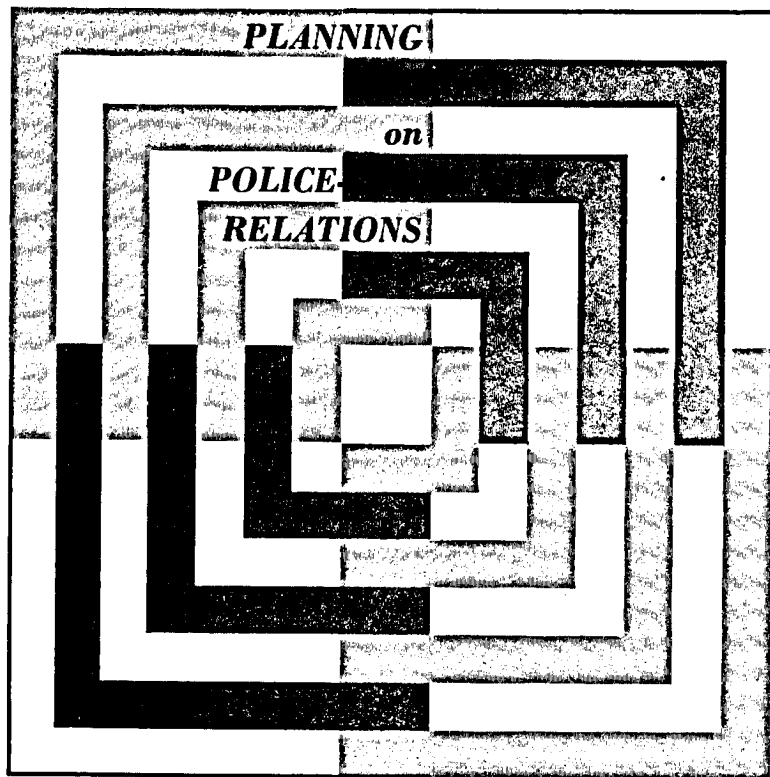


0515

# PROCEEDINGS:



Lawyers' Committee for Civil Rights Under Law

0515

## *Lawyers' Committee for Civil Rights Under Law*

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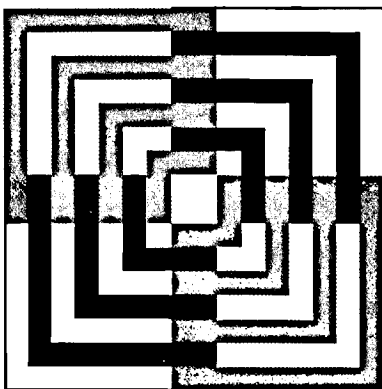
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## *acknowledgement*

*The Lawyers' Committee is deeply grateful to all those who contributed to the Planning Session. This meeting was made possible through the generous financial contributions of the members of the Committee and its many supporters, particularly the Office of Law Enforcement Assistance of the Department of Justice, under whose matching grant funds the Police-Community Relations Demonstration Project has been initiated.*

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# *introduction*

In a letter sent to Whitney North Seymour and Burke Marshall, the Co-Chairman of the Lawyers' Committee for Civil Rights Under Law, in 1965, President Johnson made this observation:

*There is, of course, more the Committee can and should do, not only in the South, but in the large cities of this country. Lawyers are especially equipped to assure that the legal rights of economically deprived slum dwellers of our large urban areas are not violated, and most importantly, that respect for law and order is strengthened. This can be helpful to the Poverty Program and other Federal programs as we grapple with the underlying causes of unemployment, housing deprivation and educational denials.*

The President's words encouraged the Lawyers' Committee to examine the problems in urban areas with a view toward making a contribution in the area of the special competence of lawyers. The Committee concluded that it should devote its attention to the need for cooperation, understanding, and respect between the police and the various communities that make up a city.

Urban problems include not only the police-citizen contact, but the social, economic, and cultural problems of poverty, discrimination, and youth. The policeman is often the only representative of organized society to have direct, continuing contact with the individual citizen. To the slum dweller, the policeman is a symbol of the status quo. Many view the police with fear and hostility and the police often reciprocate.

Well-founded programs to improve police-community relations, to better police training, and improve group relations can help significantly to relieve tensions and create confidence in law enforcement.

The Committee and its staff surveyed the various programs being carried on in the field and consulted with leading authorities. The Committee's conclusion, one shared by most of those consulted, was that existing efforts in this area have been directed primarily to senior police administrators and, too often, have been couched in general rather than specific terms. The need, it was felt, is for programs, which are tailored to the existing situation in each community, which draw upon an intimate knowledge of the community, and which utilize the best available talent in police science, municipal administration, and human relations. Proceeding on these premises, the Committee developed a Police-Community Relations program.

President Johnson commented on this action in a telegram addressed to the 1966 annual meeting of the Committee, held in Montreal:

*Your annual meeting this year occurs in the midst of persisting challenges to our social order.*

*It comes as you embark on a new and vital program to find ways of improving understanding between law enforcement officials and the community.*

*I am grateful that you are undertaking this difficult task. It advances my earlier request that you deal with the problems of the economically deprived slum dwellers of our large urban areas. It also carries forward recommendations made by the White House Conference "TO FULFILL THESE RIGHTS."*

*Your continuing commitment to stimulate the legal profession to assume its fair share of responsibility in our nationwide search for justice is a source of uncommon strength and hope to me.*

The Committee determined to focus its efforts on three cities, to devote attention to the special problems of each city, and to help improve police-community programs to determine the effectiveness of various techniques and activities.

Autonomous local committees have been set up in Atlanta, Detroit, and Seattle on a volunteer basis.

On July 17, 1967, the Lawyers' Committee Police-Community Relations Project convened a planning session in Washington, D.C. Members of all three local committees, as well as representatives of our national Committee and of its executive committee were in attendance, as were policemen, judges and federal officials.

The purpose of this planning session was to discuss the many facets of police-community relations and to permit experts in a variety of areas to suggest programs and projects that could be undertaken not only by our local committees, but by autonomous groups of lawyers throughout the nation.

The very high calibre of the presentations made at that session convinced the Lawyers' Committee that it should share the ideas and suggestions of those speakers with others who might find them to be of interest and use.

We have included in this volume edited transcripts of the statements of each speaker, and have included at the end of each panel a listing of the recommendations made by the individual speakers.

## *summary of recommendations*

I. THE INNER CITY AND ORGANIZED SOCIETY: Lawyers should seek to make all government agencies more responsible and responsive. This could include the establishment of grievance procedures by lawyers so that the community could make its needs known; a program of education for government officials conducted by lawyers so that officials could understand their responsibilities, powers, and the limits of those powers; and the analysis by lawyers of all proposed or operating city programs so that they can be made effective in solving the problems at which they are directed.

II. THE INNER CITY AND THE POLICE FORCE: Lawyers should seek to make the police more responsive to the community by helping to change the definition of the police function to make it more consistent with society's needs. Lawyers should learn about police operations and then work to improve policing and therefore the community's attitudes toward the police. This ought to include lawyers' supervision of certain aspects of police training so that the police can become more professional by learning how to exercise their discretion in a way consistent with our system of criminal justice and our body of knowledge concerning the human personality. Lawyers should also develop other hallmarks of police activity consistent with crime prevention but different from the apprehension function now so heavily stressed. These could include police participation in youth programs; police participation in a referral service channeling people in need of psychological or special help to agencies equipped to provide that help; alcoholic projects; and police participation, in cooperation with lawyers, in domestic quarrel teams to help mend family difficulties. Lawyers could also aid the police by designing guidelines for the exercise of discretion, and in the role of police legal advisers, by providing legal advice to police on improving crime solving techniques, by advising juvenile bureaus on techniques for handling juveniles, and by improving the internal police structure to improve efficiency and morale on the force.

In the specific area of improving police communication with the community, lawyers could be of service by sponsoring meetings between police and juveniles where both sides would have an opportunity to air out differences, or by sponsoring the organization of police and community into groups that would work jointly for the solution of community problems. Moreover, lawyers could reduce hostility by providing a twenty-four hour alert system to meet with the community when tensions are high, and by establishing storefront offices in the neighborhood to improve lines of communication.



**III. DEFECTS IN THE EXISTING BODY OF LAWS:** Lawyers could significantly improve police-community relations by working to eliminate those laws which annoy the community and make police work more difficult while serving little or no useful function. For example, law reform would be useful concerning the overly broad construction which puts much non-criminal conduct under the term "juvenile delinquency;" overly harsh penalties, including mandatory sentences, which are attached to mere possession as opposed to sale of marijuana and other thrill drugs; statutes which attempt to impose a puritanical morality concerning alcohol on a community where such concepts are ignored; and statutes which assign certain unpleasant regulation functions to the police whose training is irrelevant for such functions, and whose community relations problems are already heavily burdened without the additional stress.

Some of the laws which annoy our community do, however, serve a necessary function. Here, the problem is one of lack of understanding. The legal profession can do much by assuming the role of educator in explaining the purposes behind such laws. Lawyers could teach the poor the need for and meaning of many of the regulations which loom so importantly in their lives. Lawyers could, through the preparation of booklets, explain to arrested individuals the stationhouse and courthouse procedures in which they must take part. In our high schools and junior high schools lawyers could give honest instruction in the actual operation of our legal system so that the young people will attempt to seek their goals by working within rather than against the system. There is much hostility also to some phases of law (specifically constitutional protections and the criminal law's rehabilitation efforts) on the part of the white community, an attitude which the police often reflect. By explaining constitutional decisions and the purposes behind the criminal law to the white community, lawyers could alleviate much of the hostility and put our crime problem in the proper perspective.

**IV. COURT REFORM:** The courts, especially the lower courts, are often characterized by long delays and archaic procedures. Since poor people judge the entire system by these courts because they are ones with which they have most contact, if lawyers would use their talents for objective factfinding and analysis to make a study of the minor judiciary and then push through recommendations for court reform, the attitudes of the ghetto toward law in general could be substantially improved. In addition to preparing model codes of procedure, lawyers could sponsor the establishment of model courts, rehabilitation facilities, and probation systems. Lawyers could also take an active interest in seeing to it that all judges receive special training in administrative and rehabilitative techniques and that no judge receives a caseload which

prevents him from giving each case the detailed, individual attention to which it is entitled. No matter how fair our procedures, nor how well trained the judges, justice cannot be assured unless every individual is adequately represented by counsel at every crucial step in the process. The need for an attorney has recently become critical in the case of juveniles because of the recent Supreme Court decision in the *Galt* case. In addition to involving more attorneys in juvenile and criminal work, bar associations could meet this need by organizing programs to involve law students in providing representation for delinquents. Law students might also be useful as advocates in housing and traffic courts. In addition, lawyers could improve the criminal justice system by establishing procedures, including fair witness fees, for all people whose testimony is required and by refraining from prolonging the pretrial process when they intend to plead guilty.

V. ARREST RECORDS: Many arrests do not lead to conviction. Many people who are convicted are greatly changed as the result of the state's efforts at rehabilitation. Yet in many places arrest records are made available without notation as to whether or not the arrest led to conviction or rehabilitation. Sometimes this is even true in juvenile court where the young people were given promises that all proceedings were confidential. The widespread availability of undetailed arrest records often results in long-term punishment by closing job opportunities, a major cause of recidivism, and often this will poison the attitudes of many toward law enforcement. Lawyers could do much to change this by establishing a rational system for the keeping of records of past acts of adjudicated criminal behavior.

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# *opening statement*

*by Whitney North Seymour  
co-chairman, lawyers' committee  
for civil rights under law*

First I want to express the gratitude of the Lawyers' Committee to all of you for being here. Some of you are coming as panelists; others, as members of the Committee and representatives of local committees dealing with problems in particular cities, and others are representatives of police departments and other public and private agencies.

The Lawyers' Committee was formed in 1963 at the request of President Kennedy to try to bring the lawyers' particular skills to bear in the then specially abrasive civil rights controversy. The Committee was originally composed of about 250 lawyers who responded to the President's request, and the first co-chairmen were Harrison Tweed and Bernie Segal of Philadelphia.

Since that time we have added members. The Committee is now somewhere between 300 and 350 lawyers from all over the country, a very representative group.

President Johnson last year urged that the Committee change its focus from sole concern with civil rights in the South to urban problems in the North. That led us to think where we might be useful. We concluded that the field of police-community relations might be rewarding, because lawyers and the police share a common concern with law enforcement. But in places lawyers and the police were sometimes drawing apart, and it was important to recognize that law enforcement was really an area of cooperation. We have moved to try to improve relations not only with the bar but with the community generally. What we hope will come out of this assembly are some practical suggestions about how the lawyers can help, because while individually lawyers and police confront each other in court, basically they are concerned with the same thing. And this is preserving the whole tradition in the community of having things orderly and subject to law, and not having struggles going on between all the elements in the community. I suppose some struggle is unavoidable, but it ought to be as little as possible.

The Committee decided that its first step should be to examine relationships in particular cities, and it chose Atlanta, Seattle, and Detroit as test cities. Work is going forward there.

But we have a broader interest. And the broader interest is represented by this meeting. Out of it we hope to have broad suggestions for narrow objectives and narrow activities, things that really can be done and not just piously hoped for.

One example of what we have been doing is represented by a pamphlet which is in your kit reflecting the distribution of some simple advice about dealing with the law which is working usefully in Miami Beach.

What we hope to have come out of this planning session is a full and frank interchange of views.

We have with us today as expert panelists a number of top-flight people from all over the United States. Each panel will be moderated by a member of the Lawyers' Committee.

We hope that we will all go away with concrete things the bar can do in cooperation with the police. Underlying all of this is that great concept of Lord Moulton, that the measure of a civilization is the degree of its obedience to the unenforceable. Underlying everything the police and the bar do is the need to preserve the quality of community life in our country and not let it deteriorate into a contest between elements in the community.

Dean Lohman has been good enough to undertake to preside over all the panels. I am going to turn the meeting over to him.

## *the problem of police- community relations in general*

*By Dean Joseph Lohman, School of  
Criminology, University of California,  
Berkeley, California (and Former Sheriff  
of Cook County, Illinois)*

**DEAN LOHMAN:** Thank you.

Having arisen to accept that very gracious introduction I think I am going to seat myself and merge with the informality of the round table pattern of this program with the hope that that is the way in which it will continue through the day.

It would be something of an impertinence on my part to presume to cover the reaches of this discussion during the day by any of the introductory remarks on my part. Nor am I disposed to in

any sense pontificate or hold forth about, so to speak, the seriousness of the question. I think the events of the last few days are of sufficient urgency to have made that point more eloquently than any statement that I could have made.

But in a very real sense what Mr. Seymour has indicated about the necessity for developing again in our society an opportunity for the various elements to engage one another without the necessity of contest, without confrontation, without, so to speak, the persistent trend toward the polarizing of view and interest in this society. This in a nutshell is what this is all about. We are under the necessity, it seems to me, of drawing upon the most prestigious and authoritative aspects of our society as a means of developing a point of view which will foster the public interest rather than exhibit a partisan position in the on-going processes of American community life. The question is too frequently posed in partisan terms, whose side are you on?

I am not here in the position of serving the interests of the police as against the interests of the courts, or to press the interests of minority groups as against the interests of a quite recently organized group, which proclaims itself as representing law-abiding citizens. To a large extent our society has become polarized into self-serving and contentious groups. And the process seems to be in the need of being reversed. And it is in that spirit that my attention was directed to the work of the Lawyers' Committee. I noted out of my own experience the enormous importance and significance of a center of power and influence which is represented by the legal profession in fostering an impartial public concern with the well-being of the society as a whole. And it occurs to me that there rests with lawyers as a group and through their authority the kind of leadership and the kind of encouragement for the resolution of the present tendency toward polarization of the society that might save us from what can very well be a catastrophe.

Between 1964 and June of last year there were some thirty-two disturbances or riots in the United States officially identified as such. At least two persons were killed and a very considerable amount of property damage done. Since that day in June 1966, an eighteen months' period, we have had even more, and in a four year period there are now something like fifty-five instances of the public disturbances which have given us now a new phrase for Webster's Dictionary, "The long hot summer," and which of course no longer refers to the weather, but to what happens as an incident of it, namely, the triggering of what threatens to become a chronic condition, following upon confrontations in the polarization of the community.

In a real sense we are moved to seek an alternative, in the solu-



tion of our problems, to those means which we are increasingly committed to, either within police circles or within minority group circles or within the established centers of power and influence.

There is, and I simply assert this as point of departure — a very desperate need for a way to strengthen police relationships with the communities in which they are located and in which they serve. And this is of such critical proportions in our time as to become a limiting condition of our success in dealing with crime, not to speak of the more basic question of maintaining the peace and security of the community. This is, of course, the more fundamental objective and mission of the law enforcement apparatus.

The Negro, the Puerto Rican, the Mexican-American, indeed nearly every minority group, and the younger generation as a newly emergent group with minority status are in their separate ways taking action to acquire for themselves the privileges, the rights, and the services which they feel have been historically denied them, so as to visit upon them a measure of deprivation, the proportions of which we have not fully realized in former years. The police are in the critical position of being the most visible representative or agent of the society, indeed a major point of contact by which these groups engage society, or have occasion to transmit their message either formally or informally. And they are as a result of their experience with the police making manifest in that confrontation their demand for better treatment and for equal opportunity.

Now, I am not here to pass judgment upon why it is that the society has not been sufficiently responsive to them or to assert that their cause is wholly with merit. The point is that whether we like it or not the kind of confrontation which is represented threatens us all and even makes questionable the continuation of well-ordered social life.

As a consequence, the police and the law enforcement agency generally are being almost hourly confronted with unprecedented situations which require something more than their historical posture or traditional policies and practices if they are to be effective in engaging or re-engaging these groups, and indeed other citizens, who stand behind them and beside them.

The truth is that we are confronted with a situation that is much deeper as an issue than the mere question of the rights, the requirements, the requests of these groups as such. It is not simply, as some people have been inclined to state the case, a matter of whether we are treating these groups fairly or not. It is not just a matter of whether the minority groups are in an equitable relationship to the society. As a result of the way in which these groups are engaged by the police, the relationship of the police to the whole community is

in grave doubt. It is important for us to recognize that an essential condition of being effective in the enforcement of the law on the marginal few is the active support and encouragement of those who represent the great majority of law-abiding citizens in the community. There is very serious reason to believe that great numbers of otherwise law-abiding citizens stand in an alienated relationship to the police today. Police do not enjoy the confidence and support of the larger community. I do not say this in a spirit of blaming the police, nor as a condemnation of the police, but rather as a statement of a condition in which, in one way or another, represents an impasse from which we must deliver ourselves. Hostility or lack of confidence by any significant portion of the general community in the police has extremely serious consequences for the well-being of the society. In the first place, the negative attitudes of the general population have been reflected in the inadequate recruitment of personnel. People do not want to seek the police career. Many young men do not look with favor on becoming policemen as they did in an earlier generation. Many have a dim view of becoming law enforcement officers. Furthermore, they do not find among their relatives and friends support for that kind of an aspiration, once an accepted fact in our society.

The consequence of this — and it is a very direct consequence of it — is that the police departments everywhere in the land are operating beneath their authorized strength levels. Police departments have difficulty recruiting men. Young people are not disposed to see the police career as a career for them.

Again, police hostility affects the morale of the police themselves. The police officers are less than enthusiastic about doing a job for a community that does not think well of them, that does not have confidence in them. And so it is reflected in an enormous turnover of personnel. It is reflected in a personnel attrition which has come to characterize the police establishment of the United States. And the police themselves have not been able to correct this situation. They must have some kind of assistance from outside their circle if this process is to be reversed.

I am particularly alarmed that a number of police departments are facing a very special recruitment problem as an aftermath of World War II. A very considerable number of men who came out of the military service, because of their military experience and in contrast with their attitudes before they went into the military service, were momentarily attracted to police careers. And there are today a very large number of police departments in the United States which are confronted by the fact that that generation of policemen have reached the retirement age. They represent a group of able-bodied men who are today's policemen and who will leave the police career

still able to perform effectively as policemen if indeed the society were disposed to retain them in that capacity. But, in most instances, they are likely, prematurely in some instances, to leave the police profession and present us with a crisis of personnel the like of which we have never experienced. This will happen, in my judgment, within the next five or six years. It is incumbent upon us to do something really quite different if we are to replace these men who will leave the police service having reached their retirement.

A dissatisfied public will not support the police sufficiently when such issues as police pay, the number and quality of the officers, the character of their equipment, needed technical resources are before city councils and state legislatures. Even in California with its very high degree of professional emphasis in the police function, we find communities which, with all that state's storied pride in its professional police, will not give them a new police building simply because they do not have confidence in the current police establishment. A dissatisfied public does not support the police in the way in which it is required to be supported.

Furthermore, a hostile public is not likely to report law violations even when they are the victims themselves. They are even less likely to report the appearance, in their circle, of suspicious persons or incidents, to testify as witness, or provide information which is a necessary condition of police action. Citizen cooperation is crucial to law enforcement if the police are to solve an appreciable portion of the total crimes that are committed in the community.

So on the whole this spectacle of police hostility in the society, which has developed for one reason or another, has tended to engender a vicious circle of self-perpetuating hostilities between the police and the public, and correspondingly, it is reflected in the quality and character of the police operations themselves.

Policemen are reluctant to act. Hence, under the sheer necessities of the situation, they abandon their sense of restraint, and resort to force. Verbal abuse and other improper practices are an automatic concomitant when they encounter a cold and hostile public.

Danger, as a constant condition of their lives in the absence of the security and protection of their fellow citizens, is likely to promote indiscretion and lack of restraint in the exercise of authority.

Unfriendly crowds have driven police to the necessity of finding new expedients, new technical devices, in order to subdue them. I am concerned by the fact that the police desperately have turned to tear gas, for example, as a means of controlling crowds — a view to escaping the accusation of brutality by use of the nightstick. The change may be in the best of faith, but it illustrates the dilemma in which the police find themselves in their effort to find a technical

answer to a problem which in the last analysis must be resolved in terms of police-community relations and for which there is no satisfactory technical solution.

The undue burdens which have been placed upon the police require our urgent attention. And I submit that within the circle of the police or within the courts alone the solution will not be found.

The conditions for effective improvement in police-community relations are not completely obscure to us. We know many things about the police system. But we do not have at hand all the instrumentalities by which to change it. For example, we know for one thing that the police system reflects the interaction of the members within the formal organization. We know that we cannot expect to achieve full and complete correction of the police problem without the co-operation of the commanding echelons of the police departments, the chief and his top command, the officials of the city government. I would like to urge consideration of various ways by which we can secure a commitment from municipal officials and from the chief of police and the top echelon of his command, without which there will not be the kind of change at the rank and file level of the police that is required.

Indeed, we need an organizational commitment in order that we may get an adequate internal adjustment by individual police officers. This means that the organization of the police department as a whole becomes a matter of concern if the police are to adapt effectively to the situations that confront them.

