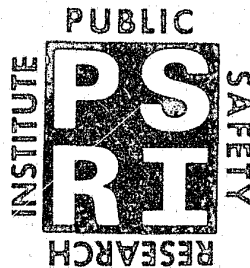


IMPACT OF  
COLLECTIVE BARGAINING  
ON LAW ENFORCEMENT  
AND CORRECTIONS

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## THE LABOR MOVEMENT IN CRIMINAL JUSTICE

### CHAPTER I

The long and explosive history of unionism in the private sector has been well documented. Public sector unionism, while equally volatile, can lay claim to a history of only several decades. One need only go back to the 1950's to find the first legal acknowledgement of the right of the public employees to form unions and bargain collectively. New York City legislation in 1956 and the passage of a collective bargain statute by Wisconsin in 1959 were the first significant examples of the labor movement into the public sector. Following rapidly on the heels of these first pieces of legislation was a proliferation of statutes and ordinances from all corners of the country recognizing public sector collective bargaining rights. Providing much impetus to the movement was President Kennedy's 1962 Executive Order 10988 which provided for the recognition of bargaining agents and the negotiation of signed contracts by federal employees. The overall movement has continued into the 1970's with the passage of collective bargaining legislation in many states and pending legislation in others.

The legal process usually involves two stages. The first recognizes the right to organize: expressly (e.g., for police, corrections, etc.), implied (covers "public employees"), or subject to qualifications or to local discretion. The second phase (if not included in the initial legislation) would normally cover the right to engage in "collective bargaining" via: the right to meet and confer, the right to present some proposals, or engage in full fledged collective bargaining in order to

negotiate a contract covering the various conditions of employment.<sup>1</sup>

Concurrent with the public sector growth has been the increase in rank and file membership of police and corrections personnel in both organized labor and employee organizations which are dedicated to the precepts of the labor movement. Development of the union movement among police officers certainly was suppressed for many decades by the dramatic failure of the Boston Police Strike of 1919. This debacle (which resulted in the permanent firing of most of the police officers of Boston) had the dual effect of causing organized labor to withdraw from all attempts to organize the police, as well as encouraging policemen to drop any idea of self organization. The impact of the strike is well stated by one writer who maintains that if the Boston strike had not occurred "the police would have been as well organized within the labor movement as firemen."<sup>2</sup> Also significant in the delay of any police labor movement was the almost unanimous and adamant opposition of police management to any efforts by officers to affiliate with organized labor or otherwise promote organizations showing an interest in the labor movement. Typical of the concern shown by police management was the warning given to a gathering of fellow police managers in 1972 by John Nichols when he was Police Commissioner of Detroit: "Police unionism is on the move, power struggles are forming, and I would fully expect the rise of police unions almost across the country to closely follow the patterns of ascendancy of other labor unions, which resulted in attempts to immobilize equipment, harassment of non-participating employees, work slowdowns, control of organizations by a well indoctrinated, vociferous few, a diversion of loyalty from organizational goals to union goals .....".<sup>3</sup>

The courts have also added to the delay of the police movement. As late as 1963 in AFSEME V CITY OF MUSKEGON the Supreme Court of Michigan upheld the constitutionality of a regulation promulgated by the Chief of Police of the City of Muskegon which prohibited any police officer from becoming a member of any organization which in any way was identified with a labor union or federation that admitted to membership persons who were not members of the Muskegon Police Department.<sup>4</sup> This ruling was typical of the many court rulings of the mid-60's and earlier that effectively forbid police officers, as well as other public employees, from joining or forming unions. Decisions subsequent to the mid-60's have reversed this trend. In McLAUGHLIN V TILENDIS (1968) the United States Court of Appeals for the Seventh Circuit held that "an individual's right to form and join a union is protected by the First Amendment."<sup>5</sup>

Police unionism has been somewhat unique in the public sector because of the tendency of policemen to turn to employee organizations rather than affiliates of organized labor to provide representation in the collective bargaining process. Perhaps the police opposition to organized labor can be attributed to unpleasant memories of official involvement in labor disputes in the private sector as well as the history of criminal involvement and scandal associated with certain labor unions. Also significant is the activity of the larger established police employee organizations, primarily the Police Benevolent Association (PBA) and the Fraternal Order of Police (FOP), in lobbying for collective bargaining legislation and educating their memberships to the advantages and the responsibilities that accompany the passage of such legislation. For example, in the State of Florida the PBA was actively conducting collective bargaining seminars for

their members well in advance of the passage of the collective bargaining statute.

Because of the decentralized nature of police organizations it is difficult to obtain accurate figures concerning the number of policemen involved in collective bargaining throughout the country. In a recent article in the Wall Street Journal a PBA estimate indicated that out of the approximate 600,000 law enforcement officers in the country at most 150,000 are represented by collective bargaining units.<sup>6</sup> Of this total, only about 25,000 (15,000 by the Teamsters and 10,000 by a municipal employees union) were represented by national labor organizations. The Wall Street Journal article indicated that the Teamsters union is making a concerted drive to sign up police officers in at least one state (Michigan) with a Teamsters claim of 1,000 new members a year from the police ranks.

The recent passage of a collective bargaining statute in Florida has provided an opportunity to watch the activity of both organized labor and employee organizations in recruiting membership among the police for representation purposes. The evidence to date indicates that the employee organizations (PBA and FOP) will be the bargaining agents for most police groups in the state. There does not appear to be much interest on the part of labor unions to represent the police in Florida. Numerous discussions with the police rank and file reveal that the rejection of organized labor is due in a large part to the fact that police just don't feel "comfortable" with national trade unions. Other reasons given include the large dues required by trade unions as well as the feeling that the public will resent their police being represented by such unions but will be sympathetic towards employee organizations like the PBA and FOP. In Florida organized labor, primarily the American Federation of State, County, and Municipal



Employees (AFSCME) seems to be much more interested in representing public employees not engaged in public safety duties.

Accurate information concerning the labor movement into the corrections field is equally difficult to obtain due to the fragmentation of the correctional systems. The Institute of Government, University of Georgia, published a study in 1973 which provides some insight into the extent of the labor movement in the corrections field. They reported that collective bargaining between (state) correctional agencies and employee unions or associations is a reality in approximately one-third of the state systems.<sup>7</sup> This study also revealed that the majority of agencies reporting had been under contract/agreement for five years or less, thus emphasizing both the recency and rapid growth of the movement within the corrections field. Of significant difference, however, is the tendency of corrections personnel to turn to organized labor rather than employee organizations for representation. This university study revealed that AFSCME was the national union with the greatest number of correctional contracts.<sup>8</sup> The study concluded that AFSCME has the potential for becoming a major influence in collective bargaining in the corrections setting.

A review of the literature concerning the status of the labor movement in the criminal justice system (for the purpose of this paper, the criminal justice system signifies only police and corrections, excluding the courts) could be summarized by stating: it's here; it's permanent; and it's growing. One need only review the evidence available to concede that the movement is here. In the relatively short period since the passage of the Wisconsin statute in 1959, forty states have granted some types of employee unions recognition measure or have been forced to alter personnel agency

policies.<sup>9</sup> The permanency of the movement is substantiated by the fact that once legislation is passed granting bargaining rights to public employees, very little organized resistance surfaces that would threaten repeal of the enabling legislation. In most cases, any alteration of the statute results in strengthening of the employees' position in the bargaining process. Typical of this trend is the situation in Florida in which no legislation has been introduced which would weaken the new statute, but bills have already been filed that would add pro-union features to the statute such as agency shop, limited right-to-strike, and binding arbitration in impasse resolution. The growth factor is best dramatized by a statement made by Sam Zagoria in his introductory remarks to the American Assembly meeting in 1971.<sup>10</sup>

*"Public unions, largely a phenomenon of the sixties, have experienced a boom in popularity and have burst upon public employees and a general public less prepared for them than for an invasion from outer space. Further, the speed of the change-over measured against the backdrop of labor history, is almost breathtaking ... public unions and employee organizations have attracted a larger proportion of their share of the work force in 10 years than the industrial unions have been able to do in 30."*

Accepting the presence, permanency, and growth of the labor movement in the criminal justice system, it is now appropriate to direct attention to the special nature of the movement as it applies to the criminal justice system. This will eventually lead us to a discussion of the future impact of collective bargaining practices of the system.

