

THE DEVELOPMENT OF THE PRIVATE SECTOR OF THE CRIMINAL JUSTICE SYSTEM

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One of the more interesting questions that political scientists are likely to overlook in their analyses of public policy, the delivery of services, etc., is the continually changing mix of public and private provision of such policies and services. Present concern with the criminal justice system, in general, and the police in particular, is no exception. Political scientists are interested in questions of police organization, public accountability of police activity, implications of greater involvement in local police activity by state and federal agencies, professionalization of local police officers, etc. But we have tended to concentrate on the political-governmental provision of police services and to ignore both the traditional and the contemporary role of private police as a very important part of the total panoply of police activities in American society.

We have overlooked private police in part because the private police themselves have not operated in the full light of publicity and in part because we have assumed, erroneously no doubt, that their functions were somehow different from, and therefore irrelevant to, the kinds of concerns related to the public provision of police services.

If one takes a standard definition of police functions, e.g., O. W. Wilson (1963: 22-27), crime prevention, crime repression, criminal apprehension, and the regulation of non-criminal behavior and social welfare functions (including traffic control, intervention in domestic squabbles, handling of drunks, etc.), it is clear that private police have been heavily involved in the performance of these functions since, at least, the establishment of the Pinkerton Agency in the 1850s. Certainly private police are involved in significant ways in the performance of these functions today. We do not really know how many of the reported crimes listed as solved by police departments may in fact have been solved by private police who have turned evidence and in some cases the suspect over to the public police.

Of greater significance, and more difficult to determine, is the effect of private protection firms performing the functions of crime prevention and criminal apprehension. Police patrol is recognized as the most effective method of preventing crimes from occurring. How much crime, therefore, is prevented by private protective agencies and security guards who regularly patrol and guard certain areas? In how many instances do security guards apprehend, and perhaps arrest, criminal suspects?

In short, there is little doubt that private police have played and will continue to play a major role in the performance of most of the traditionally defined public police functions.

How large and extensive is the role of the private police segment of the criminal justice system is another question. Unfortunately there are no reliable ways to provide an answer without extensive state-by-state and locality-by-locality surveys. In some states, only the private investigative firm is required to hold a license and it may hire as many operatives as it wishes without obtaining additional licenses. In addition many private police functions are performed by employees of private firms who are not licensed as private police. Finally, many individuals are able to function as private police without ever coming within the licensing requirements of local and state governments.

Nevertheless, it seems clear that the private investigation and private protection industry as a whole has experienced considerable growth in recent years. *Forbes* magazine (1970: 22) quotes a member of the security industry as estimating that "two out of every three law enforcement officers in the nation are actually on private payrolls." Pinkerton's alone has over 23,000 employees. It has been estimated that approximately \$1.6 billion was spent for services performed by the private protection firms last year, with an additional \$400 million spent for protective fire and criminal alarms (*Forbes*, 1970: 22). The President's Commission on Law Enforcement and Administration of Justice reported that public expenditures in 1965 at the federal, state, and local levels on police, criminal courts, and counsel totaled \$3.2 billion. This estimate means that approximately one-third of the total amount of money expended in the criminal justice system is spent in the private police and protection sector of the system. Certainly, then, no examination of the role of the police in the criminal justice system can be complete without considering the role of the private police. This is

especially true when there is evidence that the private police part of the system is rapidly expanding and when there are many questions concerning accountability, rights of the accused, and law and order.

In this article we will provide some rudimentary description and analysis of the private police sector of the criminal justice system. The study is limited in four major ways. First, the analysis of the legal structure within which the private police system functions is limited to laws and practices in the State of Minnesota. One obvious way to expand the present study would be to undertake a comparative analysis of such laws and practices among the several states, but resources would not permit it in this case.

Second, data were obtained from interviews, using structured questionnaires, with the heads of ten licensed agencies operating in the Minneapolis-St. Paul metropolitan area. No attempt was made, at this stage, to sample systematically from among the entire range of private police agencies or activities in the Minneapolis-St. Paul area, partly because of limited resources and partly because no clear definition of what the entire universe of private police agencies might look like is available. Three of the agencies included could be described as large and regionally or nationally based. Five were middle-sized and more locally oriented, and two were small, one- or two-man operations. In addition, interviews were conducted with representatives of the State Bureau of Criminal Apprehension, the Hennepin County Sheriff's office, the Minneapolis Police Department, and several suburban police departments.

Third, within the total range of activities carried out by private police agencies, the study has concentrated on those functions that overlap significantly with public police activities, so that some efforts at comparison between the two sectors can be made. This means that we have not considered the types of activity where private police undertake civil investigations involving personal and domestic problems (e.g., marital cases, divorce and custody cases, personal surveillance, and insurance investigation). On the other hand we have not considered the range of functions performed by public police which are not generally performed by the private police, primarily those non-criminal, regulative, and social welfare service functions alluded to earlier. We have focused on the areas of functional overlap between the public and private police, namely crime prevention and repression and criminal apprehension.