I won't spend further time pointing up these issues. I am sure that from the panel of men that we have with us concrete suggestions will be forthcoming as to ways in which the legal profession might engage the police systems and encourage, through progressive and thoughtful leadership such as represented here, the changes that are required. It is not the changes in the society which are the dilemma of the police, it is rather the resistances and the inappropriateness of the accommodation of the police structure to those changes that are our problem. The police need and should be provided assistance in doing this. Many of the pressures which are exercised by the general community on the police are to retain the old and ill-adapted ways, the old means, the old procedures, and to address the police problems as if it remains today essentially as it was defined a generation ago. We must make the police free to accommodate themselves to the ways in which these problems have been redefined. And there has to be found an influence capable of doing this. I can think of no more formidable and prestigious group than the legal profession, which on the one hand enjoys, if you please, in terms of its custodial and entrepreneurial role with respect to the law, the confidence of the gen-

eral community and the police establishment. It can be an influence in bringing about a resolution of the differences between the general community, its sub-divisions and the police. The police must change. I repeat, this is said in no spirit of condemnation, or of criticism. The police must approach and deal with changes in the community which are requiring adjustments on the part of the established institutions. The failure of the police to adapt to change rather than the changes in the community is the heart of the problem. Lawyers can afford that leadership in establishing public accountability on the one hand by making appropriate suggestions to the police, and at the same time be of assistance in developing a point of view and a perspective with reference to the police by the newly-emergent sub-groups of the community.

Elected civilian officials must exercise responsibility and control over the police. It is rather interesting that in our historical development in the United States, we moved desperately to lift the heavy hand of partisan politics from police departments. More frequently than was realized we also lifted from the police, the responsible control by the civilian authority. They are many civilian boards of police in the United States which are performing no more than ceremonial functions rather than discharge the responsibility lodged with them under the city charters; namely, the formulation of policies and the conditions of action of those departments with the police chief as the executive officer of their authority. This perhaps more than anything else is why so many sections of the community have found the police remote from them, and have even initiated proposals for establishing, in a jaundiced way, a civilian authority over the police. Such an authority would fill the gap created by the failure of such Boards to discharge their constituted authority as lodged in their city charters.

One president of a board of civilian commissioners appointed by a mayor in a city recently said to me:

"All we exist for is to protect the police. We are a buffer for the police against the community."

And I asked him how he could reconcile that with the fact that the charter gave the Board the responsibility for formulating the policies, selecting the chief, and indeed, developing and approving the police programs.

And he responded,

"Well, that is what has come about, we are regarded as meddling with the police if we do anything other than let the chief do what he wants to do."

The comment was made by a civilian commissioner. And he reported that he had become concerned with restoring, not neces-

sarily in opposition with the police, the real substance of the Commissions authority.

The same thing can be said of mayors, of city managers, and of police authorities generally. In some small measure the appearance of the movement urging civilian review board represent an attempt to answer a problem which has arisen as a result of the eclipse of the civilian control of the police function. I am not one that looks with any considerable favor on the development of the civilian review board function simply because it seems to me that the movement is only the evidence that a vacuum has been created. We ought to re-establish the civilian authority in the terms which have been historically and constitutionally provided.

I was in Los Angeles a few days ago. And on the freeway I noted a car ahead of me with a bumper sticker. And I suspect all of you have seen them, they are now all over the United States, "Support Your Local Police." But I was surprised to find immediately following another car with a different bumper sticker, "Support Your Supreme Court." I suspect the drivers of both of those cars were motivated by the same high principle, concern with the integrity of law and order. Each in a different way was urging support of a common purpose. It was immediately apparent that each supports the objective of law and order, however differently, by these two agencies of criminal justice. We must not be in the situation of the lion hunter whose gun jammed and he saw the lion coming at him. He went to his knees and shut his eyes in prayer. When he opened his eyes he saw the lion was also kneeling in prayer. So in obvious relief he said,

"We both apparently believe in the same God, because we are praying to him, So can't we talk this over?"

And the lion, as lions occasionally do, replied,

"I don't know what you have been praying about, but I was saying grace."

It is not clear who is saying grace and who is praying for deliverance in terms of the changes that have taken place in society; changes in the attitude of our criminal behavior; changes which have not only complicated the life of the court as released in its decisions. These changes have complicated, as well, the life of the police. And even as the court has developed the police should develop. I see such development as the answer to the oppositions that now exist. For the work of prevention the police will increasingly need to be agents of social welfare. To succeed in detection and investigation they will have to become scientists rather than persons involved in routine investigation and the extraction of information.

The theme that runs through these remarks should be apparent. It is not the changes in modern society which are affecting the police

functions, but the failures of the police themselves to adapt to these changes and what is basic to police failures is the failure of the rest of us to provide the police with the wherewithal with which to adapt to these changes. Consequently, the basic police attitude remains one of reluctance to reform. Because their life's work of trying to restore or maintain the status quo necessarily indicates a conservative outlook.

I would like to suggest the sense in which we must look deeper for our difficulties than cliches, such as the fault of misguided Negroes, or the brutality of the police; we are in need of the development of a third force, a true public force that can provide the condition of a new kind of dialogue. From such a dialogue there can evolve a common understanding for the development of rules of procedure and a common condition of their implementation.

I am prompted to suggest a few fundamental assumptions to provide, in these final moments of my remarks, a basis for considering various facets of our problem. In the first place, the apprehension and hence, the suppression of law violators is to be recognized in our time as only one aspect, one very important but still only one aspect of the police mission.

Secondly, the enforcement of the law on the marginal few in our society we have seen is not to be successfully accomplished without the cooperation and support of the rest of the community. And if that cooperation and support is failing we must devise ways and means by which we can re-establish that support as a condition of the success of the police.

And finally, the primary task of the police we must see as the maintenance of the peace of the community. It is precisely in this latter regard that a redefinition of the role and function of the police is in order.

And I would like to suggest that our approach must not repeat the common failure of choosing up sides, not one of attacking the police, not one of taking to task the minority groups, but rather to raise some very searching questions about the nature of the crisis of our cities and the police as the very center of that crisis. I shall later, as my small contribution, suggest what specific implications there are for the legal profession and how it might function with respect to the crisis. There is in my judgment a pattern of structural deficiency in our law enforcement arrangements which in these times, and on the occasion of the police intervention, has the effect of bringing about an over-expression of the very evil that they are attempting to put down. Over-expressions of hostility have arisen as a result of required actions and interventions on the part of the police in taking into custody, apprehending, and arresting individuals who violated the

law. It is not by accident that the Watts riot was set off by a legitimate police objective, namely, to take into custody a man who threatened the peace and security of the rest of the community. And in a similar vein, the riots at Hunter's Point in San Francisco were even triggered by an incident that involved the theft — it wasn't clear at the time just to what extent that was the case — the theft of an automobile. And similarly in terms of other situations nearly everywhere in the United States, a police in-put with reference to a violation turns out to trigger an over-expression of hostility rather than to bring that particular hostile act under control.

Our concern must be with the fact that the police in-put, in the effort to contain expressions of hostility, is conducive to over-expressions of hostility, and/or social defiance and law violations. By listing the structural deficiencies in general terms there may be suggested a structural remedy. I find these deficiencies as follows: An over-commitment upon the part of the law enforcement system to the notion that when trouble arises in the ghettos of the United States it is evidence of activity on the part of a few subversive troublemakers, if you please, the wide-spread commitment of the police structure to the notion that our trouble today stems from troublemakers — and to characterize, therefore, the situations of stress as being brought on by agents provocateur. Correspondingly there is extended that designation to all who express their dissent in the form of direct action. That interpretation is already being initiated in an explanation of the situation in Newark.

This structural deficiency is reflected in an extension of discretionary power to include, when it is accepted by the police, protecting the general community against questionable elements, as well as enforcing the laws in instances of overt and unquestioned violation. The name for this in popular terms is the "double standard" of law enforcement. And we must address ourselves to the fact that this attitude is provocative of hostility rather than bringing the problem under control.

Some very interesting de facto instances of operational procedures that are predicated upon this, are as follows: The notion in many police circles of the inevitability of strife or violence when there is some means of contact between the races not a customary and accepted pattern of that community, to interfere with people because there is an interracial relationship, and to regard any such relationship with suspicion.

Secondly, the idea that the police must enforce social custom and tradition for the community as well as the law, and therefore, become de facto upholders of informal segregation and discrimination.

Thirdly, the evoking of action against a group which represents



a minority that would not be evoked against a majority group in the community.

And fourthly, the notion that because civil disobedience is a threat to our established institutions, it has no differentiated characteristics, so that in some police circles all civil disobedience is regarded and acted against uniformly when in fact there has to be a subtle distinction between the challenges of law under our system, which are for the purpose of testing the law, and those instances where there is a challenging of the law with a view to questioning its essential morality. The actions of these groups need to be distinguished from the actions of those who are merely blatantly for their own self-interest violating the laws. There are confrontations as a results of this deficiency. And the effective alternative in my judgement is to seek the development of a clarifying dialogue, rather than a public commitment to enforce customs and traditions, vested interest, the majority attitude and their values against any attitude of the minority.

The second structural deficiency I would call to your attention is the absence of effective channels for expressing grievance, that is, channels that are available and responsive. There is no getting around the fact that, all the protestations to the contrary notwithstanding, the channels on the whole are weak. In too many cases, nothing happens when recommendations are made. There are pale representations nearly always mere tokenism. This has been a complaint of the young, it has been a complaint of the Negro, it has been the complaint of nearly all of the groups that find themselves excluded or living in the shadow.

What follows upon the weakness of the channels is that when there is indeed a police action without adequate opportunity for grievances to be heard, the police is interpreted as an instrument of an intransigent establishment which wants to maintain order irrespective of the merits of the case. The use of police power then becomes a kind of "no answer" rather than maintaining the peace and the security of the community. Hence, the police fall victim to the grievances which are charged against the general community, and they become heir to the confrontation.

And finally, the third structural deficiency that I would call to your attention is the absence of a concept or a machinery for mediating the police in our time to the community life of the present date, the newly-emerging centers of power, the new subcultures. There is no getting around the fact that the ecology of the American city exhibits the location of new centers of concentration and therefore new centers of selfconsciously developing power of minority groups. The subculture have created a new relationship, between those

centers of power and a new condition of action to the rest of the community that is unprecedented in the history of the country. The sub-cultures of deprivation arising from large scale segregation of whole populations have meant that the police must confront those populations on behalf of the rest of the community. Correspondingly, the new subcultures present a new frontier of open warfare if there is no condition of engagement of those new subcultures by the police and particularly if these groups have limited opportunity for engaging the rest of this population by other contracts.

With that I want to close my remarks, and merely suggest the sense in which we are confronted by a matter of such urgency that in my judgement it cannot be resolved within the circle of the minority groups and these aggrieved sections of the community. It must be resolved by development of a wholeness of purpose. And this must be brought about by those groups which have a capacity for bespeaking the whole community. This, I think, is the unique and important function of the legal profession, and the unique contribution which indeed this national committee of lawyers can make.

With that, Mr. Seymour, I will suspend my remarks, and hope that I have not bored you or merely repeated the obvious.

## *police-community relations from the point of view of racial and economic minorities:*

**Moderator:** David Stahl

City Solicitor of Pittsburgh.  
Member of the Executive Committee of the  
Lawyers' Committee for Civil Rights  
Under Law

**Panelists:** Alton Lemon, Esq.

Program Director, North City Congress,  
Philadelphia, Pennsylvania

Julian Dugas, Esq.

Director of the Neighborhood Legal Services for the District  
of Columbia;  
Member of the Ad Hoc Committee on Police-Community  
Relations in the District of Columbia.

Brant M. Coopersmith, Director

Washington Chapter, American Jewish Committee;  
Lecturer in Police-Community Relations to the D.C. Police.

**MR. STAHL:** You will notice that the title of the first panel is "Police-Community Relations from the Point of View of Racial and Economic Minorities." Adverting to the rioting in Newark, which I am sure will keep us occupied today, according to The Washington Post this morning there is already an ad hoc committee, being formed, made up of the Dean of Rutgers Law School and several other prominent citizens of the community who are starting to look at the other side of the Newark story. They are concerned with the allegations of excessive bail; they are concerned of course with the allegations of the police and National Guard conduct. They are concerned with what I saw for the first time referred to in the newspapers as vigilante invasions into the Negro community. And they are also asking for an independent investigation of the whole Newark situation. It seems to me that exemplifies the kind of role and the kind of service that lawyers can do, because I am sure that lawyers will be involved as much as any group in the community when the inevitable investigation takes place. The Detroit riots occurred within a week of the Conference. The Detroit Lawyers' Committee under the leadership of George Bushnell, a conferee, is embarking on a study to evaluate numerous reported inadequacies in the response of bench and bar to the rioting.

With that as a sort of background for discussion, I would like to begin the panel. First, I would like to call on Mr. Alton Lemon, of Philadelphia, the program director of the North City Congress, a community action program in Philadelphia.

**MR. LEMON:** I would like to repeat some of what Dean Lohman has said. In order to work in the area of police-community relations it is extremely important that we understand what minority groups are saying, and that we respond favorably to what these groups are saying.

I would like to describe the program that we are running in Philadelphia. It is designed in two parts. The first is an informal educational program which has three phases. The police department assigns the men who work in the north central Philadelphia area to an institute in police-community relations operated by the North City Congress. In this institute we discuss with the policemen the problems in police-community relations as they see them. We discuss the background and the culture of people who live in this area. And we also discuss with the police some of the things that policemen might do to improve police-community relations.

Secondly, in the evenings we meet in homes, churches, schools, settlement houses, and the like, with small groups of area residents to discuss with them the problems as *they* see them. We

discuss the roles and functions of citizens in a law enforcement situation. We describe the role and function of policemen, because many citizens do not understand the police role and functions. Then we also describe to citizens the role and functions of other agencies in government that are responsible for some aspects of law enforcement. It is extremely important to put people in touch with these other agencies, because many of their concerns are related to them.

Now, the final phase of our informal educational program is that of bringing together citizens and policemen—that is, citizens who have participated in the informal discussions and policemen who have attended our institute—to discuss the problems as they see them in police-community relations.

This sometimes represents the first time that citizens and policemen have had the opportunity to sit around a table as equals to discuss problems. We have had some very good dialogue.

Another part of our program is concerned with community organization. Each police district in which we are working has a district committee, staffed by volunteers from the community. The police department has made it possible for the district committees to have an open door policy with the captains and inspectors. So periodically the representatives of each committee meet with the captains and/or the inspectors to deal with the problems in that particular district. If the citizens feel that they are not being satisfied, then they have the right to appeal to the police commissioner or his representative.

In addition, we deal with many of the other problems in the community that are not necessarily directly related to police problems, because we know that problems in police-community relations frequently are directly related to other problems in the community.

The *normal* level of tension in the ghetto in some areas is as much as a hundred times as high as the level of tension in many other areas. The reason for this tension is that minority groups have many problems and many unmet needs. Because of their experiences they do not feel the system under which we live is working for them. Instead, they see the system as opposing their efforts to conform to American ideals. Policemen in particular, and other law enforcement officers to some extent, are viewed as helping to maintain the status quo.

The police are the most visible arm of government, and are generally viewed as oppressors. They are so viewed by people at the very bottom, but unfortunately this feeling is beginning to permeate our society. In many cases there is historical, and, personal evidence to justify this point of view. The feelings of the

members of the ghetto toward policemen are such that a confrontation between citizen and policeman, whether the policemen are right, wrong, or neutral, can precipitate a difficult situation. The problems in police-community relations are very complex. All attempts made to deal with police-community relations should be concerned with all of the problems that contribute to the frustrations of the ghetto dweller, because all of these problems are interrelated.

Now, what is the role of lawyers?

In a very general sense, one can help make the system (more specifically government) become more sensitive and respond favorably to the needs of racial and economic minorities by;

1. Helping to provide legal services to all on a nondiscriminatory basis.

2. Taking a part in the selection of the police commissioner. It is extremely important that a commissioner have the necessary technical skills and background that will enable him to understand the process of social and political change.

3. Demanding that the police department provide adequate In-Service Training for all policemen including a mandatory course in human relations. College training for members of the department should be made available with a minimum number of strings attached.

4. Providing channels through which there can be meaningful dialogue exchanged regularly on a man to man basis between the police department and citizens. This same type of exchange should be made between citizens and other departments in government as well.

5. By using legal and nonlegal means to persuade departments of government to provide adequate services for the communities of racial and economic minorities. The more severe the problems the greater the effort should be to solve them; this however, is rarely if ever true.

6. Seeking to establish improved grievance procedures for citizens within and outside departments of government.

7. As a citizen, each lawyer should feel it his responsibility to examine and to take a position on all programs designed to improve the lot of racial and economic minorities. Many programs designed to alleviate problems in health, housing, welfare, employment, recreation, education are inadequate. They are all too often designed to accommodate a few hundred when thousands are desperately in need of service. There are also too many gaps in service. To provide inadequate service is to help intensify community tension.

8. Helping police departments understand the need (a) to play a very aggressive role in encouraging other departments in government to provide necessary services, and (b) to press for greater racial and economic integration throughout the community. It is a fact that *most* of the people with *most* of the problems are concentrated into small areas and it makes law enforcement almost impossible.

In closing, I would like to say that problems in Police-Community Relations are directly related to other problems shared by racial and economic minorities. Very little can be done in Police-Community Relations unless government is able to convince minority groups that it is sensitive to and will respond favorably to their needs.

Lawyers can help (1) by using all of the tools at their disposal to influence all levels of government, including police departments, to provide adequate services for all and (2) by helping to design programs that are adequate to correct social ills.

The suggestions that have been made, if implemented, will not solve all of the problems in Police-Community Relations; however, they will hopefully bring the remaining problems into clearer focus so that they can be dealt with. The anticipated net result is that the need for protecting rights on the parts of peace-keeping and law enforcement agencies will become a subordinate problem.

**MR. STAHL:** Thank you, Mr. Lemon.

Apart from what Mr. Lemon has said, he is an excellent example of the role that lawyers are playing in solving some of the current problems that we are discussing. Mr. Lemon and a number of other lawyers are actually serving in community action programs throughout the country. Many others are serving on antipoverty boards. This is another one of the roles that lawyers can play.

Our next panelist is Mr. Julian Dugas, the director of Neighborhood Legal Services for the District of Columbia. The new concept of neighborhood legal services is an area where many lawyers have been brought into the problem of poverty and the problem of racial tension for the first time. In the city of Pittsburgh when we attempted to develop a neighborhood legal services program we had one of the most bitter divisions of the local bar association that we have had for many years. But the program eventually won out. It has gained grudging acceptance from the minority of the bar that were opposed to it.

**MR. DUGAS:** Mr. Chairman, very simply, the topic seems to me to be "the impact of social conditions and the presence and enforcement of the criminal and civil laws on the *ability*, not the *power* of the police, to keep the peace."

The police within themselves have no power. Power reposes in the people, and the people have delegated to the police the peace-keeping function. It is perhaps a preoccupation with the question of power that affects the peace-keeping ability of the police.

Secondly, our topic should be stated as "the role of lawyers in developing within the existing power structure a concern and respect for the rights of ordinary people not heretofore visible to them, in order that they will no longer see the necessity of taking to the streets in order to draw attention to their plight or to redress their grievances."

In the beginning I think we must understand that social conditions have a direct, not an indirect, impact on the ability of the policeman to discharge so much of his duty as is described in the topic as the peace-keeping function. Because of deplorable social conditions, including dilapidated housing, lack of municipal services, rundown streets, and long deprivation, desperation, apathy, and frustration, the Negro community is generally regarded as and referred to by a substantial part of the establishment, including the police, as a jungle. And from these preconceived opinions naturally flows a jungle mentality, with the concomitant constitutional inability on the part of any of those concerned to have a genuine interest for the welfare of the inhabitant of the jungle as fellow human beings entitled to treatment as such and not as wild beasts.

Social conditions and the causes for these problems, then, lie at the very foundation of the callous and indifferent attitudes of the governors. The police are but the goats—and I emphasize it, are the goats—because of their high visibility and constant contact with the people of the inner cities. The police are para-military, and are seen as such by the people of the inner city. They take orders always from their superiors. Much of their action depends upon whether at a particular time the jungle is being regarded by the establishment as a place for sport, where people go for safaris, or as a private preserve, tolerated for the benefit of a few whose visits are occasioned by the location of places of fun, business, or employment.

The people say that almost never do the police consider the effect their actions, taken in the performance of their functions, have upon the very existence of the future life of the inhabitants of the inner city.

Recent events and rising statistics suggest that the peace-keeping efforts that are now being performed by the police are less than satisfactory, and in several instances are dismal failures. Should we then look forward to substitutes for the police, or perhaps look forward to something less startling, but more fundamental, such as requiring the peacekeepers to reside on the preserve, live in the jungle? By this simple device they would become almost immediately more perceptive and sympathetic to the problems of jungle living.

A closer day-by-day contact between the inhabitants of the jungle and the new neighbors would engender mutual respect and understanding. This to me seems fundamental to any serious attempt to keep the peace, whether in the jungle or in Happyland. The difficulty with the imposition of complex rules, regulations, ordinances, statutes, and other forms of restraint upon a simple jungle folk without any explanation as to why they are necessary, whether they be called criminal or civil law, is almost never understood, and without more in itself, breeds discontent.

But to leave the implementation of these restraints to unknowledgeable, insensitive, and imperceptive governors is an added insult to the inhabitants of the jungle. That, in itself, is a strong indication that there is no real concern for the rights of the inhabitants of the preserve from the top of the power structure down.

It might be well to consider that, in our selection of governors and peacekeepers, primary consideration should be given to the appointment and selection of persons from the ranks of the people upon whom daily judgments are passed. Our present system, if not unfair and uneven, has every appearance of unfairness and unevenness.

I can think of no better way to engender respect for the established order than to make those for whom the system supposedly operates a working and meaningful part of it. Too much emphasis is placed upon the ability of police to keep the peace.

Without the righteous dispersal of justice by courts, administrative bodies and others who daily make decisions affecting the ability of the people to survive, the task will be impossible. To continue along the path of indifference which now plagues us at all levels of government will require not a police force, but a standing army to keep the peace.

Let's take the burden off the backs of the much maligned police and place it where it belongs, on the creators of attitudes, the so-called establishment.

I would suggest that the role of lawyers in this regard should be, first, the beginning of a massive project utilizing volunteer panels of lawyers to educate agency heads and the heads of the establishment in the rights and responsibilities of not only the people but the government heads themselves.

Secondly, whenever there is an imposition of sanctions upon people, whether they be called civil laws or criminal laws, there must be an adequate explanation by lawyers at a level where the people can understand why such sanctions are necessary. Who can better explain it than lawyers—who are the architects of these so-called sanctions?

Thirdly, I would suggest substitutes for the police as a target, that there be a dispersal of responsibility to all of the establishment, to the courts, to the administrative bodies, to the department heads, for at-



titudinal reflections that are taken out on the police because of their high visibility and their daily contact with the people.

Fourthly, I would work for the erasing of civil and criminal laws no longer relevant to twentieth century living and which are patently obnoxious to the inhabitants of the inner cities.

And lastly, I would urge the bar to influence the appointing power in the selection of competent inhabitants in the inner cities as governors of the inner cities.

Thank you, Mr. Chairman.

MR. STAHL: Thank you Mr. Dugas.

The last panelist, Mr. Coopersmith, is the Director of the Washington Chapter of the American Jewish Committee.

Mr. Coopersmith.

MR. COOPERSMITH: Thank you, Mr. Stahl.

My two colleagues here have been talking about almost everything but police-community relations because they recognize almost every community condition affects police-community relations.

I devised a questionnaire to try to bring some perspective into how we tend to judge situations in the area of Police-Community Relations. It contains a number of questions. I would like to refer you to just one. It points out that during the fifty years between 1915 and 1964, some sixty District of Columbia police officers lost lives in the line of duty. The question is "during which of these decades did the greatest number of police lose their lives in the line of duty, and in which the least?"

