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# Citizens, Police, and Polarization: Are Perceptions More Important Than Facts?

ROBERT J. CONDLIN

The latter half of the 1960's has seen an increase in the popularity of a fundamental method for the redress of grievances—the riot. Feeling oppressed by a society with which they find it impossible to identify, militant minority leaders have marshalled the forces of their communities and lashed out physically at what they consider the most obvious and accessible symbols of that oppression. In the process they have posed grave new problems for the police forces of our nation.

The first problem is that of physical response to the use of force by these minorities. The police are meeting this challenge as their weaponry and training for the prevention of riots have reached a high degree of sophistication.<sup>1</sup> The second and more enduring problem however, lies in treatment of the underlying evils moving minorities to riot. Here the police response has not been as encouraging. Concededly, it is not the role of the police, as presently defined, to correct the economic and social inequities afflicting various segments of the society. Yet a primary cause of the riots of the 60's and an invariable catalyst for major incidents has not been social injustice so much as it has been minority community hatred of the police created and sustained by offensive day-to-day citizen-police confrontations. Therefore, if riots are to be prevented, community attitudes must be converted from hostility to appreciation of law enforcement and its agents. Because many present police practices feed this hostility, the greatest capacity for reform lies in the hands of the police.

Until now, the institutional police response has been the departmental community relations unit. Recent history has shown these to be inadequate for both the abatement of hostility and the prevention of riots. It is the primary thesis of this article that the eradication of community hostility requires a new approach free from the traditional concepts and definitions of law enforcement. In that spirit, this article will first, examine the causes of community hostility and its effects on the police; second, examine the police response to this hostility, the departmental community relations unit, and suggest some of its shortcomings; and finally, suggest a modification of an existing

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1. N.Y. Times, May 17, 1969, at 35, cols. 6,7,8.

community relations program believed helpful for the cure of these deficiencies.

The author does not propose to offer a definitive programmatic statement for reform, for certainly in the area of contemporary law enforcement dogmatism would be fatal. Rather, the purpose here is to suggest one alternative approach to the major problem confronting law enforcement personnel today.

### *The Community's Perspective*

Hostility toward the police is found primarily among minority group members, predominantly black,<sup>2</sup> who for the most part are also very young.<sup>3</sup> The reasons for this concentration of hatred in young blacks seems to be the following: Ghetto youths, often without work and with homes that may be nearly uninhabitable, commonly spend much time on the street. Most of the police activity allegedly responsible for the present high level of community discontent occurs on the street and as a result, is very frequently directed at these youth.<sup>4</sup> The inability of the police to establish satisfactory channels of communication in performing these day-to-day tasks of neighborhood patrol has come to be viewed by the young black as representative of an underlying bigotry.<sup>5</sup> He now is prepared to reciprocate in kind and to accept the consequences.<sup>6</sup>

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2. THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: THE POLICE 145-46 (1967) [hereinafter cited as TASK FORCE REPORT].

3. *Id.* at 149; REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 303 (N.Y. Times ed. 1968) [hereinafter cited as KERNER REPORT]. The author's experience with the Denver Police-Community Relations Committee of the Denver Model Cities Program supports this conclusion. The only citizen complaints registered before the committee were brought by youths; the most violent expressions of community discontent were voiced by young blacks; and the only armed conflict between the police and the citizens of Denver which occurred during the summer of 1968 involved black youths almost exclusively. *A Chronology of CALM*, REPORT OF THE POLICE-COMMUNITY RELATIONS COMMITTEE TO THE DENVER MODEL CITIES PROGRAM 3, 5, 7 (1968).

4. KERNER REPORT, *supra* note 3.

5. IV FIELD SURVEYS, J. LOHMAN & G. MISNER, THE POLICE AND THE COMMUNITY: THE DYNAMICS OF THEIR RELATIONSHIP IN A CHANGING SOCIETY, vol. 1, at 107 (1967) [hereinafter cited as SAN DIEGO REPORT].

6. Important to an understanding of why the black youth has chosen to fight back at this particular period in history is the present climate of the country. The civil rights movement has decreased black tolerance of indignities inflicted by the police and has greatly intensified the demand for equal law enforcement. And this is not to be unexpected, for as Charles Silberman pointed out: "The Negroes' impatience, bitterness and anger . . . are likely to increase the closer they come to full equality. This is not a quirk of Negro character but a characteristic of all disadvantaged groups: The closer they are to their goals the harder it is to understand or justify the disparities that remain." C. SILBERMAN, CRISIS IN BLACK AND WHITE 357 (1964). Though Congress has repeatedly pronounced the inherent equality of all citizens and passed Civil Rights Acts, Civil Rights Act of 1957, 5 U.S.C. § 295-1; 28 U.S.C. §§ 1343, 1861; 42 U.S.C. §§

Evidence to which blacks point as representative of police bigotry encompasses much of law enforcement technique. For example, blacks argue that the use of field interrogation<sup>7</sup> is more widespread in black neighborhoods than in those of the white residents of the same city.<sup>8</sup> The abusive use of field interrogation, a less frequent yet serious occurrence in black neighborhoods, is even more violently complained of as contributing to the black citizen's belief in the existence of discriminatory law enforcement. Any value which field interrogation might have as an instrument of crime prevention is lost when a black youth is patted down because he happens to be black.<sup>9</sup>

Blacks also feel that the police are physically brutal only when dealing with black people.<sup>10</sup> While the truth of this allegation is open

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1971e, 1975 *et seq.*, 1995; Civil Rights Act of 1960, 18 U.S.C. §§ 837, 1074, 1509; 20 U.S.C. §§ 241, 640; 42 U.S.C. §§ 1971 *et seq.*; Civil Rights Act of 1964, 28 U.S.C. § 1447 d; 42 U.S.C. §§ 1971, 1975 *a et seq.*, Civil Rights Act of 1965, 42 U.S.C. §§ 1973 *et seq.*, the black man still feels that many police practices deny his supposed equality under the law. Because of this perceived deprivation a substantial number of black citizens have come to look upon law enforcement agencies as racist organizations which are less interested in enforcing the law than they are in enslaving blacks. James Baldwin has given popular expression to this belief in his book *NOBODY KNOWS MY NAME* where he characterizes the police as an occupying army: "He moves through Harlem . . . like an occupying soldier in a bitterly hostile country; which is precisely what and where he is, and is the reason he walks in twos and threes." J. BALDWIN, *NOBODY KNOWS MY NAME* 67 (1962), sent to enforce a white man's law which has in the past and continues today to be dedicated to the subjugation of the black. For further extension of the occupying army metaphor in the form of analogy of the police occupation of the ghetto to the American military involvement in Viet Nam and some interesting parallels, see Niederhoffer, *Restraint of the Force: A Recurrent Problem*, 1 CONN. L. REV. 289, 293 (1968).

