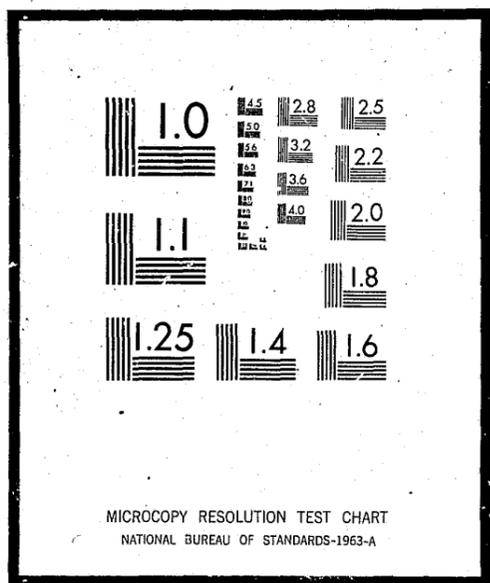


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CONFLICT AND COLLUSION:
POLICE COLLECTIVE BARGAINING

by

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Technical Report No. 07-74

"Innovative Resource Planning In Urban Public Safety Systems"

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FOREWORD

The research project, "Innovative Resource Planning in Urban Public Safety Systems," is a multidisciplinary activity, supported by the National Science Foundation (RANN, Division of Social Systems and Human Resources); and involving faculty and students from the M.I.T. Schools of Architecture and Urban Planning, Management, and Engineering. The administrative home for the project is the M.I.T. Operations Research Center. The research focuses on three areas: 1) evaluation criteria, 2) analytical tools, and 3) impacts upon traditional methods, standards, roles, and operating procedures. The work reported in this document is associated primarily with category 3, which entails an evaluation of the impact of new criteria, methodologies, technologies, and organizational forms upon employees and their organizations, traditional crime hazard rating schemes, insurance rating methods, related regulations and standards, personnel performance criteria, and system operating policies. In this report, M. Levi examines the recent evolution of police collective bargaining in three cities: New York, Detroit, and Atlanta. By demonstrating the importance of the political, social, and behavioral context in which police labor negotiations take place, Ms. Levi provides necessary perspective for those who wish to understand or perhaps even initiate reform and innovation within urban U.S. police departments. Particularly in the general area of resource allocation, police employees and their representatives often view the status quo as representing a series of hard-fought concessions from management, and change based solely on narrow technical analysis may be difficult or even impossible to implement without due consideration of the employee perspective.

Much of this work will be incorporated into a larger book-length manuscript by M. Levi, who would appreciate constructive comments by readers on the content of the present document. Support for the work was provided by the National Science Foundation under grant GI 38004.

ACKNOWLEDGEMENTS

In the fall of 1972, I left the cloister of the university to visit the real world of police unions. My explorations brought me into contact with new friends and old. Out of their support and help grew this report. I thank them all.

The research profited from the assistance of those I interviewed. To several of these many people, I am especially indebted: Frank Blount, John Henry, James Geissner, and Winston Livingston in Detroit; Sydney Cooper and Malechy Higgins in New York; and Herbert Jenkins in Atlanta. They gave a bit of themselves to me as well as their time, and I am grateful for the gift.

Tom and Sue Wisskopf sheltered me in Ann Arbor. In Atlanta, I met and became part of the household of Sue Thrasher, Dolye Nieman, and Tom, Stephanie, Zachary and Simon Coffin. My sister, Alice Levi, provided me a roof in New York. David and Dinni Gordon, Ira and Debby Katznelson, and Alan Wolfe also fed and entertained me in the City, and listened patiently to my emerging ideas. My Cambridge friends, too, helped in every way they could. In particular, I wish to thank Ned and Susan Block, Margery Davies, Rick Edwards, Phyllis Ewen, John Pynoos, Dale Rosen, Ted Rosengarten, Michael Reich, Adele Shambaugh, and Andy Zimbalist.

My advisor, James Q. Wilson, offered good sense at opportune moments. My report is the better for his criticisms. The Joint Center for Urban Studies at M.I.T. and Harvard not only made possible my first year of research but also continued to provide me with office space and consideration. Cathy Eaton, Karla O'Brien, and Carolyn Quigley are primarily responsible for my comfort there. The Innovative Resource Planning Project (IRP) at M.I.T. enabled me to turn the field work into a report. IRP staff, Cheryl Birdsall, Debbie Brooks, and Sue Young helped both to edit my manuscript and produce it.

There are some people one can never adequately thank. Carolyn Edwards and I mutually supported each other through the writing stage. Her friendship kept me going. Dick Larson, Director of IRP, facilitated the production of my report, but, most important, he helped me make it usable by those who could benefit from the information I collected. Michael and Suzanne Lipsky and their children, Joshua and Jacob, were with me and behind me when I started this project and, I suspect, will be with me and behind me through many more endeavors. Their advice and their love were invaluable. Finally, to Bob Fogelson I extend my deepest gratitude for all the ways he made it easier to get on with my work and for all the hours he spent improving my research and writing.

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CHAPTER I

INTRODUCTION

In 1919, after more than twenty years of resistance, Samuel Gompers and the American Federation of Labor (AFL) acceded to police officers' requests for membership. Boston patrolmen were amongst the first to form an affiliated union.¹ They stressed their poor pay and long hours and the inadequacy of the Boston Policeman's Social Club for improving their conditions. The police commissioner absolutely opposed their affiliation and undermined the negotiations between the police officers and the mayoral-appointed citizens' committee. What followed was the infamous Boston police strike. During its course, legend goes, criminals freely engaged in criminal activity, and lawless mobs caused over \$1 million worth of damage. Undeserved public acclaim for Governor Calvin Coolidge's actions to end the strike won him the presidency. The participant police officers, on the other hand, lost their jobs and were never rehired. But the major legacy of the strike was fear of police unionization by both the public and the police.

In the 1940s police rank and file again tried to win formal trade union rights. Many police associations hoped to achieve this aim through affiliation: with the AFL in Chicago, Lansing and Hartford; with the national non-union Fraternal Order of Police (FOP) in Wilmington, Philadelphia and Detroit.² By 1944, 16 AFL police locals existed in 168 surveyed cities of over 50,000,³ and the FOP had 169 chapters in 1072 cities of over 10,000.⁴ The police labor movement was so wide-spread that the International Association of Chiefs of Police (IACP) published a major policy statement and guideline for administrators faced with employee militance. The IACP argued that the officers were not entitled

to such privileges as affiliation with trade-labor organizations, collective bargaining, the dues check-off, or the right to strike. The chiefs, and most observers,⁵ contended that the nature and financing of public services generally differentiated government employees from their private sector counterparts. Moreover, labor associations would interfere with the special obligation of the police to remain impartial in their provision of service and their enforcement of the law. Increasingly, public officials tolerated police "organizations." But police unions remained out of the questions. The officials used department regulations, city rulings, and court decisions to contain and forbid formal unionization.

In the 1960s (and earlier in some cities) police employees struggled once again to win union rights. This time they succeeded. Instead of using the laws to repress the police labor organizations, officials changed the laws to permit them. A major turning point was President John F. Kennedy's 1962 executive order establishing a formal labor relations system for federal workers. By 1970 approximately 40 states had similar enabling legislation, and the federal courts had upheld the right of police officers to belong to a labor union. Police labor associations are now a common phenomenon in many large cities. In 1968 at least one such employee organization existed in 89 percent of the cities of 50,000 or more;⁶ and there were 99 independent associations, 26 locals of the American Federation of State, County and Municipal Employees (AFSCME), three Teamster locals, and 109 FOP lodges in cities of 50,000 or more.⁷ Hervey Juris and Kay Hutchinson, p. 362, conclude that most of these groups are "police-only local units" but "function as unions regardless of their affiliation." Most have won recognition,

collective bargaining, and the dues check-off. They have no right to strike, but they often engage in job actions--without fear of losing their members' jobs.

This study attempts to analyze the reasons for the recent creation of strong police unions and the consequences of unionization for police management's ability to manage and city leaders' ability to lead. The labor associations have a long history and a contemporary significance for city government, but very little is known about the development and impact of police collective bargaining. Although there is a small literature on the subject,⁸ no one seems to have answers to some of the most obvious questions. Why in the late 50s and 60s did public officials accept, rather than repress, the unions? How did the police employee organizations gain recognition, check-off privileges, and other union perquisites? Who leads the police unions? How do these leaders perceive their roles? How firm is their control? How do police unions choose their demands and tactics? What constraints do they impose on the operation of the departments? What say do they have in the development of policing policy? Do they aid or block the implementation of innovations into police work? What impact do they have on municipal budgetmaking? How do they contribute to the urban fiscal crisis? How successful have they been so far? Are they likely to be successful in the years ahead?

The cause of police rank-and-file dissatisfaction, their efforts to organize, and the need for public officials to respond are the starting points of this study. It explores the most recent period of police unionizing, in order to understand why public officials chose a strategy of collective bargaining and what the implications of that decision are.

The transformation of patrolmen's fraternal and social organizations into unions provides the focus for investigating the goals and achievements of police labor, police management, and elected city leaders; and the kind of power the union now possesses.

I look at these questions through a series of case studies in New York, Detroit and Atlanta. I chose the case study method because it enables me to probe deeply into a process which seemed to emerge under quite different circumstances in different cities. By analyzing and comparing several instances, it is possible to understand what occurred and why. In carrying out these case studies, I examined the historical, political and sociological background of the departments, unions, and cities involved. I gathered the pertinent information from daily newspapers, official reports, court records, and other written sources. I identified and interviewed approximately 150 union leaders, police administrators, city officials, and other interested participants and observers. By so doing, I gained not only a relatively complete and accurate account of the controversies but also an understanding of how the parties involved perceived the issues, the struggles, and one another, and what, if anything, they won (or thought they won) as a result. By looking at police unions in action, I learned a great deal as well about their internal dynamics and about the constraints operating on both their leaders and their adversaries.

The first case study investigates the transformation of New York's Patrolmen's Benevolent Association (PBA) into a de facto union, despite the determined opposition of Commissioner Stephen Kennedy. In particular, it looks at the role of labor leaders, the mayor, and other unions in this process. The second case, also of New York's PBA, explores the

effect of the growing labor association on management's efforts to change department practices and work rules. The third illuminates an instance of police rank-and-file militance, the "blue flu" or job action, in Detroit in 1967, and the effect that had both on the transformation of the Detroit Police Officers Association (DPOA) into an effective union and on the mayor's power to determine the city budget. The fourth and final case exemplifies the impact of the unionization movement on non-unionized departments: even in Atlanta, with its anti-labor history and its antagonistic chief, Herbert Jenkins, the Fraternal Order of Police was able to take the first fumbling steps toward unionization.

The PBA and the DPOA are two of the strongest police unions in the country. By comparing them with each other and with a group, such as Atlanta's FOP, still in the process of transforming itself into a union, I am better able to isolate the conditions necessary for organizational transformation. The fact that New York, Detroit and Atlanta all had "liberal" mayors during the events I studied provides an initial point of similarity among the cities. At the same time, the fact that each are in different parts of the country enables me to sort out the role of regional political culture on the unionization process. Most importantly, in all three it was possible to analyze the reasons for the formation of strong police labor associations and the effect of increased organizational bargaining power on police and city management.

Today militant police associations challenge department policies, innovations, and crime control strategies. They bring initiative petitions before the electorate, take police chiefs into court, fight existing legislation by referenda, engage in job actions, and otherwise

defy the authority of police administrators, mayors, and officials in city halls and state legislatures. They often lead the way for other city employees on wage and pension issues, and on resistance to community control and civilian review.

Police unions are not an isolated phenomenon; they are part of a larger public employee organizing drive. By 1971, 64 percent of local governments' personnel belonged to unions.⁹ Indeed, union membership in the public sector is growing more rapidly than in the private.¹⁰

Teachers, transit workers, sanitationmen, fire fighters, health workers, social workers, as well as police officers commonly engage in work stoppages. Attempts by citizens and public officials to control these groups have been relatively unsuccessful and, as the controversy over Ocean Hill-Brownsville reveals, sometimes are catalysts to more militant employee action. Public workers unions clearly affect the bureaucracies in which they exist, the way their members view themselves and their jobs, and the political life and administrative ability of local officials. They are changing municipal institutions, the delivery of public services, and the distribution of resources and influence in urban America. The purpose of this study is to discover how they got such power and what, in fact, it means.

Footnotes

1. For a history of this struggle, see Randolph Bartlett, "Anarchy in Boston," The American Mercury, XXVI (December 1935), 456-64; "Lessons From the Police Strike," The American City, XXI (October 1919), 315-16; Richard L. Lyons, "The Boston Police Strike of 1919," The New England Quarterly (June 1947), 147-168; "'No Divided Allegiance'-- Say Chiefs," The Policeman's Monthly (October 1919), 8 ff.; "Report of the Committee Appointed by Mayor Peters to Consider the Police Situation," City Document 108 (Boston: 1919); Francis Russel, "The Strike That Made a President," American Heritage, XIV (October 1963), 44-47ff.; Sterling D. Spero, Government as Employer (New York: Remsen Press, 1948), 252-284; Arthur Warner, "The End of Boston's Police Strike," The Nation, CIX (December 20, 1919), 790-92; and David Ziskind, One Thousand Strikes of Government Employees (New York: Columbia, 1940), 32-52.

2. These organizations are discussed in the International Association of Chiefs of Police (IACP), Police Unions (Washington, D.C.: 1944); and the 1958 revised edition. Also, see the unpubl. diss. (University of Washington, 1971) by Don Berney, "Law and Order Politics."

3. Police Unions, 3.

4. Police Unions, 26.

5. See, for example, Audrey M. Davis, "History and Legality of Police Unions," GRA Reporter, V (July 1956), 10; Don L. Kookan and Loren D. Ayres, "Police Unions and the Public Safety," The Annals, 291 (January 1954), 152-158; Spero, Strikes; "Unions of Public Officers and Employees," Kansas Government Journal, XXX (June 1944), 9-12; and O. W. Wilson, Police Administration (New York: McGraw-Hill, 1950), 373-76.

6. Hervey A. Juris and Kay B. Hutchinson, "The Legal Status of Municipal Police Employee Organizations," Industrial and Labor Relations Review, 23 (April 1970), 352-66.

7. Jack Steiber, "Employee Representation in Municipal Government," Municipal Yearbook, 36 (1969), 31-57.

8. See, William Bopp (ed.), The Police Rebellion (Springfield, Illinois: Charles C Thomas, 1971); John H. Burpc, The Police Labor Movement (Springfield, Illinois: Charles C Thomas, 1971); James P. Gifford, "Professionalizing Police Labor Relations: The New York City Police Department's Response to Unionization," The Journal of Police Science and Administration, II (1974), 94-106; Stephen Halpern, The Role of Police Employee Organizations (Lexington, Massachusetts: D.C. Heath, 1974); Hervey Juris and Peter Feuille, Police Unionism (Lexington, Massachusetts: D.C. Heath, 1973); J. Joseph Loewenberg, "Policemen and Firefighters," in Seymour Wolfbein (ed.), Emerging Sectors in Collective Bargaining (Braintree, Massachusetts: D. H. Mark, 1970), 129-171; Jerome H. Skolnick, The Politics of Protest (New York: Ballantine,

1969), chpt. VII, and Jack Steiber, Public Employee Unionism (Washington, D.C.: Brookings, 1973), chpt. 3.

9. Sterling Spero and John M. Capozzola, The Urban Community and Its Unionized Bureaucracies (New York: Dunellen, 1973), 15.

10. Spero and Capozzola, p. 14. Harry H. Wellington and Ralph K. Winter, Jr., The Unions and the Cities (Washington, D.C.: Brookings, 1971), 34, also make this claim, as do many other commentators on public employee unionization.

CHAPTER II

You got to realize that when we came in we had \$900 in the treasury. There was no money. And 6000 members out of 23,000, about 25 percent. But we built it up. It took time. We took a lot of hard knocks.

John Cassese¹

In a relatively short time, less than fifteen years, the Patrolmen's Benevolent Association transformed itself from a pressure group into a strong de facto union. In 1958 the PBA was a fraternal organization with a limited treasury and a minor insurance program. It had an effective lobby in Albany but little power in the city budgetary process or the police department administration. No membership records exist prior to the dues check-off, but estimates range from 6000 to 18,000. By the end of 1969, the year John Cassese resigned as president of the PBA and John V. Lindsay was reelected mayor of New York, the association claimed over 27,000 members, an annual budget of nearly \$2,000,000,² and a Health and Welfare Fund that had paid out more than \$15,000,000 since its inception in 1963,³ and it was regularly winning major economic and work rule concessions from the city and the department. Within the eleven years of the Cassese administration, the PBA gained the dues check-off, a formal grievance procedure, and collective bargaining rights, three of the four union perquisites listed by the International Association of Chiefs of Police. In the process of achieving these, the association became a union.

2.1 Before Wagner

Prior to 1958 the PBA had no formal standing and was largely at the mercy of those in power. Although its officers met with department and city officials, they presented grievances and bargained as supplicants. The association attracted members by representing patrolmen's⁴ complaints to the commissioner; by public lobbying for improved pensions, salaries and personnel rights; by providing a small death benefit;⁵ and by performing social and fraternal functions for the men. An additional incentive to membership was the possibility of becoming a delegate and, thus, acquiring some influence over the precinct assignments and a percentage of the \$1.50/month dues the delegates collected. The incentives to become PBA president were significantly greater; the advantages included an income supplement, released time from regular police assignments, and the power and prestige attached to access to commissioners, mayors and legislators.

Internal association politics were quite lively, particularly during the War and post-War years.⁶ The major issues were economic benefits and organizational democracy. In the name of saving money for the city, Mayor Fiorella LaGuardia in the late 30s cut police salaries, lengthened police hours and revised the pension system to the disadvantage of newer officers. His revisions created two separate and unequal pension systems, increased the patrolmen's contribution, and decreased their take-home pay. LaGuardia acted in a period of intensive public service unionizing efforts. Although there was no question of organizing the police and the drive by other employees was squashed, union militancy on economic matters appealed to some officers. One group of insurgent young PBA members subsequently formed Pension Forum, Inc. to

push the association to respond to their needs and to campaign for the end of the discriminatory pension provisions. As most of the Forum people joined the force in the Depression when jobs were scarce, they tended to be better educated and more highly selected than the average patrolmen. This proved both a source of tension with the PBA regulars and an explanation for their extraordinary organizational skill.

Irish, silver-tongued John Carton became PBA president in 1944, after the mayor's fiscal "reforms" were in effect. He won by only a small plurality, and he was to be displaced briefly in 1946. But despite the annual and fierce election contests, he held office until 1958. Carton operated by going along with management decisions, smooth-talking his membership into acquiescence, and coming down hard on those who took exception to his method of leadership. In the opinion of Harold Melnick, now head of the Sergeants' Benevolent Association:⁷

John Carton was a company man. John's greatest asset was to ingratiate himself with the commissioner and the mayor, and then he'd come to a meeting with a \$200 raise and make it seem like \$20,000. He'd come in there, and first he'd tell you that we have to take a cut in salary and then he'd sprinkle the \$200 and everyone would clap.

Carton attempted to avoid conflict, but when confronted he attacked the dissidents rather than the issues about which they were concerned. In 1949 Pension Forum campaigned for a democraticized PBA and demanded a full and public fiscal accounting from the association. Carton subsequently red-baited and engineered the expulsion of several Pension Forum leaders. Nonetheless, Pension Forum continued to criticize Carton and was, in large part, responsible for the 1951 scandal over the secret PBA office fund and the embezzlement of proceeds from the annual ball. The PBA president avoided being implicated, but his treasurer committed suicide after testifying to the grand jury.⁸

John Carton accepted the constraints on the association and tried to work within them. He was no advocate of greater militancy or changes in the labor relations process. Raymond Diana, one of Robert Wagner's chief labor relations advisors, recalled the PBA of that time:⁹

You had John Carton who was president, who adhered to the old notions of police line organization. No labor relations, no collective bargaining, no check-off. None of this. He believed in the old system: petition, pressure, political involvement.

The association president worked for his members by testifying at the Board of Estimate and in the state legislature at Albany, and he engaged in leaflet and newspaper campaigns for improved benefits. Police Commissioner George Monaghan, appointed by Mayor Impelliteri in 1951, remembered the PBA as a well-organized group which never overstepped its bounds. Carton, "a sound, decent fellow" brought him alleged grievances, and Monaghan would then decide whether or not to call a meeting between the PBA representatives and the police command to discuss the matter.¹⁰

Ultimately, Carton's style led to his defeat. He neither had nor created the resources necessary to alleviate the patrolmen's growing dissatisfaction. By the early 1950s the post-War recruits became an increasingly large phalanx of younger and more militant officers, actively concerned with improving their economic and working conditions. Nation-wide employment was up, and the availability of other jobs made the police department less attractive. According to Municipal Yearbook figures the number of police employees actually declined in 1950-51. The security of a civil service position became inadequate compensation for what were felt to be long hours and low wages. Between 1950 and 1954, New York city patrolmen worked at least 46 hours a week for a

maximum pay of \$4400.¹¹ In fact, their salaries were increasing, but the fact that the average earnings of factory workers rose nearly twice as rapidly in this period¹² annoyed the men. The demands of the newer officers increased the internal association pressures on Carton, and the advent of outside police unionizing drives and of a city labor relations system produced additional stresses. The PBA membership began to expect more of the PBA and its president, and Carton could not deliver. In reaction, Carton's rhetoric became more militant. He tried to sound like his men and stronger than his opponents. But his methods stayed the same.

In February 1951, Michael Quill of the Transport Workers' Union (TWU) announced his plans to organize New York's police officers into a CIO local.¹³ By August 3 he claimed 65 percent of the force had signed pledge cards. The TWU drive came in the midst of the PBA's continuing struggle for pension revision and salary increases. Carton had not come through on these issues, and many men felt Quill could. In self-protection, the PBA president tried to turn the fear and furor Quill stirred up to his advantage. When the New York Times suggested that the city's inaction on the policemen's economic needs was moving the officers towards the Transport Workers, Carton responded:¹⁴

If the Board of Estimate fails to act on our pension and salary program, we might find Quill too conservative for us. We are studying the practicality of affiliation with either the CIO or AFL. Quill is not the answer but if you don't want policemen delivered to Quill on a platter, pass the pension bills.

Carton hoped to capitalize on whatever gains Quill's campaign netted. He was not about to let his constituents move too far away from him. If they were interested in affiliation, he would lead them into the union of their choice. The threat of unionization, particularly as

posed by the TWU, seems to have been the catalyst to the Board of Estimate's unanimous August 7 vote to cut policemen's pension payments and thus increase their take-home pay. By August 15 the City Council passed the revised pension bill, and finally eliminated the galling disparities for the two generations of police officers and fire fighters.

The city acted to undermine the growing militancy of the patrolmen and, perhaps, even to give Carton the credit as a reward for his responsible leadership. Nonetheless, a number of police officers still attribute to Quill the economic gains.¹⁵ Two men, who were walking a beat in 1951 and are now relatively high ranking members of the department, summarized what a number of their colleagues reported:¹⁶

I do remember that we always had trouble with our contracts, and one time Mike Quill threatened to unionize the policemen. And just the mere threat--I remember this very vividly --was enough to throw the city into shock. We got things we hadn't even thought of asking for. This was just to push Mike Quill to the side. It was an idle threat, but it was effective. It also gives you an indication of how powerful unions can be.

I guess we probably sold our souls after we took that raise. They couldn't do enough. Bent over backwards, giving us stuff we didn't even think of asking for. Just to remove the threat of Mike Quill. Not only unionization. But Mike Quill himself. You know he was a very skillful union leader. They certainly didn't want anyone as radical as him organizing the police department. And this may have helped push us toward the softer parts of unionism, giving the PBA its own bargaining rights.

Michael Quill did not succeed in unionizing the police, but he did succeed in teaching police officers and the PBA about the utility of militancy and of the unionization threat.

The city continued its efforts to stop the TWU, still organizing to win recognition as the patrolmen's representative. On the advice of the District Attorney's office, Commissioner George Monaghan amended police department rule 225 to read: "No member of the police force of

the city of New York shall become a member of any labor union." Patrolman Vincent Butler, an unsuccessful Carton opponent and the TWU spokesman in the department, immediately went to court for a declaratory judgment to nullify the rule and for an injunction to prevent disciplinary action while the litigation pended. The patrolmen contended that the rule was unconstitutional and that, as worded, it applied equally to the PBA and the TWU. Monaghan argued that the purpose of rule 225a was:

...to protect the policemen from influences or commitments which might impair their ability to perform their duties impartially and without fear or favor, or might tend to weaken or undermine the discipline and authority to which they must necessarily be subjected.

The commissioner explicitly denied that the rule described line organizations, for "they do not subject their members to the prejudicial influences and pressures which are brought to bear on policemen who become members of or are affiliated with labor unions."¹⁷ On August 23, in the case of Butler V. Monaghan the court found that the PBA was not a "labor union," that the term applied only to "organizations of policemen affiliated with nonpolice labor associations or officered by non-policemen." But it did find that the commissioner had a constitutional right to bar police membership in "proscribed organizations."¹⁸ In effect, the decision gave the commissioner the authority to fire police officers who joined any group but a non-affiliated, police-only association. If patrolmen wanted a union-type organization, the PBA was going to have to change or be usurped from within the department.

2.2 The "Little Wagner Act"

The 1953 election of Robert F. Wagner, Jr. as mayor of New York put further pressures on the Carton style. Wagner created a city labor relations system and, consequently, increased the potential leverage of the municipal employees. The mayor originally excluded the uniformed police, but his actions encouraged the PBA claim to the union prerequisites of the dues check-off, bargaining rights, and a formal grievance procedure.

Upon election Wagner immediately proceeded to set up a labor relations system and, as part of the same project, to establish coherent personnel administration.¹⁹ In February 1954, after only a month in office, he won from the Board of Estimate approval of a New York City Department of Labor to hear the grievances of city employees and develop a public labor program, as well as deal with labor disputes in the private sector. Wagner next introduced a bill into the state legislature calling for a Department of Personnel and a City Civil Service Commission to replace the Municipal Civil Service Commission. The legislation made the city's personnel director chairman of the new commission, gave the mayor the power to appoint him and two other members, and further enabled the mayor to appoint a personnel director for each agency to standardize its bargaining procedures. By the spring of 1954, the legislature passed the bill, and Governor Averill Harriman signed it into law.

By July Wagner had also won the Career and Salary Pay Plan, intended to reclassify municipal employees into rational occupational categories. Wagner explained:²⁰

For the responsibility it wasn't worthwhile for people to take the exam and become a captain, lieutenant or sergeant. The difference in salary was so small and the responsibilities so

much greater. We began to work on that when we initiated the Career and Salary Plan which we did with the general approval of all of the unions and associations such as the PBA. The purpose was to try to put people in the proper slots, to be paid according to what they were doing, to provide a not hit-and-miss schedule of increases and spasmodic promotions. It would be an orderly process. There were a lot of inequities, and certainly when you initiate a program like that it's hard to demote people. You just hope that they would move out and then you could take that position, slot. Demoting them, you get into all kinds of civil service regulations. By and large the labor groups supported. They had a lot of hearings on it; they had some questions involved. At that point they were a good way behind private industry.

The plan also included an appeals procedure for employees who objected to their job classification or salary. In the case of the police, the two appeals boards consisted of officers of the PBA as well as the director of the budget, the director of personnel, and the labor commissioner.

The same month that Wagner initiated the Career and Salary Plan, he issued his "Interim Order on the Conduct of Labor Relations Between the City of New York and Its Employees."²¹ Essentially, the order gave most city employees the right to organize formalized grievance procedures and created joint labor relations committees in each department or agency. Its explicit purpose was "a better and more efficient functional operation and entity." Its principle was bilateral labor relations, but it in no way established collective bargaining or a closed shop. However it did instruct the Department of Labor to formulate a more comprehensive program. "Pending further study," the order specifically excluded the uniformed police.

Wagner continued his first term with further personnel management reforms. The Department of Labor, which he controlled, held public hearings to elicit views on city employee organization. Carton appeared on behalf of the PBA and argued strongly for bargaining recognition and

grievance machinery. Both Jerry Wurf of AFSCME and Raymond Diana, then of the New York Joint Board of Government and Civic Employees, CIO, also testified on behalf of police inclusion.²² Concurrently with the hearings, the department investigated municipal labor relations practices elsewhere and published a series of nine monographs. The department at this time neither released nor made public the existence of a tenth monograph, "Organization and Recognition of the Uniformed Police."

The city labor relations staff subsequently urged Wagner to introduce a dues check-off for city employees. In January 1956 he proposed a payroll deduction system applicable to all employee organizations willing to bear the administrative costs. All the association and union leaders supported some form of check-off but disagreed over whether it should apply to all groups or only majority representatives. Jerry Wurf of AFSCME and John DeLury of the sanitation workers were among those who testified to the Board of Estimate in opposition to Wagner's wording. John Carton appeared in favor. In August the Board approved the mayor's plan.²³ That same year Wagner also extended the fifty-hour week to all non-uniformed employees.

The Department of Labor meanwhile continued its task of developing a comprehensive labor relations program. In 1957 Ida Klaus, the department counsel, released her report.²⁴ She relied heavily on the hearings and the monographs and attempted to coalesce a range of union demands, public opinion, public practice, legal constraints, and administrative logic. Her principal recommendation was collective bargaining, and she strongly advocated exclusive recognition of the duly elected bargaining agent. No minority group was to have the right to bargain or to present members' grievances. She outlined a far more extensive system

than was current, but she urged a public hearing on the "special problems" of the police before giving them bargaining or recognition rights. Harold Felix, the commissioner of labor, formally presented the Klaus program which the Times (6/7/57, 1) hailed as the first program of its kind.

The proposal became one of the mayor's 1957 campaign promises. After reelection, in March 1958, Executive Order 49, the "Little Wagner Act," was signed.²⁵ Based on the Klaus report, it slightly modified the grievance procedures and provided for representation elections and collective bargaining. The order made no mention of the police, but an accompanying press release noted their exclusion:²⁶

For the time being, the order will not be made applicable to the uniformed police, pending further study and possible public hearings on the special problems in this area.

The Board of Estimate and the Transit Authority were also outside the scope of the order.

The mayor's actions had a significant impact on the PBA despite initial exclusion. Understanding this impact requires answers to several prior questions: What motivated Wagner to do all this? Why did he actively involve himself in the affairs of public employees? And why did he leave out the police?

Wagner maintains that his introduction of a labor relations system was disinterested:

First of all, I believe in collective bargaining. I didn't believe municipal employees should strike at the beginning, and in return for not being allowed to do that, they should have some of the benefits that workers on the outside have: a union to bargain for them, a strength that way; a union to get a check-off which is a great advantage (and, of course, you can hold it over their heads a little bit though I don't know if anyone's ever take it away, but we've talked about it). I suppose I'm labor-minded. I thought this was

right. At the same time, they were under average salaries being paid on the outside. And in my opinion there were legitimate arguments for it. I thought it was helpful, too, for a lot of the people in smaller categories to be able to be part of some larger organization to work for them.

Municipal employees, in Wagner's stated view, had a right to representation and collective bargaining. The mayor further admits to a desire to carry on the work of his father, the author of the National Labor Relations Act. Wagner still talks about the senator and recalls anecdotes of him at the mere mention of labor policies. At least one of Wagner's advisors, Raymond Diana, believes the mayor's principal motivation was his father's legislative legacy:

I think he saw a great need like his father did. His father saw a need for the kind of labor relations that would promote the whole economic endeavor of the nation. So he wrote the Wagner Act, excluding specifically government employees. He had to do it, or else the bill would never have gotten passed, never would have become law. The son saw the need now to take the next step, and this was to bring this kind of labor relations concept to the public sector. So, we got the "Little Wagner Act."

Diana joined Wagner's staff after first working for the Civil Service Forum and then serving as regional director of the Government and Civic Employees, CIO, when the Forum refused to become union-like. He is now labor relations consultant to The Chief, one of New York's oldest civil service newspapers. Despite his wide experience with labor relations politics, Diana upholds Wagner's view of himself as acting disinterestedly.

A liberal executive, Wagner was honestly concerned about public workers' salaries and rights, and he used that concern to help rationalize his actions to the public. The mayor's motivations undoubtedly reflected the liberal democratic ideology of the right of groups to participate; the employees, organized in a way compatible with pluralist

conceptions, had a claim to recognition. But, if Wagner was anything, he was an astute politician. He acted consistently with his own political interests. He needed votes, control of the urban bureaucracies and labor peace. The labor relations system was a mechanism for achieving all three.

Wagner won the 1953 mayoral nomination against incumbent Vincent Impelliteri in what Theodore Lowi describes as the second great Democratic primary contest for the New York mayoralty. (The first was between Walker and Hylan in 1925).²⁷ He relied heavily on interest group support and won after a fierce intra-party struggle; later he was to break totally with Tammany which then supported him. During the 1953 campaign Wagner courted the trade unionists and, to a lesser extent, the civil servants. City labor relations never became a major campaign issue, but the City Department of Labor was partial fulfillment of one campaign promise meant to attract votes.²⁸ Wagner's first term policies did succeed in winning him a plaque of appreciation from the PBA and the electoral support of AFSCME,²⁹ but these meant little. Wagner himself discounts the importance of the public employee vote:

I've seen some studies, I think, as to how many of them really participate in elections. I think Vic Gotbaum's union has some figures. It isn't half of them who vote, register. Maybe they've gotten them up a little higher with intensive effort. But a lot of them don't even bother to participate. I know there are people in politics who feel they can be strong. There's no doubt that they have a strength. They have a strength in other ways.

No documentation exists of the public employee vote now, and even less information was available at the time of the 1953 election.³⁰ Moreover, Wagner may have forgotten--for whatever reasons--the importance he assigned this electoral constituency in the past: the possibility of an additional voting bloc probably did figure in his calculations.

Nonetheless, he did not go after them very hard, and other factors better explain Wagner's city labor policies.

Wagner's reelection depended on his ability to run the city well and to satisfy his supporters. For that, he required control of the urban bureaucracies. Municipal services had always served a political function in New York; mayors used them for job patronage, to alleviate politically dangerous discontent, and to encourage personal loyalty.³¹ However, previous reform administrations had made the bureaucracies autonomous and non-responsive. The civil service and merit system limited mayoral interference in the employment process; the Board of Estimate retained final authority over budgetary decisions. Wagner's first term labor policies in large part reflected his efforts to control the personnel system.³² The Career and Salary Plan gave him power over job classifications, and Executive Order 49 gave him almost total determination over municipal salary schedules.

Wagner's methods enabled him to gain control over the urban bureaucracies while retaining reform qualities that appealed to a certain electoral constituency. He could, without loss of personal power, emphasize innovation and insist upon professionally trained and qualified appointees. According to Lowi (1964, 95-96), Wagner emphasized professionalism and refused to follow the usual patronage rules, despite his Tammany support. In a later article (1967) Lowi resolves this seeming contradiction by arguing that Wagner was creating a new political machine. Lowi overestimates the importance of the public employee vote in the developing coalition, but he demonstrates the necessity of attaining the cooperation of the city service agencies. Indeed, the evidence indicates that the mayor's aim was to form an independent political base,

and success depended in part on his ability to manage the urban bureaucracies.

The labor relations system helped the mayor centralize authority in his office, but it was also a response to the pressure created by the growing public employee militancy. Michael Quill was feeling his oats, as his efforts to unionize the police indicate. Jerry Wurf of AFSCME adopted aggressive private sector union tactics and demanded collective bargaining. At about the same time, in 1952, John DeLury and his sanitation workers and Henry Feinstein and his federation of locals left AFSCME for the Teamsters.³³ Most important, the rank-and-file were responding to the new labor leaders and strategies. Policemen signed up with the TWU; sanitation workers followed DeLury into the Teamsters. However, the threat posed was still insignificant enough so that Mayor Impelliteri rejected general salary increases for city employees in his 1953 election year budget.³⁴ There was no united front; inter-union competition was high and intra-union struggles common.³⁵ Verbal militancy was on the rise, but strikes were not. Consequently, Wagner felt no compulsion to grant bargaining recognition in his first term. However, he recognized the potential employee strength and feared future work stoppages and disruptions. Economic discontent continued, and the influx of rural migrants to the city added to work dissatisfaction by engendering new demands on city services. The new breed of leaders, like Wurf, knew how to organize effectively for what they wanted. Nor was the intra-union conflict necessarily to the mayor's advantage, as demonstrated by the 1957 strike of splinter groups opposed to TWU domination.

In the past public officials had dealt with municipal union efforts

by repression and economic cooptation. Wagner's political needs and budget constraints made both of these options unattractive. He could afford neither to alienate the public employees nor pay them significantly more. The private sector, well organized by this time, demonstrated the utility of using unions to ensure labor peace and cooperation.

According to the "Declaration of Policy" of Executive Order 49:

Experience has indicated that labor disputes between the City and its employees will be minimized, and that effective operation of the City's affairs in the public interest will be safeguarded, by permitting employees to participate, to the extent allowed by law, through their freely chosen representatives in the determination of the terms and conditions of their employment.

Exclusive recognition made unlikely repetitions of the kind of disruption experienced by the transit authority; factions had no claim to legitimacy once the certification election took place. Indeed, even militance by recognized leaders could prove costly. The mayor continued to control the symbolic and monetary rewards leaders required for credibility, and the structure of collective bargaining enabled the mayor to exchange these benefits for concessions on tactics--and even on work rules.

By initiating and regulating the negotiations with the organized employees, Wagner hoped to forestall some of the trouble they could make for him. Indeed, A. H. Raskin maintained in The Times (4/1/58, 1) that Executive Order 49 was signed as a conciliatory gesture to public workers before announcement of a budget without across-the-board raises. Wagner became renowned for his companionable relations with union leaders; he often called them in for consultations and met with them at a moment's notice given the least sign of problems. The mayor discovered the means of paying out the semblance of power, of offering symbolic rewards,

instead of hard cash, Wagner's real legacy from his father was his understanding of labor relations and the social control function of bargaining.

The police, however, presented a special case. In Diana's view:

We could not have gotten Wagner to sign the Wagner Act if the police were included. He knew that there would be the kind of public reaction that would make it almost impossible. The police! Unions! He just knew. He had a lot of political acumen and a great deal of insight. And he knew what he could do and what he couldn't do. He knew that the "Little Wagner Act" would go but not if he included, the police. So they were specifically excluded, that this in no way applied to them.

Wagner remembers the exclusion as being less politically motivated:

It was state law or federal, some provision. Or maybe it was a tradition that it was wrong for the police department, the guardians of the law, to be subject to union direction and certainly not to strikes. And you used to quote Governor Franklin Roosevelt, when he was governor of New York, saying there was one thing that would never happen and that's the police department ever striking against the authority of government.

It seems that in New York city, recognition and bargaining rights for police officers required more justification than was needed for other city employees.

The votes and influence of the PBA were relatively minor in Wagner's calculation. The mayor saw no real benefit in pushing the issue. Indeed, there were disadvantages. The traditionally close link between the police department and the excesses of the political machine made the public suspect of any mayoral interference in the department.

Wagner made it his policy to stand clear of all police affairs:

I decided right away, as soon as I was elected to have an independent police commissioner whose first instruction was not to take any so-called contracts or obligations from anybody. And he took it on that basis, Frank Adams. Former U.S. Attorney here. Old friend of mine and very tough guy.

Nobody was ever moved because of any pressure. I never would ask anything. I would never ask the police commissioner, so that set the tone. And it worked out alright.

Wagner acted to protect himself and his reform image, but he also acted to maintain amiable relations with his police commissioners, over him he had little actual control.³⁶ Although the mayor appointed the commissioner, he could not remove him. Besides, both in the public eye and legally the commissioner commanded a large degree of autonomy.

Francis Adams, Wagner's first police commissioner, was "drawn from the immediate following" of the mayor,³⁷ but he had a totally free hand. His relations with the PBA started badly. In 1954 the association passed a resolution condemning him for reinstating the "shooflies" (an internal spy network) and for abolishing the department glee club. However, by his retirement in 1955, Adams had redeemed himself by fighting to secure better pay for patrolmen.³⁸

Adams recommended his chief inspector, Stephen F. Kennedy, as his successor, and Wagner duly made the appointment in 1956. In the public eye it was a laudable choice. Kennedy's honesty and uprightness were unquestionable, he immediately developed a political following urging him to run for elected office. The police officers held him in less favor. He had made enemies among the higher ranks when Adams by-passed them for chief inspector. He was a stickler for regulations and a campaigner against graft, and he reassigned and punished according to his own high standards. By all accounts he was, in addition, stiff-necked, rigid and egotistical. Ed Kiernan, who became first vice-president of the PBA under Cassese, remembers Kennedy:³⁹

See, one thing you got to understand about police work, whether you're the commissioner or the lowest guy on the staff, you've got to be flexible. If you can't be flexible, you can't be a cop. And one of Steve Kennedy's biggest

problems was that he was as flexible as an iron rod. That may be great when you're fighting in Africa or India or someplace. But when you're on the streets of New York, you got to be flexible. It just didn't go.

Towards the PBA, Kennedy proved particularly immovable. Adams had little to say on police recognition, but his successor minced no words:⁴⁰

This police commissioner does not intend to have any pressure group--no matter how well-intentioned they claim to be--second-guessing his decisions.

In 1958, shortly after the passage of the "Little Wagner Act," he barred the Department of Labor from holding an open hearing on the possible coverage of the police. Kennedy adamantly opposed unionization or any formalized labor relations on the force.

The mayor backed his commissioner. He noted legal obstacles to the recognition of police labor associations, and he argued that a line organization as strong as the PBA was sufficient protection for the patrolmen. In Wagner's view, "they were acting just like a union would. Just like any other of the departments, you would deal with them in negotiations." Wagner preferred to avoid conflict with his commissioner or provoke a public furor by formalizing the bargaining arrangement. He publicly stated his support of Kennedy's union ban although he also expressed sympathy with the patrolmen's demands for grievance procedures and proposed a meeting with Kennedy and Felix to discuss the possibility.