Finally, the generic term "private police" covers a broad range of institutions, agencies, persons, and activities, where the general functions include the protection of property and persons (crime prevention) and the detection, investigation, and apprehension of criminal suspects. Included in such a categorization would be private detective and investigative agencies; firms and individuals who provide security guards and watchmen for hire; and firms manufacturing, selling, and installing burglar alarms, closed circuit television, and other electronic devices specifically designed to detect the occurrence of criminal activity. In addition, a growing number of commercial and business establishments, as well as industrial plants and corporations, maintain their own security divisions whose primary responsibility is to provide for the overall security—internal as well as external—for the company, including the hiring and training of security guards.

In this study we have focused on the private agencies whose sole function is providing both investigative and security services for hire and we have excluded the security forces maintained by individual non-police companies. Private agencies exclusively engaged in security and investigation are readily identifiable, whereas it is much more difficult to draw an accurate sample of firms with their own security forces. It should be kept in mind, however, that whether a company maintains its own security division or hires guards from a private agency the same function is being performed and the methods used are the same.

In the report of the study we shall consider the legal framework within which the private police function (especially in Minnesota, including licensing requirements and enforcement problems). Second, we shall examine the structure of the private police system, especially as it compares with the public police system. Third, we shall explore the relationships between the private and public police and, finally, we shall consider some of the implications of the findings.

Legal Framework—Authority.

Since there is no federal legislation dealing directly with private police, the legal authority granted to such individuals and agencies is defined by state law, varies from state to state, and may vary within states from one local jurisdiction to another. John Peel in his book *Fundamentals of Training for Security Officers* summarizes the prevailing grants of authority to private police:

Watchmen, guards, security officers, special police officers appointed for the purpose of patrolling, policing, watching and guarding the persons, premises, and property of an area shall have the same powers and authority upon the assigned property or premises which they are appointed to protect, and in the period of their duty, as the regular police officers but not otherwise (Peel, 1970: 65).

Peel also indicates that in some localities in the absence of statutory limitations, private police forces have authority virtually equivalent to public law enforcement officers (Peel, 1970: 65).

It is not clear to what extent Minnesota is unique in its policies regarding private police, which generally contradict those reported by Peel. It is clear from the statutes, however, that Minnesota law has restricted the legal authority of private police in various ways, beginning with and probably stemming from an explicit prohibition of the interference of private police license holders in any way in labor strikes.

Under Minnesota law private police have no legal authority beyond that of the ordinary citizen. In addition, Minnesota law makes it a crime for any private person or agency to imitate or attempt to imitate vehicle markings, badges, emblems, or other means of identification used by public law enforcement officers.

A county sheriff may deputize any individual and thus confer upon him the power of arrest and other powers ordinarily assigned to public law officers. In some rural counties this practice is widespread and often includes professional private detectives. In the metropolitan area (Hennepin County), however, the power of arrest is rarely granted to private investigative and security personnel; the sheriff prefers to operate with his own professionally trained staff.

The Hennepin County sheriff does grant arrest power in some cases to security guards employed by some of the large, well known firms or corporations but limited to the premises of those firms and only after a review of the company's security policies.

While the interviews with the representatives of the sheriff's office suggested that most private police agents would prefer the power of arrest, eight of the ten private police agency heads interviewed denied seeking the arrest power and argued that they preferred the existing arrangements. They felt that legally conferred police power carried with it legal responsibilities that would place undesirable burdens on their

security personnel and substantially restrict their methods of investigation.

For security personnel, legal authority would make it mandatory for a security guard to act—i.e., undertake apprehension and attempt arrest—if a crime were committed within his jurisdiction (the premises). While the policy of the security company may require that their guards take action, it remains at the discretion of the individual and/or the security company to decide on the particular procedures to follow under various circumstances (when to undertake apprehension and when to make a citizen's arrest, etc.). Acting without legal authority *and* legal responsibility allows the security guard to avoid personally dangerous situations where a police officer would be forced to act.

In the case of investigation, operating without legal authority permits greater latitude in both criminal and civil investigations and allows the private agent to deal with a variety of crimes extra-legally, that is, outside of the officially prescribed standards of the criminal justice process.¹ For example, the following statements were made to the interviewer: "We can rough a guy up if we want to," "we can get a confession in cases where the police can't because we don't have to worry so much about a guy's rights," and "we can use every means possible to secure information."²

Despite the fact that private agents in Minnesota do not possess police powers, it is probably true that most individuals when confronted by a uniformed guard or a man stating that he is a "detective" or "investigator" naturally assume he has some kind of legal authority. Public misunderstanding of the law undoubtedly gives private agents an additional advantage.

