Journal of Criminal Law and Criminology

Volume 26
Issue 5 *January-February*

Article 7

Winter 1936

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Recommended Citation
E. W. Puttkammer, Organization of a State Police, 26 Am. Inst. Crim. L. & Criminology 727 (1935-1936)

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POLICE SCIENCE

Editor: FRED E. INBAU

THE ORGANIZATION OF A STATE POLICE

BY E. W. PUTTKAMMER†

One of the most frequently encountered statements in the daily newspapers is that our law enforcement forces are facing a crisis, and that a wholly new choice is before us, between the breakdown of these forces in the face of crime conditions, on the one hand, and, on the other, a tardy beginning in their improvement and modernization. At least so far as police forces are concerned, this is a mistaken attitude. Ever since the days nearly a century ago when some of our eastern cities hired their first small, ununiformed forces, these forces have faced a succession of "crises," each met, speedily or slowly, by some change in technique or organization. Neither the need for development nor the resultant development itself is in any way a new phenomenon, and despite the pessimism of superficial observers there is little reason to doubt that this progress will continue into the future also. One feature in the present situation does, however, seem to be relatively new, and that is the widespread popular interest in measures of improvement. It is to be hoped that the spotlight which is turned on these measures will result in their being better planned than were many haphazard and foolish experiments in the past. For this reason any discussion of proposed changes is bound to have some value both in insuring well-considered changes and in improving the chances of the adoption of such changes as may appear wise.

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Such clearer thinking will be furthered if it is realized that improvements in police work fall more or less roughly into two groups, which, while they partly overlap, are in the main separate from each other. One group—overwhelmingly the more interesting to the layman—deals with increasing the efficiency of the individual officer. Better selection of personnel and better training methods fall in this group. So does the adoption of scientific crime detection methods in all their ramifications. All these are alike in that they all seek to take the individual officer, whether in uniform or not, whether a patrolman or one of higher rank, whether already a specialist or not, and make a more effective instrument of him. The extent to which advances have been made in this important work can only be appreciated by those who have some knowledge of conditions in the past. The other group of improvements, though less dramatic, is, however, scarcely less important. This group aims at securing a more effective coordination of activities, a more highly united front against criminal conduct. Illustrations are numerous. Cooperation in radio broadcasting is the most recent. State bureaus of identification, where fingerprint and other data are combined, and above these the tremendous bulk of the federal Bureau of Identification are the most obvious illustrations. In fact it is difficult to say whether or not at the moment this work of increasing cooperation may not be actually more significant than the more spectacular work of increasing individual skill. Certainly, as an example, the spreading of knowledge as to the value of finger-prints and how to take them would be almost a waste of time if it had not been accompanied step by step by increased cooperation in their distribution.

Another field in which the development of coördination is equally, but less obviously, necessary, is in the consolidation of our absurdly numerous separate police forces. To quote from Bruce Smith's address at the July, 1935, convention of the International Association of Chiefs of Police (itself an example of cooperative work):

> "We have, in the United States, the most highly decentralized police system in the civilized world. There are close to forty thousand public police agencies now running at large. Before we can even begin to talk about police training, higher standards in the selection of the rank and file, the uses of criminal identification, crime records, police science in criminal investigation, or the special uses of radio broadcasting to patrolling cars, we must consolidate and integrate the units which are composed of two, three, a dozen or a score of men. We can set it down as a rudi-

> mentary proposition that unless a police force has a considerable numerical strength, it cannot fully employ the facilities which an age of science has placed at its disposal."