2.3 Enter John Cassese

The existence of a city labor relations system and the PBA's exclusion catalyzed action in the association. Membership dissatisfaction with the Carton administration increased. Carton sought bargaining recognition and grievance procedures by testifying before the Department of Labor hearings, but he did not press his case. In late 1957 or early 1958 John Cassese, then a Carton vice-president, and Harold Melnick, a long-time opponent of Carton and later the president of the Sergeants' Benevolent Association (SBA), joined together to oust their president. Both men viewed Carton's removal as a necessary first step towards a more militant and powerful PBA. Carton was never going to become a union leader; Cassese and Melnick each felt he could.

Cassese and Melnick ultimately had very different views about how to make the PBA a de facto union. The roots of their antagonistic relationship as presidents of the PBA and SBA can be traced to their earlier alliance. As SBA president, Melnick believes foremost in educating himself and his constituents. He learned the liberal trade union dogma, and he takes and teaches labor relations courses. Although militant, he remains soft-spoken and refuses to engage in alarmist tactics. He disapproved of the advertisements put out by the PBA during the 1966 Civilian Review Board campaign and holds up the more moderate SBA propaganda as preferable. Cassese, on the other hand, shows little interest in labor relations training programs; he hires lawyers and advisors to see to the questions covered by the seminars. Then he simply jumps into the political fray and fights his political battles like the proverbial Irish cop he is. He speaks with a strong, working-class accent, and often gives the impression of incompetence. But he

is smart and shrewd. His manner suggests his perception of his constituency.

Melnick began his rise to power in the PBA when some of his colleagues in the stationhouse were impressed with his concern about the work chart. They asked him to represent them, but he required some persuasion, "I was Jewish, and I felt in an all--practically all--Irish, how can I represent all Irish?" Nevertheless, Melnick ran and won. He became a delegate "right after the purges of the Pension Forum people" but, despite possible recriminations, aligned himself with the "young Turks." By the mid 50s he considered running for president. Instead, he decided to become a sergeant and organize the superior officers more effectively.

Cassese, like Melnick, had leadership ambitions although he prefers not to admit them. He, too, recalls being pushed into office:

In 1944 I became a delegate. Something else I wasn't looking for. I was always a baseball fan and a baseball player, and I was captain of our baseball team. At that time in the PBA, they had all the old-timers. And one fellow was about to retire, they had an opening in the delegateship. Now you had to send your name into the PBA office, designating you're willing to run for PBA delegate. But I hadn't done that. Someone else in the precinct had done that. First thing I know I found myself on the ballot, so to speak. And we were four fellows running. And the morning of the election, they called the men in--you see you vote in the station houses. And so all the men wanted speeches from the prospective delegates. So a fellow got up and made a good speech, and another fellow got up and made a good speech. And it came to me--don't laugh, I'm telling you the truth here--I said, "Listen, fellows. I wasn't looking for this job. Somebody put my name up. I don't know what the delegateship is all about, but if you fellows want me, then I'll go ahead and find out what I can do and do my best to make the policemen's job better." And I won. I got more votes than all three put together.

Cassese talks about his role in the Carton campaign in the same tone, "There was a group that figured he wasn't militant enough for the times. I didn't want to run, but like everything else, they involve you, and I

ran for the presidency."

Their common interest in defeating Carton inevitably brought Melnick and Cassese together. Both felt it was time for a change, and neither could win alone. Cassese recalls how their alliance came about:

So when Melnick and his antis heard about it, they wanted to get in on it rather than have three tickets. Like you have in the mayoralty, two people fighting each other, and the fellow who gets the minority vote becomes the mayor. So they wanted the same thing. So we made an agreement. And they came on with us.

Melnick remembers somewhat differently:

Cassese got in touch with me, to see if we could sit down to talk, to get rid of Carton. We met in a gin mill on 28th Street and 4th Avenue. And the approach was made by this fellow Harvey and Cassese. We sat in this gin mill and decided that we'd join forces. And we would work surreptitiously against Carton. But we would let him know a month or two before nominations came up. So notice, John and I combined. Now John said, "I want to be president." And since I was going to be a sergeant, I said, "That's fine with me, John."

In June 1958, the coalition succeeded. John Cassese defeated John Carton by over 5000 votes, 8293 to 3231.⁴¹ Walter Donovan, a Melnick choice, became first vice-president. Cassese's man, Ed Kiernan (who later succeeded him), was second vice-president, Melnick served as financial secretary until his promotion came through.

Cassese won because the men wanted a new kind of leadership. They wanted a president who would win for them significant material benefits and the grievance and bargaining rights secured by other public employees. Cassese presented himself as someone who could, but he had to transform his promise into tangible rewards if he hoped to secure his administration against both internal competitors and outside groups. The new PBA president proceeded by concurrently solidifying the organization and fighting issues of concern to his men. The first involved ensuring per-

sonal loyalty among his officers, building up membership, and increasing the treasury. The second meant constant and public struggles with the commissioner, with the mayor, and in the courts.

The new president's first task was to destroy the old one. Carton had not given up, and he attacked Cassese at every opportunity, attempting to make him appear ridiculous. Melnick believes that only his and Ben Chodor's responses on the meeting room floor saved Cassese. Cassese did not see it that way. He felt the threat as much from the Melnick group as from Carton:

Mr. Melnick and his group just came on to get in, and then they're going to dump us in two years. We found out about that conspiracy, and the next time around I got rid of four of his people. There was no sense getting rid of him because he was on the sergeants' list; I just let it ride. I'll get rid of him in four months. Then I brought Eddie Kiernan up to first vice-president in 1960, and I picked up four new men, whatever the case was. And then we went. There's no sense in working with a team that once you're in, they're going to undermine you. We really wanted to build an organization.

Melnick feels Cassese "stabbed me in the back."

Cassese continued to build his own "team" by hiring Norman Frank as his director of public relations. The two originally met while planning a PBA radio program for CBS. To Cassese, Frank "seemed to be the jack of all trades and the master of all of them." Frank helped Cassese during his campaign against Carton and, subsequently, was asked to work for the association. He helped Cassese determine organizational strategy, but he played an equally important role as investment counselor. According to the PBA president, Frank made \$1,200,000 for the association through his transactions.

Having consolidated his leadership position, Cassese's next immediate task was to build up membership. He needed new members for

the base of support they provided him, the additional income from dues, and the organizational strength they implied. He used what has come to be called "selective incentives,"⁴² rewards available only to members. First, he lured Robert Eliasberg from the SBA. Eliasberg is a trial lawyer whose job is to defend accused patrolmen in court. Free legal aid was not readily available under Carton. Cassese made it a benefit of belonging to the association. A second benefit introduced by the new administration was the group insurance plan. Ed Kiernan describes how it was set up to attract members:

The one that got us going along the road we're on now was the group insurance plan. At the time the average police had about \$500 worth of insurance on his life, and that was it. When a cop died, it was a case of everybody going out, pass the hat around and try to get money to give his widow to bury him. When we came out with the group insurance concept, we tied into it a write-off for back dues. He could pay back his arrears dues when he retired or, in the event that he died in the interim, his widow would pay out the money she got from the insurance. It was like manna from heaven. They climbed on board, like where it is now, 100 percent. You had to have some inducement to give these guys something to come back for. The toughest thing in the world is to try to get somebody to come back into the organization and tell him he has to pay \$150 back dues before he can start.

Cassese's version differs only in his remembrance of a \$400 death benefit under Carton. He and Kiernan claim their administration provided \$2000, or \$4000 for an extra dollar. The group insurance attracted members, and the dues "write-off" made the deal seem even better although, in the end, the men had to pay dues for years they hadn't even belonged to the organization.

While developing selective incentives, Cassese also spearheaded a campaign for better wages, benefits and working conditions for the patrolmen. His major strategy was constant involvement in a struggle,

thus providing at least the impression of movement on these fronts. He did battle in the state legislature, city hall, and the Board of Estimate, and he retained Leon Keyserling, once secretary to Senator Wagner, to document the inadequacy of the salaries and fringes. In 1960, Keyserling released his first report, and he published a similar monograph every year following.⁴³ "He used to come up with some great arguments," Mayor Wagner recalls.

PBA influence on salary questions--and work rules--was limited by its lack of formal power; it needed grievance procedures and bargaining rights to increase its leverage. To help win these battles, Cassese hired the prestigious and expensive law firm of Philips, Nizer, Benjamin, Krim and Ballon. Charles Ballon, the senior partner in charge of the account, cannot remember how his firm first got involved with the PBA, but both he and Mortimer Wolf, who handled the cases concerning collective bargaining rights, agreed that Cassese and his board asked for advice on available options but determined strategy on their own.⁴⁴ The lawyers then lobbied or took cases to court, as requested.

2.4 The First Campaign

Upon election Cassese petitioned the Department of Labor for PBA recognition as the patrolmen's representative. Cassese barely had a chance to begin his campaign for union perquisites and no opportunity to delineate his position on trade union affiliation when the Teamsters initiated a raid on the PBA. The very month Cassese was elected, June 1958, Henry Feinstein, president of Local 237 (city employees) announced his intention to organize the police.⁴⁵

Barry Feinstein, currently president of Local 237, describes how his father first became involved in the police drive:⁴⁶

It was simply a question of an area of public employees to be organized. This charter is city employees. Police are in fact city employees. The PBA was a meaningless organization. Really it's become a giant, a tiger. A sleeping giant in those days. I guess they didn't realize themselves the power they had. At any event, my father was very well known in the city and police in different areas of the city contacted him and asked about this organization. There were a few meetings, private quiet meetings with some of the patrolmen who were interested. The decision was made to give it a try. Simple as that. They came here. They asked to be organized.

James Hoffa recalls that a member of the force, subsequently the head of one of the superior officer's organizations, approached him.⁴⁷

Feinstein determined to go ahead. His son recalls:

The announcement was made. I remember Walter Cronkite got the exclusive. Funny how you remember those unimportant things. Cronkite got the exclusive on CBS-TV Sunday night, the eleven o'clock news. That was the lead story cause we were sitting there watching it. He announced that Henry Feinstein was organizing the New York city police. And there wasn't any peace after that. It was wild!

The city went into hysterics. The papers editorialized. Commissioner Kennedy ranted and raved. Cassese voiced strong PBA opposition, "We do not need, nor want, the help of any outside union to achieve our aims."⁴⁸

The effect of the Teamster drive was to intensify the pressure on Cassese to come across for his constituents. In August, 1958, in the midst of the Feinstein effort, the association sent a letter to Wagner requesting a meeting to explore the possibility of police inclusion in the Executive Order.⁴⁹ PBA counsel Ballon explained that they wanted a third party arbiter and formal machinery for dispute settlement. The PBA strongly asserted a no-strike policy, and Cassese insisted that the association had no interest in affiliating with any outside organization. Wagner was at least willing to discuss the matter.

On September 16, 1958, Cassese and Ballon met with Wagner, Felix and Kennedy in city hall.⁵⁰ The PBA spokesmen wanted first and foremost a grievance procedure. They noted that the State Police had one. Furthermore, they accused the officials of suppressing a Department of Labor monograph dealing with the particular problems of police organization. They submitted to taxpayers' demand for its public release. The outcome of the meeting was a decision to hold another one, after the missing report had been circulated. Two months later the Department of Labor released the monograph. The report offered few conclusions, but its existence proved important in later PBA argumentation and propaganda.

Kennedy was not happy. In fact, the PBA's continued pressure so infuriated him that he mustered his legal knowledge, achieved by attending law school part-time while on the force, to make "The Case Against Police Unionization: A Factual Answer to the Demand of the Patrolmen's Benevolent Association for Designation as the Bargaining Agent for the Patrolmen of the New York City Police Department."⁵¹ This 59-page document reviewed court decisions, cited experiences with police employee

organizations elsewhere, and quoted anyone and everyone who confirmed the commissioner's viewpoint. He listed all the recent benefits granted police officers, analysed and found adequate the existing grievance machinery, and noted that he personally had talked with 220 members of the force in 1957.⁵² He argued that, "The PBA demand is illegal, contrary to public policy and inconsistent with principles of sound police administration" (p. 1). Kennedy feared that accession to the demand would transform the PBA into a labor union and provide an "opening wedge" for an "all-out program for the unionization of the police" (p. 4). Essentially, he believed unionization was inimical to the commissioner's control of department policy and his goal of police professionalization.

Cassese first tried to reason with the commissioner. As he reconstructs it:

I used to tell him, "Look, Commissioner, the reason I'm here is that I can't bring in 24,000 men to talk to you. So, they have a process to elect a president. And I being that fellow, I'm here to speak for them." And he said, "You, a lowly policeman, going to tell me, the commissioner, how to run my department!" I said, "No. You run the department. But as spokesman for the policemen out there, I'm here to give you their gripes, what's bothering them, the conditions under which they are working, the harassment they are getting from the superior officers, and how they are being hounded on the beat. Did you ever realize that if morale were high, they would perform more efficiently, would do a better job protecting the people." And, I said, "Who gets the credit? The commissioner!" "Get out!" And you had to go. He hated me, boy! What you going to do? Water under the bridge. I did what I had to do. Thank God, God gave me the strength to do it.

Cassese next tried pressure. In October 1958, the PBA sent an "Open Letter to the Mayor of the City of New York" in the form of a paid newspaper advertisement signed by John Cassese. It cited other

cities where the requested procedures existed, and it accused Kennedy of deliberately confusing grievance machinery with unionization. The letter concluded, "Is the dictatorial and self-admitted 'emotional' view of one man sufficient cause for denying us the right already granted to thousands of other police officers?" The four superior officers associations subsequently issued a statement joining the PBA in condemning Kennedy for denying grievance and dispute appeals to a third party.

The intensification of the Teamster drive in late 1958 increased the viability of the PBA's position. In December 1958, James Hoffa announced his union's plans to organize government workers, starting with the New York city police.⁵³ He knew that "the only thing New Yorkers liked less than Jimmy Hoffa was death and taxes," and he now claims that his intention in 1958 was to force the city to grant additional benefits to the police officers. Certainly, the Teamster drive had the effect of creating sympathy in the public press for the patrolmen's demands. For example, the Journal-American editorialized:⁵⁴

The surest way of slapping down Hoffa would be for Mayor Wagner, Commissioner Kennedy, and representatives of the Patrolmen's Benevolent Association to begin exploring methods by which such grievance machinery would be set up with proper safeguards all around. It would also be a morale builder for the rank and file.

A. H. Raskin of the Times expressed fear of more militant groups organizing the police if the city "failed to modernize police labor relations."

When Hoffa entered the fray, Mayor Wagner did, too. Within the first few days of 1959 the Teamster drive was over. The mayor called on the courts to block the Teamsters. He dropped his usually mild manner and threatened Feinstein's city job. Hoffa was never enthusiastic

about organizing the police, and, at a time when his own conduct was under investigation, he couldn't stand the bad press. Increasingly, police personnel grew afraid to sign up. Feinstein claimed 3000 secret recruits. But, whatever their numbers, they turned out to be too few for an all-out campaign.

2.5 The Demand for Grievance Procedures

On January 3, 1959, the Teamsters halted their efforts to organize the police, and on January 5 the PBA initiated a full-scale campaign for formal grievance procedures. They wanted recognized steps of appeal inside the department, culminating in determination by an outside arbiter.

Cassese recalls his rationale for focusing on this issue:

First thing was the bill on rights for policemen. Because I knew from experience that the brass just interrogate a man behind closed doors, hours on end, with no attorney, no nothing. Just browbeating him to death verbally. This had to stop.

In this statement, Cassese acknowledged only the importance of grievance machinery to the men. However, it also had a major strategic advantage; it seemed winnable. The newspapers essentially approved. Adoption involved no financial costs to the city. At the same time, it gave the PBA a crucial organizational protection and union perquisite. It would make the association the only permissible representative of the men in grievance proceedings.

Kennedy, of course, objected. He received public declarations of support for his opposition from groups such as the Commerce and Industry Association of New York, New York Chamber of Commerce, and New York Board of Trade.⁵⁵ A Times editorial (1/15/59, 28) noted that Wagner was on the spot, for Kennedy's position contradicted the spirit of the mayor's labor relations work. Cassese tried to win Wagner's backing but found him;

...a hard nut to crack. On occasion, I even told the mayor, I said, "Bob, who's the mayor of the city of New York? You or Steve Kennedy?" Because Bob would give me one commitment, and when I go to carry it out in headquarters, the commissioner would say no. And when I got back to Bob Wagner, he'd sit.

The mayor seems to have decided it was in his best interest to interfere as little as possible, back up Kennedy when necessary, and occasionally assist the PBA.

The PBA began its campaign with a formal "Complaint and Petition" drawn up by the Philips, Nizer firm, signed by Cassese, and addressed to the City Department of Labor.⁵⁶ The association contended that Executive Order 49 and, in particular, its grievance procedures applied to the police department. The PBA pointed out that the commissioner's "open door" policy was not adequate under the law and left "the members of the PBA helpless to achieve any relief worthy of the name." Kennedy was criticized for his shortsightedness, absolutism, and 19th century views; and accused of depleting the men's morale and pushing them towards "outside" unionism. For its part, the PBA reaffirmed its no-strike policy. The document concluded by requesting that Commissioner of Labor Felix set up hearings at which Kennedy could be questioned, certify to the mayor the commissioner's "willful failure" to comply with the "Little Wagner Act," and respond quickly and in writing.

As was to be expected, Kennedy intervened and Wagner backed down.⁵⁷ The commissioner flatly rejected the PBA's plea. "No compromise" was his stated position. He saw the proposed grievance machinery paving the way to unionization and corruption. In his view, this was not a labor-management dispute but an issue of sovereignty. He threatened to resign if not permitted to ban an outside union and implied his confidence of the mayor's support for this stand. Wagner had no choice. He was pledged to an autonomous police commissioner, and Kennedy was popular with both reform and business groups. Wagner could not afford to have Kennedy leave, particularly over a question of jurisdiction between

the mayor and the commissioner. He announced that Kennedy had a "blank check" on all questions of police discipline. On January 13, 1959 his aides told the Times (25) that the matter was "closed" in city hall. On January 14, Felix wrote to Cassese refusing his requests.⁵⁸ The commissioner of labor argued that Executive Order 49 did not apply to the uniformed police; therefore, he lacked authority to act. Kennedy's threatened resignation headed off "further study" and "blue ribbon committees" as well as the possibility of the PBA's attaining grievance procedures through political pressure.

2.6 In the Courts

Cassese had no more political leverage to exercise. Not surprisingly, he turned to the courts, the one institution that had sufficient authority to force the commissioner's acquiescence. Indeed, constant and continued appeal to the judiciary became a major PBA weapon. Stuart Linnick, the lawyer who handled later association cases, commented, "Cops see courtroom procedure all the time. They know the courts, not arbitrators."⁵⁹

On January 21, Mortimer Wolf of Philips, Nizer filed a suit on behalf of the PBA in the New York Supreme Court. Wagner, Felix, and Kennedy were listed as the co-defendants. The issue was the right to grievance machinery, and his basic argument was that the text of Executive Order 49 made no distinction between the police and other employees, and that no distinction was possible.⁶⁰ As he recalls:

We took that turn-down (Felix's) and went to court in what is known in New York as an article 78 proceeding, which is any proceeding designed to force a public official to take some action which is required by red tape but he refused to take. The Corporation Counsel argued that this was a valid exclusion, that police were in a different category. I remember that argument as to what is the categorization. cause they wear uniforms? Sanitation people wear uniforms but they had bargaining rights. What is the difference between police and other municipal employees? They both had the same kind of wage and hours questions. And they both should be free to bargain with their employees through representatives, which in the course of litigation, we called the American system, which it is.

The corporation counsel requested and won a delay in the proceedings.

On February 19, Wagner swore to an affidavit stating clearly and firmly that it was never his intention to include the police in Executive Order 49. Despite his earlier pronouncements, he contended that the city was still studying the matter.⁶¹ Labor Commissioner Felix

submitted a more lengthy affidavit. He documented the history of the labor relations program to prove the uniformed police were meant to be excluded, and he contended that he had no authority to extend coverage without mayoral action.⁶² The court responded by directing the Corporation Counsel to obtain a second affidavit from the mayor listing the steps he was taking towards including the police. Wagner duly swore that the city had not completed the study begun at the September 1958 meeting with PBA representatives, Kennedy and Felix; and that "the necessary steps" would be taken "when a final determination has been reached."⁶³

Wolf denied the existence of any current investigation. He contended that the publication of the Department of Labor's monograph on the police signalled the completion of the first stage of study; only Kennedy's obstruction of the promised hearings stood in the way of the final report. In addition, Wolf maintained the separability of the bargaining and grievance clauses of Executive Order 49. He held that exclusion was meant only for the first. He cited the Klaus report, the monograph, and a 1953 Wagner campaign pledge to make his point.

Justice Irving Levey gave his opinion in March 1959. He was convinced the city was studying the question. He urged the PBA to have "a bit more patience." But The Finest, the PBA newspaper, proclaimed that the patrolman "has already exercised the kind of patience usually attributed to Job" (June, 1959). The PBA decided to appeal.

Wolf's argument to the Appeals Court developed the distinction between bargaining rights and grievance procedures. He maintained that continued exclusion from the second violated patrolmen's fourteenth

amendment rights. The Police Conference of New York concurred in an amicus curiae brief. In contradistinction, the corporation counsel used the respondents' brief to demonstrate the legitimate exclusion of the uniformed police from all provisions of Executive Order 49. He based this conclusion on the mayor's--not the commissioner's--statements and powers. He argued, separate classification of the police "is not unreasonable and does not deprive the police of equal protection of the laws, especially when the program is experimental and their exclusion tentative" (27). Finally, he criticized the PBA's "obsessive" attacks upon Commissioner Kennedy. On December 30, 1959, the Appellate Division upheld Justice Levey's earlier opinion.

The PBA decided to take the case to the U.S. Supreme Court.

Mortimer Wolf remembers that decision:

I got something saying that it was a waste of time and money trying to get the Supreme Court of the United States in this because we weren't going to get there. And this went back to either the delegates or the committee. And they decided that even though they recognized there was very little chance of success, maybe zero chance, they had to as a political matter take the last recourse open to them, so that they could say they had done that. So I got instructions to go ahead with it, even though we knew it was hopeless.

On behalf of the PBA, Louis Nizer submitted the petition for a writ of certiorari. The question was whether fourteenth amendment rights were being violated.⁶⁴ In June 1960, the court denied the application.

Cassese initially failed to win his members a formal grievance system with appeals outside the department. Nonetheless, he succeeded in re-opening the discussion and obtaining a commitment from Wagner to continue to explore the possibility. In the process, he learned how to use the courts.

2.7 The Dues Check-Off

In the summer of 1959, the PBA was bogged down in its campaign for grievance procedures. Consequently, Cassese initiated a second campaign. On the advice of Raymond Diana, he began to sign up the men for payroll deduction of dues. Diana recalls how he encouraged the PBA president to proceed:

"Look, you've got to put this to a test. You come here and say you represent all the police and you want them on check-off. How do you prove it? Now you bring back 25,000 authorizations, and then we may be able to get somewhere on the grounds that you have given us evidence. Here, you bring back the evidence." Well, he did.

Cassese obtained check-off authorizations from approximately 95 percent of the 22,500 eligible personnel.⁶⁵

Kennedy expressed outrage at the idea of extending the dues check-off to the PBA. He felt, "It would undercut and make meaningless the prohibition contained in the rules and procedures of the police department against members of the force joining unions."⁶⁶ To undercut the commissioner's expected opposition, Cassese took the matter to the courts in July 1959.

On this issue the mayor supported the PBA. Diana's intervention was one indication, but Wagner proved far more explicit than that. In response to the PBA court action, he publicly stated that the check-off was established for all city employees by the 1956 Board of Estimate action and he and Felix explicitly agreed to the check-off in a meeting with Cassese.⁶⁷ Wagner bucked the commissioner in part because he felt strongly that all workers had the right to some form of labor relations. The dues check-off cost the city nothing and in itself did not ensure the bargaining that so upset Kennedy. Moreover, the dues check-off

strengthened one particular association at the expense of possible competitors; this simplified both negotiations and executive control. Finally, Wagner may have felt he could use this issue to keep down patrolmen's discontent without alienating Kennedy too much.

In September 1959, Justice Louis Cappozoli of the New York Supreme Court found that the commissioner's actions in opposition to the check-off were "arbitrary, capricious and unreasonable." He held that the check-off covered all employee organizations and that it did not conflict with the police commissioner's disciplinary authority. The PBA, Cappozoli continued, was not a union. He ordered Kennedy to set up a payroll deduction system.⁶⁸ Kennedy chose not to appeal.

The dues check-off had significant organizational consequences for the association. In Cassese's words:

One, you put them on dues check-off the organization is that far ahead. Especially on our job where men are detailed and they don't get to see their delegates in the precinct. Because at that time the delegates had to collect the money and send it in. This way, once you're on the dues check-off, the city takes it right out of your check. You don't feel it. And you pay the PBA.

Payroll deduction is one of the first goals of any union and certainly strengthened the PBA. Moreover, it represented a major victory for the association in its battle with Commissioner Kennedy.

During his initial two year term, Cassese won not only the dues check-off but also an injunction against the commissioner's punitive use of assignments.⁶⁹ The first maintained the organization, not the men. The second was a victory for patrolmen's work rights, not their pocketbooks. Indeed, Cassese was not very successful in 1958-60 in winning salary or benefit increases, despite PBA pressure in the city and extensive lobbying in Albany. Nonetheless, the president had proved

himself a militant leader able to secure benefits for the organization and willing to fight for more. Carton had long been left behind. The dissidents had no chance. Cassese was without an opponent in the June 1960 race.

By the fall of 1960, the PBA president was once again engaged in conflict with the police commissioner. The issue was the power of the association to influence department practice. Kennedy resisted attempts to limit his administrative discretion, either over assignments or the right of the men to moonlight.⁷⁰ The courts held him in contempt when he tried to continue his punitive and arbitrary transfers. The PBA participated in a series of job actions when he attempted to enforce the department's rule against the holding of a second job. Kennedy had to give in on the question of assignments, but he fined, fired, and harassed the men--and particularly Cassese--until he won the moonlighting dispute.

Kennedy's actions and attitudes enabled him to protect the unilateral authority of the police commissioner over department practice and to block the PBA's acquisition of grievance machinery and bargaining rights. But, in the process, he made a significant contribution to the organizational development of the PBA and to Cassese as its leader.

Kiernan describes the commissioner's achievement:

He really made a martyr out of Cassese. By doing so he solidified the whole. Even the opposition factions in the PBA at that time largely could take one position. That was supporting Cassese against Kennedy. They tightened up the whole structure. Fantastically. I think if you even went down and tried to analyze what made the PBA the powerhouse, or whatever you want to call it, that it is today, it was started by the resentment against Steve Kennedy, brought about by actions against Cassese and everybody else. So Mr. Kennedy can go down in history as being the forefather of the PBA. I don't think he'd enjoy the title. But he's still got to live with it.

James P. Gifford reaches a similar conclusion, "Certainly, once the echoes of the name-calling had cease, the PBA found itself a much more united group than it had been for perhaps two decades, and Stephen P. Kennedy deserved much of the credit for that new-found unity" (p. 189). The commissioner succeeded in delaying the acquisition of union perquisites, but ultimately he aided the "unionization" process he so feared.

2.8 A New Era

Kennedy's five-year term expired in February 1961. Wagner reappointed him as police commissioner but in such a way as to raise questions about the mayor's enthusiasm. Wagner announced his decision on the twenty-first, the last possible moment he could. Kennedy, not the most secure of men at any time, took this as a rebuff. In this case, he was probably meant to. Nonetheless, he accepted--with conditions. He demanded a pay raise for the police officers to make up for the monies they would have gotten from second jobs; he believed that as policing became more professional, the officers required higher salaries. Wagner refused and, in effect, forced Kennedy's resignation. Mayor Wagner continued to defend the principal of an autonomous police commissioner, but he seems to have tired of defending Kennedy. It is also possible that he feared Kennedy's vote-getting power and wanted him out of a position of influence before the election later that year.

The mayor named Chief Inspector Michael Murphy as the new police commissioner. By all accounts Murphy was both a tough cop and sensitive to the problems of police personnel. Cassese approved the choice. Kiernan recalls Murphy as "a guy who knew how to work with people." Wagner, comparing him with Kennedy found that "he was just as tough, but I think they (the patrolmen) respected him more."

On March 15, 1961, barely three weeks after taking office, the new commissioner announced--and Wagner seconded--the establishment of a formal grievance system for uniformed police. The procedure involved four steps, all within the department. It offered the men the formal protections they had long demanded, but it was distinct from the provisions of Executive Order 49 by permitting no appeal to the commissioner

of labor or other third party. Final authority continued to rest with the police commissioner.

Only shortly before Murphy's announcement Ballon testified in the state legislature for appropriate revisions of the Condon-Wadlin Act. The PBA had never let up its push for grievance machinery. Murphy acted in part to head off pressure, but Cassese thinks he mostly wanted a shift from the policies of his predecessor:

He was chief inspector at the time. We had occasion to talk to him, too. He couldn't override the commissioner, but he knew what was going on. In fact, several months after he became police commissioner he took me off the street again, and he put me back in headquarters where the PBA president has been for years.

Murphy essentially agrees with this estimate. He set up the grievance system, he says, because the men were entitled to the procedure. He insists that it was in no way a concession to the PBA, nor was it a step towards unionization.⁷¹

Whatever his motivations, Murphy's action had the effect of briefly appeasing the PBA on the grievance issue. The leadership still believed that the provisions were inadequate, but they also understood that the actual mechanisms were in themselves unimportant. According to Ed Kiernan:

The original grievance procedure was really nothing more than setting up chains of command that you would go to, but eventually it was the same guy who was responsible for the original order. It was a grievance procedure in that it was formal. But it wasn't a grievance procedure as grievance procedures in outside industry. The one thing we said about the grievance procedure was once you establish it, you're probably never going to have to invoke it. What happens is you got a captain on this level and you've got a grievance, he's going to try to resolve it on his level before it goes all the way up. You don't want to have to be the guy who's going to have to go through all the steps up to the top and then outside the department. So, once you establish the fact that there is a grievance procedure, you find the necessity of utilizing it past the first or second step is almost nil.

The major significance of the system lay in the work protections it provided the men. However, it also served to enhance the organizational strength of the association. The establishment of the grievance machinery appeared to be the culmination of a long-fought campaign. Moreover, it entitled the PBA to represent its members through the process, an important union perquisite.

Wagner told the press that the grievance system was "long overdue."⁷² The mayor was always open to some compromise on this issue and had backed the PBA in its fight for the dues check-off. Nonetheless, in his first two terms he did little for the association either in its struggles with Kennedy or for higher salaries. Then in 1961 he began to come through. He shortened patrolmen's hours without decreasing their pay.⁷³ He granted his first substantial police and salary increase. Indeed, the 14.9 percent raise for fiscal year 1962 represented the largest annual percentage gain in either his or Lindsay's administration.⁷⁴

The mayor acted only in part as a result of direct PBA pressure. More important was his approaching bid for reelection--without the backing of the Democratic party. The PBA had proved itself a militant group. During the moonlighting controversy in late 1960, it engaged in both ticket slowdowns and speedups to the chagrin of most city voters. Wagner probably hoped to buy police labor peace, at least for the period of the election. Perhaps, he also hoped to win the patrolmen's votes.

Wagner achieved police quiescence but not the PBA's electoral support. At Cassese's urging the association announced itself for Louis Lefkowitz. Cassese explains his decision:

You see, Mayor Wagner was a good mayor. He was the man who gave the least amount of raises, didn't have any strikes, and the employees were happy under him. But notwithstanding that,

he was a tough man sometimes. The way he operated, he had to take his own time to make decisions. "Don't rush me, see. I have to make this decision as the mayor. And I've got to take my time." We were looking for some fast answers and some fast action. We found a little delay here, a little delay there. We did come to loggerheads at times... We came out and endorsed Lefkowitz.

The PBA leadership did not feel it could count on Wagner to come through for them. However, their vote proved insignificant. Wagner, backed by most other local unions, defeated his opponent handily.⁷⁵

Cassese continues to defend his support of Lefkowitz, but he also recognized its costs. His opponents used this "mistake" to try to defeat him. In June 1962, Cassese ran against Thomas Dowd, a member of the original Melnick group whom Cassese had "kept on because he looked energetic." Dowd emphasized the repercussions of the Lefkowitz endorsement for the PBA. Nonetheless, Cassese won by 12,562 votes to 5,344.⁷⁶ His administration's achievement of the grievance system and its successful opposition to the revised work chart paid off for him.

2.9 Becoming a Union

Cassese devoted his next two-year term to an all-out drive for collective bargaining rights, final determination of grievances by an arbiter outside the department, major pension revisions, and improved working conditions and monetary benefits. The association began its campaign with extensive lobbying in the state legislature, where its influence was often greater than in city hall.⁷⁷ But in August 1962, PBA attention switched back to the city arena. Wagner requested the Board of Estimate to vote Executive Order 49 into law. The resolution extended coverage to 10,000 additional persons but explicitly excluded the police officers. John Cassese testified for the action and urged

the inclusion of the uniformed police. Specifically, he wanted bargaining recognition and the same grievance machinery permitted other city employees. He threatened that the men would join affiliated labor unions unless the PBA was recognized as the official bargaining agent. Nonetheless, the Board passed the resolution intact.⁷⁸ It seems that Murphy opposed police coverage, and the mayor, as usual, chose not to interfere with his police commissioner's decisions.

In late September, Cassese began discussions with Raymond Diana, who had been deputy commissioner of labor and was now an assistant to the mayor. It was Diana who finally worked out the compromise which led to the recognition of the PBA as the patrolmen's bargaining representative. First he went to Wagner and explained that "Johnny Cassese has a problem. Wants collective bargaining, and Mike Murphy won't go for it." The mayor told his assistant to go "talk to Mike" and find out what the commissioner's real objections were. Diana reports that meeting:

Everything boiled down to two major objections, and these were the only two objections. One was that he would never go for the unionization of the police. Under the "Little Wagner Act," the employees were free to join any organization of their own choosing. He said, "No! Police line organizations alright. But no organization affiliated with any labor organization." His other major objection was that under the Wagner Act, the grievances were reviewable by the commissioner of labor. This he wouldn't buy. Absolutely not. "Nobody's going to look over my shoulder." Those were his very words. I put those in my pocket in the sense of saying, "Forget the Wagner Act. They're not going under the Wagner Act. They'll have a system of their own. If I can get them to agree to a system which will meet these two objections, will you agree?" "Yeah!"

Diana then called in Cassese and "his major, Norman Frank." He didn't tell them about this conversation with Murphy but went over the objections and described an alternative system. They liked his proposal and said "that if I could possibly get this kind of system, they would

agree to be excluded from unionization and they would agree to the commissioner being the final authority on grievances." However, they also demanded an interposing committee consisting of a department, union, and impartial observer to advise the commissioner before he made his final decision. Diana agreed, and each side felt and indeed it had won important concessions. Diana notes that Wagner was quite happy at the outcome, for he, like his police commissioners Kennedy and Murphy, "never went for unionization of the police and for the review of grievances above the commissioner."

On March 29, 1963, five years almost to a day after the issuance of Executive Order 49, Wagner released his "Executive Order on the Conduct of Labor Relations Between the City of New York and Members of the Police Force of the Police Department." Because of some minor legal requirement, its form was an executive memorandum from the mayor to the police commissioner. The order gave the employees self-organization and collective bargaining rights. It offered exclusive representation status to the duly certified organization. Other employee groups were permitted to meet with city officials "for the purpose of hearing the views and requests of members," but only the certified bargaining agent could negotiate. However, the executive memorandum made no formal provision, as the "Little Wagner Act" did, for organizational representation of members during grievance proceedings. Organizations qualified for certification by obtaining designation from the majority of eligible members, but the organization was not allowed to affiliate with groups or permit members from outside the police department, had to abdicate the right to strike, and could not in any way be involved with the overthrow of the United States. Final authority in dispute resolution lay with

the commissioner of labor, after consultation with the commissioner of police. Final authority in grievance adjustment lay with the police commissioner.

Murphy no longer remembers the memorandum. In his eyes, the PBA was the de facto bargaining agent since he began as a patrolman in 1940. However, to the PBA leadership this formalization of the existing situation was crucial. Kiernan says: "Before that you had no real tenure at all; you just were there by courtesy of whoever the commissioner or mayor was."

The PBA was on its way. Union perquisites gave further impetus to the association's demands for improved economic and working conditions. In Kiernan's reckoning, "Prior to 1958, I don't think there was a single piece of legislation that was passed by the PBA for policemen." With the Cassese administration, the association began to initiate legislation on its own behalf. Both the PBA president and vice-president were skillful lobbyists, and they were often successful in achieving their goals. They played an important role in the revocation of residency requirements for police and other city employees in the early 60s, and they blocked the revision of the fourth platoon law until 1969. However, they consider that the Half-Pay Bill, passed in mid-1963, was "the most important single piece of legislation sponsored by the PBA in its history."⁷⁹ It called for a change in the pension system to permit half-pay to retired policemen with twenty years' service; in other words, the men received fifty percent of their last year's salary. A large number of the force, including Cassese and Kiernan, were only a few years from retirement age, and they fully appreciated the PBA's achievement.

The PBA had effectively won gains from both the state and the city, and it was learning to play one off against the other. Wagner was not at all pleased by the Half-Pay Bill:

Rockefeller. My friend Nelson. I can't really blame him for it. He was up for reelection. They'd done pretty well with us, and they went up there, and they got new pension benefits which cost us \$40 million, which was a lot of money in those days. It isn't so much anymore. I opposed this, the legislation. Asked the governor to veto it. But he had agreed. Doesn't cost the state a quarter! Doesn't cost them anything. We have to absorb it. And I remember marching in a parade with him shortly after and all the cops there, "Thanks, Rocky! Thanks!" You know, nothing! Didn't cost him a quarter. But he got all the credit for it. I was the bad boy because I was the one who opposed their benefits although we had to pick up the tab. Not the first year but then the year after.

Wagner was angry because the PBA had also begun to win more substantial compensation from the city as well and he was not getting his full share of credit for these gains. In 1954, the base pay for patrolmen was \$4,780, by 1961 \$6,381 and by 1965 \$8,098. Actual salaries (wages plus paid holidays, longevity increment, night-shift differential, and guaranteed overcome) increased 16.8 percent from 1953-7, and 14.3 percent from 1957-61. Between 1961 and 1965, the year Wagner left office, the actual salary had increased 32.3 percent.⁸⁰

In five years the Patrolmen's Benevolent Association transformed itself from an ordinary pressure group into a de facto union. The association acquired a dues check-off, a formal grievance procedure and bargaining rights. It established itself as a powerful lobby in the state legislature, and it began to win monetary gains from city hall. Cassese benefitted from the associations achievements. The members credited him with much of their success. In June 1964, he was reelected with opposition.

Mayor Robert Wagner responded to municipal employee pressure and his need for a new political base by authorizing a city labor relations system. He chose a strategy which enhanced his power to secure votes, labor peace and bureaucratic control. For most of his administration he avoided major financial obligations or service disruptions by paying out the symbolic rewards of union rights. In the short run he succeeded in building an electoral coalition and incentralizing bureaucratic authority in his office. But, perhaps, as an elected official, all he cared about was the short run.

The existence of formal collective bargaining ultimately catalyzed new demands. The police officers fought for inclusion, and finally won. They and other city workers learned how to use their new rights to gain increased benefits. In the areas where bargaining was permitted (wages, hours, pensions, uniform allowances, and fiscal fringes) the PBA began to do quite well. However, Wagner was able more or less to restrain the employees during his years in office. Although the association had bargaining rights by law, the mayor usually made concessions only when he needed its support or acquiescence. But, by the end of this tenure, the PBA's power was beginning to equal his. What had started as a mechanism for social control by the mayor over urban bureaucrats increasingly appeared to become a weapon utilized by urban bureaucrats against the mayor. Certainly Wagner's successor, John V. Lindsay, was to feel this way.

Despite the growing power of the PBA, the unionization process was only half-complete. To be a union on the industrial model the association still required affirmation of its status as a full-fledge participant in the determination of policemen's salaries and work rules. At the same

time, police and city management had yet to learn how to use the collective bargaining process to promote their goals. The next years were devoted to these ends.

Footnotes

1. Interview, 3/27/73. Unless otherwise noted, statements and quotes of the actors will be from interviews. I will give the date of the interview at the initial citation.
2. Patrolmen's Benevolent Association, "Annual Report for the Fiscal Years Ended June 30, 1968 and 1969," 4-5.
3. Patrolmen's Benevolent Association, "Annual Report of the Health and Welfare Fund for the Fiscal Years Ended in June 30, 1967, 1968, and 1969," p. 2.
4. Since policewomen represent a relatively small percentage of the force and were excluded from membership in the PBA until 1968, I will use the male gender in referring to police officers.
5. This benefit was the initial impetus for the formation of the PBA in 1894. See Emma Schweppe, The Fireman's and Patrolmen's Unions in the City of New York (New York: King's Crown Press, 1948), p. 49.
6. See Schweppe, chpts. VI-VIII, for the history of the PBA during the LaGuardia years. See the unpublished thesis (CCNY, 1959) by Jules Tessler, "Pension Forum, Inc." for a complete history of pension revision, of Pension Forum, Inc., and of internal PBA politics from the late 30s until the early 50s.
7. Interview, 10/5/72.
8. Consequently, the police commissioner forbid future balls, and the association had to boost its dues for the first time since 1923. See Tessler, 88-98. Also, see unpub. diss. (Columbia, 1970) by James Gifford, "The Political Relations of the Patrolmen's Benevolent Association in the City of New York," 70-71.
9. Interview, 11/28/72.
10. Interview, 10/11/72.
11. The Municipal Yearbook, 1951, 1952, 1953, 1954, 1955.
12. U.S. Department of Labor, BLS, "Salary Trends, Firemen and Policemen, 1924-64," Bulletin No. 1445 (Washington, D.C.: US, 1965).
13. Tessler, 125-132, discusses this period.
14. Quoted in Tessler, 129-130.
15. Monaghan considered Quill a "bluster windbag" who gave himself a lot of build-up in the public press. None of the PBA leaders interviewed remember that their men responded to Quill. But interviews with rank-and-file PBA members indicate that the TWU head had an immeasurable influence.