Legal Authority—Licensing and Regulation

Peel also describes wide variation in the criteria and procedures for defining and licensing private police personnel and agencies. Licenses are issued by such units as chiefs, superintendents or commissioners of police, directors of public safety, mayors, city managers, county sheriffs, and general licensing agencies. In addition, state statutes and local ordinances and practice vary widely in their license requirements, conditions of license revocation, and extent to which such provisions are enforced (Peel, 1970: 30ff). Since no comparative state data are available on these matters, our discussion of the Minnesota case is only illustrative.

Under operative Minnesota law a person who engages in any of a variety of specified activities for hire is required to obtain a license from the state director of public safety. Engaging in such activities without a license is a gross misdemeanor. Minnesota law distinguishes between private detectives and private protective agents, both of whom are required to hold a license. However, persons in the employ of the private investigator or protective agent may engage in such activities without themselves being licensed.

An examination of the relevant statutes reveals that there is considerable overlap between the activities defined as appropriate for private police and the crime prevention and repression and criminal investigation and apprehension functions normally assigned to the public police. According to the Minnesota Statutes (Section 326.338):

Subdivision 1: "Persons who for fee or reward or any consideration shall engage in the business of investigators, or who for fee, reward or any consideration shall make investigations for the purpose of obtaining information for others with respect to any of the following matters: Crime or wrongs done or threatened against the government of the United States or of any state or municipal subdivision thereof; the identity, habits, conduct, movements, whereabouts, affiliations, transactions, reputation or character of any person or organization; the credibility of witnesses or other persons; the whereabouts of missing persons; the location or recovery of lost or stolen property; the origin of and responsibility for libels, losses, accidents, or damage or injuries to real or personal property; the affiliation, connection or relation of any person, firm, or corporation with any organization, society or association, or with any official, representative or member thereof; the conduct, honesty, efficiency, loyalty or activities of employees or persons seeking employment, agents, contractors and subcontractors; the evidence to be used before any authorized investigating committee, board of award, board of arbitration, administrative body or officer or in the trial of civil or criminal cases; or the identification or apprehension of persons suspected of crimes or misdemeanors shall be deemed engaged in the business of private detective."

Subdivision 2: "Any person who shall furnish, for hire or reward, watchmen or guards or private patrolmen or other persons to protect other persons or their property or to prevent the theft, unlawful taking of goods, merchandise, money, choses in action, or other valuable things, or to procure the return thereof; shall be deemed engaged in the business of protective agent . . ."

What appears to legally distinguish the private police from the public police is the purposes for which private agents are licensed and the method of compensation. The private police

agent performs functions which are virtually identical in many respects to those carried out by public police but he performs them for other private individuals and is paid for his services a sum agreed upon by both parties without statutory limitations as to the amount.

In Minnesota basic problems associated with the licensing of private police have been raised both by the current licensing agent and the representatives of the private agencies themselves. The licensing agent (the state crime bureau and director of public safety) feels that present statutes, court interpretations, and shortages of manpower for enforcement (one part-time crime bureau staff person has total responsibility for private police licensing and regulation) restricts its discretion in granting or denying a license and in regulating activity once a license is granted.³ Indeed, the operative attorney general's opinion requires that every applicant fulfilling the minimum requirements must be granted a license.⁴

At the same time the Minnesota Association of Private Detectives (founded in 1968 and presently including about half of the licensed agencies in the state) was established with the primary objective of improving the general image and reputation of the profession by raising standards of recruitment, training, and practice uniformly to at least the levels achieved by public law enforcement agencies. The Association supports changes in the statutes which would raise the professional requirements for licensed agents and encourages enforcement of the laws requiring licenses of those now practicing illegally without one. To this extent, and for the time being, at least, the licensor and licensee are on the same side of the quality control issue.

As police practices become more visible, and large nationally based private police corporations become more predominant, the pressures for tighter controls on and upgraded standards for the licensing of private police will continue to increase. In many respects the situation is analogous to the present conflicts between more and less professionalized public police agencies with the difference that the nationally based private police corporations which stand to gain from higher standards and tighter controls are in a strong position, politically and economically, to move the political system in those directions.

Structure of the Private Police System

We began by trying to compare accurately the number of private and public police operating in the Minneapolis metropolitan area. This is very difficult to do because the private police operative's license permits him to function in any part of the state while public police are bound by the local jurisdictional boundaries. Second, the large private agencies make extensive use of part time employees, especially in the security function, where demand may fluctuate considerably over short periods of time. Third, a number of the private agencies were unwilling to divulge such information. Indeed, as the interviewing progressed, fewer and fewer agencies were willing to discuss their work. Finally, because of the enforcement problems discussed earlier, an undetermined number of persons are operating as private police without a license.