Legal difficulties and, still more, local jealousies and fear that jobs will be lost have made slow work of cutting down and combining separate police units. A recent piece of large scale progress, the combination of the many separate park police forces inside the city limits of Chicago, was finally achieved only as a by-product of the entire combination (as to government) of the parks themselves. The development of large metropolitan police forces, spread over numerous small municipalities, though ultimately likely and perhaps inevitable, will be a slow process. Even when it does come it will not aid where the disorganization is most acute, in the rural areas far from a large urban center and with only village or small town forces. Their replacement by county forces would be the simplest step and in states already having a county highway police system an increase in its size and functions would not be out of the line of possibilities. But no real centralization would be secured even by such a step—a bad situation would be only somewhat less bad. For example, its application in Illinois would still leave that state with 101 county forces, even excluding Cook County as representing a genuine metropolitan area. Furthermore, the inadequate size of the county as a separate law enforcement area, an area perhaps large enough in the horse-and-buggy days of the past, is finally definitely shown by the inability of the county sheriff system—often through no fault of the individual sheriffs—to make successful headway against lawlessness. In the face of this only one answer seems possible. More and more clearly it will be realized that only a state police force can fill the gap. Not that such a state police will be, or should be, a substitute everywhere for an abandoned local force. Except in rural areas and small villages and towns it is almost certain that local agencies will be and should be long with us. But even where such local town and city forces continue there will be an example and a possibility of cooperation and coordination that simply cannot fail to have a bearing on their own efficiency of performance. There are few developments in the police field whose growth is so sure as is that of state police forces. It is being dictated by a logic that no group in the community will be permanently able to stand against, as state after state becomes more thickly settled and its villages and counties become more and more insignificant units.

Up to the present between twenty and twenty-five states have set

up such forces. There is little use in attempting to state the number more precisely, as it depends too much on where the line is drawn. This is due to the fact that numerous states have state highway police, whose authority ranges all the way from mere traffic supervision to full police power. The point at which such a force ceases to be only a traffic control instrument and becomes a state police force is made still more uncertain by the fact that the powers so conferred may or may not be exercised in actual practice, or may be only partially exercised. An approximation is, therefore, all that can be given but the limits of twenty to twenty-five are probably the minimum and maximum. What is sure is that the movement has already made considerable headway, with every likelihood that much more will be made. Further evidence of the latter fact is that the International Association of Chiefs of Police has repeatedly received requests from state legislators and others for information as to the most effective set-up of a force and as to the experience and practice of other states in specific matters. To meet these inquiries and perhaps to advance the movement in states where no beginning had as yet been made that association requested Mr. Donald Stone, of the Public Service Administration, and Mr. E. W. Puttkammer, professor of law at the University of Chicago, to draft a suggested State Police Act, which was to be a composite of the most successful legislation on the subject throughout the country. It was to contain the minimum of innovation by the draftsmen themselves. Where (as was often the case) there was an irreconcilable difference between state acts, that view which seemed to them to be the better was to be taken, but in comment accompanying the draft the other view or views were to be pointed out as well as the substance of the arguments pro and con. When the first draft of the suggested act was completed it was sent out to a large number of the leading police executives in the country, including the heads of all the existing state forces, together with a request that each one send in any suggestions for changes or additions that seemed desirable to him. The response was very large and helpful. In the light of it a second draft was then prepared and is now available for distribution to interested parties. It is not being offered by the Association as a model which, unchanged from beginning to end, will exactly meet the needs of every state in the Union, but simply as a point of departure from which those states which may hereafter set up forces may chart out their own legislation, without repeating the process of trial and error gone through elsewhere, but with all such variations as local conditions and requirements determine. The comment already mentioned as accompanying the draft act has

also been designed to further this task of local adaptation. The draft act, therefore, is emphatically not a "model" which its producers offer as something to be followed in exact terms. It is both more and less than that, being a formulation of what in actual experience has on the whole proved most widely satisfactory, with the constant recognition that there is no proposition which may not have an exception to it.

Almost the entire control over the force is placed in the hands of a single person designated in the act as the commissioner,[1] who is appointed by the governor for no fixed term and is removable by him, but only (if the commissioner so demands) after charges have been preferred against him and a hearing granted. By this means the ultimate responsibility remains upon the governor, who as the chief executive of the state is under mandate by the state constitution to provide protection to life and property within the state, and who should not be placed in the impossible position of having the police force under the control of an officer not responsible to him. For this reason the comment strongly advises against putting the appointing and removing authority in the hands of any other government official unless the latter is himself directly answerable to the governor. An example of the latter would be the inclusion of the police force within a department of public welfare, whose head himself held office only during the governor's pleasure. The converse is represented by statutes putting the force into a state department of justice under the head of an independently elected attorney general. Similarly, recommendations are often made that a so-called "nonpartisan board," or the chief justice, or some other body be charged with the appointment of the commissioner. Such proposals invariably end in worse evils than the ills they are intended to correct. Non-partisan boards are likely to be just as partisan as the official appointing them and generally provide a more fertile means of political manipulation by furnishing the chief executive with an excuse that he is not responsible. If the commissioner is appointed by some independent agency the police are in fact responsible to no one and the public may suffer more from an uncontrollable force than from a political one which it can avoid if it will.

