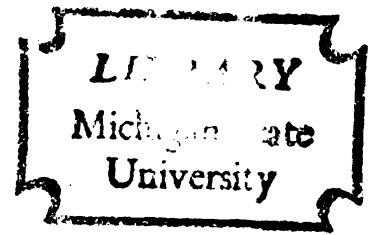


PROPHETS WITHOUT HONOR: THE WICKERSHAM
COMMISSION AND THE DEVELOPMENT OF
AMERICAN LAW ENFORCEMENT

Thesis for the Degree of M. S.
MICHIGAN STATE UNIVERSITY

JAY STUART BERMAN

1973



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PROPHETS WITHOUT HONOR: THE WICKERSHAM COMMISSION
AND THE DEVELOPMENT OF AMERICAN
LAW ENFORCEMENT

By

Jay Stuart Berman

AN ABSTRACT OF
A THESIS

Submitted to
Michigan State University
in partial fulfillment of the requirements
for the degree of

MASTER OF SCIENCE

School of Criminal Justice

1973

Approved


Dr. Victor G. Strecher, Chrm.


Professor Ralph Turner


Professor Marvin Zalman

ABSTRACT

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By

Jay Stuart Berman

62-976

The Wickersham Commission was created by President Herbert Hoover in 1929 to investigate the entire issue of crime and law enforcement in the United States. Through the study of the background, history, findings, recommendations, and impact of the commission, this paper has attempted to present a composite picture of the development of the police in twentieth century America.

Because no secondary sources on the subject of the Wickersham Commission were available, this study has relied upon contemporary sources, including government documents, journals, newspapers, and literature to reconstruct the events surrounding the creation of the commission and its investigation. A survey of law enforcement literature from 1935 to 1965, and a review of the findings of four Presidential Commissions, created between 1965 and 1970 to study law enforcement, have also been included in an effort to assess the ultimate impact, validity, and historical significance of the Wickersham Commission reports.

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Dedicated to my wife,

Lynne

for her understanding,
assistance and moral support

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INTRODUCTION

On May 28, 1929, President Herbert Hoover announced the appointment of the National Commission on Law Observation and Enforcement. The President saw fit to initiate the first major Federal examination of American law enforcement at a time when crime in the United States was becoming such a serious problem that many Americans were finally beginning to perceive the inability of their police to effectively deal with it. Among the conditions which contributed to the rising lawlessness of the "Roaring Twenties" were the rapid post-war domestic growth, massive immigration and emigration movements throughout the country, and the controversial imposition of Prohibition.

The Commission consisted of eleven members and was placed under the chairmanship of George W. Wickersham, Attorney-General of the United States from 1909 to 1913 under President William Howard Taft. The Wickersham Commission, as the body came to be known, went on to conduct an exhaustive investigation of the entire American criminal justice system, and, on January 20, 1931, released the first of fourteen volumes comprising its official findings. Following is a list and capsule descriptions of the Commission Reports:

No. 1--Preliminary Report on Prohibition--26 pages, 10,400 words; in which minor modifications of the Prohibition machinery were proposed, among which were the transfer of enforcement responsibilities from the Department of the Treasury to the Department of Justice, and the provision for petty violations to be heard before the United States Commissioners.

No. 2--Report on Prohibition--162 pages, 64,800 words; in which the Commission as a body recommended a further trial of Prohibition, but with a majority of the members' individual opinions expressing doubt as to the possibility of adequate enforcement and suggesting either modification or repeal.

No. 3--Report on Criminal Statistics--203 pages, 82,000 words; in which it was found that no adequate statistics were available on crime, and which called for a national system of crime records.

No. 4--Report on Prosecution--337 pages, 134,000 words; in which it was found that the prosecution arm of the criminal justice system was hampered by petty politics and patronage.

No. 5--Report on Enforcement of Deportation Laws--179 pages, 71,000 words; in which a record of the "dark age cruelty" in the enforcement of these laws was presented.

No. 6--Report on the Child Offender in the Federal System of Justice--175 pages, 75,000 words; in which it

stated that the Federal system of criminal justice had no adequate machinery with which to deal with the child offender and recommendation was made to turn this problem entirely over to the States.

No. 7--Report on Federal Courts--123 pages, 50,000 words; containing a study of the congested conditions in the Federal courts and recommending a further study for possible remedies.

No. 8--Report on Criminal Procedure--51 pages, 20,000 words; in which it was found that criminal procedure in the United States, both in the Federal and State branches was antiquated and fraught with politics, needing a thorough overhauling.

