

1947

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### Recommended Citation

Don L. Kooken, Ethics in Police Service, 38 J. Crim. L. & Criminology 61 (1947-1948)

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# AMERICAN JOURNAL of POLICE SCIENCE

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## ETHICS IN POLICE SERVICE

Don L. Kooken

One of the basic needs for the improvement of the police profession in this country is a standardized and recognized code of ethics by which all law enforcement agents are governed. In answer to such a need Capt. Don L. Kooken presents in this and the subsequent issue of the Journal a masterly analysis and sound treatment of the question of police ethics. Captain Kooken, Acting Director of the Institute of Criminal Law Administration of Indiana University, has had a long and diversified career as a police officer and investigator, both with the Indiana State Police and the U. S. Treasury Department, so that he is well qualified to speak on this subject. His proposed code of ethics strikes at the heart of the problem and is worthy of serious thought and consideration by all groups striving to bring such a code into being.—Editor

A government that is founded upon the principle of personal liberty is based upon the proposition that everyone's opinion counts. It is obvious that the agencies of government cannot succeed under this principle unless they are enthusiastically supported by the public. The enforcement of law is not an exception but on the contrary is more dependent upon public support than any other single function of government. The complexity of law and the multitudinous measures that regulate almost every hour of the citizen's daily life bring policemen directly and intimately in contact with the public, and in these public contacts policemen, as public servants, are in the unique position of being duty bound to enforce rules that regulate the conduct of their masters.

Under normal conditions the public is not particularly critical of the police service. Citizens are usually quick to acclaim sincere and diligent effort of their protectors, and they will even condone errors and failure if it is evident that the blunder occurred while the officer was acting in good faith. If the public is aroused by reason of misfeasance or malfeasance of the police service and assumes a critical attitude, public resentment will mount rapidly and is most difficult to overcome.

The reputation that a governmental service or department bears with the public is influenced, to a great degree, by the reaction of the public to the impact of the personalities of its members. Personalities that are characterized by such traits as loyalty, determination, alertness, intelligence, unselfishness, honesty and moral ascendancy are instantly appealing, while those that incur distrust and disrespect are resented and are usually vigorously condemned. Whether a service is respected

or condemned will depend upon what the public thinks of the individuals who make up the service; and all too often the reaction to some stupid discourtesy on the part of one police officer becomes the criteria by which a whole department is judged.

The good reputation that a public service bears with the public is built upon favorable public relationships and is expressed by a public confidence in the continued constructive accomplishments of the service. Consistent progress in public service is only possible when the internal strength of the organization is assured. There must be high morale among the members of the service reflected in their "esprit de corps" and springing from their genuine loyalty and noble faith in the policies and objectives of the organization. There must be a conscious effort on the part of each and every member of the service to so conduct both his official and private life that he will inspire the confidence and trust of the public.

The public demands of its servants more exacting and exemplary conduct than it expects of private citizens. It is an inescapable fact that a public official has no private life; as soon as he enters public service and so long as he remains therein his conduct, whether on or off duty, will be subjected to the unrelenting scrutiny and critical analysis of the public he serves. The agents of law enforcement by reason of their specific responsibilities are bound to a more exacting code than any other public servant. Delinquencies in conduct that pass unchallenged when committed by other public officials and acts that are accepted as commonplace in judging the conduct of citizens are adjudged reprehensible when committed by policemen.

The honored professions long ago recognized the importance of maintaining public confidence in their endeavors and accordingly enacted exacting rules of official conduct for their membership. Policemen have long been clamoring for public recognition as a professional service, yet they have done little to set standards of official conduct for their members. They have relied in the main upon departmental rules and regulations to set the pattern for their public relationships. Some law enforcement agencies put great reliance upon the solemnity of the oath of office or departmental pledge to impel men to exemplary conduct. The rules and regulations of most police departments relate more to specific techniques and procedures than to the official conduct of officers in their public relationships; and

when regulations relating to conduct are found they are usually so specific in character that they lose their influence in shaping general official conduct. Oaths of office and departmental pledges are of necessity brief and are usually too general in substance to serve as a guide to the policeman in shaping his daily relationships with the citizenry.

