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THE ROLE OF THE MEDIA
IN CONTROLLING CORRUPTION

David Burnham

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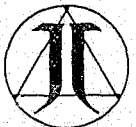
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David Burnham

ACQUISITIONS

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An examination of the problem of corruption — whether within a police department, the Central Intelligence Agency, or a major corporation such as ITT — shows that major sustained efforts to control the problem have almost always required an outside stimulus. That stimulus frequently has been provided by a newspaper.

The broad abuses of power by the Nixon administration and the subsequent illegal efforts to hide these abuses were in large part disclosed by the *Washington Post*. The disclosures led to the resignation in disgrace of Richard M. Nixon, the conviction on a number of charges of many of Mr. Nixon's closest associates, including Attorney General John Mitchell, and the passage by Congress of some reform legislation.

Similarly, the illegal activities of the Central Intelligence Agency were disclosed by Seymour Hersch of the *New York Times* and led to three separate government investigations of improper intelligence activities in the United States. The abuses included the casual experimentation with LSD on unknowing persons, eavesdropping and the collection of intelligence files on thousands of persons never accused of a crime and attempts

to discredit the Rev. Dr. Martin Luther King and to even persuade him to commit suicide.

Further, the widespread corruption within the New York Police Department and the deliberate policy of the administration of John V. Lindsay and its first police commissioner, Howard R. Leary, not to openly attack it were disclosed in my articles in the New York Times beginning on April 25, 1970. The articles led to the formation of the Commission to Investigate Alleged Police Corruption (the Knapp Commission) which ultimately concluded that at the time of its investigation a majority of New York policemen were engaged in various corrupt transactions, not including the acceptance of free food, and that the top leadership in City Hall and at police headquarters had deliberately chosen not to investigate serious allegations of corruption.

In addition to the two year investigation and resulting 283-page report by the Knapp Commission, the articles in the *Times* played a role in Mr. Leary's decision to quit his post as head of the nation's largest police department, the subsequent appointments of Patrick V. Murphy as a reform commissioner and of a special state prosecutor with the mandate to attack corruption in the criminal justice system of New York City.

Many other examples could be cited of newspaper investigations that served as the initial catalyst for reform. The examples would demonstrate the truism that no monopoly on corruption is held by the police. The examples, by implication at least, also would raise the complex question of how a newspaper or television news organization should look at the public and private institutions it covers.

This paper is my personal attempt to answer that question. It can be no more than my individual view because the work of a reporter is so strongly influenced by his training, his assignment, and the character of his newspaper. It is my belief that many reporters in America, perhaps even a majority of them, approach their jobs too passively, because the polite and passive stance is what many of their editors and publishers actually

want. It is partly because reporters rarely are given an opportunity to develop enough expertise in a single area to question intelligently the expert and his conventional wisdom. It is partly because some reporters are insecure in their personal lives and desire to be liked by the people and the institutions they are covering.

Even among those reporters who think of themselves as "investigative reporters," there are vast differences. Some are fascinated, even obsessed, by the individual conspiracies that sometimes influence a city, state or nation. Others are more interested in the structure of government and business and the influences of these structures on the individual men within them.

In recent years, the debate on the disputed question of the appropriate role for American newspapers often seems to have divided the debaters into two clashing armies — those who believe in what has come to be called "advocacy journalism" and those who do not.

I do not believe in advocacy journalism. Neither do I believe in the restricted role of the press that frequently is held up as proper by those who oppose advocacy journalism. From my years of covering local and federal government, I believe the debate about these two somewhat misleading goals of journalism has caused a blurring of an essential and easy to understand distinction: the difference between reporting what a politician or administrator says is going on and reporting what actually is going on.

Although there has been some shift in emphasis in recent years, I believe the nation's newspapers, magazines, and television stations still devote far too much of their energy and manpower recording what officials say and therefore far too little energy and manpower reporting what is occurring in the agencies headed by these officials.

I will give some examples from my own experience. Since I joined the *Times* in 1967, the single story I wrote that most caught the public eye was a front page article on December 16,

1968, alleging that large numbers of New York policemen were "cooping," the department's time honored expression for sleeping on duty.