16. Interviews, 9/27/72 (anonymity preferred).
17. This and the following quotes are from New York City Department of Labor, "Organization and Recognition of the Uniformed Police," (1958), 22-27. Also, see Tessler, 130-132.
18. Butler vs. Monaghan, Police Commissioner of the City of New York, 200 Misc. 327, 106 N.Y.S. 2d 861 (1951).
19. The following description of Wagner's policies is based primarily on my own research into that period. Also, see Raymond Horton, Municipal Labor Relations in New York City (New York: Praeger, 1973), 24-28; and the unpub. paper (Harvard, 1973) by Douglas E. Schoen, "An Examination of Municipal Labor Relations, Charter Revision, and Political Centralization in the Administration of Mayor Robert Wagner," 5-8.
20. Interview, 11/28/72.
21. This was an executive order from the Office of the Mayor, dated July 21, 1954. It is reprinted in New York City, Board of Estimate (August 23, 1962), 9911-13.
22. NYT, 3/26/55. Also, see Ida Klaus, "Report on a Program of Labor Relations for New York City Employees (New York Dept. of Labor, June 1957), 26-29.
23. New York City, Board of Estimate (January 12, 1956), 177-8 and (August 23, 1956), 9822-24. Also see NYT, 1/7/56, p. 1; and 1/13/56, p. 6.
24. Particularly see 82-99 for her conclusions and proposals.
25. Executive Order No. 49 is reprinted in New York City, Board of Estimate (August 23, 1962), 9907-9909.
26. NYT, 4/1/58, p. 1.
27. At the Pleasure of the Mayor (New York: Free Press, 1964), p. 1. Also, see James Q. Wilson, The Amateur Democrat (Chicago: University of Chicago, 1966), 43-47.
28. NYT, 3/3/54, p. 26. Also, see Horton, 23-4.
29. Schoen, p. 10.
30. Doug Schoen has tried hard to find any data at all on the civil service vote in New York City. He found nothing.
31. Frances Fox Piven convincingly argues this in "The Urban Crisis: Who Got What and Why," in Robert Paul Wolff (ed.), 1984 Revisited (New York: Borzoi, 1973). Also, see Theodore Lowi, "Machine Politics Old and New," Public Interest (Fall, 1967), 83-92.

32. Both Horton and Schoen make this argument as well.
33. For an excellent description of AFSCME during this period, see the unpub. diss. (Harvard, 1972) by Ralph Jones, "City Employee Unions in New York and Chicago," 105-115.
34. Horton, p. 18.
35. Jones focuses on this problem and its resolution.
36. Anthony Russo, then an advisor to Wagner and now in the Office of Labor Relations, believed that the police commissioner had more power than the mayor. The commissioner couldn't be removed, and he could effectively block mayoral intervention. Interview, 10/4/72.
37. Lowi, 1964, p. 159.
38. Interview with Vincent Broderick, deputy police commissioner from 1954-56 and a commissioner under Wagner and Lindsay, 10/2/72. Also, see Gifford, 147-48 and 161-2, for a discussion of Adams' relations with the PBA.
39. Interview, 10/10/72.
40. NYT, 5/22/58, p. 1.
41. Gifford, p. 63.
42. This term was developed by Mancur Olson in The Logic of Collective Action (New York: Schocken, 1965) to describe why people join groups working towards the acquisition of public goods.
43. The first was entitled "Police Pay in New York Should Be Substantially Increased." They are mimeographed documents, and several of them are available in the New York City Municipal Reference Library.
44. Interviews with Ballon, 11/20/72; and Wolf, 11/29/72.
45. Feinstein had a long history with New York municipal employee organizations. As president of the Civil Service Forum's Council 209 (Manhattan auto-enginemmen) he was expelled in 1939 for considering union affiliation. Feinstein and his local then joined AFSCME, which he left in 1952 for the Teamsters, after some differences of opinion with Jerry Wurf. For a discussion of Feinstein, particularly in relation to AFSCME, see Jones, 99-107.
46. Interview, 10/3/72.
47. Interview, 5/14/74.
48. NYT, 6/14/58, p. 10.
49. This letter and the reaction to it are described in NYT, 8/6/58, p. 1.

50. This meeting is reported by NYT, 10/10/58, p. 25, and Spring 100, p. 29 (October, 1958). Interviews confirm its substance.

51. This is an unpublished, undated mimeo. A summary version appears as "No Union for New York City Police," The American City (October, 1958), 179-181.

52. When I reminded Cassese of what Kennedy had written about the accessibility of the commissioner to the men, he commented, "I agree with that. The only trouble is, it was a revolving door. They just kept going. Whew! He was a tough man."

53. NYT, 12/11/58, p. 1.

54. This and editorials from the Post and the Times, dating from October 1958 to January 1969 were compiled by the PBA for "Papers on Appeal from Order," PBA et al. vs. Wagner et al., New York Supreme Court (Appellate Division, First Department), 12520 (1959), 31-35.

55. See the NYT, 1/6/59, p. 32; and 1/8/59, p. 32.

56. This document is dated January 5, 1959. It is available in "Papers on Appeal," 22-29.

57. These events are reported in NYT, 1/9/59, p. 18; 1/12/59, p. 25; and 1/13/59, p. 25. Also, see Herald Tribune, 1/6/59 and 1/9/59.

58. This letter is reprinted in "Papers on Appeal," 22-29.

59. Interview, 10/6/72.

60. Wolf's argument and the history of the case can be found in the "Appellants' Brief," PBA et al. vs. Wagner et al. (NYS AD1st, 1959). Also, see NYT, 1/21/59, p. 64; 1/31/59, p. 5; 2/26/59, p. 23; 2/17/59, p. 68; 6/11/59, p. 17; 7/1/59, p. 64; 6/7/60, p. 35.

61. "Papers on Appeal," p. 54.

62. "Papers on Appeal," 46-53.

63. "Papers on Appeal," 105-106.

64. Supreme Court of the United States, 6 (October term, 1959), no. 551. The writ is dated March 25, 1960.

65. These figures are reprinted in The Finest (September, 1959).

66. NYT, 8/21/59, p. 6.

67. These statements are reprinted in NYT, 7/25/59, p. 19; and The Finest (September, 1959).

68. NYT, 9/22/59, p. 41.

69. Cassese obtained this injunction on "out-of-title" assignments in February 1960.

70. For a more extensive discussion of Kennedy and his relations in the PBA, see Gifford, 117-189. The moonlighting dispute is covered on 181-189.

71. Interview, 11/30/72. Also, see NYT, 3/15/61.

72. NYT, 3/15/61, p. 1.

73. For a discussion of the mayor's actions on this, see chpt. III.

74. These figures are from Horton, p. 95. The base pay increment was more than three times that of the previous year.

75. For discussions of the importance of this labor vote, see Horton, p. 42; Lowi, 1967; Schoen, 16-19; and Wilson, 275-277. The authors disagree somewhat over the significance of the trade union coalition for Wagner.

76. Gifford, p. 63.

77. For a discussion of the PBA lobbying power, see chpt. III.

78. New York City, Board of Estimate (August 23, 1962), 9905-9913. Also, see NYT, 8/24/62, p. 27.

79. Cassese made this proclamation in The Finest (May 1963). Kiernan told me that it "was one of the biggest issues we had."

80. These figures are taken from Horton, 95-6.

CHAPTER III

"A union by any other name could be a PBA."

Ed Kiernan

New York City policing policy always involved political considerations but now it is the stuff of open power struggles among the command staff, elected officials, and the Patrolmen's Benevolent Association. The establishment of a city labor relations system enhanced the power of the PBA to block unwanted innovations in department practice. The association challenges the administrative authority of the commissioner and the mayor at the bargaining table as well as with appeals to courts, state legislators, and public referenda; and often wins. Police management no longer can simply announce policy changes and then implement them through the police bureaucracy. Rather, it has to consider and consult with the rank-and-file union.

At first police management kept issues of "management prerogative" outside the scope of bargaining. But this only led to costly political confrontations, and did nothing to enhance the certainty of innovations for the department or benefits for the rank and file. Increasingly, the antagonists learned to utilize collective bargaining to ensure that the PBA, the police hierarchy, and the mayor's office get enough of what they demand both to permit viable innovations and to save face with their various constituencies. What evolved was a process of "collusive" bargaining, where the negotiators reach agreement relatively easily, and the hard task is selling that agreement to their supporters. Public controversy persists, but private alliance usually prevails. At the same time, the PBA has gained a more direct influence over policing policy.

Just what kind of power the PBA exerts over NYPD policy is the subject of this chapter. By investigating the decade-long controversy over patrol allocation, it is possible to explore the development from confrontation to collusive bargaining and its implications for innovation in department practice. The story is in three parts: 1) Commissioner Michael Murphy's unilateral and unsuccessful attempt in 1961 to revise a 1911 state statute on deployment and institute a fourth platoon; 2) Mayor John Lindsay's 1969 success in establishing the new platoon and his subsequent problems with its implementation; and 3) Commissioner Patrick Murphy's acquisition in 1972 of a new 24-squad duty chart and the subsequent reallocation of manpower.

3.1 The "Three Platoon Law"

In 1961, the Patrolmen's Benevolent Association was a strong pressure group well on its way in the transformation from a mutual aid society to a de facto union. Under the leadership of John Cassese and the advisors he hired, the PBA had since 1958 developed new political clout, particularly in the state legislature in Albany. The dues check-off built up the treasury. The acquisition of written grievance procedures encouraged the membership about the organization's efficacy. To maintain these organizational gains and to entrench the PBA's and his own power, Cassese had constantly to identify (or manufacture), fight for and win issues about which the patrolmen felt strongly. The existence of a city labor relations system catalyzed the PBA demands for inclusion, and Cassese continued the struggle for formal bargaining rights most other municipal employee groups already possessed. His organizational position also required him to protect the rights of his constituents in the department, and so he opposed revision of the state

"Three Platoon Law."

For fifty years the department operated with a twenty-squad chart and three equally-manned platoons, or eight-hour shifts, beginning at midnight, 8 am and 4 pm. The officers, organized by squads, worked five tours per seven consecutive days and rotated weekly into another platoon. In other words, they worked different hours each week and late at night every third week; and the same number of men were on duty at all times. The rank and file generally accepted this patrol allocation as the way things are. But Michael Murphy, new to the job of New York City Police Commissioner, determined to change it.

Murphy recalls that the fourth platoon was "the only one that was really a significant problem" in his dealings with the PBA.¹ By all accounts,² Murphy, who had moved up through the ranks, was sensitive to the patrolmen's concerns and had an open door policy towards the association. Indeed, soon after his appointment, Murphy granted the grievance procedures his predecessor, Stephen Kennedy, so long denied. But the new commissioner believed policy decisions were his responsibility alone and not a matter for discussion and negotiation. Eager to make changes he felt were needed to combat crime effectively and facing what he considered a manpower shortage,³ he determined to institute a fourth platoon to work high crime areas at high crime hours. The commissioner acted unilaterally to develop a more flexible deployment strategy. He felt no compulsion to consult either the PBA or Mayor Robert Wagner's office. Murphy, like his immediate predecessors, attempted to exercise exclusive determination of department policy. On April 17, 1961, a few months after taking office, the commissioner issued General Order No. 17 providing for a new duty chart and establishing a

6 pm to 2 am platoon in addition to the traditional three.

The PBA immediately protested the commissioner's action. The association was opposed to any change which contradicted hard-won labor rights and increased management's control over the policemen's conditions of work. Murphy's rotation plan maintained the same number of hours of work per year but required the patrolmen to be on duty 48 hours every third week, eight hours less the fourth week, and split shifts. The PBA leadership claimed the men could legally work only eight consecutive hours in every twenty-four and five days in every seven. The critical issue to Murphy was crime control, but to the PBA it was the inadequate limitations on the commissioner's power over assignments. The association had just won its three-year battle for grievance procedures and other protections against supervisors who engaged in ad hoc discipline and punitive transfers. Cassese was not about to consent to a new source of disadvantageous administrative power.

Murphy intended to put the new chart into effect immediately. However, he badly underestimated the labor association. PBA officials initiated a series of meetings with the commissioner but were not won over by Murphy's assurance that the patrolmen's hours "averaged" forty a week, nor his promise to refrain from making arbitrary assignments. Advised and represented by the prestigious (and expensive) law firm of Philips, Nizer, Benjamin, Krim and Ballon, the PBA went to court to enjoin the implementation of the general order and to argue that the revised chart violated the state's "Three Platoon Law" of 1911. This legislation ensured a 40-hour week and an 8-hour day, except during emergencies; it also seemed to require weekly rotations and shifts of equal size.

Actually, the patrolmen did not work a 40-hour week under the present three platoon system. In 1957, city officials--with PBA acquiescence--arranged for most of the patrol force to work 42 hours for an additional \$325 in overtime pay. For any hours worked beyond that, the men received compensatory time off. Mayor Robert Wagner had offered material rewards in exchange for compliance to the work load, and now the PBA leaders were learning to demand similar benefits as a necessary cost of innovation. Subsequently, the association used Murphy's need for changes in deployment to initiate a campaign for improved hours and overtime. The PBA leaders claimed that Murphy's proposed chart revisions provoked existing dissatisfactions with the old arrangement. They polled their members for a preference between 42 hours and \$325, or 40 hours without an income increment.⁴ This enabled the organization to appear active while it awaited the court ruling.

The mayor had not even commented on Murphy's action; Wagner found it good politics to maintain a distance from the administration of the force.⁵ However, he expressed interest in the PBA's proposition of a 40-hour week, despite the estimated cost to the city of \$10 to \$12 million a year in increased overtime necessary for full deployment. He was in the midst of an election year, and some observers perceived his interest as a bid for votes.⁶ Wagner, renowned for his political astuteness, probably felt this was a relatively cheap way to win the support or at least public quiescence of police employees (as well as the fire and sanitation workers who had made corresponding claims). As it was a financial issue and not a policy matter, the mayor neatly avoided accusations of interfering in the police commissioner's domain. Nonetheless, the could have helped effect deployment changes, if he chose, by

informally bargaining with the PBA. In his customary manner, Wagner did not act at once; he delayed--presumably waiting to see how things developed.

The first development was the court ruling in August 1961 by New York Supreme Court Justice Frederick Backer, enjoining the implementation of the new duty chart. Backer found that the commissioner did not have the right to overrule the state legislation, and that the statute expressly limited the department to three platoons and permitted no mandatory overtime except during strikes, riots, fires and other such emergencies. In the judge's opinion this restricted the hours to 40, not an "average" of 40, per week.⁷

A few days later, Mayor Wagner pushed through the abolition of the 42-hour week for police, fire, and sanitation employees. In the future the workers would receive overtime pay for all extra time worked, instead of only two hours. Although the Board of Estimate was composed mostly of regular Democrats opposed to Wagner's reelection bid, it accepted the proposal. The plan went into effect September 5, 1961, two days before the primary.⁸ Forceful opposition to the fourth platoon, several successful court suits, and militant actions a few months before confirmed the PBA as an important pressure group. The elected officials vied for the association's support, and strove to avert costly political controversy. In fact, Wagner obtained labor peace, but failed to win the PBA vote.⁹

This election politicking was irrelevant to the police commissioner. He continued to want his revised duty chart and the flexibility over assignments it would afford him. Wagner had already given away what the city might have used as an inducement, but at Murphy's instigation, he

agreed to take the fight to Albany. The mayor introduced a manpower deployment bill into the 1962 state legislature. The "Murphy Bill," as it came to be called, would exempt New York City from the 1911 statute. It permitted the commissioner to establish as many platoon of whatever size as were necessary, at whatever hours he deemed best, and to "average" the hours and rotate the men relatively freely.¹⁰

Murphy introduced his legislation in 1962, in 1963 and again in 1964. His successors, Vincent Broderick and Howard Leary, resubmitted it. Each time the powerful PBA lobby blocked its passage. Cassese and his vice-president, Ed Kiernan, had succeeded in their efforts to expand the influence of the association in Albany. Cassese recalls:

And this was my modus operandi in Albany: You can literally say I was the first fellow up in Albany on a Sunday night before the legislators came, I was the fellow leaving it on Wednesday, Thursday, or Friday to make sure that whatever was transacted was over. And we used to have some beneficial legislation that we plugged for and pushed for. And we met many legislators and gave them our point of view. We felt pretty good.

Wallace Sayre and Herbert Kaufman, in their comprehensive study of New York City politics, found that, "The leaders of police and fire organizations look first, as do the teachers, to Albany where they enjoy some basic advantages."¹¹ These include influence gained through campaign help and contributions (and, it has been claimed, bribes); the pro-police proclivity of many legislators; and the predominance of non-city members for whom there are benefits without costs for alliance. Consequently, the PBA was often more successful in the state house than in city hall. In April 1965, Michael Murphy suggested to The Finest, the PBA newspaper, that the association motto be, "If you can't get it in New York City, get it in Albany."

The PBA strenuously objected to the proposed innovations in patrol allocation. Cassese needed victories to demonstrate the strength of the organization both to constituents and to the public, and to provide the basis for his own continuing reelection. The fourth platoon was a ready-made issue. The men feared the changes in their routine the revised chart required; and they feared the increased discretionary power of the commissioner. Moreover, the platoon controversy gave the PBA leaders a handle around which to demand improved hours and overtime compensation.

No bargaining table existed in 1961 at which to compromise and exchange concessions with the police hierarchy. Indeed, Murphy was unwilling to permit the line organizations any say in determining department policy. The PBA's only tactical choice was confrontation with the commissioner in political forums available to it outside the department. Because of the union perquisites it already possessed and its campaign for more, the PBA had developed considerable political acumen and power. It succeeded in vetoing the fourth platoon. First, the association won an injunction against Murphy's plan. Then, it used the election year to gain benefits from the mayor. Finally, the PBA lobby blocked the commissioner's efforts in the state house. Murphy had kept the PBA and Cassese out of the policy process but at the cost of innovation and rational decision-making.

3.2 Lindsay's New York

The period that followed the initial attempt to add a fourth platoon were years of conflict between the PBA and John V. Lindsay, who succeeded Robert Wagner as mayor in 1965. Lindsay, unlike Wagner, did not cultivate distance between the mayor's office and the police

commissioner's. He believed it was the mayor's job to run the department, or at least "to keep perfecting that institution and to keep reasonable control over it."¹² He often initiated policies aimed at reforming department practise. Most notably, he attempted to institute a civilian review board in 1965-66, and he led the battle for the fourth platoon in 1969. Wagner avoided controversy through non-intervention in police policy and "palsmanship"¹³ with public union leaders, but Lindsay took the lead on crime control innovations and was hardly chummy with most municipal employee spokesmen, including Cassese. He often set back negotiations with pontifications about their responsibility to the city as a whole and his presence at the bargaining table usually did more harm than good.¹⁴ Lindsay did not set out to alienate the patrolmen, but, as a liberal mayor in an increasingly black and Puerto Rican city, he was more concerned about police treatment of community people than about police working conditions and complaints.

In early 1966, Lindsay appointed Howard Leary as his new police commissioner. Leary headed the Philadelphia department while its civilian review board operated, and the mayor wanted his aid in establishing such a board in New York. The new commissioner at first appeared to be an administrative reformer; he even began his tenure by reorganizing the top command staff. In fact, he was far less concerned with patrol innovations and civilian review than in averting administrative problems. Whenever possible, he avoided controversial issues and appeased the PBA. The high-ranking police official now in charge of labor negotiations notes that Leary came to the job without allies in the city: "So, he early allied with the police unions and used them as a base for support."¹⁵ Cassese recalls:

We had a good relationship with Commissioner Leary. He was the commissioner, but he was the man who said the door was always open--and it was. He resolved a lot of problems that never came out in the open. And when he was right, he would tell us. And we'd say, "Well, the man's right. What can we do?" But I found him a fair commissioner.

Although Leary worked closely with the mayor and often submitted to his initiatives, the commissioner delighted the PBA with his willingness to back down even in areas where he had authority to act. He first demonstrated his pliability in mid-1966 when he gave in to the PBA's opposition to the introduction of the fourth platoon.

Cassese could work with Leary, but he felt pressure to stand up for his membership against what they perceived as onslaughts from a mayor whose reform administration exacerbated existing pressures. The conflicts of Lindsay's New York raised very serious questions for the police about their role. In the past their task was to contain the ghetto; now they were to protect its inhabitants. Traditionally, they prevented crime by questioning suspicious characters, now they had to wait for crimes to be committed. Many observers note the defensiveness evoked in police officers by the changes, criticism, and legal constraints of this period.¹⁶ According to a VERA Institute survey released in 1968,¹⁷ New York police officers were dissatisfied with their jobs. They believed themselves misunderstood by the public, hampered by the courts and superiors, and restrained from acting as aggressively as they considered appropriate. In fact, the occupational prestige of the police had risen,¹⁸ but only 56 percent of those sampled felt they commanded adequate respect from the people they served.

In these same years, the veterans of World War II began retiring, and the department had an increasingly large proportion of younger

personnel. A study conducted jointly by the NYPD and the LEAA in 1969 showed these recruits to have less education and lower IQs than their predecessors. They also came from slightly different backgrounds; in 1959 10 percent of the recruits came from homes with unskilled fathers, as opposed to nearly 50 percent in 1963.¹⁹ Two superior officers, who came on the job in the 1940s and now hold relatively influential positions in the department, comment on the attitudes and goals of the new officers:²⁰

They want immediate benefits as opposed to long-standing. Older men on the job are more concerned about pensions, better retirement funds, etc., as opposed to the young fellow who wants maximum money benefits because where he's standing he can't see the benefits.

They want to abolish anything that approaches a semi-military outfit. You can't.

The young men were more militant, in part because they were the ones most likely to be on the streets. They had to face the antagonism of the black and Puerto Rican communities. They were the brunt of criticism for police maltreatment of criminals and police failure to stop crime.

The frustration, youth, and unmet material demands of the officers engendered a mounting dissidence within the PBA. The VERA study showed that the patrolmen believed their best aids in "reducing pressure" on the job were the state stop and frisk law and the PBA.²¹ Nonetheless, Cassese faced an increasingly high level of internal opposition, both from black officer organizations²² and from militantly conservative groups. In June 1968, he won his reelection with 15,112 votes to 5,765 for John Donahue, allegedly a member of the John Birch Society.²³ The margin was safe enough, but Cassese had run uncontested in three of his

five prior races. Immediately after the '68 election, the Traffic Squad Benevolent Association (TSBA), a Brooklyn-based group headed by patrolman James Radice and lawyer Harold Foner, began a drive to unseat Cassese. The major issue was the "political interference" of Lindsay's urban task force at the site of demonstrations and civil disturbances.²⁴ The formation of the Law Enforcement Group (LEG) in August 1968, LEG's active concern with the protection and status of the "cop on the street," and its "Support Your Local Police Bumper Stickers" and petitions played right into TSBA hands.

Responding to the assorted pressures of the summer of 1968, Cassese denounced the mayor's task force and pledged PBA "get tough" guidelines. Commissioner Howard Leary, under the supervision of Lindsay assistants Jay Kriegal and Peter Goldmark, took a get tough posture himself and forced Cassese to back down. However, Cassese had made it clear to the dissidents that he was willing to speak out and act on their behalf against the mayor. The president had long ago discovered that one way to promote membership loyalty was by attacking a feared reform. The PBA leadership had constantly to engage in controversies that illustrated their determination to protect the cop from the public, the politician, and the superior officers.

3.3 The Fourth Platoon

In late 1968, both Lindsay and Cassese were spoiling for a fight. Indeed, each needed a victorious confrontation to further his career, and neither could afford an outright compromise. The PBA president needed to appease his mutinous membership, and the mayor needed to regain public respect. Lindsay faced what looked to be a difficult fight for reelection in 1969. His first term had been a period of costly strikes

and disruptions by municipal employees; he needed issues that demonstrated his ability to control the city workers. He had already suffered one major defeat at the hands of the PBA in their successful referendum campaign against the civilian review board,²⁵ and it was important to his image to put the PBA--among other public employee unions--in its place. At the same time, he needed a law and order issue that would appeal to the crime conscious public without offending the mayor's important, liberal, ghetto and reform-oriented constituents. On both counts, the fourth platoon was just the thing.

At this time, approximately 17,000 out of the 26,000 appropriately ranked officers worked for the Patrol Bureau. They were evenly divided into 20 squads. Given days off, vacations and sick leave, about 3400 men (or 5 squads) worked each of the three tours or platoons. Approximately 1300 were assigned to radio cars, 900 to clerical jobs, 300 to guard duty in the precinct houses, and the rest to various special duties.²⁶ The department utilized O. W. Wilson's "hazard rating" formula (developed in the late 1930s) to determine the incidence of crime in each area and then assign the force proportionately. However, few transfers were made in response to changes in the "hazard rating." Not only were the same number of police on duty at every hour, but the numbers in each precinct remained relatively stable despite shifts in crime. The police command claimed it had neither adequate personnel nor adequate information to promote efficient resource allocation. Both the department hierarchy and the mayor's office believed that the 1911 act effectively restricted flexible deployment.

Commissioner Leary testified in July 1968 to the state legislature that the three platoon system hindered effective patrol allocation.²⁷

However, his major aim was more personnel. He urged:²⁸

There is one caveat you always must remember about the fourth platoon: it requires manpower to do it. The implementation of a fourth platoon without a corresponding increase in the size of the force would very definitely deplete the other shifts. You just can't have one without the other.

Leary started out as a patrolman and, like many career police officers, believed more men was the key to less crime. He neither understood nor believed that the fourth platoon and other deployment innovations could operate as alternatives to increased personnel by providing mechanisms for utilizing the available manpower more efficiently. The commissioner refused even to consider decreasing the size of any shift, however superfluous many of the officers were. Consequently, the mayor did not bother to include the old Murphy Bill in his original package to the state legislature although his budget message of July 1968 provided for additional recruits, to be used as much as possible during the high crime hours.

The fourth platoon did not emerge as a major public issue until Sunday morning, December 16, 1968 when the New York Times ran a front page story by David Burnham exposing patrolmen "cooping"--or stealing naps--on the job. Burnham found the causes for cooping in the constant change in working hours and the excess of men during low-crime hours. As his central question, he asked, "Are there any unnecessary number of men on duty between 2 and 7 am?" He concluded there were and advocated changing the duty chart. He noted both PBA opposition to the fourth platoon in earlier years and its suggestion, made annually since 1965, to utilize volunteers. According to Mark Moore and his colleagues at the Kennedy School (p. 4), Burnham acted without prompting from Lindsay or the Times. Indeed, the Times would not pay him to cover the story and,

Burnham reports, disapproved his emphasis on manpower redistribution.

It was Roy Goodman, a young, liberal Republican state senator-elect from the Upper East Side, who first responded to Burnham's questions by pre-filing the Murphy Bill. Goodman was close to Lindsay and served as his first Financial Administrator. However, he insists he acted on his own: "My initiative solely. I picked it up when the mayor dropped the ball."²⁹

Norman Frank, PBA public relations director and Cassese's closest advisor, immediately challenged Goodman to a public debate on the merits of the fourth platoon. They appeared together December 29 on a Sunday morning WCBS-TV program. Their discussion established the tone and the platforms of the subsequent controversy. The two men agreed on the necessity of combatting crime, but what Goodman considered a necessary innovation, Frank found violation of the rights of the working man to regular hours of employment and an excuse for arbitrary administration. With such a definition of the problem, the PBA was bound to oppose the Murphy Bill.

The public relations director maintained:

A police officer, today, works two-thirds of his working time at night, and, accordingly has very little social or family life except during the period when he is on day tours, so that any mass revision of the three-platoon system that would give the city or the police commissioner a blank check to assign men at any given hour would further destroy even that modicum of normalcy that now exists. (p. 3)

It is not unreasonable to say that either the police department or the city, without declaring an emergency, should have the right to change that man's hours of employment at their whim, and give them a blank check, and we won't stand for it. (p. 8)

The PBA was not totally inflexible. Frank noted and approved the existence of the Tactical Patrol Force (TPF), staffed by 1000 volunteers

working from 6 pm to 2 am. He felt certain enough volunteers were available for any tour of duty deemed necessary.

Goodman's goal was more efficient utilization of the patrolmen. He produced a graph to show how the number of police officers remained the same even though crime rose in the evening hours. He disapproved the volunteer solution. To him the TPF and its like³⁰ represented a "tiny fraction" of what was needed and still left an excess of men on duty at low-crime hours. The senator-elect particularly expressed concern about the PBA withdrawing the men whenever the association needed leverage for its demands. As evidence for his anxiety, he produced a "job action" leaflet circulated by Cassese the previous October and calling for refusal to work any but the regular tours. Goodman wanted to avert such a possibility, through binding and rational allocation of the uniformed force.

Mayoral assistant Jay Kriegal happened to be watching television that Sunday morning. He recognized the potentialities in the fourth platoon controversy for the coming electoral campaign and so advised the mayor.³¹ On December 31, 1969, Lindsay announced to the press the inclusion of the Murphy-Goodman Bill in the ten-piece package he sent to the state legislature. He added, by way of explanation, "Criminals obviously don't divide their activities into three equal shifts, and there is no reason the state should require the police to do so." Lindsay's staff did not create the issue; in fact, they stumbled onto it by chance. But they intended the mayor to benefit.

In early January, Lindsay, Kriegal, Peter Goldmark, and Bureau of the Budget Frederick O. Hayes brainstormed at Gracie Mansion with Police Commissioner Leary, Chief of Operations Daniel Courtenay, and Chief of

Planning Cornelius Behan.³² They decided to focus their attention on Albany rather than go to court or work within the limits of the 1911 act. The police department preferred the changes outlined in the Murphy Bill to possible alternative forms of deployment. Moreover, they were not eager to reorganize for a program the courts might reject. They also found unpalatable the PBA's proposal to use voluntary, flexible assignments; Leary stated, "volunteers can always unvolunteer." The sense of the meeting was to push hard for the Murphy Bill and to push for it as it was. The city could compromise later on some of its provisions, if need be.

The proponents of the fourth platoon did not even consider discussion or negotiations with the PBA. Although the association possessed collective bargaining rights since 1963, the Lindsay people and the police command chose not to raise the question of deployment at the bargaining table. They perceived the issue as a management prerogative and not a subject for negotiation. Moreover, they saw political capital for Lindsay in a legislative fight with the PBA. Peter Goldmark recalled their reasoning:³³

If we failed in the state legislature, we could blame crime on the PBA in the election. Also, we could go ahead and see what we could get out of the old law. However, if we went ahead and lost in the courts and then lost in the legislature, the situation would have been more confused and our administrative ends would have been impossible to achieve.

Police and city management formed a united front against the PBA and gave the association no opportunity either to bargain or to participate in the policy-making process.

Goodman had pre-filed his bill and, at the city's request, made Democratic Assemblyman Charles Rangel (who subsequently unseated

Congressman Adam Clayton Powell) his co-sponsor. The bill immediately went to the Civil Service Committee on which Goodman sat, and Goodman's task was to keep the legislation from dying in committee, as it had done every year in the past. The freshman senator prepared himself for the PBA's objections, but he did not expect such strong resistance from his colleagues. He seems to have been totally unprepared for the January 9, 1969 announcement by the Secretary of the Senate that the bill required a home rule message from the New York City Council. The political influence of the PBA was making itself felt.

Senator Goodman and the mayor's staff attempted to outweigh the PBA influence with the legislators by building public support for the measure. Lindsay and Kriegal personally approached newspaper editors and businessmen for their support; Goodman tried to get the backing of senate leaders; and Leary, Courtenay and Behan came to Albany to testify. But the department lobbyists had very little initial success. Chief of Operations Courtenay recalls that the legislators were not antagonistic, only indifferent:³⁴

Nobody wanted to talk to us. We were shot down all the way. We'd be talking to these guys, you wouldn't know they were listening. Then the PBA would show up, and they'd greet them like a long-lost brother.

The fierce power struggle emerging over the fourth platoon contrasted sharply with developing union-management cooperation on economic matters. In the midst of the controversy, Cassese and Herbert Haber, the chief negotiator of the Office of Labor Relations (OLR), completed their bargaining for the 1968-70 period. The labor agreement, signed in February 1969, followed months of delay, job actions, and complications catalyzed by the efforts of the Sergeants Benevolent Association (SBA)

to achieve pay parity with the police lieutenants. The agreement pleased Cassese's membership and temporarily undermined militance by ensuring their position relative to the sergeants and by providing substantial raises. The base pay went up to \$10,425 in 1968-9, an increase of \$1042 or 11.1 percent, and to \$10,950 in 1969-70, an additional 4.8 percent. Particularly significant for the deployment struggle was the provision of a 5 percent night differential in salary.³⁵ Cassese, for his part, privately pledged not to demand corresponding wage adjustments if the sergeants won salary increases.³⁶

The signing of the labor agreement rewarded Cassese barely a moment's rest. As the city's campaign for the fourth platoon mounted, so did the internal organizational pressures on the PBA president. In early 1969, the Traffic Squad Benevolent Association demanded an investigation of the Health and Welfare Fund; there were suspicions that Cassese and Frank were misusing association monies. Subsequent investigations disclosed that Frank had paid himself and other PBA officers as trustees of the fund and, in addition, had hired himself as its broker and investment counselor.³⁷ In early March the public relations director resigned, originally to run for mayor and later to serve as Mario Procaccino's campaign treasurer. There were rumors that Cassese, too, would leave office. But Cassese stayed on to fight the fourth platoon.

The issues had not changed, but the balance of power was beginning to. The mayor, using all his resources, was making headway. The bill remained bottled up in the Senate Civil Service Committee, but his people were doing their best to get it out. On March 15, Lindsay and Leary held a joint press conference to push for the fourth platoon. The commissioner sent every state legislator, city council member and

newspaper a fourteen-page booklet (written by Kriegal and Behan) demonstrating the inadequacies of the current patrol allocation policy and pointing out how the fourth platoon would cost "virtually nothing" while effectively decreasing crime.³⁸ On March 16 the Times (p. 1) reported that for the first time legislators considered the bill "alive."

Cassese had to fight as hard as he ever had before. The coalition against the PBA was growing, and he himself was under suspicion and attack by his members. On March 20 and again on March 22 he published in all the city papers a full-page ad: "The truth about the 'fourth platoon'." It began:

With a mayoral election just around the corner, the citizens of New York are once again being sold a bill of goods by City Hall... There is no "Fourth Platoon" bill before the State Legislature. The bill that is under consideration would give Lindsay the uncontrolled right to play field marshal with New York's law enforcement officers. Vesting such arbitrary power when no emergency exists is unthinkable.

Despite the mayor's and commissioner's denials,⁴⁰ the association believed that the proposed legislation gave the police commissioner "the arbitrary power to assign men indiscriminately to any working schedule he pleases." Systematically, the PBA ad explained why the incentives of regular, un-rotating hours and of increased compensation from the night shift differential made the volunteer system "the real solution."

In the public eye, the fourth platoon became the symbol of the mayor's efforts to combat crime. The PBA was on the wrong side of the anti-crime controversy. The police were not being "handcuffed"; rather, they were handcuffing law enforcement. The association took on the appearance of a self-interested and reactionary opposition to progressive innovation in department practise. Moreover, the combination of the

PBA's recent large wage gains and its activity against the Murphy Bill engendered citizen fears of an uncontrolled police union. All the city newspapers, including traditional patrolmen allies such as the Daily News, gave editorial support to the legislation. On March 21, a group of "concerned businessmen," solicited by Kriegal, ran a full-page ad urging people to send printed pledge cards of support to Goodman and Rangel. The mayor succeeded in building the "broadly based coalition for change" David Rogers (p. 39) argues is necessary to effect innovation in New York City bureaucracies against the determined opposition of organized employees.

The state and city legislators were hardly immune to such a campaign. They could not afford to veto "anti-crime" measures, particularly in an election year. On March 25, the council voted 33 to 3 in favor of requesting the state legislature to approve the Murphy-Goodman Bill, and the next day the state senate voted its approval, 53-2. Finally, on March 29, 1969, the assembly passed the bill 96-36, and the governor signed it into law.

Cassese did not give up: "We had to fight the fourth platoon right to the end. It was the only way we could preserve the morale of the men."⁴⁰ And the only way he could preserve his administration and what he considered the rights of the officers. Cassese had learned that the Manhattan District Attorney's Office was investigating the Health and Welfare Fund and might issue criminal indictments. He was increasingly eager to retire. However, he did not plan to resign until he obtained a resolution favorable to his men and had undermined the internal PBA opposition to himself and his vice-presidents.

The PBA decided to go to court. The association lawyers claimed that the new duty chart's requirement of an average of 40 1/2 hours per week violated the labor agreement with the city, despite the department's pledge of compensatory time off.⁴¹ By April 8, they obtained a temporary restraining order, prohibiting Leary from implementing the fourth platoon for twenty days. While arguing the case and awaiting the decision of the court, the PBA leaders sent a questionnaire to the members, asking for preferences about how to proceed should the suit fail. Rumors of job actions began to spread.

Department officials feared a barrage of sick calls, and Lindsay's staff worried about the possibility of a full-scale disruption of police service if forced to evoke the mandatory Taylor Law. But the PBA officials also were nervous; they were not eager to cope with a strike. Leary recalls that Cassese and his second vice-president, Louis Coronado, came to him on April 27 "looking for a way to save themselves. They asked if we wouldn't use volunteers."⁴² The commissioner immediately arranged a night meeting with the mayor at Gracie Mansion. Lindsay kept up a tough stance with Cassese during the evening. The meeting concluded with an unclarified and uncertain agreement on the use of volunteers. The next day, April 28, Leary privately told Cassese to get the men. Publicly, the commissioner announced a three-day implementation delay to give the PBA time to find volunteers.⁴³ He stated that he and the mayor felt voluntary manning was the best solution until the determination of the court case. But, Leary added, the fourth platoon would be implemented May 1 with or without volunteers.

Cassese held out to the men the lure of an additional \$525.25 per year from the 5 percent night differential. Within a few days he had

enough volunteers for three squads. The commissioner secured the additional manpower from among recent Police Academy graduates. On May 1, 1969, as scheduled, the 1000-man fourth platoon was initiated in the Bronx. That same day Justice Edward T. McCaffrey of the Supreme Court of New York upheld the legality of the "Fourth Platoon Law."⁴⁴ With successful appeal unlikely and with the long-sought volunteer "solution" in hand, the PBA retired from the battle--and Cassese from the PBA.

It appeared that Leary had responded to the threats of the PBA.⁴⁵ In fact, the compromise proved beneficial to all the parties involved. The commissioner wanted smooth implementation without constant PBA sabotage. Lindsay wanted the fourth platoon deployed quickly; its existence was evidence of his war on crime. He understood that court appeals could hold up deployment for months. Moreover, he feared a job action in the midst of his primary campaign, and both he and the commissioner feared a take-over of the PBA by less "responsible" leadership than Cassese and his vice-presidents represented.

The fourth platoon was implemented with a compromise. What decided the compromise was the unaccountability of the PBA. Lindsay couldn't afford trouble; Leary didn't want any; and neither, it seems, did Cassese. His ability to bring home the bacon depended on his ability to keep the men more or less under control. He had won benefits for his members by offering their compliance; it was necessary for them then to comply. Wide-spread dissidence and militance raised the spectre of wildcat actions which he could not call off and on to suit the requirements of the negotiating situation. The orderly functioning of the police department also depended on the association president's ability to manage his

members. PBA officials had become part of management in the sense that their task was to keep the patrol force in line. But they performed this role in exchange for work and monetary concessions that made the men relatively content and maintained the leaders in power. The Cassese administration, the police command, and the mayor's staff came to recognize the mutual advantages in occasional coalition. A few months earlier they compromised on the parity clause in the labor agreement. Now they compromised on the fourth platoon. The mayor and the commissioner achieved labor peace, wage stabilization (they thought),⁴⁶ and innovation. The Cassese people protected their control of the organization.

3.4 Implementing the Fourth Platoon

Fear of the PBA's reactions combined with administrative conservatism to lead Leary and his immediate subordinates to a decision on a small scale and in delayed intervals.⁴⁷ Inspectors Courtenay and Behan claimed that slow deployment of the fourth platoon would prove its practicability to the patrolmen and give the department an opportunity to evaluate resources and needs. Wishing neither to arouse the PBA nor upset department routine, they rocked no boats to make the program work.

The Operations Division and Patrol Bureau jointly took charge. They chose target areas by a vague conception of "need" and by the mayoral staff's perception of political impact. They determined the required manpower by simply counting up the traditional and vacant posts. They assigned the volunteers to a 6 pm and to 2 am tour whatever the high crime hours in a particular locale. The objective was to provide radio cars and the men to fill them for all sectors in a fourth platoon

precinct. No effort was made to change the sectors or to allocate personnel according to "hazard rating" or some comparable formula. Nor was there any follow-up evaluation of the effect on crime of putting men where they did.

Systematic patrol allocation was a practical alternative by the summer of 1969. However, to Leary both the proposals and their proponents were suspect. In particular, the commissioner objected to the intervention of the New York City Rand Institute, hired by Lindsay in 1967 and credited by him with the ideas that led to the fourth platoon.⁴⁸ But Leary felt the Rand formulas had no relation to the day-to-day realities of policing. One ranking police officer recalls they "were making Leary dizzy and giving him a bad feeling in his stomach before lunch."⁴⁹ The commissioner wouldn't even consider Richard Larson's readily usable computer algorithm to determine efficient and effective patrol deployment. Larson believes the department people agreed "in principle with ideas involved but couldn't get to the level of conceptualization;" that they did not understand that the policy constraints he listed were merely illustrations and the final policy decision was theirs.⁵⁰ Indeed, the consultants and their department counterparts wasted a great deal of time and trust learning how to talk to each other--without much success. In the midst of the 1969 primary campaign, when the mayor's aids weren't paying attention, Leary terminated the Rand contract and, thus, put an end to systematic deployment.