7. Field interrogation is defined as the stopping, questioning and sometimes frisking by a policeman of a suspect on the street when there are insufficient grounds for the policeman to make an arrest. L. TIFFANY, D. MCINTYRE & D. ROTENBERG, *DETECTION OF CRIME: STOPPING AND QUESTIONING, SEARCH AND SEIZURE, ENCOURAGEMENT AND ENTRAPMENT* 6 (1967).

8. V FIELD SURVEYS, THE NATIONAL CENTER ON POLICE AND COMMUNITY RELATIONS AT MICHIGAN STATE UNIVERSITY, A NATIONAL SURVEY OF POLICE AND COMMUNITY RELATIONS 332 (1967) [hereinafter cited as MICHIGAN STATE REPORT]. This fact has prompted one black spokesman to characterize stop-and-frisk statutes authorizing such interrogation as a classic example of class legislation, stating that it is obvious that the police would not stop a Wall Street banker on his way to work but that they might and often do stop Harlem businessmen. *Id.* at 18.

9. The fact that police departments usually do not condone either officially or unofficially the harrasing use of field interrogation is often unknown and unimportant to the black youth. What is important is that the practice is not stopped. Many black youths feel that the reason police continue to harrass them is because the police get a sadistic joy out of doing it. This sentiment was repeatedly expressed to the author in his capacity as advisor to the Denver Police-Community Relations Committee by black citizens of all ages and of widely varying philosophies. For a possible police interpretation and/or justification of what black youth may see as harrassment, see Falk, *The Public's Prejudice Against the Police*, A.B.A.J. 754, 755 (1964).

10. KERNER REPORT, *supra* note 3, at 302; MICHIGAN STATE REPORT, *supra* note 8, at 155; IV FIELD SURVEY, J. LOHMAN & G. MISNER, *THE POLICE AND THE COMMUNITY: THE DYNAMICS OF THEIR RELATIONSHIP IN A CHANGING SOCIETY*, vol. 2, at 99 [hereinafter cited as PHILADELPHIA REPORT].

to dispute<sup>11</sup> the support in fact for such widespread feeling is largely unimportant. The fact that the community reveals a consistent pattern of belief is in itself the significant fact; for it is the belief, whether justified or not, which adds fuel to community hostility and as such it is the belief which must finally be dispelled.<sup>12</sup> For even if police brutality were to be completely eliminated from the ghetto tomorrow, it would continue to be a problem until blacks believed that it had been eliminated.

Individual police verbal abuse or discourtesy directed at black citizens, especially black women, is another source of community discontent.<sup>13</sup> This practice, the one most frequently complained of,<sup>14</sup> is perhaps the most offensive of all because of its decided lack of ambiguity. It, more clearly than any other police practice, evinces a lack of respect for the dignity and worth of the black citizen.<sup>15</sup>

Yet another procedure complained of, one which is finding increased acceptance among police departments, is the practice of concentrating large forces of men and materials, including riot-control squads, in areas of a potential disorder.<sup>16</sup> In practice, such a concentration occurs most frequently, if not exclusively, in minority neighborhoods. This deployment poignantly reinforces the black man's impression of the police as an occupation force and serves to intensify existing hatred.

Yet another complaint is that all laws are enforced differently, unequally and discriminatorily in the ghetto neighborhoods.<sup>17</sup> Many

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11. W. GELLHORN, *WHEN AMERICANS COMPLAIN: GOVERNMENTAL GRIEVANCE PROCEDURES* 174-75 (1966); MICHIGAN STATE REPORT, *supra* note 8, at 161-85, 340-44. At least one Colorado gubernatorial commission has documented the existence of police physical brutality in Denver. THE COLORADO ANTI-DISCRIMINATION COMMISSION: *DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS RESULTING FROM HEARINGS ON EXCESSIVE USE OF FORCE BY DENVER POLICE* 3-4 (1964).

12. MICHIGAN STATE REPORT, *supra* note 8, at 185-86.

13. TASK FORCE REPORT, *supra* note 2, at 180-81.

14. MICHIGAN STATE REPORT, *supra* note 8, at 17.

15. KERNER REPORT, *supra* note 3, at 303; TASK FORCE REPORT, *supra* note 2, at 180. It should be noted again that police departments do not condone such activity but often times fail to be sufficiently diligent in preventing it. TASK FORCE REPORT, *supra* note 2, at 181; W. GELLHORN, *supra* note 11, at 175. The consequence of such police administrative laxity is that verbal abuse continues to occur with alarming regularity and reinforces the black man's conviction that the police do not respect him as either a man or a citizen.

16. MICHIGAN STATE REPORT, *supra* note 8, at 349; SAN DIEGO REPORT, *supra* note 5, at 80-81, 125-26; TASK FORCE REPORT, *supra* note 2, at 190. The Denver Police Department believes that the most important lesson to be learned from the Watts' riot is the need to concentrate police equipment and personnel in areas of potential trouble. Author's interview with Chief Leonard Johnson of the Denver Police Department Community Relations Division in Denver, Colorado, June 26, 1968. The Department has also adopted its own version of the tactical squad: the use of a police helicopter to, *inter alia*, patrol the streets and alleys of the minority neighborhoods in Denver.