NOTES

1. For an example of the variations among states see: CCH, State Laws, Vols. 1 and 2 (1973).
2. Spero, Sterling D., Government as Employer (New York: Remsen Press, 1948) p. 281.
3. As quoted in Juris, Hervey A. and Peter Feuille, Police Unionism (Lexington, Mass.: Lexington Books, 1975) p. 1.
4. 369 Michigan 384, 120 N.W. 2d 197 (1963).
5. 398 F 2d 287 (7th Cir. 1968).
6. Kwitny, Jonathan, "Brethren in Blue." Wall Street Journal, March 5, 1976, p. 1.
7. Reading in Public Employee/Management Relations for Correctional Administrators, Corrections Division, Institute of Government, University of Georgia, Athens, Georgia, 1973, p. 87.
8. Ibid, p. 90.
9. See: Ocheltree, Keith, "Developments in State Personnel Systems" in the Council of State Governments, The Book of States, 1974-75, Vol. XX (Lexington, Ky: 1974) pp. 120-128.
10. Zagoria, Sam, "The Future of Collective Bargaining in Government", in Public Workers and Public Unions, ed. by Zagoria, Sam (Englewood Cliffs, New Jersey: Prentice-Hall, Inc. 1972) p. 1.

THE MULTILATERAL NATURE OF LABOR RELATIONS  
IN THE CRIMINAL JUSTICE FIELD

CHAPTER II

One of the most complex problems facing a criminal justice manager is an understanding and acceptance of the multilateral concept of collective bargaining in the public sector. Failure to recognize the potential for exploitation of the multilateral avenues open to both sides in the bargaining process can be extremely costly to management. Prior to a discussion of the implications, it is necessary to differentiate between bilateral and multilateral bargaining.

The private sector is generally considered to be bilateral in nature since only two parties are substantially involved in the negotiations. The industry or corporation is represented by a negotiator who has full power to negotiate the contract in the name of management. There is very little opportunity for outside manipulations on the part of labor since the legislative and executive functions are consolidated in the hands of the management team. Their decisions can be made based on the clear-cut economic considerations involved with little concern for political or public ramifications of their decisions.

The public sector structure lends itself to a multilateral posture for collective bargaining. Juris and Feuille identify four characteristics that make multilateralism inherent to the public sector.<sup>1</sup> First, the taxpayer will be directly billed for any economic benefits awarded the public workers with no option to change products since most public services are monopolistic in nature. Second, there is a vertical separation of governmental decision-making among the various levels of government (federal,

state, county and local), as well as a horizontal split of decision-making authority among the executive, legislative and judicial branches of government. Third, top management consists of a mix of elected and appointed officials with each having a different prospective on the issues at hand, depending on individual convictions as well as recognition of the political realities of the situation. Fourth, the management negotiators take their directions from these elected or appointed politically motivated officials.

Police officials are not unfamiliar with the concept of multilateral dimensions. This condition existed in the public service well before collective bargaining appeared on the scene. History is replete with examples of police rank and file using multilateral channels to gain desired ends. Concerted efforts to elect city council members; to gain removal of an unpopular police chief; campaigns designed to gain voter support for a desired piece of legislation; use of lobbyists; are all examples of effective use of outside interest groups to gain ends not directly obtainable from management. With the increasing participation in the collective bargaining process, it can be expected that skills previously developed in utilizing multilateral channels will be applied directly in attempting to gain benefits not readily available at the negotiating table.

A great number of interest groups have an actual or potential impact on the public sector negotiating process. They include, for example: news media (through editorials); Civil Service Commissions; administrative or regulatory officials or bodies; citizens groups; and even city councils or county commissions.

All of these factions have the potential for increasing the bargaining power of the parties engaged in the negotiations. Properly exploited, the support and commitment gained from the interest groups can be far more significant than the written issues agreed upon at the negotiating table. Consider, for example, the enviable position of the police negotiating team that has obtained in advance the covert agreement among certain members of the city commission as to the amount of the pay raise the city deems acceptable. With this issue resolved to their satisfaction in advance, their position at the bargaining table is considerably strengthened. The management negotiator will be operating out of a position of extreme weakness since he will have lost the bargaining or "trade-off" value of the most important issue on the table. Unions are well aware of the multilateral dimension, and place high priority on the use of such tactics as "end runs", "double deck" bargaining, and lobbying. These approaches are also discussed in the education and training programs provided to their membership.

Another interesting feature of multilateral bargaining is the reactions of interest groups at certain stages of the negotiations. For example, McLennan and Moskow point out that whenever the threat of a strike emerges in the public sector there will be an increase in "outside" interest and input.<sup>2</sup> The fact that a strike may be illegal provides little comfort to the public. There are too many contemporary examples of job actions and/or blue flu with no subsequent imposition of penalties on the participants.

Recognizing the increase of interest group activity as a result of threatened job action, the unions will normally institute a public relations program to ensure that both their position, and the circumstances

that "brought them to the brink" are understood by the citizens. This well orchestrated performance will often have the result of gaining public support followed by demands that the issues be settled "at all costs" to avert the possibility of a disruption of public services by a strike.

Police management has traditionally been much more hesitant to acknowledge or exploit the multilateral nature of the public sector. This hesitance on their part is motivated by: the desire to keep politics out of police affairs; a natural distrust of news media; and the traditional "sovereign power" of police management. The importance of the multilateral influence on the collective bargaining calls for a change in management's position in the future.

Since unions appear to be ready to utilize every resource available to assist their membership, what is it they are attempting to gain - participation or control? There are many variables that influence the answer to this question.

NOTES

1. Juris, Hervey A. and Feuille, Peter - Police Unionism (Lexington, Mass.: Lexington Books, 1975) p. 46.
2. McLennan, Kenneth and Michael Moskow - "Multilateral Bargaining in the Public Sector", an article in Loewenberg and Moskow (eds.) Collective Bargaining in Government: Readings and Cases (Englewood Cliffs, New Jersey: Prentice Hall, 1972) p. 231.



## ORGANIZED LABOR AND THEIR GOALS

## CHAPTER III

In addressing the question of what the unions and employee organizations representing criminal justice employees want, it would not be too facetious or greatly oversimplified to state that they want everything. This certainly has been the general response of management when the list of demands is presented prior to the initial bargaining session. In Florida, for example, most demands are taken from the so-called "model" contract developed by the Florida Police Benevolent Association with slight language modifications made to fit the local situation.<sup>1</sup>

The two significant limiting factors on the universe of the demands are the scope of negotiations and management rights. Generally speaking, both the scope of negotiations and management rights are very carefully defined in the enabling legislation. This does not mean, however, that unions do not consider it a prime challenge to them to expand the scope, or erode the rights, by obtaining changes in the legislation or at the bargaining table.