No. 9--Report on Penal Institutions, Probation and Parole--343 pages, 137,200 words; charging that inhuman methods of handling prisoners still existed in the United States and recommending an overhaul of corrections as one of the principal hopes of ultimate satisfactory law observance.

No. 10--Report on Crime and the Foreign Born--416 pages, 166,400 words; returned a verdict of "not guilty" for foreign-born Americans charged with being responsible for disproportionate share of crime.

No. 11--Report on Lawlessness in Law Enforcement--347 pages, 138,800 words; carrying a strong indictment of

police officials for third degree methods in dealing with criminals and suspects.

No. 12--Report on Cost of Crime--657 pages, 262,800 words; containing the results of a massive survey of the costs of criminal justice and of the economic implications of crime in the United States.

No. 13--Report on the Causes of Crime--2 volumes, 862 pages, 344,000 words; admitting the underlying factors in the present era of lawlessness to be too diverse to state in more than a controversial social philosophy.

No. 14--Report on Police--140 pages, 56,000 words; in which it was stated that the apprehension of criminals by the police was being hampered by politicians and antiquated police methods which had not kept abreast of the new development in crime.

(A fifteenth report was submitted to the Commission, but never released. The so-called Mooney-Billings Report, later published separately, was a highly controversial work dealing with the famous case of the Preparedness Day Parade bombing in San Francisco in 1916, which resulted in the conviction of two radical labor activists.)

* * *

STATEMENT OF THE PROBLEM

The present study will involve an examination of the background, history, findings, recommendations, and impact

of the Wickersham Commission, and will thus attempt to present a composite portrait of the development of law enforcement in twentieth century America. Essentially, the study will attempt to answer the following questions:

1. What were the conditions surrounding the creation of the Wickersham Commission? Why was it established?

2. How did the Wickersham Commission conduct its investigation? What significant events transpired during the course of the study?

3. What was the state of American law enforcement as determined by the Wickersham Commission's findings and recommendations?

4. What was the response to the Wickersham Commission reports on the part of the public, the press, and particularly, of the law enforcement community?

5. What impact did the Wickersham Commission have on the subsequent development of American law enforcement? Did any substantial changes occur as a result of its efforts?

6. How did the findings and recommendation of the Wickersham Commission compare to those of recent Presidential commissions which studied the problems of law enforcement?

SIGNIFICANCE OF THE PROBLEM

There is a serious lack of historical perspective in the field of criminal justice. In a field where new advancements have occurred so rapidly that few of us can foresee where we are going, it would do well for us to consider where we have been. In order to fully understand and appreciate the implications of current conditions and problems, as well as to be able to effectively plan for the future, it is essential to gain a clear insight into the past. And yet, there exists in criminal justice a critical lack of historical research to meet this need. In regard to the historical development of the police in particular, the orientation of this proposed study, it has been this writer's experience to encounter only perfunctory treatment of the subject in current law enforcement literature. For example, The Task Force Report on the Police discusses the history of the police in less than three pages. Germann, Day, and Galati, in their Introduction to Law Enforcement and Criminal Justice, which is generally considered to be the standard introductory textbook in the field, offer a broad presentation of the historical foundations of modern police organization and practice in approximately thirty pages. This is a respectable overview but lacks detail and depth. The Wickersham Commission, which the authors refer to as "monumental" is mentioned but once in the entire book. Indeed, while a veritable plethora of new literature has

appeared in the field of law enforcement in recent years, very few works have been historical in nature. The only efforts of any significance to have come to the attention of this writer are James Richardson's The New York Police: Colonial Times to 1901 (New York: Oxford University Press, 1970), and Roger Lanes' Policing the City: Boston 1822 to 1885 (Cambridge: Harvard University Press, 1967). Patterson-Smith's Reprint Series in Law Enforcement and Arno Press' massive undertaking of the thirty-five volume Police in America are of immense value, but are essentially collections of primary and contemporary sources and do not reflect new perspectives. On the specific subject of the Wickersham Commission, which certainly must rank as one of the major developments in the history of American law enforcement, a comprehensive secondary source simply does not exist.

The significance, then, of this proposed paper, is that it will attempt to fill, at least in part, a serious research gap in the fields of law enforcement and criminal justice. Moreover, this study is timely because it comes at a point when we are just beginning to witness the impact of Wickersham's successors, the President's Crime Commission of 1965-1967; the Kerner Commission on Civil Disorders, 1967-1968; the Eisenhower Commission on Violence, 1968-1969; and the President's Commission on Campus Unrest, 1970. By examining the historical antecedents of the current reform movement in law enforcement, we may better be able to

achieve the long sought after modernization and professionalization of the American police.