Of the 90 licensed private police agencies operating in the state, 38 or 42% are located in the Minneapolis part of the metropolitan area (19% are located on the St. Paul side). These agencies range from one-man operations to large nationally based corporations employing over 200 personnel.

Table 1 provides a very rough estimate of the structure and size of the private police system located in the Minneapolis metropolitan area. As the table indicates, the majority of the

TABLE 1: LICENSED PRIVATE POLICE AGENCIES LOCATED IN THE MINNEAPOLIS PART OF THE METROPOLITAN AREA WITH SIZE AND EMPLOYEE DISTRIBUTION

<i>Size of Agency</i>	<i>Number of Agencies</i>	<i>Percent of Agencies</i>	<i>Projected Number of Employees</i>	<i>Projected Percent</i>
Small (3 employees per agency)	13	34.2%	39	3.1%
Medium (25 employees per agency)	17	44.7	425	33.6
Large (100 employees per agency)	8	21.1	800	63.3
TOTALS	38	100.0%	1264	100.0%

private police are employed in the large corporations and only a very small proportion of the total (less than 4%) are employed in the small licensed firms.

In addition to these estimates the State Crime Bureau reckons that there are as many agencies operating without licenses as with them, although it is certain that these are one- and two-man operations exclusively. If we assume a conserva-

tive estimate of another 50 unlicensed operatives, it brings the total to more than 1200 private police working in the Minneapolis area.

By contrast, the Minneapolis police department employed 869 officers in 1970 and the Hennepin County sheriff employed an additional 150 personnel for a total of 1,019 public police functioning in the same general jurisdiction. While these figures do not include suburban Hennepin County police departments, nor security guards employed directly by commercial and industrial firms, one can conservatively conclude that there are at least as many private police as public police operating in the Minneapolis area.

Size is, of course, an important factor in determining the kinds of specialities an agency develops. Between 80% and 100% of the total work volume of the small firms is investigative, where demand has been growing but at a slow and steady rate. For the most part, the clients of the private investigators include defense attorneys, insurance companies, and individuals and firms who wish to avoid the publicity of a public police investigation or who are dissatisfied with the extent to which the public police can investigate a case. Most of the investigative work of the smaller agencies involves civil cases, in particular personal and domestic investigations. If the smaller agencies are involved in security work, the work usually involves the installation of security devices and/or individual protection such as personal body guards, bank deposit guards, etc. Many of the small agencies are not oriented toward growth of the agency and explicit limit the volume of business to the level that can be managed with existing personnel.

For those smaller agencies that are oriented toward growth, however, the pattern of development is similar in most cases. The agency begins with limited personnel and concentrates on all types of investigative work where the capital costs can be minimal. When financially secure, the agency moves into the security specialties where growth is rapid and where capital costs are greater. Expansion at this point occurs primarily by adding security personnel. The stabilizing point seems to be between 20% and 35% investigative work and 65% to 80% security work. At a certain point the agency begins to move toward qualitative rather than quantitative development and becomes more selective in the types of cases and clients it will accept. A number of the larger corporative agencies, for example, refuse to take personal and domestic cases and "ques-

able" or "sticky" cases (e.g., those involving politicians or providing security guards for firms with labor problems). As a consequence, assuming a continued quantity of the less attractive types of cases, there will presumably continue to be a demand for the smaller, less selective private police agencies.

The area where private demand is growing most rapidly is industrial security. In response to this demand, agencies are developing total comprehensive security plans for firms, including consulting and planning overall plant security, pre-employment investigations, hiring and training of security guards, installing and monitoring electronic detection devices, and providing investigative agents to deal with internal security problems (pilferage, embezzlement, espionage) as they arise. There also has been an increase in the number of neighborhood groups who cooperatively hire a protective service to regularly patrol their neighborhoods. The clients of security agencies are those who desire and can afford security and protection in addition to what public police can reasonably provide.

Perhaps the most important factor in the development of the larger regionally and nationally based private police agencies is their ability to utilize efficiently highly sophisticated, expensive equipment. In an era when technological sophistication in the law enforcement field has developed very rapidly and expensively, it seems clear that the large private police agencies are much better equipped than their counterparts in public police agencies.

At a minimum, the private agencies utilize the same kind of equipment as public law enforcement agencies. In performing the crime prevention function, uniformed security guards (frequently armed), two-way radio-equipped patrol cars, walkie-talkies, and riot equipment are commonly used.⁵ The larger national corporations have facilities at least comparable to large public law enforcement departments, such as completely equipped crime laboratories, to assist in the performance of the criminal investigation function. One national company advertises that it maintains a central file containing detailed records on over 6,000,000 individuals.

