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# Prosecuting Organized Crime

Summaries of Speeches to 1974 NAAG Seminars

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The National Association of Attorneys General  
Committee on the Office of Attorney General



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Committee on the Office of Attorney General

**PROSECUTING**  
**ORGANIZED CRIME** -

Summaries of Speeches

to NAAG Seminars

(N-T-A-A-G)  
1974

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**PREFACE**

The National Association of Attorneys General held a series of seminars for prosecutors on organized crime control. These were funded by the Law Enforcement Assistance Administration under Grant 73-PT-99-0002, and were held at the following times and places:

March 19-21  
March 31 - April 2  
April 10-12  
April 29 - May 1  
May 12-14  
May 20-22  
June 10-12

Atlanta, Georgia  
Portland, Oregon  
Denver, Colorado  
Minneapolis, Minnesota  
Madison, Wisconsin  
San Francisco, California  
New York, New York

The seminars were intended for prosecutors with experience in prosecuting organized criminal activity. Each was restricted to twenty attendees, from local prosecutors' and Attorney Generals' offices. Because the attendees were already familiar with the general problems of prosecution in this area, it was decided to restrict the seminars to three subjects that offered a potential for increased prosecutorial activity: the corruption of public officials; tax law enforcement; and enforcement of state antitrust laws.

The speakers were all selected because of their practical experience in these kinds of prosecutions and their ability to offer specific advice to attendees. While the subjects remained the same for each of the eight seminars, the speakers on some subjects varied from seminar to seminar. This allowed flexibility in meeting the needs of particular groups of attendees.

Because of the success of these seminars, it was decided to summarize and publish the speeches so that they could be available to a wider audience. Most of the summaries were prepared by the staff of the Committee on the Office of Attorney General, and were approved by the speakers. In the case of speakers from federal agencies, a composite summary was prepared, and sent to the agency for approval.

At the time these seminars were held, the Honorable Robert Morgan was Attorney General of North Carolina and Chairman of the Committee on the Office of Attorney General. The Honorable Robert Warren was Attorney General of Wisconsin and President of The National Association of Attorneys General.

Mr. Albert M. Neal, Jr., was responsible for preparing this publication. Mr. A. Wilder Wadford, Jr., served as coordinator for these seminars.



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**FORMATION AND MANAGEMENT OF THE ORGANIZED  
CRIME CONTROL UNIT**

**Attorney General Richard J. Israel, Rhode Island.**

The State of Rhode Island affords the observers and participants in the criminal justice system a unique opportunity to experiment in state-level investigation and prosecution. The smallest state is sufficiently compact so that a statewide unit does not have geographical limitations. The state already has centralized prosecution in the Office of the Attorney General. All felony prosecutions, from grand jury indictment to post-conviction reviews, are conducted on behalf of the state by members of the staff of the Attorney General. In this view, the entire state is the equivalent of a single district, circuit or other prosecution unit in most other states.

A single state prosecution jurisdiction does have the advantage of transcending limitations of intrastate jurisdictions, law enforcement and prosecutorial, as well as judicial. It also has an advantage in being relatively removed from, but not unresponsive to, local public pressures. For many states, the Rhode Island model might apply only to districts and circuits embodying more than one political subdivision of a state. In other states the model might be applicable to a criminal justice function serving a statewide jurisdiction, but with appropriate modifications to deal with distinctive geographical and population distribution burdens. In some jurisdictions an investigation and prosecution unit would serve best to aid and support a local multi-jurisdiction or single jurisdiction investigation and prosecution system.

In Rhode Island we based the design of our statewide anti-corruption

unit on the successful operating pattern employed in our Organized Crime Investigation and Prosecution Unit.

The first essential characteristic of such a unit is that it is a distinct operational team, combining investigators and prosecutors in a separate operating unit. We deem it imperative to the success of any such unit, dealing as it does with "victimless crimes", in the sense that injured complainants do not seek out law enforcement and maintain a personal interest in the prosecution, that both investigators and prosecutors develop a strong rapport and understanding of each other's requirements. The investigators must be aware of the continuing requirement of the prosecutors for the production of legally-admissible evidence from investigative leads as each case develops.

It sometimes comes as a shock to investigators and detectives to learn that their investigative job is not finished when and if they "turn a file over" to a prosecutor for prosecution. It likewise comes as an occasional shock to prosecutors to learn that there comes a day when an investigation is no longer productive and time and energy can be better devoted to developing new cases or new directions on old cases.

It is critical that the unit physically work together. Investigators and prosecutors must follow a case on a one-to-one basis from developing leads to closing arguments to the trial jury and even to appellate arguments. I have never heard of and don't believe that the kind of crim-

ina: activity, which is the target of these units, can be thoroughly and effectively dealt with by detectives and prosecutors who deal with one another on a case-by-case basis, on the telephone or by letter from separate offices. The prosecutors and detective-investigators must share physical facilities just as they share the problems of building successful prosecutions. They must live day by day with each other's difficulties. Soon they will learn to appreciate each other's practical and professional capabilities and limitations. Lawyers stop trying to be detectives, and detectives stop trying to be lawyers. The discussion between police and prosecution soon loses any sense of being adversarial and soon becomes truly cooperative. At that point, and only at that point, can the investigation and prosecution of public corruption be a sustained activity of the criminal justice system.

As a corollary point, we have found that the unit must be a separate unit. By this we do not mean to suggest that there should be a new criminal justice agency. What we have done has been to physically isolate the facilities of the unit. It ought not be in either the prosecutor's or the policemen's headquarters. There are several reasons, not the least of which is the requirement of internal security, both in physical and communication terms. Another important consideration is the temptation by prosecutors' offices and police departments to "draft" the investigators and prosecutors for other missions when manpower shortages, inevitable to all criminal justice agencies, occur in the respective agencies. The policemen remain policemen; the prosecutors are still state's attorneys; the investigators continue to do their

job; but they all operate together in relative isolation from other requirements of their respective agencies.

The second essential requirement is that the unit have direct access to the highest official having jurisdiction in the geographical area served. If the unit is a state, and the Attorney General has statewide criminal jurisdiction, the unit must have direct personal access to him. If the geographical criminal jurisdiction is for constitutional or other reasons less than the whole state, then the unit must have direct personal access to the chief prosecutor. The reason for direct access is due in our experience to the enormous political, and not always or necessarily partisan, ramifications of the problem of corruption, especially in government. It is axiomatic in a well-run organization that the chief's main interest is everybody's main interest. The chief must not be inaccessible to the men and women developing public corruption cases, who sense that resistance to their investigation is due to a misunderstanding by others of the chief's firm intention to prosecute fully and thoroughly. It also must be clear that the unit has at least equal if not better contact with and understanding of the intentions of the chief than any subject of their investigation.

Another essential point is that the unit have a continuing existence. We have all witnessed very effective prosecutor-investigator teams organized from time to time to deal with a specific problem at a particular time and in a particular place. When the particular problem abates, the special prosecutors return to private practice, the investigators return to their agencies, and human nature being what it is, the problem or one like it recurs in the not far

distant future. A continuing unit symbolizes for the public the existence of continuing governmental determination to look for corruption rather than to respond on an ad hoc basis or react to corruption uncovered by other sources.

Other important matters to consider are the legal tools that must be made available to the unit. In many states the substantive criminal law must be updated. Many corrupt acts are either not criminal at all or are relatively minor offenses. The burden of proof imposed on the prosecution is sometimes unjustifiably increased by antiquated special requirements of the law. An example is the two-witness rule in perjury prosecution. Another is a too rigid legal requirement of corroboration of accomplice evidence. A statewide unit can develop the expertise to present the requirements of a revised criminal code to a state's law-making body.

Many investigative tools are essential to such a unit. Most important are witness immunity; plea bargaining; wiretap and bugging; statewide investigative jurisdiction; and the statewide grand jury. It is quite obvious that many of these tools require the presence of the prosecutor on the anti-corruption team. The importance of immunity and plea bargaining cannot be underestimated as case building techniques.

A traditional prosecutor-detective team alone will not always be sufficient to prepare the kinds of cases an anti-corruption unit will want to develop. Auditors, accountants, engineers, and architects, and other specialists are free from improper influence. The concealment of corrupt activities usually involves manipulation of books of account at some point in the scheme. Tax evasion is sometimes the only substantive of-

fense for which an individual guilty of corrupt acts may be effectively prosecuted. The presence of a full-time auditor-accountant, who knows how to prepare fiscal evidence and testify before juries in such cases is very important to an anti-corruption unit. But, for all the same reasons that teamwork is the key to successful activity between prosecutors and criminal investigators, the accountant-investigator should be a full-fledged team member, not an outside consultant, if at all possible.

Broad based community support is also critical to the success of an anti-corruption unit. Without strong community confidence in the ability of the unit not to compromise or jeopardize its sources of information and in its ability to obtain guilty pleas and verdicts, with genuinely deterrent penalties, the unit will not be effective. This is really a case of success breeding success. That is why a successful unit ought not to be disbanded; it ought to be expanded. The unit ought to have the advice and guidance of a community-based advisory council. While such a council ought not to direct or control the unit, it can serve two particularly valuable functions. It can serve as the source of information and direction as to the presence or extent of corruption in state and local governments. It also serves to reassure the community, including the traditional criminal justice community, that the anti-corruption unit will not become a super-secret police unresponsive to the public notion of the threat of corruption.

In summary, what you need for the basic unit is: a knowledgeable, respected director who has control; investigators, both police and civilian; a team of specialists, including auditors, accountants, polygraph op-



erators, and criminologists; and a clerical staff that serves only the unit. Give these people what they

need to get the job done. Don't let the logistical tail wag the operational dog.

#### H. Alan Dill, Assistant Attorney General, Organized Crime Strike Force, Colorado Department of Law.

To begin, you must first identify the prevalent organized crime problems in your particular geographic area. For example, some problems are more common to large urban centers—problems such as the numbers racket, bookmaking, and corruption of public officials. Less urbanized areas may be "retirement" centers for organized crime figures, or natural transportation routes for smuggled narcotics.

The general population as well as key government officials must be convinced of the existence and threat of the particular types of organized crime in a given area. This can be hard to do in areas of small population. Publicity can be generated by grand jury reports or by such activities as police raids that produce physical evidence. Try to involve citizen groups as much as possible, taking heed to protect confidential information. The public can be educated as to where to look to see that a problem exists: for example, at old court records or at newspaper clips of historical value on the history of individuals involved in organized crime.

Selection of investigative personnel is the key to effective operation of your unit. Look for individuals who have local experience and knowledge of the background, ties and relationships of criminal figures. When picking men from local investigative agencies, get firm commitments as to tenure in the project. Otherwise, the first raid on the mayor's "buddies" may cause transfers. Also, if

you are successful in your efforts, there is a danger that big law firms may make lucrative offers to staff members in order to lure them into private practice.

Most prosecutors are not career people, so you should attempt to get some type of commitment. Police will not work closely with a lawyer who they know will be on the defense side in a year or two. In Colorado, a three-year gentlemen's agreement was used.

Investigative control should always rest with the chief investigators. Experienced police may fight with a lawyer's "advice", but they will never jeopardize a case that is based on sound counsel. Prosecutors are often somewhat more conservative in order to build a strong case instead of dwelling on gathering miscellaneous bits of evidence.

One final boss for legal decisions is also a necessity, as more than one lawyer on one problem always results in varying legal opinions. Further, aim at uniformity in legal advice to head off "lawyer shopping" by police for an opinion that most suits their needs. Never write an affidavit for the police: let them write all the facts, then add the legal corrections.

In starting a unit, federal funding or LEAA money is almost always necessary. To continue funding, you must convince your source that you are productive. The major stumbling block, though, is initial equipment costs. In budgeting, remember that most lawyers are not good business-

men or accountants, so always seek some form of professional advice. In complying with frequently-changing LEAA requirements, you will lose valuable legal time if delegation is not made to the appropriate source. With large units, a good accountant can save hundreds of hours of lawyer time and can usually do a superior job. Note too, that a C.P.A. or accountant is a prerequisite to any worthwhile financial or tax investigation. For example, a C.P.A. found an unrecognized tax case against a bookie who had failed to withhold taxes for his employees—i.e., his phone men. The result was that \$147 in unpaid withholding got the bookie four to five years sentence and a \$10,000 fine.

For day-to-day operations, start at the bottom—organized crime cannot be eliminated in two years, or even ten years. For example, in attacking bookmaking, start with hitting the phone men. Shooting for the top man prematurely can have serious long-term drawbacks. This is especially true when trying to get a corrupt public official. A premature move and acquittal will result in the defense next time saying it is only a political move that has failed before. Also, don't limit yourself to one operational method—search warrants, for example. Your investigators will soon get wise to your method.

In intelligence gathering, use existing intelligence files in police departments. Police, however, will not give this type of information out readily—sometimes it takes years to build a relationship of trust. Use can be made of a "Captain's File" for collection and dissemination of intelligence. Screen information that is given out to participating agen-

cies, i.e. no information on current active investigations. Check all local newspapers and periodicals. They contain information on such things as divorces (a valuable source is a disgruntled ex-wife) and financial matters involving purchases of assets. Establish rapport with other agencies because one individual may give out information from telephone requests.

A confidential report that is prepared for police agencies only can be valuable. It gets needed names and descriptions to the officers on the street. Feedback here is the greatest source of intelligence. Remember civil liability problems though, and have recipients sign out for each individual report. Several thousand of these have been given out in Colorado.

Coordinate grand jury activity with your day-to-day operations. Note that perjury is the greatest prosecution tool available. Even when evidence of the actual crime does not develop, perjury may occur. For example, in a bookmaking investigation, a subordinate refused to incriminate his boss for a misdemeanor offense and committed perjury in the process. He was indicted and convicted, receiving thirteen to fourteen years. In Colorado, perjury is the number one offense for organized crime figures now in prison.

Be aware, too, of new investigative techniques, and use them. Check with other units, including those in far-flung jurisdictions. One useful device is the Penn Register, which records numbers dialed. You can use this even in states which have no wiretap statute, because a federal court has held that the use of this device alone, without a voice recorder, is not wiretapping.

**Stanley L. Patchell, Assistant Attorney General, Chief of Criminal Division, Arizona Department of Law.**

The practical aspects of the prosecution unit tailored to combat official corruption run the gamut of all the practical considerations which face law enforcement generally and politicians involved in law enforcement in particular. In order to talk about this subject, it is first necessary to identify the type of unit that you want to establish. And in order to do that, it first is necessary to understand what the various functions are which must be performed by any unit which is going to engage in this kind of prosecution.

Much of what I say about these subjects I've learned from personal experience and by virtue of extensive travel and interviewing of people who are in this field. When I first became involved in this back in 1971, I had no idea as to what a unit such as this should be doing, and, therefore, I traveled throughout the United States, talking with people and finding out what it is they did which qualified them and helped them in combatting official corruption and organized crime. I think perhaps that the same basic techniques and office organization are necessary in order to combat both organized crime and official corruption. Most often they go hand-in-glove and, because of this, the same basic kind of a unit can be employed in either case.

Before there was a determination made by our unit as to what was necessary for ultimate prosecution, we had some problems facing us that I am sure are the same almost throughout the United States. Back in 1971, after I'd left the United States' Attorney's office to take the job with the Attorney General's office to establish the organized crime

unit, I tried to define and thereby address these initial problems. I had also been involved in several organized crime type prosecutions. Because of this, and because of my background in the United States' Attorney's Office involving grand jury investigations such as Weathermen, I was hired by the Arizona Attorney General. But it was at that point that I sat down one day in the office that had been provided for the organized crime unit and I said to the investigators and lawyers: "Here we are. We are the Strike Force and what we are going to do is—well, what are we going to do?" It became clear to me that I didn't know what we should be doing first. I didn't know how to go about handling, from the very beginning, an investigation which was going to end in a prosecution of an organized crime-type figure. So I said to myself, "I am going to have to learn just what it is the people are doing in the organized crime units around the country; at that time, I think that there were only nine states that had organized crime units, Strike Forces as such. So I visited the offices—federal, state, and local—of all the units we could possibly contact within the couple of months that we had to get the program going to find out just what it was and how it was that they went about accomplishing what an organized crime unit was supposed to accomplish.

As a result of those interviews, contacts, and trips, I concluded that there were basically five elements which every such unit had to have in order to function properly. Whether this is all self-contained or whether any particular part of it is done by someone else doesn't really matter

to much. Someone has to do it and it has to be done in more or less the following order: there has to be: 1) intelligence collection; 2) intelligence analysis; 3) subject identification; 4) subject investigation; and 5) prosecution (or, as I'll talk about later, your objectives may be satisfied with something less than prosecution.)

First of all, it is necessary to have intelligence. The intelligence supplies the fabric from which investigations and prosecutions are to be made. In my travels around the country, I found that each individual unit that I visited either had its own intelligence set up or had one at its disposal. This is one of the most important parts of an office which is involved in official corruption or organized crime prosecution and which is not typically part of the prosecutor's background. It became obvious that it was extremely important to the operation of this type of unit.

In most law enforcement agencies that I've visited, the intelligence unit is the pride and joy of the management. Much is done about guarding the information that goes into these units, and law enforcement people generally feel that intelligence should be handled much as it was during World War II and the way that it is generally handled in the military today: That is, super-secret and not to be disseminated. I don't agree with a blanket proposition. However, it's a practical consideration that you are going to have to recognize when dealing with agencies which have their own intelligence units. People in law enforcement seem to have the attitude that any information concerning organized crime-type people or people involved in the corruption of politicians is to be guarded and kept in the strictest of confidence and secrecy. They believe

this even though they may be dealing with only the name "Joseph Bonnano" or the names of Joseph Bonnano's sons, their ages, their birth dates, etc.; you can't even get that innocuous kind of information out of an intelligence unit unless you're known by them and trusted by them. That seems to be the general policy. It has no association with logic or reason, but that's just the way it is and something that you are going to have to learn to live with. However, most of the information that has been gathered by people involved in intelligence is mundane and it doesn't actually reveal anything startling about anyone. Usually, it takes quite a bit of work once the information has been gathered before it begins to make significant sense. And it is in this analysis of the information and the conclusions that are drawn from the analysis that it begins to take on some degree of importance insofar as law enforcement is concerned. However, the people in law enforcement don't seem to distinguish between the raw intelligence, which means almost nothing, and the analysis of that information, which really does begin to take on some significance.

An additional part of the problem insofar as this intelligence business is concerned seemed to be that the people who collect intelligence are often times not willing to say to you, "I don't know what Joe Bonnano's doing—I don't know what Meyer Lansky's doing—I don't know what Peter Licavoli's doing"; that is, their illegal activities. There are lots of ways of finding out what they are doing otherwise. Their travels; associates; etc. However, the way they may be getting their money from the organized crime elements or corrupting politicians obviously is not



known to the intelligence people or to anyone else in law enforcement. If it were, they would be telling it to their enforcement divisions and the divisions in turn would be making cases and those cases in turn would be brought to the prosecutors who would proceed to prosecute.

The fact is that this is not happening frequently enough. And it is not happening, obviously, because the people involved in gathering intelligence don't know what it is that these people are doing that is illegal. They can't show that someone is getting a cut of the gambling out of New York City or Los Angeles. If they could do that, there would be no question but those people would be prosecuted for those offenses. So we have to go with the basic assumption that law enforcement doesn't know what their illegal activities are and, consequently, is not able to prosecute. And when I say "know" in this sense, I'm not talking about what they're "believed" or "rumored" to be doing; I'm talking about probable evidence.

I'd like to make a pitch for a more complete dissemination of information among interested agencies. Pride of ownership—knowing something about a hoodlum that no one else knows—should not be an impediment to a free distribution of such information unless such dissemination might hamper an ongoing investigation or endanger the safety of an informant. If information is gathered and put into a drawer, the only people that it's being kept from are law enforcement people. The hoodlums certainly know their own activities and associates. The argument that they might be alerted to the fact that they are being investigated or observed is fallacious; most hoodlums believe that they are

under 24 hour surveillance anyway. So, while you may have no way to disseminate on a wide basis, I'd at least try to establish a policy which will foster that sort of attitude among those agencies with whom you deal.

In Arizona, at the time that the organized crime unit was established in 1971, there were only a few agencies involved in intelligence gathering. Those agencies were the Department of Public Safety (essentially the state police), and the Phoenix, Tucson, and Scottsdale police departments; basically those were the people who had intelligence operations. However, there were lots of agencies throughout the state who had some small amount of information and who wanted to give and receive information but really had no one going around soliciting it. Our basic principle in the Attorney General's Office was that we would collect, analyze, and disseminate information. But we realized that we would quickly lose necessary credibility if we did not disseminate it in a manner that won the approval of local units. So we started an intelligence bulletin, distributed monthly. It disseminates information, and alerts and informs the law enforcement people to the problems of organized crime. Also included is a solicitation for intelligence information, which unfortunately, seldom gets replies. In the agency information solicitation sheets is a space for explaining to the agency how the information is to be used, general distribution, our own use, etc. If we want an update on some individual, we send along a Xerox with the bulletin to all agencies asking for any available information. The bulletin also keeps our unit's name before the other agencies and helps build credibility. Also, we put out a sheet

that contains nonclassified information that may be of interest as a sort of public service project. It is given to anyone who has an interest in crime prevention.

If any one of these subjects does not apply to your situation then please try just to fit it into your situation; think of how you're going to get your intelligence, for instance, if you are not equipped to do so and don't intend to establish your own intelligence collection. Where is your information going to come from? If you don't have your own collector, you've got to get it from somewhere; you have to get some other agencies to agree to supply you with the information. Because you must have it. You can't operate a unit designed to combat official corruption without having intelligence concerning corrupters and the corrupted.

Now, it may be that you will be content to establish a unit which will operate what I call the knee-jerk-reflex, which is the typical law enforcement operation and is almost universally used in investigating street crimes. There isn't any pre-selection, there isn't any pre-investigation or there is very, very little. When it comes down to a crime such as murder, rape, robbery, or burglary, only once in awhile—for instance, if there is a rapist who is operating in a particular area who has the same method of operation—is there an effort to zero in on that particular individual and to establish an operation designed to catch him. Sometimes burglary units are designed to catch burglars who are using a particular method of operation. But ordinarily, it is not until there has been a citizen's complaint that most law enforcement units go into operation. If your unit is to be established on that basis,

then you are going to sit around twiddling your thumbs most of the time. Political corruption does not get reported very consistently. Even if it is reported, it is usually reported on the basis of suspicions, so there has to be an investigation. There has to be an intelligence collection at some point when dealing with political corruption.

Once the intelligence has been collected, it must be analyzed. The significance of it must be discovered and the trends which begin to develop can then be used to zero in on the targets for intensive investigation. An analyst who can do this sort of work and do it well is a valuable asset to any unit. We looked for some time in an effort to get an analyst and eventually got a man with a background in military intelligence. Outside of the military, there are very few trained analysts and only recently has there been the recognized need for them.

Because of the difficulty in getting an analyst and the obvious benefits of having information cross-indexed, I designed a system of recording information on cards which had an original and three carbons and were cross-indexed as to name, location, organization, and crime activity. This amounted to having the same information in four different card files but filed four different ways so that in a particular area, the index would show who it was that was operating and what their particular area of illegal activity was. The activity index would show who was engaging in a particular kind of activity and where they were operating, etc. I was told by several agencies that had they been able to start over, they would have had at least three cross-indexes. Perhaps when computers become available,

this sort of system will be unnecessary, but most small units can't afford that sort of luxury at this stage.

After the collection and analysis has occurred, there should be some initial indications as to where the most probable area for results would lie. Our determination in this respect was based upon these criteria: (1) who was presenting the most serious problem to the people of Arizona and, at the same time; (2) presented a reasonable opportunity for successful investigation and prosecution.

At this point, let me mention that there are objectives other than prosecution that are pursued by some of those engaged in the fight against organized crime. The objective could be to expose to the public the activities and associates of certain notorious figures so that they have greater difficulty in conducting their activities and often times are prevented from taking advantage of friendships among powerful friends, legislators for instance, because the legislator can't stand the adverse publicity which would accompany such dealings. The objective may be to confront the individual in every legal way possible so as to precipitate an abandonment of criminal activities and perhaps even foster a move to another area of the country. This should be done, of course, only in accordance with observed and observable infractions and within the confines of the law. Any or all of these objectives might be pursued, depending on the stated objectives of the unit and the opportunities that present themselves.

Not much need be said about the procedures which apply once the subject has been identified for intensive investigation, except that the investigation must be conducted in

a very patient and painstaking way because there probably is no crime that has been isolated as being attributable to the target subject. The investigation will probably be much easier if your state has a grand jury capability and an electronics surveillance capability. The experience nationwide seems to be such investigations produce people who are afraid to talk with the police and will probably refuse to talk with anyone unless confronted with the alternative of sitting in jail. This sort of confrontation produces good results, especially if there is a witness immunity statute to go along with the grand jury.

Another practical matter that I wanted to talk about is the authority to run the unit. I understood that I was to head the unit and make the day-to-day decisions without question, while general policy would be decided by the Arizona Organized Crime Prevention Council. It didn't work out that way. Because the Arizona Attorney General and Director of the Arizona Department of Public Safety, both heads of autonomous agencies, jointly originated the project, my counterpart at the D.P.S. thought that he was running things, and I thought I was. Consequently, the investigators often were doing things without my knowledge. They took vacations, spent Strike Force money and changed personnel without consulting and often without even notifying me. This was an intolerable situation, not conducive to good relations nor productive work effort.

It is also an unfortunate fact that the best people in a police agency are probably not going to want to become an integral part of a unit which will take them away from their officer friends and out of the main-

stream of the police agency. They feel they will become forgotten men—out of sight, out of mind—and perhaps out of a promotion. So, if you can do so, hire your own investigators or go to work for the police agency yourself. But have only one boss for the unit. It can't work where there are two.

Finally, although this must come first practically, let me mention funding. Arizona's Organized Crime Unit came into existence by virtue of a grant from LEAA. The grant enabled the Organized Crime Prevention Council and the state agencies involved to take a good look at just

what the problems of organized crime are in Arizona and how we can best go about combatting them. What works and what does not work; what legislation is usable, and what is needed. There is still money available through LEAA for organized crime projects and it is certainly a help to explore the practical aspects of a permanent unit in your jurisdiction. Eventually, the entire operation will have to be funded by the jurisdiction, but hopefully, within the time given by the grant, the need or lack of need for your unit will have been demonstrated.



## COMBATting PUBLIC CORRUPTION

**Michael F. Armstrong, former Chief Counsel of the Knapp Commission and District Attorney for Queens County, New York.**

The Knapp Commission was a citizens' commission which arose as a result of a newspaper's expose which, in turn, arose as a result of information given to the mayor and police force by two policemen. It conducted an investigation into improper police actions and a coverup of these. The investigation lasted less than a year. The aim was not to prosecute cases, but to find out what was going on and how. Hearings were held, culminating in a report. A great stir was created by the revelations of corruption with the result being public awareness. The patterns of corruption were publicized with the important effect of allowing the administrators involved to understand the problem and to attempt to minimize it. This displays well that the ultimate objective in such a situation of public corruption—*i.e.*, its elimination or minimization—is not always accomplished by concentrating solely on effecting arrests and convictions.

A great number of activities fall under the general definition of corruption, some being more serious than others. So you must ask two questions: is it serious? is it pervasive? Remember that there is an objective standard of right and wrong, but that there is also a moral standard; you have to have an understanding of why the bribe is being offered or taken. Each situation has its own peculiar pressures and subtleties. Consider these various types of corruption and their widely varying degrees of seriousness: free meals, accommodations, and merchandise; monetary gratuities; voluntary tips for services rendered; pay-

ments for nonperformance of duty, whether involving trivial or serious laws and regulations; payments for the sale of confidential information; payments for abuse of authority; shakedowns based on illegally obtained evidence or false accusations (*e.g.* a "plant" job) and theft and outright complicity in criminal activities.

Note also the different types of activities which are involved in payments. First, there is intra-agency activity, as where five dollars is paid for the privilege of going to court earlier in the day, etc. There is individual activity of a non-criminal nature, favors and the like. Business activities may be either legitimate or may violate the law in order to conduct otherwise legitimate operations. For example, builders in New York are saddled with a number of complex regulations, some of which they would love to have overlooked. Criminal activities can be of a consensual nature, such as gambling, prostitution or narcotics or can be violent such as murder, burglary, or hijacking.

The element of pervasiveness of the activity is crucial. There will be some individual isolated events not condoned by or known to other public officials in the group. These are individual events indulged in by many as a matter of accepted custom. These can become so engrained that individual policemen have been known to lie and say they had taken bribes, due to peer group pressures, when they had not. Then there is organized corruption, involving the active participation of many. For example, in New York virtually all

gambling squads were found to have a system whereby each individual would get a monthly "nut", or payment from the gambling influences. In organized crime, there has to be at least tacit approval of the supervisors involved.

To combat corruption, you must first identify and recognize the nature of the problem and the pressures which cause it. It is important that political leaders and agency heads acknowledge the nature and extent of the problem. For instance, in Los Angeles, a monthly list of disciplinary actions taken (not by name) is given to the press. The attitude is that problems of the police will not be hidden. In general, violators should be removed, but always consider the tactic of "turning" a violator and using him to uncover larger patterns of corrupt activity. Try to change attitudes in situations involving pervasive corruption. Pride in doing things the right way is important. There should not be a disharmony between the way things should be done and the way things are "really" done. Try to effect changes in laws, procedures, and the agency organization to minimize pressures and opportunities for corruption.

In all cases of serious corruption, criminal prosecution is necessary. Remember that this alone may well be sufficient where the corruption is serious and non-pervasive, but that in serious, pervasive patterns, attitudes of the agency as a whole must be restructured. Where the corruption is limited to non-serious and non-pervasive activities, criminal prosecution is appropriate and probably sufficient.

An aggressive approach is needed, directed towards identified and suspected areas of corruption; not lim-

ited to responding to complaints as they come in. Seek out patterns. Extensive use of undercover agents is valuable for investigation but, remember, there is a bias by the courts against their use in public corruption cases. Adequate tools for prosecution are needed, wiretap, immunity, etc. You also need to be able to wire your informants in various cases. For example, bribery being the very private crime that it is, a body-mike may be a virtual necessity in order to develop adequate evidence. Be willing to grant immunity to arrested public officials in return for undercover work—discovery of larger patterns of corruption may be the reward. Concentrate on bribe-givers as well as takers. Go up to a policeman, for example, and tell him you are wiring him, and want him to go hand a summons to a corrupt builder down the block. If the policeman is corrupt, he will tip himself off or the builder will, by expressing outrage to the policeman whom he believes to be in his back pocket.

In combatting corruption, also make use of law enforcement agencies not connected with the agency under investigation. You should be capable of conducting an investigation on your own, but cooperating with other agencies always betters the investigation. Federal authorities can often be a great help here. Also consider the special prosecutor concept. The best idea would be to have such an officer monitor other prosecutors, rather than to make cases on his own. Press for an inspector general in the state, as this would provide a valuable check.

Where pervasive but non-serious corruption makes arrest and conviction impractical as a reform measure, institute systematic reforms. Make it clear that supervisors will

be chastised for the acts of their subordinates, through transfers and other methods. This will make them more responsible monitors of corrupt activities. Be certain that records are kept accurately. Organizational reform in one degree or another may be necessary. As for training, the more, the better. In New York, it used to be that nothing was said about corruption during police training. Now, a full breakdown of corrupt practices is given, so that rookies don't get it firsthand from corrupt officers. Have a system of personal evaluation whereby people will be held accountable on all levels; this is effective.

Additionally, in systematic reformation, you need adequate means for present and future intelligence gathering to protect against further and further abuses. Adequate disciplinary authority and methods are

**Evan Jahos, Director of Criminal Justice, New Jersey Department of Law and Public Safety.**

In the late 1960's, the media, including *Life* magazine, assailed New Jersey for its extensive public corruption. Legislative committees began hearing evidence of pervasive bribery in the state. For years, work had been going on to provide legal tools to go after public corruption, but none had made it until the publicity came. Then one night, Assistant Attorney General Brennan of New Jersey remarked that he had evidence that three state legislators were close to organized crime. After that, no legislator could safely vote against organized crime legislation.

A package of legal tools emerged by 1970. The package included: an electronic surveillance law; a witness immunity law; a state commission to spotlight problems; a statewide

necessary, perhaps through the civil service or employee organizations. As previously mentioned, unenforceable or unrealistic laws and regulations must be changed. Finally, an overall monitoring of your anti-corruption efforts should be done by an outside agency.

Public support should be enlisted for your anti-corruption operation. Cooperate with investigative reporters and the press as most corruption leads originate with them, and they are effective. A way to break into the public view is with televised commission activities. Use public relations to acquaint the community with agency operations and encourage agencies to be open and honest with the corruption in the agency. To further such objectives, the Knapp Commission Report was published for the public.

grand jury; and a Division of Criminal Justice in the Department of Law and Public Safety. There have been results. In the last three years, there have been 340 indictments from the statewide grand jury, 120 of which involve public corruption. Defendants have ranged from policemen to the Secretary of State. The conviction rate has been 85 percent.

Prior to the enactment of the package, work against corruption was not being carried out effectively. The study commissions recommended establishing a statewide prosecutorial agency that would transcend county authority. The Division of Criminal Justice was created, which does have power to supersede statewide and which also handles the statewide grand jury. An obvious

problem here has been the resulting friction between county prosecutors and the division; however, there is enough work to go around. The division's policy is not to displace local prosecutors, but rather to help them.

In New Jersey, the Attorney General (who is not an elected official; only the Governor is) is quite powerful due to the fact that he is head of the Department of Law and Public Safety, which includes the State Police, Alcoholic Beverage Control, and the Division of Criminal Justice. In the latter organization, the most difficult task has been finding people who are good investigators and good prosecutors. Don't let your investigators think they are lawyers, or vice-versa. The Organized Crime Section in the Division includes twelve attorneys who work directly with the State Police Intelligence Bureau. There are a number of problems, too lengthy to fully enumerate here, with the handling of intelligence; one is that it's not unusual to have an officer keep information to himself out of personal or inter-agency rivalry.

It is crucial in corruption cases to put a lawyer into the investigation early. The corruption type of investigation requires extensive training of investigators and lawyers must participate in this. For example, lawyers were used early in a zoning variance investigation to instruct a policeman who had never even heard of a zoning variance. The state presently holds courses on white collar crimes. It is also important to gear your investigators to sophisticated techniques; no knocking down of doors, they must understand technical things.

One decision that had to be made was whether to have one lawyer follow a case from its inception on

through the trial. The decision was against this policy. Instead, one lawyer carries the case to the grand jury, and then a "trial lawyer" takes a second look at the case after the grand jury indictment. In staffing these positions stability is essential. Career opportunities with the prosecutorial staff had to be offered. So we recruited on a nonpolitical basis with an assurance that those recruited could look forward to a career with the Division of Criminal Justice.

Public corruption cases have a wide disparity, from the Vice President of the United States to the cop on the beat. Obviously, you can meet a separation of powers problem: how do you investigate the man who hired you? How do you keep the legislative branch out of it? As for New Jersey, it is not a big state, and everyone knows what is going on. You run into credibility problems when the investigator is a member of one party, and the accused is of another party. Often, truly consequential decisions have to be made. For instance, Governor Cahill was responsible for setting up a tough Division of Criminal Justice which resulted in the Secretary of State of New Jersey being indicted—knowing that this could injure the Governor's administration. There often are problems with persons who use an investigation of a public figure for their own political ends.

One of the most important and necessary tools against public corruption is the statewide grand jury. New Jersey has one which can sit anywhere and can investigate any statewide interest, with local grand juries pre-empted when the statewide grand jury wants to act. If your state has a grand jury, be sure to maintain its credibility. It should not be over-used, or cheapened; don't use

it for routine matters. Also, publicity really does not help. For one thing, the grand jury may be accused of leaks. In public corruption cases, remember to give your target the opportunity, by subpoena if necessary, to testify before the grand jury lest he later claim he never got his chance to talk.

A tool of co-equal importance with the statewide grand jury in prosecuting public corruption cases is a witness immunity statute; have one, and use it. We have used it a lot with building contractors. Note also that in New Jersey, every prosecutor must have prospective grants of immunity cleared with the Attorney General. This does remove some of a local prosecutor's discretion, but the Attorney General has never turned down such a request.

One of the biggest problems to be faced is venue. Don't try popular local politicians before local juries. One of our early cases was a bribery indictment against a local prosecutor for taking \$500 to fix a grand jury. We set venue in his county, where he was very popular. The state came out as the "bad guy," and the defendant was acquitted. Now, one assignment judge takes statewide grand jury indictments and can assign them wherever he wishes. The state supreme court has upheld the theory of statewide interest in being able to try a case anywhere in the state. As one judge said, a man is entitled to a trial by his peers, but not by his friends.

Electronic surveillance should also

be part of your legislative package. It's good for operations against organized crime, but not really good for public corruption cases. In the later, the consent wire (where one party consents to being wired) is most often used, if any electronic devices are used at all. Electronic surveillance simply has not been that important in conviction.

Generally, note that a type of case that usually falls down is the one where money has not been involved directly. In many cases, favors like free race tickets were dispensed; and juries would not convict on misconduct. They will convict if you can show that money was received.

In considering remedies, always remember alternatives to criminal prosecutions; for example, disciplinary proceedings that are administrative. A critical factor, too, is your relations with the press. When prosecuting public corruption, you need them on your side. If you miss here, you could encounter a situation like that in Camden, where the mayor was vigorously trying to rebuild the city when he was indicted by the Attorney General's office. A friend of the mayor's was the public relations man for the City of Camden. He pressured the press to run articles to the effect that the State Police were running around to politicians saying, "gotcha, gotcha." The press in Camden labeled the police as having "gotcha squads". You need the confidence of the public behind your efforts: this cannot be overemphasized.

## INVESTIGATIVE AND PROSECUTIVE TECHNIQUES

This is a composite of speeches by the following staff members of the Organized Crime and Racketeering Section, U. S. Department of Justice: Richard P. Crane, Attorney-in-Charge, Los Angeles Strike Force; Michael DeFeo, Attorney-in-Charge, Kansas City Strike Force; K. Eric Gieson, Attorney-in-Charge, New Orleans Strike Force; Alfred N. King, Special Attorney; Thomas E. Kotoske, Attorney-in-Charge, San Francisco Strike Force; David Margolis, Attorney-in-Charge, Cleveland Strike Force; Gerald E. McDowell, Attorney-in-Charge, Boston Strike Force; and Peter F. Vaira, Attorney-in-Charge, Chicago Strike Force.

The strike force concept has proved effective in combatting organized crime. This was initiated by the U. S. Department of Justice and has been adopted by about twenty states. It brings together attorneys and investigators, often from different agencies, for the sole purpose of investigating and prosecuting organized crime. Federal strike forces are now located in major cities throughout the nation.

Intelligence information gathering and exchange is the fundamental function of any entity formed to combat organized crime. Sources of information include: unhappy contract bidders; citizen complaints; referrals from other agencies; and leads from indexed or computerized materials. Nationwide, most substantive evidence has been produced by the use of informants and electronic surveillance. All information should be indexed along lines of inquiry and then correlated; patterns and trends will emerge. Note, though, that too massive a file of intelligence information can be counter-productive in that there may be no way of effectively getting to it.

Before any strike force effort can be effectual, there must exist the legislative tools to make it work. For example, immunity, wiretap, and special grand jury statutes are need-

ed. The importance of federal-state cooperation should be obvious: in a given case, one or the other may have an investigative or prosecutorial technique available to it that the other lacks.

Problems may arise if the federal authorities turn up evidence with a technique not allowed under state law. The prosecution is under state law. For example, the federal units often use legal wiretaps whose fruits are barred for state use. A tactic in such a case could be to attempt to use the wiretaps to "turn witnesses"; i.e., play the tape for involved persons and try to persuade them to testify, perhaps by offering immunity.

There are certain situations that characteristically produce public corruption. Among these are: patronage, as opposed to career personnel in governmental institutions; political interference in government or police operations, with transfers and promotions dictated politically; and the absence of effective outside law enforcement deterrents, as where an Attorney General can supersede an elected prosecutor. Within such areas, once reliable information on potential corruption has been developed, there must be a careful targeting of individuals—those apparently most amenable to further



investigation and ultimate prosecution and conviction.

Move carefully in the area of law enforcement corruption; the pitfalls are numerous. To begin with, people don't like to believe anyone they elected is corrupt. Further, lasting enemies can be made among the police. Finally, don't forget that federal judges are appointed for life. A very cold and hard case should be developed before any open, significant move is made. Start with a small scale operation and build it up from lower-ranking personnel. Corroborate all witness testimony in as many ways as possible.

An example of police corruption operation took place in San Francisco recently. Police officers were taking payoffs from Chinese who were conducting illegal gambling operations. Three trusted city police officers were used to take bribes from suspected officers. Ten cases were made, with the federal authorities taking two. They got one conviction and one hung jury. The other eight cases are being prosecuted by the district attorney. The federal-local united front hopefully will break some key witnesses and result in more prosecutions and convictions.

In a police corruption case, informers are often key figures. Their reliability must be solid and their stories very carefully scrutinized before action is taken, or local police cooperation may be lost due to a premature offensive move. Also use body transmitters so that you have tapes of transactions.

Federal investigators have found that one of the most fertile areas for investigation and prosecution of public corruption is the awarding of construction and service contracts. The ability of public officials to control the awarding of contracts and

the drawing of specifications, the control of determination whether the construction or service has been performed to professional satisfaction, and the ability to grant exceptions to the contracts—all present opportunities for the extortion of monies or the solicitation and receipt of bribes.

In the contracts area it is almost always necessary to first secure the cooperation of the contractor or the businessman who is paying the money. This can be difficult, as these individuals will not usually come forward unless they are faced with a question of financial self-preservation or jail.

Usually, the payor will have written off the bribe as some sort of business expense; rarely does he pay it out of personal monies. Thus, the key to any successful investigation of this type is to locate in the books and records of the contractor or businessman a method of generating cash. Tax authorities may be of help here. Be sure that your accountants do the checking in this area, as they have a much greater feel for irregularities than do attorneys. There may be a cash account for daily expenditures or a fictitious company that is supposedly doing business with the company in question. One common method is for the company to overpay certain employees who are then required to kickback the overpayment. Another method is to employ phony consultants or sales representatives whose only job is to deliver a great portion of their salary to the public officials involved.

Once the method of fictitious cash generation is found, prosecution can be brought or threatened against the perpetrators of the scheme for either federal or state income tax evasion; utilize taxing authorities. Both civil

and criminal actions should be contemplated. In most cases the individuals have clean records and are respectable members of the community. The prospect of indictment or jail usually causes them to cooperate and testify against the public official. Criminal prosecutions against a payor must be a matter of individual prosecutorial discretion.

The preparation of the payor as the state's witness should be given a great amount of care. When the witness comes to court, he usually is already under indictment or conviction; and he is subject to impeachment on the grounds that he is trying to save himself and his finances. The defendant is usually a well known public official with a long history of public service, able to call persons of the highest reputation as character witnesses. An additional major problem is that the state's witness, the payor, is usually a white-collar or professional individual, and is often reluctant to admit that he is a criminal. He does not like to disclose on the stand the degree of complicity on his part. Without this complete confession, his credibility is damaged because there will usually remain some illogical actions on his or the defendant's part, which weakens the prosecution's case.

Prosecution of public officials will vary according to the statutes of the state. Bribery, extortion, malfeasance or tax statutes will usually be available. There can be a fine line between bribery and extortion. Federal courts usually distinguish the two this way: if the contractor makes the approach, it is bribery; if the public official makes the approach, it is extortion. As a further refinement, it has been held that where the public official says, "if you want fair treatment . . ." it is extortion;

where he says, "if you want the job . . ." it is bribery.

Aside from tax violations, federal prosecutions of local officials are often limited where no interstate facility was used. But, one theory which originated in the Fifth Circuit is the public corruption theory of the mail fraud statute, 18 U.S.C. 1341. Most recently, this was used successfully in the *Kerner* case. Underlying this and similar cases is the theory that corruption of public officials is really a fraud upon the citizens of the political entity. This theory may well be used to fashion state criminal or civil actions against the public official involved.

Something that is important in all cases of public corruption, some obviously more so than others, is witness protection. Be sure you have the means to protect, and possibly relocate, your prime witness. It is a good idea to perpetuate key witness testimony by whatever means is available; depositions, etc. Such steps are often necessary in another area which is ripe for multilevel public corruption: gambling, in its many forms.

An example of stages of a federal strike force attack is a recent Louisiana-centered operation, which involved coin operated gambling devices. Gambling was widespread, and effective law enforcement was often lacking. The Kefauver hearings in the 1950's created a public outcry that resulted in phasing out the slot machines. However, they were gradually replaced by gambling-type pinball machines, called coin operated gambling devices (COGD). Widespread corruption became ardent and the New Orleans Strike Force was created on June 1, 1970.

The Strike Force began by identifying arranged illegal activities and

areas to be probed. The participating agencies agreed that corrupt activities by the COGD industry would be a prime target. Basic intelligence data were gathered, with the cooperation of state and local agencies. Attorneys undertook research, and a joint plan of attack was developed. It was agreed that there would be overt, routine seizures of machines, but there would also be covert development of bribery evidence.

The first seizures of coin operated gambling devices were made in July, 1970, under 28 USC 7302, failure to have a tax stamp. The IRS seized ninety-three COGD's in New Orleans. At the same time, the Strike Force learned that bribes had been paid to state legislators to defeat a proposal to outlaw such machines. A Chicago firm that was the sole manufacturer of COGD's reimbursed the bribe money by providing free machines.

The second seizures, made three months later, netted 351 machines. This step represented weeks of planning and involved the cooperation of participating agencies in identifying the location of machines and their owners. The third seizures, in November of 1970, were for failure to register as COGD dealers. Subsequently, all but five dealers in a two-state area registered, which meant that they were required to keep certain records. The IRS then requested dealers to supply information on location of machines; this information was intended to aid the FBI in an investigation. All the participating agencies then worked to establish a basis for probable cause, and warrants were obtained. The FBI then seized 3,784 COGD's in two states.

At the same time, New Orleans Strike Force attorneys were working

through the Chicago Strike Force to obtain records of the exclusive manufacturer of these devices, using grand jury subpoenas. Plans proceeded to seize the remaining machines in the Spring of 1971, and to make arrests under 18 USC 1955 for operation of illegal gambling businesses. The cooperation of an informant was obtained, by promising not to use information without his consent, and by promising him protection and relocation. Consensual eavesdropping was initiated, and the passage of bribe money was recorded on four separate occasions.

For a period of several months, there were over one hundred agents in the field on this case. Probable cause was obtained on operation of illegal gambling businesses (18 USC 1955), interstate transportation in aid of illegal gambling enterprise (18 USC 1952), and obstruction of state and local law enforcement in relation to gambling (18 USC 1511). Attorneys prepared writs of habeas corpus, temporary restraining orders, injunctions, and removal. In June, 1971, after the last bribery payment had been made, the IRS arrested ten persons and executed a search warrant. The FBI seized 605 COGD's in two states. Arrests were made on the basis of a 118 page affidavit, which was very explicit, in order to inform the public of charges against an influential official. The informant was relocated the day the arrests were made.

A special grand jury was impaneled in August. In the course of a four-month investigation, it heard hundreds of witnesses. In December, indictments were issued against the district attorney, the machine manufacturers, two police officers, and local operators. Defendants filed hundreds of motions during pretrial

proceedings and kept up a constant public relations campaign. Many complications developed in trial, some concerning testimony of the informant, who was unhappy with relocation and had returned to New Orleans.