The decisions of headquarters actually had little to do with what was happening on the street. The borough commander of the Bronx, Assistant Chief Inspector Sydney Cooper, says that he and his men never heard from the people at the top.⁵¹ Lindsay came to visit a dozen times or so

for campaign publicity, but neither the mayor's staff nor the commissioner's really provided any assistance in implementing the fourth platoon. In fact, the local commanders had carte blanche to use the men and cars as they deemed advisable. This deference to local commanders averted internal department controversy, but resulted in different operations throughout the city. Few of the supervisors experimented with the possibilities in the new shift or tried hard to make it work as an effective crime deterrent. They tended simply to assign the men to traditional posts in traditional ways, having them fill positions as they became vacant. 50-70 percent of the volunteers went on foot patrol,⁵² partially because of lack of cars and partially because Leary argued--without any particular evidence--that the public wanted more cops on the streets.

The commanders got little supervision from the top and, initially, little complaint from the bottom. Malechy Higgins, the PBA trustee in the Bronx in 1969 and later a high-ranking union officer, maintains that actual implementation of the fourth platoon was the department's concern, not the association's.⁵³ Nonetheless, Cooper claims he "couldn't have gotten it to work without the union" and applauds its leaders for "labor statesmanship." He says the association knocked itself out encouraging men to sign up, and then Higgins worked closely with him to identify and resolve rank-and-file problems before they escalated. But in most cases the PBA did not ask for or expect consideration in the administration of deployment, and police management did not request the association's aid.

In the summer and fall of 1969 Lindsay released statistics to prove the fourth platoon was responsible for "a dramatic reduction in night

time crime."⁵⁴ He believed the platoon gave him credibility on the law and order issue, and it figured prominently in his campaign literature. He wanted full implementation. Then, in mid-August 1969, Leary announced that the department needed 2000 additional men to expand the platoon from eight to all seventeen divisions. Lindsay feared the consequence of containing the much-touted deployment effort during the election year. But precisely because of the campaign, no Lindsay aid had time to reevaluate the department's decision or to remonstrate with the police hierarchy. Unable to move the commissioner, without the budget to hire 2000 new recruits, Lindsay agreed to make up the complement with overtime. On September 23, an additional \$200,000 per week.⁵⁵ The innovation had not, after all, been "virtually costless." However, once Lindsay's election was secured, the Bureau of Budget acted to terminate the overtime shifts. By early 1970 the platoon was again in only eight divisions--and there it remained.

The fourth platoon then began to deteriorate severely. Leary again pleaded a manpower shortage, and justly. The officers, increasingly dissatisfied with their volunteer status and their hours, transferred back to regular tours. The fourth platoon required steady, late-night shifts, and many of the men wanted to return to rotation. Other desired better supervision and career advancement opportunities. Few replacements were available as the job freeze shut off recruitment and temporarily closed the Academy. Moreover, crime was up again even in areas patrolled by the 6 pm shift, and real effectiveness of the platoon was in question. As the mayor's staff no longer exerted pressure about the deployment innovation, Leary, Behan and Courtenay, relatively conservative administrators, just let the fourth platoon fade away.

The PBA leaders had no cause to complain throughout this period, nor any reason to act. The police hierarchy acted for them. The command staff, central and local, avoided doing anything that would antagonize the rank-and-file organization. Hervey Juris and Peter Feuille (pp. 96-97) maintain that management's concern about "anticipated reactions" is one of "the manipulatable dimensions of union power." Indeed, the fear of PBA disruptions and resistance was often determinative in Leary's policy decisions. Lindsay may have won the political battle. Nonetheless, the Patrolmen's Benevolent Association developed new skills in the process. It learned how to obtain compromise from the mayor and consideration from the police brass. At the same time, it successfully blocked a radical transformation in patrol allocation and, therefore, in its members' conditions of work.

3.5 Murphy and Kiernan

In the next several years the PBA leaders learned to work closely with the department hierarchy and to negotiate more effectively with the city. Issues of management prerogative remained formally outside the scope of collective bargaining. But, as association counsel Stuart Linnick observed, "What's bargainable is determined by strength, essentially." Certainly new questions became available for discussion, and the PBA exerted greater direct influence on department policy. At the same time, the city and department learned to demand more for their money. They expected acquiescence to policy innovations in exchange for contract benefits. Illustrative of this development in the union-management relationship was the struggle over changes in patrol allocation during the tenure of Commissioner Patrick Murphy.

In the fall of 1970, Murphy returned to New York to serve as commissioner of the NYPD, where he had started his police career. He had a national reputation from heading the Law Enforcement Assistance Administration (LEAA) and serving as commissioner in Syracuse, Detroit, and Washington, D.C. Pat Murphy is foremost a reformer, and the keynotes of his administration were decreased corruption and greater productivity. He used shake-ups, increased accountability, and a more efficient utilization of manpower to achieve his goals. In his first ten months he dismissed more than two times as many men as in any comparable period. He initiated a city-wide reorganization, reassigned 213 sergeants, took lieutenants of precinct desks, and raised the proportion of supervisors. To help the rank-and-file understand the changes and to deal with their complaints, Murphy developed a system of borough personnel officers.⁵⁶

High on the commissioner's reform agenda was flexible manpower deployment. He never liked the fourth platoon; in fact, he feels it was a "mistake for the department to have ever gone this route, but so be it." He believed there were alternatives more agreeable to the men and better suited to efficient patrol allocation. In particular, he wanted to experiment with the steady tours as in Syracuse and Los Angeles; to reduce the midnight shift to 15 percent of the patrol force and reassign the men made available to higher crime hours; and to have the officers spend an additional half-hour in the station house (before the eight hours in the street) for pre-tour briefings, training and paperwork.⁵⁷

Murphy was perfectly content to meet PBA demands for higher pay. Indeed, he felt police officers should receive salaries comparable to those of FBI employees. But he insisted the wage increases should be linked to better work performance.⁵⁸ Generally, he believes that police

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employee organizations contribute neither to professionalization nor higher police standards; and he contends that they are strongest where corruption is strongest.⁵⁹ Nonetheless, Murphy recalls that the PBA leaders were reasonable about his suggestions although they "went through the whole labor relations act: 'Hey! The men won't buy it. You know you're going to have to give something up.'" But the commissioner believes they were "playing games" to get concessions. His major concern was that the PBA would by-pass the department altogether and be "down playing footsie with the city, and then it would be a fai de complis." To protect the department's interests, he had his civilian personnel director, a department lawyer, and other ranking officials with labor relations experience attend the bargaining sessions as representatives of police management. There was still no one in the department working full time on contract and bargaining problems, and Murphy himself stayed away from the negotiations. However, he continued to require productivity and flexible deployment as the price of wage gains.

Mayor Lindsay was as eager as his commissioner to increase productivity but not so eager to meet the PBA's full economic demands. The mayor had to consider both the city's financial crisis and increased citizen resentment of municipal workers gains.⁶⁰ The expansion of public services and the often successful struggles by militant unions for huge wage and benefit packages were rapidly draining the city's pocketbook.⁶¹ President Nixon's economic policies, federal cutbacks, and the wage-price freeze reduced already dwindling municipal resources even further. Lindsay's programmatic response was to raise taxes, impose a job freeze, and emphasize greater productivity to prevent service curtailment personnel shortages might cause. He backed his police commissioner's

efforts to change the department and raise performance, but he no longer had the money to exchange or the inclination to fight for large-scale innovations. By this point in his mayoralty, Lindsay wanted peace far more than change, particularly as he actively began his campaign for the presidency. The mayor, who exercised so much initiative during Leary's tenure, was to take on the role of arbitrator during Murphy's.

Ed Kiernan's administration, like Cassese's, depended on his ability to protect and improve working conditions and salaries. Like Cassese, he obtained membership benefits as a reward for labor peace. But by the fall of 1970, when Murphy took office, the rank and file were going increasingly out of control. There were several small wild-cat actions preceding the major wild-cat strike in January 1971.⁶² Vocal law-and-order factions formed to criticize Kiernan's methods and oppose him at the polls. What made the patrolmen so militant was their anger at the loss of general support and approval at a time when the job became increasingly difficult and dangerous. The Knapp Commission, a rash of assassinations and bombings directed at the police, and the struggle over pay parity, were all explosive issues to which the PBA president had to direct himself and about which he could do little. Although the base pay was \$10,950 in 1970, the men resented other city employees getting the same or nearly the same and felt they deserved far more.⁶³

Among the few weapons Ed Kiernan had in this period of social unrest and financial crisis was public identification with prominent conservatives, a hard public stance in the contract negotiations with the city, and public opposition to the commissioner. His initial response to the appointment of Pat Murphy was optimistic: "I don't know him well

yet, but I am sure we will get along and continue the rapport that exists between us and the upper echelons in our job."⁶⁴ But by the fall of 1972, two years after the appointment and several months after he himself had left office, Kiernan had little public fondness left for the commissioner:

He's an egghead type more than anything else. Most of his learning has come out of books really. As to actual performance on the street, he's not what we call in the department a street cop. He's experimenting in theories, and sometimes we don't have the latitude to experiment too much. Nobody minds experimentation as long as there's basic stabilization behind it. But when everything's experimental, when you're taking on the whole department--whew! It's too big a gamble to take. I think so far the gamble's hit him in the face. Every place he's been he's precipitated confrontation of this kind because I think his whole theory is to achieve any kind of notoriety on his own. And the only way he can do it is by change. Murphy! You end up where you're running the department by press conference.

Murphy's anti-corruption campaign and reorganization schemes added to the problems and pressures Kiernan already had to bear. Murphy and Kiernan privately get along quite well and often tried to help each other out.⁶⁵ But the demands of different constituencies made open political conflict inevitable.

3.7 The 24-Squad Chart

In November 1970, the same month Murphy took office, the fourteen-person PBA negotiating team presented its bargaining demands. They asked for 77 items, including \$16,000 a year for first grade patrolmen, a 35-hour week, and four tours followed by a 72-hour break.⁶⁶ Although the current contract expired January 1, 1971, the PBA asserted its absolute refusal to come to terms until they received \$4400 in retro-active pay consistent with the sergeants' recent gains. However, even when the association won the parity suit in February 1971, contract

negotiations did not conclude. Instead, the PBA added several new demands. The negotiating team wanted an end to existing parity arrangements with other uniformed city workers; an agency shop "to stop a lot of splinter groups from springing up;" and a written contract as they had "been told by the membership that this is a must."⁶⁷

In March 1971, OLR director Herbert Haber and Commissioner Murphy countered with proposals for the utilization of the one-man patrol cars, cash incentives for college education, and a new duty chart (so for unspecified).⁶⁸ These were traditionally questions of management prerogative, but often in the past the union had blocked proposed innovations by threats of disruption or by appeals to agencies outside the department. The OLR and the police department determined to gain the ability to innovate without having to engage in such a large-scale struggle as over the fourth platoon. The broad-based coalition required there was hard to come by. They preferred confining the battles to the bargaining table--if they could. Moreover, the city negotiators had learned from their own past experience as well as that of private sector collective bargaining the importance of requiring improved work performance in return for economic concessions. Haber made it clear that acceptance of the city's proposals would raise productivity and thus justify salary increases.

The PBA negotiators flatly rejected the subsequent contract recommended by an OCB (Office of Collective Bargaining) panel. Kiernan maintained that "the city has been using the police negotiations to prepare the public for high taxes," rather than face their bargaining responsibilities.⁶⁹ The PBA president then made the determination of the budget a prior step to the resolution of the monetary disputes:⁷⁰

The current mood of fiscal hysteria which exists among both the city administration and the public does not create a climate in which we can negotiate a contract that will give us what we deserve. We will not be pressured into accepting a contract offer from the city as long as we are under the threat of lay-offs. Accordingly, we will continue to negotiate on non-economic items and to make as much progress as possible in reaching acceptable terms. When the budget battle has been won and the threat eliminated, we will be in a position to go in and get the kind of offer that will be acceptable to all our members.

Kiernan was trying to gain leverage by using his power to disrupt bargaining. He hoped to embarrass the mayor politically and force him to concede. In the process, he succeeded in demonstrating to his members concern for the questions that bothered them. In June he won reelection, albeit by a relatively narrow margin and in what he himself described as "a rough campaign."⁷¹

Meanwhile, Lindsay was at war with Albany to gain increased state aid and taxes. He did not lay off policemen as threatened, but in July 1971 he did announce the first cut in a decade of the authorized strength of the department. He reduced the force by 1300 through not replacing losses due to retirement, death or attrition.⁷² Then, on August 15, he unilaterally suspended negotiations. The imposition of the Nixon wage-price freeze raised questions about negotiated retroactive increases. Lindsay did not resume talks with the PBA until the President's Cost of Living Council ruled on this question in September 1971.⁷³ His fiscal autonomy severely limited by both state and federal governments, the mayor tried desperately to retain one of his few areas of leeway, the numbers and payment of city employees. As Kiernan had done, he resorted to the tactic of halting negotiations to force concessions. However, the PBA--among other municipal employee groups--remained unbending.

It was increasingly obvious to the city negotiators that they had to meet some, if not most, of the PBA's economic demands in order to obtain a contract and, hopefully, labor peace. By the end of January 1972, budget questions were fairly well resolved. All that was needed to justify the salary and fringe increases was PBA acquiescence on an important innovation presumed to promote productivity. Management still could not afford the political, financial or bureaucratic costs of the monetary agreement without getting significant concessions in return. Consequently, the new duty chart became the major issue on the bargaining table. The department proposed a 24-squad chart meeting Murphy's desires to reduce the number of officers on duty between midnight and 8 am and to provide an additional half-hour for in-service training and paperwork. In compensation for the extended 8 1/2 hour work day and to meet PBA demands, it provided extra days off, more time between tours, and fewer late hours.

In February 1972, thirteen months after the old contract's expiration, the PBA delegates voted 229 to 105 to reject the proffered labor agreement. Although the men gained significant salary increases and other fringes, they held out for more. But their major objection was to the new 24-squad chart. In particular, they opposed its three consecutive weeks of late tours and two sets of back-to-back 4-12s.⁷⁴ Indicative of the rank-and-file objections were those expressed by the 3100 Club, a group of young patrolmen dissatisfied with the current association leadership and suspicious of challenging factions "who just wanted to replace the people who were in with their own people."⁷⁵ The February issue of their newsletter, The Police Observer, argued that the contract contained basic "injustices" by giving police smaller pay

increases than transit workers and sanitationmen and by requiring work chart changes from police and not other city employees. They also complained of the agency shop provisions.

Negotiations were at a stalemate. To proceed, the PBA desperately needed a source of leverage for additional concessions; and Kiernan needed a scapegoat on whom to divert blame for the stalled contract. The New York Times and Commissioner Murphy provided both on February 29. The Times reported the existence of a secret "Master Plan" with 138 recommendations to improve police efficiency, including duty-chart changes, one-man patrol cars, a police "West Point" for training commanders, and easier ways to fire personnel. The next day, Murphy told the press (NYT, p. 43) "I have been patient, overly patient, with the association about these reforms," and he threatened to assert his management prerogative to implement them. The PBA then broke off talks, accusing Murphy of "sabotage," demanding that Lindsay return from his Florida campaigning, and promising a job action if the mayor did not give satisfaction.

The mayor wanted labor peace, and he came back to act as an arbitrator. This was hardly the Lindsay of past years who stayed so remote from the labor relations process. The costs of disinvolvement, both political and fiscal, were catching up. He defended his commissioner's power over deployment but also expressed sympathy for the PBA president: "Mr. Kiernan has a role to play. He's responsible to his union, and I'm sure he's under pressure."⁷⁶ The mayor then met with Murphy, Haber, Kiernan and other PBA negotiators. Bargaining resumed. Although Murphy and Kiernan continued to exchange diatribes in the press, the negotiators soon reached a tentative agreement. The PBA president reportedly was "not

jubilant about it" but wanted to give the membership a chance to decide.⁷⁷ The delegates chose not even to send the contract to the membership. Instead, they authorized a "job action."

The city in its turn took a hard public line. On April 3, Deputy Mayor Edward Hamilton stated, "We will not increase the money benefits we have offered them, and we will insist on productivity changes, with or without a negotiated contract" (NYT, p. 43). The department then began to implement some of the least controversial innovations it previously permitted to be subjects of bargaining. With Lindsay's approval, Murphy announced that by April 17 he planned to put 1000 more men on patrol between dusk and 2 am, as the "Four Platoon Law" permitted him to do.⁷⁸

The public controversy smoke screened the private collusion. More than a year earlier the commissioner had first authorized district commanders to reassign men from low-crime to high-crime tours. In both instances he was careful to use only volunteers, and to seek and get PBA cooperation in locating them. At the same time, the negotiators worked hard together to find a compromise acceptable to their various constituencies. Consequently, the department and the city agreed to abandon the one-man cars and the objectionable back-to-back night tours; and added some additional fringes. But management insisted upon the new duty chart; and refused even to consider breaking parity with the uniformed workers.

Kiernan tried to sell the resulting contract to his organization. He underplayed the features unattractive to the men; and emphasized the monetary benefits, the additional days off, and the introduction of "96-hour swings for what is believed to be the first time in the United

States."⁷⁹ Nonetheless, the 3100 Club and the majority of members found the contract objectionable. In May 1972, the rank and file again sent it back. The June issue of The Police Observer gave the rationale, "No matter how much the city cries wolf, they always manage to come up with the money--when they have to."

By July it was clear that the city not only would not budge, it could not budge. The PBA negotiating team used a recent Pay Board decision and the city's fiscal plight to rationalize sending essentially the same contract to the membership for a vote. This time it passed. The men--and their commissioner⁸⁰--remained distinctly unhappy about the parity arrangements, but, according to the PBA public relations director Howard Morse, the members "became convinced that the present contract was the best they could get."⁸¹

The Kiernan administration touted the contract as a major victory. The base pay went from \$12,150 to \$14,300,⁸² and the city's labor cost rose to over \$20,000 a man.⁸³ The contract included the "Patrolmen's Bill of Rights" and a revised grievance and arbitration procedure. It also gave the PBA exclusive rights to the dues check-off, effectively creating a union shop. Equally important to the PBA leadership, the city agreed to ban one-man patrol cars, bar the use of polygraphs in investigating police officers, and write in specific language on the new duty chart. The department and the city not only met most of the union's economic demands, they also permitted "management prerogatives" to become subjects of bargaining. But in exchange for money concessions and concessions on issues the Kiernan administration needed for its maintenance, the city bargained for and won major innovations in work rules.

Management held firm on wages; a productivity clause appeared in the contract; and the 24-squad chart went into effect.

An unspoken collusion had taken place. The negotiators--PBA, department, and city--began to look more like each other and less like the groups they represented. They had long agreed on some of the basic elements of the contract. Increasingly, they were concerned about helping one another sell it to constituents. This required tolerance of public conflict and threatened recriminations necessary to uphold leadership credibility. Most of the key negotiators admit the game playing. They also find that collective bargaining enabled them to achieve their mutual ends more satisfactorily than the wide-open confrontations of the past.

3.8 Implementing the Chart

The commissioner got one of his major innovations, a new method for allocating the patrol force. However, he found there were still several major constraints to efficient deployment. The initial obstacle was a shortage of personnel. In late summer of 1972, both the commissioner and Robert McKiernan, who became PBA president when Kiernan resigned to head the International Conference of Police Associations, urged Lindsay to end the job freeze. In mid-November the mayor acquiesced. He, too, had found productivity could no longer keep pace with attrition.

The department continued to operate at less than full strength even with the new recruits. The Tactical Patrol Force and Special Events Squad were used to supplement the new work chart, and the contract provided the overtime necessary to encourage volunteers to "beef up" weak tours. With the 24-squad chart in effect, 29.2 percent of the men work

the 4-12 (considered high crime hours); 12.5 percent the 12 to 8; and 33 percent are excused each day. The chart also permits variations in the number and hours of men to fit the workloads of different precincts.⁸⁴ Furthermore, volunteers are available as needed at least partially because, according to Murphy, the PBA helps find and encourage officers to volunteer.

The negotiated chart gave Murphy more flexibility in some areas and limited his options in others. He was unable to experiment with steady tours. His decentralization of command--for the purpose of tightening supervision--made it more difficult to retrieve information quickly. Finally, there were no measures for determining the "productivity" of the patrol assignments. To deal with such problems, Murphy encouraged the development of quantitative analysis and evaluation techniques. He hired civilian experts to work in the department, and reengaged New York City Rand to provide systematic deployment programs.

Murphy's successors, Commissioners Cawley and Codd, carried on his search for efficient resource allocation. Several civilians currently do sophisticated quantitative work for the Office of Programs and Policies (OPP), and they foresee training and utilizing police officers to do this in the near future. OPP has explored several computerized models developed by Rand or by the Innovative Resource Planning Project at M.I.T.⁸⁵ But so far they have worked primarily with a version of Richard Larson's computer algorithm for patrol allocation, originally made available in 1969 by Rand. David Sternberg, a civilian quantitative analyst for OPP, revised the allocation model in 1973 to complement the current form of the 24-squad chart. The central staff then appropriately reassigned personnel. They are pleased with the results but

remain unready to use the model in a full-scale way.⁸⁶

PBA acquiescence to the chart made possible this increased, if limited deployment flexibility. Moreover, as far as the OPP people know, the association is unaware of and unconcerned about allocation experiments within the limitations of the negotiated agreement. Nonetheless, the PBA continues to affect resource allocation in significant ways. In particular, two labor rules, achieved through collective bargaining, combine to limit experimentation and to enlarge the power of the union over policy. First, the portal-to-portal pay arrangements of the two recent contracts make it expensive for the department to reassign men frequently. OPP had hoped to have quarterly reviews of allocation but found the personnel complaints and fiscal costs make annual reviews more feasible. Second, "Appendix A" of the 1974 labor agreement provides a labor management committee to approve changes in working conditions covered by the contract.⁸⁷ This restricts the department to the constraints of the 24-squad chart.

The new duty chart, the Larson algorithm, and similar innovations clearly helped the department achieve a more optimal allocation of the men and resources on patrol, and will raise "productivity" even further when combined with other models the department is considering. However, these innovations still beg the most politically controversial questions: How is crime combatted most effectively? What limits does the PBA impose on future changes in department practise? The first may be answered by on-going research, the second only by political conflict and collective bargaining.

Their working conditions and monetary benefits improved significantly over the decade of the 60s, but police rank and file still feel the pressures of both fiscal recession and general social unrest. One effect of legitimizing labor unions in the public sector is to justify new claims on government. Consequently, police militancy intensifies, and so does dissatisfaction with current leadership.

Fear of costly labor disruptions and union dissidence catalyzes a transformation of the collective bargaining process. Eventually, the department, the city, and the association leaders recognize the mutual advantage of negotiating over policy questions. At issue is the maintenance of "responsible" union leadership and the orderly provision of police services. The management groups learn how to trade various concessions for relative labor peace and for union support of innovations in department practise. The union officials learn how to use proposed work rules to win additional benefits for their members. Indeed, police labor and management negotiators develop a system of collusive bargaining in which they reach consensus relatively easily; and their harder task is to sell its terms to their constituents.

A system of collusive bargaining in some part depends on camaraderie and trust among the negotiators. A change in the union's administration, as recently occurred in New York, will momentarily set back such bargaining. But any union leadership must eventually find its advantage lies in opposing certain innovations absolutely and in demanding economic and organizational benefits in return for others. Ultimately, both material gains and innovations, such as flexible patrol allocation, require administratively strong command staff, "responsible" labor spokesmen, and a process of collusive bargaining.

Footnotes

1. Interview, 11/30/72. I will give the interview citation only in my first reference. Further quotes and references to the interviewees are from the interviews unless otherwise cited.
2. John Cassese, interview, 3/27/73; and Ed Kiernan, interview, 10/10/73, particularly give credence to this finding. Also, see chpt. II.
3. In March, Murphy reported the department was 1000 men short in strength; he started a major recruiting drive but was not hopeful about finding enough qualified applicants. NYT, 3/31/61, p. 1.
4. NYT, 7/12/61, p. 33.
5. See the previous chpt. for a discussion of this attitude. Murphy confirms Wagner's hands-off stance towards the police department.
6. NYT, 7/25/61, p. 29.
7. See "Matter of Shilt," New York Law Journal (August 18, 1961). Robert McKiernan, the co-defendant in Shilt vs. Murphy, became PBA president in 1972. Also, see Laws of New York 1911, chpt. 360.
8. NYT, 8/24/61, p. 1.
9. See chpt. II for details of this period.
10. The proposed law provided: "In the city of New York, the police commissioner shall promulgate duty charts for the members of the police force which distribute the available police force according to the relative need for its services. This need shall be measured by the incidence of police hazard and criminal activity or other similar factor or factors. No member of the force shall be assigned to perform a tour of duty in excess of eight consecutive hours excepting only in the event of strikes, riots, conflagrations or occasions when large crowds shall assemble, or other emergency, or on a day on which an election authorized by law shall be held, or for the purpose of changing tours of duty so many members may be continued on duty for such hours as may be necessary. No member shall be assigned to an average of more than forty hours of duty during any seven consecutive day period except in an emergency or as permitted in this subdivision or for the purpose of changing tours of duty or as otherwise provided by law." This bill was incorporated as is in Laws of New York 1969, chpt. 177.
11. Governing New York City (New York: Russel Sage, 1960), p. 429. Also, see the unpub. diss. (Columbia, 1970) by James P. Gifford, "The Political Relations of the Patrolmen's Benevolent Association in the City of New York," 313-340; and the unpub. diss. (Harvard, 1970) by Martin Shefter, "City Hall and the State House."
12. Lindsay speaking to Nat Henthoff, reported in A Political Life (New York: Knopf, 1969), p. 213.

13. This descriptive term is borrowed from A. H. Raskin, "Politics Up-Ends The Bargaining Table," Public Workers and Public Unions, ed. Sam Zagoria (Englewood Cliffs: Prentice-Hall, 1972), 122-146.
14. David Rogers writes: "Lindsay's apparent aversion to bargaining, which he seems to define as diluting moral principles and capitulating to predatory, self-interested power blocs, got him into continued trouble. Since he had no power base from which to assume such a posture, he became vulnerable to attack." The Management of Big Cities (Beverly Hills: Sage, 1971), p. 41.
15. Matthew J. McPartland, Commanding Officer, Office of Programs and Policies, NYPD, interview, 6/21/74.
16. See, for example, Paul Chevigny, Police Power (New York: Vintage, 1969); Hervey Juris and Peter Feuille, Police Unionism (Lexington, Mass.: Lexington Books, 1973); Robert Fogelson, Violence as Protest (New York: Doubleday, 1971); Report of the National Advisory Committee on Civil Disorders (Washington, D.C.: US, 1968); and Jerome Skolnick, The Politics of Protest (New York: Ballentine, 1969).
17. Cited in NYT, 12/19/68, p. 55.
18. The NORC data shows the prestige rank of police rose from 47 to 55 between 1947 and 1963. Robert W. Hodge, et al., "Occupational Prestige in the United States, 1925-63," American Journal of Sociology (November, 1964), p. 291.
19. "Police Training and Performance Study." Cited in the unpub. paper (Kennedy School, 1973) by Mark Moore, et al., "The Case of the Fourth Platoon," o. 34.
20. Interviews (anonymity promised).
21. Cited in the unpub. paper (Kennedy School, 1970) by Timothy Bates, "Police Deployment: A Case Study of New York City's Fourth Platoon," p. 55.
22. The New York Guardians, a local affiliation of a national black police association, is the strongest of several non-white organizations in the NYPD. The Guardians were particularly active during the review board campaign, but they continue to complain of white police behavior and to demand better representation of black officers in the PBA and the department.
23. See Bates, p. 52; and Gifford, p. 63.
24. The discussion of "political interference" is based largely on an unpub. two-part case (Kennedy School, 1971-2) by William Ahern and staff, "New York Police Guidelines." Also, see Henthoff, 221-2.

25. For history and discussion of the review board controversy, see William Bopp, "The New York City Referendum on Civilian Review," The Police Rebellion, ed. William Bopp (Springfield, Ill.: Charles C Thomas, 1971); and David W. Avvot, et al., Police, Politics and Race (Cambridge: Harvard, 1969). Joseph P. Viteritti, Police, Politics and Pluralism in New York City, Sage Mon. in Admin. and Policy Stud., (Beverly Hills: 1973), argues that, despite the loss over the referendum, Lindsay achieved cililian review administratively through bureaucratic implementation.

26. These figures are from Moore, p. 4.

27. NYT, 7/31/68, p. 24.

28. Quoted in Bates, p. 42.

29. In response to my question, Goodman wrote the above to Pamela Roderick, his administrative assistant, on 1/25/74. This is consistent with the finding of Bates, p. 66; and with Goodman's statement during his appearance on WCBS-TV: "I have not discussed this proposal at any time with Mayor Lindsay." "Public Hearing" (transcript) (12/29/68), p. 9.

30. In addition to the TPF, approximately 1000 volunteers worked in Borough Patrol Forces on a steady 6 pm to 2 am shift, and another 155 had permanent shifts in local precincts. The PBA never protested these arrangements.

31. Bates, p. 68, tells about Kriegal's role.

32. Bates, 69-70, describes this meeting.

33. Quoted in Bates, p. 70.

34. Quoted in Bates, p. 72.

35. City of New York Office of the Mayor, "Personnel Order 33/69" (3/28/69). Also, see Raymond Horton, Municipal Labor Relations in New York City (New York: Pareger, 1973).

36. The compromise involved the written statement by the city of its "intent" to maintain the old 3.5 to 3.0 pay differential between patrolmen and sergeants; patrolmen's wages were to be adjusted appropriately if the sergeants won more money in their negotiations. According to Haber, Cassese agreed never to use this clause. See unpub. paper (Harvard, 1972) by Carol Kellerman, "Political Dimensions in Municipal Labor Relations: A Case Study of the New York City Paity Dispute," p. 36.

37. Cassese reacts strongly to suggestions that Frank robbed the organization and was "forced out." He cites the money Frank made for the PBA with his investments.

38. NYT, 3/1/69, p. 1.

39. Goodman attempted to alleviate PBA fears by getting Leary to promise arbitrary assignments "just won't happen." However, neither he nor the commissioner felt confident that the promise was legally binding. NYT, 3/22/69.

40. Quoted in Bates, p. 84.

41. NYT, 4/7/69, p. 1.

42. Bates, 88-90, is the source of my account of this and the evening meeting. However, he says they took place on April 29 and calls this the night of the court decision. I assume he was relying on memories for these dates, and that the memories were faulty on this count.

43. NYT, 4/28/69, p. 1.

44. McCaffrey found that, contrary to PBA argument, the labor agreement did not in any way contain the 1911 act. It was a complete and binding contract as was. He also refuted the claim that police personnel were being deprived of "equal protection" by the new deployment mechanisms. PBA vs. City of New York, 2999 NYS 2d (1969).

45. This was the conclusion of an NYT editorial which then went on to congratulate Leary for making the PBA "put up or shut up" (4/30/69), p. 46.

46. Cassese's promise not to demand wage increases if the sergeants obtained some was supposed to stop the wage spiral. However, his promise was verbal; and Kiernan later chose not to respect it. (In fact, argues it never happened.) The McCaffrey decision of the fourth platoon worked to the advantage of the PBA on the parity case. The fact that the labor agreement was "a complete and binding contract" meant the association had the right to money gains comparable to the sergeants'.

47. Most of the following discussion of deployment is based on Bates, 92-102; Moore, 51-63; and interviews.

48. NYT, 4/22/69, p. 47.

49. Captain John Watters, Division of Resource Allocation, NYPD, interview, 1/25/74.

50. Interview, 3/27/74. Also, see his book Urban Police Patrol Analysis (Cambridge, MA: M.I.T., 1972), chpt. 5, for the algorithm and its explication. Larson's work at Rand was his dissertation, and he remembers it being considered tangential at first.

51. I have been engaged in a series of conversations with Cooper, now of the New York City Rand Institute, since the fall of 1972.

52. See Moore, 53-54, for an explication of this figure.

53. In a telephone conversation, 7/3/74, Higgins told me this and also confirmed what Cooper told me of their working relationship.

54. NYT, 9/10/69, p. 2. Also, Lindsay published several campaign documents claiming that "the fourth platoon is the most significant reform of the Lindsay administration" and are all full of statistics proving the effectiveness of this "war on crime." Two of these leaflets are reprinted as appendices IV and V in Viteritti. Cooper complains the local commanders had no idea what, if anything, actually helped detercrime.

55. Budget Director Hayes found the approximately \$3,000,000 needed to finance it for four months in the money saved from the unexpected drop in the relief rolls. See NYT, 9/12/69, p. 1; 9/15/69, p. 11; 9/20/69, p. 15.

56. James Gifford describes the evolution of such labor practises in "Professionalizing Police Labor Relations: The New York City Police Department's Response to Unionization," The Journal of Police Science and Administration, 11 (1974), 94-106. The IACP reprinted it in the February and March issues of the Public Safety Labor Reporter. Gifford writes of less explicit motives for Murphy's personnel policies: "First, the police commissioner was seeking better 'intelligence' about what was going on in the department in order to avoid unnecessary crises and confrontations. Second, he wanted the department to get some of the credit for rectifying grievances rather than having it all go to the PBA. Related to this second point was the third goal of the commissioner's-- the establishment of the legitimacy of the department's regular processes." Labor Reporter (February, 1974), p. 11.

57. Murphy described this program to me in an interview, 5/23/74. Captain John Watters; and Paul Cannick, Murphy's Deputy Commissioner of Administration, interviewed 9/13/72, confirm his memory.

58. NYT, 11/9/70, p. 1. Front and Center (November, 1970), also cites this statement and provides the following quote: "I don't think \$16,000 is unrealistic when you look at FBI agents who get \$20,000. I don't for one moment believe that the work of a special agent of the FBI is more important than that of a uniformed policeman."

59. This was Murphy's conclusion in his masters thesis, "Police Employee Organizations" (Bernard Baruch, CUNY: 1960). Murphy told me that since the thesis was written, "A lot has changed, but my thinking hasn't changed."

60. A. H. Raskin, writing for the Times, was one of the most outspoken critics of the union's demands and Lindsay's tendency to meet them. Also, see Horton, chpts. 6 and 7.

61. For an interesting explication of these facets of the city's fiscal crises, see Frances Fox Piven, "The Urban Crisis: Who Got What and Why," 1984 Revisited, ed. Robert Paul Wolff (New York: Knopf, 1973), 165-201.

62. The cause of the six day work stoppage was the pay parity dispute. Kiernan broke off negotiations with the city when it failed to award increased salaries based on the sergeants' gains and when the Court of Appeals remanded decision to a jury trial. Without a contract, frustrated and angered by delays, nearly 85 percent of the patrolmen went out. Kiernan advised against the action and warned of possible Taylor Law penalties--to no avail. Instead, all participants were fined \$600, and he lost credibility with the men for not taking them out on strike in the first place and then not stopping the fines. For a more complete account of the parity controversy, see Kellerman, op. cit.

63. Kiernan started a campaign to break parity with the fire-fighters, correction officers and sanitation workers. He told me, "It makes a heck of a recruiting problem and an unbeatable morale problem. I think one of the biggest problems that we have today in the department is this whole issue of people getting almost as much as the cop gets. And it gets worse and worse when you have 11 cops killed in one year, and everybody else is still climbing on your back." Other police officers, of all ranks, express the same resentment.

64. Front and Center (September 1970).

65. According to one source (anonymity preferred), the two continue to socialize. Murphy himself says he always had a high regard for Kiernan, who he considers a "gentleman." He says Kiernan used to call to announce, "Hey, Boss! I got to rap you today." Murphy says they had a number of disagreements on discipline, performance ratings, etc., but their relationship was always pretty good.

66. Front and Center (November 1970).

67. Office of Labor Relations, "PBA Demands," xerox (February 1971). Describes the demands, the PBA's argument and existing practise.

68. NYT, 3/17/71, p. 51.

69. Front and Center (May-June 1971). He received 11,173 votes to the combined 7,540 of James Kerrigan, head of the Patrolman's Rank-and-File, and of Frank Hughes from militant precinct 19.

72. NYT, 7/15/71, p. 38.

73. See Front and Center (August-September 1971 and November 1971) for a discussion of this period and this ruling. Among other things, the Cost of Living Council required federal wage board approval of the PBA contract.

74. Front and Center (January-February 1972). The delegates used the disruption of family life argument. However, the PBA was also waging a fight for authorization to moonlight, and some members may have felt the chart would disrupt the second job or continued education.

75. Hugh McGowen, a founder of the 3100 Club, interview, 10/2/72. The major goal of the Club is a more democratic PBA; they plan to amend the by-laws and make the association more "responsive to the membership," as well as elect new officers. They succeeded in their last in June 1974 when their president, Ken McFeeley, and his slate unexpectedly defeated the Cassese-Kiernan successors.

76. NYT, 3/8/72, p. 85.

77. NYT, 3/25/72, p. 63.

78. NYT, 4/8/72, p. 31.

79. Front and Center (March-April 1972).

80. The commissioner accused the PBA of settling for "half a loaf" by not breaking parity. He felt the PBA had not done all it could for the men. NYT, 7/24/72, p. 25.

81. NYT, 7/23/72, p. 1.

82. OLR, "Executed Contract: Patrolmen" (October 6, 1972); and assorted letters and memos between the commissioner and the union on policy questions. One reason the contract took so long to execute was that many of the important negotiated provisions appear not in the contract but in letters and memos. Additional information on the contract came from John Sands, interviewed 10/11/72. Mr. Sands is a counsel for the OLR.

83. Horton, 93-98, calculates this figure.

84. Captain Watters sent me two in-house reports, prepared by the Division of Resource Allocation, showing the percentages and the variations by precinct.

85. Among these are the simulation model, also first developed by Larson and currently under revision by Rand, to test the allocation and dispatching; and the hypercube model developed at M.I.T.

86. The account of the models in -se comes from Sternberg, telephone conversation, 6/27/74; and Matthew McPartland, commanding officer of the OPP, and Deputy Inspector Robert Houlihan of the OPP, interviewed 6/21/74.

87. "Proposed Memorandum of Agreement Between the City of New York and the Patrolmen's Benevolent Association of the City of New York, Inc." (undated).

CHAPTER IV

Nobody plans a "blue flu." Much as I would like to take credit for sitting down and planning one, and laying out all the guidelines, you don't really plan a "blue flu."

Carl Parsell¹

In the spring of 1967 over one-third of Detroit's patrol force participated in the "blue flu," the first major police strike in the U.S. since 1919. The work stoppage occurred in a period of racial unrest, city budgetary problems, and police dissatisfaction with wages, fringes and working conditions. The existence of a collective bargaining system was an additional catalyst to militance, for it led the patrolmen and policewomen to expect gains the city subsequently denied them. The Detroit Police Officers Association (DPOA) organized its members' anger and frustration into a series of job actions intended to force the city to establish satisfactory grievance procedures and to negotiate salary questions. In the process of achieving its ends, the DPOA transformed itself from a pressure group into a viable union, and essentially won the right to participate in the determination of the municipal budget.

4.1 The Pressure Group

The DPOA existed in the police department since 1944, but never before had it pressed its claims with such vehemence. Indeed, the point of chartering the association was to regulate rank-and-file militance. The early 1940s--like the mid-60s in Detroit--was a period of relatively low wages and high work pressures. The entering pay for a patrolman was \$2000 in 1940-2, \$2310 in 1943, and rose to \$3041 in 1944. For this police officers were on call 24 hours a day and on the job at least 48

hours a week.² They were subject to the discipline and supervision of a para-military hierarchy, and they resented the "autocratic methods" of their superiors.³

The police also were under public scrutiny, for graft scandals and for their handling of racial disturbances. A corruption investigation in 1940 forced the resignation of the mayor and much of the police command, led to the appointment of a reform commissioner, and increased police defensiveness.⁴ But the most important source of job pressure came from the heightening of racial tensions in the city. The black population in Detroit rose by 30,000 or 24 percent in the 1930s and was continuing to grow, and most of the newcomers were Southern farm-workers attracted by job opportunities in war industries.⁵ Sheila Murphy, an organizer of current opposition to Detroit police practice, argues that the police department, in conjunction with the auto interests, specifically recruited Southern whites to control the black laborers.⁶ Gunnar Myrdal made no observation on recruitment policy in his study of American race relations, but he did find a relatively larger proportion of Southern-born whites in Detroit and among its police than in other Northern cities.⁷ Inevitably, the patrol force found it difficult to deal with the new black community and came under severe criticism from the liberal and black groups for creating as much racial tension as it resolved.

As the pressures became too great and the war and war boom provided alternative employment, the department found it increasingly difficult to fill its personnel allotment. The Municipal Yearbook reports that in 1940 there were 4,053 police employees; by 1944 only 3710. Those who stayed sought to protect themselves from public pressure and arbitrary

supervisors. Several officers attempted to form a non-affiliated Detroit Police Organization, but the police commissioner and superintendent denied their request in October, 1941. The Fraternal Order of Police (FOP) then began a membership campaign. The AFL supported their organizing effort, and in April, 1943 the Detroit Fire Fighters Association, AFL, issued a statement in the Detroit Labor News condemning the police department "czars" and outlining the dividends of a responsible organization. James Hoffa, then president of the Teamsters, recalls how he too got involved in aiding the fledgling group.⁸ By the spring of 1943, approximately half the patrolmen and detectives had joined the FOP despite a court restraining order obtained by Commissioner John Witherspoon. Department administrators attended lodge meetings to see who came, harassed participants and briefly broke the drive by dismissing two leaders and forcing the resignation of others.

The FOP took the department to court, but in June 1943 a more important matter drew the officers' attention. The infamous interracial riot broke out. The police were under a great deal of pressure and their behavior was far from exemplary. In the aftermath, the NAACP, the Michigan Chronicle (the black newspaper), and other black groups as well as angry whites and bitter police officers criticized Mayor Edward H. Jeffries and focused on his police commissioner. Jeffries responded by replacing Witherspoon with John Ballenger from the city's social welfare agency.