SCOPE OF NEGOTIATIONS

The scope of negotiations is generally concerned with wages, hours, and other terms and conditions of employment. The terms "wages" and "hours" have caused little controversy, while the phrase "terms and conditions of employment" is the root of much disagreement between management and labor. Nigro has pointed out that "the employer's opinion initially tended to be that 'conditions of employment' meant only matters directly affecting the

workers, such as wages, hours, and safety, but the unions maintained that it included much more because nearly every management decision 'directly affects' the worker."<sup>2</sup> Nigro goes on to point out that the courts have supported the employees' side of this argument. With such court decisions it can reasonably be expected that police and corrections employees will expand their demands based on the contention that almost any issue can be classified as a term or condition of employment. The impact of such an expanded scope of negotiations is well described by Nigro: "If anything affecting the employees is a proper subject for negotiation, the whole personnel program logically can be included. This would mean that decisions of legislative bodies, embodied in laws, could be annulled by collective agreements entered into by certain public officials and certain unions."<sup>3</sup>

#### MANAGEMENT RIGHTS

Management rights are those specific prerogatives which should be retained exclusively by management and not negotiated at the collective bargaining table. While these rights have been greatly eroded in the private sector, they have been fairly well protected in the public sector either by statute definition, or management insistence that such a clause be contained in the initial portion of any contract. Management rights are vital to police and corrections administrators because of the special considerations inherent in their duties. Consider the potential impact if, for example, unions were able to erode the traditional management right to determine the distribution of manpower in performance of necessary duties. If the unions could obtain contract provisions that state that all patrol cars

be manned by two officers during hours of darkness, or that corrections officers operate in pairs during night time, the ability of management to distribute manpower based on established needs would be seriously impaired. The only alternative left to management would be to provide less than adequate coverage or go to the governing body with a request for additional manpower. The second alternative doesn't seem likely to gain taxpayer approval during a period of fiscal emergency.

A classical example of the importance of maintaining management rights was outlined in 1973 by Raymond D. Horton:

*"In 1965 the New York City government first allowed managerial 'prerogatives' to be jointly determined at the bargaining table. Previously the City had successfully limited the scope of bargaining to financial matters. By 1970 the balance of bargaining power had changed so fundamentally ... that municipal unions were refusing to bargain with management over 'management' issues unless they received a quid pro quo in the form of 'extra' financial considerations."*<sup>4</sup>

One has only to look at New York's present financial condition or talk to the frustrated police managers in that city to recognize that protection of these rights is a most important task, from management's viewpoint, in the collective bargaining process.

#### CONTRACT DEMANDS

In analyzing the more common demands made in the police and corrections fields, it becomes clear that issues dealing with wages, retirement benefits, and other matters of purely monetary concern are negotiated directly between the governmental executive body and the unions with very little input from the police and corrections managers. It is those demands that have impact upon managerial, operational, or personnel practices that require close scrutiny. Rather than discuss the various issues and demands presented in contract negotiations, this paper will restrict itself to

those issues considered most significant in the three areas mentioned above.

One of the managerial areas targeted by the unions is decision-making in such matters as allocation of resources, development of policies and procedures, and scheduling. The one-man versus two-man squad car issue is one of the most common in the area of allocation of resources. Unions want to maximize patrolman safety with two-man cars. Management wants the freedom to assign manpower based on their perception of the needs. With the constantly rising on-duty death and injury rate for police officers, this demand can be expected to become stronger in the future. Another issue having a direct effect on resource allocation is the demand for additional pay whenever an officer is required to go from his assigned area (usually the precinct) to another area while on duty. New York City agreed to such a demand and has paid the price, both financially and operationally, for their agreement. The Management-Employee Committee approach is another common demand designed to bring about shared decision-making. While the exact language of the demand may vary the intent is to force a joint review of existing policies, procedures, and regulations with an end result of union inspired changes whenever possible. A review of existing contracts indicates a willingness of management to allow committees for periodic discussion of items of common interest but very little concession towards permitting shared decision-making.

Scheduling is an area in which numerous union demands are made. As long as management retains its rights in the labor contract, the assignment of employees will still be management's prerogative. However, in some circumstances it has been difficult for managers to assign employees and/or

groups of employees to certain duties or hours of work. The "fourth platoon" controversy in New York lasted some eight years and it eventually took a 1969 State law to change a 1911 State law that prohibited the enactment of a 6 P.M. - 2 A.M. platoon that would place extra officers on the street during the hours when they were needed.<sup>5</sup>

Other operational considerations might also be jeopardized by demands for night-shift differential and other less direct issues such as lunch pay, roll call pay, overtime, court-time pay, call-in, call-back, and stand-by pay. All of these issues, when successfully negotiated by the unions, will greatly restrict the manager's flexibility in the scheduling of his resources. Unfortunately, either by reason of exclusion from the bargaining process or insufficient consideration of the overall impact, police and corrections managers very often find their managerial and operational prerogatives severely limited at a time when innovativeness and experimentation might be the only avenues left open to cope with the mounting criminal justice problem.

#### PERSONNEL SYSTEM

The impact of the collective bargaining process on the personnel system is one of the greatest concerns to police and corrections managers. Many critics of collective bargaining have stated that the civil service or merit system prevalent in most public agencies provides employees with all the guarantees and protection they need. They also warn that the collective bargaining process will bring an end to merit systems. Both of these arguments are rejected by unions on the basis that civil service systems are "management dominated", thus not in the employees' best

interests, and the historical evidence that civil service systems and collective bargaining have co-existed for a number of years with no appreciable lessening of the civil service systems.

A major issue in any contract is the grievance procedure. Criminal justice organizations have been notoriously slow in recognizing the need for a written grievance procedure. In numerous discussions with police chiefs throughout the country the common response concerning a grievance procedure is, "my door is always open if anyone has a complaint", or "we don't need to have a written procedure because all that does is encourage complaints and create unnecessary paperwork." Those managers that do not subscribe to the "open door" policy usually feel that the civil service appeal procedure is sufficient for the employees' needs. Unions, however, do not share this view. Nigro quotes Jerry Wurf, President of AFSCME, to represent labor's viewpoint: "The role of the civil service commission is not regarded by the workers as that of a third, impartial party; to most of them the commission is felt to represent the employer."<sup>6</sup> Thus, unions will reject the civil service procedure and demand a formalized grievance procedure with binding arbitration as the final step. Their task is made much easier in many states which require grievance procedure as a negotiable issue. Some states provide a statutory requirement that a grievance procedure must be negotiated with binding arbitration as the final step.<sup>7</sup> Once placed in a contract the grievance procedure becomes a matter of paramount importance to management since they are charged with the administration of the procedure. No other single issue will cause more trouble to management if they fail to train middle-management and supervisors in the proper technique of administering the procedure.

Seniority in job assignment, promotion, and lay-offs are all important issues to the unions. The conflict created by this issue is well described by Juris and Feuille. "As is true in the private sector, seniority is seen by the men as a factor guaranteeing equal opportunity and a hedge against favoritism, while management views it as an infringement on their flexibility. The issue is the question of the senior-qualified man versus the "best man".<sup>8</sup> Unions can be expected to direct a major portion of their efforts towards gaining their seniority demands since success in this issue greatly solidifies their position with their membership. Management should be equally resolute in their opposition to seniority demands since the loss of the merit principle can result in personnel actions based on contractual provisions rather than the best interests (as perceived by management) of the organization.

For example, if seniority allows a corrections guard to bid on assignments, the experienced and effective guard who has learned to interact rather than overact might conceivably choose the "easier" job (e.g., the wall) which removes him from contact with the prisoners.