SCOPE OF THE STUDY

The study will deal specifically with the Wickersham findings relating to the contemporary state of law enforcement in America in the 1930's. Accordingly, the investigation will center on those reports which deal primarily with this subject, the Report on Police, the Report on Lawlessness in Law Enforcement, the Report on the Cost of Crime, and the Report on Criminal Statistics.

The paper will also seek to assess the impact of the Wickersham Commission by surveying the state of American law enforcement during the thirty years following the Commission's study, as depicted through the writings of the leading police experts of the time.

In addition, the findings and recommendations of the four Presidential commissions created during the last decade to study the various aspects of crime, violence, and law enforcement will be compared with the Wickersham reports in an effort to evaluate the validity and historical significance of the Wickersham investigation.

RESEARCH METHODOLOGY

To the fullest knowledge of the writer, no historical writings on the subject of the Wickersham Commission

have yet been published. For this reason, extensive original historical research has been necessary to provide information. The following sources have been employed to create an accurate and comprehensive account of the background, findings, and impact of the Wickersham Commission.

1. The Reports of the National Commission on Law Observance and Enforcement, 1929-1931
 - A. The Report on Police
 - B. The Report on Lawlessness in Law Enforcement
 - C. The Report on the Cost of Crime
 - D. The Report on Criminal Statistics
 - E. The Preliminary Report on Prohibition
 - F. The Report on Prohibition
2. Congressional Documents--70th Congress 1929-1930
3. Contemporary Newspapers--1928-1931
4. Contemporary Periodicals and Journals--1920-1931
5. Law Enforcement Literature--1920-1965
Writings of: Fosdick, Vollmer, Smith, Leonard, Wilson, McNamara, Gammage, International Association of Chiefs of Police, etc.
6. The Reports of the President's Commission on Law Enforcement and the Administration of Justice
 - A. Challenge of Crime in a Free Society
 - B. Task Force Report on Police
 - C. Task Force Report on Assessment of Crime
 - D. Task Force Report on Organized Crime

- E. Task Force Report on Juvenile Delinquency
- F. Task Force Report on Science and Technology
- 7. The Report of the National Advisory Commission on Civil Disorders
- 8. The Reports of the National Commission on the Causes and Prevention of Violence
 - A. To Establish Justice, to Insure Domestic Tranquility
 - B. Law and Order Reconsidered--Report of the Task Force on Law and Law Enforcement
 - C. The Politics of Protest--Report of the Task Force on Violent Aspects of Protest and Confrontation
 - D. Rights in Conflict--Report of the Chicago Study Team
- 9. The Report of the President's Commission on Campus Unrest

(The findings and recommendations of the individual task forces, having been funded and released under the names of each commission, will be treated as the statements of the commissions themselves unless otherwise noted.)

* * *

On a final introductory note, the issue of historical perspective must be considered. Contemporary conditions shaping the environment within which the historian

works greatly influence his cognition and perspective of the past. The rapid advances made in American law enforcement in only the past five years constitute the first fruits of a movement to reform the police which began over a half-century ago. This writer's position as a direct product of the philosophy and institutions of the current "golden age" of criminal justice, profoundly affects his outlook on and evaluation of past conditions. Indeed, the significance of the Wickersham reports and later writings could not be perceived and assessed were it not for the writer's vantage point of being at least near the top of the mountain and able to look down. The panorama which is thus revealed, of men of foresight and vision, discerning a problem, and struggling toward its solution only to be ridiculed or ignored, vividly brings to mind the immortal statement in the Book of Matthew, that "prophets are not without honor, save in their own country" . . . and in their own time.

PART ONE

BACKGROUND AND EARLY HISTORY OF THE
WICKERSHAM COMMISSION

Chapter 1

BACKGROUND

In his preface to the 1929 Illinois Crime Survey, of which he was editor, John Wigmore told the story of an Egyptian king, who, over three thousand years ago, ordered a survey to be made of the quality of life throughout his domain. Upon completion of the survey, the king examined his achievements and left this admirable record of his reign:

"I made the land safe, so that even a lone woman could go unmolested."

"I rescued the humble from their oppressors."

"I made every man safe in his home."

"I preserved the lives of those who sought my court of justice."

"The people were well content under my rule."