The Michigan Chronicle (1/1/44) applauded the choice. The police officers, living in anticipation of the next racial explosion, were initially skeptical. Instead of becoming the "social workers" Ballenger wanted, they increasingly took on the characteristics of "troops." The

rebuilding of the department with World War II veterans further encouraged a military outlook.⁹

Detroit's police personnel may have wanted the powers of an army, but they objected to the military structure and its authoritarian hierarchy. In fact, they looked to labor organization as mechanism of solidarity against the commanders and as an alternative route to the commissioner. Although the FOP lost its 1943 court action, it continued to fight the rule prohibiting membership. Meanwhile, the State, County and Municipal Workers Association (SCMWA), CIO, started a drive to organize the police. The commissioner initially responded by threatening to fire any officer who joined. Then, in late March 1944, he issued a general order unequivocally forbidding police enlistment in "a labor union or an organization which will in any way exact prior consideration and prevent him from performing full and complete police duty." Ballenger's major concern was "dual allegiance;" he had no objection to an organization "established for the welfare of members of the department."¹⁰ In April, 1944, Ballenger and Corporation Counsel Nathan Goldstick approved the constitution of the independent Detroit Police Officers Association, formed by six patrolmen, policewomen and detectives. Within two months, 2800 of the 3700-person department joined.

The association was a concession to officer demands, but it was set up to operate under the commissioner's direction and within well-defined limits. The increasing routinization of labor unions in Detroit demonstrated the possible utility of regulated employee organizations for management, and Ballenger soon discerned its advantages for him. Recognition undermined the military structure of the department by establishing non-hierarchical access to the commissioner. At the same time, it

earned Ballenger some popularity in the ranks. Further, the DPOA acted as an intermediary of police discontent and to destroy competing factions. The FOP still pushed for acceptance, but by the time it won state enabling legislation in 1952, the DPOA rather than the department blocked its influence. Indeed, the association proved an effective mechanism for controlling and undermining police militance.

Carl Parsell, who joined the department in 1947 and became DPOA president in 1965, recalls what he was told of the DPOA's founding:

The commissioner came back and said, "If you want a police union and if you form it along these lines, then you show me what you're doing all the time, I'll let you form." It started out basically a company union under their guidance, under their control. They give you the rights at their pleasure.

The DPOA principally attracted members by providing attorneys to police officers in need of legal assistance and by offering a good life insurance plan, two "selective incentives"¹¹ police organizations in most other cities did not learn to utilize until many years later. The DPOA also ran various entertainments and charity events and lobbied in Detroit and Lansing for working hour and pension legislation. In 1948 it won a 40-hour, five day work week for police officers. In 1955-56 it engaged in a campaign for better wages. It sent to the mayor and the common council a report written by Weatherhead, Paynter and Associates, demonstrating that police officers earned less than other "skilled and technical workers," with the same minimum requirements of high school graduation and two years training.¹² The city rejected the wage demands, but it authorized the dues check-off, probably in an effort to maintain a working relationship with the association. Although the DPOA paid a small fee to cover the cost of the check-off, the association more than

recovered its investment with returns to the treasury. The DPOA also won the additional organizational benefit of several hours per week of released time for the association president.

4.2 Fiscal Crisis and Cavanagh

The 1955-56 DPOA salary campaign occurred in the midst of a major fiscal crisis for the city government.¹³ In 1957, Mayor Louis Miriani resorted to deficit spending and floated bonds in order to keep the budget balanced. In addition, he wrote all department heads urging them to cut expenditures by 5 percent; the result was approximately 700 employees laid off and \$2.8 million "saved." The state experienced similar financial problems at this time. The rural Republican-dominated state senate's obstruction of Democratic Governor G. Mennen William's graduate income tax proposals forced him to announce "payless paydays" for some Michigan employees in 1959. The same legislature ordered Detroit to lower assessments of the personal property tax, the city's major source of revenue, in order to help the "business climate." The lowered rate combined with the middle class flight to the suburbs to cause a drastic drop in city revenues.

Detroit's operating costs continued to rise despite its fiscal plight. The major expenses were the social insurance and welfare engendered by chronic unemployment. Also costly were employee wages. The Municipal Yearbook reports a nearly \$500 rise in the entering salary of police between 1957 and 1961. Detroit attempted to keep its salary scale comparable to the "Big Three," Ford, Chrysler, and General Motors. Nonetheless, between 1959 and 1960 the differential fell from 20¢ to 28¢ an hour.¹⁴

Miriani's policies did not earn him reelection in 1961.¹⁵ Although the incumbent mayor had the backing of several important businessmen, a number of black leaders, a good government group, the two daily newspapers, the DPOA, and the AFL-CIO's Committee on Political Education (COPE), thirty-three year old Jerome Cavanagh beat him at the polls. Cavanagh attracted businessmen and homeowners unhappy about high property taxes and recession. He had black support due to an indiscriminate and illegal police round-up of 1500 blacks for which Miriani was held accountable. Cavanagh further had the votes of many public employees, including the International Association of Fire Fighters (IAFF) and the Lieutenants and Sergeants Association of the police, who were dissatisfied with the current salary levels.

Cavanagh had a lot to do. Theodore Lowi's description of "reformed" New York¹⁶ equally fits Detroit. The consequence of the Progressive Era was an erosion of both popular and party control of city government. Non-partisan elections and an at-large common council inhibited agreement to policies favoring ethnic and minority groups. The state-wide merit system eliminated patronage and facilitated the autonomy of public employees. The mayor was unable to coordinate the urban agencies to perform their traditional political functions; it was difficult to use them to promote allegiance, manage conflict, or provide the conditions for industry growth. Cavanagh came to office at a moment when both business and the middle classes were fleeing the city, and relatively unskilled blacks were pouring in.¹⁷ Racial discrimination in housing, education and employment and the resulting black militancy made Cavanagh's problems more acute. The mayor had to find a way to fund and implement a series of programs designed both to induce capital back into Detroit

and to appease the discontented--black and white.¹⁸ With promises of such change and improvement, Cavanagh won his election.

Cavanagh's first term was impressive. He appointed blacks to key city positions. He raised the salaries of many municipal employees, including the police. He cut welfare costs but developed a number of participatory neighborhood programs, youth and employment projects, and community services. He reduced property taxes but instituted an income tax for persons living or working in the city. He encouraged urban redevelopment. He significantly raised the federal contribution to the city.

Two things particularly helped the young mayor achieve so much: his effectiveness with the federal government and the temporary abatement of the Michigan fiscal crisis. Cavanagh's style was exactly suited to acquiring the federal financing and assistance necessary for his reforms. France Fox Piven argues that with Kennedy's election as president, the Democrats attempted to ensure urban black votes by developing federal service programs oriented towards the ghetto.¹⁹ Mayors such as Cavanagh aided this strategy, and the fact that funds were available for social expenditures encouraged them further. James Q. Wilson points out that liberal mayors recognized that their greatest asset was the support of businessmen, large foundations, and federal agencies, and they played to this, their "audience." A progressive image, concern with both urban renewal and social problems, helped win national reputation, guidance and money.²⁰

The hiatus in the state's fiscal plight also aided Cavanagh. In 1962, business, government and labor finally compromised on the tax issue. The auto boom alleviated unemployment and reduced necessary social

insurance expenditures. Nonetheless, both business and labor remained concerned about Michigan's continuing economic viability. They recognized the utility of a state-wide alliance to avert future fiscal crisis. Greenstone (1969), p. 132, describes the tax controversy as "the final eruption of a fading struggle." By 1965 the coalition of business and labor enabled Republican Governor George Romney to push several significant pieces of welfare legislation through the Democratic legislature.

Cavanagh, having done something for everyone and having benefitted from the federal and state programs, easily won reelection in 1965.

4.3 PERA

Included in the 1965 state legislative package was Public Act 379, the Michigan Public Employee Relations Act (PERA). Its passage reflected a long and concerted campaign of government workers, led by AFSCME and the IAFF and aided by the state AFL-CIO. The groups urged the amendment of the restrictive Hutchinson Act, in effect since 1947, and provision for public sector bargaining. They won both. The PERA established procedures for recognizing and negotiating with certified bargaining agents of city, county and school district employees; it stipulated grievance procedures and mediation; and, although prohibiting strikes, it liberalized past law by enumerating penalties short of dismissal.

PERA was, in a sense, a form of social expense. It was a concession to the underpaid and dissatisfied public employees who were threatening trouble and on whom the various social programs depended so heavily. In Detroit alone 48 municipal employee groups had informal bargaining relationships with the city government.²¹ Michigan private sector union

and corporate leaders probably permitted the passage of PERA because experience taught them the social control function of a labor relations system. As early as 1946, GM made its first negotiating demand "union responsibility for uninterrupted production."²² Industry-labor cooperation over union contracts led to mutually beneficial concessions on wages, social insurance, and work rules. Greenstone (1969), p. 132, finds that the United Auto Workers (UAW), for example, accepted the fact that high pay and contract success depended on "corporate earnings and the general prosperity of American capitalism," and made demands accordingly. It is likely that business, labor and the state legislators, the coalition that passes laws in Michigan, expected public employees to do the same.

The city of Detroit immediately attempted to meet the requirements of PERA. A December 1965 ordinance provided for a labor relations bureau, a director, and an advisory committee composed of the corporation counsel, the city controller and the secretary-chief examiner of the civil service commission (or their assistants).²³ From its inception the bureau confronted difficulties. Albert Leggat, its first director, describes the situation:²⁴

Living up to the charter, the power of the mayor, the common council, and the department heads, they were only able to come up with a resolution forming our department to deal with unions across the bargaining table on the limitation that I would only be able to negotiate and recommend. (emphasis in the text)

Leggat had constantly to report back to the mayor and the common council and deal with the reluctance of department heads to cede him authority. In addition, the bureaucratic competition and the employee fragmentation made the negotiating task overwhelming.

Leggat came to the Labor Relations Bureau (LRB) with "35 years of

employer-employee experience," most of that working with UAW at Ford.²⁵ In the estimate of Bernard Klein, city controller during Cavanagh's second term:²⁶

That department was headed by a guy who knew the ropes, but basically I think he was trying to ingratiate himself. He was of the old line, looking out to his long-range ties, so you sort of wonder whose side he was on. Not that I'm accusing him of disloyalty. I just think that was his perception of the job, and I think he might have been right. Because when I look at the present administration's labor relations, there's nobody like him now. All these public employee groups just do not feel they can relate to anybody in that department. Basically the staff were all people from other departments. Except for Mr. Leggat, none of them had backgrounds in labor relations. Considering all that, I guess they did a half-way decent job.

Leggat was capable of a strong management stand but was "spread too thin" according to Robert Lothian,²⁷ one of the negotiators for the police department and now director of Wayne State's Police Administration Program.

The mayor did little to help the LRB. In fact, he essentially ignored its proceedings and continued to dominate the city budget-making. Ultimately, Cavanagh decided who got what. After finding how much the city would take in from taxes and revenues such as traffic fines, he would provide for the mandated items and the requirements of his department. Then, according to Klein:

You figure out what the balance is going to be. It is always felt that the charter, the first charter, does mandate a balanced budget, although it's a little bit vague. It's another one of the legal hassles you get into. Then, traditionally until Public Act 379, if there was any money at all, that would usually be the basis of the wage package. Whatever over you could come up with, that would be gratuitously offered to the public employees with whatever distribution you feel is necessary at the time.

In consultation with the controller (a mayoral appointee), the budget director (a civil servant) and other staff advisors, the mayor com-

puted the recommended budget and submitted it to the nine-person common council. Cavanagh says that the "council really hasn't much ability to change one way or another--they can make a minor change, and that in effect is what they do." Klein agrees but adds, "usually you leave a certain amount of leeway for them to play around, within a limited parameter." The council held hearings, put on its own show in effect, and finally passed the budget according to the mayor's basic outline.

Cavanagh gave city workers several raises during his first term, and he felt pretty confident in his dealings with them:

They had become, the city employees, so used for so long a time to being treated in so cavalier a fashion by every city administrator by every city administration: "Whatever you get, you ought to feel damn lucky to get it!" I think they didn't quite know how to respond to me. I'll try not to overstate the case. There was really quite a different reaction in the first four years, in their perception of me and our administration than ever before. They were getting these big raises up and down the line.

The mayor counted far too heavily on the good will of the employees, particularly the police about whom, by his own admission, he had given little consideration.

4.4 A New DPOA

From the perspective of the rank-and-file police the Detroit of the 60s was remarkably similar to the Detroit of the early 40s. The same conditions prevailed to engender militance. The patrolmen and policewomen resented the paramilitary arbitrariness of the police command and particularly its chief ranking officer, Superintendent Eugene Reuter. In a period of disorder they felt handcuffed by the recent Supreme Court decisions and by the mayor's call for restraint. Racial tensions made

the job more difficult than ever. Civil rights advocates and the liberal press criticized police behavior on the streets while white homeowners and conservative politicians demanded even stronger action. As different interests voiced different concerns, the political function of policing became apparent. The officers no longer were neutral enforcers of the law but the enemies or allies of one or another group.

Cavanagh increased pressures the police officers already felt. The mayor's major concern was to avert racial explosions in Detroit, and one of the recurring complaints of the black community was police behavior. Cavanagh attempted to improve police-community relations by appointing an outspoken civil rights advocate to the department's top post. George Edwards, appointed commissioner in 1961, was a favorite of blacks and liberals but never of police employees. He pushed hard for integration on the force which, according to Wilde, p. 94, was less than 1 percent black when he took office. He also established procedures to hear civilian complaints. Edwards continued to antagonize the officers by stepping outside the usual promotional ladder to reward a coterie of young officers interested in technological innovation and by starting a campaign against police corruption. The commissioner was not very politic in how he proceeded, and he soon alienated his supporters as well as his employees. Cavanagh was not unhappy to see him resign in 1963 to take a federal judgeship.

Cavanagh continued to push for integration of the force and better police-community relations. But he replaced Edwards with the mild-mannered Ray Girardin, a well-known Detroit crime reporter who was then a mayoral aid. Girardin held office longer than any police commissioner but one and easily became the most popular. Cavanagh thought him "the

best commissioner the city has ever seen," for he was responsible to the mayor while keeping the confidence of his department. Indeed, Girardin administered an OEO grant, given the department in 1965 and providing 1800 police officers with "20 hours of in-service training in human relations and professional police work."²⁸ Although the rank and file resented the "outside interference," they blamed Cavanagh and not their commissioner.

Public conflict over the role of the police was reflected inside the department as well, where strong divisions developed among the officers themselves. In 1963 the black police organized their own group, the Guardians of Michigan. Most Guardians maintained dual membership in the DPOA, but they opposed the association's white hegemony, fought internal department racism, and sought to protect black prisoners and policemen from white officers. In particular, they fought over what the white officers believed to be the lowering of eligibility requirements in order to recruit blacks.

Attacked on all sides, the Detroit police increasingly perceived themselves losing social status and prestige.²⁹ The department was unable to fill its personnel allotment and turnover was high. The officers intensified demands for higher pay to compensate for the harder work and as recognition of their importance to the city. Unionization was again in the air and the new state legislation facilitated those demands. Public Act 379 provided a sphere in which conflicts could be resolved, but it also provided an arena in which conflicts could take place. PERA and Detroit's ordinance made the city a legitimate target. Recognition and collective bargaining gave police officers a mechanism for expressing dissatisfaction. Thus, the government offered resources around which

public sector workers coalesced. The employee organizations only needed to get their feet into the door. Soon, they began to expect improved benefits and working conditions they had long requested.

One immediate effect of the new laws was the 1965 election of Carl Parsell as head of the DPOA. Parsell had been on the job nearly 20 years, since 1947. He joined the force when he was 23, after several years in the service. He recalls how:

I worked in the MP's (Military Police). I worked shift work, and I swore I'd never wear another uniform, never work shift work. After a couple months back here I found myself putting in an application for the job. It seemed to be the job I wanted to do. I couldn't get on right away the way it is today; there was a line-up to get on. So I worked as a carpenter for a year. Even though I got less money than being a tradesman, I quit my job to go down there.

Parsell describes himself as a very gung-ho young officer who "began giving into the routine, doing my job and working--I always carried some extra job to supplement my pay." But the operation of the department soon frustrated him, and he ran for DPOA steward several times before elected in 1963. He immediately became active in the association's lobby for Public Act 379. With his wife's approval and against the advice of his friends, Parsell gave up his moonlighting work, a landscape business, and campaigned for the DPOA presidency.

The association had never retained a president for more than two one-year terms, and it was ready to change again. Parsell presented himself as someone willing and able to take advantage of the new state law. Indeed, he ran when he foresaw its passage:

In '65 I and collective bargaining arrived at the same time. Collective bargaining came by, and I made up my mind that things were just not going as well as they should. Still give you a semblance of a company union, and nobody did anything to create any pressure. The men were going in nineteen different directions. Many of the men weren't even members

of our association. I had read all the by-laws and understood all the things about it and found out that no other person in the association could effect change. The only one that could was the president. So I ran for president. I ran, and we defeated the incumbent at that time, in the primary.

Parsell won because he fit the times. The association required a union leader to take advantage of its recently acquired union rights, and Parsell seemed just the man.

Parsell proceeded by building up the organization. On his four hours a day of released time, he initiated a health and welfare fund to provide adequate hospital and medical insurance for members and in other ways attempted to satisfy the 3000 of the 3300-person patrol force who belonged and attract those who did not. The men's principal concerns as in the past, were the grievance procedures and better pay.

4.5 Non-Collective Bargaining

One month after the passage of PERA, in August 1965, the DPOA requested recognition. In fact, the new DPOA administration was far better prepared than the city for the advent of Public Act 379. Parsell notes:

The collective bargaining law was passed after many years, and it was put into immediate effect. No one knew what it was, the cities least of all. The unions had the advantage a bit because we'd been out there working on it. Knew the law word for word, knew what it had, knew what it meant. The cities were only working against it to have it not pass. They weren't serious. Like most things. They had no machinery set up, the system wasn't ready for it. So, you would ask to be recognized, and they'd send you a silly letter back saying we're working on it. We had to actually demand to have an election. When we did that, finally they came through and recognized us.

Unlike Robert Wagner's early executive order covering New York municipal employees, the Michigan law indubitably included the police. Where the PBA spent years in court cases, in pressure tactics, and in obtaining

legislation, the DPOA had only to assert its rights. In January 1966, it gained recognition as the exclusive bargaining agent of the police rank-and-file. The DPOA, along with the Lieutenants and Sergeants Association and the Detectives Association, was among the first fourteen groups recognized.

On March 16, 1966, all three police organizations met together for the first time at the LRB with representatives from the police department, LRB, budget bureau, civil service commission, and corporation counsel.³⁰ The associations jointly demanded better grievance procedures and separately presented their wage proposals. Parsell emphasized the need for salary increases and asked for an additional \$1665 across-the-board to make the base pay \$9000. Atthur Petrimoulx of the budget bureau announced that the mayor would complete his review of the budget by March 29. Leggat announced that the council hearings would commence on April 15. They both pleaded with the groups to take a "realistic" and "long range" approach in the first year. They sat down to negotiate, but no one was sure how to proceed or who had final authority. The one thing the city people agreed upon was the immediate implementation of Public Act 379 made it impossible to seriously consider economic issues before the July deadline of the 1966-67 budget. The association early discovered that the anticipated rewards of collective bargaining were not automatically forthcoming.

Less than two weeks later, the LRB director summarized his budget recommendations in a letter to the mayor.³¹ He said that the bargaining units, with the sole exception of Council 77 of AFSCME, had submitted their monetary demands and agreed to negotiate the language later. Expressing concern about private industry competition and the rising

cost of living, he urged a general raise of \$.15 per hour or 3 percent, whichever is greater. But he argued:

Perhaps the most critical need is that of a very substantial adjustment in pay rates for the police and fire fighting ranks. Current demands for adequate public security make this a necessity. I concur in the police commissioner's observation that the greater part of their \$1665 increase be absorbed this year, if possible.

Leggat further noted the universal demands for better fringes; however, he felt that the city should absorb only the full cost of hospitalization immediately and study other changes for the next fiscal year.

Cavanagh's budget included a \$1000 raise for police officers and fire fighters, who enjoyed parity. He recalls:

I did feel that the police particularly were underpaid when I came in, as were most city employees. We set out consciously to do everything we could for them, and for other city employees, too. Although to be more candid, giving policemen raises is much more politically fashionable. You can get away with giving sanitation workers, say, a \$300 raise and giving police \$5 or 600. In any event, it was suggested by some that, instead of giving a \$1000 raise to policemen across-the-board, why didn't I give, say, \$500 which they would consider a very big raise and then try to give them another \$500 the following year. I never really went for that sort of philosophy.

Cavanagh believed the police officers "were delighted" as it was--far more than they ever thought they would receive."

The subsequent DPOA message to the council asserted that the mayor had met the problem only "part-way." The association pointed out the deterioration of police salaries in comparison to other police departments and private industry; the difficulty of the job, particularly with the number of services required and the rising crime rate; the lack of overtime pay despite the large amounts of overtime work; and the huge turnover in the force. It reminded the council that the previous December, when the DPOA petitioned for reopening the budget to meet the

resignation problem, "we were told the need was apparent, but the council stated they would take care of it during budget time--THAT TIME IS NOW!" (emphasis in the text) Leggat backed up the association. He wrote to the council reiterating his priority recommendations. He argued that the total municipal employee package approximated \$60,000,000 and that he had cut it down to \$2,600,000, including the police and fire wage proposals.³³ Parsell then appeared before the mayor and the council to argue his case.

On April 28, 1966, the common council passed the mayor's budget. It gave a 17¢ general increase (or 2¢ more than Leggat recommended) and raised police and fire salaries to \$8335 (\$665 less than Leggat and the DPOA proposed).

Even with the new laws, the DPOA still lacked real leverage on salary questions. Parsell felt they were continuing the practice of the past:

We had what we called "collective begging." The association officers go down and present their demands, and then they would give you what was coming anyhow. You had no right to argue about it or anything. We put on a show actually; it was a show for the membership. When I was a member, it always looked pretty good. First you would do it in front of our common council, and you'd have all the members in the audience. That was supposed to pressure them to do something. I understand that I was quite naive at that time, and I can see it now. You needed the members down there because you needed an audience. You geared your speech to the common council in a forceful way, but really you were telling your members, "Look!" Two weeks later, you'd do it in front of the mayor. It was only a window dressing, and you were only playing games.

Mayor Cavanagh recalls:

I would hold a series of meetings, that was a standard practise with me before we went into our budget-making sessions. I would meet with the heads of all the public employee unions. We saw all of them, sort of an all-day meeting. It was very unsatisfactory from their standpoint, and understandably so. They used to call it sort of my road show.

Nonetheless, the DPOA unhappily accepted the argument that the city had not yet had a chance to set up its procedures. The association agreed to discuss only non-economic matters and leave the monetary issues until negotiations commenced the following year.

The precipitate budget-making was only one of several problems the DPOA encountered in the first session. Parsell complained that different city people came each time and didn't know "until they had some lessons some place" that they had to listen to the union and make written counter-officers. However, the major difficulty was the police brass. As Parsell describes it:

We'd put in our demands, and they'd been laughed at, ridiculed, the whole thing. We had everything to go along with it. Downgrading at the negotiating table. They came in as chiefs and referred to us as indians. We'd come in on short notice sometimes, and they'd want the guys to come in in uniforms and all that, to get the patrolman-chief image all the time. We had to break that. That was one of the first things we had to break. You can't negotiate in uniform.

Lothian essentially concurs with this estimation. He found that in the background were always high ranking officers of the "old school," who "took a stern, militaristic attitude" and "couldn't adjust."

Events of the late summer and early fall made the bargaining process even more problematic for the DPOA. On the evening of August 9, 1966, an altercation between several cruising patrolmen and loitering youths developed into a minor riot. The Kercheval incident, as it came to be called, was over by the second night. Hubert Locke, then administrative assistant to Girardin, writes: "With the generous assistance of Divine Providence, the Detroit police quelled a riot in its infancy without firing a single weapon, with no loss of life, and with a minimum of destruction."³⁴ On the recommendation of the mayor and the commissioner, the

common council rewarded the officers who did extra duty by authorizing some overtime pay. No one thought to consult the union about the amount or how to apply it.

The Kercheval incident increased police fears about the dangers on the job, and the introduction in October of one-man patrol cars in some areas during some shifts intensified their anxiety. Parsell publicly objected to the innovation, to no avail. Then Patrolman James Radke, a recipient of several medals for valor, refused his assignment because of the risks of working without a partner. Despite the official harassment, the DPOA president accompanied him to his trial board hearing.

The union believed overtime rates and the manning of scout cars were subjects for negotiation. In neither instance was the association consulted prior to the establishment of policy. Indeed, it had discovered nothing but obstacles since talks resumed. Meetings held on September 14, 15, 16, 19, 21 and 27 got the association nowhere. The DPOA hoped to negotiate a base salary increase to \$10,000 as well as additional fringes. The city prohibited discussion of all economic matters until it determined the amount available in the 1967-68 budget. Furthermore, the department representatives, with the city's concurrence, forbid bargaining over subjects covered by the Detroit Police Manual--in other words, anything smacking of "management prerogatives." When the DPOA officers tried to negotiate lunch hours, furlough time, and the gun allowance, the department withdrew its compromise offer as soon as the DPOA agreed to it³⁵ and restricted talk to grievance procedures. Then, on October 10, 1966 the city discontinued the custom of seeing the three police groups together. The corporation counsel's staff found that the state law required separation of supervisory personnel for the purpose of bar-

gaining.

4.6 Conflictual Bargaining

Parsell and Charles Withers, his vice-president and fellow negotiator, decided it was time to see an attorney. They approached Winston Livingston, a well-known labor lawyer with six years experience on the UAW's legal staff. He also represented the militant Pontiac, Michigan officers who later that fall engaged in an "instant flu."³⁶ Livingston, a hard drinking, fast talking and eminently able lawyer, immediately took hold of the situation. He recommended filing an unfair labor practice charge before the Michigan labor mediation board. Parsell recalls:

Got to talking with Win Livingston and filed unfair labor practises. First time we'd know the word. The men felt that the only time we needed an attorney was at this particular time. At that time, the men felt you could handle all these things that needed to be done. They'd elected me president--I'm supposed to have a magic wand. I'm supposed to have all the answers.

Livingston began to accompany the DPOA officers to their meetings with the city and department people, and soon became indispensable. The association had discovered the importance of skilled advisors and help.

In October 1966, the DPOA filed its nine-count charge. The most publicized issue was the one-man car which, the association contended, represented a change in working conditions without consultation. Ray Girardin told the Detroit Free Press (10/14/66):

Today's action by the DPOA should result in quite an education for the voice of reactionism. It is obvious that there are prerogatives to management, and management here intends to exercise these prerogatives.

The commissioner and the press focused only on the single question. In fact, the DPOA was as concerned with due process in the conduct of disciplinary proceedings and the definition of bargainable issues as with

innovations in the work rules.

On October 17, for the first time with Livingston and without the other organizations, Parsell and Withers met the city and department negotiating teams at the LRB. The DPOA lawyer stated that they would withdraw the charges if "good faith" bargaining were demonstrated; specifically, he requested to know the areas blocked from negotiation. A new voice, that of Thomas Gallegher, chief assistant corporation counsel, stated that the bureau could not continue discussion of the contract until the state board ruled. He said the city's legal staff could not be in two places at once. The association attorney cited the precedent of the National Labor Relations Board and warned of the time lag. Leggat correctly expressed doubt that agreement was possible at the moment. He decided to suspend negotiations until the DPOA withdrew its charges. However, he approved the decision by the DPOA and police officials to get together to try to devise an interim working arrangement between the union and the department.

The conference at the police department occurred in Lothian's office two days later on October 19. Livingston presented a list of possible interim procedures. The major proposal was the DPOA's right to be present at any disciplinary hearing; the lawyer wanted a union steward on hand or immediately informed of any punitive action that would show on the officer's record. Further, he requested weekly meetings to discuss mutual problems. Finally, he asked for immediate discussion of the one-man car issue and postponement of Radke's trial until after the mediation board decision.

Girardin rejected all three proposals. Although he could not forbid the presence of a lawyer, he feared association attendance at dis-

ciplinary proceedings would open the door to other organizations, such as the state civil rights commission. He disapproved the weekly meeting and emphasized that there would be no negotiation of sixth-day overtime or the one-man car. He held that:³⁷

The trial for Radke must continue because it is the most important trial since the commissioner had been in office. It revolves around the question of whether a man could refuse to obey an order, or whether he could take a week to think it over.

Gallagher also was adamant. He said that, "The state law escapes the reality of the fact that we cannot sell out to the city of Detroit. It would be a solecism if we were to say the commissioner can bargain."³⁸ (emphasis in text)

Despite the dissensus, the group decided to meet again. But the commissioner acted in the interim.³⁹ On October 20, he set up a three-person grievance board composed of the police department bargaining team, i.e. Deputy Commissioner Lothian, District Inspector Issac, and Inspector Winckoski. They were to deal with contract and civil rights issues, and their immediate task was the resolution of the Kercheval overtime pay question. Girardin made it clear that he was still available to the DPOA for any problems the board was unable to handle.

Three days after this seeming concession, the commissioner cut the released time for DPOA work to 8 hours or 2 afternoons per week. He gave as his reason the fact that Parsell spent 85 percent of his time on union business. Although Girardin promised to stretch this rule for certain meetings, such as labor negotiations, the association leaders perceived his order as vindictive. The next day Livingston submitted an amendment to the DPOA's original charge, accusing Girardin of discriminating against Parsell and Withers for initiating unfair labor practise

proceedings.⁴⁰ At the same time, rumors spread that the DPOA was considering affiliation with the Teamsters.⁴¹ The association leaders hoped to use the threat of affiliation to win concessions. The department retaliated by firing Radke.

On November 1 and 2, 1966, the association appeared before the labor mediation board.⁴² Parsell was the one and only witness. Before further testimony was possible Livingston requested and received a temporary adjournment. The DPOA lawyer believed "nothing could be accomplished in the atmosphere prevailing and the attitude of the chief assistant corporation counsel." Livingston maintained that Gallagher was unprepared to argue the case. The city counsel had not bothered to file an answer to the nine specific counts and denied knowledge of the amendment. Instead, he resorted to harassment, insults and threats. He warned Livingston he would make things "hot" for Parsell. During a recess, before three witnesses, he told the association president, "I'm going to ream you a new a-- h--- with a dull blade." In front of the trial examiner, Gallagher accused the DPOA lawyer of "drumming up business" and called the association president "a well-meaning dolt." Subsequently, Livingston wrote a complaint to the mayor, and Gallagher was given new duties.

The adjournment of the hearings precipitated reopening of discussion. Leggat convinced the negotiators to develop an interim working agreement covering their relations with each other. Money issues were still not on the table, and the commissioner and the DPOA continued to disagree about what constitutes due process at disciplinary actions. However, the association was sufficiently satisfied with the department's commitment to the proceedings to announce its withdrawal of the charges pending

before the state mediation board.

4.7 The "Austerity Budget"

Although salary questions remained beyond the bargaining table, the DPOA began demanding a base pay of \$10,000, or \$1,665 more. William Bopp argues from his analysis of police "rebellion" in Detroit:⁴³

The \$10,000 figure was extremely important to officers who considered it more than just a pay boost. It had symbolic meaning, too. It represented a step into a new pay classification, a five-figure classification, and a giant step toward that long-sought goal: professionalization. It meant a boost in pay, a rise in status, and partial fulfillment of a dream.

Crime was on the rise,⁴⁴ and so was protest by both civil rights and student activists. The police officers were also enduring--and resenting--a grand jury investigation that implicated over 100 policemen. It never turned into a full-scale scandal, but the department "from the commissioner on down viewed it as a trauma which they did not want to go through again."⁴⁵ Such pressures enhanced the desire for affirmation of professional status through professional pay. Livingston says the rank-and-file police wanted respect; they "don't have it, so miss it and want to make up for it with money."

Public support for its demands encouraged the union. Commissioner Girardin, ex-Commissioner Edwards, and Mayor Cavanagh separately proclaimed that the patrolmen and police women deserved a pay boost.⁴⁶ Local newspapers, particularly the Detroit News, advocated a raise. In early 1966, the Citizens Committee for Equal Opportunity had suggested a \$10,000 annual police salary as part of a strategy to deter crime. In February 1967, the President's Crime Commission came out with its recommendations, including matching big city police wages to the FBI agents' generally higher scale. That same month, the Cavanagh-initiated committee

to combat crime recommended substantial increases,⁴⁷ and so did the League of Women Voters.⁴⁸ The League, releasing the findings of a two-year study on police practice and community relations, concluded, "The citizen must be willing to pay for his desires for adequate professional police protection and willing to cooperate with the police in their quest for a society of law and order."

Discussion of the budget presumably opened in mid-December when Leggat, Girardin and the other department heads submitted their estimates of monetary demands to the bureau of the budget. However, the city staff claimed that it still did not know how much was available for pay raises in fiscal year 1967-1968. From January through May, the city continued to refuse to negotiate economic items. Instead, it followed past practice: requests sent to the budget bureau; hearings before the mayor; the mayor's message to the common council; the council's hearings; and finally the council's approval or modification of the mayor's proposal. This calendar provided for testimony by the DPOA and the other recognized units, but no real bargaining.

The city soon realized that it was again in fiscal crisis. Federal monies were insufficient,⁴⁹ and state contributions inadequate. According to Controller Bernard Klein:

The city has always to go to new sources of revenue. The income tax during Mayor Cavanagh's first year in office. These things in Michigan government, you have to go to the state legislature because all of these cities are pretty much at the top of their self-help taxing power. This has been a very rural state, and Detroit has always been an enigma to the legislature. Then when reapportionment took place, a lot of people felt that at last urbanites would get a lot more recognition of their needs as the state legislature is now held by suburbanite legislators, instead of the old rural, who feel even more strongly. Look at everyone of the districts ringing the city of Detroit, what you call the white noose around our neck. Most of these guys are all people who themselves were city and escaped out. And they felt, once they crossed the magic boundary...

Walter Stecher, who became budget director in August 1966, noted:⁵⁰

The one way the city can reduce expenditures, and that is by minimizing its payroll, and due to the procedures that the city has, all the requisitions for hiring people have to pass through the budget bureau. We are not approving very many requisitions for the hiring of personnel. (p. 1032)

I pointed out several times that somewhere in the neighborhood of 60 to 70 percent of the city's expenditures are payroll costs... (p. 1092)

Stecher stopped hiring, but the city also considered another, and traditional, way to cut payroll costs, i.e., no raises for city employees.

The DPOA continued to press its claims, and Al Leggat took this into account. On April 10, 1967 he wrote to Cavanagh, summarizing and evaluating the employees' requests. Leggat expressed his desire to "restore the city's competitive position in the labor market," "preserve equities," and "improve fringe benefits to levels prevailing in representative government agencies." He pointed out that the 4.5 percent rise in the cost of living index from January 1966 to January 1967 and the minimum hourly increases by the Big Three automotive industries made the argument for pay raises compelling. He cited a fall 1966 survey to demonstrate the city's lag "behind representative industry in many fields" and "behind some cities in wages for police and fire personnel." However, he felt "confident that employee representatives with whom we are dealing are aware that substantial agreements are an impossibility at present in the city of Detroit." Leggat then went on to recommend "minimum adjustments," given the financial plight, and he enumerated a second list of items to be considered if financing were available. In addition, he stated:

Monetary considerations for the police and fire departments must necessarily be viewed separately and the current financial situation of the city makes it extremely difficult for the labor relations bureau to formulate a suggested wage increase.

I would, however, recommend that every effort be exhausted to seek a wage package for the personnel involved in both departments.

Leggat concluded his letter with an acknowledgement of the constraints on bargaining due to "the stress of circumstances." Nonetheless, he welcomed "any further negotiation pending my recommendations to the common council in the near future."

On April 21 Cavanagh submitted his "austerity budget" to the common council.⁵¹ Although it provided more than \$1 million for crime control improvements, it cut the overall operating cost of the police department by \$700,059. The mayor incorporated Leggat's eight nominal cost recommendations and one of his expensive items, payment of longevity increases on a straight seniority basis. But there were no raises for city employees, including police officers. Cavanagh recalls:

I think we could have hoked up the budget sufficiently to give some kind of a pay increase, but I didn't think we could give enough that it would matter that much to the employees. Therefore, I thought we just had to stand firm that year and not give pay raises. I thought, frankly, in some ways our administration--because it had been pretty good, very good, on pay raises--that maybe I could get a year's grace without the roof falling in. And it didn't work. In part, it was changing climate and the more assertive nature of the public employee organizations, and unionization.

The mayor did provide for possible acceptance of some items arising from bargaining. Furthermore, he suggested that there might be \$3 1/2 million in additional monies available in January 1968 if the state legislature approved a gas and weight tax, but he held that it would be unsound to use such anticipated revenues for anything other than expected deficits.

Leggat wrote to the council on April 25 with recommendations based on requests of over \$40 million from sixty-two units. He took account

of the city's financial limitations but pointed at wage increases granted by the auto industry, the state of Michigan, and the federal government. He urged consideration of an additional \$3,100,000 outlay for four items, including a 5 percent general pay increase; he also wanted approval of three new low or no cost items arising out of continuing negotiations. His concluding note was plaintive:

Labor agreements nearing finalization with the major union organizations contain a time formula for the future that will guarantee monetary discussion and bargaining well in advance of yearly budget closings.

The problem of the availability of city money information to properly negotiate across the bargaining table in a rigidly limited time span is still a major problem and aggravation.

The DPOA was far from happy with the way things were going.

Livingston contends that up until this point:⁵²

The only thing that could even closely resemble negotiations was a joint conference that the mayor called between the officers of the Detroit Police Officers Association and the Fire Fighters Association to hand them a copy of his proposed budget and state, "Sorry, there is no money in this year's budget for any pay raises for you."

Parsell went before the common council on April 28 to present his statement.⁵³ He argued that the city had not bargained in good faith on economic matters, that his testimony before the council was not a substitute for meaningful negotiations. He asked for both further discussion and a pay raise.

The union was not alone in its dissatisfaction with Cavanagh's budget decisions. The mayor's attempt to defeat G. Mennen Williams in the senate primary in the fall of 1966 had hurt him politically, providing the occasion for charges of municipal neglect.⁵⁴ Councilwoman Mary Beck, who subsequently became a leader in the Ukrainian community of the fight against communism, started a recall petition to oust the

mayor.⁵⁵ Beck had won a strong popular following with her independence and belligerence. She regularly gained the endorsement of labor, and she continually proved herself an ally of the city employees. During the fiscal crisis in the late 50s, she had flamboyantly returned a day's salary of \$38 and challenged her colleagues to follow suit. A well-known champion of conservative interests, she took advantage of Cavanagh's waning popularity to attack his policies. When he appeared before the council on May 9 to discuss the budget, Beck accused him of giving raises the previous year in order to attract support in his unsuccessful senate bid. Her major concern was the war against crime, and she wanted more money and fewer constraints for the police department. Her views and style are best expressed in an interchange with Girardin during his meeting with the council on the following day:⁵⁶

"I don't know how to convince you--in spite of your stock answers--that police morale is bad," Miss Beck said to him. "The police are frustrated and confused because you are not permitting them to do their job."

"How, Miss Beck?" Girardin asked.

"By not getting tough," she said.

"We work within the framework of the law, Miss Beck," Girardin said quietly, "and we have to do it, and we will continue to do it."

She interrupted him, and Girardin snapped, "Will you let me answer? It is the law as laid down by the U.S. Supreme Court, the Michigan Legislature, and your body--the Council."

"I hope you're not suggesting I tell you to work outside the law," Miss Beck retorted in a shrill voice. "I'm suggesting you get tough in terms of law enforcement."

Beck continued to amass signatures on her petition, and to demand more police and high police salaries.

In May 1967, shortly after Beck's confrontations with the mayor and the commissioner, the Detroit Chamber of Commerce released a survey of attitudes about the police department.⁵⁷ The Chamber planned a recruiting drive. Its members were concerned about the decrease in the size

of the force. In 1961, there were 4,701 employees in the department; by mid-1967, only 4,286, 400 under authorized strength.⁵⁸ Consequently, the Chamber hired an advertising agency to conduct interviews with 200 citizens and 100 police officers of all ranks. The Detroit Free Press summarized the report with a headline, "Police Morale is Good." In fact, the survey showed only that 62 percent of the police officers interviewed believed the department was as good or better than five years before. High morale was only one factor in this evaluation and only for some respondents. Almost half said they would not choose to be policemen again; over 75 percent did not want their sons to join the force. The major complaint was low pay. Typically, respondents viewed themselves as resembling salesmen or skilled workers in status, and they wanted comparable compensation.

4.8 Militance

The failure of the mayor to come through with the anticipated increase and the hesitation of the council to override him enraged the rank-and-file police officers. They were restless and militant. The labor relations forum had so far failed to win the DPOA any monetary benefits or grievance procedures. To obtain pay boosts and protection from arbitrary work requirements, the union had to face the mayor and the commissioner head-on.

Parsell acted to organize his members' anger into effective struggle. On May 15, 1967, he called a general meeting, convening once in the morning and again in the evening to ensure the participation of patrolmen and policewomen on all shifts. They decided to picket the Campbell-Ewell advertising agency for releasing its survey and using what they

considered privileged information to make it appear that police morale was high despite the salary and work problems.⁵⁹ They also talked about striking, but willing as they were to take a strong stand, they were not yet ready to walk off the job altogether.

Most compelling to the membership was the idea of traffic ticketing slowdown.⁶⁰ The slowdown tactic had the advantage of being both a job action against the city and a protest against authoritarian command, and all it involved was refraining from a detested work requirement. Police employees claimed that they were expected to write 100 tickets per three-person car per month, a "quota" superior officers enforced with punitive transfers of those with the lowest numbers. The effectiveness of the tactic lay in its threat to city income. The 1966-67 budget estimated \$6,200,000 from traffic court fines, the 1967-68 budget \$1 million more.