17. MICHIGAN STATE REPORT, *supra* note 8, at 14; PHILADELPHIA REPORT, *supra* note 10, at 135; SAN DIEGO REPORT, *supra* note 5, at 82-84.

blacks feel that the police behave differently in every way when dealing with ghetto residents regardless of the offense or reason for the contact.<sup>18</sup> There is some evidence to support this belief as police not only respond more slowly to calls for help from the ghetto<sup>19</sup> but also allow certain forms of illegal behavior such as gambling, prostitution and racketeering to flourish in ghetto areas but not in contiguous white neighborhoods.<sup>20</sup> When the police do use an obvious double standard of law enforcement it is difficult for the black citizen not to draw an inference of second class citizenship.<sup>21</sup>

To many blacks, the common thread which runs through all of these objectionable practices is the perceived inference that people who live in ghettos and who are black do not deserve the same respect that is accorded the more affluent and white members of our society. There is a widespread conviction that police, motivated by racial prejudice, intentionally harrass and degrade blacks simply because they consider them to be second class citizens. The perceived diligence with which the police seemingly pursue this goal has also persuaded large numbers of black citizens that the stake in their undeclared war with the police is the very existence of the Negro race.<sup>22</sup>

A final element of the blacks' belief in their second-class citizenship is the inadequacy of the present police complaint procedures. The black and the poor, because they have little political influence, are almost never able to exert pressure for intradepartmental disciplining. Therefore, the black citizen, when he feels that he has been wronged by the police, must make his protest through police complaint bureaus. There is a great deal of mistrust of these bureaus.<sup>23</sup> Many departments have adopted unfair practices which discourage rather than encourage the filing of complaints. Some of these methods are retaliation in the form of a suit for filing false charges, harrassment, resisting arrest charges, requirement that a complaint be filed under

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18. MICHIGAN STATE REPORT, *supra* note 8, at 320.

19. G. EDWARDS, *THE POLICE ON THE URBAN FRONTIER: A GUIDE TO COMMUNITY UNDERSTANDING* 31 (1968).

20. *Id.*; INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, *WITH JUSTICE FOR ALL: A GUIDE FOR LAW ENFORCEMENT OFFICERS* 30 (1963).

21. The importance of investigating and prosecuting crimes in the ghetto as promptly as crimes committed elsewhere should not be minimized. This point was strikingly illustrated in Claude Brown's book *MANCHILD IN THE PROMISED LAND*. The turning point in the narrator's life came when the police arrested the man who had just robbed and stabbed his mother. The arrest relieved him of the necessity to kill the robber, as his code would otherwise have required. C. BROWN, *MANCHILD IN THE PROMISED LAND* 402-05 (1965).

22. Other incidents such as the attack by off-duty policemen, members of a policemen's law enforcement group, on several Black Panthers in a Brooklyn courthouse are less subtle examples of the existence of this undeclared war. *N.Y. Times*, Sept. 7, 1968, at 38, col. 2.

23. TASK FORCE REPORT, *supra* note 2, at 194.

oath and then false reporting charges, the use of complex complaint procedures which are not known or explained to the citizen and a myriad of other devices.<sup>24</sup> Should a citizen overcome these initial obstacles and file a complaint, there is no assurance that his interest will be adequately represented when the complaint is investigated and heard.<sup>25</sup> Furthermore, he is not likely to learn of the disposition of his case<sup>26</sup> and in most instances will not have the opportunity to appeal an adverse decision to a non-police agency.<sup>27</sup> With these inadequacies, it is not surprising that most black residents feel that it does no good to complain.<sup>28</sup>

A dangerous consequence of the closing of grievance channels, however, is that it intensifies the blacks' feeling of alienation and powerlessness. The truly second class citizen is the one who not only is abused by others but who also is incapable of fighting back. Furthermore, the lack of a workable complaint system reinforces the notion that there are no existing structures through which the black man can legitimately prosecute his grievances. Such a lack also supports the proposition that if wrongs are to be redressed, they must be done so in an extra-legal fashion. This, in turn, adds fuel to a growing philosophy of violence.

#### *The Police Perspective*

Most police departments and individual policemen feel that the great bulk of the practices complained of by the black community nevertheless constitute legitimate and fair methods of law enforcement. A meaningful attempt to resolve the problem of police-community conflict must provide an avenue of input for this sentiment or it takes the very real chance of becoming another partisan force in an already overly polarized situation.

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24. *Id.* at 195; Note, *The Administration of Complaints Against the Police*, 77 HARV. L. REV. 499, 501-02 (1964).

25. Niederhoffer, *supra* note 6, at 291; Note, *supra* note 24, at 505-06.

26. TASK FORCE REPORT, *supra* note 2, at 197, *supra* note 24, at 505.

27. There have been many proposals to establish civilian boards to review police activity, including one in Denver, COLORADO ANTI-DISCRIMINATION COMMISSION REPORT, *supra* note 11, at 7; Note, *supra* note 24, at 511; however, only six major boards survived the preliminaries and actually began to function: Philadelphia in 1958, Minneapolis in 1960, York, Pa. in 1960, Rochester in 1963, Washington, D.C. (as presently constituted) in 1965, and New York City in 1966. One by one they were eliminated by the police until only the Washington review board retains a precarious thread of life. Niederhoffer, *supra* note 6, at 298; *See also* TASK FORCE REPORT, *supra* note 2, at 198.

28. The fact that one of the top priorities of the Police Community Relations Committee of the Denver Model Cities Program was the establishment of a new bureau to investigate complaints of police brutality is evidence of the fact that the Denver minority community does not trust the existing Denver Police Department complaint investigating agency.

An initial overview of the police will show that great numbers of them strongly resent the criticism directed at them by the black community. They feel that the charges leveled against them are unfair.<sup>29</sup> They deny that they are a racist organization or that their practices discriminate against particular groups. Instead, they see themselves as a "beleaguered army" fighting apathy and evil—the nation's sole barrier against crime.<sup>30</sup> They fail to understand criticism directed at them for performing this job in the time honored and most effective manner they know. As a result of community criticism, however, they have become more and more defensive. They have begun to withdraw from society into an ever-closing group<sup>31</sup> and attempts to prevent this withdrawal have met with near uniform rebuff.<sup>32</sup>

There is a bright spot in this otherwise bleak picture, however, and that is the fact that most police departments are aware of the deleterious effect which community discontent has upon police morale and conduct<sup>33</sup> and because of this are willing, in most instances, to make a good faith effort to adopt programs reasonably calculated to reduce this discontent. What the police demand from such programs is that they be adaptable to police personnel and structures as they actually exist and not as an academic theoretician would like or suppose them to. It is in this spirit that this inquiry must proceed.