As a result of the trials the local operators were convicted, although the Chicago manufacturer of the COGD's was acquitted. The district attorney was acquitted, but a police officer pleaded guilty of obstruction

in the same trial. There were other results. A corrupt industry was destroyed. Almost five thousand COGD's with a replacement value of over \$10 million were seized. The resulting public outcry led to the passage of legislation outlawing these machines. The public was made aware of corruption, and officials were made aware that they were not untouchable. Finally, the effectiveness of interagency cooperation was shown.

#### James Thompson, United States Attorney, Northern District of Illinois.

The Northern District of Illinois has the fourth largest U. S. Attorney's office and serves the largest federal district in the country. Four years ago the office had twenty-three lawyers; now there are seventy-three. This represents an enormous increase in resources. One of the things done with these resources has been to shift them around each year to what are considered to be priority case areas. In the criminal field in the last year and a half, the priority has been the investigation and prosecution of cases involving corruption. There is a special corruptions unit within the Special Investigations Division with ten or twelve men involved full-time. However, the caseload is such that there is a spillover into the rest of the Special Investigations Division and into the Criminal Division as well.

The Special Investigations Division was set up two years ago, primarily to deal with corruption and other long-term white collar crimes; things that usually required the investigatory powers of the grand jury at some length. I have found differences between work at the state and at the federal level—federal investi-

gators are expected to work on their own and, in the end, hand the prosecutors a finished package. In the state process, the state attorney, investigator, and prosecutor work more closely together. In the area of official corruption, we have sometimes modified the federal process by instituting grand jury proceedings and investigations before going to the federal investigative agency which will ultimately end the case. There are several reasons for doing this, the main one being that the laws on official corruption are such that a crime, bribery for example, may violate any one of several laws coming within the purview of different federal agencies.

In our district, we break official corruption down into five categories: state and local corruption; federal corruption; vote fraud; police extortion; and "ambulance chasing" by doctors, lawyers, insurance companies, etc. Since I have been U. S. Attorney, we have indicted over four hundred people on one charge or another under these five categories. We shift resources all the time in each of these categories, although we keep investigations going in all



five areas at any given time. For example, two years ago, we launched our heaviest attack against vote fraud and returned indictments against seventy-five people, reducing Chicago's notorious vote corruption substantially. Resources are most heavily concentrated, though, in the area of state and local corruption.

Official corruption exists in all three branches of government: executive, legislative, and judicial. In the legislative branch, an example of corruption is the "fetcher bill." This is legislation introduced without intention that it ever be passed. Its purpose is to fetch a bribe in order to get the bill killed. Wherever the government has great discretion in regulating a business, in an area that does not allow the business to make economic adjustments, there is a climate for "fetcher bills." Fortunately, they are less widespread now than they were ten or twenty years ago, when they were notorious. Note that legislative situations may involve either extortion or bribery.

On the local level, the most extensive area of corruption is in the zoning field. Look at the map of many municipalities and there will be areas that ten years ago were pastures and are now thriving suburbs; and within the village boundaries still are large areas of undeveloped land. There will be tremendous pressure on that undeveloped land to have it rezoned for, say, multiple family housing units. The situation is ready made for corruption. For example, in Cook County there are forty-two suburban developments under investigation; six indictments have been returned so far. Even if there is no zoning corruption, a corrupt official in the building department can ruin contractors by delaying certain matters to the point of escalating costs

out of reason; even if the contractor wanted to sue, the litigation costs and litigation-caused delays might make it cheaper and easier for him to bribe the official.

On the executive level, there is an increasing incidence of contract kick-back cases, even in areas that have traditionally been free of corruption. When a company gets into this kind of business, it will extend its tentacles all over the state; wherever it does business, you will find this corruption. The more traditional method of bribery to effect executive action come wherever you have an industry that is under the life or death regulatory powers of a government body or government officials; racing, for example.

In the judicial area, the only corruption that we see on a regular basis is a courtroom that operates on a volume basis, so called "cafeteria" courts—traffic courts where judges handle two or three hundred cases a day. They are not really courts where justice in the ordinary sense is dispensed. Hearings last fifteen seconds, and there are a lot of discharges every day. It is easy to hide a "fixed" case in these circumstances. Contributing also to the climate of corruption here is the attitude developed by the young judges who have to sit through all these traffic cases. Some of them stop thinking of it as a court—it becomes an assembly line where people really don't care if justice is dispensed. Then there are the lawyers who specialize in traffic cases, making \$200,000 a year—mostly cash. Check their appearances, which are filed, and contact all their clients over the past few months; in, for example, drunk driving cases where fees are high and clients are most likely to remember what they paid

and the details. Often you will find a discrepancy in what the lawyer reported on his tax form. By this approach you may be able to force him to account for his bribes and where they went.

In conjunction with our Chicago Strike Force we developed the technique of using the Hobbs Act (federal extortion statute) in police extortion cases. As a result sixty-five Chicago policemen from two police districts who were involved in shaking down tavernkeepers were indicted. These corrupt police had several clubs which the tavernkeepers had to join, usually at a cost of two or three hundred dollars a month, to avoid police harassment. We expect to find the same pattern of corruption when we investigate the other police districts.

How does the federal government get involved with prosecution of what are essentially local corruption cases? There are four primary weapons. First, there is the Hobbs Act, which bans extortion in business that affects interstate commerce, and prohibits people from demanding money under the color and protection of official right. In our view, the statute covers bribery of officials—not only prohibiting outright extortion but also the taking of money without an extortion demand by a public official from a business affecting interstate commerce. The courts have given the statute such a broad reading that it applies to any business that has any minimal contact involving interstate commerce. Take for example, the Chicago taverns case—the contact with interstate commerce was that the taverns sold some beer, liquor, or wine produced in another state. The statute extends into the zoning field as well. When an official takes

a zoning bribe, for example, the proposed building operation cannot be completed without materials brought in on interstate highways utilizing interstate commerce.

The second cornerstone of our organization is the Interstate Transportation in Aid of Racketeering statute, which is fairly recent. In essence, this statute is violated whenever there is a local bribery or extortion scheme and one of the parties to the transaction used the facilities of interstate commerce or travels thereby in support of the scheme. Required here, though, is a more sophisticated base for federal jurisdiction. Interstate travel cases and cases where interstate phone calls, mailings, or telegraphs are used are clearly within the statute, but some specific transactions require close scrutiny. There is a line of cases in some circuits that hold that the use of interstate facilities, even though the particular use is intrastate, still invokes the statute's jurisdiction; e.g., cashing a check at a national bank which is a facility of interstate commerce, even though the check may never leave the state.

The Mail Fraud statute is the third weapon. This may have the most relevance to state prosecutors because of some of the interesting theories developing under the statute. The statute is a very old one, originally designed to keep lottery and gambling schemes out of the federal mails. Now, essentially, all that is required for jurisdiction under the statute is a fraudulent scheme of some sort and a use of the mails in support of the scheme. There is hardly any sort of business transaction, legal or otherwise, carried on in the U. S. today that does not at some point involve the use of the mail. In both our view and the

view of the courts, a bribe of a local official is fraud upon the public. Thus, any mailings which would further a rezoning bribe of an alderman would fall within the statute. A further development of this theory is the inclusion of concealed conflict of interest, not amounting to criminal conduct per se under state law, under the statute's jurisdiction when the mail is used in support. An example would be where an alderman had property "hidden" in a secret land trust and voted for its rezoning without revealing his interest.

The fourth area of important federal jurisdiction is in the tax laws. If one takes a bribe and doesn't report it, it is income tax evasion. If the bribe money is reported, but its criminal nature concealed by calling it a capital gain, it is income tax evasion, due to the difference in capital gains and ordinary income taxation levels. If the bribe is reported and the ordinary income tax paid on it, but its source is disguised on the return, it is giving a false tax return. If it's reported correctly, then of course there will be prosecution under the bribery laws.

The combination of these federal laws forms a very pervasive net against official corruption. It may be that a given case will have counts of indictment covering all these bases of federal jurisdiction. The Kerner case was one of these.

It may be useful to utilize the task force approach to investigations of these cases. At one time there were distinct lines between the cases the various federal agencies took on; the IRS wouldn't touch a case the FBI was working on and vice-versa. This was due to agency policy and pride. A great deal of attention was paid to who got the credit for what, because it was this credit that car-

ried the weight in getting additional resources from Congress. But now the combined effort of federal agencies is becoming more and more accepted. It produces good results, especially in our federal housing and suburban corruption investigations. It is also useful because you don't always know where you are going to end up—for example, midway through an investigation, the IRS determines there have been no tax violations and it is closing its files; if there has been another agency working with the IRS from the start, it could have kept the investigation going.

How do you get into these cases? First, you must understand that it is slow work; it is really hard for prosecutors to get results. Although as you become more experienced in the area and as your office and your success in prosecuting these cases grows, results will come faster. Also as your reputation grows with experience, it becomes easier, especially in the area of grants of immunity. We have found that after two or three years of prosecuting official corruption we now grant less immunity to get an investigation of this type going than previously. Word had gotten around the defense bar about our extraordinary success with these cases, and that enables us to hold off on granting immunity. The lawyers can go back to their clients and with some measure of assurance say, well, maybe we had better plead; they aren't going for immunity.

In our office, we follow "FIBO": first in, best out. We advertise openly—the first lawyer to get his client into our office gets the best deal. Everyone knows it goes downhill from there. We have foot races sometimes. Remember these are not ordinary criminal cases, and are not in-

vestigated, developed, or tried in the same way. It is important to have the right kind of prosecutor. We like to go with young lawyers in these cases. Their sense of indignation is conveyed to juries. Older lawyers are practically bored with tales of corruption, but the younger ones are genuinely shocked by it all.

At some point, particularly as trial time nears, defendants begin to think they are not quite as corrupt as you think they are. Everything is set for trial and suddenly you detect some slippage. Why? The guy now sees his whole life flash before him; he realizes he is going to have to go on the witness stand and tell the whole town what a terrible person he is. He begins to think of his image. As he realizes the quality of the prosecutor's case, he begins to consider pleading.

An area of increasing importance to the public is immunity. It is one of the most difficult areas for the prosecutor as far as the public image is concerned. Sometimes, of course, immunity has to be granted in order to successfully prosecute crimes of this nature. It doesn't matter if it is transactional or use immunity for 99 percent of the time it turns out to be transactional immunity anyway. Some general rules on granting immunities are: the key question is how the bargain will look to a jury—if you can't sell it to them don't make it, because no testimony is worth losing the case; don't give immunity to a big fish to get a small fish; don't give immunity to a lot of people to get a few unless the few are so important and big that you feel you can violate the numbers rule; and the more successful your record, the better the bargain you can get. Also, have all your agreements with witnesses in writing,

signed, and available to defense attorneys. You must also try to get the public to understand why immunity is granted. Treat an immunized witness in the same manner in which you treat a witness with prior conviction. Get it out front and get it out early. Explain as patiently as you can about the immunity—a reason for having it in writing with all the terms set out is to facilitate explanation to and acceptance by the jury. Your prosecutor, in addition, must have his closing segment on immunity worked out shortly after he makes the immunity deals. It is a valid way for the defense to try to discredit you, so you must be prepared.

Electronic surveillance devices can be used in these cases, but most of the time they are not needed. Usually you get into these cases after the transaction has already occurred. If you're lucky and get wind of a bribery about to take place, you can wire your man—if the equipment works properly, which sometimes it doesn't. Still, there are cases where it's worth a try; especially where the defense is going to be that the received money is a campaign contribution, and the issue will be one man's word against another's—then, you need a recording of the deal. Then it is important to get your witness to recall all details surrounding the actual passage of the money.

You need corroboration. In these cases you have got to have records or the case will deteriorate into one man's word against another. The areas of corroboration are not going to come on the bribe itself, but on other areas of the transaction such as where they met, how many times, what time was it, etc. Get into the cash flow, too, through corporate



books and records—it is essential for the investigator here to have an accounting background. Businesses hide bribes by various methods, often using a supplier as conduit for a bribe; this is covered with a false invoice; and the supplier is reimbursed for taxes generated by this alleged "income" from the false sale of goods.

This is an exciting area of prosecution and clearly the number one issue for citizens today: the quality of their elected officials and of their government. Something needs to be

**Bruce Campbell and Donald W. Eastman, Deputy District Attorneys, Special Investigations Division, Los Angeles District Attorneys Office.**

The Alleged Official Misconduct Section of Los Angeles County's District Attorney's Office was created after inquiries put under way in the aftermath of the Watts riots demonstrated the need for a specialized unit of investigators, lawyers, and clerical personnel to investigate allegations of criminal misconduct by public officials and employees within the scope of their official duties. This same unit prosecutes such offenses where warranted by the results of its investigations. As the activities of the Section expanded its title was changed to Special Investigations Division, although the territory remained pretty much the same. The most common cases within this area of responsibility now include bribery, theft, conflict of interest, and related public corruption offenses; elections abuses cases and police misconduct, including, but not limited to, allegations of the use of excessive force. The Division occasionally becomes involved in a matter regarded as of general public concern although no public official is involved.

done to restore confidence in elected officials at all levels of government. About the only way I know is to use the criminal process to clean up corruption, giving the people the opportunity to fill the ranks with honest men and women. Note, finally, the advantages of prosecuting local corruption in federal courts. This provides for removal from local officials and influences and enables the federal investigative agencies to apply their resources to the investigation.

Investigators are drawn from two sources. There are presently five or six non-civil-service persons with broad investigative background classified as detectives. They are recruited from the ranks of retired law enforcement officers. Local police agency retirement programs are such that officers may often retire at a relatively early age. There are two investigators drawn from the regular civil service structure of the District Attorney's Bureau of Investigation. The investigators tend to develop areas of specialization.

The lawyers within the Division are civil service personnel who are chosen on the basis of highly developed courtroom skills acquired during a lengthy period of general felony trial work. They are persons of judgment and discretion. Their cases are carefully prepared. Frequently an attorney is assigned to a case immediately upon opening. More frequently the lawyer enters into the matter after investigation has reached a certain point. In the interim the investigator works under the general supervision of a

chief investigator and the head of the Division who is a lawyer. This is the only unit in the office where investigators and lawyers are under one head. One lesson the evolution of the Division has taught is that when an organization reaches a certain size its head must serve in administrative capacity and no longer be directly involved in functions of the staff (comment by Campbell: this theory is not always adhered to in practice at a level of perfection).

The prosecutor-investigator team structure has been very effective, and we do not hesitate to recommend it.

We try to retain a very low profile in our investigations. Cases which may engender publicity cannot for that reason be rushed. The fact that the District Attorney is conducting an investigation with respect to a public official can have a very destructive effect upon him even if he is later found to be wholly innocent. Our primary investigative technique is to probe and patiently inquire until such time as the dam bursts. Surprisingly often the pressure of investigation has led those under suspicion to attempt to cover up or do other things which result in the discovery of hard evidence which results in conviction.

Corroboration of evidence is the key to conviction. To take an obvious example, a tape recording of conversations wherein a bribe is offered is a virtual necessity in bribery cases. We do not use wiretaps.

Administrative remedies are often available if a criminal case cannot be made out.

In Los Angeles County, because of heavy demands on the grand jury's time, the grand jury cannot ordinarily be used as a wholly investigative forum in the area of criminal misconduct. A solid case ready for in-

dictment must be presented. Occasionally, however, the Grand Jury does offer a form for inquiry into a matter which requires an impartial public scrutiny. This is particularly true in a county like Los Angeles where the grand jury has a duty to censor the operations of County government and, to some extent, municipal government. Additionally, the grand jury allows the Division use of investigative subpoenas where warranted. The use of such subpoenas is very carefully conserved.

The public is an important factor in the overall operation. Not only does much of our information come from dissatisfied citizens and disgruntled public employees, but public pressure in general has been useful. Occasionally publication of news stories has resulted in the coming forward of otherwise reluctant witnesses who have overcome their wish not to be involved.

As for prosecution, file tight. Careful, detailed preparation of the facts and law before filing is essential, however trite it may be to say so.

Plea bargaining can tend to result in sentence bargaining eroding the strengths of the prosecutive position and usurping judicial function. District Attorney Joseph P. Busch has made it a large part of his program to control abuses in this field. Overindulgence in plea bargaining does not really clear the calendar—it is the climate of negotiation that counts; if its tight, you'll get the pleas you want.

Sample cases to illustrate the work the Division handles are:

*City of Carson*, [Los Angeles County, 1970], where two indictments charged three city councilmen and three "advisors" with bribery; *Kristovich* [1971-72], the Los Angeles County Public Administra-



tor was indicted and charged with twenty-five counts of conspiracy, conflict of interest, embezzlement, perjury, preparing false evidence, and other offenses; an inquiry by the Grand Jury into use of blank, pre-signed prisoner release orders [1972]—with the result being discipline of three local jurists by the Chairman of the Judicial Council, and by the California Commission of Judicial Qualifications; *City of Com-*

*merce*, Los Angeles County [1973], wherein the mayor/city councilman and the city administrator were indicted for bribery and embezzlement of public funds; and the *Marshal of the Municipal Courts of Los Angeles County* [1973-74], wherein the marshal was indicted for embezzlement of public funds, conspiracy, destruction of public records, and other offenses. All of these cases resulted in conviction.

## LEGISLATIVE APPROACHES TO ORGANIZED CRIME CONTROL

G. Robert Blakey, Professor of Law, Cornell University and former counsel Senate Committee on Criminal Law and Procedure.

The popular topic of today, Watergate, involves nothing new. Corruption and conflicts of interest have long been around.

For example, Francis Bacon, the Lord Chancellor of England, was impeached and convicted for bribery in 1521. Daniel Webster was on the payroll of the National Bank, when he argued its case before his fellow Senators—surely a conflict of interest.

In 1952, the American Bar Association Report on Organized Crime and Law Enforcement stated that "the largest single factor" in the breakdown of law enforcement agencies in dealing with organized crime was "the corruption and connivance of public officials."

In 1967, a Presidential Task Force Report on Organized Crime said, "all available data indicate that organized crime flourishes only where it has corrupted local officials."

These statements are true, but are oversimplifications. Other factors need to be considered. Only two of these, for example, are the isolation of organized criminal activity from traditional techniques of investigation and lack of legal tools needed to pierce that isolation.

If we are to deal with organized crime successfully in the criminal process, it requires a number of people come together in a series of ways, all of which are interrelated. You not only have to get witnesses to testify; you have to have police officers go out and corroborate what they say. It isn't enough for the witness and the officer to get the evi-

dence to the prosecutor; he has to be competent enough to present it to a court successfully. It is not enough for the witness, the officer, and the prosecutor to get together and present the information to a court; the court also has to understand its meaning. Finally, the jury has to understand what is going on. The lack of this last element is, for example, what happened in the Mitchell-Stans trial.

The jury there should have known what it was all about. It should have been more sensitive to what life is all about in Washington, D. C. When a John Mitchell calls, it is not just any lawyer calling, especially when he is calling another government agency like the S. E. C. The jury should have known the true meaning of that kind of activity. They should not have demanded proof of an out and out bribe. That was a situation where everything fell into place except the jury's reaction. You will have to live with such situations until juries get educated.

What I am saying, in short, is that there are a whole series of things that have to come together and fall into place before law works in organized crime prosecutions. The strategy of the corruption, therefore, is obvious: break the link at its weakest point. This can be a manipulation of witnesses, police, prosecutors, courts, executive-level officials, or legislators. Unless the series works together, the whole process fails.

With what strategy, then, should law enforcement respond to the

strategy of corruption? The normal response is to say let's go out and draft a good bribery or a good conflict of interest statute, or the like. This is a common American fallacy. This is misguided. Careful examination of most state statutes will show that there is a law against most of what organized crime is and has been doing even in the corruption and conflict of interest area.

The real problem is not the lack of laws against corrupt practices, but a lack of evidence to prove corruption. So don't seek new substantive statutes only, when you go to the legislature for help, but rather get there all the help you can for means to develop evidence, which shows violation of your present statutes.

I don't suggest that no legislative reform is needed. Unfortunately, most bribery, perjury, and obstruction of justice statutes, for example, are aimed at judicial proceedings, when obstruction of justice normally takes place prior to the actual judicial hearing. Our codes were drafted before we had a mature police function. Consequently, "obstruction of police work" does not fit into the "obstruction of justice" statute. This is a problem, and perhaps present statutes can be somewhat strengthened. There should be a prohibition on giving false information to the police.

There are some other minor problems. When you get into the area of bribery, there is the classic defense of extortion, "I didn't bribe him; he extorted me." Somewhere in your bribery or extortion statute you ought to have a clause drafted to eliminate using the one as a defense to the other.

But what I am suggesting is that the main area to which you should

turn your attention is those substantive and procedural statutes that deal with evidence gathering.

Criminal investigations are like a chess game in the area of organized crime, and you need a number of key legal tools.

To get witnesses, you need the compulsory process of a grand jury; and that grand jury has to sit long enough for you to conduct a complicated investigation. Such a grand jury must not be limited by what is presented in charge; it has to be able to explore whatever it finds. It has to be sufficiently independent of the judge who oversees it, so that he won't shut it down before it is finished.

Next, you have to have immunity techniques. If you have immunity statutes that are transactional in character, work to shift them into use immunity statutes. The usefulness of the use type of immunity has nothing to do with the legal fact that you can go out later and prosecute a witness after you immunize him. While the theory says that is what you can do—for any prosecutor to do it is asking for trouble. With transactional immunity, all the witness has to do is mention the transaction; he does not have to fill in the details. So his attorney can tell him to just mention it, and then say, "I don't remember." But with a "use" statute, a smart attorney advises his client to tell all he knows, because the more he tells, the less can be later used against him. So "use" statutes encourage fuller disclosure by witnesses, and that is what they are really all about.

Never immunize anyone, moreover, unless you have a pretty good idea of what he is going to tell you. You have to have more information than he knows about, so that you can

interrogate him so that he cannot afford not to cooperate. He doesn't know how much you know. Put him in front of the grand jury. Ask him such things as, "Who did you talk to on the phone?" And ask about specific dates; he may not know whether you had a tap on him or not. Play some tapes for him; experience has shown that this can break witnesses. String them out until they become cooperative. He has a duty to cooperate; there is nothing wrong with making him do his duty. The best use of immunity, therefore, is to get an uncooperative witness to cooperate, turning him during his grand jury appearance. And you have got to have a great deal of prior evidence in order to do this, including tapes.

The world is upside down on perjury laws; they presently promote falsehood not truth. If you have not reformed yours, you ought to. The common law two-witness rule and the direct evidence rule should be gotten rid of. The law of evidence as it applies to perjury is the major thing. You ought to be able to prove perjury by circumstantial evidence. At the same time, you ought not to have to face the dilemma of the witness spinning you. You can take him in front of the grand jury and he tells one story, yet when you get to court he tells another tale altogether. The jury is already sworn in, so you have a double jeopardy situation. You can't retry the defendant; and you have two statements by the witness, clearly one is true and the other false. But you can't try him for perjury, so you need a contradictory statement provision making such inconsistency sufficient evidence for perjury.

Of course, you can take the prior grand jury testimony of a witness,

which is inconsistent with his trial testimony, and use the former to impeach him on the cross. But the judge will instruct the jury that they cannot consider the prior testimony as substantive evidence. You ought to secure a change in the rule so that if the jury is convinced that the prior statement is true, they may convict on it and ignore the present testimony. You then lessen organized crime's ability to abort prosecutions by bribery and threat. The incentive of present law to bribe a witness should be dampened and would be if you get your witness to trial alive and have his grand jury statement on the record with the rule changed and be able to use that prior statement. You can see the importance of reforming these laws.

You can also change your law on depositions. If there is a long time between indictment and trial and the witness dies, you need a provision for the use of his deposition. It will preserve your case and act as a deterrent to organized crime having the witness killed.

You need "duty of candor" statutes also. Dismissal, of course, can't be automatic when your public official pleads the Fifth Amendment. That would violate his rights. Rather, the official must be given a hearing and the dismissal based on a violation of a public duty to account for the exercise of public trust. Be sure the grounds of dismissal here are narrow and specific; careful drafting is necessary to avoid constitutional problems.

There is also this general rule concerning uncorroborated testimony in criminal cases, particularly in bribery cases. There is a certain amount of "legal" insulation for the taker of the bribe in this rule. The fact that B testifies that he took the

bribe from A should be enough for conviction. If you cannot take and change the general rule altogether, you ought to get it changed in the bribery area. Legislatures will vote criminal statutes in other areas, but when you get down to bribery, corruption, obstruction of justice, and conflicts of interest, they see too much of themselves in these areas, as potential defendants. However, after Watergate, it is going to be awfully hard to come out against anti-corruption legislation.

What do you do in corruption cases when the insulation is another form of "legal insulation"; the payoff is made through lawyers. The only way you can bust "an attorney-client privilege" case is with electronic surveillance devices. This must, of course, be authorized by a

court order, and very carefully monitored, so that you do not pick up any legitimate lawyer-client conversations that are rightfully privileged. You can sample to see what is said, but if it's in a truly privileged area, turn the recorder off. These "lawyer-client" conversations are held to be legal evidence, though, if the object of the conversation is an outgoing or future crime.

But I have talked long enough. Take a look at the report the Attorney General produced in the corruption area. It has a number of good ideas in it. What I've said here has been designed to supplement and put it into context.

We all have a lot of work to do in this area. Let's get on with it.

Thank you.

## EFFECTIVE STATE ANTITRUST ENFORCEMENT

Michael Zaleski, Assistant Attorney General, Antitrust Division,  
Wisconsin Department of Justice.

At the outset, let me say that with the exception of three or four states, there are no antitrust programs in this country. Immediately some of you are saying, "Hold on now. We've got an antitrust program." I strongly disagree. I do not consider you to have an antitrust program when the entire program revolves around hiring private law firms to sue drug companies, car manufacturers and what have you. I say that you do not have an antitrust program, but some Washington law firms do. I know that old routine. Wisconsin was a part of it too. You hire private counsel to sue a large corporation or two. They do almost all the work for which they are, oftentimes, unjustly enriched. You act as a messenger boy keeping your Attorney General posted as to what is happening and obtaining data on purchases of the product which is the subject matter of the litigation. You find that the cases are usually venued in lovely places, take a few trips on an expense account, attend briefings where the moderator talks about *Hanover Shoe* for hours, and you come home reinforced in your beliefs that you have a very active antitrust program.

Nonsense. That's no antitrust program. There is an urgent need to maintain these class action suits and there is a great deal of merit as to how the states have been handling them. Surely, these suits bring back large sums of money to aggrieved parties and, also, serve as a deterrent to other would-be violators. My point is that this alone does not constitute an antitrust program.

In Wisconsin we had been doing for many years exactly what I de-

scribed above. Then one day someone got the bright idea to reevaluate the whole program. Now I am not contending that our program in Wisconsin is the best. I'm not even saying it is good. I am saying that we have gotten results. I'm here to tell you what we did to give you an idea how easy it is to get going in this area and start an efficacious antitrust program.

To me, a state antitrust program is one in which:

- (1) permanent legal personnel are assigned to antitrust;
- (2) permanent investigative personnel are assigned to the program;
- (3) funds are authorized for antitrust work;
- (4) formal and informal investigations are being pursued constantly.

Even if you are not bringing criminal charges, the mere fact that you are actively engaged in investigating and looking for the violations is a tremendous deterrent to antitrust violators. Furthermore, I can assure you if you start looking you'll find the violations.

Why is state antitrust enforcement so critical? To put it simply, the states cannot rely upon the federal government to do their work. The federal government cannot cope with all the local situations that develop when they can hardly keep up with their own workload. They do not have the staff or budget to enforce the antitrust laws nationally and state-wide. In addition to this, they are limited by the interstate commerce requirement and possible political ramifications from which the



states sometimes are free. Besides this, the federal Department of Justice is geared up to handle the larger investigations and actions which the states are not now, and probably never will be, able to handle because of the economics of the situation. The types of cases to which I am referring are the monopoly and merger cases. Whereas Washington can afford a staff of economists to work on such cases, the states cannot. We have to concentrate on the hard-core violations and leave the complex economic cases and those cases where we lack jurisdiction to the federal government. Finally, I believe that the states should clean up their own backyards and not rely upon the federal government to do it.

If many of you think that violations don't exist in your states, or if they do, you are unaware of them, I can point out cases in which violations were obvious, the cases were made and yet the state failed to act. Just look at the National Trade Regulation Reporters and see the cases brought by the federal government and the ones lost because the court held there was no interstate violation established. Obviously, there were intrastate violations, but yet the states failed to pick up the ball and run when the Feds fell down because of jurisdictional difficulties.

State antitrust programs are also important because I personally believe antitrust violations to be widespread in all the states and because the mere existence of such a program is a deterrent.

You are probably thinking that this is all well and good, but how do we start such a program? Do you find the violations and then seek funds to establish an antitrust program, or do you get funds to establish a program and then look for

violations? The latter is preferable but probably impractical in a political society. Frequently, politicians don't want an antitrust program. Such programs frequently investigate the people who put the politicians in office. It is simply a fact of life that burglars don't put politicians in office but road contractors do.

Funding must come from one of two sources—the state legislature or the federal government. I have already pointed out the disadvantages of dealing with the state politicians. However, there are advantages. If your Attorney General is in control of his party and it controls the Legislature, your foot is in the door. Also, white-collar crime programs such as these are hard to be against publicly and some politicians feel obliged to vote funds for such programs even though they personally do not favor them for many reasons. Of course, the best way is to make antitrust investigations without such a program and uncover wide-scale violations, then you are probably in the driver's seat for getting funding.

There are federal funds available. Wisconsin and Iowa and, by now, probably more states have federal grants for antitrust programs. We have an LEAA discretionary grant. Remember, under LEAA rules, it need not be a Mafioso organized crime. It need only be conspiratorial and organized in nature.

Wisconsin's program consists of six attorneys, two special agents, one civil investigator, two full-time and one half-time secretaries. Our budget is \$218,000 annually, with state funds of \$98,000 and federal funds of \$120,000. In addition to this, because we have found the violations to be so widespread, our Attorney General has transferred more

investigative help to our unit from other areas of enforcement.

Wisconsin has accomplished much in a short period of time, and we are a good example of how a group of people, armed with limited knowledge of the antitrust laws and having little more than some guts, have accomplished quite a bit. None of the members of our program have had any business training or accounting experience. Out of the six attorneys, only one has even had a course in law school in trade regulation. Incidentally, there are some excellent cram courses on antitrust law given around the country. These are listed in the back of the *BNA Trade Reporter* on a weekly basis. We send members of the antitrust unit to these schools and receive the funds from our criminal justice planning commission.

In the summer of 1971, I was conducting a grand jury inquiry into criminal activity in coroner's and sheriff's offices. One day a plumbing contractor called our office to complain that he wanted to bid on a job, but was asked to stay off it by someone. We interviewed him at length, and since the grand jury was already empanelled, we decided to look into this.

Within two months we indicted two bonding agents and one mechanical contractor on bid rigging and perjury. All were convicted.

Armed with the knowledge we gained in that grand jury, we moved into the county concerned and set up a new grand jury in October of 1971. We indicted seven individuals, seven corporations and one partnership in January of 1972 on bid rigging on mechanical contracting projects. All were convicted.

From there we moved into the county where the capital is located,

and there we indicted six individuals, five corporations and one partnership on bid rigging on mechanical contracting jobs in January, 1973. These cases are still pending. We also indicted two individuals and one corporation on bid rigging in the garbage business. This is also pending.

In the first county alone, to date we have collected over \$70,000 in fines and all of the individuals have received probationary periods. All the individuals and corporations now have felony records that severely restrict their borrowing and bonding capacity, as well as involve social stigma.

That particular grand jury gave rise to one case which I think best illustrates the essence of white-collar crime. At the sentencing of one of the defendants, his attorney introduced into evidence a letter written by the local YMCA thanking the defendant for his generous contribution to their building drive. This was an obvious effort to show what a charitable, generous man the defendant was. What the defense attorney failed to mention, but which we quickly did, was that the YMCA job was fixed and it was fixed for this defendant. In other words, the white-collar criminal fixes on Monday, contributes on Tuesday and gets praised for it on Wednesday.

When one of the principals in the first conspiracy went to jail for six months, it was the first time in the history of the State of Wisconsin that anyone ever went to jail for antitrust violations. Furthermore, that sentence ranked in the top 3 percent as far as severity goes in the entire United States for federal or state convictions. Yet, the money taken out of society by these criminals is unbelievable.

On one school project, the conspirators tried building in such an enormous profit that one of the conspirators stated that unless the bid was lowered to something a bit more reasonable, he would submit an honest bid. The group lowered their bid by about \$95,000 and still made a 15 to 20 percent admitted profit.

In June of 1973, we initiated a John Doe investigation into road contracting. While we were investigating state road construction, we stumbled into something else. We found all the sewer and water contracts in Madison had been rigged for nine of the past eleven years. In December, 1973, we brought criminal felony charges against five individuals and eight corporations. To date, all five persons and all of the eight corporations have been convicted. We also brought similar charges against three individuals and four corporations on submitting rigged bids and fixing the price of asphalt in Dane County from 1958 until 1972. Charges are still pending with an autumn trial date set. The sewer and water charges brought sentences which were stayed and probation for all the individuals, and we also collected the maximum fine from each person and entity totaling \$60,000.

At the present time we are continuing with the John Doe into state highway bid rigging. We also have gleaned enough information to commence other investigations into sewer and water contracting elsewhere in the state.

Our program has not been entirely criminal in nature. I feel that while 80 percent of the emphasis is on criminal antitrust activities, to have a successful program you have to have control over the civil antitrust activities also. Many times the evidence is not strong enough to bring

criminal charges so you must seek civil remedies such as injunctions, forfeitures or what have you. In the last two years we have engaged in the multidistrict litigation that all of you have. We have had the flat rate system of billing on auto repairs declared an unfair trade practice. We have gotten the State Bar to drop a mandatory minimum fee schedule. We have a predatory pricing investigation underway into the soft drink industry. We have gotten consent decrees out of beer distributors restricting their right to set up exclusive territories. We are also investigating phantom freight billing systems and petroleum.

The most difficult part of investigating antitrust violations is finding the violation. I have been a prosecutor for over seven years, the last two and one-half of which have been devoted mostly to antitrust work. Investigating antitrust violations is the most taxing work I've ever done. It is not like blue-collar crime where the violations are obvious. Anyone can see burglary, robbery and what have you. The very nature of a conspiracy means that few know about the violation and usually those few are always a part of it. How then do you find the violations?

(1). Review what the federal government is doing; get on all federal mailing lists from the Justice Department and the FTC; if Justice has been successful in an area, so can you. For example, we learned that in Pittsburgh, Justice obtained a consent decree against roofers who conspired to roll back the length of their guarantees. We decided to look into this and found the exact same thing in Milwaukee. How did we do it? We got on the phone and said we were interested in getting some roofing work done and asked

about their guarantee. When we were told it was two years, we asked what happened to the five-year guarantee? The roofing contractor told us the Association got together and did away with it. We also checked the national trade regulation journals, such as CCH and BNA, to see what other states are doing as well as private litigants.

(2). Read your newspapers carefully. When the independent barbers get together and announce that haircuts are going up 25¢ you may have classic price fixing.

(3). Use charts and maps. They will frequently tell you a lot about bid rigging and illegal territorial restraints.

(4). Certain industries are prone to trouble. This ties in with what I mentioned above about checking the trade journals and the federal publications. It seems as if road contractors, mechanical contractors, the scavenger industry, the baking industry and others are extremely susceptible to trouble. Check them out in your states.

(5). Watch trade associations. They start out with noble intentions, but sometimes end up as vehicles for bid rigging.

(6). The "Domino Theory." By this theory I mean that once we charge an individual, we refuse to engage in any plea bargaining until he gives us a complete statement of all his illegal activities throughout the state. We grant him immunity on the subsequent violations, but not the original violations. In most cases, these statements open up a new industry or area for your investigation.

Once you discover the violation you have to start building the case. There are a number of techniques you can utilize here.

(1). Use investigative bodies, such as grand juries, John Does, etc. Use interrogatories or anything available by which sworn answers can be obtained. Your initial objective should be to make a perjury case. Once a perjury case is made, you'd be surprised how loose tongues become and failing memories are rejuvenated.

(2). Review records. Check the Articles of Incorporation, annual corporate reports, bidding procedures, bid tabulations, corporate and individual tax returns and anything else from which you can get information about the company. The very fact that you can start your interrogation of a witness with specific questions, even though you may already know the answer, will give you a psychological advantage because that witness will know that you've done your homework and that you are very familiar with his company.

(3). Don't be afraid to use immunity. In most instances, you can check records until you're blue in the face and find nothing. You need warm bodies on your side. Often those records mean nothing until someone talks and tells you what to look for. But remember the pitfalls of immunity. It does not apply to corporations. That means in a closely held corporation, the witness who receives immunity will be testifying against himself because he is the corporation. Also, the immunity may not apply to civil damages so he may be sewing up a case against himself for civil liability.

(4). There are certain people who can help you both in finding antitrust violations and in building the cases against violators. I suggest you contact the following as they have frequently supplied helpful information: Bankrupt contractors (bit-



ter); new contractors (can't crack the market); retired contractors (don't care anymore); engineers and architects (watch them, they may be involved); bonding agents (in a position to know all bid figures); agency employees who receive bids on public projects (may be suspicious).

Prosecuting the antitrust case presents difficulties, but there are also benefits. The difficulties center around the following:

(1). Witness's testimony is usually vague because of fear of treble damages. Witnesses may try to make inconsistent statements under oath so that their credibility is destroyed.

(2). Antitrust cases present unique problems for the judiciary. Because judges are the product of the Bar associations, they, like most lawyers, have a very limited understanding of the antitrust laws and the policy behind them. They frequently think that it takes a C.P.A. to understand the case. This certainly is not the case in the hard-core antitrust violations with which the states should deal. The usual rules governing criminal procedures govern antitrust cases as they govern any criminal case. The only real difference lies in the substantive law. By diligently submitting briefs to the court, you can be of great assistance and placate these fears that many judges have. Also keep in mind that the standard jury instructions in your states more than likely do not cover antitrust violations. This adds to the burden which many trial judges work under. It is time that standardized jury instructions were drafted to aid the judiciary.

Experience demonstrates another unusual aspect of antitrust prosecutions. In many cities, the judiciary is acquainted with the wrongdoers. The antitrust violator is often in good

economic condition and belongs to many organizations and clubs. Judges belong to the same clubs and organizations. Thus, a conflict arises when the time comes to hear these cases. In one antitrust conspiracy case, our office prosecuted, each of the four circuit judges had the case for one month and then disqualified himself because he knew the defendants too well. This showed great integrity on the part of our judiciary, but it also put the prosecution behind four months. The court administrator assigned a judge from almost two hundred miles away to hear the case. Such distances alone make the orderly administration of justice most difficult.

(3). Sentences are completely out of proportion to the wrong inflicted on society by the antitrust violator. If you brought a case against a nineteen-year-old kid for stealing twenty autos valued at \$5,000 each and convicted him, undoubtedly, the judge would impose a severe sentence. Yet, when a contractor is convicted of stealing the same amount of money, \$100,000, with a rigged bid sheet, a suspended sentence is usually the order of the day along with a fine. This is most frustrating to the prosecutor, the taxpayer and the car thief.

I don't want to paint a completely dismal picture of prosecuting these cases. There are a number of advantages which the prosecution has.

(1). You can win a weaker case in this area often because defendants cannot risk an adjudication of guilt at trial. They want a *nolo* plea on the record to save an admission of liability from being used against them in a civil case.

(2). Juries might be prone to convict.

(3). The law of conspiracy favors

the prosecution. You can get in hearsay evidence which you might not otherwise be able to get into evidence. Admissions by one conspirator are admissible against all the conspirators. Overt acts need not be shown like in most conspiracies. The conspiracy theory also allows you to stretch beyond the Statute of Limitations. Also, a late-comer may be responsible for the acts the conspirators committed before his involvement. Finally, some courts take the view that withdrawal is difficult to prove and an affirmative act of withdrawal must be made before that defense can be proven.

(4). Pressure to hand out harder sentences if convicted. White-collar criminals fear jail a great deal.

If we are to be successful in countering the surge of white-collar crime in our states we have to be more diligent. The beauty of victimless white-collar crime to the criminal is that if no one sees it, no one complains. If no one complains, the government refuses to rock the boat. It is very easy to sit back and say, "Gee, Wisconsin must have a problem what with all the antitrust violators they have charged and convicted, but my state doesn't." I contend the reason you don't is because you have not looked. But just looking is not enough. There are other things we all must do.

(1). We must revise our laws and enact them where they don't exist. As an example, I cite to you the situation where we learned of two very expensive sections of a highway being set up in another state. We called that state's Attorney General's office and told them about it. They thanked us and told us that they did not have an antitrust law. I told them, then, they should not have a burglary law either.

(2). We must embark upon a program of education for the public and for the judiciary. The judiciary must also learn antitrust law and the policy behind it. The very targets of your investigations must be educated. Some contractors violate the law because they don't know what is illegal. Contractors usually belong to state organizations. They should have training seminars on the law. Agencies receiving bids should be educated to make them aware of the laws surrounding bidding procedures. Many states have associations of purchasing agents or similar groups. Your offices should address them and explain the law.

(3). Sentences must be more severe. When the federal government convicted the defendants in the Clark mechanical bid rigging case in Kentucky last year, the district court judge wrote a separate opinion stating his reasons for imposing jail terms on some of the defendants. This was prompted because of all the controversy surrounding the imposition of sentences. You don't see separate opinions being written when thieves go to jail. We must stop the disparity in the sentencing of criminals. If you catch bid riggers, don't accept a consent decree. That's caving in. Or better yet, go ahead and accept the consent decree, but next time you get a car thief, get a consent decree from him also stating that he will stop stealing cars and then drop his charges also.

(4). Experiment with the antitrust laws. Social change may be attained through the use of them. Although the states lost the case and it is now on appeal, some very innovative thinking went into the use of the antitrust laws as the basis for the suit against the auto manufacturers for impeding the development of an anti-

pollution device.

The antitrust laws and their enforcement is a virgin area in which the states have much to do and can do with some diligence and perseverance. I guarantee you that once you get your foot in the door, you will have more work than you can handle. The press loves to pick these things up and, regardless of political philosophies and affiliations, they'll back you. Once you establish this credibility factor with the public and government, you are in. In Wisconsin, we don't look for things to do anymore. The problems now come to us. We get dozens of phone calls and

letters monthly, some anonymous, some not, relating to tips. Recently, in one week's time we received complaints which ranged from the allegation that a statewide conspiracy to restrain trade in the tobacco industry existed to a complaint that in one tiny village in Wisconsin with only three taverns in the whole village, the tavern owners got together and agreed to raise the price of a glass of beer by a nickel. When you reach that stage that the public trusts you and will come to you, then, and only then, have you got an antitrust program.

**This is a composite of speeches by the following members of the staff of the Antitrust Division, U. S. Department of Justice: Tony Desmond, Chief, San Francisco Office; Donald Kirkaid, Chief, Atlanta Office; John Sarbaugh, Chief, Chicago Office; Norman Seidler, Chief, New York Office; Gary R. Spratling, Trial Attorney, San Francisco Office; and John Weedon, Chief, Cleveland Office.**

The first, and perhaps most difficult, step in developing an effective state enforcement program is to convince the legislature that there is a need for such a program and that the public interest would be well served by the appropriation of the necessary funds. Apparently, many state officials share the view that restraints of trade in their states are rare occurrences. This conclusion seems to be based on the fact that few complaints are filed with state authorities and on the misconception that antitrust laws are designed to proscribe the activities of large corporations only.

Of course the conclusion is suspect. In general the public is not naturally antitrust conscious. If state officials have not followed up on antitrust complaints in the past, it is unlikely that such complaints will be submitted in the future. There are

various ways to generate antitrust consciousness. However, there is no substitute for filing cases. Local cases generate a great deal of interest in the local news media, and then the volume of complaints increases as enforcement activity becomes visible.

The second assumption, that antitrust problems are essentially "big business" problems, is also inaccurate. The fact is that a substantial percent of the cases filed by the Antitrust Division of the U. S. Department of Justice involve local restraints, particularly price fixing. The conclusion that such restraints are not uncommon is also borne out by the experience of those states which do have active enforcement programs.

In short, it is quite clear that there is a need for active antitrust enforcement in all states. Unfortunately,

many states appear to have opted for relying on federal enforcement efforts to preserve competitive conditions in their economy. But federal enforcement activities alone can't adequately safeguard the interests of small businessmen and the general public. Active state enforcement is required. To start with, the jurisdictional problems presented in many situations are quite real. Federal antitrust laws apply only to anti-competitive activity which involves or has a measurable effect upon interstate or foreign commerce. While it is quite true that federal jurisdiction has, for the most part, been broadly interpreted, it is also true that many areas appear to be beyond reach or because of doubt are not likely to be the subject of federal enforcement. For example, it would be difficult to pursue matters involving laundries, dry cleaning establishments, barber shops, beauty parlors, car washes, garbage and waste removal services, or in general those local service businesses which, while important to a given community, may not involve the flow of interstate commerce or have a significant impact on interstate commerce. We can and have sued in many of these areas, but interstate commerce requirements always complicate the case.

A second inadequacy in the protection afforded by federal enforcement is far more significant than the jurisdictional limitations. The simple fact is that limitations on manpower and funds preclude federal enforcement agencies from detecting and pursuing more than a fraction of the local violations which exist. As government agencies go, the Division's resources are quite modest. We have an annual budget of about \$12 million and a staff of around 600, about half of whom are attorneys. Our task

is substantial. We are dealing with a trillion dollar economy and an almost endless variety of business activity. What this means is that we must determine priorities and seek the best methods of securing compliance with the least expenditure of resources.

The most common antitrust violation with which state Attorneys General are likely to be concerned is the elimination of price competition among competing suppliers. This can manifest itself in a number of ways, each constituting an illegality *per se*. Examples are: fixing published prices; fixing minimum prices; rigging bids; allocating customers, territories, or markets; refraining from giving discounts or selling low priced products; eliminating price cutting competitors; and agreements to follow a manufacturer's suggested retail price, which in itself is not illegal.

Assuming that the necessary resources are available, a good state enforcement program must begin with an effort to obtain information. This, and the effective enforcement of state antitrust laws depends in large part on the personnel and investigative tools available to the state. While it is necessary to have attorneys experienced in antitrust, their efforts can be effectively augmented by less highly-paid individuals. Investigators can conduct interviews; and good secretaries are quite capable of reviewing documents relating to, for example, price-fixing investigations and of preparing statistical analyses.

Of course, even the most capable staff will not be completely effective if adequate investigative tools are not available. If criminal prosecution is contemplated, and the grand jury is available, there is no problem as subpoenas may be used to



secure the production of relevant documentary material and the testimony of witnesses may be compelled. The problem arises when civil proceedings are contemplated. Absent special legislation, the state may not compel testimony or secure the production of documents from the prospective defendants or from witnesses. Such special legislation is needed.

How does one detect a violation? Often a purchaser will relate that he is suspicious of a violation either due to pricing or bidding patterns or due to what someone has told him. An employee or ex-employee of a supplier may come forward with information, or the supplier himself may confess. Also an anonymous call may provide a lead. Trade journals, too, may contain reports of market conduct that is suspicious under scrutiny. Better Business Bureaus and consumer and labor organizations might have useful information. Businessmen should be interviewed, and lawyers with a business practice can provide valuable information and opinions. Also check the case experience of active states. Certain businesses tend to be prone to anti-trust violations. Check the news media. Another source of information, and to state enforcement officials perhaps the most important, is the state and local purchasing agent; leads on bid infractions turn up here.