Parsell recalls:

We had no right seeing any budget at that time,⁶¹ but we found out that they added \$1 million in revenue for tickets, and they didn't increase the fines, didn't hire anymore new policemen. So, what that meant for us was \$1 million in additional pressure for us to write tickets. We said, "Hey! We go out there under pressure to write tickets everytime the general fund goes down, to put money back in the general fund, and we're not getting anything out of it." So, we said, "We're not going to write tickets or anything like that." We stopped writing tickets. But we did not stop doing police work. We did not withdraw police service. The fact of the matter is we gave more police service to the city of Detroit than it ever had before. Because no one was ever patrolling around the hospitals where people get raped, people get mugged, where people get shot. We were so busy writing tickets. Now we have a lot more time. We made a lot more arrests. We did everything else.

The ticket slowdown commenced on May 16. However, the DPOA never held a formal vote on the matter, and the leadership subsequently disclaimed legal responsibility.

Girardin and Cavanagh responded by reaffirming their support of higher police salaries, but they claimed the matter was out of their hands.⁶² Girardin left the final word with the public; Cavanagh linked increased pay with increased taxes. The commissioner warned the union that their tactics were likely to alienate the very persons whose support they needed. He went on to argue:⁶³

The police department's position is unlike private industry in any management-labor negotiation. If management says there is no money to pay for an increase, the union can demand that the books be opened.

In this case there is simply no money available, and the city's books are always open. Everybody is trying to find more money, but it's simply not there.

The officers were not convinced by the reasoning. The slowdown continued. Criminal arrests stayed at normal levels, but ticket writing decreased more than 50 percent within the first few days.

Beck also kept up her push. But on May 19, 1967, the council approved the mayor's budget. The budget, never having been actually "open," was now decidedly "closed" to negotiation. The council's action intensified the struggle between the Cavanagh administration and the union. As the city refused to compromise, the DPOA became more militant. As the rank-and-file police protested more vocally, the department became more punitive.

Between May 16 and June 14 ticket writing decreased 71.5 percent as compared to the same period the previous year and 66.9 percent as compared to the preceding 30 days. The slowdown was costing the city as much as \$15,000 a day. Moreover, the UAW, the Teamsters, Local 38 of the Brewery Workers Union (Hotel, Restaurant Employees and Bartenders International), and Council 77 of the American Federation of State, County and Municipal Employees all pledged the assistance of their more

than 200,000 members. Then the patrol force threatened a further crippling action. On June 6 the DPOA membership voted to stop volunteering for the weekend overtime needed to make up for a severe manpower shortage.⁶⁴

Cavanagh got angry. A slowdown did him no good, politically or economically. He assailed the union:⁶⁵

This is not an employee group asking for more money. This is a special interest group that is going to bludgeon the city officials into giving them what they want. Their conduct borders on insubordination and, in the real sense of the Police Manual, conduct unbecoming a police officer. I have told Police Commissioner Girardin to end the slowdown of writing tickets. How can the policemen ignore a violation of the law just to prove that he should get more money?

The police hierarchy responded by putting Parsell back on full-time tour. Girardin further hinted that continuation of the slowdown would affect the promotional standing of the implicated officers.

The mayor's speech and the commissioner's action provoked the DPOA. Under Livingston's guidance it initiated an unfair labor practices charge against the city for refusing to bargain in good faith and for threatening union members.

The unflagging campaign by the DPOA finally led the mild-mannered Girardin to get tough. On June 12, nearly a month after the commencement of the slowdown, the commissioner issued a directive, addressed to "all members of the department:"⁶⁶

You are hereby ordered to resume at once all normal duties including the issuance of traffic violation tickets... There is no quota on traffic tickets. But there is a norm. The norm will be based on your current assignment and on the approximate number issued seasonably by you prior to mid-May 1967.

The next day he had his order read at all roll calls. The police hierarchy also decided to take disciplinary action against anyone who failed

to comply with the commissioner's directive. Girardin instructed the inspectors to prepare charges on the average of three persons per precinct, and he ordered the reassignment of 42 veteran officers from motorcycle and scout car duty to walking beat.

The general membership of the DPOA held several closed meetings during the ticketing slowdown to determine future strategies. Between 400 and 1200 members attended each one. They became increasingly fascinated with the tactic used successfully in Pontiac, Michigan the previous fall. There the patrol force en masse used their accumulated leave time, thus engaging in a formally legal job action. Livingston, the attorney for the Pontiac Police Officers Association, explained this "instant flu" to the interested Detroit organization. On Thursday, June 15, 1967, in response to the transfers of the day before, well over 300 patrolmen and policewomen called in sick. The DPOA lawyer told WJBK news that by Monday 1000 police officers would be absent due to "blue flu." The long-rumored job action had begun.⁶⁷

At mid-day of the 15th, Girardin cancelled all furloughs and leave days and ordered the department on twelve-hour duty shifts, presumably to ensure an adequate patrol force. Although he denied the situation was as yet an emergency, Cavanagh alerted the National Guard and the Michigan State Police and delayed his trip to Hawaii where he was to preside over the U.S. Conference of Mayors. The city also initiated a suit against the union, calling for a permanent injunction to make the Detroit Police Officers Association "desist and refrain" from counseling or engaging in a work stoppage. The city asked for punitive damages of \$1 million and compensatory damages of \$50,000 per day of the sick-in from the DPOA.⁶⁸ Also during this first day the department suspended

61 men for "neglect of duty." Police management was trying everything possible to make the "blue flu" too costly to continue.

Parsell believes the suspensions were the stupidest thing the department could have done:

We went in and we proved that the people they went and put off on suspension not only were not neglecting their duty, but they were probably doing more work than they'd ever done before. One had 10 felony arrests, 18 misdemeanors. They picked the ones who were the lowest ticketwriters, but that was the proof that they judged everything on the amount of tickets you wrote, service rating and everything else. When they did this, when they suspended these men, everyone had somebody he could touch and say, "Hey! He's one of our guys!" We got all these guys that they suspended and put them up on the stage. Said, "Hey! This is what happened out here. They didn't write tickets and they got suspended. What are you guys going to do? You guys going to cave in and go out and write tickets and collect money for them down there not to give to us? Or what are you going to do?" "Hm. We're going to stick together!"

Parsell insisted publicly that the members spontaneously started coughing and calling in sick. Nonetheless, he set up three additional DPOA offices in different sections of the city so as to "have instant control and communication." Livingston denied to the Free Press (6/16/67) that the "blue flu" was a strike. But, he added, "Policemen for the first time are joining the labor movement. They are beginning to think and act like a trade union."

Judge Foley issued his "order to show cause and restraining order" late on Thursday evening, the 15th. He refuted Livingston's claim that a temporary injunction is unconstitutional in labor disputes by contending that the police were "different" due to their semi-military organization. He set up a hearing on a permanent injunction.⁶⁹

On Friday the city and union representatives engaged in an all-day session with the state labor mediation board. The union leaders argued that money for pay boosts was available. They cited raises for city

bricklayers, painters and carpenters given after the budget was "closed;" and the \$1 million requisitioned for a new penguin cage at the zoo. They pointed out that their minimum requests totalled only \$2.5 million. The mayor's staff continued to insist that there was no money available and that the budget was closed. They argued that each \$1 raise cost the city \$1.50, due to fringes and other labor costs. Moreover, parity required an equal increase for firefighters. The meeting was inconclusive. However, the city decided to file for fact-finding, something it had refused to do in the past. Corporation Counsel Robert Reese explained that they expected it would "prove our point--there just isn't any money and an outside expert or experts could establish this."⁷⁰ The city calculated a small risk that the fact-finder would recommend the re-opening of the budget, and perhaps they saw advantages in this minor concession to the union.⁷¹

In the meantime, Judge Foley disqualified himself. He had previously served as a DPOA attorney, and Corporation Counsel Robert Reese and DPOA president Parsell both asked him to reassign the case. Blair Moody took over, and at 12:40 pm on Saturday, June 17 continued the temporary restraining order.

Parsell immediately released a statement to be read at all roll calls, starting Saturday morning at 8 am. He took issue with the department's retaliatory actions, but he claimed that "the DPOA has not and will not encourage any improper activity." He urged all "physically able" members to report to work. At the same time, he made it clear that he didn't want any ill officers on the job and that the department doctors could determine the state of their health.⁷² Parsell publicly requested an end to the "blue flu" but, in fact, encouraged its contin-

uance.

Sick calls still escalated, and on Saturday morning more than 200 policemen lined up to see the doctors at headquarters. The department, for its part, persevered with its suspensions. By Saturday night the total was 170. Parsell recalls what happened that day:

They suspended some more guys. The more they suspended, the tighter the guys got. We had meetings day and night. We put those guys up there and, "No jobs. I don't know where my food's coming from." The more they said, the more these guys started coughing, "Hey! I feel sick. I feel sick," or anything like that. At one time they had several hundred men down at the police gym because they had ordered them all down to see the doctor. They all went down to see the doctor, and, of course, they only had two doctors and all these guys to be examined. I got up on a stool, and I said, "OK, you guys. You heard what he said. All the sick guys go against the wall, see. They said, "Well, you're going to have to be down here. Maybe take two days for you to be examined. Won't be allowed to go home or any of that jazz." Stayed right down there. Stayed together. These are the things that made us. Made the union and me. Because the guys listened, and they stood behind me.

As the police officers filed into the gym, they signed the Beck petition for the mayor's recall.

Close to 800 of the nearly 2700 person patrol force were off duty on Saturday, including the 170 suspended, 459 calling in sick, and 15 claiming emergency leave for family care. The normal sick call was 60 to 75 per day. However, the twelve-hour shifts and the cancellation of furloughs meant there was adequate personnel on the streets. In addition, the superior officers stayed on the job; their associations had refused to engage in the job action.⁷³ Nonetheless, the cost to city per day in overtime was \$72,000 if paid in cash and \$46,000 if given in compensatory time off. The political costs were also high. Summertime in a racially tense city was a particularly frightening moment for a police rebellion.

Furthermore, Cavanagh built his reputation on his ability to maintain peace in Detroit; he could afford neither labor nor racial disruptions. The mayor, in no uncertain terms, threatened contempt-of-court citations, fines and jail sentences if the "strike" persisted.

The DPOA strategists didn't want the police employees going to prison. Recognizing the organizational dangers of prolonged violation of the court order and organizational advantages of a demonstration of leadership control over the members, they made a real plea for the officers to return to the job. On Saturday night and Sunday the sick calls declined. By Sunday afternoon Girardin was sanguine enough to let Cavanagh leave for Hawaii and to put the department back on normal eight-hour shifts. However, the commissioner maintained the cancellation of furloughs and suspended another 27 persons, bringing the total up to 197 by Monday morning. The DPOA members, wives and children escalated their picketing at the precinct stations, but the job action itself seemed to be over, destroyed by the hard city stand. On June 19, the Detroit Free Press headlined, "Sick-Call Strike Collapses."

As Detroit citizens read that headline in their Monday morning papers, the "blue flu" was already on again. Win Livingston had warned the press, "No, I don't think it's over. I think it's just begun." Indeed, over one-third the patrol force was off duty on June 19 and June 20. Parsell recalls:

Everybody came back to work. We got together in a meeting (with the city), and they practically told us to go to hell. Overnight we went out again. So, we got them to start coming back to work, and so they did us some more dirt. Said, "It's all broken," big headlines and all. So, we went out again.

The officers resented their treatment by the city, including both the refusal to consider raises and Cavanagh's "junket" to Hawaii. The union

proved its control over the membership by getting them out again as soon as negotiations flagged. On Monday over 1/3 of the patrol force was stricken by "blue flu."

Cavanagh agrees with Parsell's assessment of the president's control over his members. The mayor remembers his aborted trip to Hawaii:

I was really looking forward to going and getting a little rest, and a couple of my boys, my sons, were going to go out with me. I couldn't go because of this thing. Sort of involved around the clock. I wasn't personally involved in the negotiations but backstopping the police commissioner. Anyway, the boys and my aids went out there, and they left on Friday, and I stayed on Saturday. Sunday, we finally got the 8 o'clock shift. They all went back to work. I then scheduled my trip to leave at 10 o'clock on Sunday morning. I was really beat as I recall-I'd had no sleep in those two preceding days. I was scheduled to address the conference Monday morning when it started. I got out there, with the change in time and everything, that evening. I was out there only an hour or two and I had a call saying that the 4 o'clock shift had started not to come in, and by midnight the thing was back in full swing again. They did it deliberately. They laughed about it. They thought it was sort of a joke. They knew. The papers had a story about it obviously, and they knew I was scheduled to go. It was orchestrated that way. They got the men back, and they figured that I would then leave, which I did, and they went out again and brought me back again. They wanted to upset my schedule.

Cavanagh returned to Detroit Monday morning, right after he finished speaking. Meanwhile, Girardin cancelled all leaves of absence.

The union submitted a "complaint" against the city claiming that the police department violated its own regulations by requiring more than eight hours a day duty without a declared emergency, by its arbitrary disciplining, and by illegally forcing sick officers to work. The DPOA asked for \$1,000,000 in compensatory and \$1 million in punitive damages.⁷⁴ Judge Blair Moody had still to determine whether or not to turn his temporary restraining order into a permanent injunction. The union suit gave him further issues to consider. He met all day and into the evening of Monday, June 19, with the DPOA and city lawyers. The judge

felt the adversaries were at an impasse, but he planned to keep the parties talking as long as there was any chance of negotiation.⁷⁵ The state labor mediators, who had met with Girardin and union representatives in separate caucuses, stood by in case the conference with Moody reached a conclusion requiring their services.

By this point everyone--the DPOA, the city officials, the police hierarchy--was looking for a way to end the "blue flu" while saving face. Hubert Locke, Girardin's administrative assistant, found the means. Formerly executive secretary of the Citizens Committee on Equal Opportunity, he asked its chairman, Rev. Richard Emrich, the Episcopal Bishop of Michigan to help mediate. On the face of it the use of the Citizens Committee hardly seemed a likely tactic. Cavanagh describes its members as:

...mainly people traditionally liberal in their viewpoint, somewhat doctrinaire in their thinking. They weren't ordinarily the kind of people that the police would have a lot of confidence in. Generally on the political spectrum they'd be on the other side. They were sincere and well-motivated, I'm sure.

Their major concern was racial questions, and they had been involved in efforts to integrate the police department, efforts the DPOA resented. Yet, the union agreed to settle the dispute under their auspices. Both the DPOA and the city had reached an impasse. The mayor, worried about a racial explosion and about his image, desperately wanted the police back on duty. Parsell, Livingston, and the other strategists recognized that it was inadvisable to sustain the "blue flu" much longer. The participants ultimately were worried about their pocketbooks and their jobs, and neither they nor the organization itself were eager to face jail sentences or large fines. The DPOA refused to meet with the state mediators, in part because they were an arm of government and believed

to be sympathetic to the city's pleas of poverty. The impartial citizens groups offered an alternative, particularly as it had earlier advocated a \$10,000 police salary. George Bushnell, a prominent attorney and member of the mediating subcommittee, recalls that once everybody sat down together, it was a "piece of cake because both sides wanted out so badly."⁷⁶

On June 20, 1967 Cavanagh and Parsell released a joint statement outlining their agreement. It called for immediate restoration of normal police operations and the resumption of regular assignments, including traffic enforcement. The union and the city were to carry on negotiations for the next ten days. During that time legal proceedings and disciplinary actions would be held in abeyance. At the end of that period the parties would submit any unresolved issues to a mutually acceptable panel. The language was vague as to how binding the panel findings were to be; the city maintained its resistance to compulsory arbitration. But Cavanagh and Parsell pledged "to do all in their power to put the panel's recommendations into effect as soon as possible."

The next day the sick officers returned en masse. The department removed its constraints on furloughs and leave days and assigned the transferred veterans back to their cars and motorcycles. The "blue flu" was over.

4.9 Grievance Procedures

The job action ended, but the dispute did not. Cavanagh reiterated his denial of the possibility of pay raises. Parsell and Livingston still hoped for the increases and for "amnesty" for the 186 suspended patrolmen.⁷⁷ The major issue was the salary question, but conflict also centered on whether or not suspended officers should get paid. On June

26, the mayor announced pay withholding pending trial board hearings, a common practise in labor disputes. The union took the city to court on this but lost its suit.

In the weeks following the "blue flu," the DPOA did succeed in negotiating a written agreement on the non-economic issues of their controversy with the city.⁷⁸ Police rank-and-file militancy had forced management to change its discipline policy. The sick-in catalyzed the formalization of basic union perquisites the city and department previously denied. On July 10, 1967, Parsell, Livingston, Withers, Cavanagh, Girardin, Lothian, Leggat, Klein, Reese, and Charles Meyer, the secretary of the civil service commission signed their names to a labor agreement, and made it effective through June 30, 1968. It outlined management prerogatives, provided for proportional representation of employees by union stewards, permitted the stewards and DPOA officers to investigate grievances during working hours, recognized and defined seniority in regard to job openings, and clarified leave and furlough procedures. Most important it established a formal grievance procedure with referral to the commissioner. Stewards or other DPOA representatives gained the right to be present at all disciplinary proceedings, something the union long demanded. The association also earned the right to appeal to arbitration any unresolved grievances relating "to the interpretation, application, or enforcement" of any part of the agreement and any disputed trial board decisions.

By giving police officers a means of confronting and, in effect, reprimanding their bosses, the grievance procedure represented a significant victory for the DPOA. The "old school" command staff, led by Superintendent Reuter, believed that the quasi-military nature of police

work required the unquestioned acceptance of their authority. It was exactly this attitude the rank and file resented. Indeed, Parsell contends that the real struggle was over the civil rights of patrolmen and policewomen:

Black and white. We had no problems there. Black and white were stuck together like blue. "We're going to make the job better. We're going to get a grievance procedure. We're going to get appeals up to the trial board." This was not: "We're going to get more money in your pocket." It was not that kind of issue. We fought on the non-economic. That is what we got hung up on. It was not a battle cry for a dollar bill. We did not have the green flag up there. We had a flag that was Right and Justice. We had the same battle cry as the black union or any minority group would have.

Several of the current DPOA officers, then stewards or simple members, confirm Parsell's description of the issues. They don't even recall that salary was at issue. They remember that their major concern was authoritarian commanders and the ticket quota.⁷⁹ To them professionalization was defined less by the \$10,000 a year than by their autonomy and discretion on the job. Certainly the questions of work requirements and arbitrary punishment catalyzed and intensified the "blue flu."

The grievance procedure was a major gain, but the DPOA had still to win economic benefits and amnesty. A "Memorandum of Understanding" between the department and the union and attached to the written agreement called for a review of offenses, penalties, and promotional system by a 6-person committee composed of three representatives from each side. However, wages, hours, overtime pay, hospitalization and discipline questions arising directly out of the recent labor conflict were subject to further negotiation. Not surprisingly, these negotiations bogged down. On July 12, Parsell, Livingston, Leggat and Girardin wrote to Richard Cross, chairman of the mediating subcommittee. They asked for

the selection of an impartial fact-finding panel, consistent with the terms of the Cavanagh-Parsell accord; promised to submit a statement of each unresolved issue; and suggested September 30 as the concluding date for the fact-finders.

4.10 Arbitration

The police rebellion soon took second place to an even more serious rebellion. On July 23, 1967 the city of Detroit experienced a full-scale racial explosion. After nine days of street fighting, there were 43 dead, over 700 injured, and approximately \$50 million in property damage.⁸⁰ Racial antagonism was at an all-time high, and Cavanagh's reputation as a successful arbiter of racial conflict was severely damaged.

The effect of the Detroit riot on the police labor dispute was immense. The police department came under scrutiny to an extent it had never experienced before, except perhaps in 1943. Liberals and civil liberties advocates lashed out at police brutality and racism; the campaign to integrate the department and change its practises intensified. On the other hand, conservatives and frightened citizens continued to demand stronger police action. But both sides agreed on the need for more and better protection against civil disorder. Officials set about appeasing the patrolmen and policewomen in order to make them willing to carry out the work that had to be done. It became imperative to rebuild rank-and-file morale, ensure department unity and discipline in case of emergency, and develop the means for squelching community discontent without engendering protest from either the police themselves or the subject population. The first step was to reward the patrol force for their participation in putting down the black rebellion. Girardin

rescinded the earlier suspensions and pay withholding. Two weeks after the end of the racial conflict, the common council rushed through its approval of the DPOA contract.

In September, the three-member fact-finding panel was finally constituted.⁸¹ Russel A. Smith was the chairman and Ronald W. Haughton and Charles C. Killingsworth the other members of the Detroit Police Dispute Panel. The city and the union jointly submitted to them a statement of ten issues. The first five essentially involved questions of a police salary increase and the city's ability to pay. The others included the residency requirement, department discipline practises, and future procedures for negotiating economic items. The panel took testimony from every relevant witness during the fourteen days of hearings between October 13 and December 20, 1967, and it studied the post-hearing and reply briefs submitted by both parties. On February 27, 1968 it published its findings.

In the panel's independent evaluation, there was "overwhelming support for the \$10,000 maximum base salary" (p. 15) Smith, Killingsworth, and Haughton cited the endorsement for significant pay raises by Cavanagh, Girardin, several former Detroit police commissioners, and the reports of national and local groups, in particular the President's Commission on Law Enforcement and the Administration of Justice. They found the wages of Detroit police officers comparatively worse than in seven other large U.S. cities. However, they were especially struck by the fact that Michigan state troopers earned nearly \$900 less in 1950, \$500 less in 1955, and \$1100 more in 1967--despite the less demanding nature of the job.⁸² They argued that the higher expectations and greater difficulties of police work in the current period was an additional

consideration for wage adjustments. They concluded:

The plain truth of the matter which emerges from the mass of data before us is that the Detroit police department faces a manpower crisis. The force is seriously undermanned; the turnover rate is quite excessive; and the recruitment rate is inadequate. A major cause of this crisis is a wage structure that is far below the level required by market forces. Thus, we are compelled to conclude that a substantial wage increase is not only justified by considerations of equity; it is essential and urgent. Far more than the interests of the police officers themselves is involved. As has become obvious in recent months ...the police force is the first line of defense against civil disorder. Better pay for policemen will not by itself provide a guarantee against lawlessness. But the present manpower crisis in the Detroit police department measurably heightens the dangers of uncontrollable disorder in the community. An immediate wage increase for Detroit policemen is a matter of the greatest urgency for the public welfare. (19-20)

In order to aid recruitment and retention further, the panel abolished the residency requirement for Detroit police, an issue that city did not contend.⁸³ Indeed, the panel's principle concern was to ensure the adequacy and reliability of the police force in the face of future racial confrontation.

The central issue was, as always, the city's ability to pay. The city maintained the position that the 1967-68 budget could not be reopened legally; that limitations on the city's taxing powers and the urgency of other needs had prohibited wage increases in the current fiscal year; that "equity" would require similar concessions to all municipal employees as granted to the police; that massive layoffs and service curtailment were the only possible sources of additional funds; and that huge anticipated deficits made it sound fiscal policy for the city to avoid further economic commitments without additional sources of revenue. In other words, the city pleaded poverty. Equally important, Cavanagh and his advisors feared that acquiescence to the DPOA demands would be rewarding the police officers for engaging in a major work stoppage.

The DPOA denied all the city's arguments. It pointed out that the police union was the only bargaining agent that persisted in its economic demands; the others had agreed to the closing of the budget and therefore need not be considered until the next bargaining period. Besides, the DPOA claimed, the police demands were compellingly urgent. The DPOA further argued that in this "no-increase" year registered nurses, building trades employees, and maintenance men received increases, the last two groups after the council vote. The union attorneys cited several transfers from one budget item to another to indicate budget flexibility, and they attempted to explode the "spectre" of the deficit. Finally, they recommended utilizing revenues previously not anticipated or included; and eliminating or curtailing "city services which do not have the priority of the demands for an adequate police department."⁸⁴

The panel found the city indeed had the "ability" to pay police officers the \$10,000 salary. In the estimation of the three fact-finders, the city had taxing powers which it had chosen not to use. Furthermore, they found some legally available source of funds within the 1967-68 budget, particularly in unused salary appropriations for the undermanned force, traffic fines and unanticipated extra revenue from the state income tax. Smith and his cohorts also recommended that the city immediately institute a "savings program." Reminiscent of 1957, they suggested a five percent minimum cutback of all unexpended monies. The dispute panel rejected the city's "equity" argument. It refused to pass judgement on the desirability of continued police-fire parity, but made it clear that there was no legal requirement of similar concessions to all other municipal employees.

The fact-finders recognized the great financial pressures on the

city and resisted making recommendations for future police increases. Citing the interim report of a mayoral task force investigating municipal finances,⁸⁵ the fact-finders predicted a \$39 million gap between expenditures and revenues in 1968-9. The dispute panelists joined the task force members in recommending state legislative action. The panel did attempt to lighten the load on the city a bit by making the new salary schedule effective as of March 1, 1968. It did not make the pay raises retroactive to the beginning of the fiscal year, as the DPOA had demanded. Nor did it grant the union's request for longevity pay, the gun allowance, or the one-hour lunch break. It further denied the demand for premium overtime pay for those recalled from furloughs during the racial uprising.

The panelists left most of the questions concerning discipline to the committee set up to review department practice.⁸⁶ However, they did support Girardin's and Cavanagh's contention that suspended personnel received no pay pending the hearing of charges.

The final matter before the fact-finders was to recommend procedures for future dispute settlement. They disapproved of the separation of economic and non-economic issues, but they urged sensitivity by both parties to the complexity of the decisional process, the kinds and range of problems presented, and the exigencies of the present situation. The panelists encouraged a greater delegation of power by the mayor and the council to the city negotiators, the development of a time schedule for the beginning and ending of collective bargaining; provisions for the invocation of mediation during the established bargaining period and fact-finding afterwards; and a second time table for completion of the negotiations following fact-finding. A basic premise of the whole procedure

was the legal obligation of the city to bargain collectively with the union.

Although fact-finding was not compulsory arbitration, Cavanagh and his staff realized that the recommendations were binding in political actuality if not in law. However, they could compromise with the union about when to shell out the money. Controller Klein recalls:

We were still determined we were not going to give any raises that fiscal year because if we had, if we abided with the fact-finders, then the whole chaos would have developed with every other bargaining unit. So I then had private negotiations with the leaders of the DPOA and their attorney Livingston to try to buy a delay, to buy a postponement to the next fiscal year. What we did, we just sweetened the pot a little, if they would let us delay it instead of implementing it immediately. Have us implement it July 1st, 1968. I felt if we had acceded to it, it would have just been pure chaos. You just can't tell these more deprived bargaining units, with just as much of an equity, you're rewarding people who walked off the job, ended up with the cream. By buying the time from March to July--I forget what the fact-finders ordered, \$10,200, \$10,300--well, I made it \$10,500 if they waited until July 1st. They went along with that, and along with more minor things.

A major motivation for the delay by the city was the huge outlay required. Not only the police officers but also the firefighters gained increases. Despite the opportunity to break parity, Cavanagh insisted upon retaining it. He reasoned that "firefighters are more effective politically than policemen." In other words, they voted for him. Given his loss of support during the summer of 1967, Cavanagh wanted to hold on to every electoral backer he could.

The wage package represented the completed transformation of the DPOA from a pressure group into a union. It succeeded by forging formal labor relations perquisites into meaningful rights through political struggle. Two years after gaining recognition as the bargaining agent of the uniformed police, the association finally achieved the status of

a union. It had a written grievance procedure, engaged the city in collective bargaining, and won a significant pay boost. To achieve these ends, the association did battle with the Detroit city government, led by liberal mayor Jerome Cavanagh, until their militance and increasingly strategic position won them concessions.

The major impact of the "blue flu" and the subsequent dispute panel was to demonstrate the amount of flexibility in the city budget, the political nature of its determination, and the utility of collective bargaining for avoiding costly labor disruptions. Monies could be found when they had to be. Indeed, decisions about pay boosts and whether to raise taxes had a great deal to do with who exerted what kind of pressure. At the same time, this experience forced the city to begin to use collective bargaining as a possible mechanism for resolving labor-management controversy without work stoppages and strikes.

The police militance of 1967 in some senses benefitted Detroit. The union, the city, and the department currently work together to contain rank-and-file militance. Detroit mayors learned how to buy off discontent so as to ensure the continued provision of services and, hopefully, retain the fleeing middle class. They cannot, politically or economically, afford major labor disputes. The union leaders also prefer to avoid the penalties and risks of job actions. Parsell, Withers⁸⁷ and their attorney do not anticipate another "blue flu." Indeed, Livingston contends that it couldn't happen again: the men wouldn't do it, and the department and city would act more firmly to repress it. The policemen and women expect their leaders to find other means for settling controversy; they believe that strikes are inappro-

priate for the police--most of the time.⁸⁸ Both labor and management have found that bargaining and grievance procedures are a means for maintaining conflict at tolerable levels.

The advantages pale next to the consequences of DPOA involvement in fiscal decisions. Municipal employee collective bargaining for salaries and fringes is now part of the budget-making process for Detroit. Negotiated wage packages are essentially mandated items. The city, still in fiscal straits, can no longer use employee wages to provide itself with monetary flexibility. Instead, as in the fall of 1973, the mayor must threaten to close the schools and cut back other services.

Detroit's economic problems preceded the development of strong unions. During the quiet 50s Detroit mayors responded by stinting on salaries. In the conflict-ridden 60s the critical political function of public services prohibited mayors from long denying wage increases to militant city workers. The municipal employee groups intensify the Detroit fiscal crisis, but they did not cause it. Rather, the unions and the city are both victims of the tensions of American urban society and the financial unsoundness of contemporary city government.

Footnotes

1. Interview, 10/23/72. I will give the interview citation only in my first reference. Further quotes and references are from the interview unless otherwise noted.
2. These figures are from the Municipal Yearbook.
3. This quote is from one of a series of selections from Teubor, the DPOA newspaper. The selections, undated, relate the history of the formation of the association and are available from the Detroit Public Library vertical file.
4. For a short history of the department in this period, see the unpub. diss. (Harvard, 1967) by Harold Wilde, "The Process of Change in a Bureaucracy," particularly 75-88.
5. Joel Aberbach and Jack Walker, Race in the City (Boston: Little, Brown, 1973), p. 9. The black population grew 103.6 percent between 1940 and 1950.
6. Interview, 11/3/72.
7. An American Dilemma (New York: Harper and Row, 1944), p. 529.
8. Conversation, 5/14/74. Hoffa remembers that he went to Mayor Jeffries after the dismissals and asked the mayor to carry on the work of his father, a prominent labor judge, and intervene. But Jeffries insisted there was nothing he could do; it was the commissioner's bailiwick.
9. See Wilde, p. 83, for discussion of the effect of the recruits.
10. These quotes are from International Association of Chiefs of Police, Police Unions (revised edition) (Washington, D.C.: 1958), 28-9.
11. This concept comes from Mancur Olson, The Logic of Collective Action (New York: Schocken, 1968).
12. Weatherhead, Paynter and Associates, "Research Report to the Detroit Police Officers Association" (October, 1955). The consultants compared police with machine set-up men, production welders, secretaries, skilled maintenance, pattern, drafting and skilled technical workers. They also found that factory workers had larger fringes.
13. The following discussion of the fiscal plight of Detroit and Michigan government is based largely on the unpub. report (Joint Center, 1961) by David Greenstone, "A Report on the Politics of Detroit," sect. VI A. Also, see Edward Banfield, Big City Politics (New York: Random, 1965), chpt. 3; David Greenstone, Labor in American Politics (New York: Knopf, 1969), chpt. 4; and Walter Stecher, Detroit budget director, Before the Detroit Police Dispute Panel (12/1 and 12/2/67), 904-1032.

14. Greenstone, 1961, VI-4. He does not explain how he calculated the differential.
15. The listing of electoral supporters comes from Banfield; Greenstone, 1969; and Wilde, 93-4. Jack Stieber, Public Employee Unionism (Washington, D.C.: Brookings, 1973), 205-6 notes the IAFF support of Cavanagh as opposed to the DPOA opposition. Cavanagh confirmed this in his interview, 10/30/72.
16. "Machine Politics--Old and New," The Public Interest (Fall, 1967), 83-92.
17. Between 1950 and 1960 the black population rose 60.4 percent to 29.4 percent of the total Detroit population. The white population decreased by 23.4 percent, from 83.6 to 70.6 percent of the total. Studies indicate that the blacks earned less than whites with comparable schooling and that they resented this. Cf. Aberbach and Walker, p. 9 and chapt. 2.
18. James O'Connor, The Fiscal Crisis of the State (New York: St. Martin's Press, 1973) labels these sorts of projects and services "social capital" and "social expenses" meant to enable the capitalist state "to fulfill two basic and often mutually contradictory functions --accumulation and legitimization." (his emphasis). For elaboration, see 6-7 and chaps. 5 and 6.
19. "The Urban Crisis: Who Got What and Why," 1984 Revisited, ed. Robert Paul Wolff (New York: Borzoi, 1973), p. 173.
20. "The Mayors vs. the Cities," The Public Interest (Summer, 1969), 25-37.
21. For a discussion of the pre-PERA bargaining situation, see Sterling Spero and John M. Capozzola, The Urban Community and Its Unionized Bureaucracies (New York: Dunellen, 1973), p. 45. Also, see the unpub. thesis by Rufus Anderson, (Wayne State, 1972), "Public Employee Unionism in the Political Process: The Detroit Police Officers Association;" and Robert Pickup, "Michigan Public-Employee Relations," Unionization of Municipal Employees (New York: Academy, 1970), 94-96.
22. Jeremy Brecher, Strike! (San Francisco: Straight Arrow, 1972), p. 230. Brecher also offers other documentation of this phenomenon.
23. Ordinance No. 140-G, "Labor relations Bureau for City Employees Collective Bargaining." See Spero and Capozzola, 45-7, for a discussion of the ordinance and its implementation.
24. Quoted in Spero and Capozzola, p. 47.
25. Albert Leggat, Before the Detroit Police Dispute Panel (11/10/67), 498-9.
26. Interview, 11/8/72.

27. Interview, 11/2/72.
28. "Statement of Jerome P. Cavanagh," Federal Role in Urban Affairs 3 (Washington: US, 1966), p. 629.
29. Police and-file, DPOA leaders, and department officials expressed this finding in interviews. A committee, organized by Cavanagh and composed of prominent citizens, reported in 1967 a finding of "low police morale" due to police feelings that they "belong to an economic and social subculture," to lack of understanding for the reasons behind the court decisions, and incomprehension of "the social revolution in race relations," Detroit Free Press, 2/15/67.
30. Unless otherwise cited, descriptions of the negotiating sessions for both 1966-67 and 1967-68 budgets are based on their "minutes" (I will include the date in the text); on the testimonies of Al Leggat, 505-550, Carl Parsell, 49-130, and Winston Livingston, 22-42, Before the Detroit Police Dispute Panel, on "Statement of the Position of the Detroit Police Officers Association" Before the Detroit Police Dispute Panel (signed by Winston Livingston and dated November 7, 1967); and on interviews.
31. Al Leggat, "Labor Relations Bureau 1966-67 Budget Recommendations" (Letter to Mayor Jerome Cavanagh, March 28, 1966).
32. Carl Parsell, president, and Charles Withers, vice-president, DPOA, "1966-1967 Budget Requests."
33. Al Leggat, "Letter to the Honorable, the Common Council, the City of Detroit," (April 26, 1966).
34. The Detroit Race Riot of 1967 (Detroit: Wayne State, 1969), p. 66.
35. The DPOA wanted \$365 a year to compensate the officers for having to carry a gun and essentially be on duty 24 hours a day. The city and department agreed if the patrolmen and policewomen would take a monthly test on their own time and qualify as experts, although there were only 50 or so experts in the department all tolled. The other associations said no right off, but Parsell said OK. He recalls, "I pulled the paper over and put my initial on it and shoved it back at them. They said, 'Wait a minute! Wait a minute! You don't understand it!' I said, 'I understood it,' and I repeated it word for word. They took the page and went onto the next item. They started reading it. They said, 'By the way, you know that item we just told you about, the gun allowance? We withdraw it.' I said, 'Wait a minute! We just went through it.' I said, 'Why?' 'Well, just because you accepted it.' That's what they said.
36. For a description of this job action, see Thomas Kennedy, "The Epidemic in Pittsdown," The Police Rebellion, ed. William Bopp (Springfield, Ill.: Charles C Thomas, 1971), 134-161. Also available as a Harvard Business School case. Livingston said the idea originated with the Pontiac police leaders as a way to use their sick time to wage a strike. Interview, 10/22/72.

37. "Detroit Police Department Labor Negotiation Notes" (10/19/66), p. 4.
38. "Notes" (10/19/66), p. 7.
39. See Detroit Free Press, 10/21/66, and 10/24/66.
40. State of Michigan Labor Mediation Board, Labor Relations Division, "Case no. C66 J-118: First Amendment to Charge," signed by Winston Livingston (October 26, 1966).
41. Parsell conferred with both Teamster and UAW officials but decided to hold off about joining until after the mediation board decisions. No formal alliance subsequently developed, but association leaders occasionally went to the two unions for advice and support. The Detroit Free Press, 10/25/66, reported the rumor. Robert Holmes, Sr. of the Teamsters recalls that afterwards dissident DOPA factions approached him, but he felt they already had a union and wasn't about to interfere. Telephone conversation, 2/20/73. Oscar Raskal of the UAW Education Department remembers that officers of the DPOA attended the labor relations course in the beginning and that the UAW set up a full-day conference for police groups around the state.
42. The following summary and quotes of the hearing are from the transcript of SLMB, "Case No. C66 J-118;" a five-page letter to Cavanagh from Livingston dated December 8, 1966; and interview verification.
43. "The Detroit Police Revolt," The Police Rebellion, ed. William Bopp (Springfield, Ill.: Charles C Thomas, 1971), p. 165.
44. Cavanagh, Girardin and former Commissioner Edwards maintained that rising rate indicated improved methods of reporting crime rather than an actual increase. See Detroit Free Press, 5/18/67. Also, see Edwards' testimony, Before the Detroit Police Dispute Panel (12/19/67), 1158-1261.
45. Wilde, p. 121. Also, see Detroit Free Press, 6/4/67, for a summary of the nine months work by grand jury investigator Judge George Bowles.
46. Livingston enumerates these and the following pronouncements in "Statement of Position," 6-7 and 9-12.
47. The Detroit Free Press, 2/15/67.
48. League of Women Voters of Detroit, "Detroit Police Department: Problems and Possibilities" (mimeo dated February, 1967).
49. In August, 1966, Cavanagh testified to the Ribicoff Committee that Detroit needed about \$15 billion more in federal funds in the next ten years, or, as Robert Kennedy pointed out, ten times as much money as the federal government was currently spending. Federal Role, 632-33.
50. Testimony, Before the Detroit Police Dispute Panel, 12/2/67.

51. The budget message is reprinted in the Journal of the Common Council (April 21, 1967). See the Detroit Free Press, 5/9/67; and Russel A. Smith, et al. "Detroit Police Dispute Panel: Findings and Recommendations on Unresolved 'Economic' and Other Issues," particularly 6-10, for elucidation of the budget as it affects the police department and police salaries.

52. Testimony, Before the Detroit Police Dispute Panel, 31-2.

53. Reprinted as Union Exhibit #6. Before the Detroit Police Dispute Panel.

54. Hubert Locke, p. 66, writes: "The 1966 fall election stirred many pockets of controversy in the city, from those who thought Cavanagh had not kept faith with the mandate given him in his two-to-one reelection victory as mayor a year earlier, to those who were piqued with him for challenging the Democratic party machinery, which had thrown its support to Williams. The Negro community was divided over the Cavanagh-Williams battle; even many Negroes who supported Cavanagh felt that he had been and would continue to be the key to the city's progress and that Detroit could ill-afford to lose him as a mayor."

55. The discussion of Mary Beck is based on a telephone conversation with me, 2/20/73; the Detroit Free Press, 5/9/67, 5/10/67, 5/12/67, and 5/19/67; and on Greenstone, 1961, 14-15.

56. Detroit Free Press, 5/10/67.

57. Detroit Free Press, 5/13/67.

58. I compiled these figures from The Municipal Yearbook; the Detroit Free Press, 2/15/67; and Ray Girardin's testimony, Before the Detroit Police Dispute Panel, 12/20/67, 1269-71.

59. The agency contended that the Chamber of Commerce, the mayor and the common council released the survey, not they; and that they were in fact trying to aid the police officers in their efforts to overcome their problems. See Detroit Free Press, 5/20/67.

60. The discussion of the slowdown is based on Livingston's testimony, p. 35; "Statement of the Position," p. 7; newspapers; unpub. reports; and interviews. Another important source is the Detroit Police Department, "Chronological Record of Events, Labor Relations Difficulties, May-June 1967," a compendium of the records, orders and documents of the period.

61. Parsell's memory is faulty on this point. In fact, the books were open, and the DPOA and Council 77, AFSCME, were the only unions who took advantage of the, according to Leggat's testimony, op. city, 612-3.

62. Detroit Free Press, 5/18/67.

63. Detroit Free Press, 5/19/67.

64. Towards the end of the second week of the slowdown, the police department publicized the fact that hiring was up despite the wage controversy. However, the net gain of 49 still left the department 456 short of its budgeted allotment of 4,854. See, Detroit Free Press, 5/27/67 and 6/7/67.

65. Quoted in Bopp, 167-168.

66. Detroit Police Department, Notation No. 1670 (June 12, 1967), Attachment "B" in "Chronological Record," op. cit.

67. The story of the "blue flu" is based on interviews; daily accounts in the Detroit News and the Detroit Free Press; testimony and statements, Before the Detroit Police Dispute Panel; court records which I will cite as mentioned; and, most invaluable, the "Chronological Record," which documents the suspensions, transfers, and department actions. Bopp also tells a version of the incidents.

68. City of Detroit, Department of Police, "Complaint: Civic Action No. 89466," Circuit Court for the County of Wayne (June 15, 1967).

69. "Civil Action 89466." Also, see Detroit Free Press, 5/16/67.

70. Detroit Free Press, 6/17/67.

71. Reese said, "The city and the DPOA agreed to go into not arbitration but fact finding. We had quite a bit of trouble trying to work out the terminology of the agreement as to fact finding. We tried to avoid getting into binding arbitration. We didn't want three people, or two out of three, to bind us irrevocably to some kind of a pay package that the city couldn't afford." Interview, 2/21/73.