However, although seniority in the criminal justice field might preclude optimal allocation, no evidence was found during a Law Enforcement Assistance Administration (LEAA) funded study of police unions to suggest that allocation was optimal in the absence of seniority.<sup>9</sup>

The disciplinary procedure is another issue of importance to the unions. It is reflected in their demand for the so-called "Police Officers' Bill of Rights". The unions contend that the bill of rights only affords the same rights to accused policemen that are enjoyed by other citizens under the Constitution. The basic demands are notification of the charges,

names of complainants, reasonable periods of interrogation, right to representation by counsel, and representation on any complaint review board. Unions additionally want formal notification of any disciplinary action resulting in adverse personnel action. Such notification is requested in advance of the date of such action along with the reason or reasons for such action. The inclusion of the provisions of a bill of rights into a contract, or the passage of state legislation, certainly will have an impact on the personnel system of most police or correctional agencies. However, personnel practices concerning citizen complaints, which tended to place a higher priority on the need for prompt investigation and swift disciplinary action when warranted, with little consideration of any rights of the individual undergoing the investigation, cried out for reform. A "Bill of Rights" concept was inevitable.

Certain other demands, if included in a contract, will have impact on the personnel system. Dues check-off is provided for in many statutes and contracts. This imposes an administrative obligation upon management, although the cost of providing this service is normally negotiable. Basic work-week and overtime compensation clauses require close monitoring to ensure compliance with the agreement. If not monitored closely, mandatory overtime costs can become prohibitive. Confidentiality of personnel records is normally a demand of the union. If agreed to, special procedures will have to be established to ensure that the records are safe-guarded. Generally speaking, management can expect almost all present personnel policies and practices to be included as issues for negotiation by the unions.

One of the most surprising, and perhaps revealing, demands made by both police and corrections personnel is in the area of education and



training. In an era when minimum training standards are being mandated by most states, and specialized in-service training courses are being offered by academies, institutes, and educational institutions throughout the country, it wouldn't seem necessary that employees would need to make formal demands in this area. Yet a review of existing contracts and proposed demands indicates that unions feel that present training and education opportunities are inadequate. It could be a serious indictment of present managerial philosophies when unions have to make a specific demand for minimal in-service training to maintain job proficiency in a profession noted for constantly changing laws and frequent infusion of new technology.

A review of demands made of both police and correctional agencies indicate great similarity in the majority of the issues. There are certain esoteric issues in each area such as one-man vs two-man squad cars for police and institutional safety in corrections, but the dominant issues for both display a common thread. The economic demands are similar and their interests in management, operations, and personnel are paramount in demands submitted by both groups.

The next question that must be considered is: Where do we go from here?

NOTES

1. Florida Police Benevolent Association, Collective Bargaining Handbook, Florida Police Benevolent Association Press, Florida, 1974.
2. Nigro, Felix Management-Employee Relations in the Public Sector, (Chicago, Ill.: Public Personnel Press, 1969) p. 177.
3. Ibid, p. 178.
4. Horton, Raymond D. address at National Conference of American Society for Public Administration, Los Angeles, California (April 23, 1973).
5. See: "And the Beat Goes On: Patrolmen's Unionism in New York City" NSF/RANN Grant GI 38004, August, 1974.
6. Nigro, Felix, op.cit., 48.
7. See for example: Chapter 47, Florida Statutes, "Public Employee Relations Act", Laws of Florida, 1975.
8. Juris, Hervey A. and Peter Feuille - Police Unionism (Lexington, Mass.: Lexington Books, 1975) p. 136.
9. Ibid, p. 137.

## TRENDS AND THEIR IMPACT

## CHAPTER IV

How far will the union movement progress? Will the public ever see a nation-wide strike of parole officers, correctional guards or police officers? The tendency of correctional personnel to affiliate with organized labor could possibly bring about such a situation in the future. The police and their employee organizations do have a vehicle for unity under the banner of the International Conference of Police Associations, but have never officially threatened (nor have correctional employees) a nation-wide epidemic of "blue flu". However, at the 1976 Annual Conference of the American Society for Public Administration (ASPA), the president of the New York City Police Benevolent Association, lamenting on the problems facing urban police departments, did raise the possibility of such action in the future.<sup>1</sup>

What about the situation at the federal level? Although the previously mentioned Executive Order 10988 allows limited negotiations by federal employees, it has had little influence on federal law enforcement employees and, as such, the possibility of any united action on their part is remote. However, that might be changing.

In 1968 the Federal Criminal Investigators Association (FCIA) was formed by national constitutional amendments of the former U. S. Treasury Agents Association's (USTAA) national constitution.<sup>2</sup> Membership crosses organizational lines and includes employees of the FBI, Treasury Department, Drug Enforcement Agency, etc. Membership is open to anyone

classified under United States Civil Service 1810 or 1811 series (Criminal Investigator) or any Federal Law Enforcement Officer with the powers of arrest, search and seizure. Although the goals of this association are stated in fraternal and professional terms (somewhat similar to the Fraternal Order of Police) this organization with over five thousand members in numerous chapters throughout the country could well serve as a catalyst to draw attention to inequities that exist within the various federal law enforcement agencies for employees with similar job descriptions and duties, but with different pay scales. The area of premium pay alone could generate sufficient controversy to catapult an organization such as FCIA into the role of a bonafide representative for thousands of employees. Thus, the specter of union and/or employee association influence and pressure is growing within the Federal Government. (Even the Pentagon is bracing for a possible assault by the American Federation of Government Employees (AFGE), part of the AFL-CIO, since it was reported that they were thinking about organizing unions for soldiers, sailors and airmen).<sup>3</sup>

In addition to these trends on the part of unions and employee associations, there are changes occurring in local government that could have an impact on the labor movement.

#### CIVILIANIZATION

As police and correctional agencies strive to cut costs, many turn to the employment of civilians to replace professionals who are performing tasks that could be accomplished by less qualified, less trained, and lower paid employees. Unions have a tendency to oppose such a move stressing reasons that run the gamut from security and confidentiality to the need for

obedience to orders.<sup>4</sup> Naturally, the union has also been opposed to civilianization efforts in an effort to protect the jobs of their membership.<sup>5</sup>

The major Achilles heel in any civilianization program is the possibility that in some cases it might take more than one civilian to replace one professional. It can be very embarrassing to a criminal justice manager if the cost of civilianizing a position results in a net increase to fill it.

It should be noted that civilianization does not seriously interfere with the unionization movement. Although eventually it might reduce the ranks of one union, it could conceivably increase the membership of the union representing the non-professionals in the organization.

#### VOLUNTEERS

Volunteers in probation and parole and reserves or auxiliaries in Police Departments have been suggested as possible solutions to heavy caseloads in the former and manpower shortages in the latter. The concept is not new.

The voluntary movement in the criminal justice system can be traced back to 1841 when John Augustus, a Boston shoemaker serving as an unpaid volunteer, became the first probation officer in the United States.

The extent and diversity of volunteerism has resulted in active participation by thousands of civilians in the corrections and police fields.

According to Dr. Theodore Sharp, former President of the American Correctional Association, the use of volunteers in the probation and parole fields has not been viewed as a threat to the union movement, but

has come under limited attack as undermining the professional status of those operating full time in these areas.<sup>7</sup>

Since strikes, as such, are usually not permitted under the terms of police labor-management contracts there has been no call on the part of unions for a stipulation that reserves or auxiliaries shall not be used to replace striking employees. However, even in the case of job actions, regular police can normally expect that reserves or auxiliaries will not be used to replace "sick" police officers because many of the reserves would probably be union men in their regular jobs and, more important, the relationship between these men and the regulars would preclude their intervention into such a volatile situation. Since there are other options available to the city such as the use of management employees, temporary assistance from other police agencies, and even the National Guard if necessary, there should not be any need to utilize reserves or auxiliaries in other than their normal role during any labor dispute. Thus the trend to employ such individuals should not be objected to by police unions.