Pin down any leads by: studying bidding patterns for indicia of collusion; comparing suspected collusive prices with prices being charged in other markets or to other customers; and by utilizing to the fullest the first session with an informer. Get all details, copy any written materials in his possession and find out if he has any way to refresh

his recollection to obtain more details. Obtain a recorded or signed statement, if possible, because your informer may later have a change of heart. Also, don't expect to use him as a principal trial witness, as he probably is holding a grudge and his credibility can be severely attacked. Find out just why he is informing.

In developing a case, don't spend much time with the overcharged purchaser, but obtain his purchases and see if he can supply more leads. concentrate on suppliers and their trade associations. Use hotel, restaurant, bank and telephone records to corroborate information about meetings and communications among competitors. The reading of documents should be done primarily by attorneys especially since it is very difficult to find out what is going on in a company when you have no basic knowledge.

In using a subpoena *duces tecum* to a supplier, ask for the source of the documents and the following: its exact corporate name, principal place of business, and date and state of incorporation. Obtain comparable information if the supplier is a partnership or a sole proprietorship; the name, title, tenure, and last known address of sales managerial employees and persons with any pricing authority; expense vouchers, appointment books and calendar pads of each sales and pricing employee, which may give you dates and places of communications among competing sales personnel; trade association membership, places and times of meetings attended; minutes; changes in prices, terms and conditions of sales; the effective date and announcement date of each such change; to whom each change was sent and how it was announced. Ob-

tain the same information in a company's files concerning competitors' price changes.

Also seek in this subpoena communications to or from a competitor in regard to prices charged or to be charged, price cutting, or market price levels; the dollar volume of sales, location of sales offices, the distribution methods and the markets in which the supplier sells; invitations to bid, bids submitted and tabulations of bids; shipping and pricing invoices (or get an agreement that they will be supplied if you later call for them); and profit, cost, and inventory data if sent to or received from competitors, but not otherwise. Be careful of copies as you may get a pile of paper unclipped or without staples, making it easy to shuffle the papers. In the subpoena, be specific as to groups. Usually documents covering the execution of contracts awarded are of no assistance in proving price fixing, but might be useful in showing damages.

A subpoena *duces tecum* to a trade association should seek: its name, place of business, whether it is incorporated, its by-laws and ethical standards, all of which are needed if you decide to make the association a defendant; names of officers and their tenure; members' names and dues; location of meetings, and attendance plus minutes or reports on them; all documents relating to prices, customers, markets, selling, and distribution practices—this information in association files may help show that suppliers are using the association to lessen competition; and all documents relating to membership requirements, disciplinary actions and membership exclusions.

Subpoenas *duces tecum* to hotels,

restaurants, books and telephone companies typically ask for documentary information for corroboration of other information, which is usable to prove dates and places of meetings, telephone calls, and payment of related costs. Subpoena diaries, too; they can be helpful here and otherwise.

When before a grand jury, call as your first witnesses a few purchasers to explain why they believe they were overcharged and the nature of the product market. Next call your cooperative witnesses with incriminating information. Call volunteers only after you are sure of what their testimony will be, having checked the substance first with the witness' lawyer to know whether it is worth a grant of immunity. Lower level employees should be immunized before high level employees. Also call hostile participants in the unlawful acts, who are not to be named as defendants to pin down their stories, thus making it difficult for them to vary their testimony at trial to favor their employees or competitors.

Before questioning any hostile witness about meetings, prices, bid rigging or job allocations, thoroughly know the documentary information. Prepare charts that show: the dates and amounts of price changes of each competitor; the dates and places of meetings, and their attendees; and the bid dates, names of bidders, amounts bid, and the bidders awarded each contract. Using the charts, ask specific questions about how price changes occurred, what happened at meetings, and how bid prices were determined. Tie the testimony to the documentary information. Know such things as the witness' counterparts in other companies, where each was, upcoming



jobs, and what price changes were about to occur.

Avoid expounding on industrial knowledge you learned overnight; let the witness, who has expert knowledge of the industry, do this. Don't risk offending the judge and jury at the upcoming trial by using sarcasm or heavy-handed arguments that will be in the transcript. Also avoid initially leading a witness as this will make the transcript substantially your words. Such leading can minimize your chance of refreshing his recollection at trial, the transcript being in your words.

In preparing for trial, concede in a voluntary bill of particulars data to which you believe the defendants are entitled. Insist that any pretrial disclosure to defendants of Jencks Act statements and grand jury testimony of government witnesses be conditioned on pretrial disclosure to plaintiff of de-briefing memos and statements of the same witnesses in the possession of defendants. Insist that any pretrial disclosure of the names of government witnesses be conditioned on the pretrial disclosure of the names of defense witnesses. Also insist on a pretrial exchange of government exhibits for defendants' exhibits. Try, too, to obtain from defendants a stipulation covering all undisputed facts, the authenticity of documents, and the admission of

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There are three basic problems relative to the establishment of effective state antitrust programs. The first is a lack of appropriate legislation. States should endeavour to obtain laws providing adequate tools to effectively prosecute antitrust violators, both civil and criminal, with appropriate subpoena powers

charts tabulating data that show interstate commerce, price changes, meetings of competitors, bid tabulations, etc.

In the actual trial of the case, the use of visually understandable materials should be made. Include such items as: a diagram or photo of a meeting room used for price fixing; price charts showing simultaneous price changes in identical amounts; meeting charts showing attendance by sales and marketing personnel of competitors in hotel rooms or in other non-business places; a chart comparing the date of price fixing meetings and the dates of subsequent price changes, or subsequent submissions of bids; bid charts showing rotation of bids; a separate bid chart for each company showing a comparison between its high complimentary bids, for delivery nearby where the shipping cost is low, and its low bids for distant delivery where the shipping is high, which without explanation is not economically justifiable and may indicate bid rigging; and damage charts comparing high conspiratorial prices paid by the plaintiff purchaser with low pre or post conspiratorial prices or with lower prices paid by other purchasers in other markets. Also use economic experts to show that prices and market price levels are economically high, absent a conspiracy.

and centralized authority in the Attorney General's office. Look at, for example, recent state antitrust legislation passed in Illinois and New Jersey.

The second problem is a lack of desire to prosecute antitrust violations aggressively. This is probably the largest obstacle to the establish-

ment and maintenance of an effective antitrust program. Desire is the key to the start of an effective program; the rest can follow.

Lack of knowledge concerning antitrust law and philosophy by prosecutors, judges, and members of the bar is the third problem. A basic understanding is essential. Good publications for this are Kitner, *An Antitrust Primer*, and Hills, *An Antitrust Advisor*. Also, knowledge of antitrust is critical to enable law enforcement officers to deal flexibly with organized crime and with flagrant conspiracies which "rip-off" large numbers of consumers.

A hypothetical example, showing the various types of violations engendered by a course of activity, follows: XYZ Diaper Co., Newark, N. J., controlled by hoodlums, made a contract with a "friendly" linen supply company which agreed to lend funds to XYZ to get started in the business, on the condition that XYZ not use the linens of any competitors of the linen supply company for a period of ten years. (Violation: exclusive dealing and unlawfully tying arrangement). XYZ was also promised a 10 percent discount on its purchases of linens. (Violation: discriminatory pricing). The linen company's representatives also wanted a "kick-back" which XYZ agreed to (Violation: unlawful broker's commission). Thereafter, XYZ, at a meeting with its Newark competitors, also supplying Newark residents with diaper service, discussed and agreed to an increase in list prices to their respective customers with the understanding that each company could discount if it so desired (Violation: price-fixing violations, involving maximum prices and not withstanding the fact that participants could discount). The representatives also

decided that one company would take the black community in the city, the other the white community, and the third the Puerto Rican community (Violation: allocation of customers). The representatives also discussed the fact that to ward off "cut throat" competition each would honor the other's existing customers (Violation: allocation of customers). Then XYZ, because of its lower costs, started cutting its prices after a time until it forced its competitors out of business (Violation: monopolization and attempt to monopolize).

Of the various antitrust violations, price-fixing, which is unlawful *per se*, is most important. Any tampering with price structure is prohibited, and no price-fixing conspiracy can be excused as being justified. See *U.S. v. Socony-Vacuum Oil Co.*, 310 U.S. 150; *U.S. v. Container Corp.*, 393 U.S. 333; once an agreement is shown, even if abortive, proof of violation is complete, *U.S. v. Trenton Pottery*, 372 U.S. 392; *U.S. v. Central State Theatre*, 187 Fed. Supp. 114. For proof of price-fixing violations, formal agreements are almost never present. Note that in local areas there is a lack of sophistication and often local trade associations are in operation for the express purpose of effectuating price-fixing agreements. Price identity alone is not sufficient proof; but evidence of meetings among competitors, exchanges of price lists and pricing patterns relative to changes, all present circumstantial evidence of a price-fixing agreement. See *Esco v. U. S.*, 340 F. 2d 1660.

Fixing maximum prices or list prices is illegal even though every member of the conspiracy charges customers below list price. See *Albretch v. Harold Co.*, 390 U.S. 145 and *Plymouth Dealers v. U.S.*, 279

Fed. 2d 128. Also prohibited are agreements either to eliminate discounts or to establish uniform discounts. *U.S. v. United Liquors Corp.*, W.D. Tenn. (1956) 149 F. Supp. 609, *aff'd per curiam*, 352 U.S. 991 (1957); *U.S. v. Olympia Provision and Baking Co.*, SD NY, 282 F. Supp. 819 (1968) *aff'd sub non local*, 627; *AMC & BW v. U.S.*, 393 U.S. 480 (1969). Establishment of uniform costs and minimum markup percentages is illegal — *California Retail Grocers & Merchant's Ass'n. v. U.S.* 9th Cir., 139 Fed. 978 (1943) — as is an agreement not to advertise prices, *U.S. v. Gasoline Retailers Ass'n.*, 7th Cir., 285 F. 2d 688 (1961).

Another prohibited activity is bid rigging, which may involve the misuse of bid depositories, foreclosures of competitive activity for a period of time, rotation of jobs among competitors, and submission of complementary bids not intended to secure acceptance by the customer. See *Addyston Pipe & Steel Co. v. U.S.*, 175 U.S. 211 (1899); *Las Vegas Merchant Plumbers Ass'n v. U.S.*, 9th Cir., 210 F. 2d 732 (1954), *cert denied*, 348 U.S. 817 (1954); *Mechanical Contractors Bid Depository v. Christiansen*, 10th Cir., 352 F. 2d 817 (1965) *cert denied*, 384 U.S. 918 (1966); *U.S. v. Bakersfield Associated Plumbing Contractors, Inc.*, SD Calif. 1958 *Trade Cases* p. 69, 087 (1958), modified, 1959 *Trade Cases* p. 69, 266 (1958). For example, a complementary bid may simply be too high, or perhaps specify a competitive price on terms that are unacceptable to the prospective customer.

To illustrate the use of both criminal and civil remedies in state antitrust cases, consider the following. An investigation relative to a con-

spiracy to fix retail prices of coal in the city of Chicago was commenced as a result of a referral to the office of the Illinois Attorney General by the regional office of the Antitrust Division of the Department of Justice. An eighteen-month grand jury investigation resulted in an indictment against eleven coal dealers in Chicago for fixing the list price of coal and labor charges made relative to its delivery. Defendants were acquitted of the criminal charges but the state brought a class action in federal court on behalf of all purchasers of coal in the city of Chicago, which resulted in a settlement of \$2,300,000. This type of flexible approach to the initiation of price fixing cases, using both civil and criminal remedies, is often necessary to maximize effectiveness of the antitrust laws.

Horizontal agreements to divide territories or allocate customers are illegal *per se*. *Addyston Pipe and Steel Company v. U.S.*, 175 U.S. 211. As an example of this type of violation, an association of jukebox operators in the city of Chicago, which was controlled by hoodlums for many years, was effectively prosecuted under the civil provisions of the Illinois Antitrust Act. In this case 95 percent of the jukebox operators in the city belonged to an association which required the operators to "clear" with it any new tavern or restaurant where they desired to locate a machine. If another member of the association had already registered the location with the association, the operator was barred from obtaining the customer and enforcement was often by "muscle."

A consent decree was obtained prohibiting this type of allocation of customers. A \$50,000 civil penalty was also obtained. Hoodlum control

of this industry was curtailed as a result of this case, and a contempt citation was issued for violation of the injunction. Hence, a civil approach again proved most meaningful in terminating an illegal business practice which had been present for many years.

The Illinois Attorney General's office also successfully obtained a civil consent decree against an association of scavengers, operating in a six-county area around Chicago. The association enforced not only prices but required its members to honor the customers of their fellow members as well as protect and divide territories. In this case suburbs were "carved out" and "awarded" to particular scavengers.

A tying arrangement or "tie-in", exists when a seller requires a buyer to take a product or service he does not want (the tied item) as a condition to obtaining a product which he does want (the tying item). Section 3 of the Clayton Act (15 USC Sec. 14) prohibits such arrangements if they have a substantial anti-competitive effect. The Supreme Court has held that tying arrangements serve no useful purpose "beyond the suppression of competition." *Standard Oil Co of California v. U.S.*, 337 U.S. 293. Thus, tying arrangements are: ". . . unreasonable in and of themselves whenever a party has sufficient economic power with respect to the tying product to appreciably restrain free competition in the market for the tied product and a not insubstantial amount of interstate commerce is affected." *Northern Pacific Railway Co. v. U. S.*, 356 U.S. 1.

In the case of *Fortner Enterprises v. U. S. Steel*, 394 U.S. 495, credit (tying product) was provided by one corporation on the condition

that the customer purchase pre-fabricated steel homes (tied products) from another corporation. In *Fortner*, the court held that "sufficient economic power may be inferred from the tying product's desirability to consumers."

The Illinois Attorney General's office sought to use this type of violation against Emprise Corp., a concessionaire at an Illinois racetrack which loaned money to the track on the condition that the track use Emprise as its exclusive concessionaire until the year 2005. See also: *Twin City Sports Service v. Charles O. Finley*, (CCH 1972, *Trade Cases* 74150), where a court held a subsidiary of Emprise guilty of a *per se* violation of Section 1 of the Sherman Act in connection with loans made to the Philadelphia Athletic Baseball Club on the condition that it be the exclusive and long-term concessionaire of the baseball club.

Prosecutors must understand and apply statutes prohibiting unfair and deceptive trade practices. Many states have patterned their consumer fraud and deceptive practices statutes after Section 5 of the Federal Trade Commission Act (15 USC 45), which prohibits "unfair methods of competition" as well as "unfair or deceptive acts or practices." It has been recommended by the Federal Trade Commission that states adopt and pattern their statutes after Section 5 in order to fall back on decisions of the Commission and judicial interpretation of the statutory language.

There are a number of businesses that have in the past generated fraudulent, deceptive, and unfair trade practices, including: auto repair; land sales; collection agencies; employment agencies; and pyramid sales plans. Significant Unfair Trade



violations include: commercial bribery, whereby a seller pays employees or distributors money "under the table" to take the seller's product; stealing "trade secrets"; paying employees of a competitor to conduct commercial espionage; lotteries, the operation of any games of chance; requiring a person to buy a product or service for the chance of getting a prize; false and deceptive advertising of any kind and description, such as the use of the terms "savings" and "free" when use of the term does not square with the facts; and "bait and switch", or advertising a product which is not available in order to switch the customer to a higher priced item.

In conclusion, a prosecutor must be able to flexibly use civil as well as criminal procedures, particularly in the antitrust and trade regulation field, in order to effectively combat anti-competitive and unfair trade practices. A full-time division head is needed here, who knows what is going on and can intelligently make decisions. The commencement of criminal prosecutions may not be the best solution considering budget priorities in public offices; thus, the use of consent decrees, civil penalties, and contempt procedures may provide a viable and realistic alternative in combating these prohibited activities.

## ENFORCEMENT OF TAX LAWS

Michael J. Murphy, Chief of Revenue Prosecutions, Illinois Attorney General's Office.

An historical reason for the prosecution of tax violators is that such action is supposed to induce mass compliance with the tax laws. The idea promoted is that if you don't pay your taxes, you go to jail. This kind of result is really extremely limited, very few people ever go to jail and very few even go to criminal court. But when someone does, it gets so much coverage that it seems to most people that it could happen. The very presence of a criminal division in the IRS acts as a great deterrent toward fraudulent returns. It complements the audit and collection division of the IRS.

Tax prosecution has emerged as a tool to combat organized crime and as a back-up system against antitrust violators. When everything else fails, try taxes. Don't wait until the end, though; get your tax department in from the beginning. Organized crime has two distinctive features that make it possible to apply antitrust and tax laws against its activities. First is its non-competitive nature. Organized crime can't compete in the open market. There you have the antitrust laws. The other thing is the great profit motive in most of their crimes. Organized crime has a tendency to cheat, so bring in your tax department.

How to prosecute? You need prosecutors and investigators. We patterned our department after the IRS with an audit and collection division. Also, Illinois has a criminal division which actually enforces the criminal statutes of the tax laws. In Illinois the Department of Revenue is distinct and different from the Attorney General's office.

We prosecute four basic types of cases. First, there are sales tax violations, which can be further broken down. For example, in order to operate a retail business, you have to have a license. In organized crime, there may be a restaurant operated as a front. Its license can be revoked for many reasons. There is also the violation due to failure to file a retail application on a sales tax return. Either it is filed, or it is not. There are also some more complicated violations such as filing fraudulent returns, under which category there is also a wide range of possible violations.

The second area in which Illinois has been very successful in prosecuting is the motor fuel tax. This area of prosecution is a little more complex, but it is very fruitful because it has been dormant for so many years, both on the federal and state levels. In Illinois, we now have taken in fines amounting to millions of dollars in the Motor Fuel Tax Division. Money has been taken from the truck drivers, but never turned over to the state; it is theft that I'm sure you have in your state.

The income tax is the third area of prosecution. We compile computerized lists of everyone considered to be a part of organized crime. We go over these lists, not always in great depth, but at least to be sure the individuals filed a return. It is extremely important for the police when they suspect someone to be engaged in criminal activities to see if income is being reported.

Another very busy department is the Cigarette Tax Division. Organized



crime brings cigarettes from a low tax state into a high tax state. New York and New Jersey have also been extremely busy in this area. It makes a simple case, a non-complex police type case. This is another tool that can be used against organized crime.

Illinois has about the same disclosure laws as other states, in that the Revenue Department cannot tell what is on an income tax return, but can tell the fruits of its labor. It will disclose, for example, that A is meeting with B on a regular basis and narcotics might be involved. That is not privileged information, but it was found in the tax investigative process.

There is also the coin-operated amusement tax and failure to obtain a license. We would never have the manpower to patrol this area on a regular basis, but it can be used as a tool against organized crime. In Illinois, we started with simple cases, and as our experience has grown, we have graduated to very complex cases.

Probably the most important thing in setting up an effective criminal investigations unit is to find a person who is an investigator with administrative experience at the management level. He should have experience in financial crimes, and preferably be schooled in the criminal statutes. You cannot always start out with such a person, but ultimately that is the fellow you are looking for if you are to have an effective unit. A great place to look is the IRS, because they have an early retirement age of fifty years. Such a person will have retirement pay from the IRS, salary from your state, future retirement from your state, and later Social Security. These are some of his incentives, and he has at least fifteen more good years in which to

organize your unit. You also have another useful tool from the IRS, the Intergovernment Personnel Act. They will lend government personnel to help you on a year-to-year basis.

Once you do have your chief investigator, he will want to conduct a study to delineate areas of noncompliance, with records, and computers pointing the way. The IRS will help you make cases just to get you off the ground. Tax return comparisons help; when the state and federal returns are different, it doesn't take a genius to realize there is cheating going on.

Look for people with a background in financial crimes. If you have good supervisory people, recruitment is easier. People from federal agencies are good: the Bureau of Narcotics, FBI agents. Local colleges can be good places to recruit, if they have courses or departments in law enforcement training. The more experienced agents can certainly be of help to the younger agents.

For training note the IRS seven week training program in Washington. This program is condensed and very informative. They always have three openings for state agencies, and you apply through LEAA. After an agent has this course, I can guarantee that he is prepared to work on any of your complex cases.

LEAA also funds local seminars conducted by the IRS. Although these seminars usually aren't on tax, if you asked them to conduct one on taxes, they almost surely would. The seminars are usually on financial crimes, with instruction on how to do such things as trace money. There are also the correspondence courses the IRS now offers state agencies, which are pretty good for the newer agents. Then there is on-the-job training, with the older, more experienced agents working

with the younger ones.

We feel there is no need for a specialist as far as personnel for a prosecuting unit are concerned. In Illinois, we have about ten attorneys, three working full-time and the other seven working about half the time. As far as training for the attorneys goes, we take it on a kind of case-by-case basis. You will probably need an attorney with some administrative experience. He will also need some experience in the prosecution of financial crimes, but he will probably not need the real expertise that the chief investigator must have.

One of the first things to find out is if your state has a federal-state tax agreement. If you have one, then you can trade information. IRS will fill you up with information usable to make sure your state is getting its proper revenue. Again, this agreement is based upon the premise that you are covered by the same laws of disclosure as they are. In effect, this tax agreement also enables you to introduce the federal return in state court. If every state doesn't have this agreement, it should.

There is a great need to appeal every adverse decision, because the tax laws have been dormant for so long. If your laws are ambiguous, I suggest that you try to get some legislation that will help you.

Administrative rules and regulations usually are handled within the department. However, there are many times that we make suggestions. For instance, we have made suggestions while working with the City of Chicago. We are trying to tie our sales tax certificates to their licenses. If one has a liquor license, food license, or a clothier's etc. license, there must also be a retail application for a sales tax certificate. When we revoke their sales tax cer-

tificate, both the city and the state will prosecute.

We are actually drafting new tax laws for the state of Illinois. Our old ones were ambiguous. We are the experts in Illinois, because we have been trying these laws for the past four years in our office. We are trying to pattern after the IRS, because there is a lot of federal case law.

The need for IRS liaison is crucial. We get virtually all of our tax case law, except for some that is state-oriented, from the IRS Regional Counsel. These people can rattle off case after case, and usually come up with a Supreme Court ruling. So if you have liaison with the IRS Regional Counsel, you are a step up. When you have a complex case, you virtually have a library of information on the telephone, if you can work with this source.

The Intelligence Division of the IRS is another valuable tool. It will help your agents summarize a complicated test. It will also bring over an expert witness for handwriting analysis.

We also have on our staff in Chicago an agent who is also a member of the federal Strike Force in Chicago. This enables us to go into Strike Force records and see everything that has been accumulated on a given subject. They can, of course, have access to our records. It is not a bad idea to share an Assistant Attorney General with their office, as this establishes a strong liaison.

What is your role in evaluating and prosecuting a criminal tax case? Again, you start out with simple cases. You want proof beyond a reasonable doubt, with a reasonable probability of conviction. Don't rush into your first case, because you don't want to lose it—it can knock the bottom out of your budget and

plummet the morale of your staff. Go to court with your best case, justify your budget, and you can end up with more personnel on your staff.

Something that is not unique here is the disclosure factor. You need someone with experience to evaluate the investigative report. You will have sometimes only thirty days or less to evaluate the report and decide if a criminal complaint should be filed. Once a decision is made to prosecute, we assign the case to an Assistant Attorney General, and he immediately prepares the case for trial. Preparation is immediate because there is a great defense tactic of pushing for an immediate trial date. The defense attorney has probably been in on the case since the beginning of the investigation, perhaps six months to a year, and has been preparing some kind of defense since that time. You have only had the case thirty days, so immediate work is necessary.

If you see something in the report that bothers you, don't hesitate to call up the investigator and ask him to do a little more legwork on the case. Especially look for information for the cross examination. Every one of these white collar criminals is going to take the stand and show what a pillar of the community he really is. You need everything you can get for backup in cross examination.

In the area of policy, you must consider the fine line of responsibility between the investigative department and the prosecution. Our office made the mistake of letting the prosecution get involved in the investigation of a case. A professional investigator doesn't need this. He can run his own show and, if he has problems, he can come to you with questions.

After the case has been brought to your attention, and you have made the decision to prosecute, hold off on all civil proceedings. This is not legally necessary, and if the taxpayer walks into your office and offers his tax money, you have to take it. There are good reasons for trying to keep the civil proceedings in abeyance, though. You want to keep the criminal action undiluted by the payment of taxes. For example, while criminal proceedings are going on, you don't want someone to go out and seize the defendant's car; it can look bad to the criminal judge who may feel you are harassing the man. Also, you want to prevent a lot of delays by calling in these civil settlements. Of course, you want to further avoid the obvious conflict of criminal and civil judges if the defendant is in both courts at the same time. One judge may feel a little more important and be adverse to granting a number of continuances to the other.

Another important policy is to centralize decision making. Try to set a standard and follow it. You will gain a lot of respect from the citizens of your state, from police enforcement bureaus, and from local police forces, if you standardize your policies towards all taxpayers. The IRS does this, and it is a good policy.

There are two different ways of handling the review process. There is a federal way: the special agent gets the information to the prosecutive department; the supervisor first sees the information; the assistant chief of intelligence then reviews the report; then to the branch chief; then over to a regional commissioner's office; then to the regional counsel's office; then to the Department of Justice in Washington, D. C. At this final stop is the U. S. Attorney who

is going to prosecute the case. This does take time, but it is one of the reasons they have a good prosecution record. The case is reviewed so many times that the loop-holes are taken care of. They may take six years to prosecute a case.

In Illinois, the statutes of limitations are three years for a felony and eighteen months for a misdemeanor. We can't afford that lengthy review. So we have to go a modified route for review. The information goes from the agent to his supervisor, then to the chief, and then over to the strike force. It puts a little more burden on our office, knowing that the case has not been reviewed all that carefully, but it is a lot faster and is the system we use in Illinois.

Both the IRS and Illinois use what we call "taxpayers' conferences". Once the prosecution recommends it, we send a letter to the taxpayer saying that we are going to prosecute unless he can come in and tell us why we shouldn't. It is their last chance, and some come, some don't. We don't always use the letter, but the IRS does.

You might run into the dual prosecution policy with the IRS, but I doubt it. If you work closely with them, it usually works out so that you have your case, and they have theirs. There is one area, though, in which you might run into it, and that is the termination case. For

example, the IRS catches a man dealing in narcotics with the drugs and the money and they terminate his taxes right there. They seize the money, which in many states your office may keep. Of course, the IRS will say the money is theirs. In some states, it is divided.

Under general policy, there are things to consider about the taxpayer when you are thinking of prosecution. These include his age, his health, and his family; you obviously don't want to prosecute an eighty-year old man with cancer. Another government policy is that of voluntary disclosure. If a taxpayer comes in and voluntarily pays his taxes, you do not prosecute. However, it is not considered voluntary if we have contacted the taxpayer first.

Always ask, is the evidence legally sufficient? Is the evidence and all circumstances such that a successful prosecution is a realistic probability? Remember the deterrent value. We, as a matter of course, get a lot of guilty pleas. We have a tremendous backlog of cases, with two or three big ones a month. These are extremely complex law cases where you accept pleas of guilty and you have to negotiate pleas. But we do not have in Illinois a *nolo contendere* plea, and we do not want one. It is the politicians, accountants, and the like, who want that plea.



This is a composite of speeches by the following Internal Revenue Service Staff members: Robert J. Bush, Assistant Commissioner, Midwestern Region; Robert D. Elledge, Assistant Commissioner, Southwestern Region; Howard F. McHenry, Assistant Commissioner, North Atlantic Region; Robert Potter, Assistant Commissioner, Western Region; and Edmond J. Vitkus, Assistant Commissioner, Southeastern Region.

In the Internal Revenue Service there is a national office, seven regional offices and fifty-eight district offices. The Intelligence Division has approximately 2,600 Special Agents who investigate and report criminal violations of the Internal Revenue Code to the Department of Justice.

Additional income for criminal tax purposes is established by both direct and indirect methods. The direct method consists of the identification of specific items of unreported taxable receipts, overstated costs and expenses, falsely allocated income or expenses (such as personal expenses charged to business, diversion of corporate income to office-stockholders, allocation of income or expense to incorrect year in order to lower tax, etc.), and improper claims for credit or exemption. The advantage of using this method is that the proof involved is easier for jurors and others to understand.

The net worth method is an indirect method of computing income during a year by determining net worth increases and other outlays. Any change in net worth is adjusted to allow for non-taxable receipts and for reported income—the balance being unreported income. The formula here is: assets minus liabilities equals net worth; ending net worth minus beginning net worth equals net worth increase; net worth increase plus other expenditures plus (or minus) tax adjustments equals adjusted gross income; adjusted gross income minus deductions and

exemptions equals corrected taxable income; and corrected taxable income minus reported taxable income equals additional taxable income.

Another indirect method is the expenditures method—related to net worth, but expressed differently. Funds are measured by their flow during the year, rather than by observing changes in net worth from the beginning to the end of the year. The formula here is: non-deductible applications of funds minus non-taxable sources equals adjusted gross income; from there, the formula is the same as for the net worth method. Note that the starting point for the beginning of the first year must be established in order to eliminate reasonable doubt that subsequent expenditures did not come from conversion of existing assets.

Another indirect method is the bank deposits method. This one is unlike the net worth and expenditures methods, which measure income at the point of its outflow—here, income is measured at the time of receipt. In this method, the three immediate dispositions of receipts for the year are determined: how much was deposited into banks; how much was spent without going through banks (cash expenditures); and how much was stored in other places (increases in cash on hand). The formula is: total deposits, plus cash expenditures, minus non-income items, equals gross receipts.

The stages in an IRS investigation are as follows: Information is received by the Intelligence Division re-

lating to an allegation of violation. Each information item is evaluated by the Chief of the Intelligence Division of the district involved, or by his designated representative, to determine whether it indicates a criminal violation. If criminal potential is apparent, the allegation may be assigned to a special agent for an investigation.

Steps taken by the special agent in a tax evasion case are outlined below. Whether or not any of the following steps are taken, and the order in which they occur in an investigation, vary according to the facts of the particular case involved. The special agent scrutinizes the tax returns for the years under investigation. A certificate of assessments and payments for the years involved in the investigation, and for prior years, if pertinent, is obtained. If returns were prepared by someone other than the principal, the person who prepared the return is interviewed concerning the circumstances surrounding the preparation of the returns. The books and records are reconciled with the returns and differences are noted. Documents (invoices, canceled checks, receipted bills, etc.) supporting amounts shown on records and returns are examined, if available. The principal is questioned regarding his assets, liabilities, and personal expenditures. This information is of the utmost importance in a case where there are no books and records or where the records are incomplete or inadequate.

Where a corporation is involved, the agents may also analyze the officers' personal accounts to determine the source and disposition of funds credited or charged thereto. If a partnership is involved the agents will examine the capital ac-

counts and the personal drawing accounts of the partners to determine the source and disposition of funds. For the same purpose, the personal and proprietorship accounts of a sole proprietorship are also examined.

If the taxpayer has not maintained adequate books and records, the agents may list and analyze all the canceled checks and classify them into business expenses, capital expenditures, personal items, and non-deductible expenditures. The agents may examine records of deposits to bank accounts.

During the course of the investigation information may be obtained from: banks; customers of the principal; other persons who have had business transactions with the principal; records of the principal; public records; and newspapers, etc., regarding sources of the principal's income. The agents may interview, and obtain records from, persons who have had, or have knowledge of, transactions with the principal to determine what payments the principal received and the purposes thereof. Transactions involving purchases or sales of property may be examined. Information relative to those matters may be obtained from the purchaser or seller, from real estate agencies, and from public records. Information regarding the principal's personal and financial history is obtained from the principal, from those who know him, and from documents. This includes determining whether or not the principal has a record of prior violation of federal, state or local laws.

If the case is based on a net worth computation, evidence must be obtained to support the value of each item appearing in the net worth statement. The principal will be questioned regarding whether all assets and liabilities are included, and



ly in the beginning and ending computations of net worth. He also may be questioned about inheritances and gifts both during the period under investigation and in prior years. Further questions will be asked about the taxpayer's assets and liabilities at the beginning and end of each year which is included in the investigation and of any prior year pertinent to the case. The principal will be given an opportunity to explain the alleged discrepancies, and his explanations will be verified to whatever extent is possible. In the examination of records and during interviews with witnesses, the special agent is constantly alert for any facts or circumstances that cast light on the principal's intent, that is, any conduct the likely effect of which would be to mislead or to conceal.

Where a violation involves a failure to file a return, the agent obtains from the District Director or Service Center a certificate stating that a search of the files failed to disclose a return in the name of the principal. The special agent also will question the principal concerning whether or not he filed a return and the reasons for his failure. If the principal alleges that he has filed a return, evidence is obtained to prove or disprove his statement. In other respects the investigation of a failure to file a return proceeds in much the same manner as that of a case involving a willful attempt to evade or defeat income tax.

In many instances other methods of determining income may be used to corroborate the method on which the case is primarily based. For example, in a case based on proof of specific items of omitted income, a net worth computation may be used as corroborative proof; to show that the additional income was used to increase the financial position of the

principal rather than to pay deductible expenses which were not claimed on the return but which the principal now alleges were incurred. At the conclusion of the investigation, the special agent writes a report setting forth the history of the principal, the evidence of additional income and willful intent, the principal's explanation and defense, and any evidence obtained to prove or disprove the defense. The special agent also sets forth in the report his conclusions regarding specific portions of evidence and concerning the case as a whole, together with his recommendations regarding criminal prosecution and the assertion of the appropriate civil penalties.

The district group manager is responsible for the initial technical review of all prosecution case reports prepared by special agents under his supervision. The purpose of the review is to determine whether the special agent's report is complete, logically presented, clear, concise, accurate, and that statements made in the report are supported by the facts and evidence. The Chief, or his designated representative, also reviews all prosecution case reports. The Chief must forward to the Regional Counsel for review all cases in which a recommendation for prosecution has been made by the special agent and approved by the Chief, except for certain type cases which may be sent directly to the United States Attorney. If the Chief does not concur in the recommendation of the special agent that a completed investigation of the special agent be forwarded for prosecution or closed as a non-prosecution case, he will request a written opinion and recommendation from the Assistant Regional Commissioner (Intelligence) (ARC-I). After receipt of the opinion and recommendations from the ARC-

I, the Chief, as the representative of the District Director, will make the final decision as to the disposition of the case.

In regional level case processing, the ARC-I is responsible for providing technical assistance to districts within his region. The Chief will notify the ARC-I in writing when he desires technical assistance. In rendering technical assistance, the ARC-I, through his representative, will assure objectivity and region-wide uniformity in the application of Service policies. The regional representative will examine evidentiary material to the extent necessary to make an evaluation of prosecution potential. He may suggest alternative or additional investigative steps and make recommendations concerning the special agent's final report.

The Regional Counsel performs a legal review of the case. If the Regional Counsel concurs in the recommendation for prosecution, he forwards the case to the Department of Justice. If the Regional Counsel does not concur with the recommendations for prosecution in a case, he will confer with the Chief, Intelligence, in an effort to resolve the difference of opinion.

If the Department of Justice approves the recommendation for prosecution, the case is forwarded by the Department to the United States Attorney for the district in which the case is to be tried. If the Department of Justice does not approve the recommendation for prosecution, the case is returned to the Internal Revenue Service for disposition as a civil case. Procedure by the U. S. Attorney in criminal tax cases is the same as that for any other criminal case, namely, presentation to a grand jury or the filing of a criminal information (statement of charges). Appeals may be taken to

the Circuit Courts of Appeals and to the Supreme Court.

Informants furnish information regarding alleged violations for a variety of reasons. Treasury Decision 6421, adopted October 23, 1959, provides for the payment of rewards for information relating to violations of the internal revenue laws. The amount of the reward depends upon the value of the information furnished in relation to the facts developed by the investigation. Informant's communications are forwarded to the Intelligence Division for evaluation and appropriate action. Information that indicates a violation of the internal revenue laws, discovered by officers of other federal, state, and local law enforcement agencies during their investigations, is forwarded to the Intelligence Division for evaluation and appropriate action.

The sections of the Code under which taxpayers are most frequently prosecuted in connection with violations of income tax laws are Section 7203 of Title 26, U.S.C., relating to the willful failure to file, and Section 7201 of Title 26, U.S.C., relating to willful attempts to evade or defeat any taxes. Section 7201 of the Internal Revenue Code of 1954 provides as follows: "Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, together with the cost of prosecution."

It is the question of what is the willful attempt in any manner to evade taxes that is the primary concern in determining whether or not there is proof of fraud. Willfulness

is one of the crucial elements of the offense of attempted evasion and involves a specific intent, "the tax evasion motive." The attempt to defraud the government must be made intentionally. The phrase "willfully attempt in any manner" as provided in this section of the Code has been the subject of many court decisions. These decisions have established certain acts and circumstances as indicia of fraud. The most frequently quoted Supreme Court decision on the subject of willful attempts to evade or defeat is that of *Spies v. U.S.* in which the Court states as follows:

Congress did not define or limit the methods by which a willful attempt to defeat and evade might be accomplished, and perhaps did not define lest its effort to do so result in some unexpected limitation. Nor would we by definition constrict the scope of the Congressional provision that it may be accomplished in any manner. By the way of illustration and not by way of limitation, we would think affirmative willful attempt may be inferred from conduct such as keeping a double set of books, making false entries or alterations, or false invoices or documents, destruction of books or records,

concealment of assets or covering up sources of income, handling of one's affairs to avoid making the records usual in transactions of the kind, and any conduct, the likely effect of which would be to mislead or conceal. If the tax evasion motive plays any part in such conduct, the offense may be made out even though the conduct may also serve other purposes such as concealment of other crime.

This decision has briefly enumerated some of the taxpayer's actions which in the court's opinion would be indicative of fraud.

It is also apparent from this quotation that neither Congress nor the Supreme Court has attempted to in any way limit the circumstances or conduct of the taxpayer which may be interpreted as indicative of an attempt to evade tax.

It is important to distinguish between tax evasion and tax avoidance. Tax avoidance, as distinguished from tax evasion, implies that the taxpayer has only availed himself of all legal means of reducing his tax liability without the intent to evade or without the practice of intentional deception.

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*"The police at all times should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police, the police are the only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interest of community welfare."*

*Sir Robert Peel 1829*



Ontario

Ministry of  
the  
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THE TASK FORCE ON POLICING IN ONTARIO

*Report to the Solicitor General*

*February 1974*

NCJRS

JUL 16 1976


ACQUISITIONS




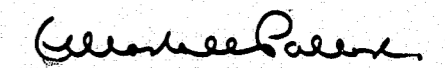
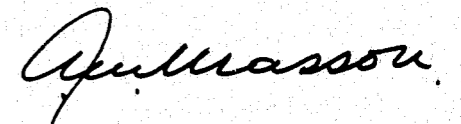
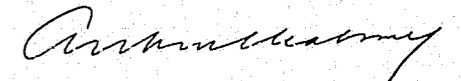
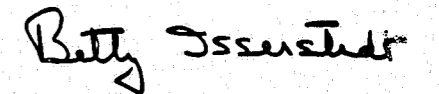
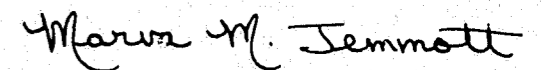
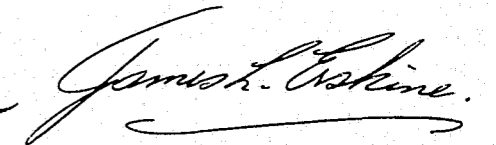
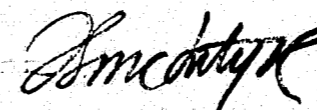
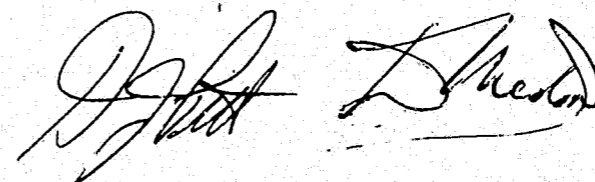
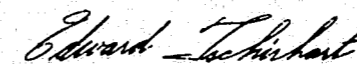
THE HONOURABLE JOHN YAREMKO, Q.C., M.P.P.,  
SOLICITOR GENERAL,  
THE PROVINCE OF ONTARIO.

SIR:

We, the members of the Task Force on Policing in  
Ontario, have the honour of submitting herewith our final report.



Chairman



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## INTRODUCTION

### Task Force Established

In May 1972, the Solicitor General announced to the Legislature the establishment of a Task Force on Policing in Ontario to undertake an overall review of police administration, organization and efficiency.

In his statement, the Solicitor General pointed out that the need for such a study arose from the considerable change over the last decade in the extent and nature of demands being placed on the law enforcement system, and that with the advent of the new Ministry of the Solicitor General, a thorough examination was appropriate in light of several conditions, i.e.

- lack of clear definition of the division of police responsibilities as between federal, provincial and municipal forces;
- the introduction of reforms to local government and related policing arrangements;
- the increased costs of maintaining police forces and resultant financial pressures on municipalities;
- the designation process which has resulted in some problems of uniformity and equitable application of police services;
- the question of providing adequate police services in smaller communities and of ensuring a high standard of law enforcement in all parts of the province.



### Composition

The Task Force was composed to achieve a wide representation of provincial government agencies, organizations and the public, concerned with policing in Ontario. The members were officially appointed on November 1, 1972. Included on the Task Force were representatives of:

- The Ministry of the Attorney General
- The Ministry of Treasury, Economics and Intergovernmental Affairs
- The Ontario Police Commission
- The Ontario Provincial Police
- The Ontario Provincial Municipal Liaison Committee
- The Association of Municipalities of Ontario
- The Association of Municipal Police Governing Authorities
- The Ontario Association of Chiefs of Police
- The Police Association of Ontario
- The Ontario Provincial Police Association
- 5 Representatives of the General Public

In addition to having a Chairman and 16 members, the Task Force was supported by an Executive Director, counsel, and research staff.

### Terms of Reference

The Task Force responsibility was to examine the state of policing in Ontario; analyze present and future needs; study alternative approaches related to these needs; and make recommendations to the Solicitor General.

Specific matters to be examined included:

1. *An analysis and forecast* of the extent and nature of future policing needs in the province in the 1970's.
2. *The division of policing responsibility* between the Ontario Provincial Police, regional and municipal police forces and their relationships and jurisdictions with respect to other police forces — both geographically and in respect of services provided. This will also include examination of the division of responsibility in such areas as criminal intelligence services, the enforcement of traffic bylaws, the king's highways and provincial parks.
3. *The financing* of police services in Ontario.
4. *The process of designation* of municipalities including the amalgamation of forces and alternate means of designation.
5. *Police manpower planning and development*, including recruitment; manpower utilization; promotional qualifications and procedures; and management development, training and standards.
6. *The administration of police forces* including the concept of Boards of Commissioners of Police and other governing bodies, as well as their make-up.
7. *The functions and role of the Ontario Police Commission* and the relationship between the OPC and the Ontario Provincial Police.
8. *The relationship between the police and the public* in the light of changing social attitudes and expectations."

## Methodology

To achieve the objectives laid out in the terms of reference, the Task Force has, in a time period of just over one year, conducted an extensive program of research and analysis leading toward our recommendations. Included in our study were:

- a series of study visits to a variety of police forces in all parts of the Province of Ontario;
- an extensive review of related past studies, their recommendations and implementation;
- study of over 200 written submissions received by the Task Force from the public, special interest groups, and organizations related to policing (see Appendix 2, Listing of Submissions);
- a series of 17 public hearings and 5 in camera hearings which were conducted in 14 centres across Ontario including:

Barrie	Ottawa
Belleville	St. Catharines
Cornwall	Sarnia
Hamilton	Sudbury
Kenora	Thunder Bay
Kitchener	Toronto
London	Windsor

- a series of visits by small study groups of the Task Force to other jurisdictions, including Quebec, British Columbia, Alberta, Manitoba, California, Missouri, Florida, New York, Washington, D.C., Massachusetts, England, France, Germany, Holland and Italy;

Many experts were contacted and several persons knowledgeable on various topics related to policing were invited to speak at Task Force Workshop meetings (see Appendix 3, Listing of Resource People).

Our analyses of the information and development of recommendations were conducted within four major projects related to policing, i.e. Role, Organization, Personnel and Economics. The Task Force developed a series of working papers under these general categories of study.

Through individual study and an extensive series of seminars for collective consideration (workshops held in four centres in the province), these working papers were evolved by the Task Force into our final report and recommendations. This approach resulted in the achievement of a high degree of consensus by the members on the content of this report.

The recommendations presented in this report imply fundamental changes in policing for Ontario. We are of the view that these changes need to be reflected fully in the legislation which governs policing. This, coupled with the fact that the current Police Act is the product of several amendments, suggests a comprehensive revision of the Police Act should be undertaken by the Solicitor General.

## Report

In total, we have made 170 recommendations

We have prepared our report in two parts, each having two sections: *Part I — A Framework for Policing in Ontario* includes our findings and recommendations on Role and Organization; *Part II — Resources for Policing in Ontario* is comprised of our findings and recommendations on Personnel and Economics. A complete summary of recommendations is included as Appendix 1.

**PART I  
A FRAMEWORK FOR POLICING IN ONTARIO**



**POLICE FOR A MODERN ONTARIO – POLICE ROLE**

## POLICE FOR A MODERN ONTARIO – POLICE ROLE

### AN ASSESSMENT

Ontario has been well served by its police forces and its police officers. This assessment has emerged as a central conclusion from our review of policing in the province, from the many briefs presented to us by citizens and organizations in Ontario, and from comparison with the performance of police forces in several countries in the world.

We have found no evidence of corruption like that which has so tarnished the image and effectiveness of police officers in some jurisdictions.

We think it important to note as well that the crises of violence which have plagued cities in the United States are not an immediate threat to our large urban centres. Much of this has to do with the lack of entrenched social and racial disparities in Ontario, and with the relative economic health of our cities. But credit is due, as well, to the sensitivity and innovation of Ontario's police forces.

There are, however, two factors emerging in Ontario which have the potential to threaten the quality of policing. The first is the pattern of urban life itself. Large cities, with their dense populations and sprawling suburbs create new and different requirements for the police role. The changes in mores, the sharpening of social conflict, the isolation and alienation, which are very much a part of a growing and changing urban society, place new pressures on the police function. These pressures bear directly on the individual constable as he seeks to enforce the law, to maintain order and to protect citizens and their property. At the same time, the police technology and methods used to cope with the requirements of an urban area tend to break down the channels of communication between the police officer and the citizen. It is the quality of the police/public communication which has underpinned the traditional quality of police service in Ontario. In this report, therefore, we emphasize those measures necessary to assist the individual constable to meet the modern urban challenge.

The second factor which threatens Ontario's police record is one of economics. Policing is an expensive public service and, because its costs are primarily salary, policing tends to become more expensive as wage levels rise. We have examined in gross terms the ability of Ontario to finance an escalating police budget. We have concluded that the current methods and approaches to police service cannot be afforded in the decade ahead. On the basis of our review of police services in other countries, we see a real danger of financial limitations impairing the ability of Ontario forces to meet the urban challenges outlined above.

Taken together, these two factors indicate the need for a clarification of police role and changes in administration and methods. Ontario has time on its side, and we believe that the changes can be brought about in an orderly fashion. They are, in our view, the essential next steps in the proud tradition of policing in Ontario.

## THE POLICE ROLE

There is much popular confusion about the nature of a police officer's job. Television, movies and the novel portray the police officer, gun in hand, leading a perpetual war against crime. Personal danger is an ever-present reality. Armed robberies do occur, and the individual officer is sometimes required to meet lethal force with lethal force. Routine situations can blossom into violence.