A grave need exists for a code of ethics that will standardize the rules of correct official conduct of police officers. A code broad enough in substance that it can be applied to all police activities and yet sufficiently exacting that the appropriate rule can be easily associated with any specific police activity. A code of this character would define basic objectives and provide standardized general rules to which the rules and regulations of police departments would be obliged to conform.

The following is a suggested code that would meet the above requirements. It may seem brief yet it is all inclusive and is appropriate to the need represented by any law enforcement body. To adhere to its basic rules would require men of sterling character, men who would command the full respect and confidence of a most exacting public.

#### A CODE OF PROFESSIONAL ETHICS FOR THE POLICE SERVICE<sup>1</sup>

In America, where the supremacy of public opinion is assured, it is essential that the system upon which public safety depends is developed to a high degree of efficiency and that it is administered in a manner to assure the continued approbation and respect of the public.

Rules can not be drawn that will prescribe in specific detail the manner in which all the duties of law enforcement offices shall be performed. The problems of police service are many, and they are subject to the influences of the constant development of public administration. This code describes the basic objectives sought and provides general rules for the performance of the manifold duties of law enforcement officers.

#### *Basic Objectives*

1. To elevate the standing of the profession in the public mind, and to strengthen public confidence in law enforcement.
2. To encourage law enforcement officers to fully appreciate the responsibilities of their office.

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<sup>1</sup> Adapted to the need of general police service from a code of ethics used by the Agricultural Inspectors of Kern County, Calif.

3. To develop and maintain complete support and cooperation of the public in law enforcement.
4. To insure the effectiveness of the service by encouraging complete cooperation of its members for their mutual benefit.
5. To strive for full coordination of effort in all official relationships with other governmental bodies.
6. To consider police work an honorable profession and to recognize in it an opportunity to render a worth while service to society.

### *General Rules of Official Conduct*

#### I

Policemen shall be habitually courteous; they shall recognize their responsibilities as public servants and shall be particularly attentive to citizens seeking assistance or information or who desire to register complaints or give evidence.

#### II

They shall accept their responsibility to the public by being punctual in their engagements and expeditious in the performance of their duties.

#### III

They shall regard their office as a public trust and in the discharge of their duties, be constantly mindful of their primary obligation to serve the public, efficiently and effectively.

#### IV

They shall administer the law in a just, impartial and reasonable manner; and shall not accord to some more reasonable treatment than to others. They shall recognize the limitations of their authority and at no time use the power of their office for their own personal advantage.

#### V

They shall be true to their obligation as custodians of public property and shall bear in mind that the misuse and waste of public property is equally as reprehensible as the misuse or waste of money from the public treasury.

#### VI

They shall not limit their effectiveness in the administration of their office by accepting gratuities or favors from citizens or corporations with whom they may have official dealings.

## VII

They shall cooperate fully with all other public officials to the end that the safety and general welfare of the public will be assured. They shall not permit jealousies or personal differences to influence their cooperation with other agencies.

## VIII

They shall add to their effectiveness by diligent study and sincere attention to self improvement. They shall welcome the opportunity to disseminate practical and useful information relating to matters of the public's safety and welfare.

## IX

They shall so conduct their public and private life that the public will regard them as examples of stability, fidelity, and morality.

## X

They shall bear faithful allegiance to their government, and be loyal to their profession. They shall accept as a sacred obligation their responsibility as citizens to support the Constitution of the United States; and as public officials they shall consider the privilege of defending the principles of liberty as defined in our Constitutions and Laws, the greatest honor that may be bestowed upon any man.

## COURTESY

A policeman's duty is to regulate the conduct of and minister to the needs of people of all walks of life. The rich and the poor, the old and the young, the firm and the infirm, the learned and the illiterate are equally entitled to and assured the protection of the law. The public contacts of policemen are principally with persons who, at the time, are under stress or excitement. They are citizens who, in trouble or difficulty, turn to the policeman for assistance and protection. Their problems are most important to them, though they may seem insignificant to the policeman who is accustomed to deal daily with sordid and distressing situations. It is imperative that matters of such vital personal importance be approached with understanding, compassion, and magnanimity.

The relationships between individuals are affected by the impact of their personalities one upon the other. Every characteristic in the personality of one person becomes an important factor in the reaction or behavior of the other. Favorable personalities may be developed if one will recognize and cultivate

the characteristics or traits that are known to produce favorable reactions in others, and will suppress the ones that are responsible for unfavorable reactions. The development of personality, however, involves a sincere acceptance of the fact that in order to make the proper adjustments and corrections it is necessary to institute disciplinary checks. It is imperative that bad habits are broken down and destroyed, and that good ones are created and substituted in their stead.