72. Released by the Detroit Police Department.

73. Both Eljay Bowran, president of the Detectives Association, and Ara Bezan, president of the Lieutenants and Sergeants, publicly stated their opposition to a work stoppage. Bowran claims that approximately half of the detectives were still on probation and were unwilling to jeopardize their promotions. Interview, 11/6/72. Bezan describes the dilemmas of superior officers being sent to interview "sick" policemen. He notes that "the blue flu split middle management and the patrol force for the first time."

74. Detroit Police Officers Association, "Complaint" 6/19/67.

75. Detroit Free Press, 6/20/67; and interviews.

76. Interview, 10/31/72. The other members of the subcommittee were Richard Cross, Edward Cushman, Father Paul Harbrecht, and Rev. James C. Chambers.

77. The department listed 197 as the "flu" progressed, but in its summary it noted 186 suspensions. The DPOA figures also were 186. See "Chronological Record," attachments W and V.

78. "Agreement Between City of Detroit, Detroit Police Department and Detroit Police Officers Association, Inc." (mimeo: July 1967; also August 1967)

79. Interview with various DPOA officers who prefer to remain anonymous, 10/27/72.

80. These figures are from Locke, p. 51. His is an excellent account of the events. To understand some of the public controversy surrounding the police, see John Hersey, The Algiers Motel Incident (New York: Knopf, 1968).

81. All of the documents, briefs, findings and full transcripts of the proceedings are available.

82. 17-18. The panel relied for this information on the testimony of Judge Donald Leonard, former commissioner of both the Michigan State Police and the Detroit Police Department, 1302-3, 1310-13.

83. p. 38. Also, see "Reply Brief of the Detroit Police Officers Association" 1/22/68, 15-17.

84. "Supplemental Statement of Position of the Detroit Police Officers Association Re Financial Condition of City" 11/7/67, p. 8. The DPOA recommended eliminating concerts, Dutch Elm disease control, and the operation of the public market; closing several minor museums, swimming pools, and skating rinks; and cutting out Model Cities. Klein's reaction was that the DPOA didn't understand that such amenities make the city livable.

85. They refer to the Mayor's Task Force on City Finances, two-page letter to Cavanagh on Office of the Controller stationery, 1/9/68.

86. This was the committee for in the "Memorandum of Understanding" attached to the August contract. Its report essentially rationalized the charges and penalties. See, Detroit Police Department and Detroit Police Officers Association, Inc., "Report of Committee on Offenses and Penalties" mimeo: 3/28/68.

87. Interview, 10/27/72. Withers was president of the DPOA at the time of this interview.

88. This is my impression based on interviews and conversations with various rank-and-file officers who preferred to remain anonymous.

CHAPTER V

We didn't want to strike. We wanted to work things out. We didn't want to get into a local union type organization, but we had to have some representation. We had to have an organization to back the proposals that we wanted to give to the administration. And this was about the only way we could do it.

John Melton¹

Atlanta has the reputation of being a progressive city. It hosts several prestigious universities. It is regional headquarters for numerous financial concern and businesses and international headquarters for Coca-Cola. The city proclaims its affluence with modern office buildings and a rehabilitated downtown. The government reflects the economic urbanity. The white power elite² did not resist integration with the vehemence experienced elsewhere in the south; instead, many leaders recognized its inevitability and attempted to smooth over the transition. Ivan Allen is often considered, and considers himself,³ a liberal mayor in the tradition of Lindsay and Cavanagh. Chief Herbert Jenkins, who headed the Atlanta Police Department from 1947 until 1972--twenty-five years--earned praise for innovative leadership and for astute handling of civil rights controversy. Civic groups and the black middle class actively participate in running the city. Indeed, in late 1973 Atlanta elected as mayor, a reform-oriented black, Maynard Jackson.

Despite its cosmopolitan image, Atlanta shares with other southern cities a history of Jim Crow segregation and an intolerance of labor unions. Racial conflict dominated politics and policies in the 60s and into the 70s, overshadowing reemerging labor struggles. A 1964 study found that "labor is neither so well organized politically as the Negro (sic) community nor so politically involved"; at the most 20 percent of the nonagricultural labor force belonged to unions at the time.⁴ There

is no provision for formal labor relations and collective bargaining in the public sector. Mayor Allen dismissed firefighters who persisted in striking in 1966. His successor, Mayor Sam Massell, withdrew the dues check-off from municipal employees in pique at the sanitation workers' militance.

Police employees faced not only the antagonism of elected officials to their 1968 organizing efforts but also the adamant opposition of Herbert Jenkins. The chief rejected any form of labor organization on the force. Nonetheless, the police rank-and-file persisted in their campaign for the right to belong to and form a lodge of the Fraternal Order of Police, a national association of law enforcement officers. They engaged in lobbying, a work slowdown, and court action before achieving their aim. In the process they gained "gripe rights" and a pay increase as well as the right of membership in a line organization. The FOP failed to win on union perquisites of the dues check-off, a written grievance procedure, and collective bargaining and remains a pressure group rather than a de facto union. Nevertheless, the lodge buttressed the drive for a municipal labor relations system; and it contributed to the incipient transformation of the police department from a simple paramilitary hierarchy into a more complex bureaucracy.⁵ Thus, the FOP--albeit still limited in scope--has a major impact on the management of city government.

5.1 Early Efforts

The organizing efforts of the Atlanta police actually commenced in the 1940s, a period of nation-wide municipal employee unionizing. The pamphlet published by the International Association of Chiefs of Police described as much police labor activity in the south as elsewhere in the

country.⁶ Miami, Florida; Augusta, Georgia; and Charlotte, North Carolina were among the large cities with police locals in the American Federation of Labor (AFL). In 1944 the mayor of Jackson, Mississippi dismissed 36 officers for failing to disband an AFL affiliate. Officials in other cities preferred to use the laws and the courts to contain police militance. But the idea of building a rank-and-file association was infectious, and Atlanta was not exempt from the contagion.

The department was quite small, less than 500 employees, and it was having some difficulty recruiting its full complement of personnel.⁷ The major complaints were, as always, wages and working conditions. In 1945, the maximum entrance salary was \$2100 for a 56 hour week. Detroit and New York police officers received over \$1000 more per year for a 48 hour week.⁸ In addition to monetary benefits, the militants also demanded protection against their supervisors. They objected to the authoritarian command structure and arbitrary discipline procedures. The department hierarchy initiated all disciplinary actions, and the chief could suspend a man for up to five days before a hearing took place. Ultimately, the three-person Police Committee, appointed by the mayor from the board of aldermen, served as the trial board. This committee also was officially responsible for department policy, but the chief retained almost unlimited power over department affairs. He decided crime control strategy and the method of patrol allocation, and he determined promotions, assignments, and transfers. His power was personal and essentially unrestricted by legal or bureaucratic requirements. Indeed, it was just such requirements that police rank and file fought for.

A small group of patrolmen, led by an officer called "Doc" Sims, subsequently attempted to start a police labor organization. Jenkins

recalls that they succeeded in obtaining an AFL charter.⁹ Later, they turned to the Fraternal Order of Police. However, in March 1946 the Aldermanic Police Committee publicly stated its disapproval of affiliation "with any outside labor union."¹⁰ Doc Sims continued the struggle for recognition, but floundered against the staunch opposition of both Mayor Willian Hartsfield and Jenkins, who became chief in 1947. The mayor investigated the possibility of passing prohibiting legislation.¹¹ The chief not only issued an order barring union membership and meetings, he openly harassed labor leaders by giving them undesirable assignments and making them ineligible for promotions. When his order was upheld by the courts, he was able to dismiss persistent union organizers.

Jenkins is straightforward about his reasons for blocking police labor organization. He believes that the chief should have absolute authority over the department and that a police union challenges this unilateral rule. Moreover, he perceived the early group as a major obstacle to his plans to "modernize" the Atlanta department through the introduction of an innovative training program developed with the FBI. He writes that, in addition to the elderly officers:¹²

The other source of opposition was from the police union, which was not a union at all but in fact a thinly veiled cover for Klan membership. I do not think a police department is a place for a union any more than an army is, although my views are now somewhat more moderate than they were in the beginning. But, faced with a union dominated by the Klu Klux Klan, I knew it had to be destroyed quickly if a professional police organization was ever to be built.

In Jenkins' view, the union represented the voice of reactionism against his proposed innovations. He engaged in a power struggle, and won.

Sims and his cohorts probably belonged to the Klan¹³ and may have shared its perspective, but they organized in response to very real economic and job conditions. The chief and city officials acknowledged

this fact when they raised the salaries nearly \$500 in 1946. The money also attracted recruits. By the end of 1947 the police force was once again at its 1942 size, and the militants were quieted.

5.2 The New FOP

In the next twenty years the Atlanta Police Department underwent a series of changes. It doubled its size to approximately 950 employees. It hired blacks and sent them out on patrol. It raised its entrance and promotional requirements. It shifted to a 5 day, 40 hour week (but not until 1966). It took on the new tasks created by civil rights demonstration and student protests.

A few things remained the same: among them the presence of Chief Herbert Jenkins and his para-military theory of police administration. He accepted city officials' determination of general police policy but continued to maintain that he alone had authority over internal department affairs. He resisted all intervention. The aldermanic police committee of 1966-67 went to Jenkins to protest his transfer of their police liaison. Richard Freeman, the head of the committee, reported the chief's response:¹⁴

He greeted us very cordially and listened to us very politely. Then he picked up the rule book and read to us that he was the one that ran the department and that he was the one who makes changes and he was going to stick to it. He was sorry we were unhappy, but that was the way it was going to be... So we marched from his office completely defeated, but satisfied that the chief had done this in the best interests of the department, the police committee, and the city.

Ultimately, Jenkins controlled the personnel system. Although applicants for promotion took a written test, there was no merit system. It fell to the chief to choose from the six top scorers. Superintendents did not require even an examination, so Jenkins surrounded himself with a cadre

of handpicked, loyal men. The chief also had the final say in assignments and transfers. In fact, he admits using them for purposes of discipline and for harassment of police labor organizers. The 1965 Fulton County Grand Jury blasted the chief for having too much power and blamed him for low morale on the force.¹⁵ The rank-and-file officers tend to agree with this assessment.¹⁶

By 1968 police employees were again becoming militant. They felt themselves underpaid at a base salary of \$7,046,¹⁷ but their greatest concern was their job conditions. Jenkins had earned himself a national reputation as a liberal police chief for his handling of community and racial conflict. However, to the rank-and-file police officers he remained an authoritarian commander against whom they had no formal protections or grievance procedures. They resented the verbal attacks by black, hippy, leftist, and poor peoples' groups seemingly allowed by city politicians to violate laws while criticizing the police. Although crime appeared to be on the rise and physical danger for police increased, the officers believed themselves severely constrained by the supreme court decisions and by the lack of what they considered adequate equipment. Jenkins and his superintendents became the symbols of such policies. The police rank-and-file wanted to change their working conditions. As Jenkins was due to retire in early 1970, they hoped to help name a more sympathetic successor. They sought more weapons, of both the legal and armament sort, against law breakers; a means of recourse against arbitrary supervisors and discipline; and a promotional system less dominated by the chief. They demanded better pay.

In late 1968, the militants on the Atlanta force determined to form a labor organization. They knew--through delegations to other cities,

general publicity, and FOP organizers--that police in other cities succeeded in gaining grievance procedures, higher salaries, and a say in department policy through collective action. The "blue flu" in Detroit had just raised the base pay of police personnel to over \$10,000. The PBA blocked New York's utilization of one-man scout cars, an innovation Jenkins unilaterally implemented over his employees' objections.¹⁸ The disgruntled Atlanta officers, eager for similar influence in their department, started an FOP lodge. They considered joining with the Police Officers Association of Georgia (POAG), which has an effective lobby in the state legislature. However, the POAG is dominated by rural law enforcement interests, and was not particularly receptive to either Atlanta's plight or the possibility of strong Atlanta influence in the group. On the other hand, the FOP encouraged the establishment of an Atlanta lodge.

Dick Weber, one of the instigators, recalls their decision:¹⁹

You're looking financially for a way to go, and there were no avenues available except this, at that time. You needed strength. You needed strength in numbers, and you needed a name that carried weight. This was the only thing available at that time, that we found, and we tried it, and of course it worked.

In other words, the organizers felt they needed the prestige, resources and support available from a national association.

John Melton, the second president of the Atlanta FOP, recounts its early days:

We had a chief at that time, Chief Jenkins, who was so opposed to the Fraternal Order of Police or any organization that we couldn't even set up an organization within the city. We had to go outside into another county to set this organization up. Clayton County, south of here. And then when we got enough members in the organization, then we transferred them in bulk, our members, and initiated a charter here in the city, in Fulton County. We started off with about 150 members, and of course at that time we were completely broke... When we joined out there, we knew at that time that the lodge could not help us with the

internal problems we had here. And we had to come into the city. That was when we broke away and came in here. But we had to do it as a group. We couldn't go it individually. It only takes ten people to set a lodge up. And had you tried to come in here with ten people, Herbert Jenkins would have gotten rid of those ten people, and you would have had to start with ten more. Over and over and over. Until he eliminated whatever chance you had of setting up a lodge.

The Fraternal Order of Police had a long history in the Atlanta department, and the officers felt they were carrying on the work of "Doc" Sims.

Jenkins opposed the lodge, and let everyone know of his disapproval. In his opinion, it "may start on working conditions but leads to power conflicts." The chief says he "always tried to avoid confrontations and head-on fights." Therefore, although he didn't want the FOP, he initially tolerated it, despite a series of provocative events during the summer and fall of 1969.

In July the FOP held a two-day conference for its 242 members and friends. Participant John Harrington, national president of the Fraternal Order, used the occasion to label Jenkins the worst administrator in the country and wired President Nixon to remove him. Mayor Allen leapt to the defense of his chief, provoking a letter to the editor of the Atlanta Journal from Harrington. It concluded:²⁰

With all the above mentioned pornography, vice and murder taking place in the City of Atlanta and for the mayor to say Herbert has been doing a real good job for the past 22 years, leads me to believe you need new parts for your head, Mr. Mayor.

As a professional law enforcement officer for over 30 years, I know vice and corruption would not exist more than one day before a good Police Administration would know about it and the Administration don't do anything about it, is because City Hall wants it to exist.

In fact, Harrington missed the boat. One of the things that later offended the rank and file most was charges of corruption on the force.

The major incident of this period was the wildcat slowdown, actually

started by the FOP local in October 1969.²¹ Officers called their protest "Operation No Case." They refused to make arrests for minor violations, and engaged in a traffic ticket slowdown. The action began following a hippie march on police headquarters at the end of September. The first target was the city's "go easy" policy against hippie law breakers in Atlanta's Piedmont Park, but the officers soon circulated an unsigned petition listing eight additional points. The demands included revising shift times back to 8-4-12 from 2-10-6. Jenkins had found most crime occurred between 6 pm and 2 am and assigned the men accordingly, but the officers complained that the new schedule interfered with previous commitments to second jobs or classes. They also wanted a parking lot, a \$100 per month wage increase, liability insurance on city vehicles, and an end to disciplinary transfers.

The Harrington episode and general public employee militance had earlier catalyzed the city into exploring the legality of municipal workers' strikes. A five-page memorandum of law (7/17/69) by City Attorney Henry Bowden concluded that the Georgia statute did not appear to cover municipal employees; however, "...the unquestioned and prevailing rule is that public employees have no right to strike absent some law creating such a right." He said strikers could be discharged. But the slowdown came when the city was in the midst of a crime scare and about to elect a new mayor. Neither Jenkins nor Allen wanted a full-scale strike or a large-scale dismissal at such a time. The chief chose to respond with harassment rather than suspensions. He reassigned all the FOP activists to different shifts and beats, and brags about it still.

"Operation No Case" came to a halt only after Jenkins promised to resume the old shift hours, and the city promised pay raises, liability

insurance and more vacation days. The job action ended up penalizing the city \$55,500 in anticipated revenue from traffic fines and forced the city to begin the process of trading economic concessions for labor peace. As significantly, it represented the first major inroad on the chief's unilateral determination of patrol allocation.

5.3 Racial Concerns

Less than a year after the slowdown, the police officers--this time explicitly led by the FOP--engaged in a second job action. Their dissatisfaction with work conditions had continued and their militance increased. The precipitating factors were increasing racial pressures in the force; the relative receptivity of the aldermanic police committee to citizen complaints; the breach of disciplinary procedures in the case of Captain H. L. "Buddy" Whalen; and unanswered demands for more equipment.

1970 saw a change of city administration. Sam Massell, a member of the liberal Jewish community, became mayor. Maynard Jackson, a young black politician, became vice-mayor. An unprecedented six black aldermen (out of 18) took office. Although police support was not as crucial as in past elections,²² Massell needed and appreciated the police vote. As vice-mayor, he spoke at the FOP conference in July 1969 and applied for membership in Lodge #8. His campaign pledges were a combination of pay raises and welfare measures. Massell won by such appeals to labor and to blacks; he then felt some obligation to come through on his promises. Melton recalls:

Once he joined, it kind of opened the door. In other words, it took a lot of pressure off of us. He was a strong candidate. I don't think the previous administration thought he could win, but he did anyway. Of course, once he went into

the office, we were able to go in and talk to him and tell him what the problem was. Before this time we couldn't talk to anyone. No one would listen. I mean they didn't care. It was immaterial to them. The hell with you! We just started right there and moved on the main things that we thought was wrong.

Massell repaid his FOP backers by listening to their demands. He also raised their yearly wages by nearly \$700.²³ The FOP claimed credit for pressuring him to make this concession, most obviously through the slowdown of the preceding fall. However, a large part of his motivation was the hope that wages would attract new applicants. The department claimed a manpower shortage and was engaged in a major recruitment drive. Pay boosts seem always to follow concern about personnel strength.

The other major business on Massell's agenda was appeasement of the black community. The mayor publicly stated his intention to appoint blacks to prominent city positions as soon as vacancies opened up. He actively involved himself in integrating the department more fully. As part of his program, he appointed a new police aldermanic committee. Chaired by Q. V. Williamson, a prominent black Republican, it also included independently-minded aldermen Wyche Fowler, Jr. and Cecil Turner. The rank-and-file police feared that such a committee would be too receptive to citizen complaints. It did attempt to deal with community problems, but it concerned itself more centrally with recruiting and promoting black officers. Williamson remembers:²⁴

While I was chairman, I spend most of my time working on getting promotions for black officers. And, also, trying to equalize the number of black policemen in the police department, to be equitable in a city that was over 50 percent black. This is a very hard job to do in a police department that's predominantly white. Number one thing, a lot of qualified Negroes won't apply to be policemen, because of the situation down there, and they can get jobs elsewhere making just as much money or more. For the qualified ones, it isn't that hard.

He remembers that there were about 60 black officers in 1966 and approximately 270 by the end of 1970. In Williamson's opinion--as in Jenkins'--the FOP was a racist organization opposed to real integration of the force.

Also attacking the FOP for being racist was Atlanta's Afro-American Patrolman's League (AAPL). Its founding in November 1969 followed black Patrolman DeWitt Smith's expulsion from the Fraternal Order of Police for openly testifying about brutality by fellow officers.²⁵ Subsequently, Smith and state representative James E. "Billy" McKinney, a former member of the force, initiated an all-black association, modeled after the Chicago group headed by Renault Robinson. Their major objectives were to halt discrimination in the department, improve police-community relations, and build solidarity among the black officers. Jenkins refused to meet with them, just as he had refused to meet with the FOP. According to Floyd Reeves, a founding member of the AAPL and its second president, the chief told them that, "No young radicals are running my department!" The League persisted. It testified to the police aldermanic committee and hired civil rights lawyer Margie Hames to represent them.

The FOP leaders insist that their association is not racist but concede that the two groups are in conflict over promotions and policing methods in the black community. The issues important to each often compel them to act against each other. Moreover, the League is a competing organization. The lodge suspected the AAPL's influence with the aldermanic committee²⁶ and felt the black officers caused new sources of tension in the department.

5.4 Open Conflict

In May 1970 the department began to explode, and with it the Fraternal Order of Police.²⁷ First, Massell ordered the immediate suspension of Captain Buddy Whalen for his part in an illegal extortion of funds for Massell's election. The mayor's brother was involved, and Massell hoped to avert all suspicion from himself. Jenkins reluctantly agreed to suspend Whalen, without making any formal charges. The rank-and-file police were infuriated by this abridgement of one of their few rights in discipline proceedings. Moreover, they resented public cries of police corruption that accompanied the Whalen scandal. At about the same time, the AAPL launched a campaign against the harassment of their members by supervisors and against racial bias within the department. 88 black officers signed a statement charging discrimination, and many of them appeared with their lawyer to testify at the police aldermanic committee. A few days later, the mayor announced a plan to create new supervisory positions, to filled only by blacks. The chief took his traditional stance; he made no public statement of his position on these issues but vowed to carry out any legally determined city policy. The white officers, fearful that they would be bypassed for promotion, rushed to join the FOP lodge. Soon after Massell's declaration, 95 detectives en masse applied for membership.

The lodge continued to grow, but it denied it had union ambitions. Melton insisted they would never strike; the national charter forbid it. However, they were interested in gaining representation in the department. They hired their own lawyers to aid the fight with the city and chief and to defend members in trial board hearings.²⁸ In late July the police group presented a list of formal grievances to the aldermanic committee.

The accompanying statement read:²⁹

These demands and grievances are offered by the Fraternal Order of Police with the understanding that the Fraternal Order of Police is not a union but seeks to function as an avenue for discussion, and positive action, between City Officials and the Policemen of the Atlanta Police Department.

The FOP first demanded the "basic weapons" required to face increasing risks of "'normal everyday' duties," including mace, black-jacks and shotguns. In addition, the lodge requested adequate parking, longevity pay, pay differentials, more sick leaves and vactioans, and the dues check-off. The committee set August 5 for a "round table type discussion" of the various issues.

The discussion only served to frustate the FOP. The chief did not believe such extensive equipment was necessary for routine police work, nor the way to deal with protest.³⁰ The lodge immediately held a four-hour closed meeting on August 6. Afterwards, Melton announced to the Atlanta Constitution (8/7/70):

We are going to follow the statement made by Chief Jenkins. Yesterday he stated that he didn't expect the men to lay their life on the line but to turn around and walk off. This is what we will do from now on, until we receive the necessary equipment to protect ourselves and the general public.

In other words, the FOP members decided to leave the scene if outgunned. The lodge claimed approximately half the department's officers belonged and would act accordingly.

Jenkins absolutely refused to budge on the authorization of mace or shotguns. He noted that a number of the demands required changes in the law and additional appropriations, matters over which he had no control. However, he did make one major concession. In a statement to the press, (8/11.70) he announced:

I believe the time has come when the rank-and-file members of the department must be given a stronger voice in the manage-

ment of the department... A meeting will be held at police headquarters every week, where the chief and all superintendents will be present to hear complaints and grievances from anyone. A police officer will be assigned as personnel officer in the chief's office to assist in all personnel problems.

Jenkins finally agreed to meet with the FOP.

The rank and file had won "gripe rights" but still no formal grievance procedures, monetary concessions, additional equipment, or say in crime control strategy and work rules. In protest, one police officer reported to duty wearing only the equipment officially listed by Jenkins --he appeared without his shoes, sock underwear or holster!³¹ Weber describes what so upset the force:

Preferential arrests. So-called immunities of certain groups during the major conflicts that occurred on the street. One-man cars vs. two-man cars. Numerous officers injured during that period of time. Equipment problems. There are just so many things. A man's guilty until proven innocent. Pay cut off before you have a chance to even explain yourself. You have to make statements and swear and take a lie detector test, yet the accuser doesn't. The belief that a man wearing wing tips and carrying a 357 magnum who's your superior officer tells you, who are wearing a pair of plain toed boots and a snubnose, that you're out of uniform. No qualifications. No examinations. Political promotions. These are the things that cause a strike. And these have been going on for a long time. Finally, all these things piled together. Officers killed. Officers injured. Brings you to a common bond.

In fact, the officers were unwilling to stage an actual strike. It was against their charter. More importantly, they had witnessed the city's strong stand during recent fire fighters' and sanitation workers' strikes. Instead, they intensified the ticketing slowdown begun in July (following a hippie happening in Piedmont Park that emerged then). The members, who now numbered close to 600, experienced success the summer before and so tried again.

Melton and Weber say the ten-week action in the early fall of 1970 was the real wildcat. At the time, they did not consider it the best

strategy and were outvoted by the membership over when to start and when to stop it. However, they credit it with earning them significant wage gains. Melton concludes:

Let's face it. If you're going to get the money out of them, you're going to have to raise hell. You're going to have to jump up and down and raise hell to ever get anything out of them. That's the only way you're going to get money. That's the only way anybody gets money. I don't care where he sat, what organization it is, what department in what city or state it is, that's the only way you're going to get money. You've got to prove a point. Sometimes, we've been accused of going with it too far.

Despite the advantages, the leaders agree they would hate to go through another such action. It was just too draining and risky.

One effect of the slowdown was to enlarge the split between the black and white officers. The AAPL publicly denounced the job action.³² They agreed the force deserved adequate protection, but they were more concerned about the abuse and excessive use of equipment. The two groups met to discuss their differences. They were, and still are, concerned about the lack of "communication."³³

What finally ended the slowdown was the announcement of a \$3000 pay boost.³⁴ Joel Stokes, chairman of the finance committee and one of Atlanta's black aldermen, attended an FOP meeting to describe his and Mayor Massell's pledge to improve police salaries. He also promised consideration of a seniority system, improved vacation benefits, longevity, and parking facilities. In regards to equipment, he said he would follow the recommendations of the study being made by the International Association of the Chiefs of Police.

The city seems to have preferred to buy peace rather than lose the services of its police during a period of social conflict, or more than the \$225,000 in fines already lost. The police force was too important to the smooth functioning of the city, and therefore the reputation

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of its officials, to risk its further disruption. Besides, many officials and citizens were sympathetic to the officers' claims. Equally important, the department was operating below authorized strength and proclaimed a manpower shortage. The chief, mayor and aldermen agreed on the need to raise wages to attract personnel.

Jenkins did not fire anyone, as might have been expected. However, he did harass the leaders. He reassigned a large number of members as a demonstration of his continued power over the department. The chief expressed pleasure at the FOP's vote to end the job action but proceeded with an internal investigation of the lodge.³⁵ However, this never amounted to much. In fact, the department was becoming less like a military and more like a service bureaucracy.

5.5 In the Courts

The struggle was not over. The FOP members were dissatisfied with the continued constraints on weaponry. In mid-October, 1970, they voted to carry their private arms, but few actually participated in this blatantly illegal action.³⁶ Of greater impact on the city was the renewed request to the police aldermanic committee of the right to hold lodge meetings and elections at headquarters. This led the committee to seek a ruling from the city attorney on the legal status of Atlanta's Fraternal Order of Police. Alderman Wyche Fowler, for one, suspected they were in violation of the state laws.³⁷

On November 2, City Attorney Henry Bowden delivered his opinion.³⁸ In a letter addressed to Q. V. Williamson, he cited a 1953 Georgia statute that forbid police membership in labor unions. He stated that "labor organizations or unions are not necessarily identified by their

name but more by the activity of the organization." After describing the events of the preceding months, he concluded:

Therefore, in view of the know activities of the Fraternal Order of Police in Atlanta, it is my opinion that they do constitute a union under the Georgia statute and as such the organization and its members are in violation of state law.

Jenkins applauded the finding, and Alderman Cecil Turner advocated prosecuting the FOP officers as Bowden seemed to advise. Williamson and Fowler, on the other hand, feared the consequences of this ruling and did their best to appease the FOP. They met with Melton and FOP attorney Clyde Henley to explain their position; they granted the lodge its request to post notices at headquarters; and they chose not to press misdemeanor charges as provided under the state law. Nonetheless, Henley decided to withhold the membership list he earlier promised.

The FOP decided to go to court to overturn the 1953 statute. Jenkins reacted. He did all in his power to prevent the FOP from seeking formal recognition. His actions provoked the lodge to request an injunction against the chief for his "harassment" of veteran officers who had joined the Fraternal Order of Police. Weber says he experienced 59 moves in 57 days. At one point, the chief transferred him to the morning watch in South Fulton County and Melton to another shift in North Fulton County, 40 miles apart. This made it next to impossible for the president and his secretary-treasurer to get together.

In January, a three-judge federal panel agreed to rule on the state law. However, they were "not about to administer the Atlanta Police Department" by considering the injunction.³⁹ The major questions were the constitutionality of the law and the existence of a controversy, as the city had never charged any officer with violation of the statute.

The city attorneys argued the importance of prohibiting police labor unions, including the FOP. They felt such an organization would weaken the department's ability to combat crime by permitting officers to refuse a task not covered by the contract. Central to their position was the belief that:⁴⁰

The policy and method of operation of a police department is what is known as a para-military organization in that administrative discipline is as necessary and fundamental to the operation of a police department as it is in a military organization... The administration of the police department insofar as it concerns the assignment of officers and their hours of duty and their duties lies in the Chief of Police of Atlanta subject to the overall supervision of the Department by the Police Committee of the Board of Aldermen and the Board of Aldermen.

Atlanta was not ready to give up her model of police administration.

The state of Georgia concurred in its amicus curiae brief.

Henley and Moulton argued that the 1953 law was an unconstitutional abridgement of First Amendment rights of freedom of speech and assembly. They conceded that the city and state were entitled to enact legislation to prevent activity harmful to the public welfare. In a significant change of position, the FOP conceded that by legal definition it was a "labor union," not merely an "avenue for discussion" as it had argued in its earlier demands. But, the lawyers contended in their brief:

...the mere fact of membership in an organization such as the Fraternal Order of Police is no way dangerous to the citizens of the community, and that the interest of the State in securing an impartial police force for use in the event of labor disputes is not such a worthy goal as maintaining the right of the plaintiffs to association, assembly and free speech. (8-9)

The attorneys argued that the FOP would never endanger the citizenry with a strike; the national by-laws forbid such action. The FOP cause, thus argued, produced wide-spread public support. Moulton reports letters and telegrams pouring in from all over the country.⁴¹

On February 5, 1971, the court declared the Georgia law unconstitutional. The judges found first that there was indeed a controversy. They noted the Bowden letter and the statement of the city's counsel to argue that the statute was a "Democlean presence" hanging over the FOP. Citing recent cases, particularly a 1969 North Carolina decision on fire fighters, they held that the state had valid interest in protecting the public from strikes but not with such broad legislation. Thus, the panel invalidated the current Georgia law. However, they made it clear that the state had a right to prohibit both strikes and collective bargaining.

The FOP applauded the district court's decision. The officers and the lawyers immediately set about gaining recognition as the police officers' collective bargaining agent. The mayor was not receptive.⁴² Assistant City Attorney John Dougherty says the city even considered going to the supreme court until that body upheld the right of employees to belong to a labor union in a similar case.

Herbert Jenkins, only a year away from retirement, remained the staunchest opponent to the FOP's demand for formal recognition. He continued to believe that the association represented an reactionary and racist counterforce in the department.⁴³ Moreover, he feels that "any police department that's highly organized, you find organized crime very active in the same place." The chief admits that changes occurred since he first took office in 1947 and that police unions are now accepted, if grudgingly, in many departments. However, as long as he was in command, he could prevent them from winning such acceptance in Atlanta. As the rank and file became more militant in the late 60s and as new policies emanated from city hall, even Jenkins had to make concessions. He had

to permit existence of a "labor union" and meet with its representatives. But during his administration, the FOP had no chance of gaining the union perquisites of the dues check-off, a written grievance procedure, or collective bargaining.

The concerted efforts of elected officials and the police chief were insufficient to block the demands of the Atlanta FOP for limited labor union status. By 1971, police labor associations had become legally acceptable. The juristic opinion of the 1940s no longer held. Police employee membership in a no-strike union had become a constitutional right. Moreover, the FOP learned and benefitted from gains won elsewhere.

Atlanta rank-and-file police reacted against poor working conditions, arbitrary commanders and low pay. Impressed by the success of police labor associations in other cities, they organized a chapter of the Fraternal Order of Police and engaged in job actions, lobbying and pressure tactics. The FOP members persisted because they found that the conditions that disturbed them remained unchanged and that municipal officials were vulnerable to police militance. Urban social conflict and the manpower shortage helped their cause. The city needed to attract recruits, not fire them. The chief avoided confrontation until unavoidable. He proudly harassed FOP activists, but neither he nor the city authorities pressed legal charges. Indeed, the mayor and aldermen, eager to keep the police on duty and on their side, tried to buy the officers off with additional monetary and organizational rewards. The critical political function of the police service forced the officials to trade benefits for labor peace. The FOP learned that militance brought concessions, not repression.

Jenkins insists that the FOP never handicapped him. He says the new 10-6-2 shifts were having problems anyway, and he never gave in on the equipment issue. Nevertheless, the Fraternal Order of Police gained power in the department. The chief could no longer command by fiat; he faced the resistance of the rank and file. He could no longer engage easily in punitive transfers; a new series of rules, regulations and rights developed to protect the officers. In other words, during the Jenkins administration the FOP catalyzed the initial development from a simple para-military hierarchy in the department into a more complex bureaucratic structure. Indeed, their actions were in large part oriented to this goal. The rank and file wanted a more rational system of administration. Jenkins, Massell and the aldermanic committee desired labor peace. Bureaucratic rule is a way to achieve both. It provides the officers with a mechanism for protesting unsatisfactory working conditions. It gives the officials a way of confining labor struggle to certain legally determined issues and forms. The beginning evolution of a formal personnel and labor relations system was simultaneously a catalyst to and response to militance, and a means of social control.

Atlanta Lodge #8 intends to push ahead for the dues check-off, collective bargaining and formal grievance procedures, and some form of consolidation with AAPL.⁴⁴ The 1971 IACP study of the department actually lends some support to their demands.⁴⁵ In 1971-73, the last two years of Massell's mayoralty and first two of Chief John Inman's administration, the FOP earned "meet and confer" privileges on budget and some policy questions; permission to carry mace; and liability immunity, improved insurance and hospital benefits, and step pay increases. Inman insists he would block collective bargaining.⁴⁶ However, the FOP leaders no

longer suffer harassment; in fact, many of them finally got their promotions.

The FOP remains a pressure group. But the transformation into a real union has begun.

Footnotes

1. Sergeant John L. Melton was second president of Lodge #8, the Fraternal Order of Police, Atlanta, Georgia. Interview, 2/1/73. All further references and quotes from interviews will be footnoted only at the first citation.

2. There is a small literature on Atlanta's "power elite" and whether or not it exists. Floyd Hunter's Community Power Structure (Garden City, New York: Doubleday, 1963, originally published in 1953) is the seminal work. For critique and elaboration, see M. Kent Jennings, Community Influentials (New York: Free Press, 1964); and Edward C. Banfield, "Atlanta: Strange Bedfellows," Big City Politics (New York: Random House, 1965), 18-36. For a more recent discussion of Atlanta's black leaders, see Peter Ross Range, "Capital of Black-Is-Bountiful," New York Times Magazine (4/7/74).

3. Interview, 1/31/73.

4. Jennings, 31-2. Georgia is a relatively poorly organized state. The percentage of its nonagricultural labor force in unions was 14.0 in 1964, compared to 18.7 in Alabama, 19.2 in Tennessee, and 29.5 in the U.S. Of the other contiguous states, Florida was comparable with 14.0; and North Carolina and South Carolina were lower with 7.4 percent each. By 1968 Georgia's percentage had risen to 16.6, the contiguous states had comparable small rises, and the U.S. percentage diminished slightly to 28.4. Georgia Statistical Abstract 1972 (Athens, Georgia: Division of Research, College of Business Administration, University of Georgia, 1972). By 1970 Georgia ranked 42 among the states with 16.2 percent of the nonagricultural labor force in unions. Michigan ranked 2 with 40.2 percent; and New York ranked 9 with 35.6 percent. "Directory of National Unions and Employee Associations" (Washington, D.C.: Bureau of Labor Statistics, 1971).

5. The framework developed by Richard C. Edwards is very useful in understanding this transformation. He analyzed monopoly corporations and finds they move from "simple hierarchy" to "bureaucratic control" when they confront labor disruptions and instability they need to contain. See, "The Social Relations of Production in the Firm and Labor Market Structure," Politics and Society (forthcoming).

6. Police Unions and Other Police Organizations (Washington, D.C.: IACP, 1944). See, particularly, 3-4 and 26-7.

7. According to the Municipal Yearbook there were 462 police employees in 1942, 464 in 1943, 458 in 1944, a low of 418 in 1945, 426 in 1946, and 465 in 1947.

8. These figures are from the Municipal Yearbook 1945.

9. Interview, 1/29/73.

10. This resolution was typed on City of Atlanta Department of Police letterhead and dated as approved, March 14, 1946.

11. On April 14, 1947, Hartsfield wrote a confidential letter to the assistant city attorney, Charles Murphy, asking him to explore the right of the city to pass a prohibitory ordinance.

12. Keeping the Peace (New York: Harper and Row, 1970), p. 23.

13. Jenkins admits in his book, op. cit., 4-5, that Klan membership essentially was required of a police officer in those days. He recounts how he joined until he learned of the exorbitant assessment for the white sheet.

14. Margaret Shannon, "The Police Choose Sides," The Atlanta Journal and Constitution Magazine, 9/13/70, 8-9.

15. Atlanta Journal, 2/27/65.

16. Interviews, 2/73. Anonymity required.

17. This figure is from the Municipal Yearbook, 1969.

18. Jenkins adopted the one-man car in the mid-60s in order to compensate for the department's manpower shortage. He argued that the one-man car was safer, provided a more efficient allocation of personnel, and encouraged greater initiative and better performance. See his speech at Harvard University, 7/31/67, partially reprinted in Police Patrol Readings, ed. Samuel G. Chapman (Springfield, Ill.: Thomas, 1970), p. 220. According to my interviews, the men were unhappy about this innovation but had no mechanism for blocking it.

19. Interview, 2/1/73.

20. The letter is available from the Fraternal Order of Police. It is on National Headquarters letterhead and dated 7/28/69. Also, see the Atlanta Constitution, 7/18/69 and 7/19/69; and the Atlanta Journal, 7/19/69.

21. My account is based on interviews and newspaper stories. See the Atlanta Journal, 10/3/69 and 10/10/69; and the Atlanta Constitution, 10/18/69 and 10/23/69.

22. Ivan Allen notes that "in the old days" the support of the police officers and fire fighters was critical to the election. However, the TV eliminated their significance. Their support became no more important than any other group they no longer did all the communications for the candidates.

23. Municipal Yearbook, 1971. Orville Gaines, police reporter for the Atlanta Journal, told me of Massell's campaign pledges to raise wages. Interview, 2/1/73.

24. Interview, 2/6/73.

25. The following is based on interviews with Smith, 2/3/72; J. D. Hudson, now director of prisons and then police liaison to the aldermanic committee, 2/5/73; Floyd Reeves, 2/8/73; Williamson; Wyche Fowler, 2/2/73; and W. D. Cameron, AAPL president, and Collus Johnson, public relations, in 1973. Also, see Atlanta Journal, 9/26/69, 10/3/69, and 4/28/70.

26. Williamson complains that the relationship was not so good as he would have liked. He didn't agree with all their claims, and he particularly objected to a 2 am visit to his house by 25 AAPL members. Reeves explains that they came late because of their shifts and that an advisor to Williamson frightened him about their approach. Certainly, the hours they worked forced the leadership of the AAPL, and the FOP, to proceed occasionally in a somewhat disorderly fashion.

27. This account is based, largely on interviews, but also see Atlanta Journal, 5/7/70, 5/22/70, and 5/26/70; and Shannon.

28. Melton and Weber say that a number of lawyers approached them. Melton thinks some of them were seeking publicity; Weber thinks, "It was a mutual thing." The FOP hired Edward Garland, a young criminal lawyer, and Clyde Henley and Wayne Moulton, constitutional lawyers. As of February 1972, only Moulton was still working for the FOP.

29. Fraternal Order of Police, Atlanta Lodge #8, "Grievance Committee Report" (mimeo: 7/26/70). Reprinted in the Minutes of the Aldermanic Police Committee, 8/3/70.

30. Jenkins makes a similar statement in his book, p. 187, "The only way to control an outbreak of smallpox is to inoculate people. The only way to control civil disorders is to prevent them. All the so-called new products being churned out by industry and sold to local governments to control rioting are of no value. They are primarily attempts by some to find a cheap way of combatting police problems in the present day. There is no cheap way. There are no ready answers. If local governments would put the money into good crime prevention programs that they put into such things as Mace and Pepper Fog and other 'armaments' they would be getting more for their money and would lessen the likelihood of rioting and street disorders."

31. I was told this story by Lt. Lyn Taylor, an officer of the FOP during this period. Interview, 1/31/73. Others later repeated it.

32. Atlanta Journal, 9/2/70.

33. W. D. Cameron, current AAPL president, said, "We feel that if we can work together through communications and meetings and talking and discussing our grievances, that a merger will eventually come." Interview, 2/5/73.

34. Atlanta Journal, 9/23/70.

35. Atlanta Journal, 9/23/70; and interview with Jenkins.

36. Atlanta Constitution, 10/14/70 and 10/19/70.

37. The account of this legal dispute is based on interviews with Fowler; Melton, Weber; John Dougherty, assistant city attorney, 2/1/73; and Wayne Moulton, FOP attorney, 2/7/73. Also, see the Atlanta Journal, 10/24/70, 11/12/70, and 1/8/71; Atlanta Constitution 10/29/70, 11/12/70, 1/9/71; and the papers of "Civil Action 14391" before the United States District Court for the Northern District of Georgia, Atlanta Division.

38. This letter is included as "exhibit A" in "Complaint 14391," filed November 18, 1970 by Clyde Henley and Wayne Moulton, attorneys for the plaintiffs. The law referred to "Georgia Code Annotated, 54-909 and 54-99923," Georgia Laws (1953 November Session), 624. Only policemen are mentioned; fire fighters are not.