Accompanying the article were two of a half dozen photographs that a copy boy named Leland Schwartz took while we were prowling the docks, alleys, and parks of New York in the morning from two to six o'clock in the search for the evidence to support the article. The photograph selected to run on the first page showed three police cars parked side by side in Brooklyn's Fort Greene Park -- virtually the entire patrol force of that precinct. Although the photograph was taken about five o'clock, the cars had been there with their six sleeping policemen since at least two-thirty.

The article included descriptions of several other favored cooping locations in all corners of New York City and anecdotes about policemen who carried alarm clocks into their hiding spots to wake them when it was time to go "off duty" or about the good arrests that had been made while leaving the coop. One Brooklyn coop had become so well known to the neighborhood that it had a telephone to be used by the public in real emergencies.

The existence of cooping, and the casual acceptance of it by most commanders, would of course have never been the subject chosen for a speech by Commissioner Leary or Mayor Lindsay, who at the time were busily trying to persuade the public about their deep concern about crime in the street.

Although the hundreds of letters I received after the publication of the cooping article showed that the public was widely familiar with the practice, many New York policemen were enraged. One was so angry, in fact, that he called up with what was to be the first in a series of death threats that my wife, children and I received during the six years I covered the criminal justice system in New York.

The story, in my view, was not, however, advocacy journalism. It was, instead, a factual, carefully documented report about what was going on among a large number of policemen

who were being paid hundreds of thousands of dollars a year of public money to stay alert. It was as direct and easy to understand as the little boy who looked at the king and said he was not wearing any clothes.

In addition to the rage directed at me by individual policemen, the official response of the police department and the private reaction of some other reporters were revealing. Police Commissioner Leary and his top commanders, as far as I know, devoted virtually all of their energy toward the goal of nailing the six patrolmen who had been photographed sleeping in the three patrol cars in the park and virtually none toward trying to improve training and morale and determining how much responsibility the precinct captain and other commanders should bear for the performance of their men. They thus showed that their major concern was with the appearance of the problem and not the reality that the people of New York were being placed in danger.

One of the most experienced reporters with the New York *Daily News* complained to me that the cooping story was not a story, because "everyone" knew it went on. He thus underlined what I consider a fundamental truth about journalism: most important stories concern widely known and generally accepted practices.

The *Daily News* reporter, like a fair number of my colleagues, pretended to world-weary cynicism, a reaction I encountered after other stories of mine had been published. "There is always going to be corruption. That's the way the world is, kid, why bother?" they would ask. The cynicism of reporters, of course, is a pale shadow to that of many experienced policemen, called "hairbags" in New York, who would look you in the eye and announce calmly: "Listen, kid; nothing is on the level."

My personal response to this sometimes real and sometimes affected cynicism is that of course, man is not perfect, of course, there will always be corruption and cooping. However, these are not relevant. The question is not whether there will

always be corruption in the world, but why there seems to be more corruption in one city than another, or at one time or another and what steps can be taken to reduce it now.

The cooping story was an important moment in my life, because it was about this time that I first began to perceive my job as a newspaperman: to devote most of my energy to trying to describe those practices and procedures that stop a particular agency from achieving its stated goals. Mayor Lindsay, Commissioner Leary, and the Patrolmen's Benevolent Association all said that fighting crime in the street was their major goal, but in fact they tolerated cooping and corruption and a variety of other conditions that betrayed their official mandates and the people they were paid to represent and help.

Seven or eight years have passed since I worked out my personal definition of what I was trying to accomplish as a newspaperman. Although I am now covering a group of federal agencies concerned with an entirely different variety of crimes, I still feel that concentrating on the practices that stop government from functioning is a valid goal for one reporter, if not an entire newspaper.

After the cooping story about the police, I turned my attention to the gap between the claims and performances of judges. One story described the widely accepted practice of New York judges not bothering to put in a full day on Friday, despite their high pay and the thousands of prisoners awaiting trial. The story was based on several weeks of courtroom observations and a comparison of the Monday through Thursday work schedules with the Friday work schedule. I also calculated the average number of cases scheduled for each judge by the office of the Manhattan District Attorney Monday through Thursday with the number scheduled on Friday. The story showed the judges had their own form of cooping, at least as pernicious as the police.