Beyond providing that the commissioner must be a citizen of the United States, the act contains nothing in the way of specifying exact requirements, and only general terms calling for fitness for the work are set down, for unfortunately a recognized police profession with standardized training and experience has not as yet become a reality

[1] §§3, 4.

in this country. Some of the best police executives have been recruited from administrators in private life, although ordinarily young, alert, and well-trained police officers with administrative aptitude should supply the best material. It is expressly stated, however, that the appointee need not at the time of his appointment be a resident of the state, in order that no doubt may arise as to the power to name the most fit person without regard to any requirements as to previous residence. No preference is accorded for military experience.

The commissioner so appointed is then given very nearly a free hand in the organization and running of his force, again so that no division of authority may obscure responsibility.[2] He is to determine the number and nature of the various grades and ranks, and the qualifications necessary to attain them. There is an entire omission of any hard-and-fast provisions (almost universally found in existing statutes) which set up the force in detail, so-and-so many troopers, sergeants, captains, etc. This has been left to the decision of the commissioner, who has been given the responsibility of getting results, and who accordingly must be free to organize his man power in the way which he finds from actual trial and experience will produce most effective results. Legislative provision, though based on the best available foresight, cannot do this and should not attempt the impossible. While promotions are to be made only after examinations to test fitness, these examinations are entirely in his control. In the same manner appointments to the force in the first instance are likewise left to his discretion. In the comment, however, it is suggested that where an effective personnel agency (civil service) responsible to the governor is maintained by the state, these duties should be administered by such agency or with the approval of such agency. In practice this would mean that since both the commissioner and the personnel agency would be under the governor, all action taken would be of a cooperative nature. Under no condition should the power of appointment and promotion be lodged in a civil service agency if such agency is not directly under the control of and responsible to the governor. Such methods have almost always been disastrous to the morale and discipline of a police force.

No salary scale for police employees is named in the act. Salaries should be established, it was believed, under a comprehensive state compensation plan. In the absence of such a plan they should be designated in an appropriation bill, or, preferably, should be left to the discretion of the commissioner, as is done in Connecticut. It

[2] §§5, 6, 8.

is suggested in the comment, however, that it may be found desirable to provide in the act that the salaries of civilian employees should be at some named scale corresponding to that in effect for similar employees in other departments of the state service. Similarly all other matters of a financial nature have been left untouched. In the main these should not be dealt with by statute at all, being among the matters which a responsible administrative head best can, and should be required to, bear the burden of deciding. Insofar as they are matters that concern the legislature (such as fixing the amount appropriated to the department) they belong to appropriation legislation, and not to a bill organizing the police force. Providing the "fuel" should not be confused with designing the "machine."

After careful consideration it was felt to be undesirable to draft any suggested provisions regarding either pension or disability allowance to injured employes or allowance to families of employes killed in line of duty. Such provisions are frequently found[3] but were omitted from the draft act as local conditions and needs vary too widely to permit useful suggestions. If an adequate state pension system already exists locally, the legislation adopted should, the comment states, provide that such system, adjusted to satisfy the hazardous and other special conditions of police service should cover state police employees; but even if no such pension system exists, it might still be felt that matters concerned with appropriations and with the details of expenditures in the maintenance of a state police force should form no part in an act setting up such a force, but should comprise a separate act. In that event, however, it is recommended that there should be included a provision making it the duty of the commissioner within a time limit to draw up and submit definite proposals for legislation covering these matters, so as to avoid the danger of their being overlooked or forgotten.

The maintenance of a training school for newly-appointed employees is provided for, with the further provision that local police units may avail themselves of such school facilities for their own recruits.[4] The hope is that this training work would become a major undertaking of the department and lead to the establishment ultimately of mandatory training standards for all peace officers in the state.

