

Summer 1999

A Law Enforcement Program for the State of Illinois

Earl H. De Long

Fred E. Inbau

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Earl H. De Long, Fred E. Inbau, A Law Enforcement Program for the State of Illinois, 89 J. Crim. L. & Criminology 1315 (1998-1999)

This Tribute is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

A LAW ENFORCEMENT PROGRAM FOR THE STATE OF ILLINOIS*

EARL H. DE LONG AND FRED E. INBAU

The primary responsibility for the enforcement of the criminal law in the United States has been assigned from the beginning to the agencies of local government—to the sheriff, the coroner, and the prosecuting attorney of the county and to the police departments maintained by our cities. During the last thirty years, however, public officials and private citizens in one state after another have come to realize that local government has failed to carry the burden of its responsibility in this respect. It has become increasingly apparent that the task of investigating crimes and of apprehending and prosecuting those persons who are guilty of criminal offenses must be shared in some large measure by the administrative agencies of the state governments themselves.

In a few of the states—not more than twelve at the most—the realization of this need for positive intervention by state government has led to the establishment of the most effective police agencies in the United States—the state police forces, for example, of New York, Pennsylvania, and Michigan. In most of the states, however, no such effective or comprehensive state agencies have been established. Nevertheless, the pressure of public need has required that some action be taken in this same direction and, as a result, many of those which do not have full-fledged state police forces have a least a state bureau of criminal identification and investigation or a state highway police force, or both. In the majority of these states, and especially in those which have both such agencies, there is an urgent need for coordination of the separate agencies and policies into a single, well-integrated program of state action.

It is not the purpose of this discussion to present any extensive analysis of the problems of criminal law enforcement. The

* Originally printed in 26 J. AM. INST. CRIM. L. & CRIMINOLOGY 741 (1936).

timeliness and the fundamental importance of consideration of this problem of state law enforcement organization are assumed. It is the intention here to deal very specifically and very briefly with the law enforcement situation in the State of Illinois, which is paying out a large sum of money annually for the support of state activities in the field of general criminal law enforcement and which is getting very little in return for that expenditure. The Attorney-General's Conference on Crime which met in Washington in December, 1934, emphasized most vigorously the fact that the major responsibility for criminal law enforcement must continue to rest with state and local agencies. Governor Horner of Illinois has evidenced his special interest in this problem by his membership on the Attorney-General's Advisory Committee on this problem of law enforcement. This combination of the factors of urgent need and current interest makes it especially appropriate to consider the Illinois problem and to suggest possible improvement.

The general outline of the discussion will be: (1) The extent, the cost, and the effectiveness of present state government activities in general law enforcement in Illinois; (2) a brief summary and comment upon the cost of effective state law enforcement programs in a few other states; and (3) an analysis of the changes which might be made in the present Illinois policy and practice in this respect.

In considering this Illinois problem one definite conclusion becomes quite apparent upon even cursory examination: The people of the state of Illinois already have at their command two official state law enforcement units which could be improved and utilized in such a way that without expenditure of any greater amount of money the state would have a highly effective law enforcement program. To attain that result, however, drastic change is necessary.

One of these agencies is the Illinois State Highway Maintenance Police; the other the State Bureau of Criminal Identification and Investigation. This Bureau, although seriously handicapped by inadequate appropriations since its creation in 1931, has been an astonishingly effective and successful agency. A large part of the millions of dollars spent on the state highway police since 1923, however, might just as well have been donated to charitable institutions.

The biennial appropriation for the Highway Police was \$2,300,000 in 1931 and \$2,000,000 in 1933. Before 1931 this

unit was supported from the general highway maintenance appropriation of \$8,200,000 in 1929, \$6,000,000 in 1927 and 1925, and \$3,000,000 in 1923. How large a part of these appropriations went to the highway police does not appear from state budgets or the appropriation acts. From 1923, when the force was created, until 1929, the personnel strength was one hundred men or less. In 1929 the number was increased to three hundred, and in 1935 the legislature authorized an increase to three hundred fifty, and also increased the appropriation to \$2,500,000. The duties and powers of the force are prescribed by the Act of 1923, as it has been amended: (1) to enforce the provisions of the Motor Vehicle Law and of Article 8 of "An Act to revise the law in relation to roads and bridges," approved June 27, 1913; (2) to patrol the public highways and rural districts to make arrests for violations of the provisions of these acts; (3) to act as conservators of the peace and as such "have all powers possessed by policemen in cities, and sheriffs, except that the maintenance policemen hereby authorized may exercise such powers anywhere in the State." (This provision has been construed rather strictly by the attorney-general, and it has been assumed that these police powers relate only to motor vehicle and highway laws and not to criminal laws in general); (4) to cooperate with the police of cities, villages and incorporated towns, and with the police officers of any county, in enforcing the laws of the state and in making arrests and recovering property; (5) to collect delinquent automobile license fees; (6) to check the weight of any motor vehicle for the purpose of determining whether or not such vehicle is of a weight in excess of that permitted by law; (7) to determine, whenever possible, the person or persons or the causes responsible for the breaking or destruction of any hard-surfaced roadway, and to arrest all persons criminally responsible for such breaking or destruction; and (8) to inspect the highways within assigned districts and report the condition of such highways to the superintendent of highways.¹

