eds.) *The Crisis in Public Employee Relations in the Decade of the Seventies*. Washington: Bureau of National Affairs.
- PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE (1967) *Task Force Report: The Police*. Washington: Government Printing Office.
- ROSENTHAL, Alan (1969) *Pedagogues and Power*. Syracuse: Syracuse University Press.
- SAVITZ, Leo (1970) "Dimensions of Police Loyalty," 13 *American Behavioral Scientist* 696.
- SAYRE, Wallace and Herbert KAUFMAN (1960) *Governing New York City*. New York: Russell Sage.
- SKOLNICK, Jerome (1969) *The Politics of Protest*. New York: Ballantine.
- TOCH, Hans (1965) "Psychological Consequences of the Police Role," 10 *Police* 24.
- TRUMAN, David (1971) *The Governmental Process*. New York: Knopf, second edition.
- TURNER, William (1968) *The Police Establishment*. New York: Putnam.
- WESTLEY, William (1970) *Violence and the Police*. Cambridge: M.I.T. Press.
- WILSON, James Q. (1969) *Varieties of Police Behavior*. Cambridge: Harvard University Press.
- (1971) *Emerging Patterns of American Police Administration*. Presented at the Bristol Seminar on the Sociology of the Police. Bristol, England.
- WOLFGANG, Marvin (1966) "The Police and Their Problems," 10 *Police* 52.