However, if the right to engage in job actions, including strikes, is ever formalized in any contract involving professional criminal justice employees, the utilization of volunteers, reserves or auxiliaries during such actions will probably become a negotiable item for the bargaining table.

#### EMPLOYMENT TRENDS

There are two basic employment trends that will continue to impact upon the union movement and collective bargaining within the criminal justice field. One is as a result of the Equal Employment Opportunity Act<sup>8</sup> and the other is the influx of college graduates into the field.

The Equal Employment Opportunity Commission (EEOC) has established guidelines that challenge many of the traditional entrance criteria for police work.<sup>9</sup> An influx of women and other minorities (some on a quota system, e.g., NAACP V Allen 4 EPD para. 7669, 1972) has resulted in the rise of black unions, such as the National Council of Police Societies which in 1969 claimed a membership of over 5,000 black officers.<sup>10</sup> Their concerns will have to be resolved internally or at the bargaining table.

Some police employee organizations have gained rank and file support by challenging some of the changes. Even in the area of residency requirements police associations have instituted legal suits to contest changes (Detroit Police Officers' Association V City of Detroit, Michigan Supreme Court, No. 52678, August 17, 1971.)

One of the basic propositions of unions is seniority which, in their mind, takes precedent over affirmative action. These opposing philosophies will continue to clash, especially when layoffs are necessary.

The other employment trend which will continue to have an effect upon collective bargaining is the influx of college educated individuals into the police field and to some extent into the correctional area.

Administrators who do not seek input from these young, bright, future leaders will turn them in the direction of employee organizations. The new breed will not be content to sit idly by until retirement and not make waves. These men and women will continue to seek recognition, respect and wages commensurate with their job and their education. In some cases, a union is the only vehicle available to help them obtain their objectives.<sup>11</sup>

FAIR LABOR STANDARDS ACT (FLSA)

The 1974 Amendments\* to the Fair Labor Standards Act (P193-259 FLSA) has called for the extension of the Act's overtime provision to police (and firefighters). The effect has been to take some local labor relations decision out of the hands of negotiators or local policy-making officials.<sup>12</sup> According to Ed Kiernan, President of the International Conference of Police Associations, the amendment has resulted in police managers being a little more restrictive in authorizing overtime.<sup>13</sup>

POLITICALIZATION OF UNIONS

The union's awareness of the multilateral nature of the bargaining process has stimulated considerable political activity on their part. Whether it ever reaches the extent found in some European countries where police can seek elected office, remains to be seen.<sup>14</sup> Perhaps the attempted repeal of the Hatch Act for federal employees is a step in such a direction.

Police unions have already demonstrated their ability to mobilize voters (e.g., New York City PBA's successful 1966 campaign to defeat, via a referendum, a civilian review board). The recent creation of the Committee on Political Action (COPE) by the New York PBA is a direct effort to gain political power.<sup>15</sup>

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\* The U. S. Supreme Court has been asked to make a decision as to  
*legality of these amendments.*

\* In a 5-4 decision, the U.S. Supreme Court struck down this extension (National League of Cities v. Usery, No. 74-878, June 24, 1976).



PRODUCTIVITY BARGAINING

The area of productivity presents an ideal arena for labor-management consensus. Management must develop the analytic capacity to monitor and improve the delivery systems involved in the Criminal Justice process. The union on the other hand will have to postulate positions of productivity that are acceptable to a volatile and sometimes suspicious membership.

Since productivity can only be accomplished with management's cooperation and resources, unions do not appreciate having to bargain on management's terms.<sup>16</sup> In lieu of bargaining over specific inputs and outputs, a contract can acknowledge the importance of productivity by including language at the outset along these lines.<sup>17</sup>

*Delivery of municipal services in the most efficient, effective and courteous manner is of paramount importance to the city and the union. Such achievement is recognized to be a mutual obligation of both parties within their respective roles and responsibilities ...*

*The union recognizes the city's right to establish and/or revise performance standards or norms notwithstanding the existence of prior performance levels, norms or standards. Such standards, developed by usual work measurement procedures, may be used to determine acceptable performance levels, prepare work schedules and to measure the performance of each employee or group of employees.*

The limited literature on police productivity bargaining does not reflect any real gains for management.<sup>18</sup> Once a productivity program instituted by management is on the bargaining table, it is open to alterations by the union; once in a contract, it becomes subject to grievance procedures. Both situations could conceivably cause problems that might turn out to be counter-productive.

As a viable alternative to productivity bargaining as such, the National Commission on Productivity and Work Quality\* suggests the utilization of labor-management committees to facilitate labor-management cooperation to increase productivity.<sup>19</sup>

There are some general principles that have been developed to enhance the success of labor-management committees.<sup>20</sup>

*A committee should be authorized by a collective bargaining agreement or memorandum of understanding between a public employer and public union or employee association, where they exist, to attain greater stability and prestige. However, it is important that committee members steer clear of contract interpretation matters and not turn committee sessions into extensions of the negotiating process. Each has its own purpose, place, and time.*

*As a first step, it may be desirable to make the committee recommendations advisory in nature to help overcome management concern that somehow the committee will trespass on its traditional prerogatives.*

*Probably more for symbolic than operational reasons, committees should have equal numbers from labor and management and it may be desirable to alternate the chairmanship from one side to the other at each meeting.*

*Meetings should be scheduled on a regular basis, rather than on call. It is likely that the imminence of a meeting will invite discussion of an issue rather than direct it into less conciliatory channels.*

*Agendas should be planned with both sides in a position to add items. A follow-up mechanism, such as posting of results and review of minutes of the preceding meeting, can be helpful.*

#### PENSION SYSTEMS

Collective bargaining over retirement provisions is normally concerned with improvements in benefits and amount of employee contributions.

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\* NOW CALLED: THE NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

Here again the multilateral nature of public sector bargaining might find the unions lobbying in state legislatures for improved pension benefits, or supporting a local referendum to allow early retirement.

Pension systems are currently receiving considerable attention and changes are being instituted in some cases and suggested in others. Some 138 cities, counties and local governmental agencies have withdrawn from Social Security in the past two years to save on the employer's share of the tax. (For 1976 and 1977, 207 entities with 458,187 workers have formally notified Social Security of their intent to withdraw.)<sup>21</sup>

At the leadership level Commissioner Robert J. DiGrazia of the Boston Police Department has called for the portability of pension rights as a means of encouraging mobility of competent leaders.<sup>22</sup>

These types of changes will receive union attention if and when they effect their membership.

The institute for Local Self Government has researched the pension issue and prepared an alternative to traditional pension systems that will more than likely draw some attention from union officials. Although only in the proposal stage, the "Public Safety Employment Contractual System"<sup>23</sup> is designed to replace the early tenure (after 9 to 12 months) which occurs under present systems, with a series of three contracts (one for four years and two for three years). Thus, after ten years rather than one, the employee could receive a "tenured" career position. The plan calls for lump sum payments at the conclusion of each contract, if another contract is not offered, along with "re-enlistment" bonuses for those who are invited to continue in service.

It is obvious that such a radical departure from tradition will strike fear into the hearts of some, but when examined rationally the

entire process could be of assistance to both management and labor: in attracting and then keeping productive employees, in lessening the impact of termination, and by offering a degree of mobility to the employee who is stymied in one agency but who could really accelerate his career in another.

#### PARTICIPATORY MANAGEMENT

The practice of subordinate involvement in goal setting and decision making has found its way into the public sector in general and is appearing in different versions and in varying degrees in law enforcement and correctional agencies.

