CURRENT ISSUES IN AMERICAN LAW ENFORCEMENT

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Controversies and Solutions

By

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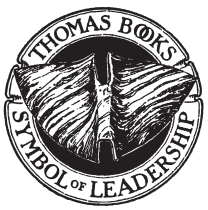

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PREFACE

One thing that is apparent in American law enforcement is that change is endemic and with each change it impacts not only the police agency but the communities they serve. Additionally, change issues can come to light that were previously unknown or perceived as not being of much consequence. Sometimes these issues remain static or become short-lived and in other instances create a great deal of controversy. In the latter instance, a controversy can become embroiled in politics and activism becomes an integral part of the total process. An example of this would be community policing that evolved slowly because of opposition and in many instances has taken some police departments by storm while other departments extol it but do not practice the basic tenets of the process. Also, the public review of police conduct at times seems at odds with the more time-honored program of internal review. Court intervention into the policing process has made dramatic changes in some police departments, but it remains to be seen if the courts and the U.S. Department of Justice will continue to intervene into local policing matters.

The police use of force remains a perennial issue and a great deal of soul-searching has occurred as researchers have strived to develop alternatives to the use of deadly force. The Taser device has shown some promise, but even it is embroiled in controversy. In addition, the murder of police officers, while abating, remains too high and one can only wonder why patrol officers are not mandated to wear protective vests. The inevitability of police murders is not acceptable. Police injuries have escalated and more must be done to reduce this type of occurrence. Police misconduct is another issue that seems to have been with us since the beginning of organized law enforcement. Somehow the police have to become more of a part of the community.

Hate crimes have become an issue more recently, but it is not clear that they should warrant a special legal consideration, but as a consequence of significant political support a new crime has been born. The same is true of profiling, an unknown and inconsequential awareness that has become an

issue of major proportions within the last few years. Furthermore, vehicle pursuit is in the forefront of the minds of many innocent persons who have died because of inadequate police policies and there is a continuing movement toward improving technology in this vital area. Finally, women in policing is making inroads as more females enter law enforcement and are just beginning to ascend to positions of higher power. Whether these issues will remain as key considerations in the future is unknown at this time. It is for the public, politicians, and the police to address these critical issues, hopefully in a concerted effort.

H.W.M.

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CURRENT ISSUES IN AMERICAN LAW ENFORCEMENT

Chapter 1

POLICING A FREE SOCIETY: WHAT ROLE SHOULD THE POLICE PLAY?

The effort in the police field to markedly discern and delimit the activities in which the police should engage has been wrestled with for more than a century. It has not been an easy task and efforts to deal with identifying the role of the police has been fraught with difficulty and has proven to be an elusive task. An English peer, Robert Peel and his staff pursued one of the earlier efforts when they proclaimed *nine standards* of law enforcement. These principles are as relevant today as they were in 1822, and most importantly they reflect an outstanding and probably the first example of defining the relationship between the police and the public (Davis, 1977:29–34, Patterson, 1995:5–10; Harrison, 1996:307).

With the passage of An Act for Improving the Police in and near the Metropolis, a mechanism came into existence that provided for the maintenance of law and order. This newly-created police department had to deal with a constantly increasing crime rate. At the time of its implementation, the Peelian concept was clearly utopian and idealistic. It served as a bridge between either an antiquated police department, or in some instances nonexisting police services. It turned out to be a renaissance of law, order, and justice (Radzinowicz, 1956:572). One important contribution that **Robert Peel** made was to emphasize crime prevention rather than detection, but this concept never became a consequential task of the earliest American police system. The majority of these early principles represented some degree of cooperative effort between the police and the public and set the tone for subsequent efforts to professionalize law enforcement.

In the evolving American society during the early part of the last century, numerous social indicators such as the beginning of urbanization, an unacceptable amount of crime, industrialization, and immigration led to the creation of formal police departments at the local level. While this country

looked to the London Metropolitan Police Department as a model, the creators in our Nation were fearful of a strong central government. Consequently, police powers were delegated to the state and local levels of government and a number of years passed before the creation of federal law enforcement agencies.