The domestic disturbance is regarded as the most dangerous of all police situations. Most officers never have occasion to use their service revolvers. Routine traffic enforcement is more likely to turn up a stranded motorist than a criminal suspect. A radio dispatch holds more promise of a cat in a tree than of a homicide.

Police officers spend relatively little of their time involved with crime or criminal activity. Estimates vary, but perhaps as much as 80% of an officer's duty is taken up with assisting citizens, maintaining order, ensuring the smooth flow of traffic and pedestrians, and routine patrol.

This confusion in role is evident in the professional police literature as well. A conventional school of thought focuses police attention on a sharply defined, if less sharply identified, "criminal element" and urges the application of the most powerful modern technology toward its eradication. A second school of thought casts the modern police officer in more of a social-worker role, striving to deal with the causes of social disorder and criminal activity at a more basic level.

The Task Force is of the view that neither of these stereotypes provides an adequate description of the police role. We feel greater clarity is necessary if police officers are to be equipped to meet the diversity of challenge that faces them.

The fact is that the vast majority of significant decisions in a police force are made by the constable in the daily course of his duties. These decisions, which reflect his concept of role, affect the rights of citizens and the safety of the community. They are most frequently taken without consultation with superior officers and very often under conditions which do not permit deliberation or reflection. We believe that the definition of a police role must address itself directly to the kinds of judgements that individual officers must make.

The real police role is the summation of many thousands of judgements of individual officers. The framework within which those judgements are made is the key to a police role which is in tune with the needs of modern Ontario. The following principles suggest the framework we have in mind:

- ◆ **The police officer's role is firmly rooted in law.**

It is the sworn duty of all police officers to maintain, enforce and uphold the law. This requirement, and the statutory powers granted him to do so, are what distinguish the constable from his fellow citizens. No concept of role can find basis elsewhere.

- ◆ **The law is applied with discretion and judgement.**

No judicial recognition has been given by a superior court in Canada or the United Kingdom to the proposition that a police constable has the authority *not* to invoke the criminal law process where the elements of an offence may be proven.

On the other hand, police administrators have *recognized* responsibilities in defining systematic discretion patterns, as it is they who must allocate available manpower and resources to a broad spectrum of competing needs. A Justice of the Peace has a *recognized* judicial discretion as to whether or not to process an information. Crown Attorneys, as the agent of the Attorney General, it is *recognized*, have the power not to prosecute any matter. It is a fact of life that police are daily called upon to decide whether or not to invoke the criminal law process, and it is a subject that deserves careful and considered examination.

Law is not intended for rigid and mindless uniform application. It, in itself, is designed to serve the larger purposes of the community. Police judgements not to invoke the criminal law process, therefore, must relate to the intention of Parliament and the Legislature in enacting a particular law. The larger purposes of the community must be kept in mind.

Law, viewed from a functional perspective, is the process of compelling individuals to act in accordance with rules, so that all may live, if not in harmony, at least with a minimum of discord. The criminal law system is one device which our society has employed to ensure that at least the minimum standards of human behaviour in society are observed. It was never intended by the legislating authorities that all laws should be enforced with the same rigidity. Some rules, as for example the prohibition of murder, are so fundamental to society that failure to enforce them would lead to the complete disintegration of the community, while others, such as the rules regulating some aspects of driving, are merely designed to achieve a safe and rapid flow of traffic through a community.



Some legislation, the Liquor Control Act for instance, provides a constable with alternatives. That legislation provides that, where a "detoxification centre" exists, a constable may take a person found intoxicated in a public place to the centre in lieu of laying an information. The constable is also called upon to exercise judgement under the Bail Reform Act. He must decide whether to arrest or summons a suspected offender.

While under the Police Act, a constable in Ontario has a duty to apprehend offenders, he is also charged with the duty of preserving the peace and preventing robberies and other crimes and offences. These several duties may be in contradiction in any given instance.

Most legislation does not provide alternatives, but our society has come to expect constables to exercise some degree of judgement in deciding when to invoke the criminal law process.

However, the judgement of a constable must be related to the objectives of the particular law and how those objectives relate to the situation within his community. If it were related to the personality of the offender, or the social embarrassment of the offender, abuse could tear apart the entire fabric of Canadian law by, for example, creating one law for the rich and influential and another for the poor and helpless. Such a basis for decision-making is unacceptable in theory and in practice would be opposed by all citizens and by all professional police officers. Any police power of decision-making must be related to the purpose of a law and must be coordinated with the decision-making powers of the Justices of the Peace, the Crown Attorneys, and the Judges.

It is vital that the police understand the law and the legislative intention behind the law in order to properly judge whether any case truly calls for the invocation of the criminal law process.

In the final analysis, each individual police officer regularly faces decisions of whether or not to invoke the criminal law process. Each such decision has profound effects on the person concerning whom the decision is made, on the judicial system — including lawyers, Crown Attorneys, and court personnel — on correctional authorities, and ultimately on the public. A mechanical invocation of the judicial process where the purpose of the law and the safety of the public are not considered, can lead to an overloading of the court facilities and personnel, place needless burdens on prosecutors and create dissatisfaction among the public. On the other hand, indiscriminate, unreasoned non-invocation may result in uncertainties within the law, capricious enforcement based on the reactions of individual constables, and a breakdown of public respect for the administration of justice.

Police judgement has received little attention in Canadian jurisprudence: police officers have not talked about it since its existence is not formally *recognized*; lawyers have not argued it since it is not a basis for defence; and Judges have not rationalized it since it plays no role in reasoned judgements.

Police judgements not to proceed could become a hidden power, whereas decisions made by other officials in the judicial process (the Attorney General, Crown Attorneys, Justices of the Peace) exercise a more public power of judgement in respect of which some reviewable record is prepared.

We are of the view that discretion in the application of law is best exercised where such judgements are open to review. Yet we stress that the power of judgement in the hands of the individual officer is an important aspect of the police role. Barring exhaustive study, we can see little advantage and many dangers in systematic attempts to codify criteria for the exercise of that judgement. We favour emphasis on the training and education of officers, and in the processes of supervision within forces, which address themselves directly to issues of judgement and which prepare each officer to exercise the power of judgement wisely.

This is particularly important under Canadian law where a police officer is a servant of the Crown and of the law, not an employee of his force or municipality. Because of this, he carries directly and personally the responsibility for his decisions on where and when the sanctions of the criminal law process are to be imposed.

We think it important that each force strive to define a broad framework to guide the exercise of judgement.

♦ **The more serious the offence, the less leeway for judgement.**

This principle suggests a greater latitude for judgement for offences which, in the contemporary view, are more regulatory than seriously criminal in nature. It suggests very little, if any, latitude for serious crime. A concept which emphasizes this elastic relationship with the law is essential to providing the individual officers with the ability to judge how the law should be applied in any particular situation. Latitude in the use of judgement is both appropriate and necessary for those offences which society in its contemporary mood regards with some tolerance. This is especially true where a broader community purpose may be enhanced in so doing. Offences which the community regards as serious or grave, however, permit less judgement and require the letter of the law to be enforced.

- ♦ Judgements must be governed by a clear sense of police objectives.

Application of police judgement requires a clear understanding by each officer of the objectives he is seeking to achieve. The primary objectives must include *crime control, protection of life and property, and maintenance of peace and order*. Judgement on the application of the law requires an assessment of which of these three fundamental objectives is of primary importance at a point in time. Potential disorder may, for example, require the objective of crime control to be temporarily relaxed in favour of the other two objectives. On the other hand, control of serious crime may require temporary disruption of order. This concept of objectives — their clear understanding by all officers, and the shifting of priorities among them — is not a common one in most police forces. We feel it essential to a police function which is sensitive to modern needs.

We therefore recommend that:

**ROLE 1.1** Objectives within each police force be defined in terms of that community's requirements for crime control, protection of life and property, and maintenance of peace and order.

**ROLE 1.2** The reality of police judgement in the application of law be squarely faced in each police force, and that deliberate and continuing steps be taken to ensure that each police officer has the ability to exercise his judgement so as to support the objectives and priorities of the force.

## Functions

Within the context of the overall objectives, police have six principal functions: response, referral, prevention, public education, crime solving, and law enforcement. Popularly, the latter two have been seen to be the main components of the police role. To a large degree, this perspective is shared by the police tradition, and the other functions are seen to be largely peripheral to "real police work". We are of the view, however, that a far better balance among the six functions must be sought if the province's needs for crime control, protection of life and property, and peace and order are to be met. Let us look at each in turn.

- ♦ **Response** — The technology of the automobile and the radio have given the police the primary response capability in any modern society. Citizens have learned that police officers are only as far away as the telephone, and they call upon the police for a wide variety of needs, only a few of which involve crime. Yet this function is central to all three objectives and has been recognized by all forces in Ontario as fundamental to the service they perform.

- ♦ **Referral** — Because police are called upon in virtually any emergency, they are brought face to face with many situations where other community resources are required. These include welfare services, Children's Aid, and the John Howard Society, to name just a few. Because the police provide a 24-hour-a-day service, they are most often in the key position to ensure that appropriate referral is made. The way in which this referral function is carried out may be critical to finding a lasting solution for the immediate problem. Lasting solutions are important if the three fundamental objectives are to be realized.

The breadth of police responsibility we are describing, and the requirement for intelligent application of judgement, argue strongly for recourse to mechanisms beyond the criminal justice system for meeting police objectives. This suggests the routine use of other social and community services to resolve problems which have criminal potential, which may threaten persons and property or which have the potential for the disruption of peace and order. It implies that police officers contribute in bringing community resources to bear for the solving of specific problems, and places a new onus on police forces for seeking lasting solutions.

The referral role needs improvement and expansion in many forces in Ontario. To some degree, lack of attention to this role has been due to the workload facing individual officers and the shortage of available personnel. This is the very kind of erosion of role we fear with increasing financial pressures. In part, however, the referral function suffers from the fact that many agencies are unavailable outside of the 9:00-5:00 working day. In addition, we feel there is considerable room for improvement in the coordination of the various social agencies in most Ontario communities. Other aspects of provincial and municipal governments will need to resolve these problems, but we urge the police to take the initiative toward their resolution to ensure that the fundamental objectives of the police role are met. The referral function is of increasing importance in the modern urban context.

- ◆ **Prevention** — There is need for more emphasis on crime prevention — a role which tends to be neglected because of the demands for responsive service and the incident orientation of most officers. Crime prevention includes a range of activities. Some are aimed at alleviating social conditions which are closely associated with crime. Others have to do with improvements in the detection and apprehension of criminals and with steps for reintegrating offenders into communities. Still others, such as "hardening of the site" emphasize methods to make criminal activity more difficult. Crime prevention implies a longer-term orientation for the police.
  
- ◆ **Public Education** — The function of educating the public about the law and its application and about criminal activity is an essential component of a balanced role. It may utilize several approaches, including a broad public relations program and sharply focused programs to bring police officers into close contact with students in primary and secondary schools. Currently in Ontario public education is seen to be a minor, if important, part of a modern police force. We view it as an essential component of long-term prevention and we have made further specific recommendations later in this report regarding public education.
  
- ◆ **Crime Solving** — Crime solving, or investigation, is at the core of the popular conception of "real police work". It is a central function and one which must be pursued with vigour and dispatch. We wish only to stress that there are other functions of equal importance to the modern police role.

- ◆ **Law Enforcement** — Knowledge of law and its application are major points of emphasis in current police training, and this emphasis tends to reinforce the tradition that police deal primarily with laws and their infraction. We have already stressed the need for clarity in the relationship between the officer and the law. But it is important as well to emphasize that invocation of the law is but one mechanism for meeting the broader objectives of the police role.

We recommend that:

**ROLE 1.3** Police forces develop a balance among the functions of response, referral, prevention, public education, crime solving and law enforcement which reflects the needs of each community in terms of the objectives of crime control, protection of life and property and maintenance of peace and order.

**ROLE 1.4** In the context of their broad objectives, police forces take a leadership role in their communities to find lasting solutions to problems which confront them. In doing so, police officers are to be encouraged to make full use of alternatives to criminal sanction, such as other social services, where they are deemed to be more appropriate. Police officers must be encouraged to develop closer working relationships with other community service organizations at all levels.



## CONSTABLE-CENTRED MANAGEMENT

The approach to role outlined in this report places the greatest onus on the individual constable. This is because he makes the most important police decisions in the everyday course of his duty. His ability to make good judgements rests on the quality of preparation he has received. Some of this is a matter of training and education, and we make specific recommendations in this regard in later sections of the report. The key to good judgement depends at least as much on experience in dealing with real situations in the context of a clearly defined sense of purpose.

Good police work, which reflects the changing needs of the community, relies on reinforcement of appropriate behaviour on the job. We feel considerably more emphasis must be placed on the development of judgemental skills. This will require changes in the management style in use in most Ontario forces.

### The Military Tradition

During the first half of this century, policing in Ontario came to be heavily influenced by military personalities and military structures. Ranks and disciplinary systems were styled on the military model, and the concept of *command* was adopted as the administrative style for most forces. This approach lay behind many of the improvements in Ontario policing introduced during that time. It brought about a uniformity of policing and improved standards and forced objectivity on the part of police officers. It gave forces the ability to deploy men swiftly and efficiently to meet crisis situations. But there are new requirements today. The command structure implies that the important decisions are taken at senior levels, and that officers in the field follow orders — this is inconsistent with modern requirements for role.

Moreover, we are critical of the concepts of motivation which are generally employed in Ontario police forces. By and large, these motivators are negative. They stress sanctions to be levied for improper behaviour. Disciplinary measures, such as suspension without pay, are used to govern the behaviour of individual officers. Positive motivators are limited to citations and promotions — and promotions are a scarce commodity.

## Professional Management for Policing

By contrast, the concept of professional responsibility for policing at the constable level favours a style of management which strives to provide the skills, knowledge and support to make better judgements. It requires a clear understanding by each officer of the objectives and purposes of the police role in each community at a given point in time. It implies dialogue among peers on objectives and on the best ways of meeting them. It emphasizes joint group decision-making, particularly in determining the goals to be achieved in each aspect of policing, the methods by which they are to be pursued, and the tests which are to be used to evaluate success. This is needed, on the one hand, to develop a sense of purpose for the individual constable in the context of discussion with his peers and team leader. On the other hand, it is an essential component in bringing field experience and judgement upward to influence overall departmental policies and strategies. It implies flattened hierarchies, greater delegation, group problem-solving, shortened communication channels to bring problems and solutions upward, and places the onus on constable teams to bring forward recommendations for policy change.

This approach to police management draws upon a more complete concept of motivation. Instead of reliance on sanctions, it recognizes officers' needs for involvement with their peers, for approval of their colleagues and relies on their need for achievement in their professional role.

The Task Force has reviewed the effectiveness of this managerial approach in various cities and has been impressed by the success achieved in harnessing the creative capabilities of individual officers to make the police function more effective in meeting the needs of the community.

Earlier in this report we underlined the two issues we see as having the potential for creating a crisis in policing in Ontario — the challenge of the urban community and the pressure on police finances. The constable-centred managerial approach is critical to resolving both of them. It builds a true professionalism based on the innovative abilities of each officer in the shaping of a sensitive police service. At the same time, it has potential for focusing police efforts on the highest priority community needs and for developing systematic solutions which meet these needs. This, we believe, is a key to higher real productivity.

### Leadership

The constable-centred management approach outlined here will create new requirements for police leadership. Command/obey patterns must give way to dialogue on objectives and methods. Incident-oriented policing will need to be displaced by a zone-oriented team policing system which focuses on community objectives. The emphasis on sanction and discipline as a means of control will need to shift to coaching and problem-solving. Roll call will need to be replaced by team conferences.

Changes of this kind will require very fundamental changes in leadership styles and supervisory methods. These changes are, in our view, the most critical to the development of a truly professional police system which can build on the potential of each individual officer for sensitive service to the community. We feel that considerable effort needs to go into the development of managerial personnel in all ranks above constable. In addition, we see the need for organization development which trains both supervisory ranks and constables in a management-by-objectives approach to policing.

### Difference and Standardization

The approach to role we advocate in this report has implications for the standardization of police methods across Ontario. When we emphasize the need for each force to develop approaches and methods which meet the crime control, protection and peace and order requirements peculiar to each community, we are arguing for different approaches to policing across Ontario. This is because we believe each force needs to be closely tuned to the particular set of problems facing that community.

This is an argument against uniformity and in favour of difference.

Specifically, we are advocating that each force in Ontario actively search for approaches and methods which are responsive to the objectives judged to be of highest local importance.

There are areas where standardization makes a great deal of sense for the citizen. Communications technology is one. We feel it important that master communication systems continue to be developed by the Ontario Police Commission so that the several forces in the province may be mobilized to meet emergency requirements. However, there needs to be wide latitude for police forces to develop differences which are uniquely adapted to the needs of each community. These may include differences in uniforms, in automobiles, in structures, or in methods, and such differences are to be encouraged unless there are strong overriding technical reasons for standardization.

We therefore recommend that:

- ROLE 2.1** Police forces employ an approach to administration which focuses on the objectives of policing and the priorities among them, and which encourages individual police officers to use initiative in carrying out the objectives of the force, and which features responsibility and accountability at all levels.
- ROLE 2.2** Police forces place special emphasis on management and leadership development.
- ROLE 2.3** The Ontario Police Commission initiate pilot projects in organization development in urban police forces in Ontario to develop a capability throughout the province for improving the role and orientation of urban police services.
- ROLE 2.4** The Ontario Police Commission encourage innovative approaches within the several forces in the province, supporting differing methods which are responsive to individual communities and that regulations to standardize police services be adopted when there are overriding technical or economic reasons.

## POLICE AND THE COMMUNITY

Our terms of reference specifically directed us to examine the relationship between the police and the public in Ontario. We have attached particular importance to that direction. We believe that the relationship is central to the quality of police service, and we feel that deliberate efforts are needed to improve it in the years ahead.

### The Tradition

The Ontario tradition has always stressed the need for a close relationship between the police and the citizens they serve. The principles laid down in the early 19th century by the founder of the British police service, Sir Robert Peel, have had a pervasive influence in this province. In particular, his insistence that "the police are the public and the public are the police" remains a guidepost to police forces in Ontario.

Our concept of a constable-centred management style is fully in line with this. Indeed, because we rely heavily on the first hand knowledge of each officer to shape appropriate judgements, it is essential that each have intimate familiarity with the community he polices. This familiarity is at least as important as more formal training and education.

The Task Force is satisfied that the majority of citizens in Ontario have confidence in the police, although the respect for the police is greater in some parts of the province than in others, and not all groups which make up the Ontario public share the same degree of confidence.

### Urban/Rural Differences

The most striking differences in the quality of police/community relations are between Ontario's large cities and the less densely populated parts of the province. In smaller communities, closer and more personal relationships between police officers and other citizens are easier to maintain. Indeed, the intimacy of the small community continually reshapes this relationship through normal social pressures.

There is however, some evidence of a breakdown of communication between the police and community in larger centres. The remarkable change in social attitude over the past few years has, more than likely, had much to do with this, yet law enforcement has remained traditionally conservative in its approach. There are historical reasons why this has been so.

## The Technological Trap

The introduction of technology into the police role has tended to widen the gap between the citizen and his police force. Early stages of technological reform put police officers into automobiles and tied them to dispatch centres through radio. This had the effect of taking officers out of direct contact with people on the streets. Perhaps of equal importance, radio concentrated the officers' attention on incidents reported to police departments by telephone. While this improved the police ability to respond to citizens in need, it also has tended to shift their attention to cases needing immediate resolution and away from a continuity with a geographic area and its people.

Both mobility and communications have improved police ability to respond to citizen calls. Citizens, noting this over a period of time, have come to call on their police for a greater range of services and within a much broader range of incidents. Thus the increase in the number of incidents reported has converted much patrol activity into responding to an ever-growing demand. The direct effect has been a severe lessening of police contact with the broad cross-section of citizenry.

Since the 1940's, and particularly in the last decade, some forces have introduced operations research methodology as a technological support to policing. This mathematically-based analytical tool is aimed primarily at improving response time and effecting better deployment of forces. Analysis has been used to optimize patrol coverage and to reduce the time for response. This is because operations research measures the measurable, but its application has failed to take into account those aspects of the police function which are less tangible.

Police forces, like other institutions in the post-war milieu, have sought performance measures which would help them gauge the efficiency with which they carry out their duties. Like other institutions, they have tended to seize on measures which are easily quantifiable — perhaps ignoring other, less tangible yardsticks of performance. Crime rates, clearance rates, warnings, arrest statistics, and other concrete variables have been introduced into police reporting schemes to assess efficiency. The effects have been twofold.

Firstly, crime statistics are almost without bound. Estimates vary, but reported crime is thought to be a very small fraction of crime committed. Increased attention to crime, in a technical sense, tends to identify more crime and thus inflate related statistics.

Secondly, the preoccupation of police administrators with crime rates has tended to shift the preoccupation of police officers toward crime incidents and away from other aspects of role which emphasize the general

peace and order of a community. In some forces, this takes the form of formal quotas for arrests or traffic tickets. Most forces use the individual statistics with considerably more discretion. There is a popular belief that informal quotas, established and enforced by an officer's peers are not uncommon: Where this is found to be so, it should be discouraged.

### Distortion of Role

These technological reforms have reduced the personal contact — on a man-to-man basis — between the citizen and his police officer. They have made police work more impersonal, more incident-oriented, and less concerned with the continuity of relationships with the community.

In rural communities, technological reform has made police officers *more* rather than less accessible to citizens. In cities, the opposite is true.

In terms of the six functions we have identified for the police role, the introduction of technology in urban areas has tended to emphasize the *response, crime solving and law enforcement* functions to the detriment of *referral, prevention and public education*.

### Alienation

This pattern, to a greater or lesser degree, is typical of large urban centres in Ontario. It may be seen as but one aspect of the depersonalizing of relationships in urban communities in general. Mobility, the fragmentation of community, pace of life, remoteness of institutions and shifts in values are all aspects of the same kind of process taking place in the urban setting in general, beyond the purview of the police function. However, the processes we have described as shifting the police role are internally generated and, to a considerable degree, within the control of police policy.

The shift in role for the individual constable implied by these processes of technological change has a direct impact on his beliefs and character. As an individual, his contact with society tends to be limited to other police officers. In his daily work, he sees an unbalanced sample of his community — mostly those who live on the edge of the law. Socially, because of shift work, the anxiety surrounding the real dangers of his job, and because of the community's sensitivity to the authority of the police image, he tends to concentrate his friendships among other officers and their families. Gradually, this unbalanced exposure to his community leads him to a general cynicism about human nature. His lack of exposure to people leads him to deal with them from behind the mask of his uniform and prevents him from developing the skills which would enhance easy relationships with citizens.

This emphasis on incidents and cases, and particularly on crime statistics, tends to shift his concept of his job to one that defines mainly crime and criminals as "real police work". This is the human aspect of the vicious circle which threatens, without design or intervention, the needed integrity of police and community in Ontario's urban centres.

### Police-Centred Community Relations

There are many operational police methods which can improve the contact between police and the public, and we wish to make specific mention of some. Before doing so, it is important to stress that police/community relations are fundamentally governed by the way in which a force manages itself. A real change cannot take place unless the police function is viewed as from the point of view of the constable in the main body of patrol. It is at that point that the real contact with the public is maintained. It is at that point that the needs of the community can best be assessed. It is at that point where judicious discretion in the application of the law can work for or against the community. It is at that point that the debate over objectives and balance of the several functions which make up role must be focused if a truly responsive police service is to exist.

It should be clear from all of this that the Task Force does not believe that community relations are synonymous with public relations in the PR sense. Police/community relations are at the core of every contact between a constable and a citizen.

### Some Specific Methods

There are specific methods of enhancing police contacts in the community which have been found useful by forces here and in other countries. Some of them alter the basic concept of patrol, while others are aimed at specific problems in a community. Some or all of them may prove useful to Ontario forces if they are so judged in the context of an on-going review of objectives and priorities among functions. We put the following forward as illustration rather than recommendation:

- ◆ **Unit Beat System, United Kingdom** — A constable is assigned to a geographic urban area containing about 5,000 persons. He has flexibility to work his own hours, in or out of uniform, and responsibility for coordinating policing on his beat, 24 hours a day, seven days a week. Through his personal radio contact with the station, he has access to a Panda-car backup on a 24-hour basis.
- ◆ **Area Foot Patrol, Toronto and Ottawa** — A variation of the Unit Beat System, it is employed in high pedestrian-density, downtown areas. Emphasis is on intimate knowledge of problems in the area and the people who frequent it.



- ◆ **Basic Car Plan or Neighborhood Car, Los Angeles** — While similar to the Unit Beat concept, it is adapted to sprawling and mobilized communities. Emphasis is on local identity for officers and continuity in policing responsibility at the local level.
- ◆ **Walking Man, Vancouver** — It is a refinement of the Unit Beat concept, but aimed at high rise areas. Officers are expected to handle the full police role in the area to which they are assigned. Checkbacks on every incident are made within 48 hours and often lead to recommendations for prevention, including such things as better lighting. Block meetings are held with interested citizens to encourage dialogue on local problems.
- ◆ **Community Service Officer, Toronto** — Comprises a liaison role between regular patrol and all members of the community — individuals and groups. Emphasis is on knowledge of community, encouraging coordination of community resources, establishing confidence in cultural and ethnic communities, and bridging communications difficulties between police force and community.
- ◆ **Crime Desk, Hamilton** — A weekly television show is designed to inform the public of investigations underway and the role of the police in the community.
- ◆ **Others** — A wide variety of specific activities is used by many departments in Ontario and elsewhere to focus on particular problem areas. Some feature regular block meetings to bring officers and citizens together on a face-to-face basis, frequently on specific issues such as residential burglary, drugs or vandalism. Kaffeeklatches or neighbourhood workshops serve similar purposes. Many forces have ride-along plans where citizens can see police work first hand. In some communities, officers are fully involved with high schools in teaching courses on the law or counselling students. More specialized efforts are in use to directly establish communication with potentially unapproachable groups, such as ghettos and transient youth.

It is equally important to note that citizen groups are taking initiative in developing closer police/community relationships. For example:

- ◆ **The Canadian Council of Christians and Jews** is establishing police/community relations groups to ensure that good lines of communication are forged, to identify problems before they arise, and to bring attitudes of the community and the police together.

- ◆ **The Stratford Mayor's Committee on Administration of Justice and Community Services** was established to encourage police/public partnership in crime prevention, to foster improved communication and understanding, and to isolate specific problems facing the community.

We therefore recommend that:

**ROLE 3.1** Easy and open channels of communication between police officers and the public be recognized by all police forces in Ontario as a critical requirement for the police role.

**ROLE 3.2** Each force, in the evaluation of an individual officer, place primary emphasis on demonstrated ability to resolve the high priority problems in his community, giving weight to traditional measures of performance such as clearance rates, arrests and warnings only to the extent that they reflect the operational priorities identified for the community.

**ROLE 3.3** Deployment strategies be devised in each force which will enhance the development of fully qualified professional officers. These officers should be given as broad as possible a cross-section of issues in a community, and be encouraged to develop a continuity of relationships with that community.

**ROLE 3.4** Selective tactical programs be employed, where appropriate, to improve the quality of police relations with those segments of the community which are most difficult to reach. Specifically, we place priority on programs which bring police officers into direct and intimate contact with youth in their own settings, including street corners, schools and drop-in centres. In addition, we urge steps to establish open communication with minority groups.

**ROLE 3.5** Police take initiative in cooperating with community organizations who express interest in developing better communication between the police and the public.

These recommendations are, in the view of the Task Force, the important things in building a police service which is in tune with, and responsive to, the needs of modern urban Ontario. Taken together with our concepts of balanced role and a constable-centred management style, they seek to build upon the professional motivations of officers. Their emphasis is positive and relies heavily upon individual self-control in the judicious exercise of responsibility.

### Police Powers and the Rights of the Individual

There is, however, one area where we feel the concept of checks and balances is required as a protection against abuse of police power. This is very much a matter of police/community relations, as the powers granted to officers by statute must be seen by the citizen to be exercised in a manner which is beyond reproach. Police officers must constantly bear in mind that the vast majority of the population are not law breakers and that officers have a duty to treat the citizen with dignity and courtesy of manner. Yet the law uniquely empowers officers to exercise force in the conduct of their duty. In addition, the law empowers an officer to strip away the normal rights and freedoms of an individual where, in his judgement, the safety of the community is threatened or a crime may have been committed.

The Task Force feels it essential that the exercise of these powers — which have sometimes been termed “the awesome powers of the police” — is seen to be above reproach. We feel that clear and unequivocal guidelines need to be laid down in this regard.

We recommend, therefore, that:

**ROLE 3.6** The Ontario Police Commission prepare and circulate through the governing authorities, in written form, the instructions governing the use of force by a police officer, as provided by law, and that these be communicated clearly to the public.

It is essential, as well, that the onus be placed upon police officers to protect the rights of persons in custody. This is necessary if citizens are to be assured that the concept of innocence until proven guilty remains intact.

The Task Force does not dispute that police interrogation of suspects, when properly and fairly conducted, is a most important part of any investigation. Proof that unlawful physical force was used, or of other gravely objectionable conduct during such interrogation, should be viewed with the utmost gravity and result in appropriate disciplinary action.

As a means of helping to ensure that the citizens' interests are fully protected, we recommend that:

**ROLE 3.7** Police officers recognize that, by reason of the Canadian Bill of Rights, every person arrested or detained for any offence under the Criminal Code or under any statute of the Parliament of Canada, has a right:

- (1) to be informed promptly of the reason for his arrest or detention; and

- (2) the further right to retain and instruct counsel without delay.

Proof that the spirit of these provisions has been flouted or ignored should result in disciplinary action.

While in law these rights exist in respect of federal statutes only, the Task Force believes that police practice in Ontario should extend the same rights to offences under provincial legislation. In addition, we are of the view that suspects should be informed of their rights under provincial legislation, to legal aid, and that every reasonable assistance be given them in obtaining it.

We therefore recommend that:

**ROLE 3.8** The Ontario Legislature consider legislation to extend the rights existing under the Bill of Rights outlined in **ROLE 3.7** to offences under provincial statute and further that police forces establish appropriate means to assist an accused in every reasonable way in contacting counsel, and inform him of services, such as legal aid, which may be available to him.

Where a citizen feels that the power of the police has been abused, he needs a credible avenue through which he can lodge a complaint.

Most Ontario forces maintain a formal system of investigation internally. We have no evidence that these procedures are anything but unbiased and fair. Yet we are aware of a significant body of public opinion which is skeptical and which does not believe that a police investigation of police misconduct can be impartial.

We have examined alternative ways of dealing with complaints, including external complaint review or appeal boards. We have concluded that improvements in the current approach are most appropriate to Ontario. Such improvements lie in the establishment of a clear and visibly impartial procedure for complaints in those forces which currently do not have them. Equally important, we feel that these procedures be made known to every citizen who may have a concern with his treatment by police officers.

We therefore recommend that:

**ROLE 3.9** The governing authority of each police force establish a defined procedure for dealing with complaints against police officers. Such procedures must feature impartial investigation and a clear communication to the complainant and the complainee on the results of the investigation.

**ROLE 3.10** Wherever it is appropriate, the investigation procedure include a provision for frank face-to-face discussion between the citizen and the police officer in the hope of resolving differences which may impair the kind of police/community relationship we feel essential for Ontario.

**ROLE 3.11** Police forces make every effort to communicate the avenues open to the citizen who feels wronged by police action, including the nature of the force's internal investigative procedure, his subsequent right of complaint to the Board of Commissioners of Police and, finally, his right of appeal to the Ontario Police Commission. In addition, forces should apprise the citizen of his rights of action through criminal or civil procedures in the courts.

Our emphasis in these recommendations has been to ensure citizens' rights, and to establish a framework which will promote better relationships between officers and citizens. We have a concern, as well, with the rights of individual officers who stand accused by citizens. In a fundamental sense, this is of equal importance to the rights of the citizen. Should individual officers feel that citizen complaints may bear on his professional and career prospects in a capricious manner, such could work counter to a climate which promotes an accountable and professional assumption of responsibility by each officer. Clearly, citizen complaint procedures must be seen to be fair to police officer and citizen alike.

We therefore recommend that:

**ROLE 3.12** At the earliest possible stage of proceedings, a police officer be made aware of complaints against him.

## COMPOSITION OF POLICE FORCES

The foregoing sections have described shifts in the orientation of policing in Ontario which we feel to be essential for the years ahead. These will spell changes in the composition of police forces — changes in the nature of the officers which make them up. Most importantly, we stress the responsibility of the individual officer in meeting a broader police challenge in an increasingly complex environment. In simplest terms, we in Ontario must treat police officers as professionals, and we must insist they perform as professionals. In later sections of our report we will make specific recommendations on recruiting, training and development which are designed to produce and maintain the truly professional police officer. In the following paragraphs, we make broader recommendations aimed at ensuring that the composition of police forces is consistent with the community-oriented requirements of a balanced police role.

### Ethno Cultural Mix

Ontario is a province with a great diversity of cultures. The Canadian concept of a cultural mosaic supports the need to deal with each on its own terms and in its own ways in the context of Canadian law. Our recommendation on the need for modern policing to maintain open and easy communication channels between police and community requires that the ethno-cultural composition of a police force be a reflection of that in the community. This is more than a matter of language. It requires that a police force deal with each distinct subgroup in the community within the framework of the distinct values and customs of that subgroup.

We therefore recommend that:

**ROLE 4.1** Each police force adopt a deliberate recruiting strategy to bring the ethno-cultural composition of the force roughly in line with that of the community.

### Bilingualism

Because of the special constitutional place of the French language in Ontario, we feel a specific recommendation is required for those communities in the province which are predominately or largely French-speaking. In addition to our general recommendation that police forces should reflect the ethno-cultural mix of their community, the Task Force acknowledges the desire and right of the French-speaking citizens of Ontario to preserve and foster their language, customs and culture. Toward this end, there is a need to extend the availability of French-speaking police officers as rapidly as practical. Wherever the number of French-speaking citizens is significant, bilingual police services must be implemented.

We therefore recommend that:

**ROLE 4.2** Forces serving the following communities work toward providing a fully bilingual police service to these communities in the years ahead:

Prescott-Russell	Mattawa
Ottawa-Carleton	Sturgeon Falls
Stormont-Dundas-	North Bay
Glengarry	Sudbury
Elliot Lake	Hearst
Blind River	Kapuskasing
Espanola	Smooth Rock Falls
Haileybury	Cochrane
Elk Lake	Iroquois Falls
Englehart	Timmins
Penetanguishene	

**ROLE 4.3** To meet the requirements of recommendation 4.2, all new recruits to these forces be either bilingual or willing to take appropriate courses to achieve a basic bilingual proficiency during the probationary period.

**ROLE 4.4** The Ontario Police College offer sufficient of its instruction in the French language to enhance the bilingual capacity of officers working in French-speaking communities.

### Backgrounds

The principle of police forces reflecting the composition of their communities extends beyond considerations of language or culture. The Task Force is of the view that police officers should be drawn from as broad a cross-section of social backgrounds, walks of life, and educational preparation as is possible. In our view, the professionalism we envisage for Ontario police would not be well served by an emphasis on higher formal education which is different from that of the general population.

What we have in mind here is the opening of the police service to persons otherwise employed in Ontario society so that viewpoints of the full spectrum of modern Ontario become an integral part of police attitudes and understanding. We can imagine, for example, the recruitment of persons wishing a second career and who can bring either skills or experience which are needed in a police force.

We therefore recommend that:

**ROLE 4.5** Recruiting strategies be devised by all police departments to attract officers who will bring the composition of the force into rough conformity with the community, in terms of social background and walk of life, and, above minimal standards, reflect the educational make-up of the community at large.

### Women

We feel it essential that women find a larger role within Ontario police forces. Our view is more than an echo of the egalitarian sentiments of the day. There is no evidence to suggest that women are incapable of performing the police role in virtually all its aspects. Indeed, there is considerable evidence to suggest that women are more effective than men in family-crisis situations or incidents involving violence. Yet with few exceptions, policewomen in Ontario are relegated to juvenile or matron duties.

Policing in Ontario has been a male preserve. We can imagine nothing which would more symbolize our intent to make police forces representative of, and sensitive to, the communities they serve than a major increase in the number of policewomen in Ontario.

We therefore recommend that:

**ROLE 4.6** Ontario police forces be encouraged by the Ministry of the Solicitor General and the Ontario Police Commission to recruit female police officers for specialized and general duties, with the opportunity for advancement equal to their male counterparts, and that there be no discrimination according to sex in recruiting or promotional opportunities.



## PRIVATE SECURITY SERVICES

Our terms of reference concentrate our attention on police who are constables under the Police Act and who serve the citizens of Ontario as *public* police officers. In the province, however, there is a large number of *private* security personnel who perform a quasi-police function, primarily in the protection of private property for private employers. These include security guards and private investigators, some of whom work directly for the industries they protect, while others provide service on a contract basis. It has been estimated that there are at least twice, and perhaps three times, as many private security personnel in Ontario as there are public police officers. A small number have been appointed special constables under the Police Act.

Private security personnel provide security services for industrial plants, commercial buildings, high-rise residential areas, ports, railroads, airports, and for the movement of valuables among private establishments.

It is clear to the Task Force that private security services are essential but, in the main, are supplemental to public forces. There are several issues which, we feel, must be addressed in the public interest. The following are suggestive:

### Confusion in the Public Mind

The uniforms of many security guards are similar to those worn by sworn officers. This leads to confusion in the public mind. In this report we emphasize high standards for police officers and stress the need for improvements in the quality of police/community relations. The Task Force is concerned that public contact with lesser qualified private security personnel may erode the kind of mutual respect we see to be so essential for Ontario.

### Qualifications and Training

Private security service is a useful supplement to public policing because it is cheaper. This is because standards can be lower for many security duties and salaries, benefits and training costs need not be as high as for sworn officers. Yet there are questions as to what qualifications should be required for the various categories of private security personnel.

### Scope and Regulation

There needs to be, in our view, a clearer definition of what private security personnel are permitted to do. Included here is the question of who

falls into the category of private security and who does not. Does a working definition of private security service include, for example, distributors and servicers of burglar alarms and closed-circuit monitoring devices? When, under what circumstances, and with what training requirements should private security personnel be permitted to use firearms or other weapons? Are these personnel best regulated by police forces or by the Ontario Police Commission? What form should this regulation take?

### Information

One of the most troubling issues relates to the collection, retention and use of information by private security personnel. Is there adequate protection of individual rights in current practices of maintaining private "intelligence" information on persons? To what degree should information gathered by private security personnel be required to be shared with public forces, or made available to the individual?

### Foreign Ownership

Many of the contract security forces in Ontario are owned by U.S. companies. Is this an appropriate arrangement in view of the sensitive nature of much of private security work? The Task Force is particularly concerned about the use of information gathered on Canadians when it may be held by non-Canadian firms.

### Motivation

In this report we place great emphasis on the need for public police to be oriented to the overall good of the whole community. Private security, by contrast, is motivated to protect private property in the interests of the owners of that property.

This may give rise to over-emphasis of restitution for the owner as opposed to justice for a crime committed against society. On the one hand, this motivation pattern may seek solutions which are not in the best interests of the community as a whole. On the other hand, it may lead private investigators to adopt investigative methods which would not be tolerated for public police and which do not respect the rights and procedures which, under law, have been deemed essential for the public police system.

### Historical Perspective

It is important to place these issues in an historical context. There is a pervasive pattern in the development of public police services in

countries following British traditions which evidences the transformation of "private" concerns into those of "public" concern. The history of the British Railway Police is a good example in that what was once a clearly private matter involving private property has gradually become a quasi-public responsibility. In New York City, policing of subsidized high-rise housing has led to the development of the Housing Authority Police Department. This force is public only because the "private property" involved happens to be owned by the city. In Ontario, the policing of ports is treated as a private security problem, but the rationale that the ports are "private property" is less substantive than it once was. We feel there is room to re-examine the dividing line between public policing and private security responsibility on the basis of a contemporary view of the public interest.

#### The Public Interest in Private Security Services

There are two arguments which indicate that private security services in Ontario need a greater measure of public accountability.

The first questions the validity of private property as the appropriate dividing line between public and private responsibility. While private cash-carrying, for example, is done in privately-owned vehicles, it takes place in the public domain. Similarly, many private buildings are accessible to the general public and cannot, in any meaningful sense, be regarded as places where the public interest is not involved.

The second argument for public accountability rests on the need for all policing activities affecting persons in a community to have consistency and continuity. We have already pointed out the dangers inherent in radically different standards for private security services and public policing where the citizen is unable to distinguish clearly between the two. We have indicated that differences in the methods and motivations between the two systems have an impact on both the effectiveness of the criminal justice process and the relationships between the community and the police.

The Task Force is of the view that no prescription for policing in modern Ontario is fully comprehensive unless private security personnel and private quasi-police are covered. In later sections of this report, we make specific recommendations for a relocation of the responsibility for administering the Private Investigators and Security Guards Act, but we believe a full and comprehensive review of private security services in the province is a matter of urgency.

Therefore, we recommend that:

**ROLE 5.1** The Solicitor General initiate a specific and comprehensive review of private security services in Ontario.

#### ORGANIZATION FOR POLICING IN ONTARIO

## ORGANIZATION FOR POLICING IN ONTARIO

### INTRODUCTION

"An organization is intimately bound up with the world and social system of which it is a part."<sup>1</sup> In Ontario there have been many changes in our social structure which affect policing.

Both central and local government structures have undergone considerable change in recent years. Centrally the new policy structure of government operates within a series of "policy fields" and new structural relationships exist with local government through Treasury, Economics and Intergovernmental Affairs. Some local governments have undergone considerable reform with the emergence of large urban/rural areas administered as regions.

The demographic pattern has also changed considerably in the past 20 years. Ontario has become an urbanized province with commercial and industrial activity predominating what was once a primarily agricultural economy. The population has grown from 4,500,000 to approximately 7,500,000 with over 80% of the people living in larger cities and towns.

Transportation, communications, and other technological changes have been enormous. These have affected the mobility of the population and broadened the size of areas to which they relate. They have, in addition, fundamentally affected the nature of policing in the province.

The demand for police services has increased at a faster rate than have revenues. This has caused great emphasis to be placed on effectiveness and efficiency. The need for improved management ability to see issues clearly, to prioritize and allocate resources, and to establish planned courses of action is now more apparent than at any time in Ontario's past. The importance of establishing organizational patterns at both the local and provincial levels to facilitate the cost-effectiveness of policing is increasing.

In Ontario policing services are delivered through both a provincial police force and municipal forces. In January 1972 there were 3,897 police officers employed by the OPP and 9,265 police officers deployed through 179 local forces in the province. Of the 179 local forces, 103 had 9 or fewer men.

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<sup>1</sup>COGP, Interim Report Number 3, December 1971, page 9.

The existence of such a large number of small forces places considerable limitations on efficiency and effectiveness. On the other hand, the Task Force recognizes and has placed considerable emphasis on the desirability for responsiveness to local needs and conditions in delivery of police services. Moreover, we have considered the unique conditions of Northern Ontario in developing our recommendations. Our recommendations for organizational change in the delivery of police services incorporate a balance between local responsiveness and ability to respond meaningfully.

We have considered both the need for police independence in the day-to-day execution of their responsibilities and the need for accountability to democratically elected bodies regarding their overall operation. We have recommended that the delivery of police services in Ontario be closely tied to units of government structure throughout the province and propose changes in the linkage mechanisms involved.

At the provincial level, we see the need for a broader policy context within which policing policy can be developed for the 1970's. We see that central services in support of the delivery levels can be expanded to improve the cost-effectiveness of policing. We have made recommendations to clarify and improve the central structures with respect to their function in quasi-judicial matters. In addition to proposing an overall structure which affords considerable flexibility, we have included specific recommendations to foster innovation.

Our report discusses and enumerates our recommendations first with regard to organization of the delivery levels of policing, and second, for central structures.

## DELIVERY STRUCTURES FOR POLICING IN ONTARIO

### City and Regional Forces

Policing is currently provided in 179 municipalities in the province by separate locally operated forces. The capabilities and organization of these forces cover a wide spectrum ranging from Metropolitan Toronto with about 4,000 men and considerable specialization to those with only a few men, often with relatively little training and no specialization. 103 of the municipal forces have fewer than 10 men.

It is important to note that certain significant thresholds of service exist in relation to size of a police force. Analysis of available time for active duty considering vacations, sick leave, time required for training, etc., shows that to simply have one man available for response to occurrences on a 24-hour basis requires a minimum complement of six. To operate a

department with two men requires a minimum of 12 duty officers. In order to provide additional effort to certain shifts and duties, to replace court time, to provide for administration and a minimal degree of specialization (such as for detective/identification, youth or traffic/safety work) very quickly puts the minimum complement requirement between 15 and 20 men, plus a chief constable, deputy and secretarial help.

The Task Force considers local responsiveness of prime importance, but also sees that this response can only be significant if a force operates over a certain threshold of size.

The ratio of size of force to size of community in terms of complement and population varies. For cities, the ratios fall between 1/530 and 1/900.

For smaller communities, the ratios tend to be smaller. Accordingly, in our considerations we established that the minimum population for operation of a separate local force in communities of Southern Ontario<sup>2</sup> should be 15,000 people. It is note-worthy that this population<sup>3</sup> point, with one exception, differentiates cities from all other lower tier municipalities outside of regional governments.

In connection with regions, the Task Force considers that the regional municipalities of Southern Ontario afford a desirable local-government basis for policing, both in terms of size and representation of differentiation with respect to local conditions.

We believe our recommendations establish the most appropriate sizes of forces for Ontario in the coming decade, yet the establishment of forces with larger minimum sizes is no panacea. There will result an array of sizes. Smaller forces will continue to need considerable support in the form of central operating and support services. There will be very large forces as well. These must be organized with a high degree of geographic decentralization to facilitate effective management consistent with our recommendations on role.

The Task Force believes that to avoid duplication, overlap or fragmented responsibility, only one force should operate within a given municipal jurisdiction and should be responsible for the entire delivery of police services in that area with the only exception being policing of King's Highways and provincial parks. (The latter aspects will be dealt with in a following part of this report.)

<sup>2</sup>Southern Ontario, for purposes of our recommendations is defined as that portion of the province including and south of the District Municipality of Muskoka, and the Counties of Haliburton, Hastings and Renfrew.

<sup>3</sup>All population figures used in this section of our report are 1971 figures, unless otherwise shown.



We therefore recommend that:

**ORG. 1.1** Separate municipal forces be operated in the following cities of the province, which cities are not part of a regional municipality:

Barrie	Owen Sound
Belleville	Pembroke
Brantford	Peterborough
Brockville	St. Thomas
Chatham	Sarnia
Cornwall	Sault Ste. Marie
Guelph	Stratford
Kingston	Thunder Bay
London	Windsor
North Bay	Woodstock
Orillia	

**ORG. 1.2** Separate regional forces be operated in the following named regional municipalities of the province and deliver all police services (except as noted later for King's Highways and provincial parks) for the entire region:

Niagara  
Hamilton-Wentworth  
Waterloo  
Halton  
Peel  
Metro Toronto  
York  
Durham  
Ottawa-Carleton  
Sudbury

The above recommendations (exclusive of options defined in ORG 1.3 and ORG. 1.4) covering cities and regions defines the structure for delivery of police services for over 75% of the population of Ontario.

Since in Northern Ontario, communities are often separated by considerable distances, and have policing needs quite different from Southern Ontario centres, it may be desirable to establish local forces under special circumstances where population is less than 15,000. For example, the Town of Kenora maintains a force of 20 men even though its population is only 10,771. Furthermore, the City of Timmins presents the somewhat special circumstances of large area and low density of population.