#### MANAGEMENT BY OBJECTIVES

In criminal justice agencies the most prevalent form of participation observed by the authors throughout the country is Management by Objectives (MBO). There are many definitions for MBO, but all normally include:

- . meetings between superiors and subordinates to discuss objectives
- . defining these objectives in terms of measurable results
- . developing action plans to achieve results
- . rewarding accomplishments

If unorganized employees are involved in this process as individuals, the need for a union might be lessened. If union members are participating, their input could reflect union or individual preference. Both are important to management and thus potential union influence need not cause the abandonment of an MBO process - it should help it. The motivational climate so necessary to achieve stated objectives is certainly enhanced if labor and management are in agreement.

The one potential issue that might be raised by the union, and appear at the bargaining table, is the threat of discharge if objectives are not met. Although tangible rewards and punishments are critical at the survival level, in reality they will rarely generate more than compliance. Civil service and other personnel systems would make it difficult to fire a person or a group of employees for not meeting their objectives. It would not be relinquishing any significant management right to agree that failure to achieve an objective in and of itself will not result in discharge.

#### TEAM POLICING

In order to tap the resources of individual officers in problem identification and resolution, some police agencies have adopted the concept of team policing.<sup>24</sup> In addition to this individual participation, these men are part of a team ranging in size from 20 to 40, assigned on a permanent basis to a limited geographic area and functioning as generalist resulting in job enrichment and flexibility.

Unions have long fought for participation by the rank and file in the decision making process. Quite common in union demands is establishment of managerial-employee committees. In essence, team policing provides this by the development of the team as a professional group. Supervision under team policing is more the development of a sense of personal responsibilities in team members rather than the traditional leader-follower concept.

Team policing also recognizes the need for reduced boredom, job satisfaction, assignment variety, and employee incentives. These are features with which a progressive union, with its members' best interests

at heart, should find no fault. The encouragement of professionalism is undoubtedly a common goal of both management and labor. The problem which arises is their difference in perception as to how to arrive at this professionalism. The route taken in team policing does not seem at odds with the route advocated by police unions.

CORRECTIONAL CLIENT-INPUT

There are basically two types of client-input facing correctional administrators. One involves activities undertaken without cooperation and approval and the other is clearly part of policy adopted by these administrators. In both instances the prisoner, aware of the system that dispenses goods and values, attempts to manipulate it for his own good.<sup>25</sup>

The former category includes activities such as litigation, politicalization (though contacts with outside racial and ethnic groups) and the actual unionization of some prisoners. The best known of the latter is the California-based Prisoner's Union with a membership of around 15,000.

Acceptable approaches encompass "mutual-agreement" or "prescription" programs in which the offender draws up a contract with prison officials under the terms of which his release time for parole is dependent upon his meeting specific measurable behavioral objectives.

Also included would be variations of grievance mechanisms currently operating in correctional institutions.<sup>26</sup> The Center for Correctional Justice identified three basic types of mechanisms they found operational in a 1973 study of 209 adult correctional institutions: grievance procedures (77%), inmate councils (54%), and ombudsmen (31%).<sup>27</sup> Ombudsmen and formal grievance procedures are new to corrections; inmate councils are not.

It is conceivable that prison officials could become involved in collective bargaining, of one sort or the other, with both employees (e.g., guards) and prisoners.

As in any of the trends discussed, an awareness on the part of both unions and public officials of the need to act responsible, rather than emotional, should govern their approach to bargaining that involves direct or peripheral changes in the police or correctional systems.

NOTES

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4. Juris, Hervey A. and Peter Feuille Police Unionism (Lexington, Mass.: Lexington Books, 1975) pp. 132-133.
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6. See: Volunteers in Law Enforcement Programs (Washington, D.C.: LEAA, Division of Program and Management Evaluation, 1972).
7. Sharpe, Theodore interview (May 4, 1976), Richmond, Va.
8. Amendment to Title VII of the Civil Rights Act of 1964, 42 U.S.C.
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13. Paper presented by Ed Kiernan at Police Foundation's Forum on Upgrading The Police (April 13, 1976).
14. See: Berkely, George The Democratic Policeman (Boston, Mass.: Beacon Press, 1969).
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16. Zagoria, Sam "Productivity Bargaining", Public Management, July 1973, p. 16.
17. *Ibid.*, p. 16.



18. See: Horton, Raymond D. Municipal Labor Relations in New York City: Lessons of the Lindsay-Wagner Years (New York: Praeger Publishers, 1973); Hamilton, Edward K. "Productivity: The New York City Approach," in Public Administration Review (November/December, 1972); Greiner, John M. "Tying City Pay to Performance," LMRS Special Report, December, 1974.
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20. Ibid., pp. 2-3.
21. St. Petersburg Times, March 11, 1976, p. 17A.
22. Address at Police Foundation's Forum on Upgrading Police, (April 14, 1976), Washington, D.C.
23. Gallagher, G. Patrick, Director, Public Safety Delivery Systems Project for ILSC, interview (April 20, 1976), Washington, D.C.
24. For an overview of the concept and a detailed bibliography see: Full-Service Neighborhood Team Policing: Planning For Implementation, Public Safety Research Institute, (June 1975).
25. See: "Formal Bargaining in the Prison," Yale Review of Law and Social Action 2 (1971): 5; Robert B. Reich, "Barbaining in Correctional Institutions," Yale Law Journal 81 (1972): 726; and C. Ronald Huff, "Unionization Behind the Walls," Criminology 12 (1974): 175.
26. See: "Grievance Mechanisms In Correctional Institutions," Prescriptive Package (National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice, 1975).
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## MANAGEMENT'S PREPARATION FOR COLLECTIVE BARGAINING

## CHAPTER V

In the labor relations movement it is axiomatic that union and employee organizations are going to take the initiative in moving towards collective bargaining. The criminal justice field is no exception. The role of aggressor will be assumed by labor since they must meet the statutory requirements of showing sufficient employee demand for the right to bargain with management. Even if the legislative initiative was not dictated, it is very doubtful that the encouragement for collective bargaining would come from management since negotiations are an attempt by labor to get something that management already possesses. The unions' extensive and thorough preparation in gaining legal access to the bargaining table provides them with experience, usually not available to management, that is reflected in their ability to cope with the entire collective bargaining process when it does become a reality. It would be rather safe to say that unions start one-up on management at the first negotiating session.

What does management do to prepare for the inevitable in agencies that do not have collective bargaining? What do they do in many localities that recognize the right of employees to bargain collectively? The answer to both questions can be stated as succinctly (although conversely) as the one previously offered to the question of what do unions want - very little.

In "have not" localities managers want to believe that collective bargaining will never become a reality. Often heard are comments

such as: "it has no place in criminal justice agencies"; "it is too unprofessional"; "the public will never allow it to pass"; "my people are content and will reject it outright". And so the rationalizations continue, while employee organizations prepare.

Another type of "preparation" employed by management consists of expending considerable effort in defeating any legislation that would permit collective bargaining - even in the face of Supreme Court decisions. Fighting the issue might slow the growth of employee organizations but it will not prevent the eventual recognition of the right of criminal justice employees to organize and negotiate many of the conditions of their employment.

Wilson, in his book, Unions, Who Needs Them? indicates how union officials view the neanderthal manager:

*"There are two kinds of management adversaries in any organizing drive who are considered 'pushovers' by union organizers. One is the businessman who hates unions with a passion; the other is the romantically idealistic dreamer, the naive, impractical, unrealistic manager who has surrounded himself with others of his own image."*<sup>1</sup>

For those criminal justice managers who have already been on the losing side of an organizational effort, their reaction to the collective bargaining process might include: aggression (I'll see that they don't get anything at the bargaining table); defeatism (They've got their way already, might as well give them anything they ask for, I can't stand another loss); acceptance - passive (I'll learn to live with process), or active (Let's make this work).