A policeman on the force between the years 1955 and 1964 stood a six-to-one *better* chance of surviving his career than the policeman who was on the force between 1915 and 1924. From 1915 to 1924 when there were nine hundred police on the force, fourteen names show up on the Honor Roll. From 1925 to 1934 with twelve hundred, eighteen lost their lives. From 1925 to 1944, thirteen, and from 1945 to 1954, eight. And from 1955 to 1964, with the largest number of police by far, almost three times that which you had in the first decade of that fifty year period, seven lost their lives.

Since Negroes have become a majority of the population of the District of Columbia, a policeman is safer in terms of surviving his career alive. It is of course irrelevant to say that.

But I daresay that most policemen, and most of the citizenry, including most of the well-informed persons, and the members of the bar, if presented with this question would be quite surprised at the results. The question before us is *why*.

When we talk about police community relations, we are talking about communication. I would like to remind you of a limitation in communications. Communication does not solve problems. It, at best, can only see to it that they are not made unnecessarily difficult.

One thing that the bar can do to improve police-community relations is to support measures which would enhance and advance professionalism on the part of our law enforcement machinery, particularly the police department—and particularly the officials of the police department as contrasted with the lower ranks, but including the entire police department. We are talking about public confidence in the policeman. The public sees him as a man who metes out a double standard.

Let me give you an illustration of a profession that relates to police. I view education and law enforcement as two sides of a coin. The function of law enforcement is to maintain order until the education process theoretically removes the causes of disorder. Take a look at the teacher and the policeman. In our society, as public officials, they go back a hundred years. At the start, a teacher needed to know no more than how to read and write and a policeman needed only to be able to restrain an individual and handle a club.

Look at the resources that we in this nation have invested in training in the one important profession, education, and in the other, the police. There is a great disparity; I am not suggesting that they are comparable. You might need a greater amount of your resources going into pedagogy than police work, but nonetheless, the difference in status between the individual teacher and policeman in the community is appalling (regardless of the differential in pay, which is a further manifestation of the difference). The policeman is probably the most embattled single minority in the United States.

We spend the largest part of our local budgets in law enforcement and education. We should begin to think of them together. They have similar roles, particularly in our changing urban situation with the so-called welfare-social work aspects of law enforcement.

Lawyers can support professionalism and persuade the policeman that it is not a threat to him. You can't sell community relations seriously to the police except in terms of more effective law enforcement. You must persuade them of what they probably already know to some extent, that they cannot keep the peace or enforce the law without the support of the community in which they exist.

The police should be able to study the difference between riot control tactics in Philadelphia in 1964 and in Newark in 1967, and decide what is the right tactic.

These types of questions, developed and answered in professional atmospheres and in places where people are trained professionally,

and circulated widely through the community both within and without the profession, would begin to develop necessary confidence in the judgments and actions of the police.

We are really dealing with a struggle by the community to arrive at what is the truth of a situation. We have a polarization and a set of charges hurled back and forth. One part of the community begins to say to another part of the community, you are liars. All take sides. And what happens is that a certain percentage of the community is dissatisfied with what is the *public* truth, and the other half is satisfied, and the community rests in tension. Unless the questions get on the table and are confronted, there will be no peace in a community.

Here again, until we develop professional police centers and the police acquire the kind of self-respect they need, and are accorded the respect to which they are entitled, we will continue to have the problems we have now.

*MR. STAHL:* Thank you very much, Mr. Coopersmith.

*MR. STAHL:* I would like Mr. Dugas to discuss the impact of Neighborhood Legal Services on making lawyers more knowledgeable about some of the problems that we have discussed here.

Mr. Dugas.

*MR. DUGAS:* Many of the people here who have had something to do with the formation of the Neighborhood Legal Services concept will understand why it came into existence the way it did. The Congress of the United States did not make money available to provide legal services to the poor. That was an adjunct to the main purpose, which was that projects would go into the neighborhood, become a part of the neighborhood, live in the neighborhood, and relate to the people of the neighborhood so that when times of crisis did arise the people could come and ask for reasonable alternatives to the street.

We have working examples in the District. Last year during a disturbance our program was the thing that brought peace back.

Only two weeks ago we had an excellent example of Neighborhood Legal Services moving into a situation very quickly, dispelling ugly rumors and getting at the truth, with the cooperation of the establishment. At ten minutes to 12:00 at night I called the United States Attorney for the District of Columbia and asked that he come into the embattled area. He left his home and came to the people. In the basement of a housing project, at twenty minutes to 1:00, he promised them that at 10:00 o'clock the next morning he would have a full hearing on their grievances. And he did—a full hearing that lasted eight hours. Insofar as that incident is concerned, it is all over.

That is what Neighborhood Legal Services has been doing in this area. We have formed a twenty-four hour alert system designed to go immediately into the trouble spots to get at the truth.

**MR. SEYMOUR:** Mr. Dugas has been a leader in this movement in the United States. I have served with him on the board of the National Legal Aid Defender Association, where he is a very effective spokesman for the importance of spreading the rule of law through the lawyer to the neighborhood. This is one of the ways in which the lawyer, working with all community agencies, including the police, is able to do a good deal.

## *recommendations*

### **ALTON LEMON**

1. Lawyers should sponsor a continuing educational program for the police and the community, to be conducted by a local agency such as the Poverty Program or Neighborhood Legal Services, in three parts:

a. An institute for policemen in police-community relations from their own point of view, with a study of the background, culture, and attitudes of the various peoples who make up the community.

b. Meetings of representative citizens of the community in homes, schools, and settlement houses to discuss the role and function of the citizen in law enforcement situations, with a study of the role of the police and especially of other agencies with law enforcement responsibilities in the municipal area.

c. Joint meetings between the police who have taken part in the institute and citizens who have taken part in the series of meetings to discuss, as equals, problems in police-community relations.

2. Lawyers should sponsor revolving committees of neighborhood dwellers in each police district or precinct to meet the police as community representatives, with an open door policy on the part of the appropriate commanders, police Captains, and Inspectors with understood right to appeal grievances to the Police Commissioner, and with periodic meetings with the Police Commissioner or his representative.

3. Lawyers should sponsor a large increase in the amount and kind of legal services financially and practically available to all citizens on a non-discriminatory basis.

4. The local bar should participate in the selection of the Police Commissioner. Lawyers regularly evaluate and publicly comment upon the qualifications of candidates for elevation to the Bench, and should assume the same responsibility in their community in regard to candidates for appointment to the office of Police Commissioner.

5. The Bar should publicly insist that funds be made available and that the Police Department use them to provide adequate in-service training for all policemen, including, but not limited to, a meaningful program in human relations. This in-service training should also include making accessible the programs of training and instruction conducted by a university, with a minimum number of strings attached.

6. Lawyers should use their collective power to individually review, study, and prod government agencies to become responsive and responsible to the public they are supposed to serve.

7. The organized bar should endorse the establishment within all departments of government of adequate grievance procedures, and the establishment of general city-wide grievance procedures, which will function outside of and above all local agencies of government.

8. The bar should maintain on-going policy of presenting meaningful analyses, whether solicited or not, of proposed programs for the city, including whether these programs will really meet the needs of the city or are only likely to intensify community tension by pretending to solve problems, with tools that are clearly inadequate.

#### *JULIAN DUGAS*

1. Lawyers should work to secure a legal requirement that all peace officers live in the community they are hired to police.

2. Groups of lawyers should establish an on-going program of explaining to the public the existence, meaning, and current need for the rules, regulations, ordinances, or statutes which may affect them from day to day.

3. Lawyers should establish a program of education for government officials, to be conducted by lawyers, to explain the rights and responsibilities of citizens and of government officials vis-a-vis one another, and the limits of agency power and authority.

4. Lawyers should identify those civil and criminal laws no longer relevant to life in the community and recommend repeal.

5. The Bar should use its collective authority in influencing the selection of residents of the inner city to fill public posts in the inner city.

6. The Bar should establish a 24-hour alert system operating out of neighborhood legal centers, whereby lawyers and public officials connected with the judicial side of law enforcement would be ready around the clock to meet with members of the community whenever a situation of tension and potential crisis arises.

**BRANT COOPERSMITH**

1. The Bar should afford active, continuing support for the professionalization of the police function, professionalization in improved status, higher standards, and increased expenditure of funds for training, equipment and facilities.

**MR. SEYMOUR:** William Spann, the Chairman of the next panel, is one of the leading lawyers of the South and a leader of the Atlanta, Georgia Bar, with whom I have had the privilege of serving on the Board of Governors of the American Bar Association. He is a member of the Lawyers' Committee, and its Executive Committee, and is the Chairman of the Atlanta Committee cooperating with the Lawyers' Committee in this field.

## *police-community relations from the point of view of students and young people in general*

**Moderator:** William Spann, Esq.,  
Moderator, Member of the Executive  
Committee, Lawyers' Committee for  
Civil Rights Under Law; Chairman  
Atlanta Committee.

**Panelists:** Marvin E. Wolfgang,  
Graduate Chairman, Department of Sociology of the University of Pennsylvania and Criminology Director of the University's Center for Studies in Criminology and Criminal Law, Advisor to the Office of Juvenile Delinquency, and to the President's Commission on Law Enforcement and the Administration of Justice.

Herbert Blumer,  
Professor of Sociology, University of  
California at Berkeley.

Gordon I. Misner,  
Associate Professor of Police Science,  
School of Criminology  
University of California at Berkeley  
Berkeley, California

MR. SPANN: Thank you.

The next portion of the program is devoted to police-community relations from the point of view of students and young people in general. This is an area which calls for some comparatively new concepts because of the *Galt* case. I spent some eleven years as chairman of the Advisory Board of the Fulton County Juvenile Court. We had in Fulton County (in which most of Atlanta lies) what we felt was a very efficient juvenile court. We had a juvenile court act in Georgia which was patterned after the model act. It was hacked away at by the appellate courts of Georgia over a ten or eleven year period, but we undertook to defend the concept that juveniles were not criminals, that a juvenile court was not a criminal court, that there should be no publicity and that the press could not release anything without the permission of the juvenile court judge. All of this we defended a long time.

This has been wiped out by the *Galt* case, which makes a juvenile court a criminal court in the sense that it gives to juveniles all the rights of a criminal. It deprives the juvenile of the protection which the juvenile court concept undertook to afford over many years. It gives them rights, but deprives them of privileges, if you please.

The first panelist is Marvin E. Wolfgang, of the Department of Sociology of the University of Pennsylvania.

Professor Wolfgang.

MR. WOLFGANG: I should like to say a few words in general about youth in American society, and particularly vis-a-vis the police. I am less concerned with the *Galt* case than I am with the way the police view youth in our culture, and the way youth views the police.

Many sociologists have talked about the youth as a subculture in our society. One of the reasons we do so is that demographically the size of the segment of the population has vastly increased and is increasing each year. It is important to recognize the power that youth has in sheer numbers, as well as economically and by its systematic effects throughout society. With one-third of our population in what could be classified as youth, we are fast approaching the point of 18th-Century revolutionary days when half of our population was classified as youth. Keep in mind that our country was born from a very youthful population.

Furthermore, many psychologists have talked about the stretching of the band of youth both downward and upward, downward in the

sense that kids today are becoming rather cynical and jaded, sophisticated and worldly wise at ages twelve, thirteen and fourteen, in a style that they have not become so world-conscious previously. Perhaps the mass media contributes much to this particular phenomenon.

There has been an upward expansion of youth in the sense that during the last twenty or thirty years we have witnessed an enormous numerical increase of youth who are in the college dependency status. And in their dependency status under the large institutional processes in our society, they are retaining many of the same criteria of teenage youth that they had earlier. Thus American society contains not only a larger youth population but attitudinally and psychologically also has more youth.

Youth is a subculture because there is almost instant communication around the world today. The youth in Japan and Scandinavia share quickly many of the same values as the youth in Philadelphia, Los Angeles, Berlin and Prague. This subculture shares values, ideas, behavior—almost everything from records and music to attitudes toward authority.

This subculture is demanding more participation in power. I have had reason in other contexts to equate this kind of demand for participation in decision making with the increasing demand of the poor and of minority groups. And when poverty and color and youth are combined in the same individual, the pressure for power increases in a kind of geometric ratio.

Youth require and request participation and experience at a young age in authority-making process. I am reminded of Graham Greene's recent comment in his last novel, *The Comedians*, where he refers to the fact that before twenty we have experience, but after twenty there is only observation. Youth today want to have participation while they are still experiencing. Despite the fact that it is perhaps a small proportion that is vociferous, articulate, and active among this youth, and despite the fact that therefore the large proportion of them may be relatively lethargic and still silent—part of the silent generation—none-the-less this vociferous group has become the vanguard and the spokesman of the larger segment.

Youth often here find inappropriate role models from their parents, inappropriate role models for the future. This comment is as valid for suburbia and middle-class society as it is in the ghetto. Particularly are the police viewed as nonappropriate role models. As is repeatedly said, the police represent authority, the establishment; and in that role they are often required to subdue the dethroned and the disenfranchised. Youth have a self-conception of being both. The police are viewed, whether rightly or wrongly, by many youth as those who subdue them without trying to seduce them.



There are two major groups of youth delinquency from the perspective of the police. One group comes from poverty, and is mostly Negro; the other delinquency youth comes from affluence. Both of them have a kind of boredom from lack of participation in present power and in decisions affecting future directions.

(Because of brevity of time, I must make sweeping generalizations which obviously need qualification and logical development to sound reasonable and firm. But I hope that most of the subsidiary notions I have in mind are encompassed in these generalizations.

The protest of youth, about which we hear so much, has not yet congealed around any kind of transformative ideology, such as it did in the depression days of an economic ideology. But protest historically has often changed into revolt, and revolt into reform. Somewhere in this process, an intellectual elite emerges to direct an ideology. I think we are on the threshold of this stage now. I suspect that the two groups I previously mentioned—those from poverty and from affluence—will marry and march together as a large core of youth against the Establishment.

With respect to the way in which the police are handling and have to handle youth, we should remind ourselves that the police, who represent the executors and guardians of the dominant adult and middle-class social values, are among the last social group to recognize the posture of youth in current American society. The police still have—at least this is the perspective of the youth themselves—a patriarchal attitude toward groups of kids in the street, toward gangs and youth in general. The police neither recruit nor properly recognize the culture of youth. Today, some police, who explain delinquency in terms of parental permissiveness, have come to equate youth with defiance, and defiance with delinquency. This kind of transitive association is very quickly and simply made by some police. Surely there is defiance by youth against the older, or over-thirty-year-old generation, but this is not a new phenomenon.

Moreover, there is an enormous expansion of the definitions of behavior that our culture tolerates today. Compared to a generation ago, there are many more alternatives available for youth to experiment in general, to express themselves, from sex to clothing. Some observers see this as good, for when the number of alternatives increase, society is better, more robust. I expect that if I were forced to express a value judgment, I would say the same thing.

But the police are confounded and confused by an old image which they have of delinquency in the street when they relate that to the physical symptoms and attitudinal posture of youth. Teenagers with beards, mini-skirts and guitars, or who slouch and swagger, can no longer be readily defined as delinquent. Moreover, the failure of youth

today to fear the police as moral or legal authority is often interpreted by the police, not as discourteous demeanor, but as legal disobedience.

A few comments are in order with respect to the police disposition of juveniles. Incidentally, there is a semantic link to the particular labeling process because the term "juvenile" is now nearly a nasty word among youth. The police customarily have a major mode of disposition that is either unofficial, (nonofficial, or as in Philadelphia, "remedial") or arrest when they take a child into custody. The mere process of labeling a juvenile by pushing him into an arrest disposition is important both to the child's self-conception and the conception that agencies around the delinquent have of that juvenile as he is processed.

In a birth cohort study that Thorsten Sellin and I are doing in Philadelphia, using ten thousand males born in 1945, we have found that 33 percent of these boys between the ages of seven and seventeen have had a delinquency record. However, only 50 percent have a single-contact record; that is, half of them do not go on to have a second or subsequent offense record with the police. It is a critically important point in the whole decision-making process, of course, whether the police function with an unofficial or an official arrest disposition. We suspect that that decision often is an important feature in whether a child continues to a subsequent delinquency career.

In this study we have been looking at the issue of innocence. The study encompasses a period from 1945 to 1963, and, therefore, these juveniles were without the benefits of legal counsel, through community legal services, at the juvenile court level, such as we have had since September of last year in Philadelphia. We have found from the official police offense reports that about 10 percent of the juveniles taken into custody challenge the police and declare their innocence. Ninety percent either admitted, or have been sufficiently indicted by witnesses for, their responsibility for the acts described by the police.

I do not know exactly what to make of this particular 10 percent, or how to interpret it. But it is, I think, nonetheless, an important segment of the 25,000 juveniles who are taken into custody each year by the police in Philadelphia. Much of the issue of innocence arises from a morals squad that functions in the Juvenile Aid Division. I think morals offenses constitute an important area where the police need legal counsel. The problem of criteria of police decision-making, then, at the initial dispositional stage, is one area in which I think lawyers assigned to the Juvenile Aid Division would be most useful.

Another major issue is the statutory definition of delinquency and needs to be properly recognized and studied by Bar Associations. Criminologists have referred to these as *juvenile status offenses*, such as, running away from home, incorrigibility, truancy. At a United Nations meeting in 1950 on the prevention of crime and treatment of the

offender, there was an official pronouncement made that juvenile status offenses should be labeled as behavioral problems, family problems or misbehavior, and that they should not be part of a Juvenile Court Act. Many of us in criminology have long suggested that this kind of behavior should not be labeled as delinquency and should be taken out of the hands of the Juvenile Aid Division of the Police Departments. Thus, I think that one important function of lawyers, who are involved with the police and with youth is in helping to find the parameters of criminally defiant behavior and define them for the police, the courts and the community at large.

With more time it would be possible to discuss the function of lawyers among what some of us have called "Emergency-Domestic-Quarrel Teams," that is, psychiatrists, police, social workers and lawyers working together, especially in slum areas, when domestic quarrels arise that has often result in extreme violence, even, sometimes, murder.

In a juvenile court, of course, it is now almost trite but never trivial to suggest the desirability of legal counsel. Legal counsel is needed in juvenile agencies after arrest—that is, at the intake interview at diagnostic centers, at informal hearings, and at the actual juvenile court proceedings. But I should like to add the need for legal counsel in the post-court processes, that is, in probation and during institutionalization. Children have been lost, labeled, and promoted toward a career of adult crime after being sent to reformatories, (perhaps now more euphemistically entitled correctional cottages or industrial schools). Legal counsel is needed there as well. Perhaps I should say that a legal perspective and cognition of the individual's rights and grievances, even after court, are needed.

In short, I see the law as an institutional mode by which groups of professionals, known as lawyers, function as representatives of the society to protect the individual from the massive bureaucracy that is often viewed particularly by youth, as an impersonalized organization. I am not suggesting that teams of young lawyers attached to police departments be viewed as a buffer zone between the community, or more specifically between the youth and other minorities, and the police. Lawyer teams could become a key feature of both the police-social organization and the community to such an extent that the law-police combination and the law-community combination become merged as a force of justice for all.

*MR. SPANN:* Gentlemen, Professor Herbert Blumer will go on with the discussion.

*MR. BLUMER:* My remarks stem from a rather extensive and

intensive study of drug use among the youthful population at Oakland, California. I am going to confine what I say pretty much to drug use as it takes place among a large underprivileged youth population, particularly a large Negro population.

The first point is that essentially drug use among the underprivileged youth in large American cities, as represented by Oakland, is very pervasive. It is part of the life of the youth. Using this term "sub-culture," which has been introduced and which I personally don't like, it would be regarded substantially as an integral part of the cultural life of the youth. Drug use is not merely a practice which is engaged in rather extensively by the youth, but it is well buttressed and supported by a large series of beliefs and rationalizations that give in the eyes of the youth a rather complete justification for engaging in the use of drugs. The most common of these rationalizations—and one which, incidentally, should not be dismissed or regarded lightly—is the contention which one finds voiced right and left by these youths to the effect that the taking of drugs, particularly the taking of marijuana, is far less grave—as they can testify from their own experience—than is true in the consumption of alcoholic liquor generally in our society. Many of these youths who use both, who drink hard liquor and use drugs, will declare with extreme vehemence that whereas in drinking liquor they get intoxicated, become aggressive and rowdy, get into fights, cause turmoil, and then follow it up frequently by illness, vomiting, and so forth; in contrast the taking of drugs, particularly the taking of marijuana, is a rather peaceful enterprise in which individuals feel relaxed and sociable, get along together well, do not get involved in brawls and fights, and do not have any kind of hangover. I merely cite this as one of a whole array of justifications which the youth have with regard to the taking of drugs.

Another matter which perturbs the youth among the underprivileged groups with regard to the use of drugs is what they feel to be the very unfair treatment and discrimination which they receive from the law for using drugs as compared to what takes place in the case of youth in the middle-class and upper-class groups. I may remark that in Oakland, at any rate, the drug using youth population is pretty well informed of what is happening in different parts of the community; they have connections—actually they infiltrate back and forth. And accordingly the youth among the underprivileged groups know what is happening. They know in the case of affluent people up on the Hill in the Piedmont area of Oakland that the youth who get apprehended for having marijuana in their possession, or for using LSD receive a more favorable type of treatment. The police there seek to iron the matter out by consulting the families and the school officials, essentially restoring these youths to their normal

life inside of that community. Down in the underprivileged areas, the drug-using youths are likely, almost certainly, to get a different type of treatment. They are immediately arrested and brought before the courts for trial. This rankles them. I am trying to suggest that the underprivileged youth feel a strong sense of injustice in their differential treatment in the hands of the law. I think Marvin Wolfgang will agree that this sense of injustice is far more significant than is a desire for participation and desire for exercising some power. I discover that these kids are not interested especially in these latter matters, but they do feel very keenly the fact that they are, in their eyes, being subjected to a quite improper type of police control or police apprehension.

Now, with these remarks, and following the theme presented by Mr. Seymour this morning, I would like to make a number of suggestions which occur to me as ways in which the lawyers could exercise a wholesome and beneficial influence with regard to this topic of the relation between the youth and the police.

The first recommendation I would make—and I think here the lawyers in terms of their organized bodies could do something very worthwhile—is to bring about a necessary alleviation of the harshness of the laws that are now prevalent pretty much across the nation with regard to penalties to be imposed upon those, the youth, who are arrested and convicted for, not only selling drugs, but merely having drugs in their possession, and passing them around socially. That these laws are horrendous should be apparent to anyone who examines them on their surface, particularly in light of the rather extensive and on the whole temperate use of drugs among the youth. The kids who are using drugs are both good and bad. They include the rowdy type and the criminally oriented type as well as vast segments of youngsters who are otherwise living a very conventional type of life. But in the face of this we have these harsh laws which are applied indiscriminately.

I received just about a month ago a plaintive letter from a very prominent attorney in Providence, Rhode Island soliciting some assistance from me. He said that he had just been appointed to defend five students, three of them I think from Brown University, and two from the University of Rhode Island, who had been arrested, as a result of work by an undercover man, for passing marijuana to each other. Under the Rhode Island statutes, so the lawyer told me, the mandatory sentence for the first offense was twenty to forty years. So these youngsters were faced, since they were caught with a term of twenty years for just socially passing marijuana to one another.