My second story about the performance of judges took more time. Perhaps because the judiciary, like any group, disliked other people looking over their shoulders, court statistics

were marvelously useless. One key missing measurement were the sentences, on the average, being set for persons arrested for various crimes, both for the entire court system and individual judges. Because of the huge case load, it was not possible to examine the disposition of all those arrested for a major crime such as robbery.

It was possible, however, to take a small sample of such cases from the docket book in Criminal Court in Manhattan, locate the handwritten records in the court files, and calculate the sentencing pattern for the sample. This task took many weeks in the sloppily maintained filing system of the New York courts.

For the first time in at least the recent history of New York City and to the surprise of no policeman, it was proven that a large proportion of those arrested for robbery won almost immediate dismissal, that only a tiny fraction were brought to trial, and that those who pleaded guilty received sentences of well under a year. The sentencing did not fall within the mandate of the state legislature in terms of the range of punishments fixed for people who robbed.

Once again, neither the story about the judges' easygoing work week nor the courts' sentencing pattern for robbery involved advocacy journalism although the stories came in for heavy criticism from the judiciary. As in the case of the police, the problems illustrated by these stories were central to the functioning of the criminal justice system. However, the problems rarely if ever were the subject of the Law Day speeches by those judges who were responsible for making the courts function.

As I became more familiar with New York City, I came to know Jay Kriegel, the assistant to Mayor Lindsay, Lieutenant David Durk, Detective Frank Serpico, Chief Sidney Cooper, and many others. I gradually came to see that corruption and the easy tolerance of corruption were having a profound influence on the performance of the police. Corruption, it seemed, involved far more than the moral failing of an individual man or

a conspiracy of organized crime.

To test this hypothesis, I began interviewing literally hundreds of New Yorkers from all over the city and from all walks of life. I interviewed -- usually with a promise that they would not be quoted by name -- bartenders, restaurant owners, liquor store owners, delicatessen operators, tow truck drivers, building contractors, parking attendants, supermarket managers, numbers game operators, bookmakers, policemen, detectives, prosecutors, lawyers, judges, blacks, whites, and Spanish-speaking people. From these interviews, which consumed more than a year of evenings and free moments during the day and from an examination of the handful of corruption cases that were being prosecuted at that time by the city's five prosecutors, I came to two conclusions.

First, corruption did in fact dominate many of the activities of the New York Police Department. With regard to gambling, the plainclothesmen, by strongly influencing which numbers operators could do business in which neighborhoods, served the industry in much the same way as the Civil Aeronautics Board serves the airlines, as a black market regulatory agency. In narcotics, the police influence seemed much less organized but pervasive. Restaurants, bars, delicatessens operating on Sundays, and tow truck operators were in many precincts required to pay a regular tribute to the police, sometimes as a guarantee of prompt police service and sometimes for unofficial exemption from countless health and safety regulations.

The second finding I drew from these conversations was confirmation that corruption, like cooping, had a significant impact on the effectiveness of the police. This impact is felt in at least eight different ways.

1. Quite obviously, corruption results in the non-enforcement of a wide range of laws and regulations, some important, some not. In some instances, the non-enforcement is chronic, in other instances, occasional. Gambling is an area where corrupt payments result in regular non-enforcement in many of Ameri-

ca's cities. Small payments from the small delicatessens that are open on Sunday in most New York City neighborhoods were required to avoid a summons under the state's archaic and clumsily written Sabbath law.

2. Corruption influences how policemen are deployed in the city and how policemen respond to requests for assistance. Because it is easier to keep track of a uniformed officer, New York police officials long resisted the use of plainclothes anti-mugging patrols. This resistance, at least in part, grew from the fear that improperly supervised plainclothes policemen frequently engaged in improper activities, but it deprived New Yorkers of a legitimate and effective approach to apprehending muggers. If the supermarket operator pays a bribe for a police escort while he is depositing the cash receipts for the day, and the liquor store pays a monthly bribe for quick removal of drunks, these payments must influence and sometimes lessen the service available to the public that just pays their taxes.

3. Corruption has an important impact on the attitude of the public toward the police, probably reducing the occasions when the citizen volunteers information and leads that are so essential to effective crime fighting.