Accordingly, the Task Force recommends that:

**ORG. 1.3** In Northern Ontario those centres with populations between 7,500 and 15,000 have the option of continuing separate local forces (as under recommendation ORG. 1.1) instead of having policing provided as defined by recommendation ORG. 1.9.

**ORG. 1.4** The City of Timmins will have the option of receiving police services as defined in recommendation ORG. 1.9 instead of establishing separate local forces as under recommendation ORG. 1.1.

Recommendation ORG. 1.3 will affect the following Northern Ontario communities:

Kenora  
Kapusking  
Kirkland Lake  
Elliot Lake  
Fort Francis  
Iroquois Falls.

In the case of regional municipalities to be established or counties to be restructured in the future because of low density of population or other factors, we also believe these should be handled by option, and therefore we recommend:

**ORG. 1.5** Regional municipalities not named in ORG. 1.2 and restructured counties established in the future shall form their own police forces or take the option of receiving police services as outlined under recommendation ORG. 1.7.

**ORG. 1.6** In the three cases of ORG. 1.3, 1.4 and 1.5, the police program must be approved by the Ontario Police Commission if an option is selected.

### Policing for Counties, Unorganized Districts and The District Municipality of Muskoka

While the foregoing section defines the structure for policing delivery for three-quarters of the population, there is a much greater proportion of the area of the province outside the defined cities and regions. Since we have essentially recommended that separate local forces only be operated by cities and regional municipalities, other provision must be made for the rest of the province.

In Southern Ontario, the upper tier units of government structure other than regions, of course, are counties. It is important to note that cities are not included in the structure of county government and since we have provided for separate city police forces, the county is a realistic alternative unit of government to which policing can be related in the more rural areas of the province. We do not, however, judge county councils, as currently structured, to be appropriate for direct establishment and operation of separate local forces. Generally a lower density of population exists relative to currently identified regional municipalities. The size of counties varies, in that some are very large with limited populations while others are quite small.

Currently there are six separated towns all with populations under 15,000 which do not participate directly in the county council structure, ie:

Separated Town	Population	County
Trenton	14,291	Hastings
Smiths Falls	9,353	Lanark
Ingersoll	7,699	Oxford
Prescott	5,112	Leeds/Grenville
Gananoque	5,134	Leeds/Grenville
Saint Marys	4,557	Perth

Accordingly, we recommend that:

**ORG. 1.7** Units of government in Southern Ontario to which policing shall relate, outside of cities and regions already defined, shall be the counties and the District Municipality of Muskoka. The standard approach shall be for each respective council to negotiate an agreement with the Ontario Provincial Police for delivery of all police services within the county. With the specific approval of the Ontario Police Commission, a council may negotiate such an agreement with an adjoining municipal or regional force established under ORG. 1.1 and ORG. 1.2.

and further that:

**ORG. 1.8** Separated towns shall be policed by the same force policing the surrounding county with costs paid by the town through agreement between the separated town council and the respective force, or, with the specific approval of the Ontario Police Commission, shall continue to operate their own force with a Board of Commissioners of Police as set out in ORG. 2.1 and ORG. 2.2 until such time as the related county is restructured.

In Northern Ontario the geographic unit corresponding to counties is the unorganized district. The essential difference is that districts do not have district councils responsible for delivery of various programs. This presents the necessity to make different provision for linkage between local government and policing in districts than in counties. Nevertheless, we propose that policing can be delivered with regard to the district structure and therefore recommend that:

**ORG. 1.9** Policing for the portion of Northern Ontario outside cities and regions (ORG. 1.1 and ORG. 1.2) or those other units of local government electing to establish separate local forces (ORG. 1.3 and ORG. 1.4) shall be delivered by the Ontario Provincial Police through a system of agreements by district, established with the councils of incorporated municipalities in each district.

Maps 1A and 1B outline the cities, towns, regions, counties, and unorganized districts involved in the foregoing recommendations.

#### ♦ Dissenting opinion

Dissenting opinion on Recommendation ORG. 1.7 by William L. Archer:

"I am concerned that there has not been adequate recognition of the matters of local responsibility, local autonomy and the fact that municipalities (ECON. 3.4) have been, and will be, paying the major portion of the costs of Police operations. I do not concur with the proposal in ORG. 1.7 placing emphasis on agreements with the Ontario Provincial Police Force for delivery of all Police services within the county.

"First, I am not inclined to agree with the extensive spread of the Ontario Provincial Police as a unit of policing to this extent across the Province. Secondly, I consider that the counties should have the right to choose the method of establishing their Police Forces.

"In those parts of the Province in Southern Ontario outside of the cities and regions for which particular recommendations have been made, the matter of structure is under active review at this time.

This has been stated by the Minister and by the Association of Counties and Regions of Ontario.

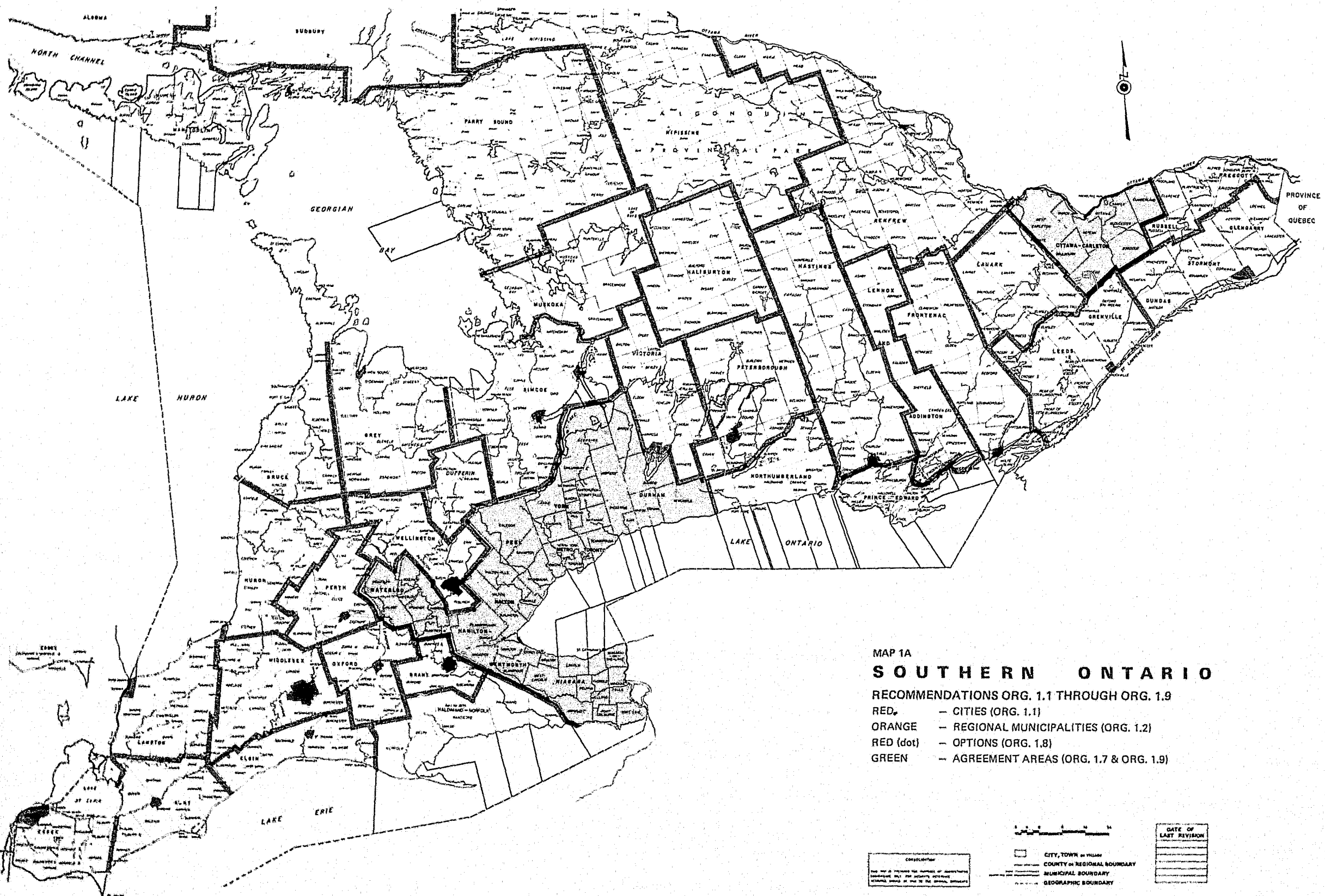
"I do not consider it advisable to set up new forces or detachments at a time when change is imminent, particularly when such changes would likely lead to the setting up of local forces. These comments would involve some modifications in clauses related to municipal structure and organization."

#### Relationship of Forces to Councils

We adopt the principle that police forces should be independent in their day-to-day operations, yet responsible for overall operations to elected representatives. It is our view that through implementation of our role and structural recommendations and through emphasis being placed away from an adversary relationship between the general public and the police, along with a strong organizational connection to the democratic government structure, citizens' review committees or similar mechanisms are unnecessary. We specifically have not recommended that such bodies be established.

The Task Force supports the concept of Boards of Commissioners of Police where councils operate their own forces. These Boards should be comprised to foster a balance between politically independent judgement and linkage to local government. We have considered briefs which suggest that the appointment of Judges to Boards of Commissioners of Police could constitute a degree of conflict of interest. The Ontario Royal Commission Inquiry into Civil Rights suggested possible impairment, real or perceived, to judges' impartiality caused by their receiving remuneration for extrajudicial duties such as serving on commissions. The Ontario Law Reform Commission in Part I of its Report on Administration of Ontario Court, recommended that County and District Court Judges not be members of Boards of Commissioners of Police. We have also recognized, from the point of view of policing, the value added in terms of independent judgement and knowledge by having Judges as members of the Boards of Commissioners of Police. Their presence and influence in this role serves the public interest in many ways. On balance, we believe Judges should continue to be appointed to these positions.

While we recognize that Boards of Commissioners of Police from time to time must consider matters which in the public interest are best treated confidentially, we suggest that Boards should be encouraged to hold their meetings open to the public.



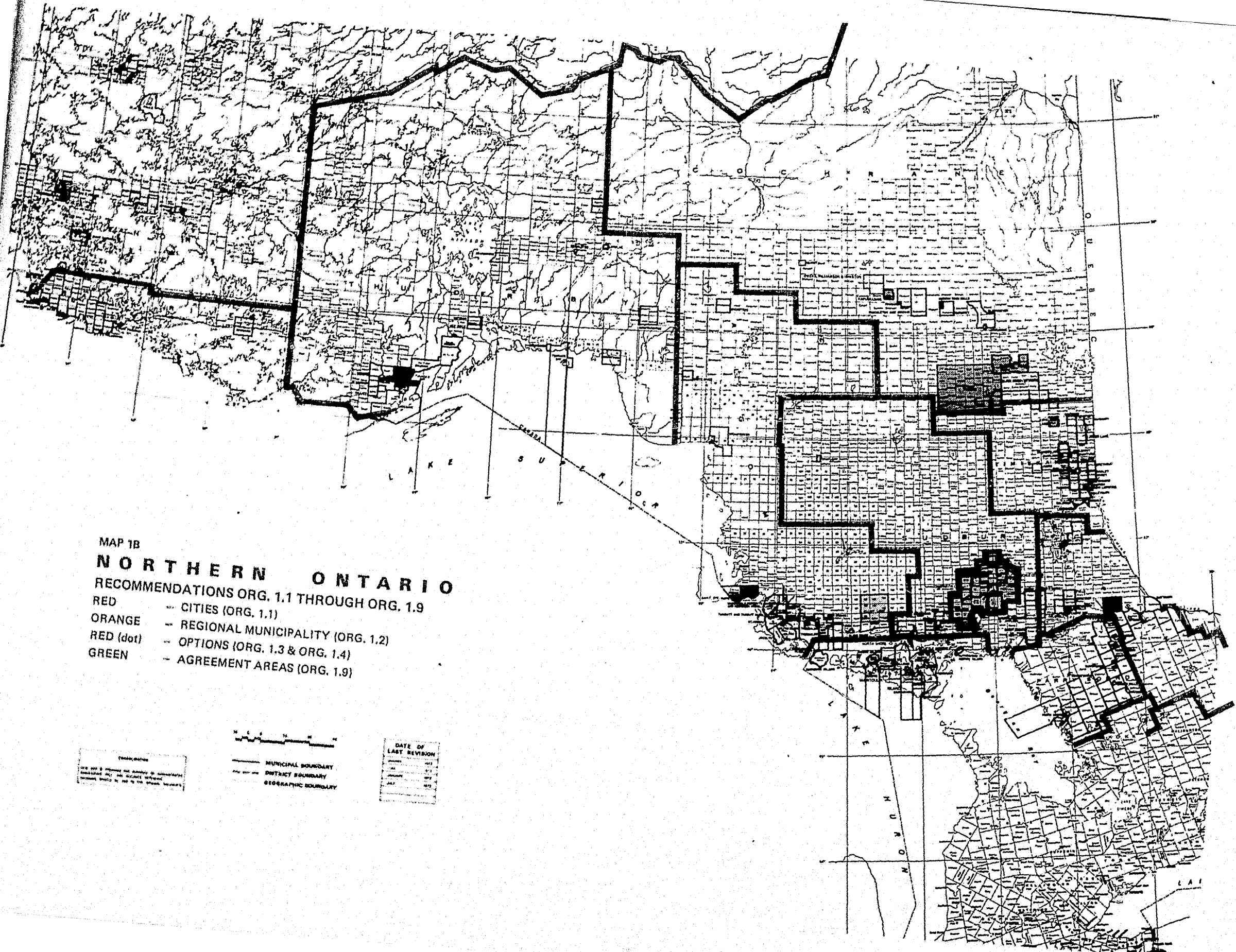
MAP 1A  
**SOUTHERN ONTARIO**  
 RECOMMENDATIONS ORG. 1.1 THROUGH ORG. 1.9  
 RED — CITIES (ORG. 1.1)  
 ORANGE — REGIONAL MUNICIPALITIES (ORG. 1.2)  
 RED (dot) — OPTIONS (ORG. 1.8)  
 GREEN — AGREEMENT AREAS (ORG. 1.7 & ORG. 1.9)

CONTOUR  
 This map is prepared for the purpose of showing the  
 boundaries only for security purposes  
 (noting errors in the field should be reported)

0 1 2 3 4  
 CITY, TOWN or VILLAGE  
 COUNTY or REGIONAL BOUNDARY  
 MUNICIPAL BOUNDARY  
 GEOGRAPHIC BOUNDARY

DATE OF LAST REVISION	





MAP 1B  
**NORTHERN ONTARIO**  
 RECOMMENDATIONS ORG. 1.1 THROUGH ORG. 1.9

- RED - CITIES (ORG. 1.1)
- ORANGE - REGIONAL MUNICIPALITY (ORG. 1.2)
- RED (dot) - OPTIONS (ORG. 1.3 & ORG. 1.4)
- GREEN - AGREEMENT AREAS (ORG. 1.9)



— MUNICIPAL BOUNDARY  
 — DISTRICT BOUNDARY  
 — GEOGRAPHIC BOUNDARY

DATE OF LAST REVISION	
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THE MAP IS PRINTED BY THE OFFICE OF THE ATTORNEY GENERAL  
 AND IS NOT TO BE USED FOR ANY OTHER PURPOSE  
 WITHOUT THE WRITTEN PERMISSION OF THE OFFICE OF THE ATTORNEY GENERAL

We therefore recommend that:

**ORG. 2.1** Where a council operates its own force, a Board of Commissioners of Police be appointed and comprised of the following:

2 members of council, designated by council;

2 members of the community served, designated by the Lieutenant Governor in Council;

1 Judge of any county or district court, designated by the Lieutenant Governor in Council.

The three members thus designated by the Lieutenant Governor in Council shall be appointed for overlapping terms of 3 to 5 years and shall be eligible for re-appointment, following thorough review.

We further recommend, regarding the operation of these Commissions, that:

**ORG. 2.2** The Chairman shall be selected from their own number by the resultant 5-man Board, and that through him the Board shall report to the Council. A quorum, for budget matters, must include one of the members designated by Council. If a duly called meeting is dissolved by reason of such a quorum not being present and 7 days further notice from such meeting is given for a second meeting, a quorum at this second meeting shall consist of any three members. Matters of budget dispute between Council and the Board may be appealed by either party to the Ontario Police Commission for a ruling.

and that:

**ORG. 2.3** Where areas are policed through agreements involving other operating forces, the relationship should be direct between the respective councils and forces.

• *Dissenting opinion*

Three dissenting opinions regarding the appointment of Judges to Boards of Commissioners of Police (ORG. 2.1):

1 By Arthur Maloney, and endorsed by Mrs. S. G. Isserstedt, Allan M. Masson and A. J. Pianosi: "I wish to record my dissent to the position that appears to have been taken by a majority of the members of the Task Force with respect to the composition of Boards of Commissioners of Police for each city and regional force.

"It is the recommendation of this majority that one of the members of this commission shall be 'one Judge of any county or district court designated by Lieutenant-Governor in Council'. The Law Reform Commission has gone on record as being unalterably opposed to the continuation of this practice.

"I would be prepared to go along with the appointment of a Judge to such a police commission provided the Judge so designated ceases to preside during his tenure of office over the trial or other hearing of criminal or quasi-criminal cases in his police jurisdiction.

"A Judge in the role of police commissioner wears two hats — he is on the one hand a member of the tribunal that controls almost every aspect of the life of the police officer. On the other he is the Judge presiding over criminal courts where these officers are giving evidence against persons accused of criminal offences.

"This has a very bad public appearance.

"An accused person on trial aware of the dual function of the Judge will understandably question the Judge's ability to deal impartially with the evidence given by these police officers particularly in cases where their credibility is called in question.

"Further the officer himself will be motivated to distinguish himself to the very best of his ability when he knows the Judge presiding is a member of the police commission.

"In addition such a Judge by reason of his connection with the police commission has access to information about crime and criminals including their identity which isn't available to his brother Judges and that would indeed be incompatible with our requirement of judicial impartiality.

"As I have indicated I will not voice objection to the selection of a Judge for service on a police commission *provided* he ceases to preside over the trial of criminal cases. Perhaps a similar prohibition should be applied to his right to preside over the trial of civil cases where testimony of police officers is involved as for example actions for damage for civil negligence arising out of automobile accidents which have been investigated by the police.

"It would follow, therefore, under this proposal that a retired Judge would be unobjectionable. Any Supreme Court Judge both of the trial and appellate division is now permitted to retire and to assume the status of what is called 'supernumerary judge'. He can retire at seventy for this purpose.

"All Judges of the Supreme Court and County Court must retire at seventy-five. This means complete retirement.

"I know many retired Judges in both of the above mentioned categories who would add strength to a police commission and who could not be objected to for the reasons I have suggested since they no longer preside over the trial of cases in court.

"The restriction to a Judge of a County or District court would make it impossible to engage the services of one of the retired judges of the Supreme Court to which I have referred. It also precludes the possibility of appointment of a Judge of the Provincial Court.

"I noticed that recently His Honour Judge Warrender of Hamilton — Wentworth County — was named Chairman of the Police Commission of the Regional Municipality of Halton. His appointment meets my requirements because as I understand it he is performing his judicial functions in Hamilton in Wentworth County and his functions as a member of the Police Commission would be performed in Halton County.

"The fundamental principle that not only demands justice but insists on the appearance of justice as well it seems to me is plainly violated by the continuation of the present practice with respect to the appointment of County Judges serving in this capacity unless under the restrictions I have suggested."

2 By E. Marshall Pollock, and endorsed by Marva M. Jemmott:  
 "It is with sincere regret that I discover myself in basic disagreement with the Task Force recommendation that County Court Judges be appointed to Boards of Commissioners of Police. As a lawyer I find it impossible to accept this recommendation in light of the conflict of interest implicit in such an arrangement and the effect that such a conflict may have on public confidence in the independence and impartiality of the judiciary.

"In 1968 the *Report of the Royal Commission Inquiry into Civil Rights*, (The McRuer Report), denounced the practice of employing Judges to perform extra-judicial services. It states:

'This [judicial independence] is the historic charter of the protection of the rights of the individual against encroachment by the State or any person or corporation. Not only must Judges be independent, but it is essential that the individual citizen should have confidence in their independence. Where a Judge engages in activities for which he receives remuneration beyond the statutory salary and allowances that are provided by statute for all his brother Judges, he has lost some of his independence, and certainly if he has not lost his independence he has lost the appearance of independence. Where a Judge has received a fee from an individual, a corporation or a government, over and above the salary and allowances fixed by law, he has put himself in such a position that a party engaged in a contest before him in the courts may well feel that there is not true independence, if the other party to the contest has been one in whose pay the Judge has been by rendering extra judicial services. This is the predominant reason for the constitutional provision that the salaries and allowances of the Judges shall be fixed by Parliament.' (1968, Rpt. 1 Vol. 2, p. 717)

"In 1973 the Ontario Law Reform Commission *Report on Administration of Ontario Courts* reiterated these views and dealt specifically with the appointment of County Court Judges to boards of commissioners of police and I can do no better than to quote from their report:

'There is one particular duty, difficult to classify under any of the heads employed in the foregoing analysis, with respect to which it is necessary to make a specific recommendation. Under section 8 of *The Police Act*, one of the members of every board of commissioners of police must be a *Judge of any county or district court designated by the Lieutenant Governor in Council*. Members of these boards are paid by the Municipality for the duties they perform in connection therewith. The boards have broad hiring, maintenance and disciplinary powers with respect to municipal police forces. In addition they have powers to pass by-laws dealing with a wide range of matters that have very little to do with the police function. Under *The Municipal Act*, boards of commissioners of police may, for example, pass by-laws regulating and licensing the carriage of goods and the taxi business, the sale of magazines and newspapers on the streets and in public places, second-hand shops, certain public fairs, salesmen, food shops and restaurants, auctioneers, billiard parlours, barber shops, and so on.

'We are of the view that none of these functions, or any others within the jurisdiction of boards of commissioners of police, requires the presence of a County Court Judge on such boards. We concur with those passages in the McRuer Commission Report that point out that in some cases, such as where the adjudicative duties of a Judge, who is in receipt of remuneration from a municipality, involve a contest between a citizen and that municipality, the essential elements of impartiality and independence of the judiciary may be, or may appear to be, interfered with. Further, the scheduling and operation of a circuit system for the County Courts cannot work efficiently if some Judges are tied down in various municipalities on an *ad hoc* basis performing extra-judicial duties as police commissioners. We therefore recommend that those provisions of *The Police Act* that make a County Court Judge a statutory member of a board of commissioners of police be repealed, and that County Court Judges not be assigned to perform these duties in the future. (1973, Part I, pp. 172-173)



"It may be argued that it is in the Provincial Courts that the overwhelming majority of criminal cases are tried and that the County Court Judge is called upon to deal with only a comparatively small number of criminal matters. Regrettably, the appearance of justice cannot be measured in percentages or gauged by a rule that implies that in *most* cases the appearance of justice will be unimpaired. It is for this very reason that the mere appearance of bias and not actual bias has always been adjudged sufficient grounds for the disqualification of a person presiding in any judicial process.

"It is for these reasons and with great reluctance that I tender my dissent in this matter but the issue is so fundamental to the integrity of the judicial system that I cannot, in conscience, do otherwise."

3. By William L. Archer: "With respect to ORG. 2.1 concerning Boards of Commissioners of Police, I associate myself with the comments of Arthur Maloney. I do not concur that a Judge is necessarily required. Whether the person is a Judge or not, it should be a person qualified to fulfill such a position. Further, it should be a person who is not otherwise directly involved in official activities involving the Police. In addition, I consider that it should be recognized as a part-time position, not a full time position, and there should be a time limit on which a person may be a Commissioner."

### Impact of Forces' Restructuring on OPP Field Structure

The current field structure of the OPP is shown in Maps 2A and 2B. It consists of 17 districts, 185 detachments and 8 summer detachments. In light of our proposals for city and regional forces, and for policing in counties and unorganized districts, some revision to the field structure of the OPP will be necessary to facilitate our recommendations.

The detachment commands are not aggregated on the basis of counties or districts of government. In some cases, the OPP operates several detachments within areas defined by our recommendations for separate agreements, in others only one.

All detachments currently report directly to the OPP District Headquarters. The intensity of policing to be provided by the OPP will be increased in most areas through the absorption of small forces. However, the total resultant activity, complement and number of detachments will continue to vary from county to county and district to district. It will be appropriate, if not necessary, for the OPP to be able to adjust the level of service differently within each area according to agreements reached with councils. As well, the different cost of policing areas associated with agreements must be determinable.

We believe that there must be a clearly defined command structure within the OPP as regards policing provided under agreement so that each council will understand who is responsible for delivery of police service within their area and to whom they relate both for day-to-day matters and for negotiation of the agreements.

Our recommendations establish a block of area in Southern Ontario wherein all municipal policing will be carried out by forces operated by regional municipalities. This area currently encompasses portions of four OPP districts. Since the relation of the OPP to delivery of police services in this area will be fundamentally different from that in most other areas of the province, it may be appropriate to modify the OPP district boundaries to include this area as one.

The Task Force believes that the foregoing outlines only in very broad terms the implications of our recommendations to the field structure of the OPP and that considerable organizational planning will be required to develop the specific appropriate structure of the force once our recommendations are adopted.

We therefore recommend that:

ORG. 2.4 The OPP undertake a comprehensive analysis of their field organization including assessment of the implications of agreement policing, absorption of small forces, and existence of large areas to be policed by regional municipal forces.

and further that:

ORG. 2.5 The OPP establish clear responsibility within their command structure for operation of policing in areas covered by agreements and for relations with councils as regards both day-to-day matters and agreement negotiation.

#### Nature of Agreements

Proposed agreements would lay out the costs and the general level of service to be provided. These agreements would be negotiated by authorized personnel from the operating force with respective councils. The proportion of cost to be paid by the local governments should be determined in the same fashion as in municipalities operating their own forces.

Day-to-day relations between the force and councils would be handled by the respective commanders of operations in each area.

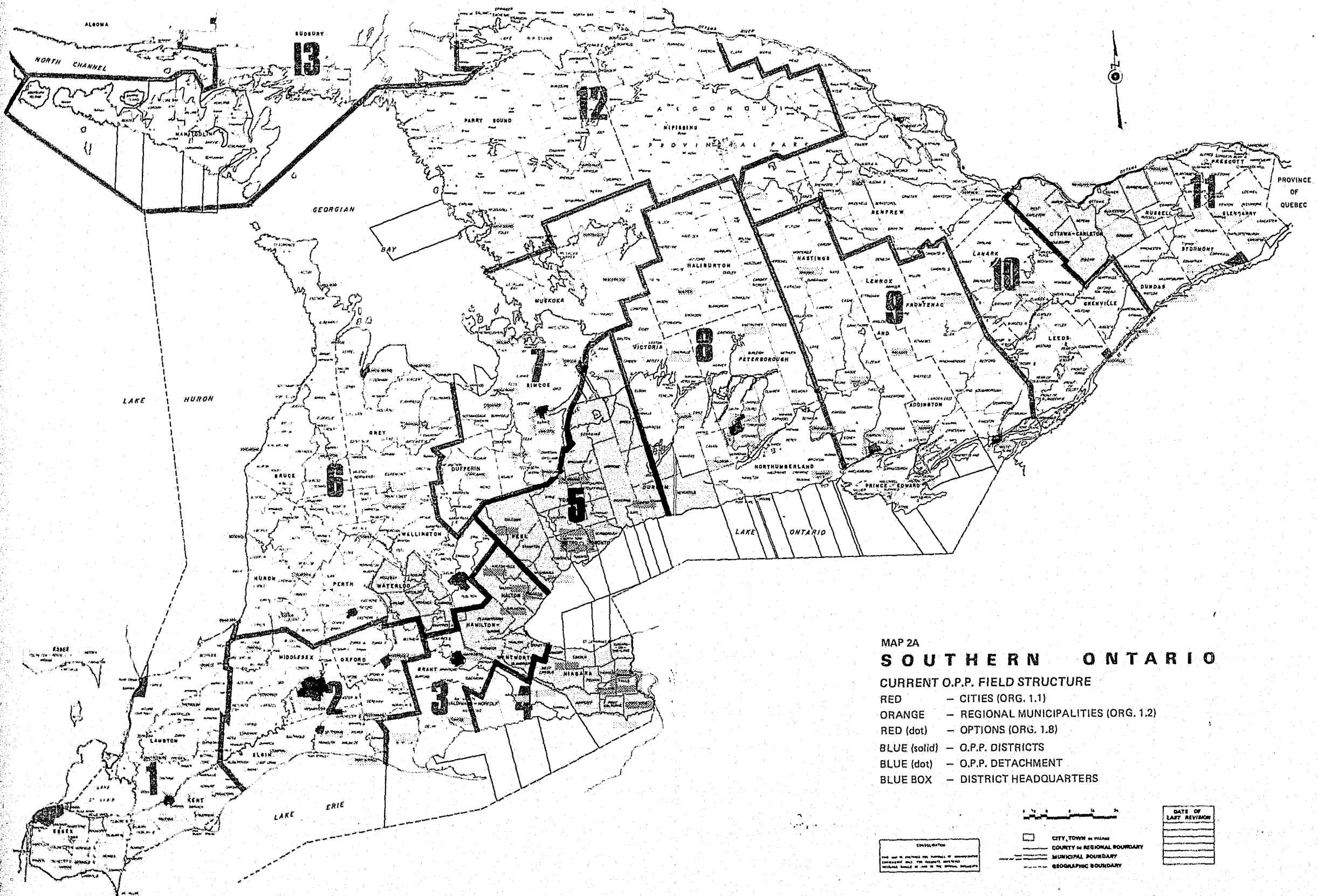
We therefore recommend that:

ORG. 2.6 For areas to be policed under agreement, the agreement be negotiated annually between the operating force and each council to establish the general level of service to be provided and total cost thereof. If the parties are unable to reach agreement, either may appeal to the Ontario Police Commission for a ruling.

and further that:

ORG. 2.7 The proportion of cost to be borne by the council be determined through a scheme similar to that where municipalities operate their own forces.

The system of agreements across the province will facilitate differentiation of police services to reflect community differences. Specifically, in each agreement area of operation, the respective force must separately consider recommendations ROLE 1.1 and ROLE 1.3.



**MAP 2A**  
**SOUTHERN ONTARIO**

**CURRENT O.P.P. FIELD STRUCTURE**

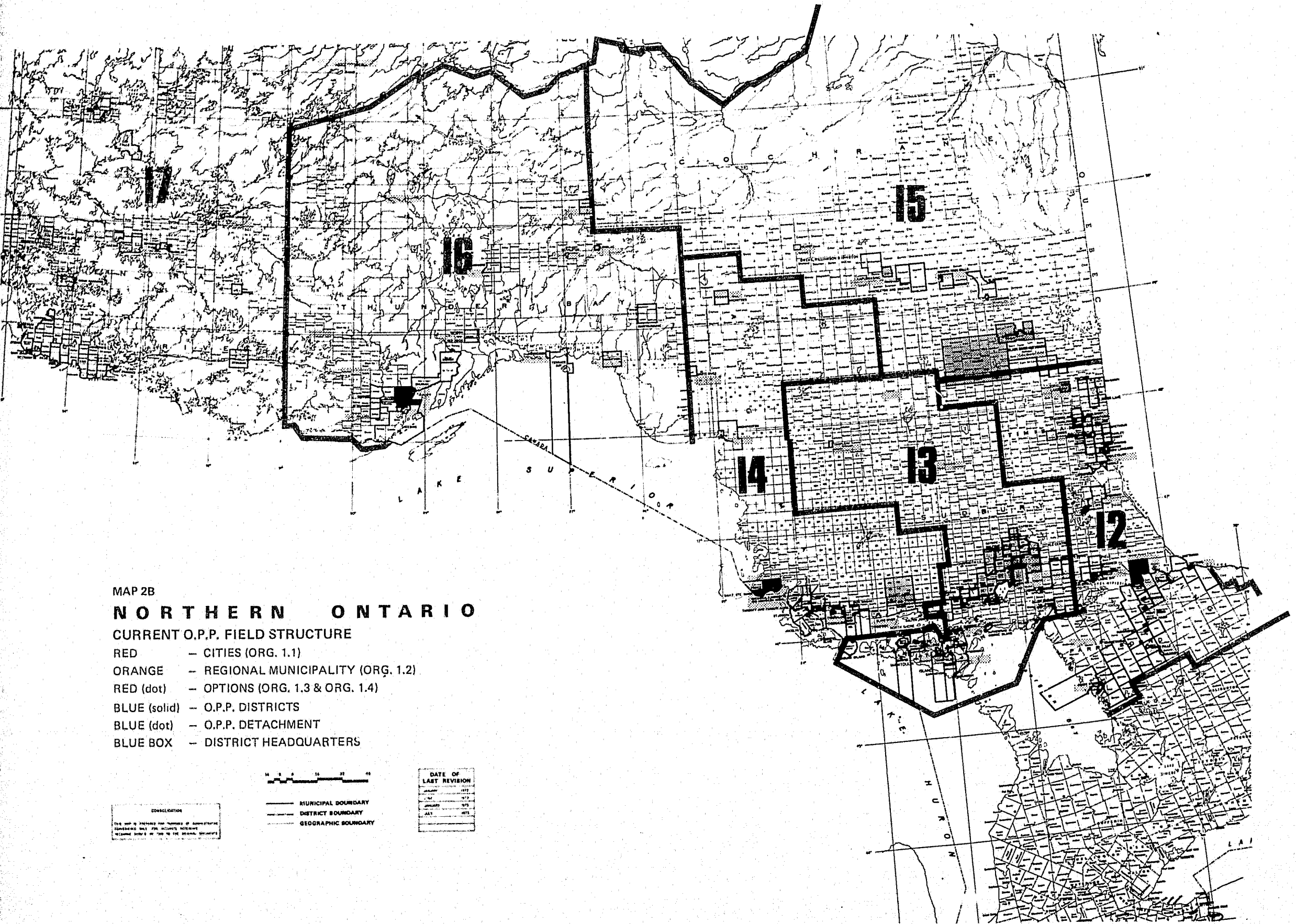
- RED — CITIES (ORG. 1.1)
- ORANGE — REGIONAL MUNICIPALITIES (ORG. 1.2)
- RED (dot) — OPTIONS (ORG. 1.8)
- BLUE (solid) — O.P.P. DISTRICTS
- BLUE (dot) — O.P.P. DETACHMENT
- BLUE BOX — DISTRICT HEADQUARTERS

CONTRIBUTION  
THIS MAP IS PROVIDED FOR PURPOSES OF INFORMATION  
ONLY AND IS NOT TO BE USED FOR LEGAL PURPOSES  
UNLESS SPECIFICALLY SO NOTED BY THE DISTRICT OFFICE

CONTRIBUTION

CITY, TOWN or VILLAGE  
 COUNTY or REGIONAL BOUNDARY  
 MUNICIPAL BOUNDARY  
 GEOGRAPHIC BOUNDARY

DATE OF LAST REVISION



MAP 2B

**NORTHERN ONTARIO**

**CURRENT O.P.P. FIELD STRUCTURE**

- RED — CITIES (ORG. 1.1)
- ORANGE — REGIONAL MUNICIPALITY (ORG. 1.2)
- RED (dot) — OPTIONS (ORG. 1.3 & ORG. 1.4)
- BLUE (solid) — O.P.P. DISTRICTS
- BLUE (dot) — O.P.P. DETACHMENT
- BLUE BOX — DISTRICT HEADQUARTERS



- MUNICIPAL BOUNDARY
- DISTRICT BOUNDARY
- GEOGRAPHIC BOUNDARY

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**CONSOLIDATION**  
 This map is prepared for the purpose of administrative consolidation only. It does not constitute a legal document and should not be used for legal purposes.



### Absorption of Small Forces

The implementation of our recommendations for agreement policing as well as those related to policing of regional municipalities constitutes a rationalization of police forces in the province. Of necessity, several forces will be absorbed into either the OPP or other operating police forces.

Exhibit 1 shows the disposition of these forces. Twenty-six local forces, totalling 1,998 authorized strength, would be absorbed into regions. Up to 86 local forces, totalling 517 authorized strength, would be absorbed into county policing. Up to 18 local forces, totalling 166 authorized strength, would be absorbed into district policing.

The absorption of manpower into larger forces must be carried out to ensure both that the resulting police forces are of high calibre and that the people involved are treated in a fair and equitable manner.

Accordingly, we recommend that:

**ORG. 2.8** Where the OPP takes over the policing from an existing police force, the personnel from the existing force be absorbed into the OPP on the basis of the following:

- (a) Entrance by qualified and interested personnel into the mainstream of the OPP, including the right to compete for promotion and transfer to another location in Ontario; or
- (b) Entrance by other personnel into the ranks of the OPP, including the right to compete for promotion, but not being subject to transfer; and
- (c) Such personnel will receive pay and benefits not less than that which is equivalent to their pay and benefits from the existing force, excluding rank title.

and further that:

**ORG. 2.9** Where the OPC approves the takeover by a force other than the OPP, the principles contained in recommendation ORG 2.8 be used as a guide.

and finally that:

**ORG. 2.10** Personnel may appeal their classification to a classification arbitration panel representative of force management, police associations and independent judgement in a manner to be established by the Ontario Police Commission.

## Policing King's Highways & Provincial Parks

### • King's Highways

Currently, the King's Highways in Ontario are policed almost entirely by the Ontario Provincial Police. Because of the extent of transient traffic flowing through the province, we concur with this practice. However, within the regional government areas of Southern Ontario, many portions of King's Highways no longer primarily serve the non-regional traffic. In fact, these highways have become very closely related to regional policing, are built up on both sides and function as part of the network of regional transportation. On the other hand, those highways which are limited access in-design present a different situation in the southern regions in that there is a high volume of inter-regional traffic and the policing approach is different, i.e. linear, specialized.

We therefore recommend that:

- ORG. 3.1 In general, the principle of the OPP policing the King's Highways be maintained and that the cost of this be kept separate from county and district agreements and be paid by the Provincial Government.
- ORG. 3.2 In the regional government areas of Southern Ontario the OPP continue to police all limited access King's Highways but with regard to all statutes and the Criminal Code.
- ORG. 3.3 A review be made of all non-limited access King's Highways in the province, and where it is found portions function primarily as part of an urban/rural area transportation network or where there is a small portion of highway between centres within a region, that these be designated by the Lieutenant Governor in Council, for policing purposes only, to be the responsibility of the municipal policing agency and that such municipality assume the cost thereof.

### • Provincial Parks

Our assessment is that the province should remain responsible for policing the provincial parks and consequently recommend that:

- ORG. 3.4 The OPP carry out policing of all provincially operated parks in the Province of Ontario. Where such parks are located within regional municipalities, the Solicitor General may contract with respective regions to provide police services through the regional force.

## Policing for Indian Reserves in Ontario

Currently there are 102 Ontario Indian Bands representing individual populations of from 3 people to 9,000, totalling approximately 57,600 people for the entire province. The reserves are diffused by location all over the province and most are small, only 14 having more than 1,000 people and 54 having less than 300 people.

Many argue that in the past the police service provided to Indian Bands has not been of a standard as high as that provided to most other communities in the province, a standard of service to which they are equally entitled. Some confusion has existed both on and off the reserves as to what force has jurisdiction on the reserve. The RCMP in the last decade has withdrawn detachments from the reserves in this province. The band constable system has met with varying degrees of success, generally proving to be less feasible on smaller reserves. The fact that the reserves are not part of the same local government structure as municipalities in the province creates problems of a fiscal nature as well as linkage between operating forces and local government of bands. The members of forces who serve native communities often have little understanding of the cultural differences associated with those communities and recruiting of native peoples into the forces has not been significant.

The demographic characteristics of reserves negate the feasible establishment of either separate forces on the reserves or completely separate organizational units within existing forces. Yet the significant problems of policing native communities must be solved.

We believe that Band Councils must continue to be responsible for enforcing bylaws established by them. On larger reserves where there is interest, and resources are available, to establish band constables this should be encouraged. In some cases it may be appropriate for band constables to be conferred special status in order that they may enforce minor Criminal Code and other offences in addition to band bylaws. The RCMP now claim that it is not necessary for band constables to be given both Supernumerary Special Constable status with the RCMP and provincial appointment as Special Constable in order to enforce the Indian Act. In fact, British Columbia band constables have only the provincial appointment.

Since enforcement of the Criminal Code and provincial statutes, to which all Indians are subject, is the responsibility of the provincial government, the major proportion of police service for bands must be provided by provincial forces. The location of reserves in the province is such that the OPP will be the operating force involved in most cases once our recommendations are implemented.

In the context of the foregoing we recommend that:

**ORG. 4.1** The primary responsibility for policing Indian communities in the Province of Ontario rest with the OPP or other operating force within whose area a reserve lies.

**ORG. 4.2** Band Councils continue to be responsible for enforcement of all bylaws which they enact. With the approval of the Ontario Police Commission, bands may utilize their local bylaw enforcement officers (band constables) to enforce minor criminal code or other offenses under the supervision of a regular force, for which purposes Special Constable status will be conferred on appropriate members.

Bands should contribute to local enforcement in a manner similar to other small communities in the province. Since they are not part of the municipal structure, it will be necessary to negotiate separately with bands on questions of level of service and costs. There is no structural vehicle which appropriately aggregates bands in order for this process to work on a larger than individual band basis. Since the provincial forces will be operating in a manner which reflects the fundamental government structure in the province, special provisions will be necessary to arrive at costs and level of service agreements with native communities.

We therefore recommend that:

**ORG. 4.3** A proportion of the cost of policing reserves be paid by Band Councils, the amount to be determined at a level similar to that paid by municipalities in the province. Where appropriate funds are not available, negotiations should be carried out with the federal government to make such funds available to Band Councils.

The difficulties provincial forces have experienced in the past of acquiring an operative understanding of native culture, maintaining a focus on native communities equal to others, establishing presence and preventive programs on reserves, and recruiting native people, along with the problems outlined in the preceding paragraph, suggest special provisions are requisite to successful policing of native communities.

We therefore recommend that:

**ORG. 4.4** An OPP officer be assigned to coordinate policing of reserves in each OPP District. This officer shall report to the District Superintendent, the position to be full or part time, or supported by assistants depending on number of reserves and native population involved in each OPP District.

The duties of the officer to include:

- visiting the reserves on a systematic basis;
- isolation of issues and seeking resolution in consultation with Band Councils and OPP commands;
- establishing and contributing to preventive programs on the reserves involving both bands and OPP personnel;
- assisting in recruiting native people as regular OPP force members;
- advising Band Councils on bylaw enforcement, security policing and roles of band constables in overall picture of policing for the reserve;
- acting as principal contact between the OPP and Band Council for establishing level of service and costing agreements.

These officers should:

- be experienced police officers;
- be specially trained and experienced in native culture and history;
- where experienced candidates are available, be of native extraction.

and further that:

**ORG. 4.5** A central program be established to coordinate these district-level operations including such matters as overall evaluation of policing on reserves, establishing a forum for communication between districts, relations with provincial Indian associations, etc.

The success in the past of recruiting native people has been poor. Greater effort should be made to include native people in the forces, particularly where reserve policing is part of regular police duty. Special training programs should be carried out both to familiarize regular force members with native culture and policing problems, and to give native recruits extra training where needed to provide basic skills.

These recommendations, in our view, establish only a framework to improve police services provided to native communities. We recognize other work is being carried out by both levels of government involving bands in Ontario and encourage further development within this framework.

### Policing of Waterways and Ports

The policing of waterways in Ontario has evolved into a condition of some confusion with respect to jurisdiction. Like other aspects of policing, e.g. drugs, a rapid growth in volume has taken place in recent years, necessitating greater attention and subsequent growth of services by police for Ontario waterways. The array of legislation relevant to waterways encompasses both provincial, Criminal Code and federal statutes. By and large, those provincial (e.g. Boating and Marine Regulations) and federal (e.g. Small Vessels & Boating Restriction Regulations) statutes related to the greatest growth categories (i.e. small vessels) provide authority for enforcement to peace officers and thus RCMP, provincial and municipal police are equally empowered to act. The larger presence of municipal and provincial forces in relation to the rapid growth in numbers of small vessels has naturally caused these forces to take a relatively greater proportion of the duty than the RCMP.

Nevertheless, the RCMP's continued presence is necessitated by virtue of those acts and regulations (e.g. Customs & Excise, Oil Pollution Prevention and Canal Regulations) which specifically outline their enforcement responsibility.

The Task Force has considered the problem in two dimensions. First, where does the appropriate balance lie in provision of service (i.e. presence) between the federal and provincial levels? This is not a question of jurisdiction but of effort and coverage. This aspect involves questions of federal/provincial relations and has been included in our general consideration of these matters under a separate section of this report. Second, given a certain provincial effort and coverage, how is the responsibility for it to be allocated between various municipal and OPP forces?

Our recommendations on organization will establish larger areas of jurisdiction for policing in the province. With the exception of King's Highways and provincial parks and certain central functions, we have recommended that the entire police duty be carried out by one operating force in the jurisdictions named.

Therefore, we recommend that:

**ORG 5.1** The needs for waterway policing derived from provincial statutes and the Criminal Code as well as that portion of duties not carried out by the RCMP in respect of federal statutes, be provided throughout each area of jurisdiction by the force delivering the general police service in that area. With the approval of the Ontario Police Commission these duties may be performed for cities by other operating forces under contract with the city Board of Commissioners of Police.



Related to the waterway policing problems are the unique conditions associated with ports in Ontario. These include National Harbours Board Ports, Commission-operated Ports, Public Ports and Private Docks.

All are governed primarily by federal legislation and have, by and large, been treated by provincial police forces as if they were private property for which they only responded to occurrences brought to their attention. In most cases, this level of service has been satisfactory, and "private policing" has satisfactorily supplemented the basic policing services. There are, however, several Commission-operated ports which are of a size where very specialized and intensive policing may be required.<sup>4</sup>

Policing in these ports is land-oriented and focused upon security and controlled organized crime in connection with shipping. The criminal element is generally highly skilled in understanding the systems controlling the flow of goods through and between ports and requires that police are equally experienced in the port systems, operations, labour, facilities, cargo handling, etc., and coordinated between ports. It is further important that a balance be maintained between keeping police operations independent from port management and establishing a high degree of communication and support from management. The latter is necessary since often great pressures are brought to bear on management as a direct result of police actions which affect unions, tie up goods or ships during investigations, etc. General policing within Port Commission territories should be handled by municipal police and the port police should only focus on matters directly related to the port functions.

The port police duty requires, in addition to enforcing bylaws of the Commissions involved or Federal Ministry of Transport regulations, enforcement of the Criminal Code. The nature of the work, coupled with the broader importance to the Ontario community of controlling crime in Ontario ports, points up the need for fully qualified and empowered police forces for major ports.

We therefore recommend that:

**ORG. 5.2** The Solicitors General of Canada and Ontario initiate a joint study to determine for ports the respective roles of public vs. "private" policing, and develop appropriate mechanisms to deliver police services for Commission-operated ports in Ontario.

<sup>4</sup>The Commission-operated ports are Toronto, Hamilton, Thunder Bay, Windsor and Oshawa. Sarnia and Sault Ste. Marie may eventually be operated by commissions but are currently operated by the federal Ministry of Transport.