That may be at the extreme of the spectrum. But it signifies in some sense what is generally true about the prevailing legislation with regard to penalties for youthful drug use. Almost invariably they carry

mandatory provisions which if not exercised on the first offense are exercised on the second offense. And most of these mandatory provisions, as in the state of California, indicate that the second offense must be handled as a felony. In view of the relatively mild character of drug use among most of the youths, especially as compared with the graver character of alcoholic use which is condoned in our society, it doesn't make sense to have these extreme types of penalties. I would think that lawyers as an organization could do a great deal to bring the penalties in this area within some kind of a reasonable perspective as against what they are at the present time. In addition to the enactment of a more reasonable set of penalties, judges should be free from mandatory features of the legislation so that they can exercise their own discretion in the handling of the cases.

I dwell upon this because of the fact that the prevailing type of legislation and the accompanying type of enforcement are one of the key reasons, in my study, at any rate, for the sense of injustice which the youngsters have—which, incidentally, gets focused upon the police, because the police are the ones who are called upon to enforce these laws. I think accordingly that this is one of the very interesting lines along which some alleviation might be made of the intense opposition felt by the youngsters between themselves on the one hand and the police on the other hand. And I think that in some sense the police, by virtue of our legislation with regard to youthful drug laws and their use, are put in a highly unfavorable and undeserved position. A removal of this situation, I think, would be one step along the line of helping to improve the situation.

That would be my first recommendation to introduce some better sense into the statutory penalties which are prescribed for the youthful drug user.

My second recommendation stems from what I referred to earlier as the sense of inequity experienced by the youths in the underprivileged areas in the case of drug prosecution and arrest as compared to what happens in the middle-class and the upper-class type of population. Steps might be taken to help these lower class youngsters who, let us say, get arrested because of the fact that they merely have marijuana in their possession—they are not selling it, it is a social custom, if you please, passing marijuana to one another is somewhat like offering cocktails at a party—to see to it that the kids who gets arrested on that score down among these underprivileged groups are given somewhat the same prospect of treatment that takes place among the kids of the upper-classes. And this bespeaks, it seems to me, some intercession to keep this whole transaction outside of the formal process of the law.

I might remark here, and I will stop shortly, that it is glaringly clear in the study which I made that the great majority of these young-

sters who are using marijuana, and some of the amphetamines, and the barbiturates, and who incidentally shy away from heroin or look on it with contempt and want nothing to do with it, are conventionally oriented. If kept outside of the hands of the law they are going to move along conventional lines and settle, as they grow up into adults, into conventional society. Since many of them are lacking the assistance that lawyers might give to them in the early stages when they may get apprehended because of having some of the drugs in their possession, or merely being in a place where drugs are around, I think it would be very desirable if they were provided with some legal service which would steer them away from an unconventional career line, from being forced or led into a plan of life which is criminal and contrary to the law.

I might state in this case—I hope I don't offend you, Mr. Spann, when I say this—that the best thing to do for a large segment of these kids is to keep them away from the juvenile court.

The third thing I want to mention—I will be very brief here—is that I am very much impressed, as a result of my studies in Oakland, with what Dean Lohman and others have been emphasizing about this enormous gap that exists between the police and these kids. The kids unquestionably have got a very strong, intense attitude of dislike and hatred for the police. And on the other hand, the police, in understandable ways, reciprocate with an attitude regarding these kids as just ruffians, not knowing them individually, and not showing much consideration for them. These two groups live in worlds apart. What above all is needed, as I reflect on the theme of this conference, is somehow or other to set up bridges between these two groups that are living in separate worlds—to break down their prejudices toward each other, and introduce some mutual understanding. This can only be brought about in my judgment, by bringing the people together and having an open discussion between them under conditions in which these youth are uncowed, and where they can talk freely and express what they have on their minds. I feel that lawyers could do a great deal in this area, particularly if some lawyer were to defend some of these kids—get them out of their jams. There is no better way of getting the confidence and the cooperation of these kids than to help them out of their jams. If that is done, they won't con you. There will be some gratitude, some sense of close association. I think that this is one of the very effective ways of breaking through the wall of separation. Having gained the confidence of the youngsters lawyers would be in a much better position to erect the needed bridges of discussion between the youngsters and the police. In opening channels of discussion one should go beyond the solicitations of views of separate youngsters and offenders. I direct this remark, incidentally, to the panel who other-

wise prepared the fine report in the case of Miami. I would suggest that these discussions take the form not of soliciting a judgment of this kid, or this offender, but bringing together a group of these offenders so that what anyone of them says is subject to the observation and the critical judgment of their fellows. It is quite necessary not to take at face value what anyone of these individuals say. You have got to run what anyone of them says through the gauntlet of what others of the group think. That is the kind of a relationship that is needed, the lawyers should do a great deal of this.

I spoke too long, Mr. Chairman.

*MR. SEYMOUR:* Very good. Very interesting.

*MR. SPANN:* Thank you, sir.

Professor Blumer says he hopes he doesn't offend me in saying, keep the youngsters away and out of the juvenile court. If the decision of the Supreme Court means what I think it does, I would be inclined to agree with him. The purpose of the juvenile courts traditionally has been rehabilitation.

If you are going to give—and I used earlier and advisedly the term—the rights of criminals to juveniles, then you are making them criminals. Most lawyers have had a hard time not referring to one charged before a juvenile court as a criminal. But the model juvenile court act says he is not a criminal, and you don't use the term.

This has been changed. But the remedy, I am sure, I do not know.

The very purpose of rehabilitation — and I admit that some juvenile courts, like any other courts are enlightened and some of them have not been. A very prominent lawyer in my community—without calling his name, he was the one that handled the case for Wally Butts, and the R. J. Reynolds case for Reynolds, both of which made the national press—had a nephew charged, in juvenile court, with what could be a very serious crime, had he been an adult. He called me and said,

“What do I do”?

I said, “Offer cooperation with the court and see what happens.”

The court held this boy for two weeks in custody for psychiatric study. And he was able to illustrate to them what they could do with this boy if he was released back to his parent. The court went along with this.

This could not happen in a criminal court. This boy would have had to have been convicted, maybe he would have been probationed,



but he would have had the effect of conviction on his record. He has no record.

I certainly agree with what Professor Blumer said about the use of drugs. But in the present posture in which the enlightened Supreme Court has put us I do not know how you do this. I don't think you can realize one who is guilty of an offense under the law if you have no other way of handling it except to treat him as a criminal.

And perhaps, Professor, you might still enlighten us on this. I am lost. I frankly admit I am.

*JUDGE GOODMAN:* Apropos to what you are saying, do you feel that the arrest record is almost tantamount in its implication to a conviction record, is that what I understand you to say? Because in my court if somebody is arrested we have a procedure whereby we can hold adjudication, and find somebody who may have been found guilty or determined to be not guilty.

*MR. DUGAS:* Can I respond to that, out of an abundance of personal experience.

Once the boy is brought into the sights or under the control of the juvenile court, for all intents and purposes he has a police record. And it is like an albatross around his neck the rest of his life, when it comes to the possibility of employment, and so forth, Judge, as a practical matter.

*MR. SPANN:* It depends on where you are. In Georgia until the *Galt* case he had no police record, and it could not be reached by anybody but the FBI.

*MR. DUGAS:* That is what they say here. And we have a statute making it a criminal offense to make these records available. But by some hook or crook they are always available. And I think that is true in almost every major city.

*JUDGE GOODMAN:* Oftentimes the juvenile himself admits to a juvenile record not knowing that he has that protection and it becomes part of his police record.

*MR. POMERANCE:* May I make an observation?

To clarify my interpretation of the learned Professor Lennie Bruce, the comedian whom some of you remember, years ago said he was certain marijuana would become legal very soon, because all the law students that he knew used it. My question to you in the context

in which you have discussed it is, do you feel that marijuana should be legalized?

*MR. BLUMER:* No, frankly, I don't personally. But I think it should be treated as a misdemeanor and not as a felony. And I would repeat what I said before, that the judge and also the apprehending agency ought to be entitled to exercise a lot of discretion on how they treat the cases.

*MR. POMERANCE:* That is the point. There is a dichotomy of justice, apparently, but not in all areas.

*MR. BLUMER:* No. Mind you, there are great ranges of differences among youngsters who use marijuana. And actually, there are far worse types of youthful drugs, such as methedrine, which carry no different penalty.

*MR. SEYMOUR:* You would treat the commercial vendor differently?

*MR. BLUMER:* Certainly. The point is that we have taken the diversified area of drugs and treated it homogeneously, as exemplified by taking marijuana and putting it in the realm of the narcotics, along with heroin, when narcotic addiction represents an entirely different style of life. Further, our statutory penalties and our schemes of law enforcement show on the whole only slight differences in the handling of sociable users of drugs, petty dealers and genuine commercial vendors. What is needed it seems to me, is the exercise of discrimination, recognizing that there is a great deal of difference calling for different types of treatment and different types of penalty.

This is really what I have in mind by my proposal. I am not suggesting that marijuana be made legal, unless people want it. They have done so in the case of alcohol, beyond a certain age. What I am suggesting is some type of reasonable handling of the problem of youthful drug use, so that these large numbers of normal youngsters who, oriented conventionally, will not be subjected to certain types of experience which makes them feel a deep sense of injustice and which turn them against society and against the police. Specifically I am against an arrest and adjudication apparatus that forces a lot of these youngsters to move along unconventional career lines.

Professor Misner.

*MR. MISNER:* I would like to begin by giving somewhat of a review of the things I want to suggest. One of the things that a group

such as The Lawyer's Committee, and attorneys generally, could do is lend an assisting and supporting hand to the police in times which the police are finding particularly troublesome.

The second thing that a group such as this might do is to work with other agencies and with the police in order to identify what I might call, for lack of a better term, "psychological trade-offs," which will serve as a palliative to give psychological support to the police as they are encouraged to assume new roles and new functions.

Now, one of the problems that we are faced with is that the police have generally not developed a system of alternative strategies for handling the universally difficult task of dealing with youth. Related to this, of course, is the whole matter of defining what the police mission really is in contemporary urban society. I don't want to bog down in a philosophical discussion, but I would like to branch something for illustrative purposes. Philosophically and epistemologically the appropriation of the term "law enforcement" by policing agencies is a rather intriguing development in recent American history. I was at a conference in Los Angeles, the title of which was "Law Enforcement's Role in Racial Crisis." In addition to several community organizational workers and several policemen, I served on the panel, and so did Superior Court Judge of Los Angeles and a member of the prosecutor's office. Everyone on the panel except the prosecutor, the judge and I, understood what the term "law enforcement" in that title meant. It was used as a synonym for the police. And this, I suggest, is one of the "hang-ups" in this whole problem. At a time when social change should encourage a broadening of the police function, there has actually been a narrowing of the police function, so that the police are now referred to collectively as law enforcement officers. This is unfortunate when law enforcement per se is a really societal task, involving many different functionaries, not the least of which is the legal profession itself.

Another area in which attorneys can assist is in working with the police is to reexamine the policies governing the use of firearms. In San Francisco last fall there was an unfortunate civil disturbance that was ignited by the killing of a Negro youth. Unquestionably, the policeman involved was legally correct in the use of that firearm. However, the law governing homicide in these cases has remained unchanged since 1879, when it was originally written into the California penal code. This is an example of the failure to develop alternative strategies. In this general area, I think the police can use a good deal of supportive assistance from the legal profession, and from others.

Now, concerning police-community relations as they affect youth, we are dealing, as Professor Blumer and the others have suggested,

with a matter of collective attitudes. These collective attitudes arise from many sources. If you were to take a public opinion poll among the youth, or among the population generally, you would likely get a good deal of misinformation about the police, and about the youths' concept of the police. Generally, the population as a whole, and the youth population as a whole, really have very little contact with the police. Frankly, white middle-class adults and youth know very little about the police of their community. They don't have much contact with them.

If you actually want to find out something about the police you have to contact people who have intimate daily contact with the police. These people are found in particular sections of large cities. For illustrative purposes, I should like to cite an anecdote which was related to me during the course of research in Philadelphia. In Philadelphia one of the settlement houses in the northern part of the city wanted to establish a youth discussion program dealing with fair criminal procedure, the administration of criminal justice, constitutional rights, et cetera. They had to give up after the second meeting, however, because the hostility on the part of the youth was so great that it seriously threatened to jeopardize the entire program of the settlement house. Why? Because the theory of fair criminal procedure which they were discussing simply did not agree with the reality which those kids found on the street every day. So the settlement house leaders and the discussion leaders who had an empathy and a rapport with these youths were suddenly put in a situation where the kids were beginning to view them suspiciously because they are "lying" to them. In the view of the youths, constitutional rights did not in fact mean this on the streets of north Philadelphia.

Now, without arguing the factual situation, this was, in fact, an operational reality to these youths. This is the world that they knew; rightly or wrongly, this was the world which they knew.

Unfortunately, the police often find themselves dealing with youth only in enforcement situations, situations which almost inevitably have a negative connotation — at least for the youth. Generally, the police in both large and small cities have only a limited number of contacts with youth which are positive, or at least neutral, in connotation. There are a variety of reasons for this; almost all of them are "structural," using that term in its organizational sense. Either the police see their job as being primarily one of "enforcement," or manpower is too limited to permit an officer an opportunity to seek out positive youth contacts.

Concerning this I might cite another anecdote. I am presently doing some work in a county which has a very small but problematic Negro ghetto. The total population is only twelve hundred people. I was discussing this matter with the police officials involved the other

day, and I brought up the subject of the San Francisco police-community relations program, which includes the assignment of police officers to the poverty office. The responsibility of these officers is to attempt to find jobs for unemployed youths, going to prospective employers and explaining what the meaning and significance of an arrest record is. The point I want to make is that the police official in the neighboring county argued with me and asked:

"What does that have to do with police work? Police work involves catching burglars, and finding jobs for kids is not part of police work."

Then we chatted. About fifteen minutes later we were talking about a new program that this officer himself had recently instituted. His department had gone out and found funds to erect a youth recreation center. They now have an officer assigned to the recreation center on a full-time basis.

Then I asked him:

"What has this got to do with police work?"

He smiled, and said:

"Well, the only relationship this has to police work is that when the recreation center is in operation, and when there is a teenage dance there, 'all of the birds are in the cage,' and they are not out committing burglaries."

The point to be made is that this senior police officer could see the relevance of running a recreation center, but he could not see how finding jobs for kids was related to his job, the job of "police work."

What is necessary is to provide this officer and police generally with a trade-off where they can see that a particular new function is in effect related to an historical police function, that the running of a recreation program, or the assignment of a policeman to a poverty employment center may, in fact, have some relationship to crime prevention and to crime control. As a society, we simply have not done a very good job of providing these supportive trade-offs to the police.

Now, in the interest of time, I will hurry and condense some further remarks that I intended to make.

The methods by which we traditionally evaluate police efficiency and police effectiveness may, in fact, create some aberrations in the police system. If you look at the traditional police literature there are generally three ways in which you measure police effectiveness or police efficiency. Each of these is related to only the apprehension function of the police. Frankly, we academics have not been very helpful in this regard. My personal feeling is that one of the things we have to do to improve police-community relations is to develop new trade-offs for the policeman. If he sees the payoff, the trade-off,

the policeman can operate in very different ways. The policeman is fully capable — he can be a very compassionate person, he can develop great understanding and empathy with people — if his organizational structure within which he must work provides him with the opportunity. As an example, in one west coast city the chief of police attempted to initiate a program in which his beat patrolmen could stop by at a house, just to visit casually with the residents. This was an on-call service, at the request of the resident.

“We are having a cub pack this evening, would you have the patrolman stop by?”

This program was given up after only a month. From the first, the patrolman was limited to a fifteen minute visit; he couldn't stay in the house longer than that. The program was abandoned after a month's period of time simply because, in the chief's estimation, there were other more pressing things to be accomplished.

Apparently, the chief of police could not see the “pay-off;” when compared to other tasks the patrolman might be performing; it is obvious that these other tasks took precedence over the home visitation program by the beat patrolman. Perhaps, the chief justified his abandonment of the program on the premise that the community would not support this use of police manpower in the face of a rise in the “crime rate.”

The traditional ways in which the police mission is assessed and is evaluated can lead to all sorts of aberrations. An example is the traffic enforcement index as it is utilized to evaluate “police performance” in one city with which I am acquainted. The traffic enforcement index is derived in the following manner:

*number of convictions with penalty for hazardous violations*

*number of motor vehicle accidents with injury or death*

Both the National Safety Council and the International Association of Chiefs of Police consider an enforcement index of 20 to be effective. This city which I am referring to boasts of the fact that it has an enforcement index of 55, nearly three times as stringent as the recommended formula. Naturally, the public which receives the large number of traffic citations considers the police department to be over-zealous in traffic enforcement matters. Youths, who bear the real brunt of the traffic enforcement effort in the city, are particularly incensed about the police department. Most assuredly, almost all of these contacts between the youth and the police are negative. Is the individual officer to blame? No. He may also resent the policy, for it forces him to write citations which he would probably rather forego. He has no choice, however, for his performance each day is judged by the number of traffic citations he writes.

In this city, zealotry is the focusing of attention upon the importance of traffic violation apprehensions and in the issuance of

citations is probably the single most complicating fact in the police-community relations of a department which generally enjoys favorable communications with and support from the public. This is a city in which police officials from many parts of the country would like very much to operate, for it has a friendly press, and perhaps 94 percent of the population at one time or another is supportive of what the department is doing. The single more complicating fact is this focusing attention upon the apprehension function as far as the traffic mission is concerned. This generates resentment on the part of the public, which is otherwise highly supportive of police performance.

## *recommendations*

### *GORDON E. MISNER*

1. Many of the incidents which provoke potentially explosive hostility to police action in the community arise from the use of firearms by policemen. Local groups of lawyers should offer to assist the police in redrafting guidelines on the use of firearms.

2. Local groups of lawyers can work in teams with the police in going to prospective employers and explaining the significance of an arrest record. Discrimination due to an arrest record, even though conviction did not result, can reinforce hostility toward authority and especially toward the police who created the record.

3. Local groups of lawyers should encourage the police and the community to use a different standard for evaluating the efficiency of a policeman and the effectiveness of the police in general than the present standards which are all keyed to the apprehension function.

### *MARVIN E. WOLFGANG*

1. Local groups of lawyers should attempt to see to it that lawyers are regularly assigned to work around the clock with the Juvenile Aid Division of their local police force. The initial disposition of charges against juveniles takes place at the police level, and represents an overwhelmingly larger number of cases than the dispositions which take place at the court level. Attitudes toward the police and toward authority in general are formed at this level.

2. Local groups of lawyers should attempt to secure a redefinition of the statutory term "juvenile delinquency" in their community in order to bring the thinking of the police and the community at least up to the standards advocated by the United Nations-sponsored meeting on The Prevention of Crime and the Treatment of the Offender held in 1950. This would mean the elimination of such offenses as running away from home, incorrigibility, and truancy from the juris-

diction of the Juvenile Courts and their treatment as non-criminal behavior or family problems.

3. Local groups of lawyers should work for the establishment of Emergency Domestic Quarrel Teams to work with their local police. Such teams would consist of a psychiatrist, a policeman, a social worker and a lawyer working together to deal with domestic situations which give evidence of leading family members toward the commission of crime.

4. Local groups of lawyers should work toward seeing that every juvenile is given legal counsel immediately after arrest, through the court process and afterward, the juvenile is placed on probation or institutionalized. Serious problems of alienation and of drift toward a life of crime might thereby be alleviated.

#### *HERBERT BLUMER*

1. Local groups of lawyers should work for the elimination of the present harsh penalties for the possession of minor narcotics (especially non-addictive drugs) or their distribution in social circumstances as opposed to their sale for profit. Because of penalties which are in disproportion to the offense, the police are often viewed by juveniles as the unreasoning agents of an irrational system of criminal justice.

2. Local groups of lawyers should also work for the elimination of mandatory sentences with regard to the possession, use, or distribution of narcotics in general, and the granting of greater discretion to the judiciary on the disposition of such cases.

3. Local groups of lawyers should sponsor conferences of juveniles and the police to discuss, on a personal level, the problems which they see in the operation of the law in order to break down the mutual prejudices and illusions which policemen and juveniles tend to have about one another. Such conferences would have to be carefully conducted on a sophisticated but open basis where the juveniles were free to express their minds completely, or they could backfire and intensify prejudices.

4. Local groups of lawyers should see to it that juveniles are routinely provided with first-rate legal services when they come into conflict with the police or the law in order to demonstrate the concern of the "establishment" and to create better lines of communication.

*MR. SEYMOUR:* We are grateful to Tyler, Texas, for many things, but particularly for Harry McPherson, who has occupied a series of important Government posts in the Defense Department and the State Department. He has served as counsel to the Democratic Policy Committee in the Senate, and he now occupies the very great office of Counsel to the President of the United States.



# *Remarks of Honorable Harry C. McPherson, Jr., Special Counsel to the President of the United States*

**MR. MCPHERSON.** Thank you, Mr. Seymour, Senator Kennedy, Mr. Bernhard, and ladies and gentlemen.

My role today is to introduce another gentleman. There were going to be two speakers, but now there is only one. It is quite a challenge, because we have known each other face to face for about an hour, and it is also a privilege, because I have heard of him for so long. I will get to that in a minute.

First of all, I want to bring the Greetings of the President to the Lawyers' Committee. As you know, your group is one that he was instrumental in helping to create under the leadership of President Kennedy, and one which he has continued to support in his own presidency, one which he feels quite keenly about, and one whose leaders he has met with on several occasions, in past years.

I wish I could have been with you to hear the talk of this morning, particularly Judge Higginbotham who talked on the subject of Police-community relations. I suppose the events of this past hour and this weekend put that in as sharp a focus as it could possibly be. Police-community relations seem to me not an aspect of the civil rights problem but very much related to all of it. But it is usually discussed as a footnote to other matters.

Here is a conference report of the White House Conference on Civil Rights which Mr. Bernhard managed last year. You will find 170 or 180 pages of this final summary report devoted to housing, education, and employment, and about five pages devoted to police-community relations. That comes very near the end, and yet this is the place where the organized society touches the lives of more people than at any other place.

For many years, I lived on Capitol Hill in the Southeast, in an integrated neighborhood. It is sort of on the brink: part slum, part rejuvenated area. Police around there dealt with a lot of federal and city officials, welfare, housing and on-the-job-training programs, and the rest. But the thing that really got to them, the place where their lives were most urgently affected, was in their relationship with the police.

I now live in suburban Maryland, and I almost never see police badges, which is fine from my point of view. But when I was very deeply involved in that community on Capitol Hill, I saw the police very frequently. Somebody next door or down the street was always in some kind of trouble or needed the police, and I saw how that arm of the organized society is really the spearhead — it takes the full brunt, the full impact of the meeting between the individual and society.

Even where you have made progress, even in those few cities where it can be said fairly that we have made progress in housing and employment and education, where there are bad relations between the police and the community, people come to feel that there are two nations. We are getting to a place in our history as a nation, and we will get to it inevitably if we continue on our present course, where we will be two nations in fact. By 1983, around 30 major cities in this country will be Negro in the heart and white around the suburbs. And this can create, if it is permitted to happen, the kind of tensions that can shake society very deeply.

Anything that tends to perpetuate this division into two nations, particularly two potentially hostile nations, is deeply detrimental to the lives of everyone of us. Bad relations between the people and their protectors, between the individual and the law, open the way for detrimental and destructive forces in our society.

This is obviously, as you heard this morning, not only a question of what happens to a guy in the precinct house, it is what happens in the whole fabric of society under public laws, in OEO local services, desegregation programs in the schools and employment services. No one has a more pertinent and important role at this nexus between the individual and society than the lawyer. That is why you are here, and why you have been talking as you have this morning.