#### OFFENSIVE POLICE PRACTICES—REASONS AND EXPLANATIONS

There are numerous reasons to explain why police act as they do, *i.e.* continue to use practices which openly antagonize a large segment of the community. On some occasions incidents which give rise to complaints by citizens represent what the community believes them to—racist attitudes on the part of individual policemen. Several of the field surveys which have examined our metropolitan police departments

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29. MICHIGAN STATE REPORT. *supra* note 8, at 22.

30. Casper, *Call Crime to a Screeching Halt*, TRIAL, Oct.-Nov. 1968, at 14; MICHIGAN STATE REPORT, *supra* note 8, at 24, 96.

31. PHILADELPHIA REPORT. *supra* note 10, at 193. The dangers inherent in the movement toward a more self-contained and autonomous police force are great. One effect of withdrawal is that police departments tend to set standards of behavior for their own personnel which are designed to meet the expectations of the department and not to induce empathy on the part of the police for the cultures or value systems of other people. An example of such a self-serving standard is the Philadelphia code for officer behavior which, in almost all of its sections, proscribes conduct which the police department found offensive to itself but contained only one example of an act which would be offensive to the public PHILADELPHIA REPORT. *supra* note 10, at 193. *See also* Niederhoffer, *supra* note 6, at 293.

32. One need only look to the treatment accorded civilian review boards for evidence of this rebuff. *See* note 27, *supra*.

33. Wilson, *Police Morale, Reform and Citizen Respect: The Chicago Case*, in THE POLICE 137, 156 (D. Bordua ed. 1967).



have concluded that most departments employ individuals who are either biased or prejudiced against minorities<sup>34</sup> and that this bias often manifests itself in the form of stricter treatment accorded to members of minority groups.<sup>35</sup>

### *Environmental Prejudices*

Another possible explanation for police behavior is what can best be described as an "environmental prejudice" inherent in the role of policeman. To understand this prejudice, one must consider that a number of elements in the policeman's environment suggest the conclusion that all black men are criminals. This suggestion can be found in the training the police recruit receives—in particular, the "practical" education supplied by the veteran policemen with whom he works.<sup>36</sup> In addition to this factor, the increased motorization of patrols has resulted in a withdrawal of the policeman from personal contact with ghetto residents except for when he is enforcing the law. As a result, most of the ghetto residents he comes to know are real or suspected criminals.<sup>37</sup> The effect of these repeated experiences is that the policeman soon begins to go into the ghetto expecting most of the people he meets to be criminals. As a result, his treatment of all individuals whom he encounters is geared accordingly.<sup>38</sup>

### *Guidelines and Discretionary Power*

A third factor responsible for offensive police behavior is that individual policemen are often inadequately prepared for a job which, by its very nature, will frequently place them in unusually difficult and complex situations. Much of what the patrolman must do in the course of day-to-day maintenance of order calls for an exercise of his discretion. He is frequently forced to decide whether his long-range goal of preserving order will be best served by enforcing the letter of the law in a particular situation.<sup>39</sup> Many of these delicate decisions must be made on the spur of the moment, under extreme pressure<sup>40</sup> and

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34. KERNER REPORT, *supra* note 3, at 305-06; MICHIGAN STATE REPORT, *supra* note 8, at 341-42; PHILADELPHIA REPORT, *supra* note 10, at 192-93; SAN DIEGO REPORT, *supra* note 5, at 122-23.

35. TASK FORCE REPORT, *supra* note 2, at 164.

36. *Id.*

37. KERNER REPORT, *supra* note 3, at 305, 315; EDWARDS, *supra* note 19, at 27.

38. EDWARDS, *supra* note 19, at 27.

39. EDWARDS, *supra* note 19, at 4-5; KERNER REPORT, *supra* note 3, at 312-13; SAN DIEGO REPORT, *supra* note 5, at 43.

40. TASK FORCE REPORT, *supra* note 2, at 179; *See also* W. LAFAVE, ARREST: THE DECISION TO TAKE A SUSPECT INTO CUSTODY 510 (1965). For less spontaneous but nonetheless very real psychological pressures under which the police must operate see Comment, *Police Brutality and Civilian Review Boards: A Second Look*, 44 J. URBAN L. 625, 627-28 (1967).

with guidelines which are almost always inadequate and frequently non-existent.<sup>41</sup> The problem is not that police administrative personnel do not want to codify such guidelines—they do—but to do this they need the community's assistance. For the community itself best knows what is an acceptable level of noise or how many youths on a street corner are too many. Before workable guidelines for the use of discretionary power can be written the police must be able to go to the community and obtain this information.<sup>42</sup>

#### *Resentment of Certain Police Procedures*

A fourth and more important reason for the continuing use of hostility provoking field practices is that the police fail to recognize the deep resentment which these practices have engendered within the community. A number of these procedures were adopted because they were easier and less time consuming than their more legally correct alternatives. An example of such a practice is the arrest for purposes of an investigation. Many police personnel use minor criminal statutes, especially the status offenses, to facilitate investigations. A person suspected of committing a more serious crime is charged with one of these minor offenses and detained for the length of time necessary for the officer to conduct a thorough investigation.<sup>43</sup> Despite its widespread use, an arrest for investigation very often has no legal basis<sup>44</sup> and is a device for which a competent police officer usually has no need.<sup>45</sup> The cities of Detroit and Washington, D.C. have successfully abolished arrests for investigation<sup>46</sup> and there is no reason to believe that other cities are not capable of doing the same. There can be no question that the failure to abolish them will be costly in the form of deteriorated police-community relations.

The police are also often ignorant of the hostility generated by unintended discourteous treatment of ghetto residents.<sup>47</sup> What is often

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41. KERNER REPORT, *supra* note 3, at 312-13; LAFAYE, *supra* note 40, at 512-14.

42. MICHIGAN STATE REPORT, *supra* note 8, at 310; See Also Edwards, *Order and Civil Liberties: A Complex Role for the Police*, 64 MICH. L. REV. 47, 58 (1965).

43. TASK FORCE REPORT, *supra* note 2, at 187-88.

44. EDWARDS, *supra* note 19, at 29; AMERICAN BAR FOUNDATION: LAW ENFORCEMENT IN THE METROPOLIS 79 (1967).

45. PUBLIC ADMINISTRATION SERVICE. THE SAVANNAH POLICE DEPARTMENT, Part V: Guidelines to Measurement and Evaluation (Chicago: Public Administration Service, 1964), at 21-22.