39. Atlanta Journal, 1/9/71.

40. "Brief in Behalf of Defendants," 3-4.

41. The most interesting telegram was from John Johnston, president of the American Civil Liberties Union of Georgia, often antagonistic to FOP demands. He cabled, "Government employees like other members of the community protect their interest through self organization and to form and join organizations for the purpose of improving the conditions of their employment. There are no grounds for denying policemen this right and we regard any law that denies them this right is unconstitutional on its face."

42. Joel Gay, Director of Labor Relations, City of Atlanta, told me that Massell came in as a pro-labor man but was infuriated first by the sanitation strike and then by Jerry Wurf, national president of AFSCME. Wurf and Massell engaged in a knock-down, drag-out verbal fight on television in which Wurf mortally insulted the mayor by calling his religious devotion into question. This seems to have made the mayor much less responsive, if not sometimes vindictive, to the municipal employee groups.

43. Jenkins made this argument in his book, 173-5, as well as in the interview.

44. Interview with Detective Jimmy Dyer, president of the FOP, and Patrolman John Wooten, secretary, 2/1/73. Cameron and Gay both confirm Dyer's sincerity about working with the AAPL.

45. See, especially, 231-6; 243-51. They argue, "The department administrators have an obligation to manage their employees reasonably and responsibly. This task is aided greatly by inviting employee opinions to permit joint determination of policies, work rules, and procedures whenever possible." They also advocate formal grievance procedures and a more rational discipline system.

46. He says, "I would resist it. Any place you have a quasi-union in a police department...it makes the department inflexible, and then the corruption begins to creep in. Not creep in, but gallop in... The top administrators are restricted in what they can do, what they can't do. It's really the beginning of the downfall of law enforcement." Interview, 2/6/73. It is interesting to note that on May 8, 1974, a federal grand jury began investigations of Inman's alleged criminal activities.

CHAPTER VI

THE DIALECTICS OF URBAN REFORM

Police employees attempted to unionize in the past--and had little success. They were militant--and were crushed. But in the 1950s and 1960s many public officials chose to make a major "reform" of city government and establish municipal labor relations systems. Earlier reforms in city government had led to the erosion of the traditional party machine and of mayoral control over urban service bureaucracies. The changing demography of the city and growing militance among city workers augmented instability in the budgetary and voting base of elected leaders. Liberal executives, at all levels of government, sought new mechanisms for gaining political and financial support. One strategy was to grant public employees union perquisites. But this strategy, while solving one set of problems, created others: It provided conditions for more militant employee organizations, and contributed to the urban fiscal crisis.

What made public employees struggle to organize? Why did contemporary public officials choose a strategy of recognition? How does public sector collective bargaining affect service management and policy? How does it affect the distribution of wealth and power in American cities? By focusing on the development of strong unions among the most highly organized of all municipal workers, the police officers,¹ my study attempts to illuminate these questions.

6.1

Police employees organize when they believe themselves relatively underpaid and overworked, defenseless against superiors, and subject to the claims of conflicting publics. They respond to inflation, social unrest, and private sector labor success. Indeed, during all three major

police unionizing drives--in 1919, the 1940s, and most recently--these conditions obtained.

All three periods were times of inflation and relatively full employment. Police and most other municipal employees did not try to unionize during the Great Depression when civil service security, a major reason for joining the force,² was invaluable. But with other jobs available and with a significant rise in the cost of living, policemen critically evaluated their pay and working conditions. The officers felt--with some justification--that their compensation was low in contrast to private sector workers of comparable training and background.³ Subsequently, they demanded better wages and fringes. City government initially provided few benefits, and many of the early police fraternal associations formed precisely for the purpose of raising the funds necessary to bury indigent members and support their families. The officers sought comprehensive pension and insurance programs as well as higher salaries.

Reevaluation of working conditions accompanied reevaluation of economic benefits. The 40 hour week, 8 hour day are victories of the last decade for most police employees. During the periods of unionizing patrolmen worked long hours and were subject to constant recall--without compensation or the right to refuse. This disruption of normal life added to disruptions caused by duty charts requiring weekly rotations into a different shift (or platoon), including the late evening tour. As they began to organize, the men demanded shorter hours, overtime pay, and night shift differentials.

The rank and file also complained about the arbitrary commands and commanders permitted by the semi-military tradition of policing. Egon

Bittner,⁴ John H. McNamara,⁵ and James Q. Wilson⁶ note that the police supervisor, unlike his army counterpart, can give little direction to his subordinates; rather, one of his primary functions is to control the patrol force through negative sanctions. Punitive transfers, assignments, and suspensions were the most common mechanisms of discipline, but the supervisors also engaged in close personal surveillance and even spying upon the men. The police officers resented the autocratic methods but lacked formal protections. Richard Edwards finds that in industrial firms this form of work organization, which he labels "simple hierarchy," fed rank-and-file militancy.⁷ For police officers, too, it was a major source of dissatisfaction. Subsequently, formal grievance procedures and labor rights became important demands.

The social conflict of the three periods further intensified complaints about poor pay and working conditions. 1919, the 1940s, and the 1960s were all times of major unrest and protest. These events engendered investigation of police integrity and capabilities and usually led to new restrictions on police action and weaponry. The combination of public disorder and public scrutiny increased the job pressures. The men felt deprived of the resources (including public trust) to combat crime just when the problems were greatest. They felt victimized by competing interests which both claimed their support and used them as buffers. In particular, the police officers resented being used as the scapegoats in conflicts they did not initiate and then being asked to act contrary to their inclinations--and, sometimes, their conception of duty.⁸

The fact that other municipal employees responded to inflationary pressures and social conflict with unionizing drives was another impetus

to police demands. Moreover, the periods in which they organized were also times when private sector unions struggled to solidify their gains and position. Jeremy Brecher argues that labor conflicts "tend to spread in wider and wider circles. Indeed, in many cases, we have seen solidarity spread across even the deepest divisions of the working class."⁹ This phenomenon applied as well to police employees, long considered the enemies of labor. First, the officers identified with the complaints of other workers and found inspiration in their achievements. Second, the policemen themselves became an organizing target for unions seeking to expand. Established trade unions, notably the Teamsters and the American Federation of State, County, and Municipal Employees (AFSCME), often lent organizers, funds and publicity to fledgling police groups. In most cities--at least in the recent era--police officers chose independence and non-affiliation, but they nonetheless benefitted from the wide-spread movement and organized labor's assistance.

Confronted with these conditions, the police reacted. Some engaged in brutality against offenders. Some resigned. But in many ways, organizing was the most logical strategy. Police work in itself induces a high degree of solidarity and group cohesion.¹⁰ The labor associations provided additional means for mutual support and unified action, and thus enhanced the struggle for better wages and working conditions. Indeed, police unions attracted members with a combination of what James Q. Wilson and Peter Clark label "material," "solidary," and "purposive" incentives.¹¹ Moreover, they offered what Michael Lipsky describes as necessary stress-reducing mechanisms for "street-level" bureaucrats who face inadequate resources, physical and psychological threats to their authority, and "contradictory and ambiguous job expectations."¹²

Wallace Sayre and Herbert Kaufman find that such organization also helps public workers "raise their status and assert the legitimacy of their role,"¹³ something the police rank and file certainly felt in need of doing.

Through unionizing the officers found a mechanism for what I have chosen to call "bureaucratic insurgency," i.e., concerted efforts by government workers to veto or change the policies of their agencies. Bureaucratic insurgency encompasses only self-conscious collective actions, such as strikes, job actions and collective bargaining meant to influence working conditions or administrative decisions. It does not refer to informal group pressure of the type discussed by Michel Crozier.¹⁴ Nor does it represent an attempt to destroy the bureaucracy. Its purpose is to alter the agency to fit the needs of the workers and, often, their perception of the public's needs. Bureaucratic insurgency as trade union organization seems a particularly effective way to win participation in the management of the police force. The officers gain real tools for dealing with administrators, city officials and the public.

6.2

That police organize when their pay is low, their working conditions poor, and the job pressure intolerable; that other unions encourage them; and that material benefits and group solidarity are the major incentives to members are hardly startling findings.¹⁵ What is interesting is how little such an explanation explains. These factors clearly are necessary for rank-and-file unionizing efforts strong enough to elicit a response from city officials. However, they do not account for why city

officials chose to repress the associations at one historical moment and to accept them at another. The 50s and 60s was not the first time police labor militantly demanded union rights. But it was the first time they got what they asked for.

Inflationary pressures, social conflict, and labor struggles had their effect on public officials as well as public employees. To stay in office, particularly where the political base was unstable, elected leaders and their appointees had to prove their ability to manage the city. This meant keeping costs down, and maintaining peace and order. The police labor associations, and other municipal worker unions, aided neither aim. The wage demands threatened to outrun the city's limited fiscal resources. The militancy threatened to disrupt city services. Public officials had to react. In 1919 and the 1940s, they responded with outright repression. In the 1950s and 1960s they gave municipal workers, including the police, union rights, and incorporated them into the governing structure. Indeed, their strategies replicated private sector management.

In 1919 public officials reacted to police militancy by absolutely forbidding union-type organizations. They threatened police employees with the example of Boston, where all the strike participants lost their jobs.¹⁶ The response in the 1940s was slightly different, although it still involved the repression of outright police unions. The entrenchment of the civil service made it more difficult to fire labor agitators, and, for the most part, city leaders did not want to risk a strike with the attempt. Besides, management--in both the public and the private spheres--had discovered more subtle means for containing unionization.¹⁷ The officials resorted to the courts to outlaw police unions. At the same

time, they permitted the existence of police pressure groups.¹⁸ By giving rank-and-file leaders an informal avenue of complaint and influence, the police managers controlled and coopted conflict. The associations gained some minor benefits for cooperating, including the right to exist. But they remained dependent on police chiefs and mayors for access to budget- and policy-making processes.

The resurgence of public employee militance in the 1950s and 60s required government leaders to respond once again to municipal worker demands. Police officers won union perquisites as part of a general policy affecting most city employees. Elected officials, in a number of urban areas, made a different calculus than their predecessors, and granted union rights. In almost every case, the instigators of the initial labor relations systems for government workers were "liberal" executives, elected by tenuous political coalitions. Municipal labor relations accompanied reform administrations in Philadelphia and Cincinnati; and two pioneering states were Wisconsin and Connecticut, both with progressive traditions.¹⁹ Mayor Robert Wagner initiated the process in New York City, and Mayor John Lindsay attempted to improve upon it. Governor George Romney oversaw the passage of the legislation for the state of Michigan, and Mayor Jerome Cavanagh first utilized it in Detroit. President John Kennedy granted union perquisites to federal employees.

Beyond a general knowledge of who the principal government promoters were, little is known about the history of collective bargaining in the public sector. No systematic investigation currently exists, and the reasons why officials acted as they did can only be surmised. Nonetheless, several theories compete for acceptance.

Theodore Lowi explicates the most obvious possibility.²⁰ He argues

that the erosion of the traditional party apparatus led elected officials to befriend public employees as one way to build electoral strength. Other political analysts also attribute some significance to the civil service vote and government leaders' wooing of it.²¹ Yet, in itself, it is not a sufficient explanation for the establishment of the labor relations system. Even organizations as strong as the Patrolmen's Benevolent Association and the Detroit Police Officers Association cannot ensure delivery of the vote. Nor can most other municipal unions.²² Moreover, in elections where public labor support was thought critical--for example, during Wagner's reelection bid in 1961--municipal employee associations split their endorsements.

Another possible motivation for granting union perquisites was the "audience" of government leaders. James Q. Wilson, for example, argues that the fiscal and political instability of the cities led mayors to play to liberal foundations and government agencies with funds and influence to hand out.²³ Frances Fox Piven points out the importance of federal social programs to gaining votes for urban-based officials.²⁴ Thus, when President Kennedy's executive order made it clear he approved public sector bargaining, the mayors followed suit. Indeed, their actions fit neatly with Lowi's description of the prevailing ideology, what he calls "interest group liberalism."²⁵

It may be called "liberalism" because it expects to use government in a positive and expansive role, it is motivated by the highest sentiments, and it possesses good faith that what is good for government is good for society. It is "interest-group liberalism" because it sees as both necessary and good that the policy agenda and the public interest be defined in terms of the organized interests in society.

The executives could rationalize their labor program with a sophisticated pluralist view. After all, workers were organized in a way compatible

with democratic ideology. They had a right to participate in the political process. Harry K. Wellington and Ralph K. Winter, two influential analysts of public sector bargaining, cite Robert Dahl to demonstrate that "...all seems well, at least theoretically, with collective bargaining and public employment."²⁶ Consequently, the liberal funding sources approved.

My own tentative research on the development of municipal collective bargaining leads me to proffer a third possible explanation, emphasizing the militancy of the public employees and the nature of government's role in the cities. Lowi, Wilson and Piven are obviously correct that an unstable political and economic base were important factors in the calculus of elected officials and that the popularity of reform-oriented executives depended largely on the provision of services. In other words, major motivations for action were electoral support and money. However, it seems to me that the granting of union perquisites had as much, if not more, to do with the costs of potential job disruptions and with what James O'Conner finds to be the "two basic and often mutually contradictory functions" of the capitalistic state: "accumulation and legitimization."²⁷ In other words, collective bargaining was a possible and an acceptable form of social control.

Traditionally, local elites have had the task of aiding business, managing disorder, and integrating newcomers into the city polity. "Indeed," Piven maintains (p. 168), "if there is any aspect of the American political system that was persuasively analyzed in the past, it was the political uses of municipal services in promoting allegiance and muting conflict." By the 1950s and 60s, city officials required the uninterrupted provision of those services as much as they ever had. The

urban agencies had a critical function to perform in making the cities amenable to the fleeing white middle class and businesses and in keeping the rural blacks quiescent. But the Progressive Era reforms--centralization, professionalization, bureaucraticization, and the merit system--had not only eroded the traditional party structure, they had also undermined mayoral control of municipal bureaucracies. Lowi labels the urban agencies "new machines" because they became "relatively irresponsible structures of power."²⁸ Ira Katznelson argues:²⁹

Over the past four decades, the locus of urban political power has shifted from the party organization to independent, autonomous but not apolitical bureaucracies. This shift has weakened the social control position of authorities, for unlike the machines, bureaucratic control mechanisms deal only with the output side of politics. They have taken over the machines' functions of distributing services and benefits without assuming the vital control function of organization or participation in politics. As a result, bureaucratic, as opposed to party, control leaves authorities potentially more vulnerable to challenges from below.

The decline of party organization severely weakened the linkages between elected officials and government employees, as well as the average citizen. Militance increased. To fulfill their traditional roles, city leaders needed new mechanisms for gaining the cooperation, or at least neutralizing the opposition, of city service workers.

Politically, the mayors could ill afford disruptions by municipal employees. Economically, they did not feel they had the funds to pay the demanded wage increases. Their own liberal ideology and the liberal audience to which they played prevented the officials from using these strategies of the past. Employee unions had a right to exist; repression by force was incompatible with "interest group liberalism." The government leaders were in the process of expanding the functions of the state and its involvement in peoples' lives. They found the extension of

collective bargaining into the public sector an additional means to their ends.

Lowi (1969, 76-7) perceives "interest group liberalism" as an abdication of power, but in this case it seems to me a limited exercise of authority. The experience of the private sector indicated the utility of trade unions in ensuring labor peace.³⁰ Even the enabling legislation for public sector bargaining upheld the goal of conflict-free cooperation.³¹ Both the labor-management backgrounds of Robert Wagner, Jr., George Romney and the like and the wording and timing of their legislation indicate that these government officials understood the importance of developing working relationships with public union leaders. At least, the labor relations system provided symbolic rewards³² which might serve to head off work stoppages and costly economic demands during an elected executive's term of office. At the most, collective bargaining offered a possible means for mayor--and this was certainly one of Wagner's hopes³³--to reestablish some power over the operation and the personnel of the urban bureaucracies.

In some of the pioneering cities and states, notably New York and Wisconsin, the police officers presented a special set of problems. The myth of the Boston police strike aroused public fear of the consequences of their unionization. Businessmen feared an erosion of their "impartiality" in private labor disputes. Most importantly, police management objected, fearing the destruction of semi-military administration. As late as 1958, the International Association of Chiefs of Police (p. 3) reiterated its 1944 view that "there is cause for the average policeman to be dissatisfied with his conditions of employment" but, nonetheless, police officers "by the very nature of their duties,

are required to forego certain personal privileges enjoyed by employees in private industry." City executives tended to respect the inclinations of their chiefs. Intervention in the police department was closely linked with the corruption and excesses of the political machine, and elections had been won and lost by police-related scandals. It was usually good politics to maintain a distance from the force.

Initially excluded from the labor relations process in a number of cities, police associations claimed a right to participate and proceeded accordingly. The extension of collective bargaining rights to other public employees added impetus to the police employee demands. They formed new organizations or, more commonly, transformed traditional fraternal associations. They elected union-oriented leaders; built up their treasuries; attracted additional members through selective incentives³⁴ such as insurance plans and legal aid; and hired lawyers, economic counsellors, and public relations staff necessary for the battles ahead. Ultimately, their continued pressure won them collective bargaining rights in those cities and states where other government workers enjoyed them.

Recognition of the police labor associations often coincided as well with the appointment of chiefs and commissioners less concerned than their predecessors with upholding the semi-military tradition. In part, this change in orientation was a product of the new requirements of the times. In part, it reflected increased rank-and-file militancy. By 1969, the IACP grudgingly accepted the fact of police unions. Nonetheless, a "Special Committee on Police Employee Organizations" urged the chiefs to act in such a way "that officers have no reason for turning to union to satisfy their needs."³⁵ But the chiefs counter-strategies had

little effect by this time. According to the IACP's own survey, police employee organizations, which functioned as unions, firmly existed in 78 of 80 of the largest cities in the United States.³⁶

6.3

With the achievement of collective bargaining and grievance procedures, the police employees won a long-sought goal. This victory briefly served to alleviate their discontent with wages and working conditions. In fact, public executives had granted union perquisites partially as a symbolic reward, to avoid handing out more tangible benefits. Nonetheless, police and other municipal workers became even more militant in the late 1960s. They intensified their economic demands and often opposed innovative programs and citizen participation in their departments. It appeared that the social control function of the unions--if it had ever worked--had deteriorated rapidly.

Hervey Juris and Peter Feuille argue (p. 19ff.) that the rank-and-file militancy emerged as a result of "increased public hostility, law-and-order demands on the police, low pay, and poor personnel practices... the demonstration effect of other public employee successes, the influx of young policemen, and group cohesion." Albert Reiss finds that expressed police dissatisfaction focused on pay, hours, and promotions, perceived lack of public respect and cooperation, the supervisory system, and the hazards of the job. Although these attributes were no worse than in the past, and often better, a substantial minority of the officers were unhappy with their work. What made the present so untenable was urban social conflict. The police officers continued to have strong advocates, but they also faced strong critics. The men felt victimized by the alliance of liberal mayors, such as Lindsay and Cavanagh, with groups

antagonistic to the police. Consequently, they resisted the intervention of the executives in department practice. The new recruits particularly felt angry. They had no memory of gains already won, wanted professional standing and pay, and were willing to replicate civil rights and trade union tactics.

The factors played on the union leaders, who had constantly to demonstrate their ability to deliver in order to stay in power. The union had become a career in itself. The association leaders no longer looked to the mayors or the police brass for recognitions and favors. The released time, extra compensation, and the prestige that derived from union office depended on the continued favor of the rank and file. The dissidence and militance among the members required the leaders to take a hard line and a hard pose. This meant strong demands at the bargaining table and continued opposition to innovations the men distrusted. The leaders publicly confronted mayors and other administrators; appealed to the citizenry, the courts and the legislators; and otherwise engaged in tactics which proved their efficacy to an increasingly suspicious and critical constituency.

The dissatisfaction of the men raised new demands, but the association provided the means for expressing them. The police unions began to represent the rank and file on a wide range of issues: residency requirements, salaries, moonlighting, discipline, pensions, one-man vs. two-man squad cars, arrangements for patrol allocation, and other crime control strategies and working conditions. Union rights enhanced the power police groups already possessed. The dues check-off built up treasuries, and collective bargaining provided an additional forum for pressure, discussion and conflict.

The city executives were in a relatively poor position to resist employee demands. As urban social conflict increased, mayors needed to count on continued and improved service delivery. The threat of labor disruptions and program sabotage was more powerful than ever. Officials could not buy off workers with symbolic rewards; the major one, the labor relations system, was already theirs. Moreover, the power of the unions over policy and budget questions was growing. The multilateral nature of public sector bargaining³⁷ enabled powerful police lobbies to go over the mayors' heads. For example, New York's PBA successfully appealed to the legislature and the electorate to win pension benefits and to veto the fourth platoon under Wagner and to block civilian review under Lindsay. The effect of legitimizing the labor unions justified claims to meaningful participation in wage decisions, as the Detroit Police Officers proved to Cavanagh in 1967.

The mayors had only three choices: they could confront the unions; pay them what they asked for; or develop a collusive exchange relationship, in which the negotiators tactically cooperated with each other to sell the terms of the contract to their constituencies.

Confrontations were costly and unsure. Unilateral implementation of an innovation only served to provoke the rank and file, something police chiefs such as Howard Leary, Raymond Girardin, and even Herbert Jenkins preferred to avoid. Public struggles over policy held the risks of both disruptions in service and eventual humiliating concessions by management. Cavanagh experienced such a humiliation in 1967 when the police job action led to the pay increases he had previously refused. Lindsay, on the other hand, was able to defeat the PBA in 1969 and win the innovation of the fourth platoon. But the coalition he required was exceptional,

and difficult to maintain or resurrect.

Outright granting of salary requests also had disadvantages. The fiscal situation of many cities was critical. Mayors did not feel they had the funds to meet employee demands. Equally important, they wanted to retain some flexibility in the budgets and some power over the allocation of scarce city resources. Choices had to be made, and each group claimed primary consideration. The public particularly resented the municipal workers' salary raises, gained through pressure tactics and strikes and without any compensating rise in the quality of service. Taxpayers objected to that use of their money, minority groups wanted more of the funds for themselves, and agency heads wanted financing for extended services and equipment. The mayor's decisions among them had significant political implications. Indeed, Lindsay came under sharp criticism from all sides for his capitulation to his employees.

The alternative was a system of collusive bargaining. City officials and union leaders reached a tacit understanding of their mutual interests and developed an exchange relationship. For the sake of their constituencies, they might fight publicly. But privately they compromised. By engaging in a strategy of collusive bargaining, city leaders hoped to gain some assurance of the efficient and continued delivery of services³⁸ and to regain some power to make programmatic innovations. Subsequently, they helped to maintain "responsible" union leaders, who would rather talk than strike. The association officers benefitted by winning the demands necessary to appease the dissidents; by decreasing the risk of strikes (always costly and problematic in the public sector where such strong prohibitions exist); and by increasing their personal mobility through access to public figures, new job opportunities, and consultancies.³⁹

The mayors required labor peace and innovations to gain reelection or higher office. The labor officers needed to win tangible membership rewards to stay in power. Negotiators in New York, Detroit, and other cities with established police unions⁴⁰ became increasingly willing to trade monetary concessions for innovations in department practise. In this way, New York got a 24-squad chart, Detroit integrated its department without a full-scale rebellion, and the rank and file of both cities won significant salary increases.

One result of collusive bargaining is the participation of the union in decisions concerning department policy. Police management can no longer unilaterally introduce an innovation or deny a wage increase. In strong union cities, changes in the work rules are subjects of discussion and arbitration. Patrol allocation, equipment, and compensation are all subjects of bargaining. Moreover, the overtime, portal-to-portal arrangements and other fringes necessary to sell a particular change to the rank and file often make subsequent innovations prohibitively expensive.⁴¹ The men now have a role in the department compatible with the ideology of industrial deomcracy.⁴² But they also have new power to block improvements administrators may feel desirable for the public good. James Q. Wilson,⁴³ Jerome Skolnick, and others⁴⁴ argue that police unions are a major obstacle to police reform and professionalization. Indeed, it appears that the unions significantly constrain management's ability to manage.

What has evolved is a joint policy-making process. Juris and Feuille conclude that "the real impact of union has been to force shared decision-making in the allocation of resources."⁴⁵ Management cannot act unilaterally, but neither can the unions. The seemingly greater power

of the police labor association is somewhat ephemeral. Economic rewards and other benefits often depend on the association's acquiescence to new programs.

6.4

The effect of legitimizing labor unions in the public sector is to justify new political claims. Liberal democratic ideology now seems to include the right of public employees to bargain collectively. Excluded groups demand inclusion. All groups can use the labor relations process to win major economic and work concessions.

In cities where the police rank and file lacked union perquisites, they have initiated the struggles to obtain them. The success of police employee associations in other big cities reduces fear of repression, influences new organizations to form, and provides models for action. Managment has fewer resources to resist them. In Atlanta, for example, the FOP lodge initiated a court case to remove legal restrictions on the right of the police to join associations concerned with working conditions and pay; and established its own existence in the department. Indeed, cities all over the country increasingly confront and bargain with organized police and other municipal workers. By 1971, 64 percent of local government employees belonged to some type of employee organization.⁴⁶

The major impact of this trend towards public sector unionization is on the power of city governments over their budgets. The social service explosion of the 1960s increased the cost of government generally and contributed to the fiscal crisis in the cities. The municipal work force grew to provide the new and expanded services, and it had to be paid. Between 1945 and 1971 the number of local government employees

quadrupled to nearly 3 million.⁴⁷ Between 1960 and 1970, state and local government as a percentage of the total labor force rose from 8.2 to 14 percent in New York City; 9 to 12.2 percent in Detroit; 6.9 to 9.8 percent in Philadelphia; 9.8 to 12 percent in Los Angeles; and 12.2 to 15.2 percent in San Francisco.⁴⁸ By 1971 government represented nearly one-sixth of the nation's work force.⁴⁹

Many analysts argue that the material gains of public employees are a major factor in continuing city budgetary problems.⁵⁰ Municipal salaries rose nearly twice as fast as the cost of living in the late 60s.⁵¹ However, the salary increases were not, in fact, excessive.⁵² Rather, they represented the need for government to conform with private sector pay rates in order to attract workers. Joseph Loewenberg notes that between 1939 and 1964 police and fire wages rose an average of 18.4 percent annually but the average earnings of factory workers increased almost twice as much.⁵³ In fact, Juris and Feuille's statistics (p. 55) indicate that police salaries are now stabilizing somewhat in cities over 100,000; the percentage annual increase declined from 10.5 percent in 1968-69 to 8.9 percent in 1969-70 to 5.5 percent in 1970-71.

Whether or not the pay raises are excessive and even if the salaries have stabilized, increased personnel budgets have raised the costs of city government. From 1950 to 1968, municipal employment rose 113 percent and municipal payrolls 402 percent.⁵⁴ 50 to 80 percent of city budgets now go to wages and benefits.⁵⁵ Moreover, the annual rate of increase in the pay of government employees, particularly firemen and policemen, from 1966 to 1971 exceeded both that of private industry and the consumer price index.⁵⁶ Major economic gains by city workers tend to intensify both inflationary pressures and the fiscal crisis of the cities.

There is little evidence to suggest that the unions are responsible for the huge pay raises. David Stanley maintains that the supply and demand of the labor market is probably the major cause.⁵⁷ Nonetheless, Stanley (p. 78) himself notes that "there are impressive instances where unions have used work stoppages or other aggressive actions to get higher wage settlements for their bargaining units than other employees have received." This happened in Detroit where the "blue flu" brought police increases in an austerity budget. Frederick O'R. Hayes, former Lindsay budget director, argues that:⁵⁸

Collective bargaining in New York City tends to do more for the strong than the weak. Policemen, firemen, teachers and sanitationmen have done very well--but many, perhaps most, other civil servants have lagged behind them.

Thus, the labor relations system works imperfectly and inequitably amongst the city workers themselves. It may, on occasion, produce labor solidarity. But it also serves to divide the governmental working class.

Collective bargaining contributes to other divisions within urban society. Public sector unions affect who gets what in the city system. As their demands became mandated budget items, rather than a matter of available funds, they restrict mayoral flexibility over the distribution of increasingly scarce resources. City governments have tried a wide range of strategies to avert fiscal problems and controversies. They have cut back services, contracted out traditional city tasks to private firms, introduced technological innovations designed to reduce the necessary manpower, and raised taxes. But each of these affects the self-interests of a particular urban constituency. The result, as Frances Fox Piven (p. 20) points out, is "a political struggle, of groups pitted against each other and against officialdom."

Municipal workers, particularly the police, often have an unfair advantage in this political struggle. Not only are they able to claim large shares of the budget, but they also can protect themselves against unwanted incursions from elected officials and the public. Indeed, as Wallace Sayre and Herbert Kaufman first noted (405-7) and others since have remarked,⁵⁹ unionization contributes to bureaucratic autonomy and conservatism. Urban bureaucrats become less likely than ever to respond to their clients. Stephen Halpern concludes his study of Baltimore's police labor associations with the finding that:⁶⁰

Indeed, the closed nature of the police system, which has long been a concern of citizens and students of the police, has been fostered and strengthened by the combination of the commitment to professionalize American police and the success of the efforts to organize them. The former gives the police a credible justification for their closed system and the second an organizational and political leverage which they have never had before to help insure that police policy-making remains the exclusive prerogative of policemen.

Police administrators and police rank and file may disagree over innovations in the work rules of the department. But they often ally to protect the political autonomy of the force.

I have argued that public officials developed the labor relations process as a mechanism of social control. Yet, municipal worker action often inhibits their efforts to expand services or manage disorder. In short, unionization decreases rather than increases the mayor's control. The public employees obstruct the redistribution of services, the development of citizen participation, and the hiring of minority applicants; and they continue to engage in disruptive slowdowns and work stoppages. In fact, the number of strikes among government workers rose significantly between 1958, the year the PBA received the dues check-off, and 1970, and most have involved municipal workers.⁶¹

Elected government leaders introduced formal labor relations into the public sector as a reform and expansion of liberal government. They were responding to the pressures and the conflict created by dissatisfied public workers and their own needs for votes and financial support. In their efforts to maintain themselves and contain disorder, they permitted unionization. Indeed, collective bargaining sometimes enables them to trade economic concessions for the labor peace and work innovations they require. At the same time, it establishes the conditions for greater demands and greater disruptions, and intensifies the fiscal crisis in the cities. Public sector bargaining appears to have created as many contradictions for urban society as it resolved.

But are things what they seem? The capitalist state could choose to redistribute enough resources to alleviate the crisis it is now in. Ultimately, it probably will do so. In the interim, a certain level of disruption promotes basic order, and municipal union action has not yet exceeded tolerable levels. Indeed, work stoppages in the public sector remains relatively low compared to private industry.⁶² Government worker unions do increase conflict among public employees, administrators, elected officials, clients, and taxpayers, but it is conflict among people and groups--not against the fundamental arrangements of economic and political power. Peter Bachrach and Morton Baratz indicate how institutional mechanisms operate to avert fundamental challenges to American class society by thwarting the discussion of threatening questions.⁶³ In just this way, labor relations in private industry has the effect of containing disagreement to questions which modify, without revolutionizing, corporate structures. The city labor system, too, raises only issues which maintain traditional government and bureaucratic processes. Nego-

tiators discuss the division of the city budget or the determination of agency work rules. Untouched are the far more important questions of the distribution of society's wealth and power.

Public employee unionization began as and continues to be a mechanism of social control. It creates divisions among those whose unity could effect real change. It obfuscates questions whose discussion might mobilize significant action. Whether the profit is worth the price it remains to see.

Footnotes

1. J. Joseph Loewenberg, "Policemen and Firefighters," Emerging Sectors of Collective Bargaining, ed. Seymour Wolfbein (Morristown, NJ: General Learning Press, 1970), p. 129; and Jack Stieber, Public Employee Unionism (Washington, D.C.: Brookings, 1973), p. 14.
2. John H. McNamara, "Uncertainties in Police Work: Police Recruits' Training and Background," The Police, ed. David Bordua (New York: Wiley, 1967), p. 194; and Albert J. Reiss, Jr., "Career Orientations, Job Satisfaction, and the Assessment of Law Enforcement Problems by Police Officers" in President's Commission on Law Enforcement and Administration of Justice Field Survey III, Studies in Crime and Law Enforcement in Major Metropolitan Areas (volume 2) (Washington, D.C.: US, 1967), 13 and 22.
3. This is the finding of Loewenberg, p. 139; Hervey Juris and Peter Feuille, Police Unionism (Lexington, MA: D.C. Heath, 1973), p. 20; and Jerome Skolnick, The Politics of Protest (New York: Ballantine, 1969), p. 252.
4. The Functions of the Police in Modern Society (Chevy Chase, MD: National Institute of Mental Health, 1970). See chapter VIII, particularly p. 61.
5. 178-83.
6. Varieties of Police Behavior (New York: Atheneum, 1970), 279-80.
7. "The Social Relations of Production in the Firm and Labor Market Structure," Politics and Society, IV (no. 3).
8. A particularly interesting expression of this resentment was the statement by the Police Conference of New York State in 1937. The Conference, representing 45,000 police officers, attacked business, labor and government for "unjust and unfair charges and accusations," for using the police to serve particular interests and for ignoring the rights of the general public. The Police Journal, XXII (October 1937). The New York PBA's late 60s pledge to enforce the law "100 Percent" is a more contemporary example of a similar phenomenon. See Chapter III.
9. Strike! (San Francisco: Straight Arrow, 1972), p. 237.
10. See, for example, the discussion of this phenomenon in Bittner, chpt. 9; Juris and Feuille, 68-70; and Skolnick, p. 279.
11. "Incentive Systems: A Theory of Organizations" Administrative Science Quarterly, VI (September 1961), 219-266. For an elaboration, see Wilson, Political Organizations (New York: Basic, 1973), chpt. 3, and, in particular reference to labor organizations, p. 123.

12. "Towards a Theory of Street-Level Bureacracy," Theoretical Perspectives on Urban Politics, eds. Willis Hawley and Michael Lipsky (Englewood Cliffs: Prentice Hall, 1975). He defines street-level bureaucrats as "those government workers who directly interact with citizens in the regular course of their jobs; whose work within the bureaucratic structure permits them wide latitude in job performance; and whose impact on citizen lives is extensive."
13. Governing New York City (New York: Russel Sage, 1960). 403-404.
14. The Bureaucratic Phenomenon (Chicago: University of Chicago, 1964), particularly chpts. 6.
15. Juris and Feuille; and Skolnick come to similar conclusions.
16. See, for example, "A.F.L. Police Unions in Disfavor," The Literary Digest (November 1, 1919), 16; "Lessons from the Police Strike," The American City, XXI (October, 1919), 315-316; "'No Divided Allegiance' -- Say Chiefs," The Policemen's Monthly (October, 1919), 8ff.; and "Shall the Police Strike?," Good Government, 36 (September, 1919), 139-147.
17. For a discussion of the private sector, see Edwards and Brecher, 250-262. Brecher writes, "Ruling groups call on force and violence only reluctantly, for it is a great liability to do so. It shatters their image of benevolence and fairness to all parties, revealing them instead as oppressors ready to kill to retain their privilege. It reveals that their authority is breaking down, that they no longer receive automatic obedience by consent but must resort to force," p. 250.
18. For a catalogue of these groups, see the unpub. diss. (University of Washington, 1971) by Don Berney, "Law and Order Politics: A History and Role Analysis of Police Organizations," 109-116, 131-142. Also, see the International Association of Chiefs of Police, Police Unions (revised edition) (Washington, D.C.: 1958).
19. The cities and states are discussed by Sterling Spero and John Capozzola, The Urban Community and Its Unionized Bureaucracies (New York: Dunellen, 1973), chapter 3.
20. "Machine Politics--Old and New," The Public Interest (Fall, 1967), 83-92.
21. See, for example, Edward Banfield and James Q. Wilson, City Politics (New York: Vintage, 1963), p. 212; and David Stanley, Managing Local Government Under Union Pressure (Washington, D.C.: Brookings, 1972), p. 2.
22. Spero and Capozzola, 73-74, describe the civil service as a sizable voting bloc but question the ability of the organizations to deliver.
23. "The Mayors vs. The Cities," The Public Interest, 16, (summer, 1969), 25-37.

24. "The Urban Crisis: Who Got What and Why," 1984 Revisited, ed. Robert Paul Wolff (New York: Knopf, 1973), p. 168.
25. The End of Liberalism (New York: Norton, 1969), p. 71.
26. The Unions and the Cities (Washington, D C.: Brookings, 1971), p. 24.
27. The Fiscal Crisis of the State (New York: St. Martin's, 1973), p. 6.
28. 1967, 86-7, 89.
29. "The Crisis of the Capitalist City: Urban Politics and Social Control," Theoretical Perspectives on Urban Politics, eds. Willis Hawley and Michael Lipsky (Englewood Cliffs: Prentice-Hall, 1975).
30. For a discussion of this phenomenon in private industry, see, for example, Brecher, 250-262; Andre Gorz, Strategy for Labor (Boston: Beacon, 1964); and O'Connor, 22-23.
31. "The Little Wagner Act" is a good example, and the model for subsequent legislation. See chapter II. Wellington and Winter cite other examples.
32. For an explication of the concept of symbolic rewards, see Murray Edelman, The Symbolic Uses of Politics (Urbana: University of Illinois Press, 1964).
33. Raymond Horton, Municipal Labor Relations in New York City (New York: Praeger, 1973) argues, "It was precisely the city's civil servants and the mayor who had the most to gain from increasing their respective political influence over city labor relations in the early 1950s. The primary interest of civil servants, then as now, is to earn as much money as possible for their work. A primary goal of mayors, though by no means the sole interest of all mayors at all times, is to increase their influence over the rules of the personnel system so that their governing powers might more closely approximate their governing responsibilities." Also, see chpt. II.
34. This terminology is borrowed from Mancur Olson, The Logic of Collective Action (New York: Schocken, 1968).
35. "Police Employee Organizations," The Police Chief, XXXVI (December 1969), 55.
36. *Ibid.*, 52-53.
37. Juris and Feuille, 45-50, explicate and develop this concept. Also, see Kenneth McClennan and Michael Moskow, "Multilateral Bargaining in the Public Sector," Collective Bargaining in Government, ed. J. Joseph Loewenberg and Michawl H. Moskow (Englewood Cliffs: Prentice-Hall, 1972), 227-234.

38. My finding is in direct contrast to the statement by O'Connor, 239-40, that "A critical function of monopoly sector unions is to maintain labor discipline in the face of mechanization and technological inemployment. State sector unions do not share this function because the basis for the expansion of state sector production is expansion of taxation, not productivity and profits. Thus, state sector unions are actually dysfunctional from the standpoint of regulating production relations--their wage demands are inflationary and they play little or no role in maintaining labor discipline."

39. Ed Kiernan, president of the New York PBA, moved on to head the International Conference of Police Associations. John Cassese, his predecessor at the PBA, started a new national police union. Carl Parsell, president of the Detroit Police Officers Association, became head of the state organization. Other New York PBA officers have taken short-term jobs with Rand, or on panels at labor relations conferences.

40. See Juris and Feuille, p. 147;: "where there was some rationalization of the bargaining process and a reasonably sophisticated management bargaining team, the bargaining process was used to generate mutually satisfactory or integrative bargains."

41. See chapter III for a discussion of how such fringes made it difficult to institute a quarterly review of patrol allocation. Also, see Juris and Feuille, p. 147, for other examples.

42. For a discussion of the applicability of this concept to the public sector, see Spero and Capozzola, 194-195; and Wellington and Winter, p. 10, 12-13.

43. "Emerging Patterns of American Police Administration," paper delivered at the Bristol Seminar on the Sociology of the Police, February, 1971, 4-5.

44. For example, see IACP, 1969, 54; Donald Pomerleau, "The Eleventh Hour!," The Police Chief, XXXVI (December, 1969) 40-42; Sayre and Kaufman, 428-430; and Spero and Capozzola, 182-186. Juris and Feuille, chapter 6, discuss the issues and instances of this concern. They concluded that the police unions block very few law enforcement policies directly but may have a major indirect impact.

45. p. 146. Also, see Spero and Capozzola, p. 194.

46. Spero and Capozzola, p. 15.

47. Spero and Capozzola, 14-15.

48. Piven, 181-182, citing US Labor Department statistics.

49. Spero and Capozzola, p. 13.

50. See, for example, Horton, chapters 6 and 7; Piven, O'Connor, 236-246; and Stanley, chapter 6.

51. Piven, p. 183; and Frederick O'R. Hayes, "Collective Bargaining and the Budget Director," Public Workers and Public Unions, ed. Sam Zagoria (New York: American Assembly, Columbia, 1972), p. 93.

52. Stanley, p. 145, and p. 74ff. makes the best case for this point of view.

53. Loewenberg, p. 139.

54. Spero and Capozzola, p. 218.

55. This is the estimate of both Stanley, p. 120; and Spero and Capozzola, p. 217.

56. The average annual rate of increase for firemen and policemen was 7.5 percent, for urban classroom teachers 7.4, for federal classified employees 7.5, for factory production workers 5.8, for clerical and beginning technicians 4.8, for fully experienced professional working levels 5.0. The consumer price index increased 4.5 percent in those years. See U.S. Department of Labor, BLS, Government Employees' Salary Trends (U.S., 1971), p. 61.

57. Stanley, p. 75. Also, see Juris and Feuille, p. 54; Piven, p. 183 and fn. 30; and Spero and Capozzola, p. 215.

58. Hayes, p. 95. See note 51.

59. See, for example, Banfield and Wilson, p. 213; Skolnick, 280-281; and Spero and Capozzola, chapter 7.

60. "An Analysis of the Role of a Police Union and Professional Association in an Urban Police Department," paper presented to the 1973 Annual Meeting of the American Political Science Association, New Orleans, p. 13.

61. See, Stieber, chapter 8, for an analysis of strikes in the public sector.

62. Stieber, p. 161. Also, see Department of Labor, BLS Analysis of Work Stoppage, 1969 (U.S., 1971), tables A-9 and A-10, for some comparative data.

63. Power and Poverty (New York: Oxford, 1970).

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