## CENTRAL STRUCTURES FOR POLICING IN ONTARIO

The Task Force has examined the principles of structure of government in Ontario as laid down by The Committee on Government Productivity. We endorse the concept of a ministerial system of policy direction and integration of delivery agencies. The basic delegation and division of operating responsibilities within the Solicitor General's Ministry into four delivery agencies (including the Public Safety Division) is also most appropriate to the balance of the delivery system of policing we have recommended in the province. The three agencies directly related to policing are:

The Ontario Provincial Police  
The Ontario Police Commission  
The Ontario Police Arbitration Commission.

We recommend that:

**ORG. 6.1** The three agencies of OPP, OPC and OPAC continue to be responsible for operating in their respective delivery roles as referred to or outlined elsewhere in our recommendations. Each agency, through its chairman (Commissioner, in the case of the OPP) to report to the Solicitor General. The Ministry Office focus on policy development and integration as respects these agencies.

### Organization of the Ontario Police Commission

The Ontario Police Commission has two major, quite different roles to play. One deals with the management of program administration and central support services and the other with quasi-judicial functions. We believe it is appropriate for the Commission to function in both these roles. However, a clear separation must be maintained in its organization structure between the executive side which deals with program management and the staff which supports the Commission's quasi-judicial activity.

Furthermore, our recommendations on Role and Personnel will significantly increase the duties of the Commission in regard to program management and support services.

We therefore recommend that:

**ORG. 7.1** An Executive Director be appointed to head the administrative structure of the OPC which structure is to deal strictly with program management and central support services functions of the OPC.

and that:

**ORG. 7.2** An Executive Secretary be appointed to head a small staff designed to support the OPC in its quasi-judicial functions.

In addition to increased program and central services duties the OPC will continue to have considerable duties of quasi-judicial nature. These duties will be increased since we have recommended that the OPC act as the appeal body in connection with agreements. These matters will involve consideration of appeals from all parts of the province. We believe that for these reasons the Commission should be expanded and have more full-time members. However, we also believe that the Commission must be limited in size if it is to function effectively and that therefore it cannot be comprised of members with a wide degree of representation.

We recommend that:

**ORG. 7.3** The Ontario Police Commission be expanded to 5 members.

The Task Force considers that there are two kinds of centrally-operated services. First, there are those which by nature are only *support* to the individual forces in the province and do not involve direct delivery of police duties in the field. Second, there are those which are characteristically *operational* but centralized because they must involve provincial systems or are highly specialized. We believe that certain central support services can best be provided by the Ontario Police Commission for all forces in the province and that when central operational services are required they should be carried out by police.

Accordingly, we recommend that:

**ORG. 7.4** The Ontario Police Commission provide all central support services for policing in Ontario and the Ontario Provincial Police execute centrally required operational police activities.

Considerable growth has been achieved in recent years by private security forces in the province. Their operations are governed under the Private Investigations and Security Guards Act currently administered by the OPP. The Task Force believes there is need for overall integration with regard to security force regulation in that:

- there is considerable relation to policing;
- expanded need, in terms of numbers, for assessment of qualifications of applicants to be licenced as security officers and investigators;
- additional requirements for granting special constable status;

- greater need for regulation of operations of security organizations with respect to uniforms and other aspects which establish their identity before the public;
- need for accreditation of courses offered for training in relation to minimum entrance requirements.

Furthermore, the nature of the administration of the Act is more regulatory than operational in nature, with the possible exception of specific security checks required for individuals or organizations operating in the field.

Accordingly, we recommend that:

**ORG. 7.5** The responsibility for administration of the Private Investigators and Security Guards Act be made that of the Ontario Police Commission. When specific investigations are required with respect to individuals or organizations involved, the OPC provide guidelines to and utilize the police force within whose geographical jurisdiction the investigation is required.

Additional program and support services to be provided have been identified in our recommendations on Role, Personnel and Economics. We therefore recommend that:

**ORG. 7.6** The OPC provide the following program support services to be organized in major sections under the Executive Director:

**Ontario Police Personnel Development**

- Recruiting
- Manpower Planning and Selection
- Ontario Police College
- In-Service Training
- Continuing Education
- Personnel Research

**Police Research and Information**

- Project Funding and Evaluation
- Information
- Research

**Services**

- Communications
- Consulting

**Inspection**

- Municipal and Provincial Police Inspectors
- Private Investigators and Security Guards

**CONTINUED**

**1 OF 3**

## Ontario Provincial Police

The need for a central vehicle to provide support and central services, coordination and linkage to the provincial government for *municipal forces* in part necessitates the continued functioning of the OPC. The OPP, on the other hand, inherently has all these by virtue of its province-wide organization structure. The OPC has no direct operating functions and to be directly involved with the OPP would fundamentally change its current independence from force operations.

The linkage from forces is to elected bodies in all cases in the province. The nature of this linkage is to make forces responsible for overall way of operation to elected bodies but to maintain independence in day-to-day matters. In cases where a force operates entirely within local jurisdictions we have supported the establishment of Boards of Commissioners of Police to ensure this independence. In the case of the OPP, all of its local operations will be conducted through several agreements with councils of local governments. This fact, coupled with the existence of a provincial management structure, the Civil Service Commission and operation by the management team comprised of the appointed Commissioner, deputies and assistants, gives the OPP considerable assurance of independence from political interference. The balance suggests the most direct linkage to the legislature is appropriate, i.e. through the Solicitor General.

We therefore recommend that:

**ORG. 8.1** The OPP continue to report to the legislature through the Solicitor General and be managed by the Commissioners' committee, composed of Commissioner ranks.

and further that:

**ORG. 8.2** The Police Act be changed so that Clause 42-(2) reads: "Subject to the direction of the Solicitor General, the Commissioner has the general control and administration of the Ontario Provincial Police force and the personnel connected therewith."

## The Ontario Police Arbitration Commission

Since the new Ontario Police Arbitration Commission has only recently commenced operations, we are unable to evaluate its work. In its formulation, provisions were built in to assess its operation from time to time and thus we have made no recommendations for it.

## Criminal Intelligence

In following our terms of reference direction to "examine the division of responsibility in such areas as criminal intelligence services..." we included the solicitation of specific input from all those forces operating in Ontario who are members of the Criminal Intelligence Services of Ontario (CISO).

Our findings showed that criminal intelligence plays a vital role in individual force's fight against crime and that it is necessary for each force to actively operate a criminal intelligence function. Because intelligence by nature is gleaned from any and every source available, its correlation and dissemination must be carried out in the strictest confidence and used solely by and for the police in carrying out criminal investigations. Moreover, the cooperative use of criminal intelligence between accredited police forces forms a fundamentally important tool in dealing with organized crime. The inter-agency cooperation in supplying criminal intelligence is predicated on the mutual understanding of the nature of criminal intelligence and the security and confidentiality with which it must be dealt. Police agencies have either screened information provided or refused to provide any in cases where the security or independence of another agency was in doubt. The type and amount of information held by the intelligence branches in large police forces operating in Ontario is of the same order as that contained in central repositories across Canada.

Since our organizational recommendations on the delivery structure for policing in Ontario will establish in the order of 30 operating police forces, we believe all should participate directly in the operation of central intelligence functions instead of only the 25 (of 179) now doing so through CISO.

The importance of professional competence in the analysis and dissemination of intelligence suggests the staff of CISO include highly-experienced personnel.

The multi-force interest and contribution to the central repository is predicated on cooperation which, in our view, is enhanced when the service is organized and operated in a fashion perceived by each force as impartial to all forces. We consequently believe CISO operations can best be provided when organizationally and physically located on neutral ground.



In addition to intelligence operations by individual forces, there are situations where intelligence operations can best be carried out on a joint-force basis. Again, this is a cooperative effort between forces.

In summary, CISO should be:

- inclusive of all operating forces we have recommended
- operated neutrally with respect to individual forces
- highly secure
- studied to determine need of a 24-hour operation
- professionally staffed
- coordinative and non-directive as regards joint-force operations.

The constitution of CISO has evolved to recognize the foregoing. The present organization appears to be fulfilling the function for which it was organized. We believe that the government should continue to support the present program.

#### **Federal/Provincial Jurisdiction, Coordination & Costs**

Several matters have come to our attention regarding the federal involvement in policing in Ontario, including:

- duplication
- shifting share of responsibility and costs
- difficulties in coordination.

Duplication of effort arises out of the federal legislation which empowers peace officers to enforce it. The federal/provincial balance in effort shifts by virtue of the presence of the RCMP in relation to provincial and municipal forces. The federal government has not increased its allocation of resources to policing in Ontario in relation to the growth of occurrences in certain areas where it formerly provided a relatively higher proportion of the police service. Examples of areas where this occurs are in respect of protection of foreign embassies, the Food & Drug Act, Indian Act, and Canada Shipping Act. This has resulted in provincial and municipal forces assuming duties formerly provided by the RCMP. Coupled with this shift in effort is the lack of shift in cost sharing and the Task Force suspects that Ontario, as compared to other provinces where the RCMP police provincially under contract, is paying proportionately more for policing regarding enforcement of federal legislation. The trend continues.

The other area of concern has to do with the organization of the RCMP within the province. There are three divisions, O, A and D, to cover Ontario. Unfortunately, A and D involve Quebec and Manitoba respectively and D is headquartered outside the province. This structure inhibits coordination and establishment of uniform operational relations within Ontario between provincial and federal forces.

Accordingly, we recommend that:

**ORG. 9.1** The federal and provincial Solicitors General establish a joint study to determine the level of service and cost sharing appropriate between federal and provincial levels as regards enforcement of federal legislation. This study should determine the need for structural solutions to problems of coordination of the federal force within Ontario and between RCMP and provincial forces.

**Exhibit 1. SUMMARY OF ABSORPTION OF  
LOCAL FORCES INTO REGIONS OR OPP**

	Pop. For Local Existing Forces**	Total** Population	Authorized Civilian Strength***	Authorized Police Strength***	Total Authorized Strength***
<b>REGIONS</b>					
<b>Existing with Regional Force</b>					
Metro Toronto	2,106,343	2,106,343	726	3,960	4,686
York	174,257	174,257	34	220	254
Waterloo( 1973)	252,462	252,462	32	349	381
<b>Existing with Partial Regional Force</b>					
Niagara		337,292	53	430	483
Sudbury (Sept. 1973)		167,606	27	213	240
<b>Existing without Regional Force</b>					
Ottawa/Carleton		421,200			
Ottawa	290,203		80	542	622
Vanier	21,161		4	33	37
Richmond	2,086		—	1	1
Nepean	65,932		9	65	74
Gloucester	41,818		3	45	48
<b>New Regions</b>					
<b>Peel</b>					
Mississauga	173,789	287,974	22	213	235
Streetsville	7,403		1	9	10
Port Credit	9,940		4	14	18
Brampton	46,718		5	58	63
Chinguacousy	35,000		5	44	49
<b>Halton</b>					
Oakville	64,346	197,718	14	71	85
Burlington	90,810		4	81	85
Milton	7,207		1	11	12
Georgetown	17,668		2	25	27
<b>Hamilton/Wentworth</b>					
City of Hamilton	303,502	396,157	60	510	570
Stoney Creek	8,386		1	8	9
Saltfleet Twp.	19,622		1	22	23
Ancaster Twp.	14,922		5	13	18
Town of Dundas	17,186		5	20	25
<b>Durham</b>					
Cannington	1,128	219,121	—	1	1
Uxbridge	3,096		2	5	7
Pickering Twp.	30,623		3	29	32
Whitby	24,077		8	32	40
Oshawa	92,235		11	120	131
Bowmanville	8,862		—	11	11
Ajax	13,013		1	16	17

	Pop. for Local Existing Forces**	Total Pop. Excluding Cities**	Authorized Civilian Strength***	Authorized Police Strength***	Total Authorized Strength***
<b>COUNTIES</b>					
<b>Brant</b>					
Paris	6,500	27,820	1	9	10
<b>Bruce</b>					
Chesley	1,700	44,389	—	2	2
Kincardine	3,200		—	6	6
Port Elgin	3,283		—	4	4
Southampton	2,200		—	3	3
Tara	649		—	1	1
Walkerton	4,400		—	7	7
Warton	2,021		—	3	3
<b>Dufferin</b>					
Orangeville	9,200	20,672	2	11	13
Shelburne	2,000		—	3	3
<b>Elgin</b>					
Aylmer	4,800	39,120	—	7	7
<b>Essex</b>					
Amherstburg	5,600	101,020	2	7	9
Anderdon	4,734		—	6	6
Colchester South	3,500		—	4	4
Essex	4,400		1	6	7
Kingsville	4,500		—	5	5
Leamington	10,589		3	14	17
Mersea	5,675		—	3	3
St. Clair Beach	1,971		—	2	2
Sandwich West	13,128		5	13	18
<b>Frontenac</b>					
		37,578			
<b>Grey</b>					
Durham	2,455	47,135	—	2	2
Hanover	5,100		1	8	9
Meaford	4,011		—	7	7
Thornbury	1,250		—	1	1
<b>Haldimand</b>					
Caledonia	3,300	30,970	—	4	4
Dunnville	5,500		—	8	8
Hagersville	2,300		—	5	5
<b>Haliburton</b>					
		8,933			
<b>Hastings</b>					
Deseronto	1,849	58,424	1	3	4
Tweed	1,800		—	2	2
<b>Huron</b>					
Clinton	3,000	52,007	—	5	5
Exeter	3,309		—	4	4
Goderich	6,700		1	8	9
Seaforth	2,800		—	3	3
Wingham	3,000		1	4	5

	Pop. for Local Existing Forces**	Total Pop. Excluding Cities**	Authorized Civilian Strength***	Authorized Police Strength***	Total Authorized Strength***
Kent		63,410			
Dresden	2,372		—	4	4
Tilbury	3,831		1	6	7
Wallaceburg	10,342		1	20	21
Lambton		53,347			
Petrolia	4,000		4	6	10
Point Edward	2,700		—	5	5
Sarnia Twp.	6,000		1	8	9
Lanark		39,731			
Carleton Place	5,000		2	6	8
Perth	5,500		3	6	9
Leeds/Grenville		53,025			
Athens	1,100		—	1	1
Cardinal	1,840		—	2	2
Kemptville	2,500		1	3	4
Lennox/Addington		27,717			
Napanee	4,934		4	7	11
Richmond Twp.	2,696		—	1	1
Middlesex		56,134			
Strathroy	6,600		1	9	10
Norfolk		52,936			
Delhi	3,900		4	6	10
Norfolk County	52,936		4	4	8
Port Dover	3,348		1	7	8
Simcoe	10,800		6	16	22
Waterford	2,418		—	5	5
Northumberland		57,266			
Brighton	2,909		—	1	1
Campbellford	3,600		—	4	4
Cobourg	11,270		1	14	15
Hastings	950		—	1	1
Port Hope	8,819		—	11	11
Oxford		52,925			
Norwich	1,700		—	3	3
Tavistock	1,496		—	2	2
Tillsonburg	6,800		4	12	16
Perth		38,374			
Listowel	4,953		2	6	8
Milverton	1,200		—	2	2
Mitchell	2,500		—	4	4

	Pop. for Local Existing Forces**	Total Pop. Excluding Cities**	Authorized Civilian Strength***	Authorized Police Strength***	Total Authorized Strength***
Peterborough		32,411			
Havelock	1,400		—	1	1
Lakefield	2,251		—	2	2
Prescott/Russell		43,343			
Hawkesbury	10,000		1	12	13
Prince Edward		20,114			
Picton	4,786		1	8	9
Renfrew		64,147			
Arnprior	6,250		—	7	7
Deep River	5,661		—	7	7
Renfrew	9,009		1	12	13
Simcoe		119,509			
Alliston	3,150		—	5	5
Bradford	4,011		—	6	6
Collingwood	10,000		4	14	18
Innisfil	10,573		—	14	14
Midland	11,030		1	13	14
Penetanguishene	5,478		1	9	10
Port McNicoll	1,400		—	2	2
Stormont/Dundas/ Glengarry		48,733			
Alexandria	3,151		—	4	4
Chesterville	1,258		—	1	1
Victoria		35,064			
Lindsay	12,400		2	18	20
Wellington		47,782			
Fergus	5,352		1	6	7
Harriston	1,800		—	3	3
Mount Forest	3,100		—	3	3
Palmerston	1,900		—	3	3

	Pop. for Local Existing Forces**	Total Pop. Excluding Cities**	Authorized Civilian Strength***	Authorized Police Strength***	Total Authorized Strength***
<b>DISTRICTS</b>					
Algoma		31,344			
*Elliot Lake	8,545		1	12	13
Michipicoten	4,847		1	9	10
Cochrane		40,085			
*Kapuskasig	12,782		2	14	16
Smooth Rock Falls	1,200		—	3	3
Tisdale	7,920		4	12	16
Kenora		39,047			
Dryden	6,849		2	10	12
*Kenora	10,771		5	20	25
Manitoulin		6,898			
Nipissing		23,066			
Sturgeon Falls	6,524		1	8	9
Parry Sound		24,080			
Parry Sound	5,792		1	8	9
Rainy River		22,174			
Atikokan	5,841		1	9	10
*Fort Francis	9,543		5	20	25
Sudbury		18,968			
Espanola	5,668		4	7	11
Thunder Bay		27,247			
Marathon	2,339		—	4	4
Red Rock	1,859		—	2	2
Terrace Bay	1,756		—	3	3
Timiskaming		41,748			
*Kirkland Lake	14,758		2	17	19
McGarry	1,760		—	2	2
New Liskeard	5,700		1	6	7

	Population**	Authorized Civilian Strength***	Authorized Police Strength***	Total Authorized Strength***
<b>CITIES</b>				
Barrie	28,428	5	35	40
Belleville	35,157	10	59	69
Brantford	60,944	19	118	137
Brockville	19,732	3	29	32
Chatham	34,430	6	54	60
Cornwall	45,720	5	65	70
Guelph	61,382	12	87	99
Kingston	59,190	9	92	101
London	230,100	67	299	366
North Bay	47,599	11	64	75
Orillia	22,113	5	32	37
Owen Sound	18,021	1	30	31
Pembroke	15,875	3	19	22
Peterborough	57,313	6	99	105
St. Thomas	25,311	4	37	41
Sarnia	54,591	10	92	102
Sault Ste. Marie	77,968	22	104	126
Stratford	24,341	11	36	47
Thunder Bay	106,284	17	153	170
*Timmins (May, 1973)	42,000	5	56	61
Windsor	199,361	30	361	391
Woodstock	25,032	4	40	44



	Population**	Authorized Civilian Strength***	Authorized Police Strength***	Total Authorized Strength***
<b>SEPARATED TOWNS</b>				
Trenton	14,291	1	24	25
Smith Falls	9,353	1	15	16
Ingersoll	7,699	4	11	15
Prescott	5,112	—	9	9
Gananoque	5,134	1	8	9
St. Marys	4,557	1	7	8

\*Options proposed under ORG. 1.4 and ORG. 1.5 recommendations

\*\*1972 estimated population

\*\*\*Dec. 31/72 figures, except as noted for Waterloo, Sudbury, and Timmins

## PART II — RESOURCES FOR POLICING IN ONTARIO

ONTARIO POLICE PERSONNEL

## ONTARIO POLICE PERSONNEL

### INTRODUCTION

The single most important factor that determines the adequacy of police services in a community is the nature and quality of police personnel. Ontario has been particularly fortunate in having police forces of generally good quality which have been able to meet the policing needs of the community they serve.

In Ontario, there is one police officer for every 562 citizens. In total there are 13,700 police officers, 9,757 in municipal forces and 3,943 in the Ontario Provincial Police. These uniformed officers are supported by 2,644 civilians within the police establishment, 1,496 in municipal forces and 1,148 in the Ontario Provincial Police.<sup>5</sup>

The role of the Ontario police officer is difficult and growing in complexity. If Ontario police forces are to meet the diverse challenges of policing in the 1970's, the police establishment must continue to strive to select the best available personnel, and to effectively train and conscientiously develop these personnel. This section of the Task Force's report includes analysis and recommendations regarding: Personnel Selection and Training, Human Resource Development, Personnel Systems, and the role of the Ontario Police Commission as related to these subjects.

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<sup>5</sup>Total does not include RCMP or special peace officers such as harbour and railroad police. The statistics are compiled as of December 31, 1972 by the Ontario Police Commission and the Ministry of the Solicitor General.

## PERSONNEL SELECTION AND TRAINING

### Quality of Police Personnel

The highest quality cross-section of personnel should be sought by police forces in Ontario and no legislation or regulations should preclude the selection of appropriate personnel.

The Police Act (General Regulation No. 32 — Qualifications) now states that:

"No chief of police, constable or other police officer shall be appointed to a police force unless he,

- (a) is a Canadian citizen or British subject;
- (b) is at least nineteen years of age and is not over thirty-five years of age plus the total number of years of previous experience in police work;
- (c) is at least five feet eight inches in height;
- (d) is certified by a legally qualified medical practitioner to be in good health, mentally and physically, and fit for duty as a member of a police force;
- (e) produces satisfactory proof of having successfully completed at least two years secondary school education or its equivalent; and
- (f) is of good moral character and habits.

The Task Force believes that each police officer in Ontario should be a Canadian citizen. At a minimum, each Ontario police officer should appreciate the heritage of Canadian law, understand some of Canada's historical traditions, and swear allegiance to the country and the crown. Some police forces have actively recruited non-Canadian British subjects. We believe that the police profession in Ontario is sufficiently attractive. Through aggressive recruiting in Canada, there should be no difficulty in obtaining suitable candidates. Consequently, we recommend that:

**PERS. 1.1** Every person to be appointed as a police officer in Ontario be a Canadian citizen.

The age of majority in Ontario is now 18 years. The Task Force suggests that individuals who have the right to vote, to hold public office, and to assume legal responsibility for contracts should be able to join the police force at the time they gain these rights. Since the effectiveness of most young police officers increases as they enter into their 20's, we support the general practice of cadet training programs. We specifically recommend that:

**PERS. 1.2** Individuals be allowed to join Ontario police forces at 18 years of age.

In addition, there are individuals beyond the age of 35 years who would be excellent police officer candidates. Candidates contemplating a second career in police work may have backgrounds in other careers which could contribute new knowledge and attitudes. If individuals can meet minimum requirements, especially those of good mental and physical health, we suggest that they not be precluded from joining an Ontario police force. Specifically, we recommend that:

**PERS. 1.3** Individuals over 35 years of age be considered as police officer candidates by Ontario police forces.

On occasion, the police officer is required to use physical presence or force to protect the citizen and himself. The Task Force recognizes that physical size is an important, but not the only determinant of an officer's ability to perform in these situations. Self defence and holding techniques could qualify individuals of smaller stature. We therefore recommend that:

**PERS. 1.4** Individuals of lesser stature than five feet eight inches not be precluded from joining Ontario police forces.

Most police forces in Ontario insist that candidates have 20/20 vision. While good eyesight is essential to the performance of many police duties, eyeglasses can correct deficiencies. If this screening standard were applied to officers with several years of service, a large number would be lost from policing. Recent developments in corrective glass technology such as safety lenses and plastic contact lenses enable police officers to wear glasses with minimal danger. We recommend that:

**PERS. 1.5** If a candidate has poor vision (not to exceed 20/40) and it can be corrected through the use of glasses, he not be precluded from joining any Ontario police force.



In recent years in North America, there have been a number of experiments to determine the relationship between a police officer's educational achievement and his performance. To date, the results have generally been inconclusive but suggest that up to a certain minimal level of education, there is positive correlation. One study suggested that university level graduates exhibit better performance as police managers. The Task Force believes that each Ontario police officer should have a certain minimal level of education and that each police force should attract officers to approximately reflect, above minimal standards, the educational makeup of the community. Therefore, we recommend that:

**PERS. 1.6 Ontario police forces be encouraged to select recruits with varying educational qualifications including high school, college of applied arts and technology, and university.**

As discussed in the "Police for a Modern Ontario" section of our report, there are indications that police forces staffed with a representative cultural and ethnic cross-section of the community are better able to fulfill their functions. With current working conditions and starting salaries, police forces in Ontario should be able to attract recruits, culturally and ethnically representative of Ontario's population. Accordingly, we recommend that:

**PERS. 1.7 Recruiting strategies be devised by Ontario police forces to attract recruits who will bring the ethnic and cultural composition of their force into rough conformity with that of the community they serve.**

There is conspicuous absence of reference to female police officers in the Police Act regulations. For example, the wording of General Regulation No. 32 (previously quoted) is such that it seems not to apply to female police officers. There is sufficient evidence now available from experience in Canada and the U.S., and particularly from two major forces in Ontario, that female police officers can perform police duties comparable to their male counterparts. In Ontario, practices and regulations regarding female police officers vary considerably. One major police force assigns female police officers to special duties and prohibits them from carrying firearms, whereas another major force assigns female police officers to regular duty without restrictions. The Task Force recognizes that there are conflicting viewpoints on the acceptability of women in police forces. Regardless of these varying viewpoints, we recommend that:

**PERS. 1.8 Ontario police forces recruit police officers, both male and female, with equal opportunity for advancement for all members.**

In summary, if the recommendations of the Task Force were to be accepted, the Ontario Police Act General Regulation No. 32 — Qualifications might be changed as follows:

"No chief of police, constable or other police officer shall be appointed to a police force unless the applicant,

- (a) is a Canadian citizen;
- (b) is at least eighteen years of age;
- (c) is certified by a legally qualified medical practitioner to be in good health mentally and physically and fit for duty as a member of a police force;
- (d) produces satisfactory proof of having successfully completed at least four years of secondary school education or its equivalent, or indicates through the selection process, knowledge and intellectual capacity at least equivalent to a high school graduate; and
- (e) is of good moral character and habits.

#### Recruit Selection

The approach should be to recruit not by minimum standard but by using a well developed selection process.

The changes we have proposed in minimum standards are to broaden the scope of eligibility. An effective screening process must be established for the evaluation of candidates to meet the objective of selecting the best available personnel.

This process would include definition of selection criteria by senior police administrators, means to attract a broad pool of manpower, thorough screening and final selection.

Accordingly, we recommend that:

**PERS. 2.1 Minimum mandatory recruiting and selection procedures be developed by the Ontario Police Commission for all Ontario police forces.**

**PERS. 2.2 The Ontario Police Commission work with the Chiefs of Police and senior officers in each Ontario police force to assist them in adapting the minimum mandatory procedures to meet the force's needs.**

Although the recommended changes in the Police Act suggest that Grade 12 graduation is a desirable recruit qualification, we believe that individuals with less than Grade 12 should not be precluded from consideration. It is more important that a recruit have a knowledge base and intellectual capacity at least equivalent to an average high school graduate than he or she have a diploma. Therefore, we recommend as part of the minimum mandatory recruiting procedures, that:

**PERS. 2.3** Each police force, in consultation with the Ontario Police Commission, establish a basic intelligence measure to be used in the recruit selection process.

In spite of rigorous selection procedures, individuals with inappropriate attitudes and/or seriously deviant behaviour may still be hired. In the past, extensive reference checks have been largely successful in identifying most inappropriate candidates. There are now available and in use, psychological techniques which can considerably improve this identification. Therefore, we recommend that:

**PERS. 2.4** As part of the recruiting procedures, Ontario police forces be encouraged to utilize a qualified industrial psychologist in the screening process, either as part of the interviewing process or to administer and interpret tests that have the approval of the Ontario Police Commission and which have been developed in consultation with the individual police force.

In recent years much has been done in an attempt to develop psychological tests which will differentiate between top performers and sub-performers at the constable level. This work, when completed, could yield a capability of considerable use for the screening of candidates for policing. Consequently, we recommend that:

**PERS. 2.5** The Ontario Police Commission initiate experiments related to the use of differentiating psychological testing in the selection process.

### Post Selection Screening

In spite of a mandatory minimum screening process, there still will be a small proportion of recruits hired by Ontario police forces that will not make appropriate members. It is during the first few months of employment that a second critical decision should be made regarding the continued employment of a constable. At the present time, all municipal forces have an 18 month probationary period. It is claimed, in some cases, that the 18 month period is too short to effectively evaluate the probationary constable. This lack of ability to assess the probationary constable does not revolve around the short time period, but around the lack of attention to the evaluation of field performance by police supervisors and managers. Consequently, we recommend that:

**PERS. 3.1** For municipal forces the probationary period for new recruits be 18 months as a police officer, and that both a constable and a police supervisor and/or senior police officer be given specific responsibility and accountability for evaluating performance and making recommendations related to continued employment of the recruit.

The Ontario Provincial Police, because of Ontario public service regulations, has a probationary period of only 12 months. Currently, individuals who have served 12 months in another department of the public service may enter the Ontario Provincial Police on a non-probationary basis. We therefore specifically recommend that:

**PERS. 3.2** The appropriate legislation and regulations be amended to include a provision that when an applicant is accepted by the Ontario Provincial Police, that person must serve 12 months probation as a police officer regardless of any other period spent within the Ontario public service.

During the probationary period, each recruit will be required to spend at least 12 weeks at the Ontario Police College. During this period, and particularly after the new Ontario Police College facilities are completed, members of the staff will be able to observe and evaluate each recruit attending the college. This evaluation may identify for a trainee's force individuals who exhibit undesirable or desirable performance. The former would lead to remedial action or termination; the latter would aid a force in placing the individual to maximize his development and the utilization of special aptitudes. We therefore recommend that:

**PERS. 3.3** The Ontario Police College be requested to provide formal reports on each recruit to that officer's police force, particularly for those recruits exhibiting exceptional (positive or negative) capabilities.

Very few forces in Ontario have defined the role of a police constable. This lack of definition is particularly confusing to the new recruit. Often new recruits do not know what is expected of them. In some cases, the expectations are formalized but not effectively communicated to the new recruit. In addition, many new constables receive no feedback as to the acceptability of their initial performance. Consequently, we recommend that:

**PERS. 3.4** Formal performance reviews be conducted with the recruit at least once every 3 months during the probationary period.

and further that:

**PERS. 3.5** Specific counsel be given to each recruit regarding his performance and behaviour, and that each recruit be required to acknowledge, through signing an evaluation form, that the evaluation and counselling has been conducted, and a copy supplied to him.

Consistent with the general principle of obtaining the best possible personnel, it is essential that no recruits with marginal or unsatisfactory performance records be retained within the force beyond the probationary period. Only recruits exhibiting satisfactory performance should be allowed to obtain permanent employment within Ontario police forces. Constables whose employment is terminated, should, as part of sound administrative practice, be granted an exit interview. However, we recommend that:

**PERS. 3.6** Recruits who exhibit less than satisfactory performance be terminated from employment within an Ontario police force before the expiry of the probationary period without management having to show cause.

### Recruit Training

It has been estimated by a number of Ontario police administrators that it takes up to five years to achieve proficiency as a constable. It has also been noted that some officers are civilians one day and on the street as police officers the next day. Although this does not now generally happen with larger urban forces, we recommend that:

**PERS. 4.1** An Ontario Police Commission designed or approved orientation program be adopted by all Ontario police forces and this program be made mandatory for all recruits prior to assuming any policing responsibilities.

In Ontario, the Ontario Police College has provided formal police training to the vast majority of police constables. At the present time, it is not compulsory for a police constable to complete basic training at the Ontario Police College. Most police forces throughout the world have now adopted basic police training courses which provide the police constable with basic knowledge and skills. We recommend that:

**PERS. 4.2** A basic police training course in two parts continue to be given centrally at the Ontario Police College.

**PERS. 4.3** The Police Act be amended to include a requirement that every new police officer successfully complete the basic recruit training course within the probationary period.

Most basic recruit courses that the Task Force reviewed revolved around the traditional law enforcement theme. The Task Force has examined programs in the United Kingdom, the United States and Western Canada designed to improve the effectiveness of basic recruit training. These programs were designed to analyze the actual functions of the police officer and to set training objectives related to these functions. In Ontario little work has been done to date to define the actual functions of an Ontario police constable. The Ontario Police College basic recruit training course content and objectives have not been based on researched and validated functions of a contemporary Ontario police constable. We have some questions regarding the relevance of the current Ontario basic recruit course. Consequently, we recommend that:

**PERS. 4.4** The Ontario Police Commission initiate a research project to examine current Ontario Police College recruit training objectives, to relate these objectives to the actual functions of the urban, suburban and rural police constables, and to design new objectives more appropriate to the actual functions performed.

No matter how relevant the formal training course may be, it is generally acknowledged that formal training only supplements the more valuable experience received on the job. A number of forces throughout the world employ highly trained personnel to ensure that a new recruit is properly trained on the job. In a program called the Parent Constable System by some forces in Ontario and the United Kingdom, a specially selected and trained constable is given the responsibility for the training and development of a probationary constable. We recommend that:

**PERS. 4.5** Each probationary officer be assigned, for at least his first six months of employment, to a specially trained "parent constable" who would be responsible for the probationer's development and evaluation.

Like on-the-job training, a number of areas can be treated more effectively within the force than through formal training at a central college. An example would be a program to train the recruit in the use of administrative systems of a particular police force. We believe that one or two days per month of in-service training for recruits should supplement the formal training at the Ontario Police College. We therefore recommend that:

**PERS. 4.6** The Ontario Police Commission develop model in-service recruit training programs to supplement Ontario Police College formal training and assist individual police forces to adopt such programs.

At the end of the probationary period, the police officer will have been exposed to orientation training, formal basic training, on-the-job training through a parent constable, and formal in-service training. A course is needed to pull together and review these training inputs, and to test the individual recruit's performance on key tasks. Moreover, after 18 months of training and experience, the officer will be in a better position to tackle the more complex and advanced material such as the use of police discretion, family crisis intervention, and team policing. We recommend that:

**PERS. 4.7** A "Qualification" course be designed and conducted at the Ontario Police College and that this "Qualification" course be successfully completed by all Ontario police officers prior to becoming First Class Constables.

For some forces the ability to send constables on courses is inhibited because of the expense involved and the withdrawal of needed police personnel from the community. The burden of direct expenses of basic training should be lifted from the individual police force. We therefore recommend that:

**PERS. 4.8** The Ontario Police Commission continue to fund the direct costs involved for attendance at the basic recruit and "Qualification" training courses including course fees, room and board and travel expenses, but excluding salaries and premiums.

## Recruit Education

Training and education are two major but different aspects of development for probationary constables. Recruit training impacts directly on the development of professional police skills and on the ability of the officer to react to the needs of police work. Education does not make this direct impact. It has been argued, in fact, that education is not related to the successful performance of the policing job. The argument suggests that if a police officer is effectively trained, he need not understand the broad implications of his actions. On the other hand, the police officer is increasingly called upon to use more judgement in the exercise of his duties. To exercise this judgement he needs a broader perspective than that which professional training can give him. The police officer needs to know not only the law, but the objective behind the law, and the impact of invoking the legal process on individuals, on the criminal justice system, and on the community. He is increasingly exposed to rapid changes in society, changing values and changing standards of behaviour. He must be in a position to recognize these changes, understand them, and react to them. The socialization that can occur within a closed police environment can inhibit his ability to deal with change. Exposure to new ideas and people through education can help counteract these effects.

\* \* \*

To provide probationary constables with a broader appreciation of police role in society, basic professional training should be balanced with some basic educational subject matter. At the minimum, the police recruit should be exposed to the functions of the various components of the criminal justice system and how these components impact on society and individuals. Therefore, we recommend that:

**PERS. 5.1** A Basic Police Officer Educational Course<sup>6</sup> be developed at the initiative of the Ontario Police Commission to cover subject matter such as the criminal justice system and its impact on society, plus elementary social and behavioural science.

Since one of the objectives of the course would be to bring the police recruit into contact with educators and non-police students, it should be developed in cooperation with non-police institutions. At the present

<sup>6</sup>Supplementing the basic introductory course given during the recruit course at the Police College.

time, some colleges of applied arts and technology and universities are underutilized and are anxious to obtain new students. We therefore recommend that:

**PERS. 5.2** Police education centres be established in colleges of applied arts and technology and universities.

and further that:

**PERS. 5.3** These colleges and universities be selected by the Ontario Police Commission.

The selected colleges of applied arts and technology and universities should be asked to develop a Criminal Justice System and Society curriculum for regular students. This curriculum would be a combination of the Basic Police Officer Educational Course given to police constables and more advanced courses in the social sciences. Options could be developed to stream students into policing, corrections, or the court systems. Students taking the policing options would be informed of the minimum acceptance standards under the Police Act for employment as a police officer and should be encouraged to investigate the specific requirements of those forces to which they intend to apply. The basic training given at the Ontario Police College and the Basic Police Officer Educational Course could count as semester credits towards the university or college of applied arts and technology diploma. We therefore recommend that:

**PERS. 5.4** The Ontario Police Commission work with the selected colleges of applied arts and technology and universities to develop a curriculum in The Criminal Justice System and Society, designed for both full and part-time study.

#### Accreditation

While it will be mandatory that all police officers in Ontario complete basic training, they will not be required to complete the Basic Police Officer Educational Course. However, we believe each officer should be encouraged to complete this educational course and that such completion could be used as a factor in the promotional process both within and between forces. We recommend that:

**PERS. 6.1** The Solicitor General, through the Ontario Police Commission, give formal recognition to those who successfully complete both the basic training and the Basic Police Officer Educational Course, by granting an Ontario Constable certificate issued jointly by the appropriate educational institution and the Solicitor General.

## HUMAN RESOURCE DEVELOPMENT

### In-Service Training

A recent survey by Ontario's Ministry of the Solicitor General indicated that there was an unsatisfied demand for in-service training in most forces in Ontario. Most police administrators give lip service support to the concept of in-service training. In practice, however, little effective in-service training is done in Ontario police forces. Several larger forces have formal programs which range from one lecture per month to a refresher course once every three to five years. Apart from these somewhat token efforts, little priority has been placed on the design of appropriate in-service training programs.

\* \* \*

A change agent or catalyst is needed to ensure that effective in-service training occurs within Ontario police forces. Police Governing Authorities have not had enough detailed information to provide for the development of in-service training programs and many senior police administrators place in-service training low on their priority lists. We therefore recommend that:

**PERS. 7.1** An extension of the Solicitor General's project on in-service training be initiated through the Ontario Police Commission to design model in-service training programs which would be presented to Police Governing Authorities and senior police administrators for analysis and implementation.

To support these in-service programs, resources from the Ontario Police Commission, the Ontario Police College, and operating police forces should be made available. Resource personnel would travel to the regional police education centres within the colleges of applied arts and technology or universities or directly to the individual forces to give special programs to police personnel. These programs may include such topics as new legislation and its effect on police activity, new police techniques like family crisis intervention and review of material previously presented in basic training or during previous in-service sessions. Therefore, we recommend that:

**PERS. 7.2** An in-service "outreach" program be developed by the Ontario Police Commission to support in-service training activities throughout the Province.

and further that:

**PERS. 7.3** Consulting assistance be made available to individual police forces by resource personnel from the Ontario Police Commission, the Ontario Police College and other authorized police training institutions to assist in the design and implementation of in-service training programs within each Ontario police force.



In order that effective in-service training be developed within each police force, it is not only necessary to design appropriate programs but also to develop the trainers. The necessary expertise might reside in a "parent constable", in officers specially trained for on-going in-service programs, or in senior officers. We recommend that:

**PERS. 7.4 The Ontario Police Commission be charged with the responsibility for developing training courses to train appropriate personnel within each police force as in-service instructors.**

### Police Specialist Training

The police profession develops within two streams toward either the highly trained specialist, or the multi-skilled generalist. Both streams need continuing advanced training. Although much can be given through in-service training programs, it is necessary from time to time to give officers concentrated courses to upgrade their skills in particular specialties. It is desirable to have these specialized courses given to a group of officers in a setting that isolates them from the demands of their day-to-day responsibilities. Specialized subjects typically include identification, traffic investigation, criminal investigation, white collar crime, community policing, etc. We recommend that:

**PERS. 8.1 Specialized police training continue to be developed and conducted at the Ontario Police College.**

In addition to courses for developing new skills, other courses should be designed to review and upgrade previously taught skills. We recommend that:

**PERS. 8.2 Refresher courses continue to be developed and conducted at the Ontario Police College.**

### Specialist Rotation

In order to run an efficient modern-day police force, the Task Force recognizes that highly trained specialists are both necessary and desirable. There are, however, dangers in specialization. Individual police officers can be isolated from both the community and the mainstream of the force within which they serve. Police forces in Ontario should recognize the dangers of over-specialization and take steps to ensure that individuals maintain a balanced development. Specifically, we recommend that:

**PERS. 9.1 Ontario police forces examine their career planning and development for specialists and institute, when appropriate, rotation programs to re-expose the police specialists to the mainstream of the force's activities.**

### Continuing Education

One of the major challenges of personnel development will be to expose the practicing police officer and police administrator to concepts, practices, and people outside of the police system. Exposure to new and different ideas, concepts and people will impact on the practicing police officer's and the police administrator's ability to set more meaningful objectives and to adopt new methods and techniques to increase the effectiveness of policing in the community.

At the supervisory levels, individuals should be encouraged to expand upon the educational material covered in the Basic Police Officer Educational Course. A specific course, The Social Sciences and Policing, should be designed to give much more depth in social sciences than the Basic Police Officer Educational Course. It would be included as an advanced part of the curriculum of the previously mentioned Criminal Justice System and Society diploma course of study. With the basic recruit training, the in-service training courses, the Police Officer Educational Course, and The Social Sciences and Policing course, the practicing police officer would be well on his way to a college or university diploma. The college of applied arts and technology or university diploma could be used as a criterion in the evaluation of candidates for promotion both within and between departments. We recommend that:

**PERS. 10.1 The Ontario Police Commission work with the colleges of applied arts and technology and universities to develop the advanced credit course, "The Social Sciences and Policing", as part of the Criminal Justice System and Society curriculum.**

Basic supervisory training is best if it combines conceptual education with detailed technical police supervision. The emphasis at the first level of supervision should not be on complex motivational questions but on operational concerns including how to react to particular situations and how to schedule personnel. With this operational and professional emphasis, we recommend that:

**PERS. 10.2 The basic supervisory course continue to be designed, developed and given by the Ontario Police College.**

In administrative training for middle management,<sup>7</sup> emphasis is better placed on the ability to ask the right questions, to analyze and to deal with basic personnel, management and motivational questions. Less stress needs to be given to standardized response to technical policing situations or to operational methodology. It is with this middle management group that many significant changes can be initiated. Therefore, it is essential that new ideas and technologies be introduced at this level. We believe that broad exposure to new ideas and technologies can best be achieved outside the police community. Consequently, we recommend that:

**PERS. 10.3** The Ontario Police Commission work with the universities and colleges of applied arts and technology to develop administrative programs for police middle managers, using the best resource personnel available, both within and outside policing.

At the senior administrative level, much can be gained not only from an examination of managerial techniques and practices, but also from an interchange of ideas among senior police professionals. These two facets can best be achieved at the national level where the best resources from the academic and police world can be gathered to give senior administrative courses. We recommend therefore that:

**PERS. 10.4** The Ministry of the Solicitor General of Ontario use its good offices to encourage the Ministry of the Solicitor General of Canada and its agency, the Royal Canadian Mounted Police, to expand its executive courses into a National Police College.

and that:

**PERS. 10.5** In the interim period, the Ontario Police Commission, through the Ontario Police College, continue the senior administration course, but with increased use of external resources.

<sup>7</sup>Middle management refers generally to senior officers who are members of a police force of the rank of inspector or higher, but not including a chief of police or deputy chief of police.

Formal education courses can fulfill most of the need for upgrading managerial knowledge. However, these regularly scheduled formal programs should be supplemented by conferences, seminars or workshops on particular subjects of interest to police administrators. Subjects could include items such as new developments in team policing, the application of management-by-objectives technology to policing, the assessment centre (a new tool for selection of middle managers), and the role of a community service officer in a modern police force. Experts could be gathered from throughout Canada and the United States to interchange ideas, concepts, techniques, and technology. We recommend that:

**PERS. 10.6** The Ontario Police Commission develop, fund and evaluate conferences, seminars or workshops for senior police administrators upon topics deemed to be of primary interest to these administrators.

## PERSONNEL SYSTEMS

### Career Development

A lack of career development programs can often result in slow promotional processes or in promotion of mediocre personnel. Lack of career planning can lead to mismatching of individuals' abilities to functions performed. These conditions are less prevalent in Ontario policing today than in the past, yet where they do exist, they discourage many qualified people from continuing in, or from initially considering, policing as a career.

The first step in effective career development systems is to ensure the availability of individuals who are medically fit to perform the duties of a police officer. In some cases, Ontario police officers are in less than the proper physical condition for performance of police work. Individual police officers should have access to physical education facilities and remedial courses so that they can maintain or improve their physical condition. Consequently, we recommend that:

**PERS. 11.1 Ontario police forces develop physical education programs and arrange for appropriate facilities accessible to each officer.**

It has become accepted practice in many industrial and governmental organizations to conduct annual medical examinations. These examinations help both individuals and organizations to protect their valuable human resources. Sound medical advice can, in some cases, prevent the loss of an individual through sickness or death. The Task Force believes that it is particularly important that police officers, because of the pressures and occasional physical stress in their profession, be aware of the state of their physical health. Accordingly, we recommend that:

**PERS. 11.2 Ontario police forces be encouraged by the Ontario Police Commission to request that every police officer receive an annual physical examination by a qualified medical practitioner.**

There is much in the Ontario policing system that inhibits effective career development. These factors include inflexible military type rank structures, centralized organization structures, lack of delegated responsibility to direct superiors for evaluation and development of individual officers, the lack of opportunity in terms of number of positions at the management levels, etc. There are, however, examples in North America where police forces have developed effective career planning and streaming systems. Some have been implemented without basic changes to traditional police organization structure; others have required major changes in organization and rank structure. We recommend that:

**PERS. 11.3 The Ontario Police Commission design and fund an experiment with a medium sized police force in Ontario to create and implement a comprehensive career planning system.**

We have emphasized that the highest quality police officers should be sought by police forces throughout Ontario. This principle applies equally to senior officer and command ranks. One way to help ensure that the best officers are in senior officer and command positions is to increase the mobility between forces. Open competition broadens the scope of opportunity for individual officers and enables them to more freely advance according to their ability. We therefore recommend that:

**PERS. 11.4 Police Governing Authorities be encouraged by the Ontario Police Commission to conduct competitions open to candidates from any Ontario police force for all their senior officer and command positions.**

We further recommend that:

**PERS. 11.5 Consulting advice related to recruiting and selection procedures for these competitions be made available, where appropriate, by the Ontario Police Commission.**

The criteria used for promotions vary widely in Ontario. Some forces rely only on time and service; others emphasize managerial competence and potential identified through formal and rigorous selection processes. In many cases, however, criteria for selection have not been defined or even examined. Promotion to a first level supervisor might be made on the basis of outstanding performance as a community constable. The characteristics that make a good community officer may or may not be those that would make a successful supervisor or administrator. It is essential that each police force in Ontario define each position and develop criteria upon which selection decisions can be based. There should be a formal selection process to ensure that the right candidate is selected for promotion and that potential candidates see the process as fair for all.

We therefore recommend that:

**PERS. 11.6 Job descriptions be developed by Ontario police forces for specialist, supervisory, senior officer and command positions, and related selection criteria be developed for each of these.**

The processes that can be used in selection are many and varied. These processes can include background and performance reviews, personal interviews, examination by interview boards, psychological appraisal, assessment centre appraisal, etc. We recommend that:

**PERS. 11.7 Formal selection systems for specialist, supervisory, senior officer and command positions be adopted by each Ontario police force, and the systems be examined and approved by the Ontario Police Commission.**

Formal training courses are available through the Ontario Police College or through colleges of applied arts and technology and universities related to most of the specialist, supervisory, senior officer and command positions. Each promoted officer should have the benefit of these formal courses. Therefore, we recommend that:

**PERS. 11.8** Each police officer promoted to a new specialist, supervisory, senior officer or command position who has not attended the appropriate Ontario Police Commission approved course, be required to do so within 6 months of appointment.