46. EDWARDS, *supra* note 19, at 29.

47. As one example, the San Diego police were under the mistaken impression that their field techniques were not resented when in fact the community deeply objected to them. The police relied upon the fact that no complaints were filed as the basis for this belief but the reason for the absence of complaints was the community's distrust of the complaint procedure. SAN DIEGO REPORT, *supra* note 5, at 128. This unquestioning faith in complaint statistics as indicative of

viewed by the community as police discourtesy is frequently not an expression of a racist or biased attitude but instead simply the consequence of an individual policeman's failure to appreciate the full implications of his actions. For example, calling a black teenager by his first name may arouse resentment because many whites still refuse to extend to adult Negroes the courtesy of the title "Mister."<sup>48</sup> A patrolman may take the arm of a person when leading him to the police car without realizing that a black man is likely to resent this as an implication that he is on the verge of flight, an implication which may degrade him in the eyes of onlookers.<sup>49</sup> In neither of these examples does the policeman intend a lack of respect for his black suspect and yet this is how each would, in many instances, be interpreted.

Even the criticism of existing police complaint procedures can be traced directly to inaction based on an ignorance of the problem. Police assume that their complaint procedures effectively ferret out community dissatisfaction, and, as a corollary assume that an absence of complaints indicates that the community is content.<sup>50</sup> We have seen earlier that both of these assumptions are frequently incorrect<sup>51</sup> yet continuing adherence to them by the police effectively proscribes any major improvement in citizen grievance mechanisms.

#### *Necessity of Offensive Procedures*

The final and perhaps the most important reason for the existence of offensive police practices is that many departments, while regretting their offensive nature, regard such practices as necessary tools for effective crime prevention. The practice of field interrogation, for example, has been found to be an efficient method of collecting information about persons and events within high crime areas which in turn can be used to deter crime within these same areas.<sup>52</sup> The use of physical force—correctly believed to be an infrequent

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community discontent or the lack thereof is also present at administrative levels within the Denver Police Department. Author's interview with Chief Leonard Johnson of the Denver Police Department Community Relations Division in Denver, Colorado, June 26, 1968.

48. KERNER REPORT, *supra* note 3, at 303.

49. *Id.* at 303-04.

50. SAN DIEGO REPORT, *supra* note 5, at 128.

51. *See* note 46, *supra*.

52. LAW ENFORCEMENT IN THE METROPOLIS, *supra* note 44, at 18-22; MICHIGAN STATE REPORT, *supra* note 8, at 328, 333-34. For other justifications for the practices of field interrogation see Tiffany, *Field Interrogation: Administrative, Judicial and Legislative Approaches*, 43 DENVER L.J. 389, 392-94 (1966). However, the fact that most police departments do not have a central agency for the dispersal of information gained through field interrogations derogates to some extent from the validity of the police justification of performing an information gathering function. MICHIGAN STATE REPORT, *supra* note 8, at 335.

occurrence<sup>53</sup>—is felt to be a necessary police procedure when dealing with suspects who oftentimes exert physical pressure themselves.

The same is felt of the practice of on street harrassment of youth. Because youths commit an increasingly large proportion of crime, police are under growing pressure from their supervisors and the community to deal with them forcefully. Harrassment, both verbal and physical, may therefore be viewed by some departments as proper fulfillment of this end.<sup>54</sup> The same reasons are used to support the police procedure of concentrating forces within potential trouble areas. When used, this practice has had, in the short term, one of two effects: 1) that of containing disorders and thereby minimizing the harmful consequences<sup>55</sup> or 2) preventing a disorder from occurring at all.<sup>56</sup>

Even the minority community's allegation that the laws are enforced unequally stems from what is believed to be a valid police procedure, that being the apportionment of police personnel based upon the population of the area in question.<sup>57</sup> The unfortunate consequence of this admittedly non-racist basis for police assignment is that high crime areas often receive the same amount of protection as areas with an equal population but with a crime frequency rate which is considerably smaller. As a result, police in high crime areas frequently find that they do not have sufficient manpower to enforce all laws and therefore must concetrate on those laws most calculated to maintaining an acceptable level of public peace and order. The corollary of this limited enforcement is that those violations which do not make noise or create disturbances, but do offend the sensibilities of large portions of the community, e.g. gambling, prostitution, etc., are often overlooked and therefore flourish.

### *Perceptions And Facts*

In short, there is no simple or concise explanation of why police act as they do. What is clear is that the community's charge that police are racists interested primarily in the subjugation, if not the annihilation of the black is true for only a very small percentage of urban policemen. Yet, because the community perceives policemen as bigots that allegation cannot be ignored or dismissed as irrelevant. The community's fear must be dealt with and if it is a misunderstanding and misinterpretation of the real facts, explained as such. At the same

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53. EDWARDS, *supra* note 19, at 30; U.S. COMMISSION ON CIVIL RIGHTS, JUSTICE 2-8 (1961).

54. KERNER REPORT, *supra* note 3, at 303.

55. WITH JUSTICE FOR ALL, *supra* note 20, at 13-15, 35-36.

56. PHILADELPHIA REPORT, *supra* note 10, at 190-91.

57. EDWARDS, *supra* note 19, at 31.

time, the police belief that all accusations directed at them by minority groups are unfair is likewise more false than true. The majority of those citizens living in our urban ghettos are as much if not more concerned with improving law enforcement than almost any other segment of our society.<sup>58</sup> This is not surprising when one considers that black people are most frequently the victims of crime<sup>59</sup> and as a result, most often compelled to seek the assistance of the police. Yet, because the belief that minority citizens are unfair is the perceived reality of the police community it too must be dealt with directly.

In a situation of this nature, where each antagonist perceives a different problem from a single set of facts, perceptions become more important than facts. To some degree, perceptions even become facts. Therefore, before community hostility can be eliminated programs must be devised which are capable of dealing with the problem as it is perceived by the two conflicting communities. These programs must provide an opportunity for widespread police-citizen interaction in which each side is given, however, informally, an opportunity to explain its perception of the problem to the other. From there, the two groups, working together in their mutual self-interest, should be able to direct their efforts toward formulating responses acceptable to and identified with each faction. This spirit of mutual resolution of police-citizen conflicts has, to some extent, been evident in the one institutional response to the problem, that being the Police Department Community Relations Unit. As we shall now see, however, community relations units have always been an incomplete and far too often an insincere response to what is an all-pervasive police problem and as such, have not succeeded. We must now be prepared to look for new responses.