The matter of the discharge, suspension or demotion of employees is likewise entirely in the hands of the commissioner,[5] the only quali-

[3]Attention is called in the draft to the excellent provisions on this subject in the New Jersey laws of 1925, ch. 188.

[4]§7.

[5]§§8, 9.

fications being that before action may be taken written charges must be preferred against the employee, and that before a discharge the employee may also, if he desires, have a hearing before a trial board (this latter does not apply to a probationary period of one year after appointment).[6] The provision for a trial board is not meant, however, to constitute a curb on the authority of the commissioner, as the latter not only names the board but is free to disregard its finding and recommendations if he see fit. In other words, the provisions regarding demotion and discharge aim to accomplish two ends: first, to provide employees of the department with some protection against arbitrary removal for personal, political, or other similar reasons; and second, to clothe the commissioner with final authority over matters of discharge, without which the morale and discipline of the department cannot be maintained. The vesting of final authority over personnel in an independent trial board or in a court has invariably led to the breakdown of discipline by robbing the commissioner of his authority. The furnishing of a public hearing is a major guarantee and in fact protects the individual employees more adequately than do most of the existing statutes. Concentration should be focused upon the procedure for recruiting competent personnel rather than upon making it difficult to eliminate incompetent personnel. Measures mainly designed to protect employees from capricious discipline generally make it difficult to remove any unsatisfactory employee.

Besides conferring on the commissioner the general rule-making authority the act specifically authorizes him to establish headquarters and stations where he deems advisable, with equal freedom to discontinue them in his discretion.[7] No local community should have an opportunity to assert its vested right to the continuance of a station whose discontinuance would be for the good of the service.

As a final matter in working out the set-up of the police force, it was necessary to determine what provisions, if any, should be included for the establishing within it of a bureau of identification and statistics. It did not in fact prove feasible to offer any specific provisions hereon, however. There is merely the recommendation that if such a bureau already exists locally, it should be made a part of the state police force, and that, if none exists, it be created by incorporating into the act suitable provisions for organizing a bureau.[8]

[6] §§9, 10.
[7] §14.
[8] There is the further suggestion that the scheme of organization be based on the Bureau of Criminal Identification, Investigation and Statistics bill prepared by the same draftsmen for the International Association of Chiefs of Police.

Turning now to the powers and duties of the state police officers, it is provided in general language that it shall be their duty "to prevent and detect crime, to apprehend criminals, to enforce the criminal and traffic laws of the state, and to perform such other related duties as may be imposed upon them by the legislature." To this end they are declared to be peace officers, and are given all the powers and immunities of such officers.[9] In this matter the bill uses far briefer language than is the usual practice, which generally includes details on such subjects as when an arrest may be made without a warrant, when warrants must be secured, the officer's power to swear to a complaint, etc. These were omitted, as conferring the powers of a peace officer fully covers the subject. To detail further items would either be meaningless or would give to the state police officer wider or narrower authority than policy has determined to be generally suitable for peace officers, neither alternative being desirable. A further provision frequently found but omitted from the draft is to the effect that the state police should not serve civil process except in cases where the state is a party. If thought desirable, such a provision could, of course, be added.

A frequent characteristic of existing state laws is that they put on the state police numerous duties of a non-police nature, to the resultant detriment of their main work as police. The evils resulting from such a policy are so ably expressed by Bruce Smith in *The State Police* as to warrant quotation here:

> "Only those duties should be delegated to the state police, which can reasonably be performed as a routine matter in the ordinary course of patrol. Whenever a special squad becomes necessary, or men are regularly diverted from patrol duty in order to serve other state departments, the process of patrol dispersion has commenced. . . . It is the cumulative effect rather than the individual accretions which threaten seriously to diminish the number of active patrolmen and to divert the attention of the remainder from what must always be the fundamentals of police work. . . . This practice [of imposing non-police tasks] achieves nothing more than a spurious economy, while at the same time effecting a serious diversion of trained police personnel into an unfamiliar field."