For the services of this agency under these provisions the people of Illinois are paying a sum far in excess of that paid in other states for the performance *not only of these functions assumed by the Illinois highway police but also for general police work which the*

¹ Act of June 29, 1923; L. 1923, p. 562; Ch. 121, § 308 *et seq.*, Smith-Hurd Ill. Rev. Stats. (1935).

Illinois agency avoids because of the narrow construction placed on item (3). It may be that the Illinois Highway Maintenance Police have patrolled the highways (though only in the daytime, except for special detail) and reported the breaks and holes which appear from time to time, but there is abundant evidence that at no time in its history has this organization been an effective or adequate police agency even for the enforcement of the motor vehicle law alone. The explanation is found (1) in the thoroughly political basis upon which the personnel is chosen, (2) in the astonishing deference to political considerations which seems to govern the administration of the force, and (3) in the utter lack of any effective training of the men who do become highway policemen. Of all the men comprising this police force only *nine* have been in the department five years or more. Only *one* of the eighteen sergeants has been on the force longer than five and one-half years, and of the two hundred and ninety-three officers, only *five* have had five years or more experience. The average number of years of service in the entire force, including mechanics, clerks, etc., is slightly over *two and one-half years* (2.67).² What can be expected from such an organization, where political sponsorship alone determines the tenure of service of every member of its personnel?

In mentioning these facts no criticism is directed toward any one political organization or its representatives. The system itself makes for such conditions, and they will continue to exist, as they have ever since the creation of the force in 1923, until some fundamental changes are made which will no longer permit their continuance.

In very favorable contrast to the State Highway Police is the Bureau of Criminal Identification. The biennial appropriation for this latter unit is less than *one-fortieth* that of the highway patrol (\$41,460 in 1933, and \$49,250 in 1935), and yet, even with such a totally inadequate budget, and consequently an underpaid and insufficient number of personnel, it has been developed into a very effective and indispensable law enforcement agency. Its success may be attributed largely to that fact that the Bureau has been permitted to operate with a minimum amount of political interference, and under the supervision of a trained and competent individual. Politicians seem to find the highway patrol much more lucrative, by virtue of the much larger ap-

² Figures based upon official records as of January 1, 1936.

propriation and the greater number of outlets for its distribution. In this respect perhaps the Bureau's inadequate funds and very small personnel (ten in number) have been blessings in disguise.

This Bureau is primarily an identification department—somewhat of a clearing house or repository for identification data (such as fingerprints, photographs, etc.) and information concerning Illinois criminals and their activities—the resources of which are available to all local law enforcement agencies of the State. The value, importance and necessity of an organization of this nature are quite evident, and invaluable assistance has been rendered by this Bureau to the various police departments throughout the state and to numerous law enforcement agencies all over the United States.

Although known from its inception as an investigation bureau as well as one for identification purposes, the legislature in its original act³ neglected to empower this Bureau to perform any functions of an investigational nature. The Superintendent and several members of his staff have nevertheless ventured forth in some instances as state investigators, but only when their assistance has been requested by local authorities or upon instructions from the Governor in matters directly affecting the state's interests. Such activities have been carried on, of course, without any specific legislative authority to this effect.

At the recent session of the legislature an appropriation of fifty thousand dollars was made to the Bureau "for the purpose of investigating the destruction of property and the imperiling of lives by bombing *and other acts of violence*, this amount to be expended at the direction of the governor."⁴ Although this provision was intended to take care of the desperate situations which have arisen in the coal mining districts of the southern part of the State, it seems sufficiently broad to cover other types of investigations as well, but *quaere* as to whether or not it does, and particularly so in view of the action or rather the absence of any action taken upon a proposed amendment introduced at the last regular session of the legislature which would have conferred general police investigative powers upon the Bureau. This proposed amendment provided that "every agent of the Bureau shall be a police officer of the State of Illinois and shall

³ Act of July 2, 1931; L. 1931; p. 464, Ch. 38, § 780a *et seq.*, Smith-Hurd Ill. Rev. Stats. (1935).