In addition, the private agencies utilize much more sophisticated, scientifically advanced, technical equipment than most local law enforcement agencies can afford. In Minneapolis, for example, all major equipment purchases by the police department must first be approved by the city council; and there have been few cooperative joint purchases or sharing of major

pieces of equipment with other police departments. On the other hand, the national corporations, which have offices throughout the country, maintain centralized equipment which can be dispatched where and when needed (e.g., specially trained dogs, electronically-equipped surveillance vehicles, special purpose trucks, trailing devices, photographic equipment, helicopters, intricate security alarms).

Additionally, while we were not able to verify the extent of use, it seems clear that the private agencies are less restricted than public agencies in the use of electronic devices, such as telephone bugs and other intrusive equipment, since the private agencies are not publicly accountable and do not for the most part operate in the glare of publicity. Furthermore, because the private police are paid for services rendered they can maintain surveillance as long and as extensively as the client wants, while the public police may be forced for economic reasons to shift resources to other cases.

In general, the competitive market system has decided advantages that favor the large private police agencies over the smaller agencies and the public police in the crime prevention and criminal investigation function. Centralization of equipment, as well as financial ability to maintain expensive technical equipment, and the time and personnel to pursue a case to its conclusion, lead to efficiency and thoroughness which public law enforcement agencies often cannot attain. At the same time, the prerogative of private agencies to hire and dismiss personnel, as well as employing people for temporary and part-time assignments, in response to varying demands permits economic efficiencies not possible in public agencies operating under civil service regulations.

The final section on the structure of the private police system concerns the quality of personnel as reflected in recruitment and training. For the most part such questions are subsumed under the heading "professionalization." Again, some general comparisons with public police agencies are instructive.

The range of opinion and concern for professionalization of personnel is about the same for private police as for public police. The larger private agencies are quite concerned about high educational and experience levels for recruits, extensive training, and professionally determined mobility. By the same token some police departments, especially suburban departments in the Minneapolis area provide incentives for educational achievement and have begun to facilitate mobility pat-

terns. On the other hand, many of the smaller private police agencies do not appear to share the same concern for higher standards of recruitment and licensing and these attitudes reflect the feelings of some personnel in local police departments.

When personnel practices are examined, however, some differences between the private and public systems emerge. All the private agencies indicated that college work was not significant in hiring security personnel where previous experience and personality factors such as "stable," "personable," and "not afraid of people" were most important. On the other hand, college education was quite important in hiring investigative personnel (second only to previous investigation and law enforcement experience). Indeed, most investigative employees, especially of the larger firms, have some college work and about half have college degrees.

Public police agencies generally require high school diplomas, although many now provide incentives for college work. On the other hand the public agencies in the Minneapolis area are more rigorous in their testing and evaluation of job applicants while the private firms tend to rely heavily on personal interviews.

In the area of personnel training as a component of professionalization, the public agencies have the clear edge. The Minneapolis Department has a 16-week rookie school which all recruits attend, and under law all police officers must receive at least 210 hours of training. For private agencies, on-the-job training is most common, although some of the large national firms have their own training programs that parallel the programs offered to public police recruits. In addition, of course, many personnel hired by the private agencies have previous training and experience in public police departments and to that extent the public police systems serve as a kind of farm system for the larger private firms.

A third component of professionalization involves mobility potential. The 1968 Report of the Minnesota Governor's Commission on Law Enforcement and the Administration of Justice and Corrections, in assessing the degree of professionalism in police work, states:

A professional has a degree of freedom as to his choice of where he wants to practice his profession. As he becomes more competent at his profession, his range of choices of where and how he wants to practice should increase. Such is not the case with police... Until a greater degree of mobility develops

within police work, the police drive for professionalization will continue to be extremely slow (Governor's Commission on Law Enforcement, 1968: LV-E-1).

The traditional type of mobility in police work is almost exclusively vertical, i.e., promotion within the department for which an officer works. Lateral mobility—transfers from one department to another at the same or a higher level—is, with few exceptions, nonexistent. New men are hired only at the patrolman level and promotions occur at regularized intervals. An individual desiring a career as a detective or investigative officer or in a supervisory position must work his way up through the ranks in that department. If he moves to another police agency it would normally mean starting out again as a patrolman.

A somewhat different pattern of mobility is evident in private agencies. The internal organization of the large agencies is in most cases patterned after police departments. There is an investigative division and a security division (corresponding to police patrol division). Within the security section there are ranks similar to those found in police departments—guard (corresponding to patrolman), sergeant, lieutenant, captain, etc. However, in the absence of civil service regulations the mobility patterns tend to be more fluid and diverse. Vertical mobility is the predominant pattern within the security division and moves from the security division into the investigative division occur infrequently. Lateral mobility exists to the extent that a private agency, when hiring someone with previous security experience, will start him at a level commensurate with his previous experience.