Habits that are formed in the home and among working associates are reflected in a policeman's relationships with the public. The starting point then where habits of politeness are formed is in the every day life of an individual. The practice of courteous habits in the home is evoked by parental discipline while among fellow workers courtesy is an official subject and is compelled by disciplinary measures provided for in the regulations of the organization. The finest example of official courtesy is found in military organizations, where exacting codes of official conduct are enforced by disciplinary authority. Military courtesies are the very life blood of morale and of "esprit de corps".

Before policemen can fully appreciate the rights and privileges of citizens, they must first have learned to respect the rights and privileges of their comrades. They will not recognize the importance of their fellow citizens until they have formed the habit of being considerate of their colleagues. If policemen cannot subscribe to the rules of propriety in the intimate relationships with their comrades, then they have not captured the spirit of amenity and cannot sincerely practice courtesy in the less intimate relationships with the public.

Numerous contacts with anti-social persons are likely to cause policemen to assume a veneer of hardness. They often entertain an erroneous belief that courteous treatment of law violators is an indication of weakness, of cringing, or of servility. They will say that criminals are not entitled to the treatment accorded gentlemen. Propriety in the treatment of law breakers in no way indicates weakness. Policemen may be firm and exacting in the enforcement of the law; they may be strict and relentless in their relationships with the offenders that come under their control; yet, remain propitious and gentlemanly in their bearing. The fact that a criminal, by reason of his depravity or because of his anti-social habits, has not earned the respect of his fellow man has no bearing upon the conduct of the policeman with whom he is brought into contact. When officers of the law resort to ungentlemanly treatment of crimi-

nals, they do not alter the status of the criminals in the least. They only lower their own social status to the same level occupied by criminals.

Acts of courtesy are disciplinary reminders of the importance of propitious conduct and are important measures in the development of personality. Courtesy is the essence of good manners; it is a manifestation of sportsmanship, and an exposition of gentility and culture. The rules of etiquette that prescribe the common acts of courtesy were established by years of custom and usage, and their performance is a public acknowledgment of understanding and of a sincere acceptance of the rules of gentlemanly demeanor. Strict adherence to the standards of proper behavior curbs undesirable characteristics; thus breaking up and destroying bad habits and, at the same time, strengthening the influence of the favorable characteristics of personality.

Citizens look upon policemen as representatives of the authority of law. It is obvious, therefore, that the influence of policemen over citizens is increased by reason of the authority they represent. People under stress or under the influence of excitement are more susceptible to the influence of external stimuli than they would be under normal circumstances. They are likely to be more readily influenced by the actions of those with whom they come into contact. Policemen must be very careful that the influence of their authority does not become oppressive in their relationship with the public, particularly in situations of stress and excitement.

Being courteous involves much more than friendliness. To appreciate and to sincerely and habitually perform acts of courtesy requires cultivation of appearance, voice, manner, intelligence, humor, temperament, and unselfishness. All of these factors co-mingle in the production of a gentleman in principle and in conduct. Being a gentleman is not a part time occupation; neither are there varying gradations of politeness in human relationships. One cannot be a gentleman in public and a cad in private, neither can one be a gentleman for a part of the time or only under certain circumstances.

Courtesy must spring from the heart; it must originate in a sincere desire to be right, to be respected and honored. Sincere courtesy requires one to be friendly without becoming familiar; dignified without being aloof; compassionate but firm and earnestly interested without being over solicitous. Policemen must continually practice courtesy; they must not make exceptions. Disagreeable duties must be performed willingly and unpleasant orders obeyed cheerfully. Flares of temper,

sarcastic criticism, and periods of moodiness have no place in the conduct of a good police officer.

A major portion of the public contacts with policemen are made by letter or by telephone. The citizens' opinion of his police department is greatly influenced by these indirect contacts. Inquiries and complaints that are received through the mail should receive the same courteous attention that would be given to a citizen appearing at police headquarters in person. The use of form letters should be particularly avoided. In the instances where public contact is made by telephone the policeman must rely upon the quality of his voice, his choice of words, and his intelligent attention to the matter at hand to win the confidence of the citizen. The most important public relations position in a police department is the complaint desk. It is there that a great number of public contacts are made, and it is there that great opportunity lies for shaping public opinion.