Regardless of the state of organizational efforts by unions and employee groups, and the personal feelings of individual managers, there

must be the realization on the part of management that organized labor is just that, and previous unorganized efforts by management to cope with the situation must be reappraised. Although attitudes of management personnel might be difficult to change, especially if they have lost the organization battle, their behavior, as a reflection of their knowledge and skill, can be improved. Education and Training are the avenues that can assist criminal justice agencies in reaching labor-management accord.

The areas that must be covered in such programs in order to improve management's ability to deal with the collective bargaining process include: the organizational phase; the recognition phase; actual negotiations; contract administration and general management skills.

In order to illustrate the magnitude of the collective bargaining process and its implications on future job knowledge requirements at the various criminal justice management levels, a matrix (Table I) is provided.

#### TOP MANAGEMENT

As indicated by the matrix, the demands on top management permeate all phases of the collective bargaining process. It would be very difficult for the contemporary manager to operate effectively without a working knowledge of the total labor relations environment. Compounding the challenge to the manager is the drastic impact that the introduction of labor relations will have on the traditional management and personnel functions. The typical criminal justice executive has more than likely spent a career growing and gaining expertise within a working environment characterized by little change. Now suddenly he or she is thrust

TABLE I

AREAS FOR MANAGEMENT CONCERN IN ORDER TO  
COPE WITH THE COLLECTIVE BARGAINING PROCESS

	TOP MANAGEMENT	MIDDLE MANAGEMENT	SUPERVISORY (First Line)
<u>ORGANIZATION</u>			
Understanding Statutory Regulations	X	X	X
Solicitation	X	X	X
Authorization	X	X	X
Petition for Recognition	X		
Unfair Labor Practices	X	X	X
<u>RECOGNITION</u>			
Card Check	X		
Unit Determination	X		
Elections	X	X	X
Certification	X		
Recognition	X	X	X
<u>NEGOTIATIONS</u>			
Negotiation Team	X	X	
Scope of Bargaining	X		
Management Rights	X		
Good Faith Bargaining	X		
Impasse	X		
Impasse Resolution	X		
Contract Radification	X		
<u>CONTRACT ADMINISTRATION</u>			
Informing Management Staff & Employees	X		
Implementing Agreement	X	X	X
Grievance Procedure	X	X	X
Preparation for Next Negotiations	X	X	X
<u>MANAGEMENT TECHNIQUES</u>			
Commitment	X	X	X
Interpersonal Communication	X	X	X
Instruments (e.g., Managerial Grid)	X	X	X
Group Decision Making		X	X
Management By Objectives		X	X
Organizational Development		X	X

into a brand new "ball game" with a new set of rules that pay particular attention to personnel administration. Burpo, a well published authority on police labor relations makes the observation that:

*"the Police Executive must recognize that labor relations is the singular most important personnel function in his agency."*<sup>2</sup>

This observation could apply equally well to executives in the correctional field.

Assuming that the criminal justice executive accepts Burpo's observation, a re-evaluation of individual competency is called for throughout management's ranks. The purpose of such a process would be to identify weaknesses in the ability of any member of management's team to operate within the environment created by the advent of collective bargaining. Once identified, corrective action can be instituted by utilizing educational and training programs that are directed specifically at improving management skills in the area of labor relations.

#### EDUCATION

Recent years have seen a movement by criminal justice managers towards the utilization of formal academic programs in order to expand their knowledge in job related areas. Based on the proven ability of such institutions to meet the previous needs of management, labor relations courses and programs should be identified, evaluated, and where appropriate pursued, in order to develop knowledge and understanding of topics included in the matrix provided in this paper. Objections might be voiced that the majority of labor relations courses are found in schools of business and are oriented towards the private sector. Although this is true, it should be noted that many of the basic principles, concepts, and even the structure

of the public sector model were built on the private sector model and as such these courses are quite relevant.

Criminal justice educators, and institutions housing such programs, recognize the impact of labor relations on present and future criminal justice management and are making curriculum changes to accommodate the need for knowledge in this area.<sup>3</sup> As such, many of these courses are applied-oriented rather than theory-oriented and attempt to provide the student not only with knowledge of State statutes and an understanding of the various phases of the collective bargaining process, but also provide practical experience in collective bargaining including moot negotiation sessions. This approach is not new to labor management students but it is now being modified to meet the specific needs of criminal justice managers. A review of college catalogues and bulletins, plus interviews with faculty and students, should be employed in order to choose the right program for the particular needs of interested criminal justice managers.

One area where academic institutions should focus additional attention is in the development of public administration programs with courses specifically designed to deal with all aspects of public sector labor relations. Especially needed, but somewhat neglected in present programs, are courses in public personnel administration with emphasis on the impact of collective bargaining, and the negotiated contract, on personnel practices.

Academic institutions could further assist by moving from the traditional on-campus, rigidly structured programs towards flexible programs taken to the students at places and times convenient to them.

Weekend "cluster" programs are a move in this direction. The challenge to criminal justice administrators is to make the need for such programs known to university and college administrators.

#### TRAINING

While academic programs can play an important role in providing a conceptual foundation in labor relations, the criminal justice executive might decide that training programs are best suited to fulfill the immediate short-term need of preparing for collective bargaining. Training programs can help top management cope with the previously identified phases of the process.

Since management has a tendency to ignore preparation for collective bargaining until it becomes a reality, training becomes especially critical immediately upon passage of collective bargaining legislation. Unions once given the legal green light, will proceed with their organization activities. Mistakes by management during this phase can have the negative effect of driving otherwise uncommitted employees towards the union or even more embarrassing, cause unfair labor practice charges to be filed against the organization because of a lack of knowledge of the process on the part of their management team.

Proper conduct during the recognition phase is also essential to management. Especially important is management's involvement in unit determination. If the union is successful in including supervisory employees in the bargaining unit, the executives' ability to manage will be significantly diminished. Also, any improper conduct during elections will undoubtedly bring unfair labor charges down on the head of the executive.

Composition and training of the negotiation team is a major



**CONTINUED**

**1 OF 2**

responsibility of the top executive. While the chief executive would not normally be a member of the bargaining team, he has primary responsibility to see that the interests of his organization are fully protected by the representatives he selects for the team. Since final decisions, especially on non-economic demands, are made by the chief executive, his intimate knowledge of all issues is vital. Limitation of the scope of bargaining and protection of management rights becomes essential during negotiations. Insuring proper conduct of all management employees during impasse resolution is also the concern of top management.

Contract administration is a continuing responsibility of chief executives. Training of all members of the management team in proper administration of the contract becomes important at this phase. Rights and obligations in the grievance procedure mechanism of the contract must be understood by all levels of management.

The continuous nature of the entire processes is exemplified by the necessity of beginning preparation for the next negotiations with the signing of the current contract.

Specific management training for top executives is often overlooked because it is assumed that one who has risen to such heights possesses such skills. However, the mere fact that there is a union movement might indicate that some skills are missing or need changing.

Sometimes the manner in which commitment to a program is handled, especially in relation to employee recollection of similar previous endorsements, can prove fatal when it should be one of the keys to success. Lack of two way communication throughout an organization can and should be corrected. The use of valid instruments can help management identify their

leadership styles and where they have to change in order to meet the challenge of effective labor management relations.

#### MID MANAGEMENT AND SUPERVISORY

While the education and training requirements for top management are all-encompassing, no less emphasis should be placed on the role of the middle-manager and supervisor in the collective bargaining process. An important objective must be considered at this level. It is essential that mid managers and first-line supervisors be integrated into the management team. Naturally they, like top management, must understand their obligations and responsibilities under the ratified contract.