Within the investigative area, lateral mobility is the predominant pattern. Almost all investigative personnel are recruited either from public law enforcement agencies or other private agencies. Previous experience means beginning with a higher salary. The essential separation of investigative personnel and functions from security personnel and functions is, as indicated, different from the public police pattern. The result is that moving from public law enforcement work into private investigation is desirable because the job is, in most instances, more lucrative. On the other hand, few policemen move into security guard positions (unless part-time) because the pay scale for private security personnel is generally lower than what they receive as police officers.

It is clear that the private police system plays a major role in the overall performance of police functions, especially

in the urban setting. It is also clear that the general economic and business rules of success are largely responsible for the developing structure of the private police system. To the extent that large, nationally capitalized firms are better able to purchase, maintain, and utilize the most highly sophisticated technical equipment under fewer constraints and with greater impunity than virtually all urban public police systems, they can provide better security and investigative service to those willing and able to pay. Thus, it is in their interest to improve the "image" of the private police system by emphasizing, both within their own ranks and through state law, higher standards for recruitment and hiring, and better training programs. On the other hand, the large firms do not want to eliminate completely the one- and two-man operations since both they (the large firms) and the public police are not willing and/or able to handle some types of cases.

Finally, the taxpayer is disadvantaged in all this to the extent that his taxes support a training and experience system in public police agencies that (especially with 20-year retirement programs) provides a most valuable manpower source for the private police system. This problem will continue as long as public police agencies continue to operate within locally based civil service restrictions and private police systems function within the rules of an unrestrained market price system.

Public-Private Police Relationships

The final part of our investigation attempted to define the relationships that exist between the two parts of this dual police system. Interviews with members of various public police departments, the county sheriff's office, and the state bureau of criminal apprehension reveal two salient facts. First, there are no official laws or policies on the part of either the public or private police systems defining their relationships with each other. Second, there is a considerable range of attitudes on the part of individuals, particularly among public law enforcement officers, regarding the private police system. These attitudes, in turn, affect the nature of the relationships that develop between the two systems.

Some law enforcement officers still hold a view based on the notion that private detectives are "snoopers" whose methods are unprofessional and often dishonest and that illegal and private security men are "gun-happy kids," "old men" (the popular night watchman image), "a cab driver out to make a fast buck in a business where the demand is growing and no

particular skills are required," or, most serious of all, "some criminals who figure that the easiest way to rob a house is to be hired to guard it." Police officers who hold these views generally feel that private agents are tolerated "because there is no law against them." They claim to have little or no contact with private agents and do not believe that the private system provides any useful supplementary service to what the public police system can provide.

Most law enforcement officers interviewed indicated that their attitudes toward the private police system are more positive at best, to ambivalent at least, while no one interviewed indicated that he had favorable attitudes toward and cooperative relationships with all private agents. Many did feel that properly qualified and trained private investigative and security personnel can provide a valuable supplement to public police work.

There appear to be two primary reasons why the more negative attitudes of public toward private police are being replaced by a more positive and cooperative point of view. First, a number of the professionally oriented agencies are consciously pursuing policies to dispel the adverse image of private investigators and security personnel and improve the relationships they have with public law enforcement officers. For example, a number of agencies will not begin investigation of a criminal case until the police have completed their investigation. If a client contacts them before calling the police they specifically request that an official report of the crime be made to the police. Most agencies reported that they always notify the relevant law enforcement agency when operating within their jurisdiction, giving them full details of the case they are working on. Security guards of such agencies are given special training in the procedures to follow if an attempted crime is witnessed. Instructions usually include calling in the police and giving them "full cooperation."

A second, and perhaps more important, factor leading to improved relationships and increased communication is the large number of police officers "moonlighting" on a part-time basis for private agencies. In addition, increasing numbers leave public police departments to start their own private agencies, work full time for an established agency, or join the security division of a business or corporation. Nine of the ten agencies with whom interviews were conducted had employees with previous law enforcement training—police, sheriff's office,

F.B.I. or military intelligence, and the majority of the agencies considered previous law enforcement experience as the single most important qualification in hiring for investigative positions. One agency reported that it had employed as many as 200 individual police officers on a part-time, case-by-case basis during the past two years. This type of interaction--the same individuals employed by both private agencies and the public police--has had a major impact on increasing cooperative attitudes and relationships between the public and private systems.

Since so many of the interactions between private and public police are informal, *ad hoc*, and not disclosed freely by either party, it is difficult to describe systematic patterns and developments in these relationships. However, the following examples illustrate some of the types of interactions that do occur in the urban setting. Most frequently mentioned is the mutual referral of cases. The public police will recommend the name of a private investigative or security agency in cases where they cannot conduct the kind of investigation or supply the kind of surveillance requested by the complainant.