Police officers must be exceptionally careful not to say or do anything that might be construed as critical or disparaging of any race, creed, or class of people. They must avoid abruptness in answering queries, and must particularly refrain from harsh or insolent language whether on or off duty.

Departmental rules and regulations can not anticipate all situations that might arise involving courteous behavior, and even though it was possible to provide specific rules to cover all circumstances policemen would frequently find many occasions where they are compelled to go beyond the limitations of the rule book in their determinations of the courteous courses to follow.

#### RESPONSIBILITY

The responsibilities of policemen in providing for the safety and convenience of the public are analogous with those of the doctor. The doctor protects life by combating disease and promoting public health through preventative measures. The policeman insures public safety by the elimination of the hazards of accident and in guarding the citizen against the attacks of the anti-social. The policeman though has a collateral responsibility in his obligation to protect life and property—a responsibility that is fundamental to every duty he performs; the grave obligation to preserve to the citizens the constitutional guarantees of liberty and the pursuit of happiness.

Policemen generally have willingly accepted their responsibility to protect life and property and have made considerable progress despite the many obstacles and inadequacies that beset

their paths. Innumerable instances are of record where policemen have bravely given their life in faithfully discharging their duty. But in the preservation of the constitutional guarantees of civil liberty the police service has most certainly failed.

False imprisonment, illegal search, "the third degree," special privilege, and denial of due process of law are not the exception but are commonplace in many police organizations. Although these malpractices are rarely openly defended, they are condoned by far too many police administrators, and often it is these same administrators who clamor for elevation of the standards of police service.

When public indignation is aroused by reason of violations of civil liberties by policemen, the responsible administrators usually are quick to place the blame upon political interference, inadequate wages, weaknesses of the law or lack of public support, instead of accepting the fact that they, the administrators, have failed to discharge their basic responsibility to the public. Political intervention, low wages, weak laws, public apathy, and many other similar factors do contribute to the difficulties of the problems of effective administration of police service, but their elimination will never occur so long as police administrators use such excuses to cover their own ignorance of or deliberate disregard of the fundamental responsibilities of administration. Police heads, who have used every political influence and power at their command to secure an appointment, scarcely will have ousted their predecessor from his office until they clamor for protection from political removal.

Elimination of the many bars to effective police function is a responsibility of the police service, a responsibility that rests squarely upon the shoulders of the profession itself. Although the retarding influences may be directly attributed to politics, public apathy, or other influences from the outside, they will cease only when the police service recognizes its professional responsibility to clean its own house.

The police service will not achieve the goal of professionalization so long as police administrators are unwilling to subordinate their selfish ambitions and sincerely and enthusiastically accept the obligations of their office. One of the basic characteristics of a good administrator is the courage to accept his responsibilities and to deny himself the support of an alibi.

The public has a right to demand the same guarantees in the manner of its safety as it exacts in the protection of its health. Public safety is concerned with emergencies, with situations that require immediate attention and effective treatment. Police

service if it is to be of any value must be dependable. Dependability arises from a full appreciation and acceptance of the responsibilities of the service. Policemen must be punctual, attentive, accurate, and unselfish if they are to be depended upon. They must promptly carry out every duty to which assigned. They must accept the fact that punctuality involves more than reporting to work on time. It involves every detail of the policeman's daily activity. The practice of being at the right place at the right time must become a fixed habit. All the skill and ability that a man may possess is a little value unless he can be depended upon to apply his skills at the proper time. Punctuality is not only important in relationships with the public but it is also essential in routine activities as well. The rendition of reports, appearances in court, and cooperation with colleagues and other law enforcement agencies are dependable duties only if promptly dispatched.

Attention is another important factor contributing to the dependability of public service. The majority of contacts of the police with citizens involve interchange of information, information involving the safety or convenience of the public, information that is given in sincere confidence and with the expectation of aid or assistance. Obviously then, the situations demand the undivided attention of the policeman. Only with complete attention can a dependable service be rendered. Attention to duty must be made a habit just as is true of all the other factors that enter into the state of being dependable. As habits can best be developed in the every day associations with fellow workers it is obvious that attention to orders, concentration upon the objectives of the service, appreciation of the importance of command, interest in an analysis of and an understanding of the policies of administration are factors requiring the close attention of dependable officers.