#### THE INADEQUACY OF COMMUNITY-RELATIONS UNITS

##### *Public Relations and Community Relations*

Police department community relations units were intended to "bring together . . . police in the local districts and the residents of the communities for a common education and understanding of each other's problems and activities."<sup>60</sup> However, from their inception,

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58. TASK FORCE REPORT, *supra* note 2, at 148; *see also* Cummings, Cummings & Edell, *Policeman as Philosopher, Guide and Friend*, 12 SOC. PROBLEMS 276, 280 (1965).

59. EDWARDS, *supra* note 19, at 32-33; TASK FORCE REPORT, *supra* note 2, at 148.

60. PHILADELPHIA REPORT, *supra* note 10, at 62.

61. The impetus for the public relations approach came from the initial success of the St. Louis Community Relations Unit. That unit, which made effective and imaginative use of public relations techniques, has served as a model for most present day community relations units. The success of the St. Louis program can in large measure be attributed to the fact that it was one

community relations units have, for the most part, been concerned with what is more properly characterized as public relations.<sup>61</sup> The distinction between community relations and public relations is this: public relations is a one-way communication process aimed at selling a particular product, in this case the police department. It works best if the product is previously unknown and is of less value in garnering public support if there is an already entrenched distrust of the product. Community relations, on the other hand, involves a two-way communication process focusing community resources on problem solving. In the context of our discussion, it requires a recognition of the fact that there are two groups, equally interested in and affected by law enforcement procedures, which share the burden of resolving police-citizen conflicts.<sup>62</sup>

Before significant progress can be made in the elimination of minority group discontent the police must acknowledge the validity of the community relations approach and provide for significant citizen influence in the law enforcement process. The existing system of community relations units, tied as it is to the old notion of selling the citizenry on what the police want to do, appears to be a particularly inappropriate vehicle for this task.

#### *Inadequate Channels of Communication*

Another failing of the present community relations efforts, closely related to that just considered, is the inability or unwillingness of the police to open channels of communication with all elements of the community which they serve. The Michigan State Commission, which has conducted the most extensive survey of police community relations programs to date, found that all current programs have failed to reach the very segments of the community with which the police are in conflict. Instead, they have been successful in reaching only those which were in rather complete agreement with the police at the beginning.<sup>63</sup> The seeking out of grass roots representatives, especially the more militant kind, is vital to a successful community relations program for it is those hostile toward the police who are the source of most discontent and consequently the ones who most need to be reached.<sup>64</sup>

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of the very earliest community relations efforts. It reached its peak at a time when citizens with whom it dealt were more receptive to police men and/or programs. Conditions have changed, however. The police are no longer trusted nor are their motives considered pure. This is not to imply that this was the situation in the late 1950's when the St. Louis program was enjoying prosperity but it now appears that the delicate balance has swung from grudging cooperation to non-cooperation. The community no longer wants nor is going to allow itself to be "sold."

62. MICHIGAN STATE REPORT, *supra* note 8, at 86-87; TASK FORCE REPORT, *supra* note 2, at 153; J. SKOLNICK, PROFESSIONAL POLICE IN A FREE SOCIETY 14.

63. MICHIGAN STATE REPORT, *supra* note 8, at 91.

64. Part of the reason for the exclusion of militants from community relations programs is that militants are often argumentative and make for unpleasant and difficult meetings. Yet it is better that this conflict take place in the controlled context of a meeting than in the streets.

It also is not sufficient that the police simply be willing to allow hostile persons to participate in community relations programs whenever they should happen to apply. Because present programs do not reach the militant elements of the populace the police must never let up in their efforts to induce such people to participate and must seek them out rather than wait for them to apply.<sup>66</sup>

*The San Francisco Community Relations Program*

One example of a good faith effort to involve all elements of the society in a "community relations" approach to law enforcement was the San Francisco Police Department Community Relations Program of 1963-67.<sup>67</sup> In that program, each police district was divided into smaller geographical areas called sections and each section was headed by a section chairman who was a resident of the community. The chairman was assisted by a committee of citizens from his area whom he and not the police department selected.

The section committees met monthly within their geographical areas to discuss the problems of their respective neighborhoods. District police officers, assigned to the meetings as liaison officers, met with them. At these meetings the neighborhood residents drafted proposals which, among other things, suggested ways in which police-citizen interaction could be improved. The proposals were then forwarded to a district committee, consisting of all of the section chairmen of a particular district plus a special district chairman, vice-chairman and secretary. The district committee collected all of the section proposals into a single package and forwarded this package to an executive committee. The executive committee, consisting of the section chairmen, district committee officers, the commanding officer of the police district and members of the Police Department Community Relations Unit, then decided what action should be taken on each of the specific section proposals.

Through this structure the San Francisco Police Department had the benefit of a considerable amount of resident input, especially at the section committee level, which otherwise would not have been available. The effects of this input were unusual to say the least. In response to the community's expressed need, the community relations unit assigned its men to neighborhood youth opportunity centers to help in finding jobs for black youth; they helped in raising money for the construction

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65. MICHIGAN STATE REPORT, *supra* note 8, at 120-21.

66. *Id.* at 121.

67. For a complete description of the San Francisco Police Department Community Relations Program of 1963-67 *see id.* at 44-52.

of neighborhood recreation centers; assisted in upward bound programs trying to place young blacks in college; coached blacks for union examinations; and participated in intra-mural basketball leagues within the neighborhoods.<sup>68</sup>

The response to this unorthodox approach to community relations was overwhelmingly favorable. The San Francisco unit was praised in a report prepared for the President's Crime Commission, for opening "new communication channels with community segments never before considered reachable."<sup>69</sup> It was commended by San Francisco civil groups and praised by blacks themselves for "really doing something."<sup>70</sup> Yet all was not perfect in the San Francisco program and the eventual failure of that most innovative of all community relations efforts tells something of the fatal inherent structural defects to be found in all community relations units.

