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POLICE SCIENCE

SUPERVISING THE USE OF POLICE AUTHORITY

STANLEY R. SCHROTEL

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A democratic society is naturally sensitive to the use of authority delegated to its representatives in government. Any real or imagined abuse of such authority provokes an immediate reaction and tends to alienate either the whole society or segments of it. This relationship not only compels government to be responsive to the need for proper use of its power, but, in order to merit public support, also demands that the employment of such power be in direct proportion to the extent of the need.

In terms of power, a police agency enjoys a unique position in the community of governmental units. Implicit in its responsibility to protect life and property rests the authority to seize property and to deprive citizens of their freedom of action. Authority of such magnitude brings into sharp focus all acts of those called upon to exercise it. It becomes necessary, therefore, for a police agency to inventory the uses of inherent powers for the purpose of evaluating public reaction thereto.

Such an inventory was recently conducted by the Cincinnati Police Division, which revealed a faulty procedure, gradually generating public disrespect not only for the agency but also for the principles of justice it represented. May we hasten to add that the deficiency detected was not peculiar to our operation but is rather common to police work.

It consisted of (1) a failure to provide protection to the conscientious police officer accused of using a greater degree of force than necessary to accomplish the arrest of a difficult prisoner; (2) the detection of the officer who, because of faulty training or emotional instability, could not execute an arrest without the ostentatious display of force and authority. In both classes of cases, affirmative action was necessary. But, inasmuch as the greater portion of our personnel was embraced in the conscientious category, the obvious workable solution must of necessity appeal to them. With this thought in mind in presenting the problem to our men, emphasis was placed upon the fact that reported incidents of alleged police brutality tended to develop resentment against the police authority with the concomitant loss of the most essential ingredient of a successful enforcement program—public confidence and support. This was particularly true with minority groups.

For the purpose of describing the problem in proper perspective, we stressed the desire of every policeman to be identified with a progressive enforcement agency and

suggested that if the agency was to merit that distinction, it must have adopted, as standard operating procedure, the best techniques and disciplines of police science in the never-ending task of identification, apprehension, and prosecution. By so doing, the agency obviated the defective thinking which supports the use of extreme and repressive measures in dealing with the law violator.

We found another persuasive reason dictating discreet treatment of all citizens, stemming from the presumption of innocence until guilt is established by a proper court. Anything beyond firmness and fairness at the hands of a police officer does violence to this basic tenet and makes mockery of the principle that ours is a government of law and not of men.

It was pointed out that an officer might ignore entirely the reasons advanced for the need of exercising care in the execution of an arrest and that such indifference might lead him to conceive of his relationship with the arrested as a personal affair. Unfortunately, the truth is that every citizen who comes in contact with police authority, particularly members of minority groups, recites his experiences with the police to enough people to establish a basis for the development of a community or group attitude toward the police agency. Therefore, a single instance of abuse of police authority becomes identified with the entire police force, generating hostility against all policemen.

Logically, then, the true victims of police abuse were not those individuals against whom the abuse was directed but rather the police themselves. With so much at stake, affirmative action was imperative. But the action, of necessity, had to be so designed as to treat the two general categories of police personnel in a manner which would protect one and detect the other. In other words, the administration had to provide both (1) a means of establishing the justification for the degree of force used by officers acting in good faith, and (2) a method which would identify those whose behavior revealed their need of either additional training or some degree of discipline.

A staff study by qualified executive officers evaluated the problem and resulted in the following general order:

PURPOSE:

- (1) To facilitate refutation of unwarranted charges
- (2) To protect police personnel
- (3) To aid in correction of deficiencies

PROCEDURE:

(1) Whenever it becomes necessary to strike any person in order to ward off a physical attack, the person struck will be taken to the station or office of the arresting unit accompanied by the arresting officer.

(2) He will there be interviewed and examined by the officer in charge who will secure all facts pertinent to the case and report them on Form 17 for the unit commander.

(3) If the prisoner is suffering from any illness or injury, he will first be sent to General Hospital for treatment and thereafter be returned to the unit station for interview by the officer in charge.

(4) The officer in charge will cause Forms 262 and 316 to be completed, showing prisoner's physical condition. These forms will accompany the prisoner to the central station.

(5) No charge of resisting arrest or assault and battery will be filed by arresting officers without orders from the officer in charge.