4. Corruption has an important impact on the attitude of policemen toward themselves, their jobs, and the public. This corruption results from a somewhat circular process: the cynicism bred of corruption and the corruption bred of cynicism clearly contributes to a lowering of police morale. It also can lead to the attitude expressed by one policeman who said, "If I have the name, I might as well play the game."

5. Corruption undermines the authority of commanders, weakening all police discipline. If the patrolman in the precinct knows his sergeant is part of an organized "pad" that is shaking down local restaurants, can he respect his superior's authority? If some promotions in a department, either to detective or higher command positions, are influenced by payoffs and political interference, is not the entire command structure seriously undermined?

6. Corruption influences recruiting efforts by discouraging some of the more idealistic young men and women from becoming police and by attracting some of the more cynical.

7. Corruption generates other crimes. Bribes result in the improper release of muggers and robbers. The Knapp Commission uncovered some policemen who were using their narcotics informants to steal such goods as liquor, cigarettes, and motorbikes for them; in return, the police paid the informants in heroin. Corruption facilitates the importation and sale of heroin in a city and often results in the muggings and burglaries that addicts sometimes commit to obtain the money needed to buy their heroin.

8. Police corruption has a corrosive impact on other divisions of the criminal justice system, although those divisions can lead police to corrupt practices. That many young assistant district attorneys believe that police evidence in gambling and narcotics cases is frequently false and that policemen perjure themselves to meet arbitrary quota systems undermines an essential faith in the legitimacy of law enforcement. Because of institutional pressures, a young assistant can become a part of transaction he suspects but is unable to prove is improper.

That the impact of corruption involved more than some narrow battle between good and evil within the soul of an individual policeman was what made the contributions of David Durk and Frank Serpico so important. They had gone to First Deputy Police Commissioner John F. Walsh, the Department's top anti-corruption official, to ask for help. They had gone to Arnold Fraiman, the city's Commissioner of Investigation, to ask for help. They had gone to Mayor Lindsay's closest assistant, Jay Kriegel, to ask for help.

No one would help. The Lindsay administration and top police officials were either unwilling or unable to see that a serious attack on criminality within the Police Department would have far more impact on crime on the street than any number of walkie-talkies, or central communication centers, or other cosmetic public relations.

Once again, in my opinion, my first corruption story and those that followed it were not advocacy journalism, but were carefully documented descriptions of what was going on in New York City. Some, of course, did not agree with my view. Police Commissioner Leary, for example, denounced me and the *New York Times* for engaging in a kind of McCarthyite smear campaign. Officials in the Patrolmen's Benevolent Association agreed, although the union's case was somewhat weakened, in my mind, when one of its officials told me privately I had to understand that bribes were a part of a policeman's pay.

A few months after the publication of the first article and the creation of the Knapp Commission to make an independent investigation of the extent of police corruption, Mr. Leary resigned and was replaced by Patrick V. Murphy, a former New York policeman who had been the head of the police in Syracuse, Washington, D.C., and Detroit; he obviously possessed an unusually broad range of experience. Although in my opinion Mr. Murphy was to make his share of mistakes, especially in some of the men he chose as top commanders, he was in my opinion the toughest, smartest and best police commissioner that New York City had enjoyed in many decades.

One of his first little-noticed changes was a broad opening up of the Police Department to the press. Under Commissioner Leary, rules had been established that made individual unit commanders extremely reluctant to talk to a reporter, and by extension, the public. The number of men assigned to various units was considered a military secret under Mr. Leary. The number of reported crimes and arrests made in each precinct was also kept secret. Mr. Leary's press aide, a former *New York Times* reporter named Jacques Nevard, warned me on one occasion to remember that the bearers of bad news in ancient times were stoned to death.

Mr. Murphy, while obviously and avidly seeking publicity for himself and his policies, seemed to realize that forcing individual commanders to explain their operations to the press could be an integral part of his stated policy to make each of-

ficer in the department more accountable for his actions. The openness also seemed to reflect Mr. Murphy's realization that problems like corruption were not just an individual moral failure and that he was not required to be personally embarrassed because the social forces in the city resulted in instances of corruption.

It was this broad, relatively open, and relatively unembarrassed position that enabled Mr. Murphy to undertake some highly unusual anti-corruption efforts. Few policemen, for example, are willing to admit that they have huge discretion in enforcing laws and that they may choose -- as Mr. Murphy did -- not to enforce the Sabbath law and to enforce the gambling laws in a selective fashion.