The San Francisco unit, like all of its counterparts, made the mistake of not providing for widespread grass roots police participation.<sup>71</sup> As we have seen earlier, the problem of police-citizen conflict is not completely the product of the civilian psyche. Individual and departmental police practices often provide the stimulus for much of the existing hostility. The work of reducing this hostility must therefore deal with both the entire stimulus and the entire response if it is to be successful in eliminating the problem.

Another reason to suggest that the job of community relations is best done by all policemen rather than by a particular unit is that when a small group of individuals is singled out of the greater whole and given the specific task of reducing community tension, the remainder of the patrolman force does less community relations work than before. They believe, with some justification, that community relations is not their job, that the community relations unit is the proper agency to resolve difficulties which may arise in that field.<sup>72</sup> This reaction is fatal to any meaningful improvement in police-citizen relations. The most extensive police-citizen contact remains the on-street confrontation and if that continues to be performed in an offensive manner than even the most imaginative and extensive community relations program will be unable to reduce community tension.<sup>73</sup>

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68. Carruth, *Our War Was With the Police Department*, in *THE NEGRO AND THE CITY* 123-24 (1968).

69. KERNER REPORT. *supra* note 3, at 318; *Interview with Herbert T. Jenkins*, *TRIAL*, Oct.-Nov. 1968, at 18.

70. Carruth, *supra* note 68, at 122.

71. *Id.* at 125-27.

72. TASK FORCE REPORT. *supra* note 2, at 151.

73. MICHIGAN STATE REPORT. *supra* note 8, at 358-59.



The simple fact of the matter was that the San Francisco program, like all other departmental community relations programs, never involved more than a handful of men at any one time and contrary to theory<sup>74</sup> the activities of those men were not well known nor of significant influence in the rest of the department.<sup>75</sup> This fact was not lost upon members of the minority community, either, as they came to know the community relations unit as not representative of police department attitudes or policies as a whole. Blacks now recognize such units as small and distinct divisions which often do not have the administrative support of their own department<sup>76</sup> and are frequently ridiculed by the remainder of the patrol force.<sup>77</sup> The failure of the police to accord significance or influence to the work of community relations units has caused many residents to believe that the police are not seriously interested in bettering relations with all elements of the community. They see the present community relations programs as a "snow-job" or "con-game" whose only real purpose is to serve as "showpieces" to improve the image of the police within the white society.<sup>78</sup> This belief in turn reinforces the notion that the police do not respect the black community and do not deem its problems worthy of serious effort.

The foregoing comments are not intended as depreciation of either the institution or the work of departmental community relations units. At the time the idea of community relations became popular there was clear evidence that, absent some central agency to plan overall policy and coordinate activity, the job would not be done.<sup>79</sup> However, community relations programs have progressed beyond those early conditions and the thinking in the field must similarly progress. Police departments must not tie themselves unnecessarily to ideas which may have been appropriate for another time but which have now outlived their usefulness. It has become clear that the work of improving community relations is most effectively done when it is done by all members of a police department. For this reason, efforts must now be directed toward implementing programs designed to make all policemen participants in this venture.

#### THE POLICE-CITIZEN NEIGHBORHOOD COMMITTEE

New programs designed to deal with the problem of police-citizen conflict need not reject, *in toto*, past efforts, such as that of San

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74. TASK FORCE REPORT. *supra* note 2, at 153-54.

75. *Id.* at 151.

76. *Id.*; Carruth, *supra* note 68, at 126.

77. Carruth, *supra* note 68, at 125.

78. TASK FORCE REPORT. *supra* note 2, at 153.

79. *Id.* at 150-51.

Francisco. In fact, with slight modification providing for more widespread police involvement, the section and district committee structure of the San Francisco program could become a working model for a genuine "community" relations approach to reducing community tension.

### *Section Committees and Flexibility*

Instead of meeting with a liaison officer from the police department, members of the section committees, the "grass roots" neighborhood participants, could meet on a regular basis with all of the patrolmen who work in their particular section of the city.<sup>80</sup> They could form a joint police-citizen committee which could have the same jurisdictional base as that of its predecessor, namely all matters relating to the maintenance of order<sup>81</sup> within the section.

The committee could become a quasi-governmental neighborhood unit for the purpose of maintaining order. It could provide a forum for all those who live and work within the neighborhood and act as their spokesman in dealing with higher governmental echelons. It could draft and forward all neighborhood<sup>82</sup> proposals and resolutions in the same fashion as the San Francisco section committees. It could also draft guidelines for and otherwise assist in the exercise of discretionary power by patrolmen working within the committee's area of the city. But most important, it could and would encourage a return to the concept of a community law enforcement allowing both citizens and police to join forces in what is properly their common cause.<sup>83</sup>

In providing for a joint police-citizen committee program there are certain obstacles which must be studiously avoided. The size of the section committee should be flexible and yet small enough to allow the groups to be representative and workable units.<sup>84</sup> This means that in dividing police districts into sections, care must be taken to make them as small as conditions, geographical, ethnic, etc., allow. In general, it is better that many small groups contribute than that a single large

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80. Police participation could be insured by making attendance part of the patrolman's duty assignment.

81. The maintenance of order should be distinguished from Law enforcement, the second aspect of the twofold duty of the police. For a discussion of the differences between these two, see Wilson, *What Makes a Better Policeman*, 223 ATL. MONTHLY, Mar., 1969, at 131.

82. "Neighborhood" as it is used in this context refers to the new group, comprised of both civilians and police, represented by the joint section committee.

83. MICHIGAN STATE REPORT. *supra* note 8, at 95. "In a democratic society, the corollary is the dependence of professional police upon the public with regard to detection, evidence, financial support and in the last analysis, the police job itself." Hall, *Police and Law in a Democratic Society*, 28 IND. L.J. 143 (1953).

84. MICHIGAN STATE REPORT. *supra* note 8, at 116-17.

committee have charge of preparing the complete program. Small groups are more likely to enlist a meaningful cross-section of grass roots support than a single large group which often becomes representative of only the philosophy of the dominant personality of the group.<sup>85</sup> Police departments also must not be hesitant to form committees from street corner gangs, tavern habitués, exconvicts, militant organizations and the like.<sup>86</sup> The concept of sectioning must remain flexible and should be defined as any unit of citizens which can be singled out as having similar problems and interests.