Warren Christopher has been very deeply engaged with this organization since its founding and also with police-community relations, as they are a part of society's relations to the poor in his own city. He served as vice chairman of the McCone Commission which studied what happened in Watts. And very likely there will be a Warren Christopher in the next few weeks who will be serving as vice chairman of what happened in Newark, and in many other cities where Watts and Newarks may take place. And, consequently, what he has to say to us today ought to be not only pertinent in time, but profound in the experience that he has had.

As I said, I never met Warren Christopher until this morning, but I have heard so much about him that I felt that I have known him. Everytime that the White House has looked for someone who might come into the Federal Government at the very highest levels during the past two or three years, the cry has gone out, "Get Warren Christopher." Well, we were never able to get Warren Christopher

until just recently. I am not sure what it was that broke his will to resist, but something did. And much to the benefit of the Administration, where he is now to serve as Deputy Attorney General, all things being well in the Senate Judiciary Committee.

It is my privilege to introduce to you Deputy Attorney General Warren Christopher.

## *Remarks of Warren Christopher, Nominee to be Deputy Attorney General of the United States*

**MR. CHRISTOPHER:** Thank you, Mr. Seymour and Senator Kennedy, and ladies and gentlemen. I think I would first like to read to you the note that I got from Berl Bernhard shortly after my appointment was announced. Berl wrote me:

"Dear Warren:

"It just goes to show what a striving young man from the West can accomplish if he works for the Lawyers' Committee."

I was feeling pretty good about my appointment and reading the press clippings in the way you do when you are reading them for the first time and not very used to it, when one of my partners took me down to earth by introducing me and saying that it just goes to show what O'Melveny and Myers does for its fellows who do not work out.

Out in Hollywood where I used to live — I guess, Senator, I had better say carefully that it is where I still live — they have a saying, when a fellow is really down and on his uppers with his heels runover, that he is between jobs. Well, that is my condition here today. I have withdrawn from the law firm of which I used to be a member and I am not yet confirmed. Before coming here, I did not know whether that should make me reckless or very careful.

The arrival of the last man that came into the room, (Senator Kennedy) charts my course very well. Berl assured me that this thing would be off the record. But he has a very peculiar sense of it being off the record, when there is present a member of the Committee that is considering my nomination.

I would like to talk to you about one aspect of the Administration's program in Congress which I think has real importance for the future of you ladies and gentlemen who are involved, as I understand it, in the whole spectrum of law enforcement activity.

As you know, the President has sent to Congress the proposed Safe Streets and Crime Control Act. This bill is a direct outgrowth of the major study carried on by the President's Crime Commission. It proposes to establish a Federal grant program to state and local law enforcement agencies. I am glad to say that, at least as I view it as a newcomer, this bill is getting fairly broad bipartisan support in Congress. There have been hearings on the bill in both the Senate and the House Judiciary committees. The House Judiciary Committee apparently is going to report the bill substantially intact. And I understand that the Senate Judiciary Committee is going to start its process of marking up the bill within the next several days, or at least several weeks.

Now, when this bill becomes law, if it does, it will provide large scale Federal assistance to local and state police agencies to help them improve their law enforcement and their whole process of criminal justice. There are three significant ways that I think that this bill could be useful to you in the critical area of police-community relations.

The first and foremost way is in Title II of the bill which would authorize the so-called action grants to the state and local governments for the purpose of law enforcement and judicial assistance, and including community relations programs.

Now, under these grants, the various communities around the country will have basic financial assistance offered to them for community-police relations.

For example, there could be grants for a community relations unit of the police department; there could be grants for the recruitment of law enforcement officers from minority groups, and there could be grants to establish an adequate grievance procedure within the police department.

There could be grants for special educational programs so that you could establish non-hostile contacts between policemen and young men and women in high schools, junior high schools.

So, that is Titles I and II of the bill.

Beyond that, in Title III of the bill, there is an authorization for research grants and special projects in the field of community-police relations. This is basically an authorization for research activity. Under this title of the Act the goal will be to promote projects, such as the Lawyers' Committee has been involved in, Berl, which will be of regional or national importance, and which will be pilot models for the improvement of law enforcement.

This title, contrasted to Title II which provides for 60 per cent grants, provides for a 100 per cent grant in the field of research in law enforcement and community relations.

Finally, under Title I of the Act, 90 per cent grants will be available for planning in the area of police-community relations.

The recipients of these grants will be able to call on expert outside help to help them solve their difficult problems in the field of police-community relations.

So, there are three important aspects of the crime control bill which are now pending before the Congress.

First, grants to provide needed action programs;

Second, research grants to develop new techniques and to improve our old techniques; and

Third, planning grants which will enable the various localities around the country to define their mission, to define their particular needs.

Now, I can't do too much here to emphasize the importance of police-community relations in coping with the kind of problem which has left many of us in the Federal establishment dazed and tired this morning.

Riots are harmful to everybody. Nobody wins when there is a riot. One of the most pernicious notions which is abroad in the country these days is that somehow riots do some service in helping us to identify or locate or focus on problems.

The riots I have looked into produced such a legacy of bitterness, hatred and fear that it takes a community months, years or maybe a decade to work its way out of a riot situation. I do not have to talk to this group but, I think, we ought to get the word around the country that the riots are situations in which everyone is a loser.

I would like to take anyone who thinks that a riot is a good way to call attention to problems into Watts and show them what is happening in the wake of that riot — bond issues which have not been passed, bitterness and tension remaining two years later, and so forth. If anyone has the notion that there is a net profit in rioting, I would like to do everything in my power to refute that notion.

One of the things that can be done most quickly to help with this problem is improvement in the field of police-community relations. As this whole group knows so well, and as the crime commission told us so bluntly, there can be no lasting improvement in law enforcement until police-community relations are substantially improved.

Our Commission out in Los Angeles found police-community relations to be one of the three principal factors in the violence which has so many causes. I do not think I need to elaborate on this, in view of the press reports we read over the weekend.

So, I would like to leave you with the thought that the Crime Control Act pending before Congress provides a real opportunity to give the police departments and law enforcement agencies, the whole mechanism of criminal justice around the country, an opportunity to have additional funds to move into this problem which can help us so much in dealing with these moments of tension which are going to be with us at least for the next decade.

I thank you very much.

**MR. SEYMOUR:** That was a fine talk, and I do not think that if a word of it leaks out you are going to be jeopardized.

President Johnson's interest in the concerns of the Committee has been evidenced in many ways, as brought out here today by Warren Christopher, and most recently by Clifford Alexander's appointment as Chief of the Equal Opportunity Commission. We are terribly glad that he is going to do that. We will work with him and look forward to the Commission accomplishing things beyond whatever they have ever accomplished before.

Senator Kennedy, this Committee was brought into being by your great brother, the President, with the cooperation of your great brother, the Attorney General. We are honored to have you with us today.

## *Remarks of Senator Edward M. Kennedy United States Senator from the State of Massachusetts*

**SENATOR KENNEDY:** Mr. Seymour, Mr. Christopher, Mr. McPherson — Let me just say, Warren, that I wish my whole political career was as secure in the future as is your confirmation in the United States Senate. I must say that there are a few things that the Judiciary Committee agrees on unanimously. So, I think I can predict, either on or off the record, that your nomination will be a pleasure for the entire Committee to support, and I think the President really deserves a great deal of credit for the selection.

I just wanted to come up today and be with you at this luncheon, because of my own interest in — and the priority I place on — the kind of work that you are doing. It is certainly encouraging to hear all of the observations that have been made this noontime indicating the President's very strong belief, and the Justice Department's strong belief, in the importance of promoting good relations between the community and those who protect it.

I have during the course of the past few weeks sat through the discussions and the debates and testimony in the Senate Judiciary Committee, and I have been extremely impressed by the very compelling testimony that we have received on the whole question of what can usefully be done about improving community relationships.

I think that we have been reminded, as a country and, certainly, as members of Congress, about the importance of this dimension of our urban problems in the last five or six days. To begin with, we can and must talk about the long-term needs. Obviously they are there. They are there in my own city of Boston, and in Springfield and in Worcester, Massachusetts, and in Newark, the problems that have just been touched on — job training, housing, health facilities, education, recreation, a whole list of things which have to be done and on which we have to take a much more realistic and imaginative stand, and we, in the Congress, have to be willing to see that there are adequate funds for these long-run efforts.

But when there has been a breakdown in community relationships, which I believe was one of the leading and contributing factors in Newark, we can see what happens or can happen in the short run.

I think we are all distressed at the fact that even when the National Guard unit went in to help in the riot area, it was difficult to find any Negro officers in that National Guard unit. Thus in the efforts to deal with the emergency situation itself we see symptoms of what may have contributed to its occurrence.

I was talking to Senator Robert Kennedy over the course of the weekend, and he said he was doing a study in New York State to find out how many Negroes were actually in command positions in the New York State National Guard. In our own National Guard in Massachusetts, I am afraid that the situation may be the same. It is regretful that we have to talk about the fact that there is a lack of minority group representation in the Guard units, but it is a fact of current life with which we have to deal.

I have been impressed, in the limited time that I have been here, and especially since the McClellan Committee has been considering the Administration crime package, by the study that I have done and the testimony that we have received on what has really been achieved in the cities where they have had effective programs to

focus on the importance of good community relations with local officials and agencies. I think it has been extraordinary to see the differences in the places this has been done, and to see the spin-off effect from it. I think we are reminded of it constantly, and I am certainly hopeful that the kind of examples that Mr. Christopher has given will be fully utilized by the respective cities around our country, and that we, in the Congress, can establish — and it is my intention to do so — the kind of legislative history, both in the Judiciary Committee and also on the floor, that points out the very high sense of priorities that most of us, who realize the full potential of this program, place on this effort.

All of you know the value of it from your own study and your own interest which goes back for so many years. And I have been fully convinced of it, and I certainly welcome also the comments that many of you have made to me in the past, not only on this but other pieces of legislation.

And let me just say that I look forward to working with all of you in the areas in which we can be mutually helpful. I appreciate the invitation to be with you today. I am not here to speak; I want to listen, so I will just thank you for permitting me to join for this important meeting.

**MR. SEYMOUR:** Jerome Shestack, who is one of the leading lawyers of Philadelphia, a partner of Bernie Segal (who was one of the original co-chairmen of the Committee) and the Secretary of the new Section on Individual Rights and Responsibilities of the American Bar Association, is going to moderate the next panel.

## *the effect of the judicial process on police - community relations*

**Moderator:** Jerome Shestack, Esq.,  
Moderator. Member of the Executive Committee, Lawyers'  
Committee for Civil Rights Under Law.

**Panelists:** Judge A. Leon Higginbotham  
U.S. District Court, Eastern District of Pennsylvania.

Herbert Goldstein,  
Professor, University of Wisconsin Law School, former ad-  
visor to Superintendent of Chicago Police, O. W. Wilson.



Judge Tim Murphy,  
General Sessions Court for the District of Columbia, former  
Assistant U.S. Attorney for the District of Columbia.

*MR. SHESTACK:* We have two lawyers and a professor.

I note that of the earlier two panels, one was called Police-Community Relations from the Point of View of Minorities, and one, Police-Community Relations from the Point of View of the Young. This afternoon we are going to have Police-Community Relations from the Point of View of Police. But here we have the rather unusual title, "The Effect of the Judicial Process on Police-Community Relations." If we are dealing with police-community relations from the point of view of the young, we certainly have some difficult problems to raise, in view of the tendency today to refer to judicial opinions as coddling criminals or handcuffing the police, or protecting the public welfare, depending on your point of view. If we are looking at it from the point of view of the law, we also have difficult constitutional and perhaps even more difficult jurisprudential problems — as for example, the question of whether the recent decisions by forcing, perhaps, a professionalization of the police have exerted a refining influence on the law.

Our first panelist is Judge Leon Higginbotham. Before Judge Higginbotham reached the age of thirty-six he was a successful practitioner in Philadelphia, an assistant district attorney in the appellate division of the DA's office, a member of the Federal Trade Commission, and a federal district judge for the eastern district of Pennsylvania. I don't know what that leaves him to do for the next thirty-six years.

*JUDGE HIGGINBOTHAM:* We know it is axiomatic that the policeman becomes to the individual, particularly in the ghetto, the all embracing symbol of law enforcement. There is a tendency in our society to specialize in pointing the finger at the other fellow as the major cause of the problem. It is the police, it is the parents, and it is the educational system. Though the U.S. Supreme Court has been often subject to unwarranted attack, factually I think there is no court institution which has abdicated its independent responsibilities more than the state trial court or police court, and at the same time there are no court institutions which have been as successful as the trial and police courts at overlooking their own failures, and in placing the blame on other vulnerable components of the community process.

Thus I think that a major role for bar associations and lawyers will be focusing with maximum precision on the quality of justice at the police and trial court level, because the quality of justice on this level has far more impact than any of the rulings of the U.S.

Supreme Court. If you were to try to formulize this impact by an equation or an indices, a police or trial courts impact would be at least one hundredfold more powerful in the way in which its rulings, as contrasted to the U.S. Supreme Court's rulings, affect police-community relations by either accelerating hostility or diminishing tension.

I would like to emphasize a few factors. There is a tendency to look only at the adult criminal court. The Bar will be making a major error if it does not focus on civil and police courts because they determine police-community relations in the ghetto community as significantly as the criminal courts.

The civil court's past failures to effectively enforce health codes, zoning and tenement housing laws cause many in the ghetto to ask: "If my present deteriorating community is a product of law enforcement, has the rule of law left me a community which is really worthwhile protecting? If my community has deteriorated by reason of the power structure failing to have enforced the rule of law, why should I abide by the rule of law when they have not?" To quote James Baldwin: there is no greater danger than a man who feels that he has nothing to lose.

A second factor of extreme importance is what is happening in the juvenile court. My only experience has been in some courts in and adjacent to Philadelphia. So I can't talk about the excellence or lack of it in other places. But let me give you one example. In Philadelphia, in the juvenile court, the average judge adjudicates per day between thirty and fifty cases. Boys go into institutions for years on the basis of decisions that are made instantly. It is what I call the deprivation of *too speedy* justice. We constantly talk about speedy justice. But for the poor, in the court structure on this base line level, it is often too speedy. No one has the ability to render a rational decision within the diminuted time period. From having represented juveniles as defense counsel and having prosecuted them as an Assistant District Attorney, I am convinced that most juveniles leave the courthouse with disdain for the rule of law as they have seen it in operation. Many believe that the system does not assure equal justice for the poor, the weak, and the Negro. Thus, the "voice of reason" urging support for the laws of the land cannot reach those residents or persuade those observers who have come to believe that the law is not the ally of the poor, the weak, and the oppressed. For these daily occurrences which the poor and the urban ghetto residents often experience in our courts are the substance which shape their community reactions to the "rule of law," and these reactions are not altered by the eloquence of statements by the bar association public relations committee which urges compliance with the law.

If a lawyer has a protracted antitrust case, or a significant corporate or contract matter, he would not feel that a judge dispersed justice unless he devoted substantial time to analyzing his argument.

Lawyers want a feeling that the judge has at least understood their argument, weighed it, and then reached a result which has some rational basis.

Arlan Specter, the Philadelphia District Attorney, has a treatise on the Philadelphia magistrate courts which should be required reading for anyone who applauds our system. Five or six of the Philadelphia magistrates have been indicted, and about four have been convicted. One magistrate, for example, had a collection agency. He was taking the major department stores' accounts, running them through his court, and had a 99.4 percent record of finding against the debtor.

The toleration of this type of system — in consumer credit, landlord and tenant relations and so on — eliminates confidence in the system.

What are some of the things that we have to do? You know that poem — and I think it is particularly applicable to lawyers —

“I live in a sea of words,  
Where the nouns and the adjectives flow,  
Where the verbs speak of action which never takes place,  
And the sentences come and go.”

Our ghetto community often observes the lawyer reformer as one who glibly espouses “verbs which speak of action which never takes place. Where in this great nation can the poor in the community point with pride to a model of justice which they can now see in actual operation as a trial court, police court or a juvenile court? I think we have really got to get to the point financially where we can establish a model court treating juveniles with the best techniques and where we say to a judge, you may have to spend an hour or two hours on a case, because you are determining the future of a youth's life.

In the U.S. District Court I have no real time pressure. If I want to take two days to decide a case, or to work on it, no one criticizes me. My distinguished former law partner, who went on the juvenile court, has a list of forty to fifty cases every day. And what have the bar associations done in this context?

We have got to focus on model rehabilitation centers, model probation systems, not by writing codes, but by actually establishing these institutions.

The most constructive input has often been made in the ghetto by those hard and undramatic legal tasks of getting things done for the community and providing the services which the community deserves; these Herculean efforts seldom receive any public recognition. We must also evolve a system to honor those lawyers who focus on the critical ghetto problems — problems which though of prime importance remain saturated with anonymity for those who solve them.

Perhaps bar association recognition of these equally significant efforts will encourage more lawyers to tackle the hard core problem of the laws obvious failure within the ghetto community.

Finally, two other problems concern me. The first is the managerial skills of our courts. I am of the belief that judges are appointed and not annointed. We go on the bench with whatever deficiencies we had before we got there. To receive power by appointment to the bench is not the equivalent to receiving instant wisdom. Our courts (and I am not speaking of the U.S. District Court in Philadelphia but of state courts, and particularly juvenile courts) are sometimes run so inefficiently that if they were in business they would be bankrupt. There are no skills like those used in the operation of a business. In Philadelphia about thirty-five or forty youths were forgotten for ten or fifteen years. They were sent away because they were mentally defective. All of a sudden some of the parents, when the kids were around twenty-two or twenty-three, started to raise the issue, and now many of them are out. We have to develop better court systems. You could have Cardozo, Brandeis, and Holmes on the courts, where they will give absolute substantive excellence to their determinations, and yet you could have a monstrosity of justice on a trial court level, unless someone is analyzing the in-put, unless someone is doing all of the things which must be done before and after adjudication. We are going to have to train administrative judges to handle the tasks. Very little is being done. In businesses, if you are going to move men up to the executive level, it is required that they get a series of intellectual opportunities where their horizons are expanded by exposure to the latest techniques and terminology. I have talked to judges all over the country and all have volunteered that their own system is the best in the nation. Now that can't be true. But a judge who was praised fifteen years ago because of some innovation revels a lifetime on that innovation without knowing what significant techniques are now use in other courts.

I am a believer in computer utilization and the bringing in of managerial skills, so that we will know at least what our problems are and can define, trace, and follow them and go through all the simulations possible to correct the problems.

We have to start a program of educating judges. The truth of the matter is that by the time most men become judges — and that would include me, when I became a judge at the old age of thirty-five — they are behind on social and scientific phenomena and in a knowledge of the available techniques.

Secondly, I would also focus on the issue of court delay. I remember that a lady came into my office when I was in private prac-

tice. She had been involved in an automobile accident and she said:

"Lawyer, how soon do you think this case can be tried?"

At that time the backlog in Philadelphia was four and a half years. I said:

"Well, maybe four years. But it may be settled."

Three days later her husband got arrested on a numbers case. She brought him in, and said:

"Well, I guess that won't come up for four and a half years."

And I said:

"No, that is two months."

And they brought in a traffic ticket, a result of the accident, which would come up within fifteen days. That woman, who had a serious injury and one child permanently disabled, couldn't understand a concept of law where it would take her four years to obtain compensation for pain, suffering and medical expenses but her husband could go to jail within two months.

What I am trying to say is that on the civil side of the court the failure to do something about tenement housing or abuses of civil law will have as adverse an effect on police-community relations as an instance of police brutality.

**MR. SHESTACK:** Our next speaker is Professor Herman Goldstein who teaches at the University of Wisconsin Law School. He is not a lawyer, he is a political scientist, teaching lawyers about the law. He was a former adviser to the Superintendent of Chicago Police O. W. Wilson.

He will deal with the subject of educational roles accorded lawyers in the clarifying of police-community role and the limitations under that approach.

**MR. GOLDSTEIN:** Thank you.

The relationship between the police and the community which they serve is dictated, in large measure, by the policies and practices which the police follow in the exercise of their police authority. Through the exclusionary rule, whereby evidence obtained illegally is not admissible in court, police practices in the investigation of crime and in the apprehension of offenders are subject to the review and control of the trial judge. As a result, judges engaged in the trial of criminal cases—especially at the lower court level—have perhaps the greatest potential that exists within the judicial process for influencing the relationship between the police and local citizens.

The manner in which the process functions, however, has resulted in judicial review having much less of an effect upon police practice than might be expected—and raises real doubt as to whether the challenging of police practices through the exclusionary rule ought to be looked to

as a means for correcting some of the practices that contribute to the strained relationship that often exists between the police and members of a minority community.

In the first instance, a large percentage of police actions, involving the exercise of police authority, involve matters that never become the subject of court attention. Secondly, should a trial judge object to a police practice by excluding evidence, his objection is not directly translated into a change in police policies and practices. In large cities, for example, judges may routinely prohibit the introduction into evidence of a weapon illegally seized, but, routine as such a suppression may be, the judicial action does not seem to alter the police practice relating to the confiscation of weapons. This is because, from the police standpoint, more value is attached to the removal of the weapon from the streets than to the conviction of the person in whose possession it is found.

Considering these limitations and given the magnitude of the problems in police-community relations as they have been described by the previous speakers, it seems to me that any marshalling of resources within the legal profession might better be directed at several points where it is likely to have a much greater effect.

Police functioning is largely the result of police leadership—and it is to this latter area that greater attention ought to be given. To the extent that police administrators tackle the problems of police-community relationships with conviction and undertake, especially, to identify and resolve some of the basic underlying problems, the tensions that currently exist in our urban areas will be substantially reduced. Much more is required than has been evidenced by the variety of police-community relations programs that have been launched. What is needed is a change in the attitude, in the philosophy and in the approach to the task of policing held by many of our current police administrators—a change that would reflect a better understanding of the role of the police in a free society and of the effect which the exercise of police authority has upon the attitude of citizens toward their police force and toward their government. It is the kind of change that would result in the police administrator becoming the champion of individual rights and the rights of minority groups. And, if properly conveyed down through the ranks, it is the kind of change that would result in a police officer acting properly in his contacts with citizens, even under the most exacting circumstances and absent any degree of accountability to witnesses or supervisors, simply because of his dedication to the underlying principles of policing in a democratic society.

What contribution can the legal profession make toward bringing about such a change? Some improvement may be achieved through better selection and training of those having responsibilities for administering police operations, but, in the long run, the nature of police leadership is most strongly influenced by community demands, and the

policies and practices that a police chief established are largely a response to community demands. The need, then, is for altering the kinds of demands made by a community upon its police force and it is in filling this need that I believe the potential exists for the legal profession to make its greatest contribution.

I would hope, for example, that lawyers would be prepared to support proper police actions which are often subject to condemnation by the larger community. A well-intentioned police administrator often feels quite lonely in taking action to defend the right of a person to speak in behalf of an unpopular cause, to protect the right of a minority-group citizen, to reside in a segregated neighborhood, or to protect the rights of a person accused of a crime that has angered the entire community. The easier path for the police administrator, faced with these situations, is to decide on a form action that is more consistent with popular opinion.

Secondly, I feel that lawyers ought, themselves, to refrain from joining in efforts to bring unreasonable pressures to bear upon a police force. Many of the worst police practices affecting citizens in ghetto-type areas are the result of demands articulated by lawyers in behalf of neighborhood groups, associations of businessmen, and other special interest groups. Lawyers, it seems to me, have a responsibility to advise their clients of the limitations upon police authority.

