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Fred J. Cogshall

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ARE WE BUYING THE TROJAN HORSE? The Need for Police Respect of Constitutional Rights

Fred J. Cogshall

Fred J. Cogshall has been an Instructor at the Institute of Criminal Law Administration, Indiana University, since 1947. His acquaintance with police problems was developed through first hand experiences with the Indiana State Police and during military duty with the Provost Marshal Department of the Army in World War II. Mr. Cogshall has contributed to this Journal previously on problems of police training (*Standards in the Selection of Police Instructors*, Vol. 39, May-June 1948). Police administrators and civic minded citizens will find his current article to be a sharp challenge.—EDITOR.

The police profession as a whole is being assailed by forces such as it has not encountered actively within its history. The invention of the Trojan Horse was mere child's play compared to modern techniques of deception and subterfuge—but it set a classic pattern. These forces are known by many names, but they all tend to the same end: Control of persons and government by one person or by a small clique that is responsible to no one. Call the technique by whatever ideological name which may come to mind, the form proposed is not the way of living as set up by the forefathers of our nation.

Never before in history has this country been so big, so wealthy, so powerful, and so thoroughly disliked by others. Never before has it been so necessary that all police departments protect the rights and privileges of the citizen regardless of race, creed, or political faith against intrusions from without. It is necessary that these rights be protected, for they are the entire basis of our government, and the loss of these rights would constitute an entirely new type of governmental control. The American Constitution has remained relatively unchanged, especially in its Bill of Rights since its adoption. Through court decisions and police practices we have set a pattern of criminal law administration. These decisions and practices are not the foundation of our living, rather they are the structure above the foundation within which we must live and work.

To effect a breakdown of this structure and an uprooting of the foundations of American society, it will be necessary to destroy it a piece at a time. The strategists and tacticians call this principle, "divide and conquer". Examination of the pattern of "divide and conquer" shows that in the recent world war in Europe in every instance the control of police and police functions was of paramount importance to the attacking force. This police control covers not only the daily activities of the citizens

but goes on into their rights; rights of which, in many instances, the citizens possess only meager knowledge.

Further examination shows the pre-attack pattern is somewhat this fashion. Police are encouraged to operate without legal restrictions particularly in cases that arouse public indignation such as arson, murder, and rape. This non-legal type of operation, backed by public sentiment to a degree, tends only to retract further the knowledge of rights within the minds of the public. The public loses an awareness of its liberties while the hue and cry is in full sway. These operations set a precedent that will be enlarged at a later date by those assuming despotic control. Police are further urged to violate civil liberties of the citizen particularly in the field of search and seizure, some of the citizens even being willing victims, in order that dissatisfaction with the manner of performance of duty may be created in the public mind. The police are beset constantly by pseudo friends who spread this propaganda and encourage the use of illegal tactics only for ulterior motives.

Another method of creating internal friction should not be overlooked. Police officers as a professional group are prone to gossip—not only of cases but of administrative matters as well. This practice perfectly fits the pattern that is desired by the forces without the law. Gossip is the fertile field for the growth of the budding half truth into the ripened falsehood. Such falsifications are most difficult to combat as they are generally accusatory in nature, and the truth of the situation is not sufficient to counteract the element of doubt created in the minds of the police officers. Some departments have been successful in combating this habit of the policeman, and all departments should make greater attempts to eradicate this evil. The motives of the above two courses of action are basically the same; a desire to create unrest and dissension within the department itself.

Such dissension and violations of civil and criminal rights creates a low morale factor within a police organization, and the organization becomes easy prey to the more overt changes of administration. Thus, in a relatively short period of time, a police organization is ready for a change of administration and welcomes any change with the feeling that “anything would be better” than the preceding regime.

What allows this state of mind to occur? It is simply a lack of knowledge of basic constitutional law and a strong tendency to do the job the easy way or just “be lazy”. It is the product of ignorance and lack of self discipline. It is much easier to

third degree a confession from a suspect than to spend the time and energy gathering evidence that will convict him without his confession. It is more satisfying momentarily to inflict punishment on a prisoner than to stand by quietly and wait for due process of law. These are only two of the more common police techniques that aid directly in creating the moral dissolution so dear to the hearts of those who would set up a police controlled and fear dominated form of government. These techniques are the mark of the lazy and ignorant as well as the despotic minded.

In order to counteract these factors the police administrator must set up a system of education within his department that will indoctrinate thoroughly the individual police officer in the civil and criminal rights of suspects and accused. The acknowledgment and enforcement of these rights should be a matter of paramount importance to all supervising officers as well as to the titular head.

Many will say that this close adherence to the rules will hamper seriously the work of the police organizations. The obvious answer to this complaint is that such close adherence has never been tried by all police departments. It has been given lip service only; never has it been truly practiced.

Our Federal agencies are more prone to adhere to the rules of proper procedure and constitutional law than are the state and local establishments, and the respect that is accorded to these Federal agencies as well as their court records are sufficient proof that close adherence to the rules will work. Though the occasional lapses in protecting the rights of the people often have been corrected by court action, too often the correction has been detrimental not only to the morale of the police agency involved but has created a greatly lessened respect on the part of the public whom they serve.

It has long been known that persecution of a cause will increase its growth while laughter has killed many worthy ideas. The expansion of Christianity is an outstanding example of an idea whose growth was vigorously cultivated by the persecution of the Roman emperors. All police organizations should be extremely careful that they are not lured into a trap where the charge of persecution can be leveled at them by groups whose only idea is to obtain persecutory publicity. These groups flourish on a diet of persecution and because of persecution draw to their banners many who otherwise would look only with disdain upon their cause. Again this is the only one phase of the Trojan Horse method of obtaining control of the police establishment.

Charges of persecution can be avoided by impartial dealing with all persons and groups. Impartial attitudes may be obtained only by knowing the rights of all parties involved. A few of the many situations in which charges of persecution frequently are made are: Labor difficulties, racial troubles, political parties, and religious groups. These are the most common and fertile fields of endeavor for those who seek to control police systems and, as a natural consequence, the form of government and way of living.

In addition to this study of civil and criminal rights of the citizen, a thorough study of the article "Ethics in Police Service"¹ is strongly recommended. This code is outstanding in its simplicity. Yet it will apply many years in the future even as it might have been applied for many years past. The knowledge of the citizen's fundamental rights, administered in the light of this code should go far in preventing the police establishment of our country becoming a victim of those who seek control of our government by violent strategy.

Certainly this is a danger that is to be faced. The American police systems can become a victim of the Trojan Horse just as did the European systems in the recent war unless the twin steps of self preservation are taken: Education and self-discipline.

¹ Don L. Kooker, Jr. of *Crim. Law and Criminol.*, 33(1):61-74, and (2):172-186 (1947).