Although I do not accept at face value what any bureaucrat, including Mr. Murphy, tells me, I categorize all government employees into three groups. The head of an agency, because of his position, must offer self-serving, overly optimistic portraits of his operations. The second and by far the largest group of government employees are so filled with bureaucratic fears that they never tell you anything -- honestly or dishonestly. The third group, comprised of individuals I actively seek out, can be called the malcontents. These are the people who for varying motives, sometimes good, sometimes bad, sometimes a mixture of both good and bad, provide the reporter with leads, information, and documents that the head of the agency usually does not want a reporter to see.

I think I should add two comments about those who are helpful and those who are not, at least from the point of view of a reporter trying to keep track of what is happening inside a bureaucracy. The information provided by a malcontent, like the information provided by the head of an agency, never can be taken at face value. It must be supported by documents or supporting statements from other people. In addition, the department or agency whose performance is being challenged should be given an opportunity to answer the charges made by malcontents. Second, the misleading self-serving tidbits that the

head of an agency throws out to reporters are not cause for personal offense. In fact, there are plenty of occasions when I do the same thing myself. "How are you?" asks a friend in the newsroom the morning after my wife and I have had a good fight, or I have just lost a battle with my editor. "Fine, just fine," I usually hear myself replying.

If my view of corruption in a police department is correct, if the problem has broad agency-wide impact, if it has deep community-wide causes, then it seems logical to look at the corrupt policeman as both a victim and a criminal. It also follows from my analysis that punishing and apprehending the corrupt policeman can only be part of an administrator's program to control corruption. Other parts of such a program would include very sophisticated training programs that talk honestly about who will try to bribe the policeman and how to resist the offers; absolutely straight promotion policies; very careful and limited use of quotas; command structures that hold all police officials -- from sergeant on up -- honestly accountable for the performance of their men; and open discussion with the public about what the police can and cannot achieve, about the effectiveness and problems of some laws, and about the problems created when citizens try to bribe a policeman.

Corruption is a universal challenge. Its existence need not be a course of shame to the responsible city administrator. In fact, not until the administrator openly acknowledges to both the public and to the people in his agency that it exists can the problem be attacked. Put the other way, if the police administrator for one reason or another chooses to deny a problem that plagues virtually all cities, he sharply limits his ability to deal with it.

There is, of course, much truth in the policeman's lament, "We're not the only problem, why don't you investigate the judges, the doctors, and the newspapermen." However, because the policeman's uniform makes him a highly visible target and because class biases in our society give him less collective

force than lawyers and doctors if not newspapermen, the police are an easy target for investigation.

There is, however, one consolation available to the thirty thousand men and women of the New York Police Department who were my guinea pigs for six years. As I developed my approach to covering government, I was led to seek assignment in Washington to cover such federal police agencies as the Federal Communications Commission, the Interstate Commerce Commission and the Nuclear Regulatory Commission. At the federal level, the problems of no accountability, conflicting goals, badly written laws, poor training, and arbitrary power make the problems of the New York Police Department and the police agencies of other cities appear simple to combat.

ABOUT THE AUTHOR

Since 1967 David B. Burnham has been a reporter for the *New York Times*. Presently, he is assigned to that newspaper's Washington Bureau to cover federal regulatory and law enforcement agencies which, he says, "share many of the same problems of discretion and lack of accountability and poorly written laws that were found in the criminal justice system of New York City."

From 1967 to 1974, Mr. Burnham had specialized in reporting on the law enforcement and criminal justice systems of New York City. In 1968, he won three awards: The George K. Polk Award for public service reporting from Long Island University, The Silurians Award, and The New York Newspaper Guild Award for investigative reporting. In 1972, he was the recipient of The Gold Typewriter Award for investigative reporting from The New York Reporters Association.

Prior to his working for the *New York Times*, Mr. Burnham was a reporter in Washington, D.C. for United Press International and for *Newsweek* and was a writer in New York City for CBS Evening News. From 1965 to 1967, he was Assistant Director of The President's Commission on Law Enforcement and Administration of Justice in Washington, D.C. Mr. Burnham is a graduate of Harvard College.

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