And, finally, I feel that the lawyer has a role to play in increasing the pressure from segments of the community that are otherwise without a voice so as to assure that such citizens receive their proportionate share of police service and so as to assure that they are not treated in a cursory or offensive manner.

If I were a police administrator, I would welcome a better balance in the community's demand upon my agency, for such a balance would enable me to perform my job in a way that would be more consistent with my concepts of the police role in a free society. Lawyers, I believe, are peculiarly equipped to make a major contribution towards establishing this kind of balance and it is toward the development of this role that I feel your Committee should devote a substantial proportion of its attention.

*MR. SHESTACK:* Thank you.

The next panelist is Judge Tim Murphy, who was appointed to the Court of General Sessions of the District of Columbia last November. Prior to that, for seven years, he was Assistant to the United States Attorney in the District of Columbia and was in charge at the various demonstrations and sit-ins which took place in the District. He handled, for example, the sit-ins in the White House which, I take it, were the first invasion of that dwelling since James Madison's administration.

Judge Murphy.

*JUDGE MURPHY:* I would like to make one or two observations.

I think you have to be a little cautious about what lawyers are.

Lawyers are generally regarded as advocates and factfinders interested in rigorously but rather fairly presenting their clients' case. These particular characteristics which we lawyers would like to claim we possess are peculiarly lacking generally in the police-community relations area.

Lawyers generally do not understand the police department, because most lawyers' roles are in relation not to police but to defendants as defense counsel. The police are testifying against the lawyers' clients. Thus lawyers have never worked to develop the police's ability to do the job better, because perhaps if the police become more efficient or have better techniques, most of the lawyers' clients will go to jail.

There have not been many bar associations around the country that have had committees actively devoted to trying to figure out a better way for the police to solve crime and get convictions of guilty people within the framework of the Constitution.

It is only recently that lawyers have really done much in the way of law enforcement reform. There has not been too much imagination shown by lawyers or any one else in this area. The most simple suggestions tend to come from outsiders. The man who is behind the Vera Foundation, isn't he a chemist?

In regard to fact finding, I remember while a prosecutor getting a call in the middle of the night from a lawyer saying that he wanted an immediate investigation because his maid's son had been the victim of police brutality. I asked him how he knew and he stated that the boy's mother had called and said that a neighbor had just reported that to her. The lawyer was demanding an official investigation based on something that he had gotten from his maid who had gotten it from a neighbor.

Maybe there had been police brutality, but this was a race to have an official investigation without first learning the facts. Incidents like this make the police really jaundiced toward lawyers.

Lawyers have not been impartial or professional in their argument of cases involving police-community relations problems. I see pleadings filed in court by counsel which read more like handouts at civil rights demonstrations than normal pleadings. The police are called Nazis and brutes and the like. This flamboyant language is coming out of lawyers and there is widespread dissemination of these pleadings in the community. People say "Well, if these big shot lawyers named in this paper call the police Nazis and criminals, then they must be right.

There has to be some professionalism in the getting of facts and the presenting of them in the way lawyers present regular litigation issues.

I think that the police image of the lawyer, while it is not bad, is not very good. The policeman does not regard the lawyer as a friend or as very fair or impartial. This is because some lawyers, either as vigorous defense counsel or counsel for rights groups are construed to represent us all.



A certain local group, whose spokesman is usually a lawyer, favors broadening the obscenity law, support people involved in burning their draft cards, and goes on record that you should not fire homosexuals from Government. Yet the first time a policeman uses a trigger word, this same group demands his ouster. A lot of people have forgotten that as an individual a policeman has rights, too.

If we look at the lawyers in Washington, we find that a couple of years ago we had at least seven lawyers who were convicted felons who were practicing law while their cases went through the appellate courts. One of them had a nine-year rap facing him, which he is now serving. He regularly used to get court-appointed cases. We have a lawyer now who has been convicted for perjury before the grand jury. We have suspended from practice a lawyer who is under indictment for forgery. He is getting court-appointed cases here in the District of Columbia, and is certified under the Criminal Justice Act.

When we as lawyers start talking about police-community relations and say do this and that, they say: "Wait a minute; set your house in order."

Neighborhood Legal Services in the District have gone into this gradually and professionally and have bridged the gap. It was a third year law student at Howard last year who was the main link of communication that the prosecutors had with the demonstrators concerning what they were going to do. He was the man that the police negotiated with last year, when there were 200 or 300 demonstrators around the White House, and the police said "We are going to put them in jail, because it is the President's daughter's wedding."

The whole matter was resolved peacefully. There was some communication, and by a person connected with the law.

Other lawyers have to go into this just as gradually and as professionally. There are some things that they can do in terms of just getting a perspective about change or reform. We have some awful conditions in the District of Columbia, and most of the changes that have come did not come from the bar.

Ninety-five per cent of all litigation in Washington goes through the Court of General Sessions. The witness receives 75 cents a day. Out of all criminal cases filed last year, five people claimed the witness fee, because it is so hard to figure out how to get it. Most crimes occur in the ghetto. Most victims of crime and their witnesses are poor. And they get 75 cents a day. It is barely carfare. How many people in this room, if they saw a kid steal a shirt in a store, could give up the five or six days to come down to court and be a witness.

It has been suggested that we make the fee the same as in the District Court, \$4 a day. We put a man in jail if he pays less than \$1.25 per hour in the District of Columbia, and yet we take the poor—and most

of the witnesses to crime are domestics and common laborers, construction workers, because this is the inner-city—and we require them to come down under pain of contempt of going to jail, to testify on behalf of law enforcement for a mere pittance. We could certainly improve the police image if the police did not have to require people to suffer economic loss to prosecute a case.

Does the Bar Association do anything about it? Very little. Who are the leaders in providing court reform. They are members of the staff of the Department of Justice, theoretically professional prosecutors, and not the Bar Associations.

Our courts have gotten drastically behind. General Sessions was the subject of an excellent and very critical review by Harry Subin, a Department of Justice lawyer.

Lawyers have the attitude (and maybe the judges encourage it) that no matter how bad a system is, you can never look at it with a view toward correcting court delays. I served for three years on a Bar Committee on improving the Court of General Sessions, and it was devoted almost exclusively to how to get to the Marshal to handle eviction notices better.

The eviction lawyers were the only people active. There was just nobody interested in that court reform and the effect these evictions were having on the image of law enforcement.

Again, the policeman who is trying to build up a little community good will by dropping into the church social, and so on, is sent out to handle the service of process in essentially administrative matters.

The other day I had to sign about 15 warrants for housing violations for such crimes as having holes in screens. Why can't we have inspectors to handle that sort of thing. We could dress them up in a uniform like a postman, and if they are going to haul people down for a violation, let them take them down to the housing violations bureau and post their collateral there. All these people who are brought up on housing violations are hauled out by the same policeman who is trying desperately to build up good will. How can he achieve that goal and at the same time have to tell people that they have to pay \$15 or go to jail for having holes in their screens.

What has the Bar Association done?

If you take a little pamphlet similar to the one that the Lawyers' Committee has prepared in Miami Beach and try to sell it to your Bar Association, how many will find reasons why you should not have it distributed in your local community? I served on a committee that tried something similar four or five years ago, and we could never get it past the board of directors of the Bar Association. No one could agree to what one's rights are. And I think this is an extremely valuable little book.

We set up a Citizens Information Service here in the District of Columbia, and when the police get an impossible problem they let the Service figure it out, instead of the police having to say: "There is nothing I can do, get out."

In the District of Columbia, there is no marriage counsellor for a poor person, yet you have all this domestic violence in the ghetto.

There is the collateral system. There are over 25,000 people arrested for disorderly conduct every year in the District of Columbia. Eighty-five per cent of those forfeit collateral. Yet the police keep no record, except for the arrest book, "John Jones, Disorderly Conduct," and his race, and so on. There is no record at all as to the facts. And only a small percentage of these cases ever get to court. It is the second highest non-traffic offense that there are arrests for in the District. Yet the police department has only 50 minutes training, out of a course of roughly 600 hours, on the subject. This is training for an entire career, and they get 50 minutes. The prosecutor's office has sent two policy guides to the police department on the subject of disorderly conduct in the last 60 years. One of them relates to picketing union sites, and the other to the failure to move on.

The Bar has sat around and absolutely nothing has been done about disorderly conduct.

Why?

Attorneys can do something to help the police.

If defendants are going to plead guilty, why don't lawyers plead guilty in advance? Ninety-nine per cent of the lawyers who know that their clients are going to plead guilty will wait until the police and all the witnesses are there, and then plead at the last minute.

Just think, in a community, in your city, how much good will lawyers could have won last fall if they had passed a resolution saying: "We have looked at the mere evidence rule, and we find that it is not vital in our day and time and should be abolished. The Supreme Court said in the *Hayden* case a couple of weeks ago that the police should be able to seize mere evidence. The police would have said: "Hey, these guys are really on our side."

What did the Bar Association do?

They go on record as advocating the limiting of interrogation. They go on record favoring a complaint review board and outlawing wire-tapping and end up with an unanimous resolution "Support your local police". Do you think the police for a minute believe lawyers really care about their side of the issue? I doubt it.

You do not have to be against the Constitution. But from time to time, somebody has to take a long look and see where you can get the good will of the police department and work out mechanisms to assist the police and assist the community, because when you are helping the police, you are reducing hostility, and helping the community.

**MR. SHESTACK:** Thank you, Judge.

Mr. Chairman, if I may impose on your good will for one moment. Judge Higginbotham has one more comment he would like to make.

**JUDGE HIGGINBOTHAM:** Someone used the term "duality in police enforcement." I presume that they were relating it to the classic example, cases involving a Negro rape victim, and a white offender not being prosecuted as vigorously as the cases involving a white rape victim and a Negro offender.

Often that is the only duality problem mentioned. But there is something else that the Bar Association has to focus on. I would call it "quadrality", if there is such a word.

One of the most oppressing problems I came across when I was in the District Attorney's Office in Philadelphia (and I rotated police stations), was the problem of the Negro victim and the Negro defendant. I found magistrates and police willing to wink their eye at the most serious domestic relations abuse. Where a Negro woman would be beaten to a pulp, I can recall that certain magistrates would say "Go home and love him." On the other hand, I would go into another area and see a white woman victim with a white male defendant, and the man would be held sometimes under outrageously high bail.

So often, when we look at this problem we talk in terms of lightening up on the prosecution or fairer standards. But within the Negro community, there is a dire need for some effective prosecution of Negro defendants who have committed crimes against Negro victims. Often The police and some trial courts close their eyes to the most horrible offenses which occur between Negroes. Such police or judicial inaction also diminishes the possibility of improving police-community relations.

## ***recommendations***

### **LEON HIGGINBOTHAM**

1. Local groups of lawyers should prepare commentaries on the quality of justice given on a police and trial court level in their local jurisdiction, and should do so with maximum precision. The local courts have a major impact on the image of justice, of the police, and of authority in general. Such a study should not be limited to criminal matters but should include discussion on how well the courts discharge their function of enforcing health and housing codes and other aspects of civil law.

2. Lawyers as a group should demand reform of the "deprivation of too speedy justice," where judges, especially those in Juvenile Court and in lower criminal courts are expected to handle so large a volume of cases that they cannot conceivably give each one the attention that it merits if real justice is to be done.

3. Local groups of lawyers should attempt to establish and obtain either local, federal, or private funding for a model police or trial court in their jurisdiction.

4. Local groups of lawyers should attempt to obtain funding for and establish a model rehabilitation center and model probation system within their jurisdiction.

5. Local groups of lawyers should work to establish a program to provide modern managerial skills to the judges and personnel of their local courts. Highly specialized training for administrative judges is especially needed.

6. A systematic and rapid attack should be made by local groups of lawyers on the problem of court delay; it is impossible to create respect for law and order when one injured in an accident must wait four years for their damage suit to come to trial, while if they steal, they can be tried and convicted inside of eight weeks.

7. Local groups of lawyers should undertake a serious study and present a serious set of demands for reform in the area of "quadruple law enforcement." There have been many complaints made about the "double standard," where courts, prosecutors, and police will treat an offense committed by a Caucasian against a Negro more lightly than they will treat an identical offense committed by a Negro against a Caucasian. The "quadruple standard" is equally destructive, and more common. Public authority treats lightly serious crimes committed by one Negro against another, when they would enforce the law in its fullest rigor if a similar offense had been committed by one Caucasian against another.

### *HERMAN GOLDSTEIN*

1. Local groups of lawyers can work for improving the leadership of their local police force by helping to redefine the kinds of demands that the community makes upon its police force and review proposed police appointments in the light of these new demands.

2. Local groups of lawyers should openly and vocally support the police when the police have taken a correct, but unpopular, position.

3. Local groups of lawyers should conduct informal meetings with police officials in order to increase police contact with the community, to articulate problems which might otherwise go unnoticed, and to clarify community complaints.

### *TIM MURPHY*

1. Local groups of lawyers should establish committees actively devoted to trying to devise better methods for the police to use in solving

crime and in getting convictions of the guilty within the framework of the Constitution.

2. Local groups of lawyers should work with the civic authorities to see to it that witness fees represent a fair reimbursement for time spent and wages lost, and should work with the courts to see that such fees are more easily obtained by those due them. Ridiculously low witness fees that are difficult to obtain create an image of the law as punitive of those who try to assist the police and the courts in seeing that the law is enforced.

3. Local groups of lawyers should realize that the delay in many courts between the time of filing and the time of trial work to the detriment of the concept of a system of law, and should actively work to see that whatever remedies are needed are immediately prescribed, paid for, and taken.

4. Local groups of lawyers should work to have what can be classified as essentially regulatory functions removed from the police and the lower courts. This would include such things as serving notices of housing or health violations and requiring that fines for such offenses be paid at the police court or stationhouse.

5. Local groups of lawyers should meet with police officials and judges to draft up pamphlets explaining station house and criminal court procedures in simple, readily understood language. Such a pamphlet should be distributed by the police to each prisoner at the time of booking, and the judges should ascertain if the pamphlet has been read and understood. Much of the hostility which exists towards the "system" stems from an ignorance of the way it works and why.

6. Local groups of lawyers should work to establish citizen information services similar to the one recently established in the District of Columbia under a grant from the Office of Law Enforcement Assistance in the Department of Justice. Such an information service enables the police and court officials to refer persons who have serious complaints or serious problems which are not within the perview of the police or the courts to a central agency which can attempt to steer them to the other agencies which can help them.

7. Local groups of lawyers should work with the police to establish an inservice training program for the police in the criteria to be used in making arrests under such all embracing statutes as those prohibiting disorderly conduct.

8. Local groups of lawyers should encourage defense counsel not to use the questionable tactic of requesting a trial in the hope that witnesses will not show up, and then, if that hope is dashed, pleading their client guilty.

# *police-community relations from the point of view of the police*

**Moderator:** Louis F. Oberdorfer  
Treasurer, Lawyers' Committee for Civil Rights Under Law  
and Member of the Subcommittee on Police-Community Relations;  
Former Assistant Attorney General

**Panelists:** Lieutenant William R. Osterloh  
Assistant Director of Personnel of the Police Department of  
San Francisco, California  
David W. Craig  
Director of Public Safety, Pittsburgh, Pennsylvania  
Undersheriff Wesley A. Pomeroy  
San Mateo Sheriff's Police Department, San Mateo, California;  
Advisor to the President's Commission on Law Enforcement  
and the Administration of Justice

**MR. OBERDORFER:** Mr. Chairman, the panel which I will introduce consists entirely of police officers and police executives.

We have here in these gentlemen on my panel three doers, whose views and experiences I hope will have a leavening influence on this discussion.

The first representative of this panel is Lieutenant William R. Osterloh, Assistant Director of Personnel of the Police Department of San Francisco, California, and Lieutenant Osterloh will talk to us about the attitude of the police officer, and the behavior of the police officer as influenced by the police structure, the police establishment, and the organization of the police department, in terms of what the policeman does and does not do.

**LIEUTENANT OSTERLOH:** I wish to discuss something about which I have had many years to learn—literally to learn from the inside out: the police attitude, if there is such a thing as the police attitude. Questioning its existence, then, we will have to speak of the phenomenon in the most general terms, but all the while directed to a particular, yet infrequently considered perspective of police-community relations. Our remarks will be focused especially on the potential role the lawyer may play in promoting constructive relations between the police and the community.

Some recognize the police-community relationship as being a mere one-way street—the police related outwards to the public. In this sense it might be identified more properly as “public relations.” Others may see police-community relations as being a two-way street—the police

relate outwards, and the public relates back. This may represent a more sophisticated view of the abstraction.

It is felt that a degree of deficiency is present in each of these interpretations. Accordingly, we tend to look upon police-community relations as a three-way street. Here we find the police relating to the outside, and the outside relating back to the police, and, paradoxically, the police relating to the police. This more comprehensive perspective takes into account that which a police department really is: the composite of a recognized formal organization, and of a less recognized informal organization. It accepts within its purview the real human beings in a police department. Against this background of realistic environment I wish to discuss the elusive police attitude, as a key consideration in analyzing the idea of meaningful police-community relations.

We note that certain words were not used prominently today in discussing what goes on in a police department, as well as what occurs outside the police department. So I will say these words. I will say "prejudice" and "bias" and "bigotry." And I will ask the question, "Can prejudice and bias and bigotry exist in a police department?"

First let me assure you that if there are prejudice and bias and bigotry in a police department, it might be suggested that there are prejudice and bias and bigotry in the legal profession, as well as in any other profession or vocation, and in any other group where people may be found.

Perhaps a social scientist will tell you that the police officer is particularly prone to prejudice, because of the socioeconomic group to which he belongs. Not only is the objective validity of this doctrine open to question, but it may be suggested that the policeman probably is no more prejudiced or bigoted than the man who lives next door. What is important to consider, however, is the way in which these negative attitudes, if they exist, may be reinforced by what goes on within the formal and within the informal police organization.

Before considering reinforcement, however, let us take a look at the elimination of prejudice, if there can be such a thing as the elimination of prejudice. It is of growing popularity to refer to "training" in police-community relations. We lend loud voice to the proposal that this kind of indoctrination must form a necessary part of the police curriculum. Let us insist, however, that training will be of positive value only if it is attitudinal, directed to a kind of indirect conditioning, as well as providing a fund of knowledge.

We believe that one effective way of getting rid of prejudice is through what I like to call "experimental neutralization." By this we mean an experience which in itself results in a change in attitude. For instance, if you contend that a member of a minority group is not as good a housekeeper as you, when one of that race moves next door, and you



observe that he washes his windows too, your preconceived notions concerning his expected faulty household habits may be dispelled. It may be that a lot of prejudice is being erased in Vietnam, where mutual necks are at stake, and fellowship knows no racial barriers when one soldier depends on the other for life and safety.

In this vein of thought, I believe that the Negro policeman does more by his presence in a department for effecting the neutralization of prejudice than any amount of theoretical indoctrination possibly can accomplish. Perhaps, too, the Negro lawyer who volunteers his services as a lecturer to police personnel by his presence may contribute heavily to eliminating the bias which a few members might engender.

Let us turn to the question of reinforcement of prejudice in the police officer. First recognize that the policeman embraces certain job motivations which may be satisfied, or which may be thwarted. If they are unsatisfied, it can be expected that he will react negatively to his work, and all that it entails. If he already is instilled with a negative attitude, reinforcement will be the consequence of the career frustration he experiences.

Little research has been done in the matter of forces and drives within a policeman. Two years ago, a consulting criminologist and I set out to make a study. Two questionnaires were painstakingly prepared and ambitiously distributed. One was directed to the new police officer. Our sample, a "captive" group of recruits in police work, was spread over several departments.

A more elaborate questionnaire was sent to former members of several city and county police organizations who recently had left the police service. While the rate of return was highly gratifying, I might add that many persons in this group were not satisfied making check-off replies. They submitted typewritten sheets attached, pouring their hearts out. There was a dramatic eagerness to tell why they had left police work. Why did they surrender the career opportunities earlier assumed, you ask?

Recognize first of all that it is getting harder and harder to find police recruits. The universal cry of the police administrator is, "We can't get them, and we can't keep them!" The practicality of researching the motivations that underly joining and staying is obvious.

But why do men become policemen? Very briefly, there is a strong sense of morality in the recruit. He wants to do good for somebody, he wants to protect people, and he wants to suppress crime. This may sound somewhat flowery and poetic at face value, but knowing police recruits, we can offer assurance that they are sincere in their widespread expression of these elementary reasons for assuming police careers.

Then, too, they are looking for security and salary. Finally, they are seeking action and excitement and adventure, an obvious quest of

the young stalwarts selecting the police vocation. These reasons for joining a force may have been expected.

More important were the other answers we sought. Why did men come to the police department with high attitudes and high hopes, and then leave, often disenchanted, within six months, a year, two years?

There were a few questions of special significance that were asked. What was the difference between what you expected police work to be, and what you actually found? The most common answer: public disrespect.

We may question the meaningfulness of the answer. This doubt might follow a hesitancy to subscribe to the fact that there really is a lowering of public respect for law and those who enforce it. It might be that the somewhat stereotyped answer submitted may be the "peg to hang the hat on." Something else "bugging" the police officer unconsciously may have elicited the answer. It may be, instead, a reflection of deeply underlying negative feelings of a different sort that found easy formulation in what appeared obvious.

We asked the question, "What ultimately affected your job satisfaction?" Another answer came back which we might have been led to expect, "Those court decisions."

It is unknown whether the basis of the reply really could be considered founded in a deep knowledge of the significance of *Mapp* and *Miranda*. Again we might have been confronted with an answer which reflected general attitudes rather than a specifically realized phenomenon.

Probably more significant were three answers to questions of why men ultimately left their police careers. Let us look at these. One related to night work. I do not know what can be done about this. It is unthinkable that police operations can be closed down nightly at five o'clock.

Two other factors have more bearing on police-community relations, however. One expressed source of disillusionment was that there is little opportunity for adequate advancement in police work. The other indicated complaint laid stress on politics prominently ruling in the police department. Throughout the answered questionnaires ran this thread of frustration: little chance of advancement; politics prevail.

Look at the dimensions of this frustration. The most important motivation for the police officer or deputy sheriff is the opportunity for advancement—advancement based on personal worth; and independent of political favoritism, or an invalid and archaic selection process. When individual worth is disregarded; when a capable young officer finds himself hopelessly enmeshed in a strangling political net; when the man of high administrative potential discovers himself victimized by a system," finds that he has passed the point of no return, and

eventually discovers that there is no place to go—this is what leads to the dead end of a debilitating frustration for the individual, that may become department-wide with epidemic like spread.

What has this to do with police-community relations? The negativism which is the offspring of frustration, disillusionment, and bad morale will tend to reinforce the negativism of prejudice which may be present in an organization. In other words, negativism begets negativism, and negativism reinforces negativism. The sickness of prejudice or bigotry which may be evident in a given police organization might be only the referred pain caused by a more deeply seated infection which has its focal point in poor administration, rather than in defined racist attitudes.

Related to this consideration of the reinforcement of negativism is the influence of the peer group in establishing the pervading attitudes among policemen. One of the questions asked of those who recently left a police career was: What made quitting the job hardest? The common answer received was: Fellowship with the other men in the department.

This prominently voiced reply gives evidence that there is an influential peer group in the police organization. Let us not forget that there is a strong sense of cohesiveness among policemen. It can be suggested that there is a "party line" among policemen. There appears to be what we might call, for want of a better term, a strong feeling of affection among policemen. This adds up to a self-perpetuating peer group phenomenon where the individual is going to be influenced decisively by the way his associates think, and by what they say and do.