Where, however, an additional duty can be satisfactorily performed in the course of routine patrol, it may suitably be imposed on

[9] §17.

the police. Accordingly the act[10] makes officers game wardens and puts on them the duty to enforce conservation laws. But, for the reasons just given, it does not include such tasks as the issuing of hunting licenses or other tasks calling for the special detailing of man power. A further duty which, it is suggested, might properly be placed on officers is that of reporting to the state fire warden fire hazards discovered in the course of routine patrol.

If locally there is a highway patrol force already in existence and it is desired to terminate it, it is recommended that this be done in a separate section of the act. Although three states, Pennsylvania, Tennessee, and (until recently) Texas maintain both state police and highway patrol forces, such duplication is not recommended. If, therefore, the highway patrol force is abolished and its functions are transferred to the state police, they should, it is stated, be restricted as far as possible to real police duties. But if local conditions render it desirable to entrust to the state police duties not essentially of a police character, such as the issuance of drivers' licenses, examination of automotive equipment, and enforcement of the gasoline tax laws, it is recommended that provision be added, similar to that in the Massachusetts law (Sec. 3) or the Oregon law (Secs. 21 and 29), that where police officers' time is spent in work for another state department or body (i. e., highway or state department) a record of the time should be kept and the police department compensated out of the appropriations made for such other department so that the employment of the necessary extra personnel is possible.

No provision is made for the department's control over the sale of firearms, the reason being that this matter is dealt with under Section 3 of the suggested bill for a bureau of identification,[11] obviating the need for any reference to it here. If, however, a bill covering that subject is not adopted, it would be necessary to add a section giving the state police such centralized control over firearms as local conditions render desirable.

Sections conferring powers and duties that call for little comment are those dealing with the authority to take and keep fingerprints and similar data,[12] and with cooperation with other police forces, both inside and outside the state, by the exchange of identification information or otherwise.[13] The provisions are sufficiently broad to cover also the possible hook-up of state-wide radio and teletype

[10] §18.
[11] *Supra* note 8.
[12] §19.
[13] §20.

systems. The commissioner is authorized, with suitable safeguards, to negotiate with similar officials in other states for the interstate police compacts recently authorized by congress.[14]

A matter in which existing laws differ widely is as to the state officer's authority to call upon local agencies for help. At one end of the scale are provisions permitting no member of the state police, from the commissioner down, to ask for any local aid, even from regular law enforcing agencies, and at the opposite extreme are provisions permitting any member of the force, whatever his rank, to command any person, whether police officer or private citizen, to aid him anywhere in the state. The former extreme is represented by New Jersey, New York, and Pennsylvania; the latter by Oregon. In the present draft[15] the authority to call for aid is broadly given to "any police employee of the department," as such aid will usually be of an emergency nature, in which case it would be utterly unfeasible to go through the process of asking the commissioner to call for aid. On the other hand, the scope of the call for aid is limited in two respects: (1) It may only be addressed to a law enforcement officer and not to "any able-bodied citizen," as in Oregon (where as a consequence it constitutes in effect the power to summon a *posse comitatus*). (2) The aid that can be required is limited to the jurisdiction of the officer called on—a limitation of no serious consequence as the aid asked for should in any event be limited to matters of a local emergency nature. Local conditions, however, may make it desirable to redraft the section so as to eliminate either or both of these limitations. A refusal to aid, where a proper call is made, is made a misdemeanor.[16]

Another and even more controversial matter concerns the amount of authority and activity to be assigned to state officers within the limits of a municipality or other local governmental unit maintaining a police force of substantial size of its own. On the one hand it would be crippling to the activities of the state police if they were absolutely and rigidly excluded from all action within a municipality —in effect a restoration of the medieval law of sanctuary. On the other hand unrestricted action equally in and out of cities might obscure the fact that the primary activity of the state force should be to furnish rural police protection. And of perhaps even greater practical significance is the consideration that the conferring of unrestricted authority has frequently operated to arouse the hostility and fear of

[14] §20.
[15] §21.
[16] §§22, 25.

local forces, which saw in that of the state an instrument secretly destined ultimately to discredit and supersede them. To avoid these consequences a middle position was taken to the effect that the state force should "not act within the limits of any incorporated municipality which maintains a police force except (1) when in hot pursuit of an offender or suspected offender; or (2) when in search of an offender or suspected offender wanted for a crime committed outside of the limits of the municipality or when interviewing or seeking to interview a witness or a supposed witness to such a crime; or (3) when requested to act by the chief executive officer of the municipality in question or its chief police officer, ... ; or (4) when ordered by the governor to act within the municipality in question."[17] These exceptions appear to be adequate, and of them only the first two involve intra-municipality action without previous request or orders, but these two are so limited in scope and so plainly necessary as to raise no difficulty; and even in these cases the state police would ordinarily call upon the local police for cooperation if time permitted.