⁴ § 9, Act of July 1, 1935; L. 1935, p. 133.

have, throughout the entire state, all the powers in relation to the prevention of crime, the arrest of criminals or of persons suspected of being guilty of a crime or misdemeanor, and the preservation of the peace that are now possessed by sheriffs in their respective counties."⁵ Unfortunately it went no further than to the Committee on Judiciary, presumably for the reason that other general legislative matters considered more urgent were occupying the attention of the legislators during the closing dates of the session.

In addition to the Bureau and the Highway Police, there is yet another state unit which may be classed as a state law enforcement agency. As a matter of fact its members are equipped with uniforms practically the same as those worn by the Highway Police except for the absence of a coat sleeve design consisting of an outline of the map of Illinois. We refer to the force of fifty investigators operating out of the Automobile Department of the Secretary of State—at a cost to the taxpayers of \$90,000 a year. Its duties consist chiefly, it is said, in patrolling the highways (along with the Highway Police, of course) in search of automobiles bearing old license plates or none at all.⁶

For the purpose of this analysis the State of Illinois may be considered as having not only two but three state law enforcement agencies: The Bureau of Criminal Identification and Investigation, the State Highway Maintenance Police, and the investigation division of the Automobile Department of the Secretary of State. The total biennial appropriations for these three units is \$2,729,250, a figure⁷ which should be kept in mind when considering the cost of the law enforcement programs in several other states.

⁵ House Bill No. 602, 59th General Assembly, 1935.

⁶ § 43a of the Act of July 9, 1935 (An Act in Relation to Motor Vehicles) provides: "The Secretary of State, for the purpose of more effectively carrying out the provisions of the laws in relation to motor vehicles, shall have power to appoint, without reference to any civil service law which may now or hereafter be in force, such a number of investigators as he may deem necessary. It shall be the duty of such investigators to investigate and report violations of the provisions of this Act and of the provisions of 'An Act in relation to the regulation of traffic,' enacted by the Fifty-ninth General Assembly, which relate to the operation and equipment of motor vehicles. With respect to the enforcement of these provisions, such investigators shall have and may exercise throughout the state all of the powers of constables and police officers." See L. 1935, p. 1223.

⁷ This does not include the special appropriation to the Bureau of the \$50,000 previously mentioned, but it does include the 1935 increase in the Highway Police appropriation of \$500,000 to be used for the construction and maintenance of a state police radio system, to be discussed later in this paper.

This discussion of the cost and the effectiveness of these Illinois state law enforcement agencies requires some comparison with the cost of other state police agencies which are generally acknowledged to be efficient and effective. A brief statement of the experience of a very few states seems adequate for the present purpose. The states chosen are New York, Pennsylvania and Michigan.⁸

The New York Division of State Police has a regular line personnel of approximately 570 officers and troopers, 88 officers and troopers on special park details, and 26 civilian employees. The annual appropriation for the fiscal year ending June 30, 1934, consisted of \$1,103,221 for personnel services and \$1,097,000 for maintenance and operation, including travel, equipment, and communication (including a state-wide teletype system)—a total cost of \$2,200,221 for the year. The New York bureau of criminal identification is in the Department of Correction and is not included in this appropriation.

The Pennsylvania State Police Department on June 1, 1934, had a strength of 372 officers and enlisted men and 51 executive and bureau employees. The appropriation for this department for the fiscal year ending May 1, 1934, was \$2,255,031 which included \$864,756 for salaries, \$192,531 for the operation of the teletype system, and the balance of the appropriation for other operation and maintenance expenses. This appropriation includes the maintenance of a bureau of identification. It is important to note, however, that Pennsylvania also maintains a state highway patrol which is entirely separate from the State Police Department.

It is not the New York nor the Pennsylvania forces but rather the Michigan Department of Public Safety, recently renamed the Michigan State Police, which offers the best illustration of what might be done with the money which Illinois now spends for state participation in law enforcement. The area of Illinois is 56,665 square miles. The area of Michigan is 57,980 square miles and topographically, largely because of the upper

⁸ The figures and statements concerning these departments are based upon the official published reports furnished the writers by Mr. John Adams Warner of the New York State Police, Mr. Lynn G. Adams of the Pennsylvania State Police, and Mr. Oscar G. Olander of the Michigan State Police.