In other words, if there is a power wielding superior or a loud voiced patrolman who regularly spew out their own prejudices, their own hostilities, this can and will exert influence on the thought patterns, and, consequently, on the behavior patterns of the other members. If these communicated attitudes have been reinforced by the administrative and organizational failings that have led to the underlying feelings of frustration and defeat experienced by the general force, there will be a veritable compounding of the reinforcement which perpetuates prejudice, bigotry, and racism where it may tend to exist.

What can the lawyer do about this? He might undertake something which to this time has not been considered by the local bar association. He may take an active and constructive interest in his city's police department or his county's sheriff's office. He can endeavor to learn of the hidden forces at play, the recognized fairness that prevails, and the subtle machinations which underlie the organization's administration. He can discover the managerial and supervisory failings which lead to negativism among personnel. He can become a voice for the able, promising, but frustrating young officers to whose own voice political and administrative incompetence may serve as a soundproof

barrier. In other words, there can be group and individual effort on the part of the lawyers to assure the best police administrative practice for their communities.

Second, we repeat our contention that the physical presence of the lawyer in the police group will contribute to what we have called the experimental neutralization of negative attitudes. Again let us emphasize the role the Negro attorney can play in letting the department members become more familiar with him as a person. Disregarding the consideration of race, let us suggest that familiarity with members of the bar can dispell primitive thinking which holds that there are two conflicting groups holding conflicting interests—the police on one side, and the lawyers on the other.

Finally, reference is frequently made to a “police profession.” While there are many true professionals in the police field, we question the validity of applying this tag of “profession” to police work itself within the organizational structure found in the United States today. It may be more proper to refer to a “police career,” at least until the vocation can boast of the earmarks of a true profession we contend it lacks at the present time. We believe, however, that association with the members of a professional group as represented by the lawyers will play an influential role in affixing the quality of professionalism to the police identity. In other words, we are of the opinion that professionalism will have to be “rubbed off” through contact, and contact will be the product of adequate liaison between the bar and law enforcement. Positing a professional police organization may be the best starting point for generating a professional level of police-community relations.

We are calling, then, for real, live participation of the lawyer in police administration, through a demonstration of constructive interest in how his police department or sheriff's office operates. His most effective role will have been played in helping to set the attitudinal climate for the best in police-community relations. He will see himself as a real bridge in closing the inefficient gap between formal and informal police organizations. He will have discovered himself to be a figurative bridge over any gap between police and community which may be contributing to the Nation's tragic ills.

*MR. OBERDORFER:* Our next panelist is David W. Craig, who is the Director of Public Safety in Pittsburgh, and he established his credentials with me when I learned that he had something to do with the fact that David Stahl is now the Solicitor of the City of Pittsburgh.

*MR. CRAIG:* I have been sitting here occupied with crossing off the things I proposed to say that everyone else has said more effectively and more authoritatively.

There is one matter of personal experience I can contribute. That comes from the period some years ago when, as a young lawyer, I was probing into the field of the practice of law, talking to senior partners in law firms, talking to law professors, talking to whatever lawyers I could buttonhole as to the directions I would choose in a legal career.

Without exception, I was dissuaded from going anywhere near the practice of criminal law. Without exception, I was dissuaded from public service. Without exception, I was directed toward the remunerative practice of estate law. Without exception, I was directed to get in with a corporation law firm.

It is really only by a fluke, a number of flukes, that my path has now placed me in the role of a police administrator.

The role of the Bar and of the individual lawyer, influential citizen that he could be, has little to recommend it in this whole field of law enforcement.

I think we can trust the big city police administrators of this country to carry on progressively in police-community relations programs. Some cities, such as my own city of Pittsburgh and Louisville, Kentucky, have some pluses that we do not often admit. In our own city, as in Louisville, the police have acquired by default the job of performing the emergency ambulance service of the city. Here is a very positive contact with all neighborhoods that stands the policeman in very good stead, despite the position of some police administration theorists, who say we should not be in the ambulance business.

However, I must admit that the police administrators who are engaged in many useful programs are also damaging morale by a sort of J. Edgar Hooverian wailing about the police being "handcuffed." This is most destructive to police morale. And the legal demagogues who join them are not helping police morale in this regard. I think the greatest detriment of the much-discussed court decisions has not been their direct impact, but the fact that they give a chance for such weeping and wailing to some police administrators and their followers.

Improving police performance, however, is at the heart of it. In a simplified sense, police-community relations is selling a product. So you must have a good product to sell.

One of the few contributions which the legal profession has made to this field is the use of a police legal advisor within the police department—not just the very good help that the police get from the prosecutors, or the very earnest help they get from city attorney offices, but a special police legal advisor within the department. We have now found, after the use of this function for a year, that it has been extremely useful and very well received by the policemen in the ranks. The only opposition that we got was from a member of

the bar who appeared before the Civil Service Commission when the job was to be established and tried to promote the ridiculous requirement that we could hire a police legal advisor only if he had a master's degree in law—training beyond law school—an obviously obstructive tactic, since the lawyer taking that position himself had no such advanced degree.

The point is this: I would be happy enough if the organized Bar and the lawyers at least did not dissuade young lawyers from becoming, for example, police legal advisors. But there can be a much more positive role, and it has been very well described by the previous speakers here.

I find that my fellow members of the Bar are influential, but understandingly uninformed about police operations. Our concept of the policeman is drawn, I am convinced, mainly from the comic strips of our youth. It would be very helpful for the members of the Bar to be open to learning about police methods, fascinating subject this is today.

All elements of the public are interested in having the police do a good job. A little idea of what doing that good job today involves in the way of method and in the way of equipment, would give all members of the Bar a fuller understanding of just what is meant by law enforcement. For example, newspapers confuse the public with the FBI statistics—a misleading set of figures that come out quarterly. (We have benefited in our city from the totally unscientific approach of the crime statistics, so I am not uttering sour grapes here.) Lawyers could help eliminate that confusion.

We do not ask for the creation of committees, new committees. Good God, we are sick of committees. But we do ask that the lawyer apply his two areas of expertise that have been mentioned here today: first, the lawyer's ability to find out what the issue is, and, second, the lawyer's ability to adduce facts—not top-of-the-skull opinions—facts to meet the issues determined.

If we look to the organized Bar to improve the minor judiciary, as has been often mentioned here today, it is not going to be done by a bar association committee giving out utterances ex-cathedra; it is going to be done by a bar association committee breaking loose some of those young lawyers from big law firms and getting them to sit in that minor judiciary court room to get the facts, get down in a white paper what the failings of the minor judiciaries are in city after city, so that they can go back before legislative committees and quote chapter, verse and specifics on the performance in the minor judiciary. The prosecuting lawyer, the defense lawyer and the policeman have common cause in the improvement of the minor judiciary. In the present circumstances, that alliance can be aided chiefly by the lawyers making

a record. No lawyer worth his salt goes to trial on the basis of hoping by his own utterances of opinion to persuade the court, to win his case by the opening and closing statements; what counts is the facts and the record. That is what the lawyer is equipped to produce.

In other areas of legislation, it would be nice to get the state government involved in urban law enforcement. This has been the grand hope of the President's Crime Commission. It would be really nice to get state governments interested in city law enforcement for a change. The state legislature is still composed primarily of lawyers; it can be an arena in which the lawyer can serve as our ally in this respect.

If I underscore and overemphasize the past lack of involvement of lawyers, it is only because of the conviction on the part of police administrators that the lawyer is a needed ally. The lawyer was regarded by de Tocqueville as an influential member of the power structure. He still is. We need his assistance more than we can express.

We are grateful to this committee for providing an avenue for expressing the need that we feel, and to all of these representatives of the legal profession here who have so pointedly described that need.

Thank you.

*MR. OBERDORFER:* Mr. Chairman, just as an aside, Mr. Craig's challenge to the Bar to apply its intelligence and fact-finding and fact-analysis techniques to police operations reminds me of an incident that might be of interest to this group.

You remember, in early 1961, there was a riot in Montgomery, Alabama, and there were several hundred United States marshals sent down there under the supervision of the then Deputy Attorney General Justice White. And these marshals were out at Maxwell Air Force Base. And the mob gathered outside of the church where Dr. Martin Luther King was holed up, as they put it, and after a lot of hesitation Justice White ordered this force of marshals into the city, and he picked out the two men who were in the costume of the local color, and he told them to go in there and stand by the radio car and not get involved in anything, just stand there at the radio and tell what happened as it happened.

And after a while they arrived. And they reported back, "We are in position, and there is a mob outside the church, and some of the marshals are beginning to arrive."

And then, finally, he asked "What action are the marshals taking?"

"Well, the marshals are getting around the church, between the mob and the church."

And then in great excitement, the radio call comes in "The marshals have gone into action."

And Justice White said: "On what side?"

Our next speaker is Undersheriff Wesley A. Pomeroy, the San Mateo County Sheriff's Police Department, and he will address himself to the ultimate question about the need to define the dynamics of police-community relationships, and he will make some specific program suggestions.

*MR. POMEROY:* I would like to make a few observations about the dynamics of police-community relations.

Before we define what the relations between a police department and the community itself should be, we are going to have to know what that police department is and what the community is. Too often, many of us accept our own limited perception of what the community and the police are without really trying to find out.

Now, of course, the opinions of experts and the opinions of leaders in both the community and the police field should be listened to and consulted. But that should not be the end of it.

Experts, necessarily, very often are limited to a narrow field of activity, and their opinions may not cover the whole spectrum of what an entity is. The leaders, as we all know, really do not always lead.

But this is true of the police as well as leaders in the community.

The administrator's concept of what the police really are doing may not always have any real direct relationship to what the policemen on the beat are doing. This is something that I, as a police administrator, have to fight all the time, to open up channels of communication so that I know at least in general what my police are doing, without at the same time tearing down the integrity of the chain of command.

In order to find what the community is, I submit that you have to go into the community—physically—go into the areas about which you are concerned. If you are concerned about community relations, this means all parts of the community, both minority group areas and non-minority group areas. I think that you have to talk to people in the community. You have to smell the community, you have to taste it, and you have to feel it. You have to sense it in every way. Otherwise, you are not really going to know what it is all about. And I am using "you" in the general sense. I am also talking about myself. I think we all know people who have very unreasonable fears about what a ghetto is, because they really do not know; they have never been there. They are dealing with a lot of myths and a lot of misconceptions that are not necessarily based in fact. The reality may be worse than they think, but it may be a different kind of reality.

In order to find out what the police are, I think it is necessary to involve one's self with the most important men in the department, those who are on the beat and in the patrol cars 24 hours a day, the policemen who are really doing the job. You must find out what their apprehensions are and what kind of fears they have (which make it more



difficult for them, because they are not supposed to be afraid) and find out what their ideas of reality are. Once this is done, once the police and the community are defined, there can be some rough guesses made as to what kind of relationships those two entities should have. I think it is the responsibility of the community in general and most specifically of lawyers to help redefine the role of the police so that it is really appropriate to community needs. In most cities today nobody knows what the role of the police is. You will find a wide disagreement within the department itself, and there are many traditional concepts that get in the way. Policemen have been told certain things in the past, and they still believe them. They believe, for instance, that they really are the most important force in the community in the keeping of peace, and, of course, they are not. The people in a community themselves determine whether or not the peace will be kept. In a negative way the police can determine when the peace will be kept by inappropriate action, perhaps.

The police have been told that they are not social workers. Well, maybe they are not in the pure sense of the term, but in the real guts-level kind of way they *are* social workers. They are people handlers at the very basic level, and they put people on informal probation daily in their function. They adjudicate family arguments; they judge, sentence, and counsel. They do all sorts of things. They handle people in ways that no other social worker does.

Many police also believe, as many other parts of society do, that passing laws to correct a particular social evil will correct that evil. Of course, this is not true. And I just give you as examples laws pertaining to drug use, alcohol use, sexual activity and gambling. All of these are areas where the feelings and intent of the community in general determines whether or not practices are acceptable, not the laws that are passed against them.

I believe that the role of the police should be to be involved in as many ways with as many people in the community as is possible, in non-threatening ways when crisis does not exist and when there is no need for adversary or punitive action.

The police and the community have to understand that the mission of the police is to serve all of the members of the community in ways that are appropriate to the needs of that community.

Now I want to tell you about a few of the many things that we are doing in our jurisdiction.

We have established, for example, a storefront office in the ghetto area of our county, and the only personnel we have in this office are a lieutenant and a secretary. The lieutenant's sole function is to relate to the community, to find ways in which my police department can do its job better, to find out how the community feels it can be served best, and to get across the idea that we are part of the community,

that we are serving the community, that we are not in the ghetto to enforce somebody else's laws, but we are there to protect and to work for the people who are there.

This lieutenant is particularly seeking out individuals and organizations that appear to be most hostile to the police, because it only makes sense that we might expect to receive most of our trouble from them.

After he seeks out hostile people, his assignment is to find areas of agreement, to find out ways in which we can work together.

And then if there are ways in which we can work together, he is to find out rules so that we can at least accommodate each other in a reasonable way if we come to disagreement.

Further, he is sort of an ombudsman. And this is by designation of the county government. He and his office receives all kinds of complaints and all kinds of concern about every aspect of government. He does not pretend that we are going to cure them all, but he makes sure that the particular county governmental agency responsible gets the message and has to report back to the person who has a concern, and then he follows up to make sure that it is done.

In addition, although we do have a good complaint procedure, and we have done what we can to make it most effective with a proper feedback and involvement of the complaining witness—and involving the action groups that might be interested—the lieutenant is another avenue. He takes the complaints without any attention to formality and makes quite certain that we follow up and that they are processed properly.

One of the things we have done is to institute a program where the ministers in the area are now riding around in patrol cars to see how the deputies do their job. And the deputies are also seeing that the ministers are pretty good people too, no matter how angry they occasionally are with them.

Another aspect of our program is that we are trying to demonstrate that we are part of the community. We are asking for a piece of the action. As an example of a couple of things we have done, in many ghetto areas there is a legal aid office financed by OEO funds. We have prepared an information bulletin for our department explaining the function of the legal aid office, so that our field personnel can pass this information along to the people in the community, telling about the benefits, and the rights, and what the people in the community can get from the legal aid office. And then we took our information bulletin and asked the people in the legal aid office if they would find this helpful to distribute, and they did.

So, we published several hundred more of them and the legal office is distributing as their information packet the San Mateo County Sheriff's Information Bulletin. So, we have a piece of the action.

There is an indigenous newspaper in the area that is anti-establishment, anti-police, and most of the time is hostile. We have negotiated with the editor, and the net result of this is that the Sheriff is now writing a regular column for this newspaper. He presents our departmental stance and sells the idea, we hope, not that *we* are helping *you*, but that we are all working *together* on common problems.

One recent and rather significant development is a summer-job project financed by OEO funds. They were looking for office space. So, we offered them space in our storefront office, and after some negotiation, and an indication of reluctance on the part of their people to be identified with the police, they did accept this offer. And now the job project is housed in the police station with a storefront office in East Palo Alto.

Incidentally, they needed secretarial service and could not afford it; there was nothing funded for that. So, we hired a secretary for them out of Sheriff's Office funds.

In the area of youth, we have taken as many approaches as we can, including the traditional ones, such as sponsoring athletic teams. We have also done something else. We had assumed that policemen on off-duty time would not volunteer for this kind of activity, so we never asked them. We finally asked them, and we found out that we now have deputy sheriffs working in this area on their own time without pay as coaches and umpires and otherwise relating to the kids.

We have an explorer post. There is nothing too dramatic about that, but it is in a high school with about 90 per cent Negroes. And we have a lot of enthusiasm for it. Under California law there is a requirement that all children from the fourth through the seventh grades have to go through a series of physical fitness programs each semester. This is running, jumping, pushups, and things of that kind. The teachers do not particularly like to administer these tests, because it is an added burden on them. So, we negotiated with the school district in this area for a pilot program in two of the schools and we put six of our deputies per week for a period of six weeks into these two schools. They, on their own time, off-duty time, for which we pay them, administer these tests, and the results from it are heartening in all aspects. Most of the kids liked it, although several did not. And all teachers did. And all 36 of the deputies liked it. We did not select these deputies, we took them as they came, because we go on the theory that we are what we are, and it does not make sense to pretend we are something else..

An interesting sidelight under this was that we assumed a cooperative attitude on the part of the teachers, but we found that they were pretty anti-police, too, and we cured some of that.

Something that has just started three weeks ago, is a 12-week discussion program with hard-to-reach youth. We went to the probation

people and the Job Corps people, and we said "We want you to refer to us the toughest, most raucous kids that you have. We want to talk to them. More importantly, we want them to talk to us."

We started out with six kids in the first week, and, again, with deputy sheriffs who were working on their own time with no pay. Now, after three weeks, the discussion group has swelled to close to 40 kids. We started with no rules. We told the kids that this was their discussion group and that they should make the rules. And it was almost a bedlam to start with, but it is beginning to straighten out, because the kids themselves are asking for their own kind of controls. They determine what they talk about, and they determine what their controls will be.

Recruiting with us is also difficult. And it is almost impossible to attract young Negro men into the police field, because of the obvious liabilities to them; they already belong to one minority group, and they do not want to compound it by joining another.

Well, we polled the county, Civil Service people, the high school district people, the college people, the area ministers, indigenous employment groups, and Sheriff's Office personnel to determine what we could do about this. We are trying something new; we are not sure it will work but we think it will. In the local high school, which is predominantly Negro, we are searching the records of kids who graduated two or three years ago, and we are going to follow up male Negro students and find out what each is doing now, and if he is interested in being a policeman. We are going to have to do some screening as to height and physical requirements and this sort of thing. We are not going to lower the standards we have, because we think it would be harmful to the police function, and we think it would be an insult to the Negroes we are bringing in. We are going to tell these young men that if they are interested in becoming policeman, we have arranged with the College of San Mateo for them to be individually coached in how to take written Civil Service examinations. If they are not able to do the required number of pushups and the running and swimming and this kind of thing, we have made arrangements for them to be coached until they learn to do these things well. And we will also set up boards with our own volunteer personnel in order to give them experience in facing an oral board so that they have a better chance of competing for a police job.

Of course, we can't prepare them for the battery of psychological tests and the individual psychiatric interviews that we give every applicant. We are also not going on the theory that participating in our program is also going to result in a job.

Those are just a few of the things we are doing. Some of them we borrowed from other people, and we will borrow shamelessly from anybody we can find.

I would like to make just one point here. All of these programs are being implemented with local funds or with no funds at all, and I do not mean to downgrade the effect of outside help. We could certainly use it, but I would raise the caution of depending entirely on outside help, because if you start doing this (and we find some willingness on the part of our county board of supervisors to say "Let's see if we can get a grant to go into the program"), we are apt to give our local government a chance for an out that they should not have. There are some responsibilities that we should take, and there are certain things that can be done with limited money if we use money creatively and imaginatively.

## *recommendations*

### *LT. WILLIAM OSTERLOH.*

1. Local groups of lawyers should offer individual support to young policemen, and should offer to assist in bringing to the attention of their superiors the policeman's potential and training which are going unused. Studies indicate that frustration with internal procedures and with the lack of opportunity for promotion and transfer are among the major reasons why young policemen leave the force.

2. Local groups of lawyers should take an active interest in the internal organization of their police department and should offer to conduct classroom sessions for members of the department, and in studying internal organization and regulations with a view toward improving them.

3. Local groups of lawyers should attempt to obtain for the police an experiential neutralization of any underlying prejudices which they may have by bringing them into contact with experiences which would contradict and break down their prejudices. This is something which theoretical indoctrination will not do.

### *DAVID W. CRAIG*

1. Local groups of lawyers should encourage the use of a police legal adviser within the police department who would act to provide legal help in addition to that which the police receive from the prosecutor's and city attorney's offices.

2. Local groups of lawyers should attempt to learn about police methods and work, about training and procedures, and about techniques and equipment. Too many persons, including the very educated, have a total misconception of what it is policemen do, and often this misconception is drawn from such unscientific sources as the comic strips.

3. Local groups of lawyers should do studies with a view toward improving the minor judiciary by shaking loose from some of the law

firms young lawyers to sit in the courts and get down precise analyses of the facts to take back before the legislative and administrative committees.

4. Local groups of lawyers should attempt to involve their state government in urban law enforcement. Often the State legislature and executive are filled with lawyers who can be used as allies.

#### *WESLEY A. POMEROY*

1. Local groups of lawyers should work with the police to redefine the role of the police in the community and the services which they are expected to provide. The police frequently believe that they are the most important force in the community in the keeping of peace. It is the people in the community themselves, however, who determine whether or not peace will be kept. The police often believe they are not social workers. However, they adjudicate family arguments, they judge, sentence, and counsel, and they they handle people in ways that no other social worker does. The police often believe that passing laws will correct a particular social evil. The feelings and intentions of the community, however, determine whether or not practices are accepted and not the laws that are passed.

2. Local groups of lawyers can aid the police in establishing storefront offices in slum areas of their community to record complaints, to relate to the community, and to find ways in which the police department can do its job better. The police officer from such offices should be encouraged to actively seek out hostile persons and groups and to act as an ombudsman and receive complaints about actions of the police department and other municipal groups.

3. Local groups of lawyers should encourage the police to attempt to obtain space in any indigenous local newspaper, whether or not it is hostile to the police, in order to present the police's view to the people and emphasize the involvement of the police with the local community.

4. Local groups of lawyers should encourage the police to attempt to become involved in programs at the local schools, participating in such things as coaching athletic teams, and in giving physical fitness examination.

5. Local groups of lawyers should encourage the police to become involved with the local Legal Aid Office and even to distribute information bulletins on the activities and operations of such an office.

6. Local groups of lawyers should consider establishing joint discussion programs with the police and hard to reach youth on mutual problems.

7. Local groups of lawyers should work with the police to search the high school records of young men who graduated two or three years ago, to follow up such students, find out what each is doing now, and see if they are interested in becoming a policeman. This should be done in conjunction with a local university so that individual coaching in how to take Civil Service examinations and the police physical examination are given.

*MR. SEYMOUR:* I would like to say that we are all grateful to the panelists for being here and making such fine contributions to the discussion, and to the non-panelists who provided a very important thing for panelists—an attentive audience.

I am sure that most of us have heard many new ideas and perhaps some of us were reminded of that nice old legal story, which I am sure many of you know, about the shyster who had been talking a couple of hours and the judge said, "Mr. Jones, you know I am none the wiser." And the barrister said, "No, my Lord, but you are better informed."

One of the things that impressed me was that all of the remarks were factual and useful and unemotional. It was all on a very high level.

## *summarization*

*By Dean Joseph Lohman*

*MR. LOHMAN:* Thank you.

I approach with some timidity the prospects of generalizing or summarizing the enormous range of material and the insight that has been represented here. But the one thing that can be confirmed in my mind from the very beginning has been the spirit in which the contributions were made, and the obvious sober restraint with which everyone exercised in addressing the police problem. I think this indicates quite clearly the wisdom of suggesting alternatives to the way in which we are presently working in the vineyards and which has so often taken the form of a confrontation with a marked victory of one over the other, the police over the community or the community over the police. I am now firmly convinced that the contribution of lawyers as an agency for the development of an appropriate third force is promising. And I, personally, am hopeful that this meeting will give renewed vigor and force to the establishment at the local level in the various communities in which you are operating the kind of commitment and the kind of discerning concern that is represented in the national committee.