Similarly, private agents indicated that in particular cases they would suggest to a client that the problem was one which the police could best deal with (in particular where violence is anticipated). The comments regarding the mutual referral of cases suggest that both the police and the private agents recognize some vague line of demarcation, not clearly delineated, between what constitutes the responsibility of public police and in what areas the private agencies might function.

A second way in which the public law enforcement agencies cooperate with private agencies is through the mutual exchange of information. Both the police and the private detectives maintain their own network of informants. When private agents receive information concerning a case the police are working on they will pass it along to the police, and vice versa. One agency even indicated that one of its investigators attended the official monthly intelligence meetings of local law enforcement officers. This type of relationship is primarily true only of those agencies that have a close cooperative relationship with the police.

Security guards regularly come into contact with law enforcement officials in the course of their work. They may cooperate with the police in apprehending a suspect in the act of committing a crime on the premises they are guarding or if they undertake apprehension without police assistance, the

police are called to make the arrest. In such instances they turn over all relevant information and evidence to the arresting officer. Similarly, when private investigative agents are employed by clients on a case on which the police are also working, private agents may cooperate with the police by turning over to them evidence they have collected in their investigation. In the instances where the police and private agents cooperate in criminal apprehension or criminal investigation leading to arrest, private agents are regarded as providing supplementary services for the police.

Unfortunately, police records do not indicate in which case private agents have played a significant role. Police officials indicated the number was "probably not very large." However, one private agency employing ten investigators and twenty security guards indicated that their firm averaged six felony apprehensions per month. Equally important but less measurable is the contribution of private agencies in the number of crimes prevented by the presence of private security personnel.

Finally, private police agencies lend investigative and surveillance equipment to public police agencies under some conditions. This is, of course, a most sensitive area of interaction since such equipment may be used for surveillance or property search purposes that are illegal either under the 1968 Omnibus Crime Control and Safe Streets Act or state laws. As Braun and Lee (1971: 562) suggest, such activity is difficult to detect and prosecute whether it is carried on by private or public police agencies. Often the borrowing by public agencies is done because they are prohibited by governmental action or lack of funds from purchasing such equipment. The primary benefit to the private agencies of such sharing of resources is access to information normally available only to public police agencies.

In many respects, the relationships between the private and public police represent one of the most interesting and potentially troublesome aspects of the development of a private police system. To the extent that the private police supplement public police work for those willing and able to pay and such supplements are not subsidized by the average taxpayer, the development of a professionally oriented private police system is probably useful and can actually benefit less affluent parts of the community by reducing some of the demands for public police services. However, to the extent that the private police system in its activities and methods provides a means by which

the public police are able to bypass, evade, or subvert systems of accountability and rules of procedure, the unregulated development of a closely interacting private and public police system will inevitably create serious problems.

Conclusions and Discussion

Our study suggests several lines for further analysis both by the policy specialist and the general student of the criminal justice system. In the first instance, the rapid development of large nationally based private police agencies along with the pressures for increased professionalization emerging from within the public police system will require, sooner or later, changes in the laws involving functions, licensing, and regulation of the private police. Various categories of licenses may be required to distinguish among the smaller one- to three-man operations, the security personnel employed by non-police firms, and nationally based private security and investigative corporations.

For the student of the criminal justice system, a multitude of questions have been raised involving rates of development of the private system, the distribution of various types of cases by types of firms, potential conflicts within the private police profession, the implications of efficiencies and economies of scale available to the private system that have not been utilized by any but the very largest public agencies, etc.

These issues aside, however, we can conclude that the private police system has, indeed, expanded in recent years. What is more significant is that the expansion has been in directions different from those that prevailed in the recent past. The expansion has come by way of the nationally based, heavily capitalized firms that are able to utilize equipment and methods usually not available to the public police agencies. The expansion has also come from increased use of security personnel employed by firms engaged in commercial or industrial activity.

There are several fundamental issues raised by these developments. To the extent that private police are engaged in the investigation and apprehension of persons who have committed crimes, their functions clearly overlap those assigned to the public police. In the case of the public police, however, the act committed is defined as a crime against the society, the police agency undertakes the investigation and apprehension, and questions of guilt or innocence are decided in the courts. The client of the police officer, as it were, is the community. The community determines the rules under which the

investigation, apprehension, and disposition of the case take place and the officer, theoretically at least, is accountable to that system of rules and to the community.

The private police agent, however, in dealing with the same acts that the public officer deals with, defined as crimes, is in the employ of a private individual or firm rather than serving the community. He is to a much greater extent not subject to the same rules for investigation and apprehension and he is accountable only to himself, his profession, and his employer.