Police work is a continuous investigation, a close observation of facts, an exhaustive search of causation involving the making of countless comparisons and numerous experiments. It involves analytical examinations of complaints, information, conditions, opinions, beliefs, appearances, etc., all to the end that the truth shall be made clear. Obviously then, policemen cannot be content with hearsay or mere suspicions. They must be accurate in every detail of their work; accurate to the degree of the exactness that characterizes the work of the scientist. Though police work has generally been looked upon as an art, modern policing in many of its phases demands the accuracy of a science. Exactness is the essence of scientific achievement. The high degree of

perfection attained by the sciences today has been due primarily to meticulous accuracy. The brilliant and fruitful ideas of the scientist which are so astonishing in public announcement are not the product of "hunches" or "lucky breaks"; they are the culmination of years, yes even lifetimes, of exacting research. Since accuracy is so essential to scientific research, and effective research is vitally important to efficient police service, then accuracy must be maintained in all phases of police service. The complexity of the criminal law hides many pitfalls and hazards in its accurate administration. Nowhere else is it easier to err; nowhere else is a mistake more fatal and dangerous than when the question involves the life or liberty of a human being; and nowhere is it so necessary or more appropriate to acknowledge an error, as soon as possible after its commission, as in the service of public safety.

The United States Supreme Court, in a recent decision,<sup>2</sup> severely condemned the methods employed by the police in an investigation of a criminal offense. The court characterized the conduct of the police officers in this instance as "so inherently coercive that its very existence is irreconcilable with the mental freedom by a lone suspect."<sup>3</sup> The foregoing is but one of many official disclosures of instances where law enforcement officers have exceeded the scope of their authority, and there are innumerable instances equally as reprehensible that have gone unchallenged. These questionable practices are the result of faulty techniques, and the predominate factor responsible for the faulty procedure has been found to be professional jealousy with an accompanying desire for publicity. Officers who are jealous of their professional reputation divide their interest and attention between the tasks at hand and with selfish concern over credit for their work. In their intense desires for self-glorification they are subject to paranoical fears and delusions of loss of credit or notoriety, all of which leads to preconceived theories, false arrest, third degree, and many other condemned practices. Nothing will destroy public confidence in a public servant quicker or more surely than to find him basking in the light of his own notoriety. Dependability is the end product of respect and it is predicated upon how well the person has recognized his responsibilities, how well he has discharged his responsibilities in the performance of his duties; in short, how well he has achieved a sincerity of purpose that can be counted upon.

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<sup>2</sup> 64 U. S. Ct. 921.

<sup>3</sup> *Ibid.*

## DUE PROCESS OF LAW

The responsibility of policemen, in the proper administration of criminal law, is not so much to procure the conviction of one whom they suspect of a criminal offense, as it is to gather all of the facts pertaining to the incident, whether they are in favor of or against any suspected person, and to present the facts fairly and impartially, to the proper court in order that justice may be done. In the investigation of criminal offenses police officers are in some respects officers of the court, and though they exercise no judicial function they must never forget that the whole scheme of American justice is founded upon the principle of fairness, reason, and impartiality in its administration.

It is just as much the duty of policemen to see that persons suspected of criminal offenses are not deprived of their statutory or constitutional rights as it is to convict them of the crimes of which they may be suspected. It is difficult for policemen to appreciate this responsibility. The recognition and practice of this self evident duty constitute the exceptions rather than the rule. It is regrettable, indeed, that so many policemen, in their zeal to secure the conviction of a suspect, lose all perspective of fundamental responsibility. In their enthusiasm on adding one more conviction to their record of conquests, they are heedless to the importance of their obligation as guardians of personal liberty. Probably it is true that bank robbers, kidnapers and their ilk have, by reason of their vicious anti-social behavior, forfeited all personal right to the respect of decent people; but when, in the enforcement of law, we fail to extend to them the rights of due process we set precedents that are not restricted to the vicious alone. Zeal on the part of policemen engaged in criminal investigations is to be commended, but, if they allow themselves to be led by their enthusiasm into practices that are not only illegal but seriously endanger the basic principles of American freedom, then they most certainly are to be censured. Grave danger lies in the fact that when policemen insist upon the right to decide when and under what circumstances the constitutional rights of liberty are to be applied they are assuming an authority that they never had or never were intended to possess; and if allowed to go on unchallenged it is but a short step to a condition that we must admit exists in some jurisdictions where liberty, as fought for by the Revolutionary heroes, is but an empty gesture. From a strictly practical viewpoint of law enforcement in the majority of cases where policemen and prosecutors neglect or ignore the protection of inherent rights