We further recommend that:

**PERS. 11.9** For courses given at the Ontario Police College or for those courses designated as "sponsored" by the Ontario Police Commission, the Ontario Police Commission continue to fund the direct cost including tuition, room and board and travel expenses, but excluding salaries and premiums.

#### Performance Evaluation Systems

It is extremely difficult to develop an effective performance evaluation system for police personnel, particularly at the constable level. Much of police work is done in the community where it is not easy for police managers to observe and meaningfully evaluate performance. In addition, expectations are hard to define and quantify meaningfully to the individual constable. If within the organization structure, there is no clearly delegated responsibility for assessment, effective performance evaluation often doesn't take place. Performance evaluation is, however, necessary and valuable for both the individual and the police force. A well done performance evaluation can lead to a more satisfied and effective police constable. We recommend that:

**PERS. 12.1** Formal performance evaluation be conducted with each police officer in Ontario at least once per year, and that this evaluation be discussed with the police officer and a signed copy be given to that individual.

We also recommend that:

**PERS. 12.2** Personnel from the Ontario Police Commission provide consulting assistance to forces, when appropriate, to develop meaningful performance evaluation systems.

We further recommend that:

**PERS. 12.3** An experiment be designed and funded by the Ontario Police Commission to develop and implement a performance evaluation system for a medium sized Ontario police force, based on management-by-objectives technology, drawing on the experience of other police agencies.

#### THE ONTARIO POLICE COMMISSION

The Ontario Police Commission has a delicate role to play in development of appropriate personnel resources for policing in Ontario. The role ranges from quality control backed by legislation, to providing consulting services.

#### Organization

A new structure for personnel services within the Ontario Police Commission must be created and staffed. The personnel in this area must be of sufficient stature and ability to gain acceptance from the forces of Ontario. We therefore recommend that:

**PERS. 13.1** The new position of Director of Ontario Police Personnel Development be established within the Ontario Police Commission.

also that:

**PERS. 13.2** The Director of the Ontario Police College report to the Director of Ontario Police Personnel Development.

and further that:

**PERS. 13.3** The following functions be assigned to the Director of Ontario Police Personnel Development:

**Recruiting** — to assist forces to improve recruiting methods and oversee adoption of approved recruiting and selection processes within each Ontario police force.

**Manpower planning and selection** — to provide assistance to forces to design and implement better career planning and promotional systems and assist police forces to design and conduct competitions for senior officer and command positions.

**In-service training** — to develop models for in-service training programs, to assist individual police forces in Ontario to implement in-service training programs, and to design "outreach" programs to provide personnel for these programs.

**Continuing education** — to oversee the design and teaching of courses in universities and colleges of applied arts and technology, and develop conferences, seminars and workshops for police administrators in Ontario.

**Personnel Research** — to design and evaluate experimental projects for Ontario police forces and provide a source of information on new personnel practices developed in Ontario, in Canada, the rest of North America and Europe.

## Exhibit 2.

## COMPARISON OF POPULATION, POLICE BUDGETS, AUTHORIZED POLICE STRENGTH, &amp; CIVILIAN EMPLOYEES

	1972 Population 6,274,492	1972 Policing Budgets \$162,356,740	1972 Authorized Police Strength 9,757	1972 Civilian Employees within Police Dept. 1,496
Metropolitan Toronto	2,106,169 33.6%	\$67,539,552 41.6%	3,960 40.6%	726 48.5%
Major Cities <sup>1</sup>	1,027,169 16.4%	\$27,488,328 16.9%	1,712 17.5%	237 15.8%
Urban & Suburban <sup>2</sup>	1,979,304 31.5%	\$40,814,239 25.2%	2,546 26.1%	327 21.9%
Small Municipalities <sup>3</sup>	649,075 10.3%	\$14,899,413 9.2%	889 9.1%	119 8.0%
Regions <sup>4</sup>	512,138 8.2%	\$11,605,208 7.1%	650 6.7%	87 5.8%

SOURCE: Ministry of Treasury, Economics and Intergovernmental Affairs, 1968-1972, Annual Financial Report of Municipalities; Ontario Police Commission 1972 Budgets - Annual Report.

<sup>1</sup>Major Cities: Cities of Hamilton, Ottawa, London and Windsor.

<sup>2</sup>Urban & Suburban: All municipalities over 15,000 population excluding Metropolitan Toronto and major cities.

<sup>3</sup>Small Municipalities: All municipalities under 15,000 population maintaining their own police forces.

<sup>4</sup>Regions: York and Niagara regions.

## THE ECONOMICS OF ONTARIO POLICING



## THE ECONOMICS OF ONTARIO POLICING

### INTRODUCTION

Policing is an expensive service. In 1972, policing services in Ontario, excluding private policing and the RCMP, cost Ontario taxpayers in excess of \$200,000,000. Expenditures for municipal police services are a significant and growing portion of total municipal expenditures. In 1972, policing expenditures accounted for in excess of 12.5% of total municipal expenditures excluding education. The comparable figure for policing expenditures in 1968 was less than 11%.

There are various reasons for the growth in Ontario policing expenditures. An important factor is the continuing increase in demands for police services. Ontario society has changed significantly in recent years. These changes have caused increased and/or new demands on Ontario police forces. Factors include:

- urbanization - more frequent and perhaps more volatile domestic disturbances;
- white collar crime - increased and more complicated investigations;
- permissive society - more calls for service to control victimless crime;
- drug culture - both soft and hard drugs available throughout Ontario, requiring police surveillance and law enforcement;
- family - both youth and women growing factor in crime, leading to increased preventive and enforcement activities.

In addition, increased demand has come from other factors such as new legislation, increasing court time, increased number of vehicles, increased tourism, and less presence of Federal forces relative to Ontario forces. The Task Force believes that the demands for service will continue to increase in the future.

However, the major cost component in police expenditures is salary and other directly relatable personnel expenses. Policing is, and will continue to be, personnel-intensive. Pressures for increased salary and better benefits will continue. Therefore, the costs of policing will continue to escalate. In fact, this cost escalation might outstrip both the municipalities' and the Ontario Government's ability to adequately finance police expenditures. If so, major shifts may be forced in government spending priorities, or constraints will have to be imposed on policing expenditures. The latter could place pressures on Ontario policing that would preclude the continuation of the level of service that Ontario currently enjoys. This potential crisis in police financing is one of the critical issues facing Ontario policing.

In this section of our report, we intend to present background on the economics of Ontario policing, the issue of a potential crisis in the financing of police services, recommendations to help alleviate the crisis in the financing of police services, and recommendations on fiscal strategy.

## ONTARIO POLICING COSTS

### Cost Escalation

Expenditures for Ontario policing services have escalated dramatically from 1968 to 1972. Total costs have risen from \$125,603,000 in 1968 to \$229,304,000 in 1972 (Exhibit 3). This represents an increase of 82.5% (a compounded yearly increase of 16.4%). Expenditures for municipal police services have risen proportionately higher than expenditures for the Ontario Provincial Police. During the time period 1968 through 1972, municipal policing expenditures rose 85.8% (a compounded yearly increase of 16.8% — Exhibit 4) and Ontario Provincial Police expenditures rose 75.1% (a compounded yearly increase of 15.3% — Exhibit 5).

This dramatic increase in the cost of policing services has applied to all types of municipalities (Exhibit 6).

### Reasons For Cost Escalation

The 85.8% increase in municipal expenditures for policing services is highly personnel-related. A major factor has been salary increases. In the period 1968 to 1972, the salaries of all police officers increased substantially. A representative sample of this increase at the first-class constable level indicates that salaries have risen 53.6%.

A second factor has been increases in police authorized complement related to population growth. From 1968 to 1972 the population of Ontario receiving municipal policing rose 8.9%. Municipal police forces have added to their forces accordingly.

A third factor is the increase in the police/population ratio. Municipal forces have added proportionately more officers to their complement than the population increase. There has been a significant increase in the number of police officers compared to each 1000 of population — 1.40 police officers per 1000 population in 1968 vs. 1.56 police officers per 1000 population in 1972. (Stated differently, in 1968 there was one municipal police officer per 715 of population as compared to one police officer per 643 population in 1972.) This increase represents an 11.1% increment.

In addition to the salary increases, the population increase and the increase in the number of police compared to population, other factors have contributed to the escalation of police costs. These factors include additional fringe benefits, increased overtime as a result of negotiated improvements in working conditions, and other increased operational and administrative expenses. These other factors represent an additional 12.2% increase in expenditures (Exhibit 7).

The above analysis indicates that at least 90% of the escalation in municipal policing expenditures from 1968 to 1972 relates to two personnel factors. The first is increases in salary, overtime payments, fringe and pension benefits. The second is the increase in the number of police officers both to coincide with the increase in population and to increase the number of police officers per 1000 of population.

### Policing Expenditures, Other Municipal Services, And Equalized Assessment

Expenditures on all municipal services have risen significantly since 1968. Expenditures on police services have, however, increased proportionately greater than other services. For example, during the 1968 to 1972 period, police expenditures rose by 85.8%, whereas expenditures for general municipal and administrative services rose only 60.1% and municipal revenue fund expenditures, which include education and general municipal and administrative expenditures, rose only 45.3% (Exhibits 8 and 9).

Municipal policing is financed largely through municipal taxes. In 1973 the Ontario provincial government will subsidize directly and indirectly less than one quarter of policing costs. The remaining costs will be borne by the municipalities. One measure of a municipality's ability to finance policing services is its total equalized assessment. During the time period 1968-1972, however, total equalized assessment increased only 42.3% compared to the 85.8% increase in policing expenditures. If equalized assessment can be used as a measure of a municipality's ability to pay for municipal services, most Ontario municipalities were less able to finance policing expenditures in 1972 than they were in 1968.

Looking at police expenditures and equalized assessment in another way, municipal police expenditures per \$1,000 of equalized assessment has risen from \$2.11 in 1968 to \$2.71 in 1972 — an increase of 28.4%. By type of municipality, the major cities of Windsor, London, Hamilton, and Ottawa are carrying the heaviest financial burden as measured by police expenditure per \$1,000 of equalized assessment. On the other hand, the two regions of York and Niagara appear to be carrying the least average burden as measured by this same factor (Exhibit 10).

## A POTENTIAL CRISIS IN FINANCING POLICING SERVICES

### Expenditure Projections

An analysis of trends indicates that the costs of policing have risen at an annual rate, from 1968 to 1972, of 16.4% for all Ontario policing and 16.8% for municipal policing. In the municipal policing area, projections prepared both by the Task Force and by the Ministry of Treasury, Economics and Intergovernmental Affairs suggest that the annual compound growth rate for policing expenditures will not fall below 13.5% from 1973 to 1975. Further projections by the Task Force suggest that this increase in expenditures may not fall below 11.5% before the end of the decade.

### Taxation Base

The ability of municipalities to pay for these services is not growing at a comparable rate. The Ministry of Treasury, Economics and Intergovernmental Affairs projects that equalized assessment will grow at a rate of between 4 and 5 percent per year over the next five years. In addition, the Ministry suggests that for most municipalities the limit to the raising of the mill rate has either been reached or is close to being reached. The broader tax base at the provincial level will also face major constraints in generating new taxation revenues. The Ministry of Treasury, Economics and Intergovernmental Affairs suggests that few new taxation vehicles are available. The Ministry projects a substantially constrained provincial taxation growth of 7 to 9 percent per year over the next five years. The conclusion to be drawn from the above is that there are *not* readily available funds to sustain the current and projected expansion of police expenditures.

### The Crisis in Financing Police Services

There is, therefore, a very real potential crisis in financing municipal policing services. This crisis could result in the imposition of constraints to growth.

In order to explore the implications of this potential financial crisis, the Task Force projected current trends in policing expenditures to 1980 and compared this projection to a similar analysis of police expenditures with the imposition of economic constraints. This comparison suggested that by 1980 policing costs could exceed the taxpayers' ability to pay for the services by at least \$55,000,000. If this \$55,000,000 were converted to number of constables, Ontario municipal police forces would be short of their requirements in excess of 2,000 constables by 1980.

This potential crisis is of great concern to the Task Force. Ontario has enjoyed an excellent level and quality of policing. The imposition of economic constraints could inhibit the ability of Ontario municipal police forces to maintain and improve the level and quality of services. It is the conclusion of this Task Force that members of the police community in Ontario must anticipate the imposition of these constraints and plan to take action now and in the near future that will allow policing service levels to be maintained and improved.

There are many courses of action that police forces in Ontario can take in anticipation of these constraints. Our related analysis and recommendations follow.

## ECONOMICS AND CHANGE

### Focus on Economics

In the many briefs that were submitted to the Task Force, no issue was presented more frequently or as forcefully as the various aspects of the financial issue. It was suggested to the Task Force that the issue of financing police expenditures was one that was not fully understood by, certainly the public, some members of municipal councils, many members of Police Governing Authorities and a significant proportion of senior police officials.

We therefore recommend that:

**ECON. 1.1** Individual analyses for each Ontario municipal police force be developed and released to each Police Governing Authority by the Ontario Police Commission in conjunction with the Ontario Ministry of Treasury, Economics and Intergovernmental Affairs and include:

- An analysis of each municipality's municipal police expenditures from 1968-1972;
- An analysis of each municipality's general municipal and administrative expenditures and revenue fund expenditures from 1968-1972;
- An analysis of the growth of equalized assessment from 1968-1972;
- A comparison of these expenditure patterns and comparisons with police forces of similar size and character.

**ECON. 1.2** The Ontario Police Commission continue to release such analyses for each municipality to the Chairman of the Board of Commissioners of Police or Council on an on-going, annual basis.

The release of the above information should serve to stimulate the awareness of problems related to the economics of municipal policing. The information, however, will be historical. The focus should and must be on the future. Expenditure analysis should emphasize forward planning and action.

We therefore recommend that:

**ECON. 1.3** The Ontario Police Commission, working in conjunction with the Ministry of the Solicitor General and the Ministry of Treasury, Economics and Intergovernmental Affairs, prepare a planning format to assist each municipal police force to plan policing expenditures and activities for a five year period into the future.

**ECON. 1.4** Each municipal police force be required by the Ontario Police Commission to project policing expenditures over the next five years, consistent with this format.

**ECON. 1.5** Aggregate projections be prepared by the Ontario Police Commission, and working in conjunction with the Ministry of the Solicitor General and the Ministry of Treasury, Economics and Intergovernmental Affairs, target expenditure levels be developed for all Ontario police forces and projected over the next five year period.

**ECON. 1.6** The Ontario Police Commission analyze the five year projections of each municipal police force, and compare them to the target expenditure levels to identify those police forces where major productivity improvements must be achieved.

**ECON. 1.7** The Ontario Police Commission be given the mandate to bring these productivity improvement discrepancies and challenges to the attention of the appropriate Police Governing Authorities.

### Human Resource Utilization

We have shown that the costs of police services are highly personnel-related. Most police forces in Ontario incur in excess of 85% of their costs as direct personnel expenses, i.e. salary, overtime payments, and fringe benefits.

This fact emphasizes the importance of fully utilizing the human resources employed in policing. The constable-centred management style outlined in our report on "Police for a Modern Ontario" is of major importance in achieving productivity in policing. As well, our recommendations under "Ontario Police Personnel" related to recruiting, training, education and personnel systems are essential.

### Salary Systems

Police representatives on the Task Force are of the firm opinion that matters relating to police salaries and the manner in which they are determined do not fall within the jurisdiction of this Task Force because:

- (a) Collective bargaining was not specifically mentioned in the terms of reference of the Task Force;
- (b) Collective bargaining is the lawful responsibility of the respective Police Governing Authority and Police Association; and
- (c) The Ontario Government proclaimed new legislation, subsequent to the establishment of the Task Force and its guidelines, which established new collective bargaining procedures including conciliation, the Police Arbitration Commission, and the appointment of a full-time arbitrator.

However, the consensus of opinion within the Task Force is that this matter rightfully falls within the Task Force jurisdiction. Accordingly, we state and recommend as follows.

In Ontario, police salary systems have traditionally been directly related to the rank system. Although some forces offer additional service pay, there is little use of concepts such as merit pay and there is very little monetary reward for education or training accomplishments. The major components of police costs are salaries and related fringe benefits. It is estimated that police personnel expenditures range from 85% to 95% of the total cost of operating a police force in Ontario.

Salaries, fringe benefits and working conditions are the prime subjects for negotiation between the various police associations and Police Governing Authorities. The focus traditionally is at the constable level. Unlike Quebec, Ontario does not publish guidelines for use by various Police

Governing Authorities based on the size of the force and type of position. The newly established Ontario Police Arbitration Commission, when fully operational, will be in a position to supply both the Police Governing Authorities and the police associations with this type of statistical information.

When rank basis is the predominant factor in determining pay levels it inhibits the differentiation between different levels of responsibility and between different levels of performance. It will, however, be difficult to effect change in this area. Therefore, we recommend that:

**ECON. 1.8** The Ontario Police Commission, in consultation with, and with the approval of, the respective Police Governing Authority and Police Association, fund an experiment with a medium sized Ontario police force for the purpose of designing a system of merit pay, over and above basic salary, which will adequately recognize and compensate police officers for additional responsibility and for exceptional performance or achievement.

### Services Redefinition

In the "Police for a Modern Ontario" section of our report, the Task Force recommends "That police forces develop a balance among the functions of response, referral, prevention, public education, crime solving and law enforcement which reflects the needs of each community in terms of the objectives of crime control, protection of life and property, and peace and order". The crisis in financing Ontario policing will force the insertion of not only effectiveness, but also cost criteria into the development of appropriate functions or services by most police forces for the community that they serve. There are services performed now by police forces which may be better or more economically performed by non-police agencies.

Therefore, we recommend that:

**ECON. 1.9** Police Governing Authorities be encouraged and assisted by the Ontario Police Commission to define individual municipal police force goals and to prioritize services related to these goals.

**ECON. 1.10** Police Governing Authorities be encouraged to examine these goals and related prioritized services to identify those services that might be performed more effectively and/or more efficiently by:

- other components of the criminal justice system;
- other community service organizations;
- private policing or security agencies;
- members of the community itself.



Specifically, we recommend that:

- ECON. 1.11** Bylaw enforcement officers be employed to replace police officers in the enforcement of municipal bylaws.
- ECON. 1.12** These bylaw enforcement officers be employed within agencies other than police forces.
- ECON. 1.13** Individual municipal police forces examine the cost-effectiveness and propriety of such police services as:
- transporting prisoners;
  - transporting mental patients;
  - serving summonses;
  - serving motor vehicle operator licence suspension notices;
  - confiscation of suspended licence plates;
  - issuing licences and enforcing licencing bylaws;
  - other duties equally inconsistent with police responsibilities and functions;

and that

Representation be made to individuals, organizations and institutions to transfer such services as appropriate.

The foregoing services could be more economically provided by other agencies and have been isolated for this reason as well as because we question their relevance to the police role. There are, however, certain other services currently provided by Ontario police forces that should not be part of the police role regardless of the economic justification. We refer specifically to certain functions performed by Ontario police officers in the courts. Police officers, uniformed or in civilian dress should not serve as court clerks or as prosecutors. Accordingly, we recommend that:

- ECON. 1.14** The Ministry of the Solicitor General encourage the Ministry of the Attorney General to obtain personnel to replace police officers as court clerks, prosecutors and attendants.
- ECON. 1.15** Within 3 years no Ontario police officers be allowed to serve as court clerks, prosecutors or attendants.

## Civilians

In recent years, many forces in Ontario as well as forces throughout the world have made increased use of civilians within the police service. Civilians have been used to operate communications rooms, for specialized duties such as operations research, and in Europe, even to head up criminal investigation functions.

Ontario police forces have made significant steps in effectively utilizing civilian personnel. There continue to be some cases however, where fully trained constables and senior police officers are performing stenographic or file clerk duties. In most cases, Ontario police forces recognize that certain duties can be more economically performed by civilian employees. In addition, some forces recognize that certain civilians should and must be hired to obtain expertise which is not likely to be developed from within. This expertise may, in fact, cost considerably in excess of alternatives within the police force, but nevertheless yield more economical returns.

The use of civilian personnel does vary considerably from force to force. The portion of civilians in each Ontario city force ranges between 3% and 23% of total respective complement.

We therefore recommend that:

- ECON. 1.16** The mix of civilian versus sworn personnel be critically examined by each Ontario police force to assess the optimum balance based on both cost and effectiveness criteria.
- ECON. 1.17** The Ontario Police Commission be given a mandate to assist municipal police forces in this process by participating in the analysis and by co-ordinating a flow of ideas and information on practices between individual forces.

## Public Education

Earlier in the report, the Task Force has defined public education as an important part of the police role. We have included additional comments and recommendations here because we believe a stronger approach can, in the long term, yield economies in the realization of the broader objectives of policing. We view public education as the function of informing the public about the law and its application and about criminal activity. There are however, two primary educational functions that warrant increased attention from Ontario police forces. The first area involves new legislation. Much new legislation impacts on policing, ranging from new laws, such as the current controversial capital punishment legislation, to the design and passing of local bylaws. In many cases, legislation impacts dramatically on police activities. The new Bail Reform Act, for example, significantly increased the workload of many police officers in Ontario.

Also, although not legislative in nature, municipal plans for street layout and street lighting may make the individual officer's tasks easier or more difficult. Building codes can also hinder or assist police officers in the performance of their duties. Minimum standards for door locks in high rise apartment buildings and the application of the newly published "defensible space" architectural design concepts, can significantly alleviate police problems.

We therefore recommend that:

- ECON. 1.18** Police position papers be actively prepared by the Ontario Police Commission and used to facilitate appreciation and evaluation of the police point of view regarding the impact of legislation on police activities.
- ECON. 1.19** Municipal forces be encouraged to participate in the design or change of bylaws that will impact on the police role.
- ECON. 1.20** An appropriate member of each police force participate in municipal planning committees to ensure that the police point of view is presented and considered in the planning process.

## Policing Techniques and Technology

In the past decade, and particularly within the last five years, considerable experimentation and innovation has occurred in policing throughout the world. In the United States, literally billions of dollars have been spent on attempts to improve policing services. In many other countries of the world, including those which the Task Force visited — England, France, Holland, Italy, Germany — less elaborate, but as innovative and effective experiments are also being conducted. The experiments and practices outlined in the "Police for a Modern Ontario" section of this report identify but a few of the new practices being conducted throughout the world. To date, Ontario has not taken full advantage of these experiments, and new practices. The Task Force believes that much can be gained by an examination of these experiments.

We therefore recommend that:

**ECON. 1.21** A new position, Director of Police Research and Information, be established in the Ontario Police Commission with the following responsibilities:

- to examine and analyze new police methods, systems and technologies such as team policing, management information systems, industrial engineering and operations research;
- to examine and analyze new equipment such as communications hardware systems, helicopters, burglar alarm systems, electronic surveillance devices etc.;
- to examine and analyze new innovations in human resource utilization;
- to initiate, fund, design and evaluate experiments and innovations in police methods and technology for Ontario;
- to disseminate the results of these experiments and to encourage the introduction of new procedures and technologies within individual police forces in Ontario;
- to exchange information with other police research agencies and to avoid duplication of effort.

During the past decade many attempts have been made to more precisely measure police output and productivity. Crime statistics have been rejected by many forces as a valid measure of police effectiveness. The Task Force concurs and suggests that crime statistics measure only a portion of police output. There are, however, new measures of police productivity under development. Notable examples are the measures developed by the National Commission on Productivity, Police Advisory Group in the U.S.A. and in community-based management-by-objectives team policing here in Ontario.

We therefore recommend that:

**ECON. 1.22** The Director of Police Research and Information be charged with the responsibility to examine new output or productivity measures and to adapt these measures for use by Ontario police forces.

We further recommend that:

**ECON. 1.23** When these output or productivity measures are developed, each Ontario police force be required to use these measures in their planning process and in standardized reporting to the Ontario Police Commission.

## IMPLEMENTATION AND CHANGE

The economics of Ontario policing and the financial crisis outlined earlier in this report will force changes in the policing system in Ontario. Change, however, will not be easy. Ontario policing has a proud tradition. Much of this tradition has been built into a police culture that is self-perpetuating. The military tradition, for example, is not just an organizational structure. The system involves many practices and attitudes that have become part of the individual police officer's way of life. It will be particularly difficult for police constables, supervisors and senior police officers of long tenure, to adapt to basic organization changes implied in the constable-centred management system.

### Change Agents

There are many potential agents of change within the policing environment. These include organizations such as the Ministry of the Solicitor General, the Ontario Police Commission, the Police Governing Authorities, Associations of Chiefs of Police, and the Police Associations. As well, personnel systems, training and human resource development programs, structural reform in local governments, and public attitudes will be important agents for change (Exhibit 11). Two components, however, merit specific mention – the Ontario Police Commission and Police Associations.

### The Ontario Police Commission

The Ontario Police Commission will play the central catalytic role in helping to effect changes within Ontario municipal police forces. There are substantial implications to the expansion in role for the Ontario Police Commission. The Ontario Police Commission will require a new orientation. New people and viewpoints must be introduced into the organization. The highly competent personnel currently in the Ontario Police Commission will be complemented by the addition of these new personnel. Considerable care should be given to the selection of these new people to ensure that new and different points of view and attitudes are brought into the Commission. This implication suggests that new personnel should come from both within and outside of Ontario policing circles.

In order that the Ontario Police Commission become an effective change agent, the Ministry of the Solicitor General and certain other Ontario Ministries, such as the Ministry of Treasury, Economics and Intergovernmental Affairs, will be required to give their full support in helping to prepare the Ontario Police Commission for its broader role. Specifically, the Ministry of the Solicitor General will be asked to provide the expanded mandate for the Ontario Police Commission, both through amended legislation and organizational support. In addition, increased funds will be needed to finance expanded Commission activities and new support personnel.

Specifically, we recommend that:

**ECON. 2.1** The Ontario Police Commission be given the full support of the Ministry of the Solicitor General to be the prime catalyst in the change process within the Ontario municipal police system.

**ECON. 2.2** Additional funds be allocated to the Ontario Police Commission from the Ministry of the Solicitor General to allow the expansion of activities and the recruitment of new personnel within the Ontario Police Commission.

#### Police Associations

Police Associations in Ontario have played an active role in fostering the development of Ontario policing as a profession. Briefs submitted to the Task Force by various Police Associations suggest that these associations plan to continue their efforts to help improve policing services and to promote policing as a profession.

Many of the changes recommended by the Task Force will directly affect individual police officers. Without the full cooperation of the individual police officers and their associations many of the recommended changes will not be effective. The Task Force anticipates a continuing positive role of Police Associations in the maintenance and improvement of police services in Ontario.

However, to help ensure their cooperation, we recommend that:

**ECON. 2.3** Consultation with Police Associations in Ontario be actively sought by senior police administrators and the Ontario Police Commission during the development and implementation of changes in Ontario policing services.

#### FISCAL STRATEGY FOR ONTARIO POLICING

In the many briefs received by the Task Force, difficulties in financing policing services was the most frequent, and perhaps the most strongly stated, issue. Much of this financial issue revolved around municipalities' inability to adequately finance the escalating costs of policing. The Task Force has resisted the temptation to recommend the apparent, but perhaps impractical easy solution. This easy solution would be to substantially increase the allocation of provincial funds to municipal policing. On the contrary, the Task Force suggests that those within policing must anticipate the almost inevitable crisis in financing and we have recommended that the police establishment focus increased attention on the economics of Ontario policing and that police officials take positive action to increase police productivity.

We believe that at this time, the provincial and municipal governments should focus increased attention on the economics of policing in Ontario but should delay imposition of strict economic constraints. It may take as long as five years to implement major productivity improvements and practices suggested in this report. The Ontario police establishment should be given "breathing room" in terms of time and perhaps increased funding in the short term so that long term improvements can be achieved.

#### Fiscal Systems

The Task Force believes continued assistance will have to be given to municipalities to finance policing costs. We have examined the financing question and have concluded that a revision of the fiscal system to subsidize municipalities for policing costs is necessary. We have considered in our deliberations a number of alternative systems, such as:

- Continuing with the current conditional/unconditional grants of \$5.00 for regional municipalities and \$3.25 for other municipalities maintaining their own police force;
- Developing a new system similar to that existing in the United Kingdom which includes 50% subsidization of all approved police expenditures;
- Developing a grant formula system similar to the Ontario Government Recognized Ordinary Expenditure grant for municipal educational expenditures which includes the insertion of a measure of the municipality's ability to finance expenditures and the definition of levels of service required within that community;
- Eliminating conditional/unconditional grants and providing additional funds through the Ontario Government general municipal unconditional grants based on a municipality's aggregate needs.

Some interest group briefs particularly favoured the British system. They suggested that the provincial treasury provide direct assistance to the municipalities by paying 50% of all approved municipal police expenditures or by granting approximately \$12.00 per capita to those municipalities providing their own policing services. In addition, these interest groups suggested that those municipalities not meeting minimum levels of service as defined by the Ontario Police Commission, should be denied access to these subsidies. They further postulated that this fiscal system will help lift the heavy financial burden of policing costs from the municipality and that the Ontario Police Commission would have increased leverage to ensure a uniform and high quality level of police services throughout the province.

The Task Force has carefully considered these arguments but has chosen to recommend a different approach. Several overriding factors have led us to choose the alternative which eliminates conditional/unconditional grants and provides additional funds through the Ontario Government's general municipal unconditional grants based on a municipality's aggregate needs. The Task Force believes that each police force must be closely tied to the communities it serves and must reflect the needs of those communities. The unconditional grant system will encourage each force to interact with the many facets of the community including the elected council so that the community and council will assess the priority of police services in relation to other municipal services competing for limited municipal resources. Since the cost of policing services in effect will be borne by the community, increased attention will be focused on the economics of policing at the community level, which may lead to increased productivity. Moreover, this fiscal system is consistent with the stated Ontario Government policy that municipal governments will be given increased responsibility to establish their own priorities and to make their own decisions on these priorities.

It has been argued that without the leverage of a conditional grant, the Ontario Police Commission will not have sufficient strength to ensure a uniform and high quality police service level throughout the province. The Task Force believes, however, that current legislation contained in the Police Act, along with changes recommended in this report, provide the Ontario Police Commission with sufficient authority to take remedial action where communities are not providing acceptable policing services.

We therefore recommend that:

- ECON. 3.1** The current conditional/unconditional police grant be eliminated in its present form and be incorporated into the Ontario Government general municipal unconditional grant.
- ECON. 3.2** The level of the general municipal unconditional grant be determined by the Ontario Government based on municipalities' aggregate expenditure needs including those related to policing services.
- ECON. 3.3** During the process of setting the level of the general municipal unconditional grant, the Ministry of Treasury, Economics and Intergovernmental Affairs consult the Ministry of the Solicitor General regarding the cost of municipal police services and the related need for Ontario Government assistance in financing these costs.

#### "Free" Policing

In addition to questions of general financing of policing services, a number of municipalities and individuals suggested in briefs to the Task Force that several communities were receiving free policing from the Ontario Provincial Police. Others suggested that some communities were receiving inexpensive policing because of favourable contracts negotiated with the Ontario Provincial Police.

Although a small proportion of the Ontario population is receiving this "free" or inexpensive policing, it is imperative that this inequity be eliminated. Earlier in this report, we have recommended that the structure of policing in Ontario be realigned so that each community will either provide its own policing or obtain police services through a negotiated contract with the Ontario Provincial Police or other operating force. This rationalization of police forces in Ontario should eliminate the problem of free policing. However, we specifically recommend that:

- ECON. 3.4** Each Ontario community be required to directly finance the cost of police services provided to that community.



We also recommend that:

**ECON. 3.5** The Ontario Provincial Police re-examine the method of cost allocation to contract policing and that formulae be developed to reflect the full cost of providing policing services to a community and the full cost be the basis for financial negotiation of the agreements between the community and the Ontario Provincial Police.

The reorganization of municipal police forces recommended in this report will take time to fully implement. In the transition period, some communities will continue to receive free policing. Steps should be taken during this period to begin to deal with this inequity. Therefore, we recommend that:

**ECON. 3.6** Initially, an amount of \$3.25 per capita be withheld from the general municipal unconditional grant to those communities which do not maintain their own police force or do not have policing services supplied under contract by the Ontario Provincial Police or other operating forces.

**ECON. 3.7** During the implementation period, the amount of the general municipal unconditional grants to be withheld from those communities not maintaining their own forces or not having a contract with the Ontario Provincial Police or other operating force, be set at the beginning of each fiscal year by the Ministry of Treasury, Economics and Intergovernmental Affairs in consultation with the Ministry of the Solicitor General and the Ontario Police Commission.

#### Program Funding

Throughout this report, the Task Force has recommended a new and expanded role for the Ontario Police Commission. This multi-faceted role ranges from ensuring a minimum level of police services for the citizens of the province, supported by legislation, to acting as a catalyst and consultant in assisting municipal police forces to improve their operations. On occasion, legislated authority or persuasion may not be appropriate or sufficient to enable the Ontario Police Commission to effect improvements or changes and it may be necessary to offer financial incentives to the individual police force. The Ontario Police Commission currently does offer programs to various police forces with appropriate financial assistance. The most notable examples are training courses at the Ontario Police College and the communication systems assistance program. We recommend that:

**ECON. 3.8** Special programs continue to be developed and supported through appropriate funding by the Ontario Police Commission in consultation with the Ministry of the Solicitor General.

In recent years, a number of Ontario police forces have initiated innovative experiments to provide new and more productive services or to develop and utilize new police technology. There is within Ontario police forces considerable expertise, energy, and capability for innovation. The Task Force believes that these talents should be recognized and utilized. Accordingly, we recommend that:

**ECON. 3.9** Individual Ontario police forces be encouraged by the Ministry of the Solicitor General and the Ontario Police Commission to initiate experiments to provide new and more productive services and to develop and utilize new police technology.

Timing of these experiments is important. An investment of funds, energy, and expertise should be made now so that the productivity returns can be measured and implementation of changes begun before the crisis in police financing precipitates the imposition of strict economic constraints.

We therefore recommend that:

**ECON. 3.10** A Special Police Innovation and Experimentation Fund be established by the Ministry of the Solicitor General and the Ontario Police Commission.

**ECON. 3.11** This Police Innovation and Experimentation Fund have an initial funding of at least 1% of total Ontario police expenditures (municipal and Ontario Provincial Police) per annum.

**ECON. 3.12** The funds be made available to individual police forces on a project basis.

**ECON. 3.13** Each project be evaluated on its own merits and on its overall relevance to Ontario policing and be approved by the Ontario Police Commission prior to the commitment of monies from the Police Innovation and Experimentation Fund.

**ECON. 3.14** The Ontario Police Commission work with each participating force to ensure that meaningful evaluation of results occurs and that the results are transmitted to other Ontario forces for adaptation and implementation.

### Special Situations and Events

A number of representations have been made to the Task Force regarding the need for financial support to help defray the costs of providing police services for special situations. These special situations demand extraordinary and expensive police services. Examples include resort communities with seasonal peaks in population, and visiting dignitaries with major protection and people and traffic control problems. It has been recommended to the Task Force that special financial assistance be given by Ontario or Federal governments to municipalities involved in special situations. Counter arguments suggest that a community gains tax and other income from the influx of people or has the option to receive or not to invite a visiting dignitary. The Task Force sees the considerable danger in recognizing "special situations" through special financial assistance programs of a non-continuing nature. The Ontario Provincial Police does currently provide manpower assistance in special situations in certain parts of the province. We believe that this capability should be retained. Therefore, we recommend that:

**ECON. 3.15** The Ontario Provincial Police continue to provide manpower assistance for special situations, but that these programs or instances be formally designated "special situations" by the Commissioner.

### Continuing Extraordinary Circumstances

In addition to special situations and events, some Ontario communities encounter continuing extraordinary circumstances that require police attention and activities. These circumstances are on-going rather than seasonal and are largely caused by individuals residing outside the community. The costs of providing adequate policing services to the community experiencing these continuing extraordinary circumstances may inappropriately burden the taxpayers of that community. One community from which the Task Force received representation pointed out that police activities as measured by transient arrests and referrals, specifically for Ontario Liquor Control Act offences, exceeded the provincial average by 50%. Per capita costs of policing services to that community exceeded the provincial average by 30%. The Task Force believes that special recognition must be given to certain continuing extraordinary circumstances. These circumstances should be limited to extreme cases, be largely caused by non-residents of that community, and be of an on-going rather than seasonal nature.

The Task Force recommends that:

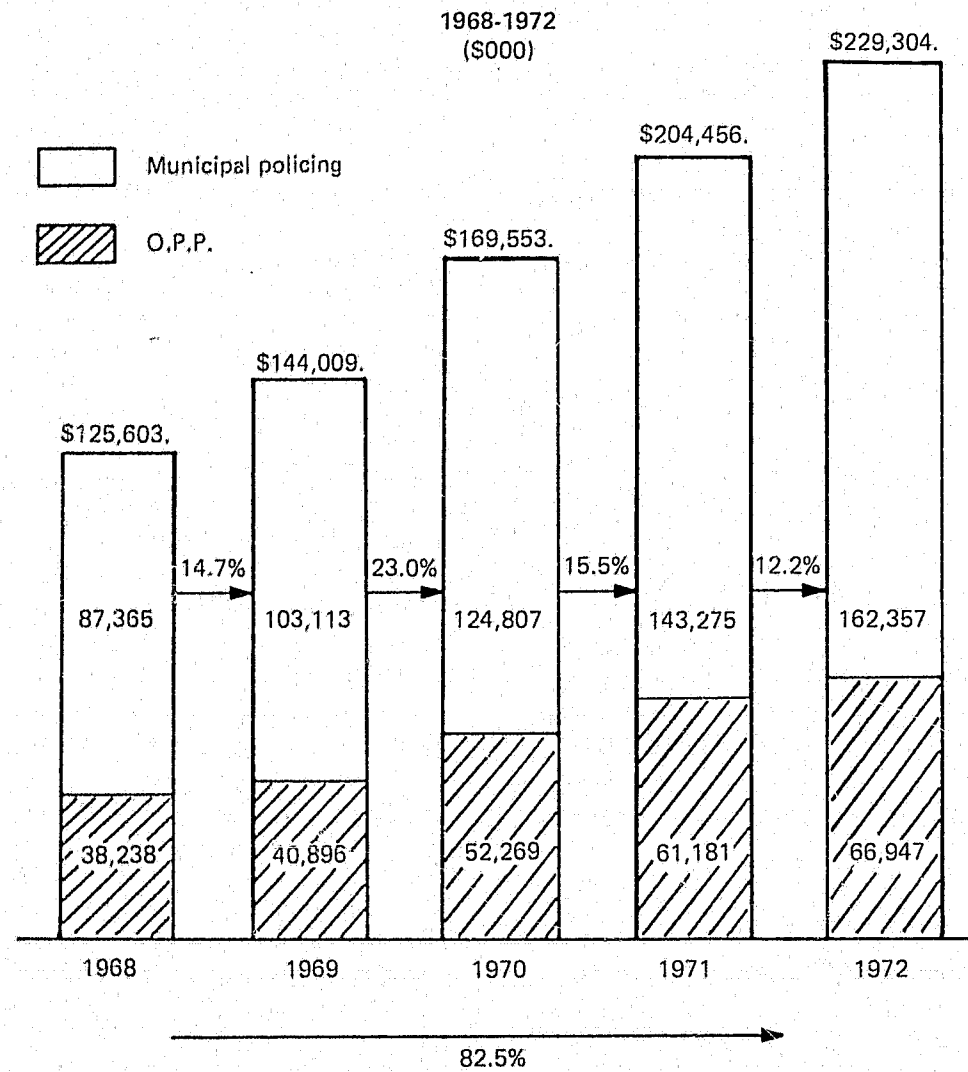
**ECON. 3.16** The Ministry of the Solicitor General be empowered to examine continuing extraordinary circumstances requiring special policing services and to decide if a community should receive special financial assistance.

and that:

**ECON. 3.17** The Ministry of the Solicitor General provide a special conditional police grant to the limited number of Ontario communities deemed to have continuing extraordinary circumstances requiring special police services.

Exhibit 3

TOTAL EXPENDITURES ON ONTARIO POLICING SERVICES<sup>1</sup>

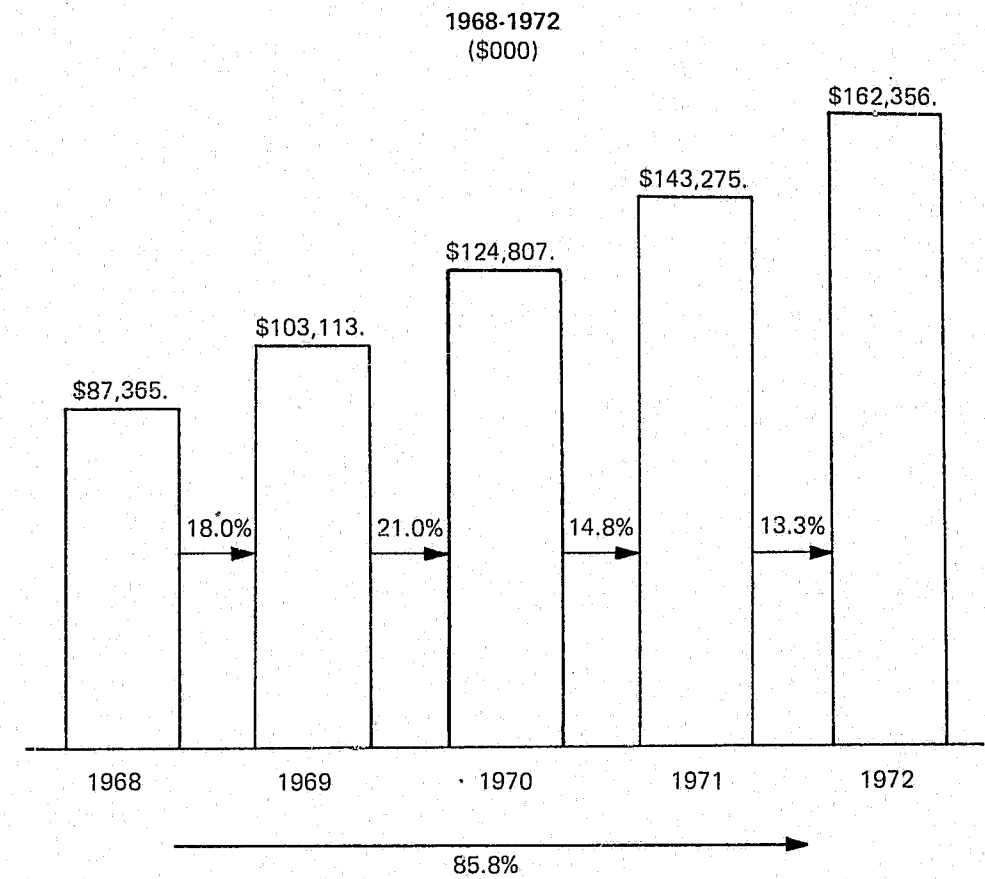


SOURCE: Ministry of Treasury, Economics & Intergovernmental Affairs: 1968-1972, Annual Financial Report of Municipalities; Ontario Police Commission 1972 Budgets - Annual Report.

<sup>1</sup>Not including expenditures on Private Policing and the R.C.M.P.

Exhibit 4

EXPENDITURES ON ONTARIO MUNICIPAL POLICING SERVICES<sup>1</sup>



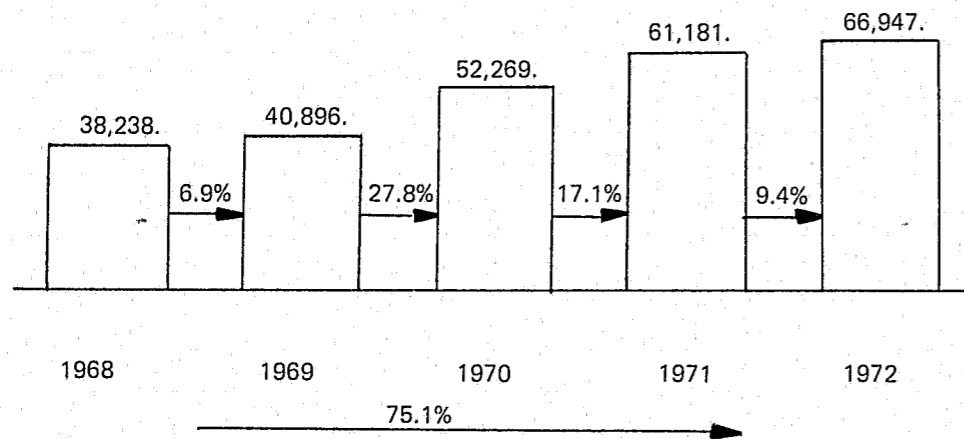
SOURCE: Ministry of Treasury, Economics & Intergovernmental Affairs: 1968-1972, Annual Financial Report of Municipalities; Ontario Police Commission 1972 Budgets - Annual Report.

<sup>1</sup>Excluding OPP contract policing.

Exhibit 5

ONTARIO PROVINCIAL POLICE EXPENDITURES

1968-1972  
(\$000)



SOURCE: Ontario Police Commission — Annual Reports

Exhibit 6

INCREASE IN POLICING EXPENDITURES BY TYPE OF MUNICIPALITY

1968-1972

	1968 (\$000)	1972 (\$000)	Costs Increase	Population Increase*
Metropolitan Toronto	36,992	66,948	81.0%	12.4%
Major Cities <sup>1</sup>	15,658	29,198	86.5%	4.5%
Urban and Suburban <sup>2</sup>	21,401	40,873	91.0%	14.8%
Small Municipalities <sup>3</sup>	7,823	13,285	69.8%	(1.7%)
Regions <sup>4</sup>	5,491	10,895	98.4%	22.7%

SOURCE: Ministry of Treasury, Economics and Intergovernmental Affairs: 1968-72, Annual Financial Report of Municipalities; Ontario Police Commission: 1972 Budgets — Annual Report.

<sup>1</sup>Cities of Hamilton, Ottawa, London and Windsor.

<sup>2</sup>All municipalities over 15,000 population excluding Metropolitan Toronto and major cities.

<sup>3</sup>All municipalities under 15,000 population maintaining their own police forces.

<sup>4</sup>These figures represent York and Niagara regions. The growth in police expenditures is estimated since data does not include the full period of 1968-1972. The method of estimation tends to overstate this growth.

Exhibit 7

MAJOR CAUSES OF MUNICIPAL POLICE EXPENDITURE INCREASE

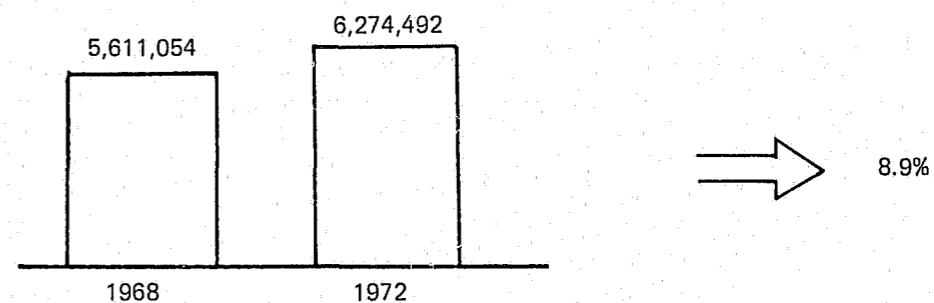
(a) SALARY INCREASES 1968-1972

	Representative Salaries First Class Constable			
	1968	1972	\$ Increase	
Metro Toronto	\$7,924.	\$11,665.	\$3,741.	⇒ 53.6%
OPP	7,300.	11,505.	4,205.	
London	7,775.	11,180.	3,405.	
Windsor	7,300.	11,644.	4,344.	
Burlington	7,508.	11,658.	4,150.	
Guelph	7,500.	11,400.	3,900.	
Thunder Bay	7,400.	11,150.	3,750.	
Hamilton	7,590.	11,672.	4,082.	
Kenora	6,997.	10,000.	3,003.	
Collingwood	6,900.	10,525.	3,625.	
Unweighted Average	\$7,419.	\$11,240.	\$3,821.	