Failure to accomplish their integration into the team can result in middle managers and supervisors who are labor rather than management oriented. The results can be disastrous as pointed out by Burpo:

*"Supervisors who are labor rather than management oriented will de-emphasize the disciplinary rules of the police department. Grievance resolutions will become more difficult because supervisors will be reluctant to make decisions that are adverse to fellow patrolmen."*<sup>4</sup>

#### EDUCATION

Formal academic programs become an important tool in managements' efforts to unite middle managers and supervisors with the remainder of the management team. Providing the time available to attend classes, and giving financial assistance for tuition expenses, are visible evidence of an agency's concern for career development of the lower levels of management. Such interest in the preparation of younger supervisors for future promotions and ultimate assumption of greater responsibilities will do much

to reinforce their role as members of management's team.

The same courses pursued by top management could also assist mid managers and supervisors to operate better within the collective bargaining structure. Naturally supervisory, leadership, and behavioral science subjects would best serve their short term needs.

#### TRAINING

In-service and on-the-job training, along with special programs offered outside of the agency are essential at the middle and first-line supervisory levels. Formalizing the many aspects of the personnel system in a contract results in an increasingly important role for supervisors. They need training in specific areas such as performance evaluation, goal setting, discipline, grievance procedures, and unfair labor practices. Supervisors are normally the only contact between the employee and management. In many cases the fate of the grievance mechanism is in their hands. Properly trained and motivated supervisors are the key to maintaining a harmonious relationship between management and labor during the life of a contract. If the executive provides the proper training at this level he will be rewarded by having more time available for major decisions rather than devoting an inordinate amount of time to grievance resolutions and disciplinary matters.

#### ALTERNATE STYLES OF MANAGEMENT

Throughout this paper there is a message to management that the advent of unionism, as well as other changes in the management environment, portends a future change in managerial styles. Chapter IV discusses many trends which, if realized, will require a drastic upgrading of the knowledge demanded of a manager, and in some cases a serious consideration of a switch to alternative managerial styles. The individual entering the

criminal justice system today is better educated and more highly motivated than his predecessor. He wants to participate in the goal setting and decision making of the organization. He also wants more responsibility in his job. Participatory management models and alternative patrol operations models such as team policing will go a long ways towards fulfilling the needs of the new breed of criminal justice employee.

The challenge to the manager is to obtain the knowledge of new techniques of management and operations and consider their applicability to the organization. Certainly change for the sake of change is dangerous, but change designed to improve the organization and specifically improve and enlarge the role of the employee deserves serious consideration.

There is a considerable challenge to all levels of management with relation to their future role in light of present labor relations developments. It is a challenge which cannot be ignored. Past experiences indicate that failure to properly prepare for the obligation of the various managerial roles can have extremely unpleasant results. Defeat at the bargaining table, employee dissatisfaction, and heightening of the adversary nature of the bargaining process, just to mention a few, are predictable consequences of improper preparation.

If the management team becomes proactive rather than reactive in their preparation for collective bargaining there should be a reduction in the antagonism and anxiety that too often surround the process. A professional rather than a personal approach should be employed by management. The feeling that employees have organized against the chief or management (whether true or not) has caused many a bargaining session to become nothing more than a win - lose confrontation. On the other hand, when properly

trained and educated personnel bring a more professional posture to the table and administer the negotiated contract in a similar manner, the entire criminal justice agency can be the winner.

NOTES

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4. Burpo, John, op. cit., p. 10.

## SUPPORTING ROLES

## CHAPTER VI

Having briefly traced the labor management movement in the public sector in general and more specifically within the criminal justice system, it should be clear that unions and employee organizations are forces that will continue to exert pressure on the criminal justice manager for years to come. The multilateral nature of these relations constitute special problems for those who represent management at the bargaining table. The seriousness of the situation is further compounded, from management's point of view, by the scope of labor's goals and their expertise in presenting and achieving them.

It would appear that trends in the criminal justice field, some mandated by law and others merely available for consideration, can not be pursued without at least considering organized labor's position on changes that effect their conditions of employment.

If the criminal justice field, with its thousands of employees represented by various labor organizations, is to function in conjunction with collective bargaining, management must develop skills at least equal to those they face across the bargaining table. In administering the contract, the management team must demonstrate knowledge and techniques above and beyond those required in precollective bargaining times. They must now be more attuned to political, social, and legal ramifications that might result from personnel management decisions previously made in relative privacy. Education and training hold the key to management's successful fulfillment of their new role.



Educational institutions must be advised by criminal justice agencies of their needs in this field. Academic programs and courses, on campus and off, during regular hours and in "clusters", graduate and undergraduate can all serve the needs of management personnel.

Although in-house training programs are necessary to acquaint the management teams with the specific conditions of their agency's labor contract, the various short courses and programs offered throughout the country could be of great assistance to management personnel who are responsible for training their peers in labor relations techniques. A review of easily obtainable police and correctional journals and newsletters, as well as the National Criminal Justice Reference Service of the Law Enforcement Assistance Administration (LEAA) will disclose the variety of labor relations training programs available at different times in various parts of the country.

Reference material is also available and should be obtained for use by members of the management team. The International Association of Chiefs of Police (Gaithersburg, Md.) publishes the Police Labor Review and the Public Safety Labor Reporter both of which can help managers keep abreast of changes in the field. Also of interest to police managers would be the annotated bibliography Police Unionization and Bargaining published by the Traffic Institute, Northwestern University (Evanston, Ill.) Although these sources are directed at police unionization, the same principle and precedents would apply to the correctional scene. Of a more general nature are sources such as the Public Employee Relations Library provided by the International Personnel Management Association of Chicago, Illinois and the United States Department of Labor, Bureau of Labor Statistics and the Division of Public Employee Labor Relations

which provide data information, as well as publications, dealing with public and private sector unionism.

Since these sources have, and continue to be available, why does there appear to be only minimum interest in their utilization? Two possible answers are proposed - lack of funds and lack of motivation (until after-the-fact).

If lack of money to send men to training and educational programs and/or to obtain information and literature is the reason for unpreparedness on the part of management, steps can and should be taken to overcome the situation.

Those who control the purse strings should be made aware of the cost: in negotiated salaries and benefits, in lost time at nonproductive bargaining sessions, and in improperly handled grievances, that results from a poorly prepared management team. The cost of training and education for management officials would consume only a small portion of the savings that could be accrued by their proper handling of the collective bargaining process.

Public funding sources such as LEAA and the National Science Foundation, and private sources such as the Police Foundation, just to mention a few, should, if they are not already doing so, consider funding projects and programs which seek to prepare management to better handle their labor relations responsibility.

State Planning Agencies should also acknowledge the importance of labor relations training by giving it high priority in state plans.

To encourage members of the management team to become more knowledgeable concerning labor management, promotional exams should

include questions on this topic. Further motivation might result if criteria which acknowledges the ability of the individual manager to properly handle grievances were included in supervisory and mid management evaluation programs. One last type of motivation which might encourage self education for some members of management would be to offer "premium pay" for members serving on the negotiating team. Their special skills should be rewarded in the same manner as extended to other specialists (e.g., S.W.A.T. team members, motorcycle officers, etc.)

The intent of this paper was not to unduly alarm criminal justice managers by implying that the spectra of collective bargaining is an insurmountable hurdle to future organizational tranquility. Rather it was intended to alert managers of the implications inherent in the process and to encourage them to place proper emphasis on collective bargaining in their future plans for training and education in order to meet the challenge. Police and correctional agencies have an obligation to provide uninterrupted services to the community. This can be greatly enhanced if the labor management process is approached in a professional way by both sides.

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