POLITICAL EPOCH

Unfortunately, politics immediately dominated American policing and departments received their operational legitimacy and budgetary resources from politicians and local political organizations. Chiefs of police as well as police officers were at the mercy of the political process and were replaced when political parties changed. In some instances this was a clean sweep and friends and supporters were appointed and supporters of the opposing political party were sent packing. In some cities 25 percent of the employees were police officers so it was fertile ground for patronage. In return, the police supported incumbent politicians and did every thing they could to keep the appointing power in office (Leonard and More, 2000:16–17).

A positive side of the political era was that even though police departments performed the time-honored functions of crime control and order maintenance, they also ran soup kitchens, found lodging for the needy, collected taxes and performed a census. At the same time it should be pointed out that these altruistic activities served to support party activities and reinforce the politicians in power (More et al., 2006:18–19). For many years politicians and reforms were at each others' throats on who would control the police. *Reform* did not happen overnight; it failed, was resurrected numerous times, and finally prevailed.

Reform crept in and eventually overwhelmed the negative aspects of the political process and the patronage system. As reform gained strength politics was no longer in the driver's seat. Police executive positions were moved under civil service and in a few cities the chief of police was given a lifetime position and only removed for cause. The intent was to strip law enforcement from all political influence since it was viewed as an albatross. The result was that law enforcement agencies moved into a restrictive law enforcement mode emphasizing crime control as not only the primary, but the only role. During the reform era that extended for a number of decades as unique problems occurred outside of crime control, police bureaucracies reacted by creating special units that over time weakened the patrol function, but gave police administrators' greater control (More et al., 2006:20).

Now it is essential to look at another phase of the developmental process

of reform. In the early part of the last century, **Leonhard F. Fuld** pointed out that there was a need to identify the true purpose of policing (Fuld, 1909:123). Highly visible and functioning 24 hours a day, the police assumed numerous duties outside the realm of law enforcement as politicians sought for ways to deal with community problems. The police became the dumping ground of municipal services that ranged the gambit from running soup kitchens to chauffeuring the mayor and including such duties as animal control and traffic regulation. This was followed by a study of the American police in 1915 by **Elmer D. Graper** that reinforced Fuld's position. He confirmed that the police had assumed too many extraneous activities that had a limited relationship to the enforcement of the law. Graper found that police departments performed a wide scope of duties including ambulance service, censorship and tax collection (Graper, 1921:29–42).

Can you imagine the problems the police would have today if they performed the functions of the Internal Revenue Service? In the early part of the twentieth century police agencies paid little heed to the nine principles of policing elicited by our English counterparts. Slowly but surely the police adopted a posture that moved them further and further away from the public as they enforced the law from a legalistic posture rather than a service orientation. It makes one wonder if our nation had followed the earlier precepts whether we would have had an entirely different type of police system and possibly a more significant reduction in crime.

Over time the reform era that ushered in an emphasis on crime control failed to meet the needs of citizens and the community at large. Extensive managerial control proved to be inadequate and eventually there was a call for reform of the reform. It took considerable time and ultimately community policing came upon the horizon. Prior to discussing this new era it is essential to return to a discussion of principles.

Figure 1–1

Principles of Law Enforcement

- Prevention of crime is the basic mission of the police.
- Police must have the full respect of the citizenry.
- A citizen's respect for law develops respect for the police.
- Cooperation of the public decreases as the use of force increases.
- Police must render impartial enforcement of the law.
- Physical force is used only as a last resort.
- The police are the public and the public are the police.
- Police represent the law.
- The absence of crime and disorder is the test of police efficiency.

Source: Edward M. Davis (1977). "Professional Police Principles," *Federal Probation. XXV*(1), March, 29–34.