The creation of a really forceful, dynamic committee at the local level is the only way in which, so to speak, we can face up to the important ideas that have been presented here. It is not merely a way of developing ways and means by which the police might be more effective and effect better relationships simply because of the posture that they would be striking. I think this is too much the notion today, both inside and outside of police circles, that our problem is simply one of public relations. It is rather interesting that that term was avoided here. Its absence suggested the general agreement that there was need for a more basic and substantive function. This is something quite different than a public relations concept. It is really a community relations concept, which is to say, to do things, to act, and as a result of that action to produce whatever kind of new relationships, additions, or points of view that are required.

It seems to me that the most important thing that can be said here is that there has been listed in each of the presentations a series of very specific and concrete points of attack, and correspondingly, the possibility of exploring innovatively a programmatic answer to that problem which is given as a focus of attack. And this is the thing that, probably more than anything else, is absent from the police-community relations today.

If I were to generalize on the basis of my experience at the moment, it is that here and there a department is stimulated to replicate in its location something that goes by the name of the police-community relations concern, and either, having attempted to imitate it, or simply to give lip service to the idea.

I frankly do not believe that there is such a ploy that can be reproduced as a "gadget" to be added to a department. It must of necessity be capable of facing up to the kinds of problems that were indicated by the police, the lawyers and the jurists who are in attendance here. We are dealing with systems that are formidable and, indeed, have to be engaged in such a way as to be responsive to the suggestion of change. They must be restructured and, secondly, inside those systems there are very important informal structures which have to be coped with and which we, from the outside, must understand are part of their problem, else the best advised and most highly motivated administrator could not possibly bring about the changes required. We have too often been insensitive to the fact that the police chief inherits and is required to cope with a force which has informal traditions which have their own power and of which he must take note if he wants to continue as chief.

Now, if I might pick up a few of the items. It seems to me that they do afford an agenda in terms of which the legal profession might very well go forward and represent the whole community with reference to the restructuring of the police activity in accordance with the best interests of both the police and the community.



Probably the most important note of all that has been sounded here has been the immediate and quick recognition in all quarters of the fact that law enforcement is not confined to the police department.

As a matter of fact, what the Lawyers' Committee is initiating as members of the profession, is a reasserting of the responsibility which rests with every citizen to accept law enforcement as a total community responsibility. The police are merely the agents of the community as it attempts to police itself.

One of the things we have forced upon the police and one that, unfortunately, because of the pressure of the public and the mass media, no other organization is required to accept, is complete responsibility for the crime rate and for anything untoward or anything that might be offered as compromising the way in which that problem is being attacked, namely, the control, the management, the reduction of crime. I was really quite pleased to discover here today in the light of my own experience with law enforcement and the crime problem, that to a man everyone here recognized the sense in which the police had been pushed into the position of accepting a task which for them alone it is impossible to discharge, and correspondingly that there has to be mounted a very positive concern in the community to share responsibility and to stress that we cannot press upon the police a requirement which they cannot fulfill.

The police are constantly pressed to meaningful and fruitless actions. I am sure that Bill Osterloh will forgive me for making reference to a recent instance. Each day in reading the metropolitan press in San Francisco, one learns of some instance which calls attention to a crime problem in flamboyant terms and which calls for some kind of action by the police. The police must instantly respond by sending men to that place to show that they are doing something. From the police we learn that they do this, because they have no alternative; however, they are not under any illusions about their actions. They are doing just what the community expects and requires of them. And when pressure eases, they will revert to their customary plans and procedures.

We must give assistance to the police and I believe that the Bar can give assistance in relieving the police from responding to such distracting pressures.

The educational function was emphasized with appropriate restraint. It is not a simple panacea as some believe. It is no simple task to take the police in hand, tell them and then have them go forward armed with information. We have learned by a bitter experience that, not only the police but with other groups, change has not been accomplished unless the new knowledge has been introduced in terms of the organization and structure of the agency. The piecemeal education of individuals with the hope of their individual enlightenment

without a corresponding commitment by the organization has too often proved of no avail.

I am inclined to believe that we are best designed to contribute, whether we be lawyers, or whether we be educators, or whatever professional role we are in a position to play, we are better designed to make a difference and to influence the pattern if we can indicate the terms and conditions of a new role within the organization rather than to expect people to flaunt the organization of which they are a part. The pressures in and about the police organization may prevent a police department from making the changes which are necessary.

The idea of professionalism was also interestingly enough, discussed with sober restraint. I find myself in the position of commenting on what did not happen as well as what did. But I think it is important, because we have had an excessive reliance on the notion that if we could simply professionalize the police, everything would be different. Actually, what we are calling for is a clarification for the conditions of effective professionalization. If we do the things that are necessary to make possible a change in performance, then we can refer to the police as having become professionalized. But to make them, so to speak, professional by merely equipping them as individuals with some kind of training and education is to involve ourselves, as a lot of people involved with education in the field of law enforcement have found, to prepare them for jobs which do not exist and disillusion them with respect to any prospects of continuing in a police career. Unfortunately, today, it is a recognized fact that a large proportion of the persons who are being educated and trained for roles in law enforcement, particularly with reference to the more immediate problems and challenges of police administration in the urban community, do not end up in municipal police work. Those systems too frequently are not capable of entertaining and receiving those trainees in such a way as to permit them to carry on their careers in accordance with the way they were educated and trained. And so, colleges are training law enforcement personnel for Washington bureaus and for Navy Intelligence and other investigative agencies, rather than for the police departments of the nation.

The probable central overriding note that was sounded in nearly every statement and I hope we take note of this in the account that will be available to us—is that there is a body of information about the changes in society which are a necessary condition of the police action. The police must indeed take note of the emergence of the new shape, pattern, and form of the American city, and correspondingly, the administration of police departments must take a new view of the core areas of their cities which are now predominantly ethnic minorities. In an important sense, the significance of the minority group populations has changed from that of a small percentage of the total popula-

tion of our great cities to as much as one fourth to one third of the populations of such cities as Philadelphia and Chicago and Detroit, a third of the population and upward is now represented by Kasbahs, ghettos, of differentiated and relatively deprived populations. The deployment of the law enforcement apparatus must vary from the form and the condition that existed in the earlier day.

The new situation can be approached much more effectively on the part of police department if there is encouragement and direction from the legal profession. There must be an understanding and appreciation of the processes which have transformed the cities and the new conditions which confront us. The police function is not intrinsically incapable or inadequate to meet the new situations. There can and must be developed an appropriate dialogue between the legal profession and the police departments and municipal administrators as one means of addressing the problem, rather than to merely view police departments in terms of the failings and shortcomings of a few individual officers.

For the most part, the points that have been made with reference to youth, and particularly with reference to the dilemma of the minority groups as victims of crimes by other members of minority groups, suggest the inadequacy of the view that they receive adequate protection of the law within their own circle. Much of the police problem arises from the fact that they are given an impossible mission with reference to our ill-conceived views about vice in American society. I see no other way to free ourselves from the dilemma than to have students of law give leadership in offering a more critical analysis of the appropriateness of the kind of legal commitments which the police must, so to speak, honor and serve.

I was interested in the discussion that went on about marijuana, particularly as it appears to me it is an ever-continuing mystery in the state of California. With all of the public discussions that underlines the dangers of LSD and the contrary evidence with reference to marijuana, it is a paradox that in California, that enlightened, progressive state, the possession of marijuana is felonious while the possession of LSD is a misdemeanor. This was brought on as the result of the deliberation of the Judiciary Committee of the Legislature, which includes within it a very considerable number of lawyers. I think lawyers outside of those chambers might well contribute to a clarification of the issue.

The contribution which the Bar Association made through time, with reference to the narcotics problem, as the medical profession did, with reference to its reflections upon the adequacy and sensibleness of our narcotic laws, ought to make clear to us that the former errors are in need of repetition. A continuing working contribution by the bar would be salutary, in this area. It is a relationship which would give a measure of sober restraint to police departments enforcing of laws which the

legal profession has had occasion to reflect upon with them. This would be preferable to the undertaking of the enforcement of laws which are broadly questionable and in which the police are so little supported.

More often than we realize the police departments get themselves involved in justifying the laws to those upon whom they are enforced, especially the young. Their failure is evident in the attitude of youth. I regard this as one of the most aggravating circumstances of the law. And I cannot think of any other group that is more designed to assist this burden of the police than the legal profession.

We have used the word "dialogue" quite extensively here, and it is rather interesting to me that it appears as a result of this discussion today as something more than a phrase. However, the challenge to the legal profession is: What are the terms and conditions of the dialogue, what are the mechanisms that must be provided to encourage the dialogue?

In the five cities that are represented here and other cities into which the lawyers' group might venture, there could be a wholesome experiment in the terms and conditions of a working dialogue between the police and the community, in the localities in which they operate and in terms of their professional organization. I am reminded again of the experience I had so many years ago, when our prospective new Supreme Court Justice has occasion to meet for the first time a group of police officers, and they were then troubled by the fact that the world with which they were in opposition and conflict could produce such an intelligent, informed and enlightened individual. In fact, they were so impressed that to this very day when I run into a policeman who was at that conference he will speak of the wonderful acquaintance he established with Thurgood Marshall as a man who knew more about police than anyone else at that conference, and yet he was a man who, from their point of view, was on the other side of the fence.

I am also interested in the declining moments of this discussion in the fact that this group does not exhibit the standard hesitancy and reservation with reference to the engaging of the questionable elements of the community.

Even questionable populations as doubtful leaders should be involved in the dialogue. We will be wise to learn more about those with whom we are dealing. There may even be a change from knowing one as suspect and bad, to understanding and the establishment of rules of the game which are mutually acceptable. Demonstrations may hence become a condition of the dialogue rather than preliminaries to civil disturbance.

There are many police departments that are all too tediously discovering that one can do away with many of his problems that in the past have been the prelude to disturbance.

The wisdom of counseling with the protest groups has been demonstrated; when there are agreed upon and established limits of action which are acceptable to the parties, much goes on without incident. If that be true, how important it is, how much more important it is, to explore the ways and means for optimizing that kind of conditional dialogue. We may at long last be able to arrive at the position where even the decisions of the court, as was the experience with reference to labor-management relations, are palatable to the police and the local community.

.I was very much taken by Mr. Craig's remarks about the hangup that we are having about the courts in many circles, and people are attributing much of our difficulties to the decisions of the court. I was pleased to see a man from the police world saying what he did.

I want to share with you in this connection an experience of my own. I recently sat on a promotional examination panel in a city on the West Coast. There were 13 men in a department all qualifying for the position of captain. There were four openings and there were 13 men. During the course of the hearing, we had occasion as a panel to ask them what they thought were the consequences of the recent Supreme Court decisions. And in all sincerity and in perfectly good faith every single one of those 13 police officers declared, "Those decisions will make us better policemen." And not one said that they were handcuffed, and not one had occasion to suggest that they were embattled and against the wall.

I asked a couple of them after the examination why they avoided the traditional defensiveness of the police, and they said, "That is the line; that is what we have to do in order to save face, to justify ourselves with what is going on in the community." But the individual police officers know in fact that that is not the case.

The bridges between the world of the police and the young and the Negro and the poor have not begun to be explored in terms of their potential and possibility.

Judge Higginbotham's remarks opened a whole new area of exploration. We have not scratched the surface and perimeters of police-community relations. A good deal of what the police experience is an inheritance. The experience of the people in the ghettos with the system of criminal justice as it is administered by the lower courts is a subterranean labyrinth. Accordingly, the legal profession may very well be in a position to lift that yoke from the shoulders of the police where the police find themselves, bound by decisions which they explain away by saying "We do our job, but other people make trouble for us." This is the easier way to dispose of the question. But the quality of the lower court experience is a more deep-seated and pervasive sickness than the police inference of lower court leniency. Judge Higginbotham referred to more basic concerns.

Mr. Goldstein's observations are those of one who lived intimately with police administration.

It is almost impossible to engage the police department without some sensitive regard for the special conditions of the police bureaucracy and those in administrative positions. In an essay prepared by James Wilson at Harvard there appears a rather perceptive comment on police administration in the United States. He referred to the fact that one of the most important texts on policing in the United States was one that commenced its first chapter with a statement about *the police problem* rather than *the crime problem*. He was calling attention to the fact that inside of the police structure and organization and the adaptation of that structure and organization to the pressures of the society was found most of the difficulty that we were confronted with, and not outside in the community. This is an area inside of which exploration must go forward.

Let me say one more concluding thing about the various comments that have been made about abuses: namely, the necessity for an avenue of complaint or grievance; the concerns of the public that they are at best patronized and at worst abused; and the view that police are enemies, that they are in a sense occupying the citizens' territory, that they represent another group other than their own, and are not speaking to their problems and in their interest.

I think there is little question but that this over-all picture of the lack of confidence of the public and specific portions of it in the police function requires not just verbal assurances but an attitude or a posture upon the part of the rest of us which is permissive of developing many answers and many alternative possibilities rather than mere rhetoric.

I personally am very much concerned with the fact that we have been hung up on the problem of proper avenues of grievance. Shall it be an ombudsman or shall it be a police complaint review board or shall it be the police themselves who handle and manage complaints?

It seems to me that with an appropriate involvement of lawyers, we might very well explore the total spectrum, a whole host of possibilities with reference to the restoration of the confidence of the public in the police by developing ways and means by which the public under different conditions may affect means for redressing allegations of abuse and excess and complaint.

I would like to suggest that as to this particular point it might be well for the lawyers in their different cities to develop different kinds of solutions to this problem, rather than tie ourselves to one doctrinaire solution. I know of no more important consideration than for the lawyers to exercise their influence with police departments and to suggest that in one way or another they explore ways and means for opening up channels which are responsive to the complaints of the

public and in which the public can have continuing confidence, yet in no way compromise the position of the police in their primary responsibility for the enforcement of the law and the management of their organizations.

To put this in the extreme, I know some communities where there is not a shadow of complaint about the way in which the police carry on their affairs and their relations with the public, there being no concerns about whether abuses will be dealt with effectively or not, simply because in that community there is an extraordinary confidence in the chief himself. And that, in this instance is the answer to the problem. But we are a government of laws and not of men so there must be a structural solution rather than a personal solution of this problem.

We cannot assume that we can all have that kind of a chief in every community that will warrant such support from the community.

I cannot think of any more profitable way to eliminate the impasse in which we find ourselves than to establish a new dialogue between the police and the legal profession and make a condition of operation in the respective cities where the Lawyers' Committee has initiated local action. This, of course, means more than the police; it requires the mayors, the supervisors, the city managers and the city council as well.

One final word: The restoration of confidence of the civilian population in the police means the restoration of responsible civilian control of the police. We have always prided ourselves in the fact that the American police system is a civilian controlled and directed organization. It is not military in character. There has been a default on the part of the top civilian authority in their accounting of their stewardship of police departments. And I think the lawyers can be very important in reasserting that kind of responsible relationship to the rest of the community on the part of these organizations.

## *discussion*

*MR. SEYMOUR:* We are very grateful to you for that summary, and we are going to adjourn in just a minute.

I should mention the fact that we have here some representatives of some outstanding local bar associations who are already engaged with us in these matters: Mr. Bushnell and Mr. Munson from Detroit; Fred Ballard, who has listened, I am sure, to Judge Murphy's comments about the bar in the District of Columbia; and Mr. Short of Seattle.

And when Thurgood Marshall was invited to address us today, which he was unable to do, he said he wanted very much to hear from Mr. James Davis from Cleveland who had spoken more eloquently about the duty of the bar in this regard than anybody else. He is here.

Mr. Davis, would you speak for a moment or two?

*MR. DAVIS:* I am grateful for the opportunity to have been here and listened to the discussion. I would be less than honest if I claimed that I learned very much. We have been through all of these problems in Cleveland. The Cleveland Bar is neither so indifferent, as Judge Murphy suggests the situation in the District may be, nor as stupid as the superintendent from Pittsburgh thinks the lawyers are about the facts. We know what the facts are. When I go down into our Hough area at night, and I watch the open solicitation, the open gambling, the open bootlegging and the open abuse of Negro by Negro, with both white and Negro police standing around and watching it, I understand that something is wrong with the police department. Maybe I am stupid and maybe I do not understand what I say, but I don't believe so.

The real problem is a great challenge to the Bar. I made a strong speech about what a challenge it was to satisfy all these needs. It is a lot easier to make a speech than to get the job done, I find.

As someone said today, the Bar is not any different from the police department. The Bar is people. We have got about the kind of police department in every city that we deserve. If we deserve a good one, we have got a good one. If we deserve a racist department, we have got one. That is what we have in Cleveland. We are not bad people, but Cleveland has a majority white population, and they think the Negroes ought to solve their own problems. They are opposed to spending any money in the ghetto. They are opposed to really worrying very much about the ghetto. "These are Negro problems, let them solve them." Let it not be said that riots don't do some good, because I don't think I would be as interested in this problem as I am if we had not had a first-class riot last summer. There are a lot of people that would not be interested, had it not been for the emergency that arose.

At the same time, I am convinced, from the efforts that we have made in our own Bar, that it is a slow process. No lawyer of prominence and success is going to get up and say that lawyers should not take part in this. But I find that some of my best friends of Italian, Polish, and Hungarian ancestry who are prominent members of the Bar are very reluctant to stick their necks out on this problem.

The problem is much the same among Negro lawyers. We have some very fine Negro lawyers in Cleveland. We have a good Negro



Bar. We have some outstanding Negro judges. There are very few of those who want to get into the ghetto and get involved with this problem. They have escaped, and they do not want to go back. It will be a long educational process, I am convinced, and the lawyers themselves will have to get a unified front before we can expect a great deal of activity.

In some of these activities, you have fine cooperation from the municipal governments. Not so with us. We offered 25 lawyers to help get urban renewal off the ground in Negro slum areas. They were not accepted. Our city administration is not going to do anything that looks as though it is disproportionately aiding the Negro population. As long as that condition persists, it has got to be a slow educational process of the white community. That is what our organized Bar in Cleveland will have to devote itself to for the present. The Bar is interested.

*MR. SEYMOUR:* We all recognize that this is not going to happen overnight, but we must get on with it. I think this conference has been a very useful device for getting it started on a national scale, and we propose to pursue it.

*Submitted By*  
*Captain George R. Fuller*  
*Seattle Police Department*

I have listened intently to what has been discussed during this planning session and certainly there is some merit in all that has been presented during this session, but it appears that some of the discussion has drifted away from the main theme of this meeting, "The Role of the Lawyer in Police and Community Relations", and much of what has been said is not directly germane to the subject.

We are assembled here today to explore what this Committee can or should do about the not so new problem of "Police and Community Relations". These relationships involve two component parts—the police and the community—and certainly these two components should not act independently without due consideration for the other because a stimulus presented by one will evoke a response by the other with each new response being conditioned by the previous and thus we may find ourselves in an endless chain of responses each one bringing us closer to chaos.

The police do not work or live in a vacuum although this important point is more often missed than it is considered. If we accept the

premise that the total environment in which the police work and live presents to the police a number of stimuli, which not only condition the police but also evoke a host of responses from them, then we must admit that any lasting changes in the responses by the police should be as a result of a change in the environment in which the police work and live. We must also admit that conversely any change in the responses by the community towards the police must be as a result of a change in the stimuli which the community receives from the police.

There have been many changes in police training suggested in order to bring about a change in community responses, and there is certainly some merit in these suggestions but there appears to be a dearth of suggestions for change on the part of the community in order to bring about different responses by the police. The latter statement is not made with any intent whatsoever to defend the police but rather is made to point up an area of needed exploration.

A scientific fact cannot be a one-way street, and if we accept the principle that the community responds to the stimuli presented by the police, we must also accept the fact that the police respond to the stimuli presented by the community.

Although attitudes and stimuli are not synonymous, an exhibited attitude does become a stimulus to evoke a response and thus we may conclude from this that what we should be concerned about is changing attitudes: the attitudes of the community towards the police and the attitudes of the police toward the community. Considering the fact that attitudes are a product of experiences (actual and learned) and that some are as pliable as concrete, I still believe that attitudes can be changed if the proper environment is provided for such a change to take place. Please note that I said proper environment and not training. In the past, there has been too much reliance placed in formal education and training as a method of changing attitudes and it has been my observation that the educational process becomes quite sterile when relied upon alone to produce a change when the present attitudes are reinforced each work day.

Those knowledgeable in the field of Police and Community Relations will admit that police attitudes are an important element in police and community relations but they give very little consideration to the causation of these attitudes.

I have previously stated that attitudes are a product of experiences (actual and learned). As a police administrator, I am concerned with the formulation of these attitudes—especially at the lower echelon—because it is at this level that the important face-to-face relationships occur. It is the cop on the beat that is on the firing line. He is the one that is exposed to these experiences that influence the development of

his attitude. He is an important key to any police-community relations program. Let us now examine some of his experiences for a causal effect on his attitudes.

The rapid and almost revolutionary change in case law as it relates to the day-to-day work of the cop on the beat has caused a change in the standard operating procedures of the police. The police now find themselves many times in the valley of indecision, and to a man who has been selected and trained to be action-oriented, this position becomes quite strange and frustrating to him. Adjust he must, but we also must recognize that when an officer finds that what he did today as a standard operating procedure was declared wrong or unconstitutional last week because of the retroactive application of the ruling or because of the brief period of time allowed for adjusting procedures to the new ruling, this type of experience cannot go without having its causal effect on the attitude of the officer.

The social upheaval, which we have been experiencing as a result of the civil rights movement, is the result and responsibility of the total community and not just the police. It has been aptly stated in the past that the police are at the cutting edge of the civil rights conflict, a position that no policeman enjoys but is an experience upon which attitudes are formed.

There is, I believe, in this our country a Holy Trinity, the Holy Trinity of Responsibility. This trinity emerges from the basic doctrine of the separation of powers. These assigned powers embody a responsibility to the community to produce positive actions and not just one of limiting actions.

It appears to the policeman that although there is a trinity of responsibility, the responsibility to protect the community and maintain the peace is only accepted by the police. The laws he is provided with to do his job are many times unattuned to the needs of the community. His experience in and with the court indicates to him that he is an adversary rather than a partner in the trinity of responsibility to protect the community. He finds himself belittled and embarrassed by defense attorneys who the policeman sees as only interested in collecting fees and obtaining the release of a defendant, who will again return to prey upon the community. This is the dilemma which the policeman finds himself. Is there such a thing as a trinity of responsibility wherein he is a partner with the legislative and judicial branches of government to protect the community and maintain the peace or is he an adversary standing alone in this responsibility? These are real and meaningful experiences for the cop on the beat out of which emerge responses conditioned by his attitudes.

It is, therefore, my recommendation that this committee embark upon a program as follows:

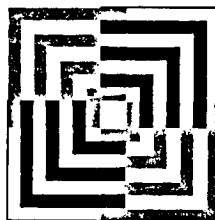
1. Establish local advisory councils in Seattle, Atlanta, and Detroit.

These councils to be comprised of local members of this Committee, members of the judiciary, members of the legislative bodies, and representatives of the local police departments. These councils would serve to develop an awareness and sensitivity to each other's needs and the total needs of the community. Hopefully, they would create an environment conducive to change.

2. The local advisory councils would become the nucleus of a national council to include members of the Congress and the U. S. Supreme Court in order that they become aware of what the local problems are and respond to the needs of the total community.

*MR. SEYMOUR:* Thank you all very much. We will now adjourn.





**Lawyers' Committee for Civil Rights Under Law**

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