In the event, however, that a local unit desires wholly to discontinue its own police force and to have its work assumed by the state force, it is provided that it and the commissioner are authorized, if both parties so desire, to enter into a contract providing for the state force to assume such local police activities, against compensation from the local unit.[18] This provision, which is found only in New York and Rhode Island, would make it possible for a town or city to gain advantage of the trained and disciplined personnel of the state police and of its special facilities and equipment. Modern crime problems call for complex systems of communication and identification, specialized investigation, and many other varieties of skill and equipment which small forces are unable to provide. By contracting for service with the state police, the municipality will secure these specialized benefits while at the same time continuing to hold responsibility for local law enforcement. The contract in no wise delegates this responsibility.

A question of real difficulty lay in the attitude to be taken with regard to state police activity in industrial disputes. Logically, complete silence was the only defensible position. So long as an industrial dispute involved no actual or threatened violation of the criminal law it was out of the realm of police interest. If there was such a violation, then likewise the origin and setting in which it arose should be

[17] §23.
[18] §24.

a matter of no concern to the impartial law enforcing agency. Nothing, therefore, need logically be said on the subject. But silence, it was certain, would be wholly unsatisfactory to those groups which believed that precisely in this matter a very definite policy should be laid down. It was equally certain, however, that no policy could by any possibility be hit on which would satisfy all groups concerned, ranging, as these did, from those who thought of state troopers as merely instruments supplied by the government to keep industrial conditions exactly as, at any given time, they were, to those who in effect argued that any lawlessness should be out of their scope, provided it was called up by an industrial dispute. The one view made the state government merely the tool of the particular industrial party then in power; the other meant abdication by the government of its function of enforcing law and order. It was decided to omit any definite section on the matter, on the ground that so complex a weighing of factors was involved as would in any event make local considerations paramount.[19] In the event, however, that such local conditions did dictate some naming of limits of activity, it was thought best to include an optional section representing the farthest limit to which it seemed wise to go in restricting state police action. In effect this optional section provides that in the event of an industrial dispute within a municipality the state force may step in only after the occurrence of violence and even then only on the orders of the governor, or on the request (approved by the governor) of the municipality. This provision, which is a combination of the statute in Massachusetts and the present practice in Pennsylvania, indicates (as already stated) the farthest extent to which any limitation on the activities of the state police should go. It prevents the state police from acting unless the situation has got beyond the control of the municipal police as evidenced by the municipality's calling for help or the governor's intervening. Outside municipal limits the question is an entirely different one. There the state police would have primary responsibility in preserving law and order. Citizens would be dependent on them for protection, as on the municipal police within the city. To exclude action by them in such rural areas until violence has been committed would create an impossible state of affairs with no agency authorized to forestall and prevent law violations. These, therefore, are the farthest possible limitations on the state force. To shut it completely

[19]It should be borne in mind that the matter is the less important because in any event the activities of the state police inside municipalities are very much restricted (under §23) and most industrial disputes will arise within such limits.

out of this phase of law enforcement, within and without municipal limits, inevitably involves the adoption in an emergency of the only alternative—the use of the state militia, untrained and inexperienced in the art of law enforcement. It must be one or the other.

In conclusion it should be repeated that the draft act is merely a guide as to what experience has shown elsewhere. It is not a "uniform act" to be adopted as it stands, even if divergent viewpoints made this possible. This is not a field in which uniformity is necessary or even desirable. The draft act will best serve its purpose if it aids in intelligent experimentation and in local adaptation, by excluding in advance the ill-planned experiments already tried elsewhere and found unwise.