peninsula, Michigan is more difficult to patrol than Illinois.^{8a} On February 1, 1935, the Michigan department had a personnel of 215 officers, troopers, operators, and identification employees, and 42 clerks, stenographers, mechanics, cooks, etc. For the year 1934 the total appropriation of this department, including personnel services, a bureau of identification, a laboratory for the scientific analysis of evidence, the operation of a radio transmitter, and all other operation and maintenance costs, was \$605,336.25. This astonishingly low appropriation indicates that Illinois might well turn to Michigan to learn how to make the most effective use of the money spent by the state government on the enforcement of the criminal law.⁹

It is not the intention of this discussion to present any detailed analysis of the methods of the Michigan State Police. Let it suffice to say that this agency is engaged in the performance of general police work, including the patrol of highways, throughout the entire state of Michigan. While it restricts its activities primarily to the rural areas, the facilities of the department are available for criminal investigation or assistance within municipalities as well as outside. There can be no doubt that this agency has one of the most enviable reputations for police efficiency of any police department in the United States—an agency against which the Illinois state highway police make a sad contrast indeed.

A brief summary of some of the characteristic policies of this Michigan department may explain the difference between the Michigan and Illinois agencies:

(1) The Commissioner in charge of the Michigan force was originally appointed on the basis of merit, has continued to hold his office even when the control of the state administration changed from one party to the other, and has rigidly kept political considerations entirely out of the operations of his department. The statute organizing the department was recently amended to provide that the commissioner should hold office during good behavior, without definite term, and should be

^{8a} However, the total mileage of all roads in Illinois is 97,157, whereas in Michigan is 86,054. Pennsylvania has a total mileage of 110,326 and New York 84,998. (Figures obtained from Personal Service Bureau of Chicago Daily News.)

⁹ Of course, the salaries paid in Illinois are higher than in Michigan, which partially accounts for the difference in expenditure, but this fact does not seem to operate to Illinois' advantage nor to Michigan's disadvantage regarding the quality of personnel.

removable only by the supreme court of the state after a hearing on charges of malfeasance or misfeasance in office. (It is important to point out, however, that the excellence of this department was attained before the statute provided for this rigidity of tenure.)

(2) The officers and men of the department have been chosen on the basis of merit without regard to their previous political affiliations. They continue to hold their positions as long as their performance is satisfactory, and do not participate in any way in political activity. (This practice might be contrasted with the complete turnover of personnel in the Illinois Highway Police with the advent of each change of political administration.)

(3) The men who are recruited into the Michigan State Police are given a thorough training before they are sent out to perform the duties of their position. At the present time the department has entered into a cooperative arrangement by which Michigan State College is to train men for the Michigan State Police.

The Illinois State Highway Police force is larger by a hundred men or more than the Michigan State Police Department. The state of Illinois spends several hundred thousand dollars more each year for the maintenance of state law enforcement activities than the state of Michigan. Yet, Michigan has an exceedingly effective program, while the results in Illinois are negligible by comparison.

It is essential that extensive changes be made before Illinois can expect from its state law enforcement agencies a performance at all comparable with that found in Michigan. A state police force for Illinois, performing all the functions now within the province of both the State Highway Maintenance Police and the Bureau of Identification and Investigation, as well as others not undertaken by these units, would, without doubt, be the most desirable change; but Illinois' previous experience in this matter indicates that any attempt at the present time to create outright a full-fledged state police force would meet with certain defeat. Any law enforcement program for Illinois, therefore, must of necessity center upon reorganization and development of existing state agencies rather than upon a more radical departure such as the undertaken in certain other states by the establishment of state police forces. Nevertheless, practically the same result can be accomplished in Illinois by (1) giving full effect to the powers already possessed by its present state agencies;

(2) by improving the personnel of such agencies and also the methods of their operation; and (3) by effecting a closer relationship between each agency, as well as a finer integration of them into the general structure of state government.

As previously mentioned, the 1923 act creating the Highway Police specifically provides, in Section 2, that they "are conservators of the peace and as such have all powers possessed by policemen in cities, and sheriffs, except that the maintenance policemen hereby authorized may exercise such powers anywhere in this state." This language seems sufficiently broad to vest this police force with much greater power and authority than it has ever attempted to exercise. As a matter of fact, however, it carefully avoids any straying off the highways even for the purpose of merely "cooperating" with local authorities, although the statute clearly authorizes such action. An explanation for this restriction of activities, at least since 1932, may be found in an Attorney General's Opinion rendered in October of that year¹⁰ in answer to an inquiry concerning the general police powers of the highway patrol. A conclusion was reached in that opinion to the effect that the Highway Police are not authorized "to embark upon any general or special law enforcement campaign having no connection with their duties on the State Highways, except when requested to assist or cooperate with the regularly constituted peace officers of the locality in which riots or other violations of the law are in progress or seriously threatened." Some rather illogical reasoning constituted the basis for this ruling. For instance, the presence in this act of a provision regarding the duty to "cooperate with the police officers of any county" is considered as indicative of an intention on the part of the legislature to limit generally the highway patrol's jurisdiction to cases in which its assistance or cooperation is sought by local authorities. Consequently, the extensive provision mentioned previously is of no effect whatsoever, since the powers and duties relative to the highways are specifically enumerated and defined, and unlimited authority granted elsewhere in the act for the handling of matters pertaining to the highways.