Exhibit 7 (continued)

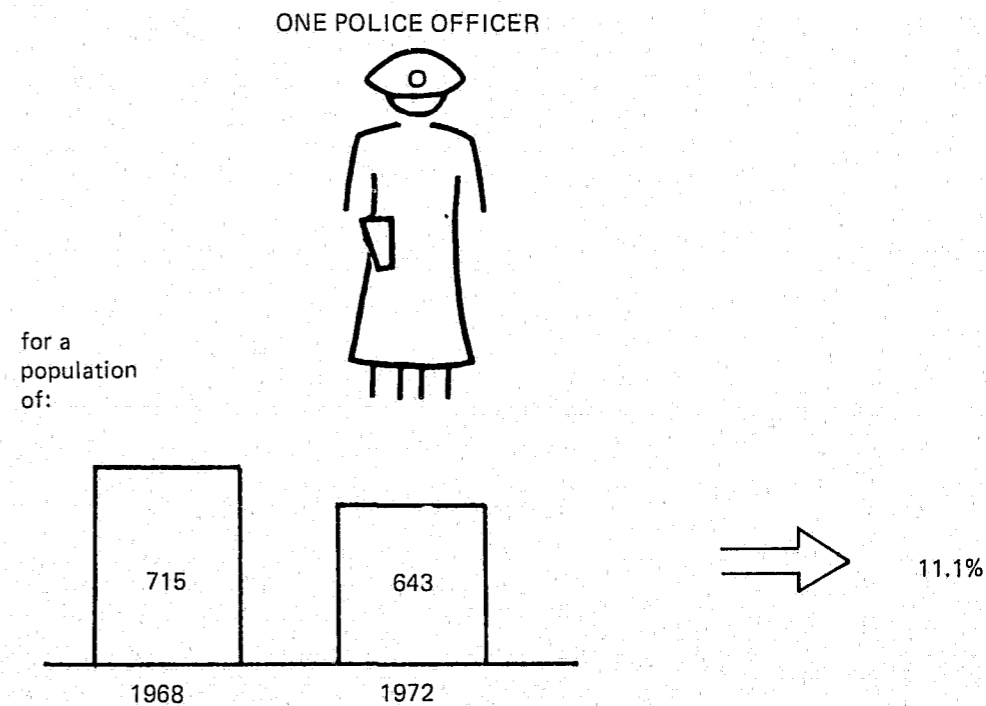
MAJOR CAUSES OF MUNICIPAL POLICE EXPENDITURE INCREASE

(b) POPULATION INCREASE



Assuming a constant police/population ratio.

(c) INCREASE IN THE NUMBER OF POLICE COMPARED TO POPULATION



SOURCE: Ontario Police Commission Reports



## Exhibit 7 (continued)

## MAJOR CAUSES OF MUNICIPAL POLICE EXPENDITURE INCREASE

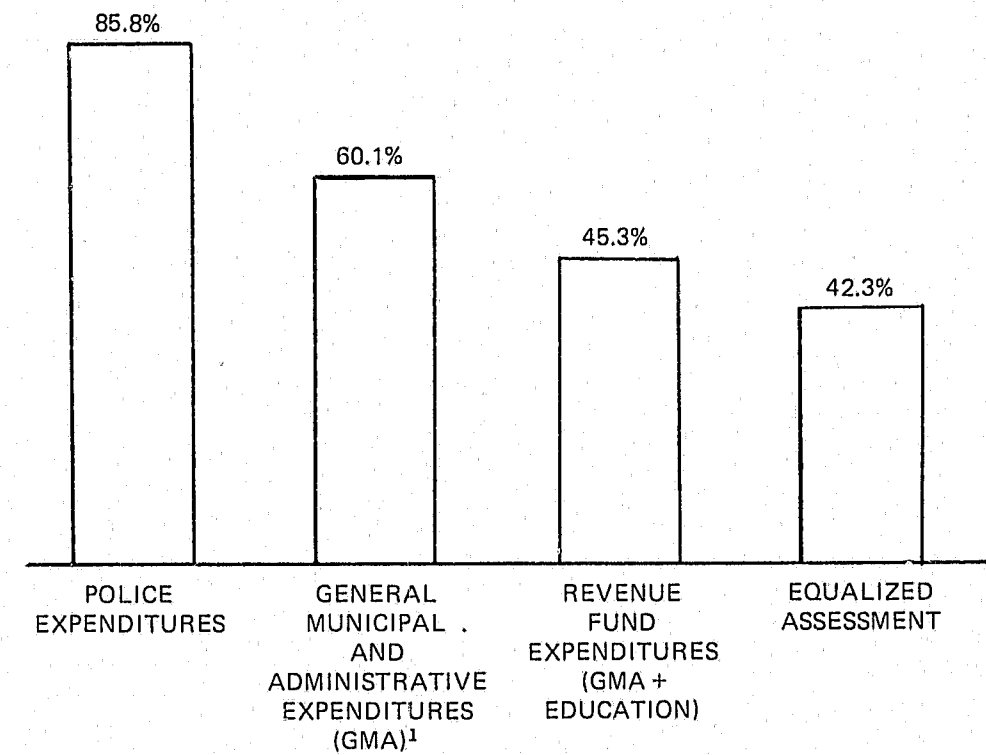
1968-1972

(d) SUMMARY	Actual Increase		Increase Equated to 100%
SALARY INCREASES	53.6%	or	62.5%
POPULATION INCREASE	8.9%	or	10.4%
INCREASE IN POLICE COMPARED TO POPULATION	11.1%	or	12.9%
ALL OTHER FACTORS (Including additional fringe benefits and overtime, and other increased operational and administrative expenses)	12.2%	or	14.2%
<b>TOTAL INCREASE</b>	<b>85.8%</b>		<b>100.0%</b>

## Exhibit 8

## INCREASE IN MUNICIPAL POLICE EXPENDITURES COMPARED TO INCREASES IN OTHER MUNICIPAL EXPENDITURES AND EQUALIZED ASSESSMENT

1968-1972



SOURCE: Ministry of Treasury, Economics and Intergovernmental Affairs.

<sup>1</sup>General municipal and administrative expenses include: general government, protection services, public works, sanitation, health, social services, recreational services, planning and development, and "financial and other" expenditures.

Exhibit 9

**INCREASE IN POLICE EXPENDITURES COMPARED TO INCREASES IN OTHER MUNICIPAL EXPENDITURES AND EQUALIZED ASSESSMENT**

1968-1972

	Police Expenditures	General Municipal & Administration Expenditures	Revenue Fund Expenditures	Equalized Assessment
Metropolitan Toronto	81.0%	57.5%	44.6%	40.5%
Major Cities <sup>1</sup>	86.5%	48.7%	41.7%	54.3%
Urban and Suburban <sup>2</sup>	91.0%	64.5%	41.2%	40.5%
Small Municipalities <sup>3</sup>	69.8%	49.1%	59.5%	31.3%
Regions <sup>4</sup>	98.4%	134.7%	58.7%	50.3%
<b>TOTAL</b>	<b>85.8%</b>	<b>60.1%</b>	<b>45.3%</b>	<b>42.3%</b>

<sup>1</sup> Cities of Hamilton, Ottawa, London and Windsor.

<sup>2</sup> All municipalities over 15,000 population excluding Metropolitan Toronto and major cities.

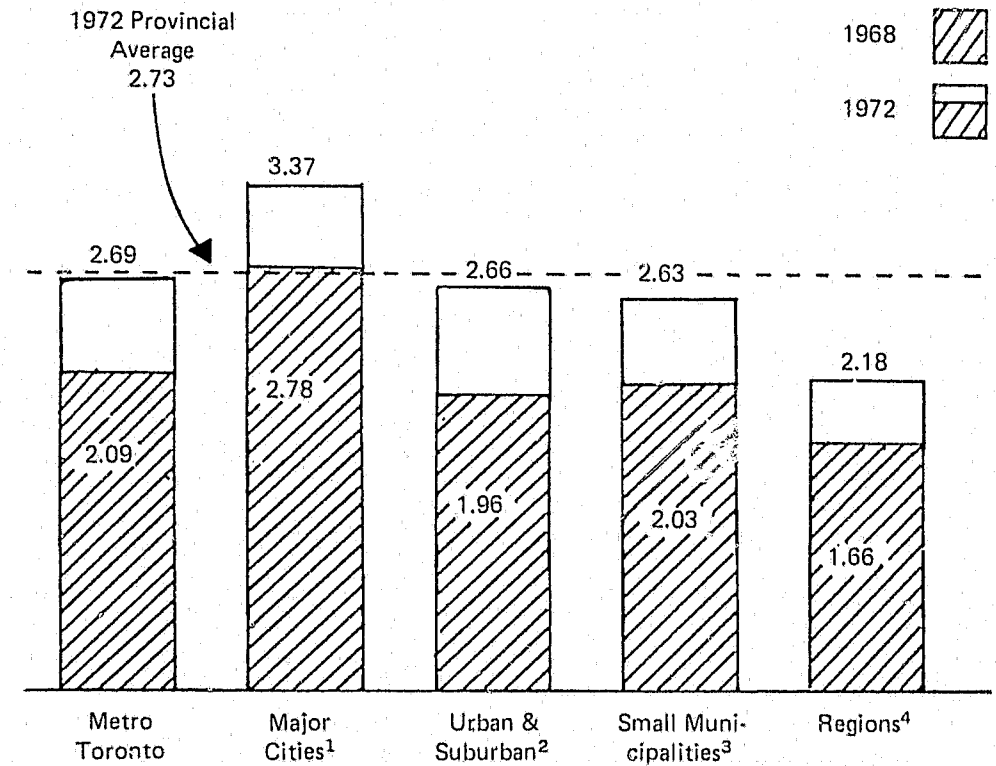
<sup>3</sup> All municipalities under 15,000 population maintaining their own police forces.

<sup>4</sup> These figures represent York and Niagara regions. The growth in police expenditures is estimated since data does not include the full period of 1968-1972. The method of estimation tends to overstate this growth.

Exhibit 10

**POLICE EXPENDITURE PER \$1,000 EQUALIZED ASSESSMENT**

1968-1972



<sup>1</sup> Major Cities: Cities of Hamilton, Ottawa, London and Windsor.

<sup>2</sup> Urban & Suburban: All municipalities over 15,000 population, excluding Metropolitan Toronto and major cities.

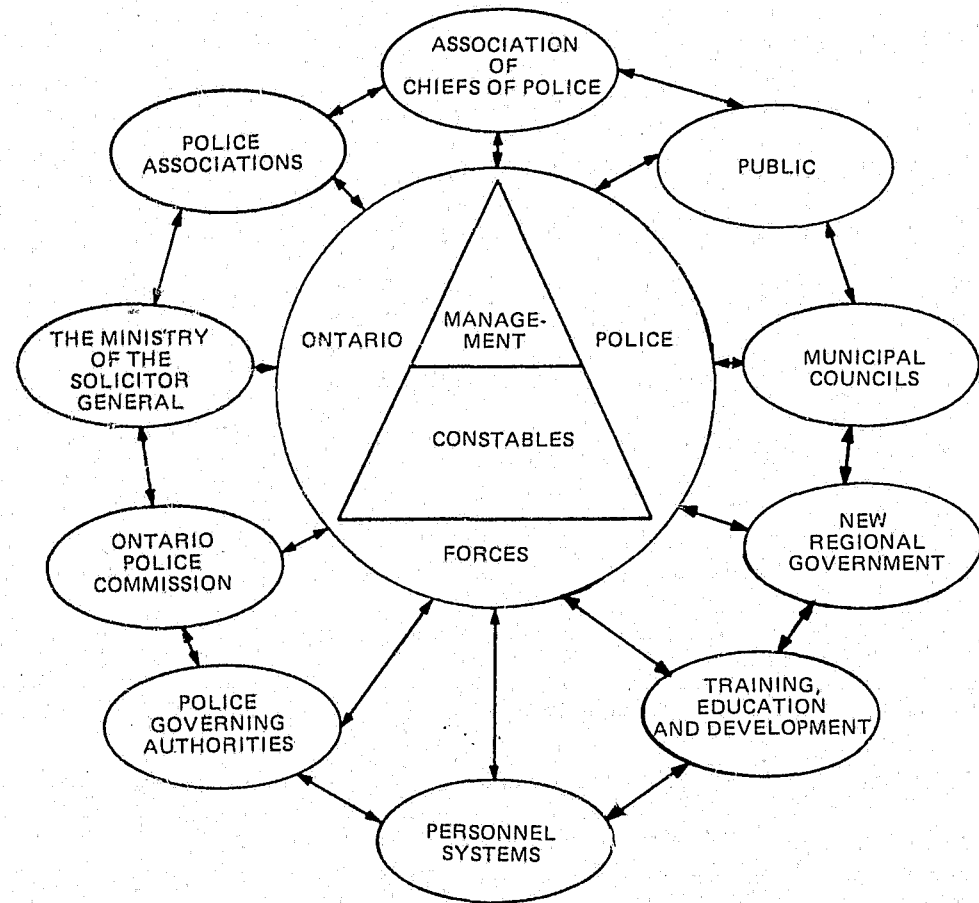
<sup>3</sup> Small Municipalities: All municipalities under 15,000 population maintaining their own police force.

<sup>4</sup> Regions: York and Niagara regions.

SOURCE: Ministry of Treasury, Economics and Intergovernmental Affairs, Annual Financial Report of Municipalities.

Exhibit 11

POTENTIAL AGENTS OF CHANGE IN THE POLICING SYSTEM



APPENDICES

## APPENDIX 1

\*

## SUMMARY OF RECOMMENDATIONS

POLICE FOR A MODERN ONTARIO  
RECOMMENDATIONS

\*

## THE POLICE ROLE

	Page No.
<b>ROLE 1.1</b> Objectives within each police force be defined in terms of that community's requirements for crime control, protection of life and property, and maintenance of peace and order.	16
<b>ROLE 1.2</b> The reality of police judgement in the application of law be squarely faced in each police force, and that deliberate and continuing steps be taken to ensure that each police officer has the ability to exercise his judgement so as to support the objectives and priorities of the force.	16
<b>ROLE 1.3</b> Police forces develop a balance among the functions of response, referral, prevention, public education, crime solving and law enforcement which reflects the needs of each community in terms of the objectives of crime control, protection of life and property and maintenance of peace and order.	19
<b>ROLE 1.4</b> In the context of their broad objectives, police forces take a leadership role in their communities to find lasting solutions to problems which confront them. In doing so, police officers are to be encouraged to make full use of alternatives to criminal sanction, such as other social services, where they are deemed to be more appropriate. Police officers must be encouraged to develop closer working relationships with other community service organizations at all levels.	19

## CONSTABLE-CENTRED MANAGEMENT

	Page No.
<b>ROLE 2.1</b> Police forces employ an approach to administration which focuses on the objectives of policing and the priorities among them, and which encourages individual police officers to use initiative in carrying out the objectives of the force, and which features responsibility and accountability at all levels	23
<b>ROLE 2.2</b> Police forces place special emphasis on management and leadership development.	23
<b>ROLE 2.3</b> The Ontario Police Commission initiate pilot projects in organization development in urban police forces in Ontario to develop a capability throughout the province for improving the role and orientation of urban police services	23
<b>ROLE 2.4</b> The Ontario Police Commission encourage innovative approaches within the several forces in the province, supporting differing methods which are responsive to individual communities and that regulations to standardize police services be adopted when there are overriding technical or economic reasons	23
 <b>POLICE AND THE COMMUNITY</b>	
<b>ROLE 3.1</b> Easy and open channels of communication between police officers and the public be recognized by all police forces in Ontario as a critical requirement for the police role.	29
<b>ROLE 3.2</b> Each force, in the evaluation of an individual officer, place primary emphasis on demonstrated ability to resolve the high priority problems in his community, giving weight to traditional measures of performance such as clearance rates, arrests and warnings only to the extent that they reflect the operational priorities identified for the community.	29
<b>ROLE 3.3</b> Deployment strategies be devised in each force which will enhance the development of fully qualified professional officers. These officers should be given as broad as possible a cross-section of issues in a community, and be encouraged to develop a continuity of relationships with that community.	29
<b>ROLE 3.4</b> Selective tactical programs be employed, where appropriate, to improve the quality of police relations with those segments of the community which are most difficult to reach. Specifically, we place priority on programs which bring police officers into direct and intimate contact with youth in their own settings, including street corners, schools and drop-in centres. In addition, we urge steps to establish open communication with minority groups	29

	Page No.
<b>ROLE 3.5</b> Police take initiative in cooperating with community organizations who express interest in developing better communication between the police and the public.	29
<b>ROLE 3.6</b> The Ontario Police Commission prepare and circulate through the governing authorities, in written form, the instructions governing the use of force by a police officer, as provided by law, and that these be communicated clearly to the public.	30
<b>ROLE 3.7</b> Police officers recognize that, by reason of the Canadian Bill of Rights, every person arrested or detained for any offence under the Criminal Code or under any statute of the Parliament of Canada, has a right: (1) to be informed promptly of the reason for his arrest or detention; and (2) the further right to retain and instruct counsel without delay. Proof that the spirit of these provisions has been flouted or ignored should result in disciplinary action.	30
<b>ROLE 3.8</b> The Ontario Legislature consider legislation to extend the rights existing under the Bill of Rights outlined in ROLE 3.7 to offences under provincial statute and further that police forces establish appropriate means to assist an accused in every reasonable way in contacting counsel, and inform him of services, such as legal aid, which may be available to him.	31
<b>ROLE 3.9</b> The governing authority of each police force establish a defined procedure for dealing with complaints against police officers. Such procedures must feature impartial investigation and a clear communication to the complainant and the complainee on the results of the investigation.	31
<b>ROLE 3.10</b> Wherever it is appropriate, the investigation procedure include a provision for frank face-to-face discussion between the citizen and the police officer in the hope of resolving differences which may impair the kind of police/community relationship we feel essential for Ontario.	32
<b>ROLE 3.11</b> Police forces make every effort to communicate the avenues open to the citizen who feels wronged by police action, including the nature of the force's internal investigative procedure, his subsequent right of complaint to the Board of Commissioners of Police and, finally, his right of appeal to the Ontario Police Commission. In addition, forces should apprise the citizen of his rights of action through criminal or civil procedures in the courts.	32
<b>ROLE 3.12</b> At the earliest possible stage of proceedings, a police officer be made aware of complaints against him.	32



## COMPOSITION OF POLICE FORCES

	Page No.																						
<b>ROLE 4.1</b> Each police force adopt a deliberate recruiting strategy to bring the ethno-cultural composition of the force roughly in line with that of the community.	33																						
<b>ROLE 4.2</b> Forces serving the following communities work toward providing a fully bilingual police service to these communities in the years ahead:	34																						
<table border="0"> <tr> <td>Prescott-Russell</td> <td>Mattawa</td> </tr> <tr> <td>Ottawa-Carleton</td> <td>Sturgeon Falls</td> </tr> <tr> <td>Stormont-Dundas-</td> <td>North Bay</td> </tr> <tr> <td>Glengarry</td> <td>Sudbury</td> </tr> <tr> <td>Elliot Lake</td> <td>Hearst</td> </tr> <tr> <td>Blind River</td> <td>Kapuskasing</td> </tr> <tr> <td>Espanola</td> <td>Smooth Rock Falls</td> </tr> <tr> <td>Haileybury</td> <td>Cochrane</td> </tr> <tr> <td>Elk Lake</td> <td>Iroquois Falls</td> </tr> <tr> <td>Englehart</td> <td>Timmins</td> </tr> <tr> <td>Penetanguishene</td> <td></td> </tr> </table>	Prescott-Russell	Mattawa	Ottawa-Carleton	Sturgeon Falls	Stormont-Dundas-	North Bay	Glengarry	Sudbury	Elliot Lake	Hearst	Blind River	Kapuskasing	Espanola	Smooth Rock Falls	Haileybury	Cochrane	Elk Lake	Iroquois Falls	Englehart	Timmins	Penetanguishene		
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Haileybury	Cochrane																						
Elk Lake	Iroquois Falls																						
Englehart	Timmins																						
Penetanguishene																							
<b>ROLE 4.3</b> To meet the requirements of recommendation 4.2, all new recruits to these forces be either bilingual or willing to take appropriate courses to achieve a basic bilingual proficiency during the probationary period.	34																						
<b>ROLE 4.4</b> The Ontario Police College offer sufficient of its instruction in the French language to enhance the bilingual capacity of officers working in French-speaking communities.	34																						
<b>ROLE 4.5</b> Recruiting strategies be devised by all police departments to attract officers who will bring the composition of the force into rough conformity with the community, in terms of social background and walk of life, and, above minimal standards, reflective of the educational make-up of the community at large.	35																						
<b>ROLE 4.6</b> Ontario police forces be encouraged by the Ministry of the Solicitor General and the Ontario Police Commission to recruit female police officers for specialized and general duties, with the opportunity for advancement equal to their male counterparts, and that there be no discrimination according to sex in recruiting or promotional opportunities.	35																						
<b>PRIVATE SECURITY SERVICES</b>																							
<b>ROLE 5.1</b> The Solicitor General initiate a specific and comprehensive review of private security services in Ontario.	38																						

ORGANIZATION FOR POLICING IN ONTARIO  
RECOMMENDATIONS

\*

## DELIVERY STRUCTURES FOR POLICING IN ONTARIO

City and Regional Forces	Page No.																						
<b>ORG. 1.1</b> Separate municipal forces be operated in the following cities of the province, which cities are not part of a regional municipality:	44																						
<table border="0"> <tr> <td>Barrie</td> <td>Owen Sound</td> </tr> <tr> <td>Belleville</td> <td>Pembroke</td> </tr> <tr> <td>Brantford</td> <td>Peterborough</td> </tr> <tr> <td>Brockville</td> <td>St. Thomas</td> </tr> <tr> <td>Chatham</td> <td>Sarnia</td> </tr> <tr> <td>Cornwall</td> <td>Sault Ste. Marie</td> </tr> <tr> <td>Guelph</td> <td>Stratford</td> </tr> <tr> <td>Kingston</td> <td>Thunder Bay</td> </tr> <tr> <td>London</td> <td>Windsor</td> </tr> <tr> <td>North Bay</td> <td>Woodstock</td> </tr> <tr> <td>Orillia</td> <td></td> </tr> </table>	Barrie	Owen Sound	Belleville	Pembroke	Brantford	Peterborough	Brockville	St. Thomas	Chatham	Sarnia	Cornwall	Sault Ste. Marie	Guelph	Stratford	Kingston	Thunder Bay	London	Windsor	North Bay	Woodstock	Orillia		
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Guelph	Stratford																						
Kingston	Thunder Bay																						
London	Windsor																						
North Bay	Woodstock																						
Orillia																							
<b>ORG. 1.2</b> Separate regional forces be operated in the following named regional municipalities of the province and deliver all police services (except as noted later for King's Highways and provincial parks) for the entire region:	44																						
<table border="0"> <tr> <td>Niagara</td> </tr> <tr> <td>Hamilton-Wentworth</td> </tr> <tr> <td>Waterloo</td> </tr> <tr> <td>Halton</td> </tr> <tr> <td>Peel</td> </tr> <tr> <td>Metro Toronto</td> </tr> <tr> <td>York</td> </tr> <tr> <td>Durham</td> </tr> <tr> <td>Ottawa-Carleton</td> </tr> <tr> <td>Sudbury</td> </tr> </table>	Niagara	Hamilton-Wentworth	Waterloo	Halton	Peel	Metro Toronto	York	Durham	Ottawa-Carleton	Sudbury													
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York																							
Durham																							
Ottawa-Carleton																							
Sudbury																							
<b>ORG. 1.3</b> In Northern Ontario those centres with populations between 7,500 and 15,000 have the option of continuing separate local forces (as under recommendation ORG. 1.1) instead of having policing provided as defined by recommendation ORG. 1.9.	45																						
<b>ORG. 1.4</b> The City of Timmins will have the option of receiving police services as defined in recommendation ORG. 1.9 instead of establishing separate local forces as under recommendation ORG. 1.1.	45																						
<b>ORG. 1.5</b> Regional municipalities not named in ORG. 1.2 and restructured counties established in the future shall form their own police forces or take the option of receiving police services as outlined under recommendation ORG. 1.7.	45																						
<b>ORG. 1.6</b> In the three cases of ORG. 1.3, 1.4 and 1.5, the police program must be approved by the Ontario Police Commission if an option is selected.	45																						

**Policing for Counties, Unorganized Districts and  
The District Municipality of Muskoka**

ORG. 1.7 Units of government in Southern Ontario to which policing shall relate, outside of cities and regions already defined, shall be the counties and the District Municipality of Muskoka. The standard approach shall be for each respective council to negotiate an agreement with the Ontario Provincial Police for delivery of all police services within the county. With the specific approval of the Ontario Police Commission, a council may negotiate such an agreement with an adjoining municipal or regional force established under ORG. 1.1 and ORG. 1.2.

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46

ORG. 1.8 Separated towns shall be policed by the same force policing the surrounding county with costs paid by the town through agreement between the separated town council and the respective force, or, with the specific approval of the Ontario Police Commission, shall continue to operate their own force with a Board of Commissioners of Police as set out in ORG. 2.1 and ORG. 2.2 until such time as the related county is restructured.

47

ORG. 1.9 Policing for the portion of Northern Ontario outside cities and regions (ORG. 1.1 and ORG. 1.2) or those other units of local government electing to establish separate local forces (ORG. 1.3 and ORG. 1.4) shall be delivered by the Ontario Provincial Police through a system of agreements by district, established with the councils of incorporated municipalities in each district.

47

**Relationship of Forces to Councils**

ORG. 2.1 Where a council operates its own force, a Board of Commissioners of Police be appointed and comprised of the following:

49

2 members of council, designated by council;

2 members of the community served, designated by the Lieutenant Governor in Council;

1 Judge of any county or district court, designated by the Lieutenant Governor in Council.

The three members thus designated by the Lieutenant Governor in Council shall be appointed for overlapping terms of 3 to 5 years and shall be eligible for re-appointment, following thorough review.

ORG. 2.2 The Chairman shall be selected from their own number by the resultant 5-man Board, and that through him the Board shall report to the Council. A quorum, for budget matters, must include one of the members designated by Council. If a duly called meeting is dissolved by reason of such a quorum not being present and 7 days further notice from such meeting is given for a second meeting, a quorum at this second meeting shall consist of any three members. Matters of budget dispute between Council and the Board may be appealed by either party to the Ontario Police Commission for a ruling.

49

ORG. 2.3 Where areas are policed through agreements involving other operating forces, the relationship should be direct between the respective councils and forces.

49

**Impact of Forces' Restructuring on OPP Field Structure**

Page No.

ORG. 2.4 The OPP undertake a comprehensive analysis of their field organization including assessment of the implications of agreement policing, absorption of small forces, and existence of large areas to be policed by regional municipal forces.

56

ORG. 2.5 The OPP establish clear responsibility within their command structure for operation of policing in areas covered by agreements and for relations with councils as regards both day-to-day matters and agreement negotiation.

56

**Nature of Agreements**

ORG. 2.6 For areas to be policed under agreement, the agreement be negotiated annually between the operating force and each council to establish the general level of service to be provided and total cost thereof. If the parties are unable to reach agreement, either may appeal to the Ontario Police Commission for a ruling.

56

ORG. 2.7 The proportion of cost to be borne by the council be determined through a scheme similar to that where municipalities operate their own forces.

56

**Absorption of Small Forces**

ORG. 2.8 Where the OPP takes over the policing from an existing police force, the personnel from the existing force be absorbed into the OPP on the basis of the following:

57

(a) Entrance by qualified and interested personnel into the mainstream of the OPP, including the right to compete for promotion and transfer to another location in Ontario; or

(b) Entrance by other personnel into the ranks of the OPP, including the right to compete for promotion, but not being subject to transfer; and

(c) Such personnel will receive pay and benefits not less than that which is equivalent to their pay and benefits from the existing force, excluding rank title.

ORG. 2.9 Where the OPC approves the takeover by a force other than the OPP, the principles contained in recommendation ORG. 2.8 be used as a guide.

57

ORG. 2.10 Personnel may appeal their classification to a classification arbitration panel representative of force management, police associations and independent judgement, in a manner to be established by the Ontario Police Commission.

57

### Policing King's Highways & Provincial Parks

ORG. 3.1 In general, the principle of the OPP policing the King's Highways be maintained and that the cost of this be kept separate from county and district agreements and be paid by the Provincial Government.

ORG. 3.2 In the regional government areas of Southern Ontario the OPP continue to police all limited access King's Highways but with regard to all statutes and the Criminal Code.

ORG. 3.3 A review be made of all non-limited access King's Highways in the province and, where it is found portions function primarily as part of an urban/rural area transportation network or where there is a small portion of highway between centres within a region, that these be designated by the Lieutenant Governor in Council, for policing purposes only, to be the responsibility of the municipal policing agency and that such municipality assume the cost thereof.

ORG. 3.4 The OPP carry out policing of all provincially operated parks in the Province of Ontario. Where such parks are located within regional municipalities, the Solicitor General may contract with respective regions to provide police services through the regional force.

### Policing for Indian Reserves in Ontario

ORG. 4.1 The primary responsibility for policing Indian communities in the Province of Ontario rest with the OPP or other operating force within whose area a reserve lies.

ORG. 4.2 Band Councils continue to be responsible for enforcement of all bylaws which they enact. With the approval of the Ontario Police Commission, bands may utilize their local bylaw enforcement officers (band constables) to enforce minor Criminal Code or other offenses under the supervision of a regular force, for which purposes Special Constable status will be conferred on appropriate members.

ORG. 4.3 A proportion of the cost of policing reserves be paid by Band Councils, the amount to be determined at a level similar to that paid by municipalities in the province. Where appropriate funds are not available, negotiations should be carried out with the federal government to make such funds available to Band Councils.

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ORG. 4.4 An OPP officer be assigned to coordinate policing of reserves in each OPP District. This officer shall report to the District Superintendent, the position to be full or part time, or supported by assistants depending on number of reserves and native population involved in each OPP District.

The duties of the officer to include:

- visiting the reserves on a systematic basis;
- isolation of issues and seeking resolution in consultation with Band Councils and OPP commands;
- establishing and contributing to preventive programs on the reserves involving both bands and OPP personnel;
- assisting in recruiting native people as regular OPP force members;
- advising Band Councils on bylaw enforcement, security policing and roles of band constables in overall picture of policing for the reserve;
- acting as principal contact between the OPP and Band Council for establishing level of service and costing agreements.

These officers should:

- be experienced police officers;
- be specially trained and experienced in native culture and history;
- where experienced candidates are available, be of native extraction.

ORG. 4.5 A central program be established to coordinate these district-level operations including such matters as overall evaluation of policing on reserves, establishing a forum for communication between districts, relations with provincial Indian associations, etc.

61

### Policing of Waterways and Ports

ORG. 5.1 The needs for waterway policing derived from provincial statutes and the Criminal Code as well as that portion of duties not carried out by the RCMP in respect of federal statutes, be provided throughout each area of jurisdiction by the force delivering the general police service in that area. With the approval of the Ontario Police Commission these duties may be performed for cities by other operating forces under contract with the city Board of Commissioners of Police.

63

ORG. 5.2 The Solicitors General of Canada and Ontario initiate a joint study to determine for ports the respective roles of public vs. "private" policing, and develop appropriate mechanisms to deliver police services for Commission-operated ports in Ontario.

64

**CENTRAL STRUCTURES FOR POLICING IN ONTARIO**

**ORG 6.1** The three agencies of OPP, I.P.S. and OPAC continue to be responsible for operating in their respective delivery roles as referred to or outlined elsewhere in our recommendations. Each agency, through its chairman (Commissioner, in the case of the OPP) to report to the Solicitor General. The Ministry Office focus on policy development and integration as respects these agencies.

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65

**Organization of the Ontario Police Commission**

**ORG 7.1** An Executive Director be appointed to head the administrative structure of the OPC which structure is to deal strictly with program management and central support services functions of the OPC.

65

**ORG 7.2** An Executive Secretary be appointed to head a small staff designed to support the OPC in its quasi-judicial functions.

66

**ORG 7.3** The Ontario Police Commission be expanded to 5 members.

66

**ORG 7.4** The Ontario Police Commission provide all central support services for policing in Ontario and the Ontario Provincial Police execute centrally required operational police activities.

66

**ORG 7.5** The responsibility for administration of the Private Investigators and Security Guards Act be made that of the Ontario Police Commission. When specific investigations are required with respect to individuals or organizations involved, the OPC provide guidelines to and utilize the police force within whose geographical jurisdiction the investigation is required.

67

**ORG 7.6** The OPC provide the following program support services to be organized in major sections under the Executive Director

67

**Ontario Police Personnel Development**

- Recruiting
- Manpower Planning and Selection
- Ontario Police College
- In Service Training
- Continuing Education
- Personnel Research

**Police Research and Information**

- Project Funding and Evaluation
- Information Research

**Services**

- Communications
- Complaints

**Inspection**

- Municipal and Provincial Police Inspectors
- Private Investigators and Security Guards

**Ontario Provincial Police**

Page No.

**ORG. 8.1** The OPP continue to report to the legislature through the Solicitor General and be managed by the Commissioners' Committee, composed of Commissioner ranks.

68

**ORG. 8.2** The Police Act be changed so that Clause 42-(2) reads: "Subject to the direction of the Solicitor General, the Commissioner has the general control and administration of the Ontario Provincial Police force and the personnel connected therewith."

68

**Federal/Provincial Jurisdiction, Coordination & Costs**

**ORG. 9.1** The federal and provincial Solicitors General establish a joint study to determine the level of service and cost sharing appropriate between federal and provincial levels as regards enforcement of federal legislation. This study should determine the need for structural solutions to problems of coordination of the federal force within Ontario and between RCMP and provincial forces.

71

## ONTARIO POLICE PERSONNEL RECOMMENDATIONS

\*

### PERSONNEL SELECTION AND TRAINING

	Page No.
<b>Quality of Police Personnel</b>	
PERS. 1.1 Every person to be appointed as a police officer in Ontario be a Canadian citizen.	84
PERS. 1.2 Individuals be allowed to join Ontario police forces at 18 years of age.	85
PERS. 1.3 Individuals over 35 years of age be considered as police officer candidates by Ontario police forces.	85
PERS. 1.4 Individuals of lesser stature than five feet eight inches not be precluded from joining Ontario police forces.	85
PERS. 1.5 If a candidate has poor vision (not to exceed 20/40) and it can be corrected through the use of glasses, he not be precluded from joining any Ontario police force.	85
PERS. 1.6 Ontario police forces be encouraged to select recruits with varying educational qualifications including high school, college of applied arts and technology, and university.	86
PERS. 1.7 Recruiting strategies be devised by Ontario police forces to attract recruits who will bring the ethnic and cultural composition of their force into rough conformity with that of the community they serve.	86
PERS. 1.8 Ontario police forces recruit police officers, both male and female, with equal opportunity for advancement for all members.	86
<b>Recruit Selection</b>	
PERS. 2.1 Minimum mandatory recruiting and selection procedures be developed by the Ontario Police Commission for all Ontario police forces.	87
PERS. 2.2 The Ontario Police Commission work with the Chiefs of Police and senior officers in each Ontario police force to assist them in adapting the minimum mandatory procedures to meet the force's needs.	87
PERS. 2.3 Each police force, in consultation with the Ontario Police Commission, establish a basic intelligence measure to be used in the recruit selection process.	88



	Page No.
PERS. 2.4 As part of the recruiting procedures, Ontario police forces be encouraged to utilize a qualified industrial psychologist in the screening process, either as part of the interviewing process or to administer and interpret tests that have the approval of the Ontario Police Commission and which have been developed in consultation with the individual police force.	88
PERS. 2.5 The Ontario Police Commission initiate experiments related to the use of differentiating psychological testing in the selection process.	88
<b>Post-Selection Screening</b>	
PERS. 3.1 For municipal forces the probationary period for new recruits be 18 months as a police officer, and that both a constable and a police supervisor and/or senior police officer be given specific responsibility and accountability for evaluating performance and making recommendations related to continued employment of the recruit.	89
PERS. 3.2 The appropriate legislation and regulations be amended to include a provision that when an applicant is accepted by the Ontario Provincial Police, that person must serve 12 months probation as a police officer regardless of any other period spent within the Ontario public service.	89
PERS. 3.3 The Ontario Police College be requested to provide formal reports on each recruit to that officer's police force, particularly for those recruits exhibiting exceptional (positive or negative) capabilities.	89
PERS. 3.4 Formal performance reviews be conducted with the recruit at least once every 3 months during the probationary period.	90
PERS. 3.5 Specific counsel be given to each recruit regarding his performance and behaviour, and that each recruit be required to acknowledge, through signing an evaluation form, that the evaluation and counselling has been conducted, and a copy supplied to him.	90
PERS. 3.6 Recruits who exhibit less than satisfactory performance be terminated from employment within an Ontario police force before the expiry of the probationary period without management having to show cause.	90
<b>Recruit Training</b>	
PERS. 4.1 An Ontario Police Commission designed or approved orientation program be adopted by all Ontario police forces and this program be made mandatory for all recruits prior to assuming any policing responsibilities.	90
PERS. 4.2 A basic police training course in two parts continue to be given centrally at the Ontario Police College.	91
PERS. 4.3 The Police Act be amended to include a requirement that every new police officer successfully complete the basic recruit training course within the probationary period.	91

	Page No.
PERS. 4.4 The Ontario Police Commission initiate a research project to examine current Ontario Police College recruit training objectives, to relate these objectives to the actual functions of the urban, suburban and rural police constables, and to design new objectives more appropriate to the actual functions performed.	91
PERS. 4.5 Each probationary officer be assigned, for at least his first six months of employment, to a specially trained "parent constable" who would be responsible for the probationer's development and evaluation.	91
PERS. 4.6 The Ontario Police Commission develop model in-service recruit training programs to supplement Ontario Police College formal training and assist individual police forces to adopt such programs.	92
PERS. 4.7 A "Qualification" course be designed and conducted at the Ontario Police College and that this "Qualification" course be successfully completed by all Ontario police officers prior to becoming First Class Constables.	92
PERS. 4.8 The Ontario Police Commission continue to fund the direct costs involved for attendance at the basic recruit and "Qualification" training courses including course fees, room and board and travel expenses, but excluding salaries and premiums.	92
<b>Recruit Education</b>	
PERS. 5.1 A Basic Police Officer Educational Course be developed at the initiative of the Ontario Police Commission to cover subject matter such as the criminal justice system and its impact on society, plus elementary social and behavioural science.	93
PERS. 5.2 Police education centres be established in colleges of applied arts and technology and universities.	94
PERS. 5.3 These colleges and/or universities be selected by the Ontario Police Commission.	94
PERS. 5.4 The Ontario Police Commission work with the selected colleges of applied arts and technology and universities to develop a curriculum in The Criminal Justice System and Society, designed for both full and part-time study.	94
<b>Accreditation</b>	
PERS. 6.1 The Solicitor General, through the Ontario Police Commission, give formal recognition to those who successfully complete both the basic training and the Basic Police Officer Educational Course, by granting an Ontario Constable certificate issued jointly by the appropriate educational institution and the Solicitor General.	94

## HUMAN RESOURCE DEVELOPMENT

## In-Service Training

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| PERS. 7.1 An extension of the Solicitor General's project on in-service training be initiated through the Ontario Police Commission to design model in-service training programs which would be presented to Police Governing Authorities and senior police administrators for analysis and implementation.                       | 95       |
| PERS. 7.2 An in-service "outreach" program be developed by the Ontario Police Commission to support in-service training activities throughout the Province.   | 95       |
| PERS. 7.3 Consulting assistance be made available to individual police forces by resource personnel from the Ontario Police Commission, the Ontario Police College and other authorized police training institutions to assist in the design and implementation of in-service training programs within each Ontario police force. | 95       |
| PERS. 7.4 The Ontario Police Commission be charged with the responsibility for developing training courses to train appropriate personnel within each police force as in-service instructors.   | 96       |

## Police Specialist Training

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| PERS. 8.1 Specialized police training continue to be developed and conducted at the Ontario Police College. | 96 |
| PERS. 8.2 Refresher courses continue to be developed and conducted at the Ontario Police College.           | 96 |

## Specialist Rotation

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| PERS. 9.1 Ontario police forces examine their career planning and development for specialists and institute, when appropriate, rotation programs to re-expose the police specialists to the mainstream of the force's activities. | 96 |
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## Continuing Education

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| PERS. 10.1 The Ontario Police Commission work with the colleges of applied arts and technology and universities to develop the advanced credit course, "The Social Sciences and Policing", as part of the Criminal Justice System and Society curriculum.        | 97       |
| PERS. 10.2 The basic supervisory course continue to be designed, developed and given by the Ontario Police College.  | 97       |
| PERS. 10.3 The Ontario Police Commission work with the universities and colleges of applied arts and technology to develop administrative programs for police middle managers, using the best resource personnel available, both within and outside policing.    | 98       |
| PERS. 10.4 The Ministry of the Solicitor General of Ontario use its good offices to encourage the Ministry of the Solicitor General of Canada and its agency, the Royal Canadian Mounted Police, to expand its executive courses into a National Police College. | 98       |
| PERS. 10.5 In the interim period, the Ontario Police Commission, through the Ontario Police College, continue the senior administration course, but with increased use of external resources.  | 98       |
| PERS. 10.6 The Ontario Police Commission develop, fund and evaluate conferences, seminars or workshops for senior police administrators upon topics deemed to be of primary interest to these administrators.  | 99       |

## PERSONNEL SYSTEMS

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<b>Career Development</b>	
PERS. 11.1 Ontario police forces develop physical education programs and arrange for appropriate facilities accessible to each officer.	100
PERS. 11.2 Ontario police forces be encouraged by the Ontario Police Commission to request that every police officer receive an annual physical examination by a qualified medical practitioner.	100
PERS. 11.3 The Ontario Police Commission design and fund an experiment with a medium sized police force in Ontario to create and implement a comprehensive career planning system.	100
PERS. 11.4 Police Governing Authorities be encouraged by the Ontario Police Commission to conduct competitions open to candidates from any Ontario police force for all their senior officer and command positions.	101
PERS. 11.5 Consulting advice related to recruiting and selection procedures for these competitions be made available, where appropriate, by the Ontario Police Commission.	101
PERS. 11.6 Job descriptions be developed by Ontario police forces for specialist, supervisory, senior officer and command positions, and related selection criteria be developed for each of these.	101
PERS. 11.7 Formal selection systems for specialist, supervisory, senior officer and command positions be adopted by each Ontario police force, and the systems be examined and approved by the Ontario Police Commission.	101
PERS. 11.8 Each police officer promoted to a new specialist, supervisory, senior officer or command position who has not attended the appropriate Ontario Police Commission approved course, be required to do so within 6 months of appointment.	102
PERS. 11.9 For courses given at the Ontario Police College or for those courses designated as "sponsored" by the Ontario Police Commission, the Ontario Police Commission continue to fund the direct cost including tuition, room and board and travel expenses, but excluding salaries and premiums.	102

## Performance Evaluation Systems

	Page No.
PERS. 12.1 Formal performance evaluation be conducted with each police officer in Ontario at least once per year, and that this evaluation be discussed with the police officer and a signed copy be given to that individual.	102
PERS. 12.2 Personnel from the Ontario Police Commission provide consulting assistance to forces, when appropriate, to develop meaningful performance evaluation systems.	102
PERS. 12.3 An experiment be designed and funded by the Ontario Police Commission to develop and implement a performance evaluation system for a medium sized Ontario police force, based on management-by-objectives technology, drawing on the experience of other police agencies.	102

## THE ONTARIO POLICE COMMISSION

## Organization

PERS. 13.1 The new position of Director of Ontario Police Personnel Development be established within the Ontario Police Commission.	103
PERS. 13.2 The Director of the Ontario Police College report to the Director of Ontario Police Personnel Development.	103
PERS. 13.3 The following functions be assigned to the Director of Ontario Police Personnel Development:	103
Recruiting — to assist forces to improve recruiting methods and oversee adoption of approved recruiting and selection processes within each Ontario police force.	
Manpower planning and selection — to provide assistance to forces to design and implement better career planning and promotional systems and assist police forces to design and conduct competitions for senior officer and command positions.	
In-service training — to develop models for in-service training programs, to assist individual police forces in Ontario to implement in-service training programs, and to design "outreach" programs to provide personnel for these programs.	
Continuing education — to oversee the design and teaching of courses in universities and colleges of applied arts and technology, and develop conferences, seminars and workshops for police administrators in Ontario.	
Personnel Research — to design and evaluate experimental projects for Ontario police forces and provide a source of information on new personnel practices developed in Ontario, in Canada, the rest of North America and Europe.	

**THE ECONOMICS OF ONTARIO POLICING  
RECOMMENDATIONS**

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**ECONOMICS AND CHANGE**

**Focus on Economics**

Page No.

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| <p><b>ECON. 1.1</b> Individual analyses for each Ontario municipal police force be developed and released to each Police Governing Authority by the Ontario Police Commission in conjunction with the Ontario Ministry of Treasury, Economics and Intergovernmental Affairs and include:</p> <ul style="list-style-type: none"> <li>— An analysis of each municipality's municipal police expenditures from 1968-1972;</li> <li>— An analysis of each municipality's general municipal and administrative expenditures and revenue fund expenditures from 1968-1972;</li> <li>— An analysis of the growth of equalized assessment from 1968-1972;</li> <li>— A comparison of these expenditure patterns and comparisons with police forces of similar size and character.</li> </ul> | 112 |
| <p><b>ECON. 1.2</b> The Ontario Police Commission continue to release such analyses for each municipality to the Chairman of the Board of Commissioners of Police or Council on an on-going, annual basis.</p>   | 112 |
| <p><b>ECON. 1.3</b> The Ontario Police Commission, working in conjunction with the Ministry of the Solicitor General and the Ministry of Treasury, Economics and Intergovernmental Affairs, prepare a planning format to assist each municipal police force to plan policing expenditures and activities for a five year period into the future.</p>   | 113 |
| <p><b>ECON. 1.4</b> Each municipal police force be required by the Ontario Police Commission to project policing expenditures over the next five years, consistent with this format.</p>   | 113 |
| <p><b>ECON. 1.5</b> Aggregate projections be prepared by the Ontario Police Commission, and working in conjunction with the Ministry of the Solicitor General and the Ministry of Treasury, Economics and Intergovernmental Affairs, target expenditure levels be developed for all Ontario police forces and projected over the next five year period.</p>  | 113 |
| <p><b>ECON. 1.6</b> The Ontario Police Commission analyze the five year projections of each municipal police force, and compare them to the target expenditure levels to identify those police forces where major productivity improvements must be achieved.</p>  | 113 |
| <p><b>ECON. 1.7</b> The Ontario Police Commission be given the mandate to bring these productivity improvement discrepancies and challenges to the attention of the appropriate Police Governing Authorities.</p>  | 113 |

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