Wigmore, in a sorrowful lamentation over the findings of the Crime Survey, then exclaimed:

Alas! . . . The recorded facts of this present survey oblige us to admit that none of these fundamentals, as outlined by the Egyptian king, could be alleged today with truth in the city of Chicago. Not a single one of them!¹

¹Illinois Crime Survey (Chicago: Illinois Association for Criminal Justice and Chicago Crime Commission, 1929), p. 5).

Indeed, Wigmore's conclusion could well have been applied to almost every major American city in the 1920's, for the period was one characterized by lawlessness and social upheaval. Crime was the overriding concern of the American public, and it was the massive scope of the problem which led President Herbert Hoover to create the National Commission on Law Observance and Enforcement in 1929. The Wickersham Commission was an official response to a great national crisis, which, unchecked and compounded by a multitude of social conditions, had reached a boiling point by the end of the decade. In order to fully understand and appreciate the problem which the Wickersham Commission was called upon to investigate as well as to intelligently evaluate its findings and recommendations, it is necessary first to examine the background of the crime wave in post World War I America.

* * * * *

Perhaps the crime problem in the United States during the 1920's is best illustrated by this colorful analysis of the contemporary scene contained in a 1929 issue of North American Review:

In the United States . . . we have the world's highest murder rate, flood tides of crime, gang murders at a rate of two a week in our largest cities, a crime bill that costs ten billions a year, according to various estimates, and the most expensive police establishments known in the history of civilization. We have underworld combinations, racketeer alliances,

murder and kidnapping clubs, twenty-thousand dollar funerals for ex-convict gangster kings, gambling, beer running, pickpocket, fence and burglar trusts, and the weirdest assortment of criminal organizations. The colossal crime machines with which fictionists regaled us and overtaxed our imaginations a decade ago are today realities surpassing the imaginative creations of the story writer.²

The crime wave of the 1920's is legendary in American history. It was the inspiration for an entire new chapter in American folklore and served as a prime subject for literature, film, theater, and commentary for decades afterwards. It saw the birth of the famous American gangster, a romantic, dashing figure, who used wits and resourcefulness as well as a keen business sense to outsmart the law and become a rich, powerful man. This was the beginning of what might be called the "Modern Era of Crime." It was at this time that we can see the large-scale emergence on the American scene of the two most dominant forms of crime in America today: organized crime and socio-economic based urban street crime. Such forms had probably existed previously, but it was not until the 1920's that they emerged as the distinct and dominant patterns of American lawlessness.

What were the roots of the crime wave of the 1920's? How did such a monumental problem develop? True, Americans have always been known as a violent people, and the history

²Howard McLellan, "Our Inefficient Police," North American Review, CCXXVII (February, 1929), 220.

of this country has seen numerous crime waves since colonial times. But the scope of the problem in the 1920's coupled with the enormous and unprecedented economic considerations involved impel a student of history to investigate the immediate and indigenous causes of the social unrest in the third decade of the twentieth century.

Undoubtedly, World War I was an important causal factor. America burst into the international scene with a literal bang in 1917. For the first time in history, America sent huge numbers of her native sons to fight a war on foreign soil. The doughboys of General Pershing's Expeditionary Force were, for the most part, farm boys, probably away from home for the first time. Morris, Greenleaf and Ferrel describe the deep impact which the war had on those American youth who went "over there" and on those who stayed home:

Removed from the discipline of their communities and homes, the young men who went to the army camps and to France and the young women who worked in the offices and factories, learned a new and adventurous kind of freedom.³

These young people, shaken from their rural American naivete and hardened by their tribulations on European battlefields, found new ideas and forms of behavior through the wartime experience. The puritanical mores with which they had been

³Richard B. Morris, William Greenleaf, and Robert Ferrell, America--A History of the People (Chicago: Rand McNally and Co., 1971), p. 567.

raised fell by the wayside in Gay Paris. Returning home with a new sense of independence and identity, they brought these new ideas with them. Hofstadter, Miller and Aaron see a conflict between the new modes of thinking and traditional American morality:

After the war, there was a widespread feeling that the old moral issues had become meaningless, that public morality and idealism, self-sacrifice and self-restraint were neither so realizable, nor so important. . . .⁴

The America to which the doughboys returned was not the one which they had left. The frantic industrialization and urbanization which accompanied the war effort had thrust the United States rudely and uncereemoniously into the twentieth century. Massive internal population movements from the farms to the cities combined with the continuing masses of immigrants from abroad contributed to the social upheaval. The rapid changes brought with them a challenge for America which even now seems to have been encountered without success.