He is employed, presumably, to investigate and apprehend the wrongdoer because the client has suffered a direct loss by virtue of the acts of the wrongdoer. From the client's standpoint it is the loss and its potential restitution (or the prevention of future such losses) that is important rather than the more general concept of justice for a crime committed against society. His interests, therefore, are in direct action and results, rather than general principles and rules of appropriate investigative and apprehension behavior established by the community. Such incentives, then, become those directing the behavior of the employee, the private police agency.

This can have two important implications for the criminal justice system. First, many persons are investigated and apprehended for allegedly criminal acts but never move into the judicial part of the criminal justice system. Their cases are "resolved" among themselves, the private police agency, and the client who was, presumably, wronged by the act. Certainly not all criminal investigations conducted by private investigators involve such extra-legal resolutions of alleged crimes. However, there are certain kinds of cases, in particular robbery and theft, embezzlement, internal theft, and industrial espionage, where this kind of "solution" to crime is likely to occur.

The following example will illustrate the point. A company suffers a loss of \$3,000 and reports the loss to the police. The police make a preliminary investigation—interview people, ascertain the facts of the case, make a report, but uncover no conclusive evidence. The case remains dormant, largely because the police cannot actively pursue the investigation due to limitations of time and manpower. At this point the private investigative agent is called in (he actually may have been called before the police, but preferred to wait until their investigation was completed). The private investigator explains to the client that there are two alternative approaches to the

investigation depending upon whether the client desires prosecution or restitution. Our interviews suggest that 75% of the victims in such cases prefer restitution. Assuming that restitution rather than prosecution is the goal, the investigation proceeds according to the rules and procedures of the private rather than the public police.

This leads directly to the second major implication of the development of the private police system for the criminal justice system: the potential disregard for the rights of suspects and others connected with the investigation. This may result in investigative methods that are not subject to the same kinds of constraints under which public police operate, and it may result in the use of technical equipment that goes beyond that which the courts have permitted for police activity. Furthermore, once apprehended, the accused person is not protected by the procedures and guarantees now afforded persons accused of crime in the public sector. In short, virtually all the difficult and often controversial procedural rights and protections now guaranteed to persons apprehended and accused of crimes by the police can be and are often ignored by investigative and apprehension procedures used in the private police system, largely because the definition of the "crime," the interest of the "victim," and the incentive of the investigating and apprehending personnel are different from those we assume for the public police system.

Quite apart from the private police implications for the criminal justice system, there are two other issues which we shall raise in conclusion. First is the problem of invasion of privacy by private police agents. Questions of the definition and meaning of privacy are difficult and they are not made any easier by the fact that private police are in a sense licensed for purposes of securing information about individuals with very few legal limitations on the extent to which they can eavesdrop; spy; question friends, acquaintances, and employers; use electronic equipment; etc. The problem is aggravated by the lack of standards and enforcement procedures in the profession itself and by the very difficult procedures through which an individual must go if he wishes to complain about the investigative activities of a licensed private police agent. In Minnesota, while informal complaints are received by the director of public safety, the costs in initiating and following through with the procedures of a formal complaint are so high that very few citizens are willing to pay the price. Since the

state does not actively enforce the existing rules regulating private police agencies, the effect is to permit them to function largely unhampered in their methods and techniques.

Finally, there is the problem of consumer protection for the purchaser of private police services. Since the state laws and licensing practices do not establish very much by way of minimum standards, and since the industry itself has not moved very far in its self-regulation, the consumer has little to go on when he considers the purchase of private police services.

FOOTNOTES

- ¹ Braun and Lee (1971: 561) argue that existing civil and criminal laws probably provide adequate recourse to citizens who have been treated improperly during the course of arrest or search incident to arrest by private police personnel, but that present laws, both federal and state, do not have much power to protect the citizen from improper private police activity involving surveillance and private property search. In the case of interrogation by private police personnel, they point out that procedural requirements such as those deriving from *Miranda v. Arizona* (384 U.S. 436, 1968) generally have not been applied.
- ² While a minority of the agents interviewed made such extreme statements, all of them indicated that they could conduct an investigation without many of the restrictions operating in public police investigations.
- ³ Braun and Lee (1971: 559) indicate that since complaints of improper activity by private police personnel to licensing agents are rarely filed and license revocation rare, there is not much effective control of private police activity exercised through the state's licensing power.
- ⁴ Opinion of the Attorney General, 828-D, November 7, 1945.
- ⁵ Despite the Minnesota law regarding the imitative use of symbolic markings, a number of agencies use vehicles of a make and model similar to police patrol cars, with badge-like emblems on the sides. Also, the uniforms of some guards are very similar to police uniforms.
- ⁶ As Braun and Lee (1971:555) indicate, however, existing civil and criminal laws provide more or less effective constraints against improper private police activity except in the areas of surveillance, private property search and interrogation.

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