#### *Discussion of Sensitive Topics*

The second major caveat which police departments must be careful to obey is to not be defensive and instruct their men to refuse to discuss certain areas of police work. If two-way communication is going to be established the police must encourage the discussion of sensitive topics. When citizens ask questions about controversial subjects they expect frank and honest replies. Police hostility to sensitive questions will be viewed as lack of interest and respect.<sup>87</sup> People will then stop asking what is really on their mind and meaningful communication will cease to exist.<sup>88</sup>

Finally, since a large part of what the police must do in a community relations program is convince the citizens of police sincerity in seeking to reduce the existing community tension, a department must be prepared to reevaluate and change existing policies and practices in light of the information supplied by the joint committees. If there is a clear consensus of committee opposition to a particular practice then a department must be willing to abolish that practice. Likewise, if there is a clear consensus that the department should be doing more in community affairs, then the department must be willing to increase such participation. The important thing is that the members of the committees, both police and civilian, be made to believe that their recommendations do influence police policy decisions. Until this is done the committees' work, to many of the participants, will seem to be little more than an exercise in futility.

A police-citizen committee, thus composed, would deal with the problems of community discontent as it is perceived, as well as with

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85. This was a problem encountered by the Denver Police-Community Relations Committee. During crisis situations that group often became representative of no more than the few strong personalities who belonged to it. To its credit, it sought community ratification of the decisions it made but often these decisions were presented as a *fait accompli*.

86. TASK FORCE REPORT. *supra* note 2, at 157.

87. MICHIGAN STATE REPORT. *supra* note 8, at 71-72.

88. *Id.*

the problem as it really exists. Citizens would be able to protest the offensive nature of many of the law enforcement practices which are presently employed. Police would learn, for the first time in many instances of the pent up hatred for the policeman based on the discriminatory way in which it is believed that he enforces the law.

At the same time, community residents would be given an opportunity to put their perceptions into new perspective. They would learn from their fellow police committee members that the motivation for most offensive police conduct cannot be completely explained in terms of the ever popular "racist attitudes" phrase.

The participating policemen would have an opportunity to express their belief that unfair and apathetic persons are at the root of much of the community criticism, that the criticism is not valid and that once this is recognized, police-citizen conflict will end. They too will be given an opportunity to put their allegations into new perspective. Increased contact with citizens sincerely interested in effective law enforcement would help them to understand that much community comment is offered constructively in an attempt to help the policeman better perform his job. Policemen would come to realize that the black community has an interest in effective and fair law enforcement which is equal to if not greater than that of any other segment of the society and that it is willing to do its part in making such enforcement a reality.

An additional advantage of the police-citizen committee program is that it would increase the number of non-adversary police-citizen contacts which presently occur. A more extensive and on-going non-adversarial interaction is a positive good, in itself, for it can serve to break down the barriers of ignorance, fear and environmental prejudice that presently exist.<sup>89</sup> While it may not be practical to demand that policemen establish residency within the area in which they work<sup>90</sup> committee meetings of this kind can help to further the purpose served by that suggestion, that is making the policeman a part of the community in which he works.<sup>91</sup>

Committee meetings can also serve as a means of providing policemen with an empathy for the culture and values of the citizens with whom they work. Present police training programs designed to do this are often inadequate because in most instances those instructing (other policemen) are not sufficiently familiar with the community to

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89. Bordua, *Comments on Police-Community Relations*, 1 CONN. L. REV. 306, 320 (1968).

90. This was the suggestion of the President's Commission on Law Enforcement and the Administration of Justice. TASK FORCE REPORT, *supra* note 2, at 166.

91. *Id.*

impart the necessary knowledge.<sup>92</sup> A final reason for supporting the committee program is that it fulfills the primary objective of any attempt to resolve the problems in police-community relations, that of bringing about a genuine two-way communication between citizens and police<sup>93</sup> from which both are able to discover that neither desires to fight the impending war. The alternative to a group of this nature is to take the discussion into the street where the lighting is bad and the surroundings not conducive to flashes of insight and understanding.

#### CONCLUSION

Devising and implementing new programs designed to reduce the level of community discontent will not be easy and yet it appears that the burden to do so falls directly upon the police.<sup>94</sup> They have the prime responsibility for safeguarding life and property and to do so they must obtain the support of the community.<sup>95</sup> Such support will not be forthcoming as long as a substantial segment of the populace looks upon them only as an occupying force.<sup>96</sup> The police can refuse to initiate new programs and prepare themselves for the increased violence and the lessening of respect which is sure to come.<sup>97</sup> Or they can admit fallibility and seek out the support and aid of the community to try new approaches. The community is prepared to help, as most blacks critical of the work of the police are quick to recognize the necessity of having a police force and desire improved relations with it.<sup>98</sup> What the black citizen now seeks is an opportunity to participate directly in a process which vitally affects his day-to-day life. The community wants action, not promises. If present trends continue however, it will not be long before it will accept neither. The burden is squarely upon the police departments of our nation and the time to assume that burden is now.

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92. MICHIGAN STATE REPORT, *supra* note 8, at 321-22; SAN DIEGO REPORT, *supra* note 5, at 131.

93. TASK FORCE REPORT, *supra* note 2, at 156.

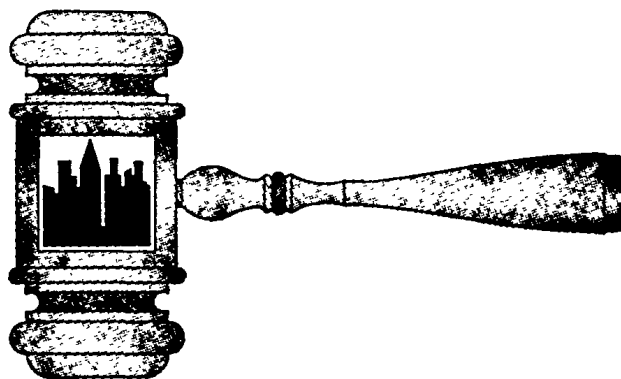
94. KERNER REPORT, *supra* note 3, at 300.

95. *Id.*

96. *Id.* at 301.

97. MICHIGAN STATE REPORT, *supra* note 8, at 256.

98. *See* note 58 *supra*.



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