One fact which gives some indication that the legislature did not intend to have the State Highway Police hold itself en-

¹⁰ Illinois' Attorney General's Opinion (1932), p. 511, No. 4173, August 24, 1932 (Oscar E. Carlstrom).

tirely aloof from any general police work or duties is the provision in an act of 1931 concerning the establishment and operation of state radio broadcasting stations.¹¹ The legislature at that time authorized the Department of Public Works and Buildings to establish and operate one or more radio broadcasting stations for the purpose of sending out "all police dispatches and reports submitted to them which pertain to the apprehension of criminals, the prevention of crime and the maintenance of law, in order to assist peace officers more effectively to discharge their duties." The act further provided, and herein is the point which we wish to make at this time, that the Department of Public Works and Buildings was authorized to use any money appropriated to the Highway Police in order to carry out the provisions of this act. No appropriation was made for this purpose, however, until the recent session of the legislature when the Highway Police appropriation was increased by \$500,000, with the understanding that this sum be used for the establishment and operation of the radio broadcasting stations. Stations are now under construction in Chicago and Springfield, with five others to follow: one each at Du Quoin, Effingham, Pontiac, Macomb and Sterling.

It is suggested that a test case be made for the purpose of definitely determining the extent of general police powers possessed by the State Highway Police. If a favorable decision results therefrom then this force should be given every consideration possible, principally toward the mapping out of an adequate program and the much needed improvement of its personnel.

In the event no such effort is made to settle the matter, or if a decision is rendered to the opposite effect, there would still remain a place for this unit for the purpose of merely patrolling the highways, but with a confinement of its activities as such, there should be *an appropriation commensurate with this modified program*—a sum considerably less than the present one. The surplus, or the difference between the present appropriation and what it should actually be, could then be converted to the Bureau of Identification and Investigation, which now possesses a semblance of statewide jurisdiction in criminal investigations, with the bright prospects of further powers in this direction.

¹¹ Act of July 7, 1931; L. 1931, p. 460; Ch. 38, § 780h, Smith-Hurd Ill. Rev. Stats. (1935).

The Bureau could then be enlarged and further developed into a very powerful and highly effective organization.

If the desired alternative suggested above concerning the highway patrol be accepted, then both units should receive equal consideration in any program of state law enforcement. Both could be improved and developed, but their functions integrated as much as possible. No increased appropriation is required, but merely a readjustment of some sort. Moreover, some arrangement should be effected whereby all or most of the duties of the fifty investigators of the Secretary of State should be assumed by the Highway police and thus save a considerable portion of the \$90,000 appropriated annually to the Secretary of State for this purpose.

In considering the relationships which might be effected between the Bureau of Identification and Investigation, the State Highway Maintenance Police, and the general structure of state government several possibilities suggest themselves. One, however, seems by far to be the most desirable and that is the transference of the Bureau and of the Highway Police out of their present respective departments and the re-establishment of them as separate agencies or combined into one—*directly responsible to the governor and under his exclusive control.*

Whatever policy is followed, and whatever the legislature of this state may do to improve the present deplorable situation, it will become necessary that the personnel of any such agency or agencies be placed under civil service in order to eliminate as far as possible any political interference, particularly so in the matter of appointment. If the work of these agencies is to match that of Michigan and New York—and such can be accomplished—some change must also be made in the selection and tenure of the head or heads of these agencies. The statutes should be changed to provide for appointment by the Governor, on the basis of merit alone without reference to political affiliations or interests. It ought to be provided further that the man so chosen shall serve for an indefinite tenure, and shall be removable by the Governor only after a public hearing or a written statement of charges.

A decided improvement can be made—without any additional cost whatsoever to the taxpayers of Illinois. This state already has the facilities and the necessary funds to initiate a program which in its ultimate effectiveness would be second to none in the entire United States. A coordination of these vari-

ous activities into one workable unit, under conditions free from political interference is all that is needed. The State of Illinois would then occupy a commanding position to eliminate to a very considerable extent the profits and advantages which the criminal element of this state now realizes because of the absence of such a far-reaching and effective program.