(6) The officer in charge at central station will determine by observation of *all* prisoners whether any of them be suffering from illness or injury, and will not accept any injured prisoners into custody unless accompanied by reports indicating that they have been examined or treated or that they have refused to submit to examination or treatment.

(7) In the event that a prisoner requires treatment subsequent to the time of registration, the officer in charge at central station will send him to General Hospital, complete a Form 316, and convey pertinent information to the arresting unit for entry in the blotter.

(8) Information recorded in conformance with this directive will be promptly forwarded by the unit commander or acting commander, with his comment, to the chief's office, so that complaints may be quickly answered without delay occasioned by the conduct of prolonged investigations.

Because a directive so broad in scope might be misinterpreted as an attempt to limit the action of a police officer facing an adversary who could only be influenced by the demonstration of physical superiority, at the very outset two objectives were stated: (1) To facilitate refutation of unwarranted charges; (2) To protect police personnel.

One might wonder how compliance with such a directive would serve to accomplish these two objectives. Careful examination of its content, however, reveals some latent possibilities. First, in every instance in which it becomes necessary to strike a person, the police officer is compelled to bring such person before his immediate superior. Thus, an opportunity is provided for the supervisor to inquire into the propriety of his subordinate's action by examination of subject, witnesses, and officer. Possessed of information supporting the necessity for his subordinate's action the supervisor documents his findings in a report to the chief's office. Here the report is reviewed and filed in anticipation of a possible charge of police brutality made either by the subject, his relatives, or an interested organization. If a complaint is made, the details of the report are of immeasurable value in refuting the allegations against the officer and in conveying to the complainant the agency's obligation to defend the officer's action.

This procedure is far superior to the customary method of passively hoping that a complaint will not be filed, and, in case it is, starting a defensive investigation too late to get reliable information or witnesses.

Over and beyond the advantage of placing the enforcement agency in a position to act affirmatively lie the benefits to the internal strength of the organization. We allude, of course, to the influence the new procedure has upon morale of the agency when it becomes apparent that the administration is prepared to defend personnel acting in good faith in the performance of a difficult chore.

Another purpose ascribed to the directive, and by no means a subordinate one, finds expression in this terse language: "To aid in correction of deficiencies." This phrase is extremely broad but necessarily so for the purpose of stating a delicate objective in an inoffensive manner.

The objective becomes operative in those instances in which investigation discloses that the degree of force employed had been excessive. In such cases the train-

ing section is alert to the possibility that the officer may have employed the prescribed technique but that the technique itself is faulty. Should this be true, the experience and the philosophy which gave birth to the technique are re-evaluated for the purpose of devising more effective procedures.

When it is determined that the employment of excessive force was not the result of faulty technique but rather a shortcoming of the new officer, the training section attempts a retraining job. A reported repetition of the same mistake by the same officer may indicate that the motivation causing his abuse of authority is too deep-seated to be affected by training. At this stage the administration should be in a strong position to terminate the services of such a poorly qualified officer.

A question which logically presents itself regarding the effectiveness of our directive has to do with a case in which force is used by a police officer, who thereupon fails to comply with required procedures. In other words, is it possible for a police officer whose official act falls within the area of interest to conceal such activity by ignoring the rule? To such a question we can only respond by saying that, if the police agency has sincerely demonstrated to its community that abuse of authority by any of its personnel will not be tolerated and that a citizen's complaint will be impartially investigated, noncompliance with the directive will be almost impossible to achieve.

There may also be a question regarding the efficacy of the directive in those cases where the supervisor might collaborate with his subordinate by falsifying the required report. Nothing in the directive itself would preclude this subterfuge. But, inasmuch as reports executed in compliance with the directive are filed in the service record of the police officer involved, the filing of a second such report automatically causes the Personnel Bureau to investigate the facts of both incidents.

We would be remiss and less than honest if we implied that the introduction of this directive into our agency's regulations was a painless experience. First, we had to overcome the feeling of most of our men that we were limiting their authority and exposing them to physical abuse. Second, we had to overcome the inherent opposition to report writing.

At this time the directive has been in effect approximately six months. Has it accomplished its purpose? We can only report that since its adoption we have not received one complaint regarding the excessive use of force. More time will enable us evaluate the procedure more effectively.