of the citizen, the case at hand is not strengthened but on the contrary it is in most instances seriously weakened if not hopelessly lost. When policemen disregard the constitutional provisions of civil liberty in the treatment of a criminal they create a strange paradox. Their relationship with the accused becomes analogous to that of the accessory after the fact. In their zeal to convict denials of due process of law adds materially to defense of the accused.

Policemen also are negligent in allowing their own personal opinions, often arrived at prematurely and without foundation in fact, to so influence their investigation that many miscarriages of justice have resulted therefrom. Officers who have formed definite opinions as to guilt or circumstances may innocently exert a strong influence on the statements of witnesses whom they interrogate. Furthermore, when investigators allow theories of situations to form before there are sufficient facts disclosed to support them, they are likely to find their subsequent investigation restricted to a search for facts to lend support to the ill-conceived theory. Once an investigation has shifted from an open-minded search for facts, because of the entrance of conjecture or unfounded theory, it is difficult then to return to an open-minded investigation even though the preconceived theory has been completely abandoned. The influence of the theory will remain long after its abandonment, and the tendency will be toward searching for new suspects with only a passive interest in searching for new and additional facts.

Many hazards instantly appear when a criminal investigation centers upon certain suspects because of theories prematurely entertained. The most troublesome of these hazards is that of premature arrest. Arrests of this character are not made by reason of a logical analysis of supporting facts, but they occur by reason of the influence of the preconceived theory, strengthened in part by other conjectures such as the probability of the suspect escaping the immediate jurisdiction, or as in many instances, the hope that by severe grilling the suspect may be brought to the point of putting his own neck in the noose by confessing his crime. In every instance of premature arrest it eventually becomes apparent that there is not sufficient real evidence to support a specific charge. This condition leads to further compromising situations, and the effect of the troublesome factors are forestalled or delayed by resorting to other questionable practices; thus setting off a chain of illegal action that may run the gamut of condemned practices, from the filing of unjustified vagrancy charges with exorbitant bail, through incommunicado confinement to escape writ of habeas corpus; coercive grilling,

in the hope of securing a confession; third degreeing when coercion fails; and even on up to actual "framing," which has too frequently occurred.

Policemen, in their eagerness to detect crime and to apprehend and bring criminals to justice, are inclined to overlook the importance of separation of governmental function as a safeguard of personal liberty. They are wont to usurp the prerogatives of the judiciary in fixing the guilt or innocence of the accused, and in eagerness to assert this pseudo authority will resort to practices that are questionable if not actually illegal.

Unfortunately, policemen's efforts to apprehend wanted criminals are often thwarted or hindered by the very laws designed to protect the law abiding citizen. This situation has undoubtedly encouraged officers to resort to questionable procedures, especially where little hope is held for a solution through the use of approved methods. Thus, the policeman falls into irregular practices for the sake of convenience and to get the job done; practices that are most certain to lead to trouble.

This is not a condition that has come upon us as an influence of the war, but is, on the contrary, one that has been with us since the inception of police service in the United States. The records of our courts show many instances in which law enforcement officers have exceeded their authority. Many civil actions have been instituted, seeking redress for wrongs suffered at the hands of over zealous policemen, and innumerable instances have gone unchallenged.

The public in the past have naively avoided consideration of the fact that the principal difference between a democracy and a totalitarian form of government is not so much in the laws under which they operate as it is in the method of their administration. The public is gradually awakening from its passivity toward the principles of personal liberty. Illegal invasions of the sanctity of private homes, unreasonable detention of persons suspected of crime, and withholding from the innocent and guilty alike the right of due process of law, is bringing increased criticism of enforcement officers both from the public and the courts.

The time is near at hand when police administrators, who attempt to protect their agents from false imprisonment suits by pressing vagrancy charges against the individuals illegally detailed, will find such ill-considered subterfuge a boomerang.

*(To be concluded in the July-August Issue)*