After the war a new national character emerged. Having fought to "make the world safe for democracy" and then realizing such an effort was in vain, the American people turned inward. Rejecting Woodrow Wilson's pleas to accept the proper role of world leadership and rejecting

⁴Richard Hofstadter, William Miller, and Daniel Aaron, The American Republic, II (Englewood Cliffs, N.J.: Prentice-Hall, 1959), p. 442.

the League of Nations, Americans sought a "return to normalcy," which historical perspective reveals to have been, in reality, a massive national sense of disenchantment and disillusionment with the ideals of the struggle for democracy. Morison and Commager draw an analogy between this spreading philosophy and the experiences of a World War I battlefield:

Disillusion and cynicism spread, like a poison gas, to every part of the social body, inducing a paralysis of will and a flight from reason strange to American experience.⁵

This flight from reason resulted in an era of excess sensuality and chaos which has been labeled at various times the "Roaring Twenties," the "Wasted Decade," and the "Era of Wonderful Nonsense." Fitzgerald, who personified life in the 1920's, called those years "the greatest, gaudiest spree in history."⁶ Indeed, it was a spree where the motto was "get rich quick." Hofstadter, Miller, and Aaron note that now "Americans were less interested in reforming their society, more interested in making money from it."⁷ It was certainly an age of prosperity and saw Americans pour money into real estate, cars, entertainment, and investments. To illustrate the extent of the new-found affluence,

⁵ Samuel Eliot Morison and Henry Steele Commager, The Growth of the American Republic, II (New York: Oxford University Press, 1950), p. 549.

⁶ Morris, Greenleaf, and Ferrell, p. 566.

⁷ Hofstadter, Miller, and Aaron, p. 442.

it is interesting to note that the number of automobile registrations in the United States rose from 485,000 before the war in 1910 to 23,042,840 in 1930; an increase of 4391 percent!⁸ True to the cynicism of the time, however, was the seemingly prophetic notion that "it can't last forever so enjoy it now," an attitude which Morison and Commager attribute to the tremendous rate of change: "Conscious as no previous generation had been of change and impermanence, this one demanded immediate gratification and indulgence in appetites."⁹

It was inevitable that such an emphasis on acquisition and monetary gain would eventually lead to crime. The legitimate paths to economic prosperity are always limited and when an entire nation attempts to reach prosperity, the unavoidable results will be the establishment and use of illegitimate avenues toward the goal. The tremendous pressure to succeed often led people to take actions which, in an earlier day, they might have shunned.

The crime problem in its natural social evolution was bad enough. But it was aggravated enormously by a single man-made factor which only poured more fat into the fire. In what today appears to be an unbelievably

⁸August Vollmer, Police in Modern Society (College Park, Md.: McGrath Publishing Co., 1969 [reprint]), p. 28.

⁹Morison and Commager, p. 550.

short-sighted and stupid move, the American government, in its infinite wisdom, attempted to put a halt to the decaying morality and rampant social chaos which followed the end of World War I. Needing a scapegoat, and obviously either not comprehending or outrightly ignoring the social forces at work in the country, the leaders of the United States singled out liquor as the root of all evils. On January 16, 1920, having been ratified by the legislatures of thirty-six states one year earlier, the Eighteenth Amendment to the Constitution went into effect:

The manufacture, sale or transportation of intoxicating liquors within, the importation thereof into or the exportation thereof from the United States and all territory subject to jurisdiction thereof for beverage purposes is hereby prohibited.¹⁰

In October, 1919, the Congress had passed the National Prohibition Act, the famous (or infamous) Volstead Act which provided for the enforcement of the provisions of the Eighteenth Amendment.

As might be logically expected, prohibition of alcoholic beverages was certainly not compatible to the new spirit which had swept the country. The kill-joys in Congress were out of tune with the mores and activities of the Jazz Age of which liquor was naturally an integral part. No sooner had Prohibition gone into effect than good

¹⁰Wickersham Commission, Preliminary Report on Prohibition, No. 1 (Montclair, N.J.: Patterson Smith, 1968 [reprint]), p. 8.

old Yankee ingenuity was employed to find ways of getting around it. In many cases it was openly violated, on more than one occasion, by no less a personage than the President himself. Warren Harding was known to serve liquor at the White House.¹¹ The average man on the street, however, could not afford to be so open and so the colorful institutions of Prohibition developed. This was the time of the "speakeasies," "bootlegging," "the nineteenth hole," and "milk and orange juice parties." There seemed to be no end to the ways in which the law could be violated. Although illegal, drinking became a national pastime, even among people who had never drunk before Prohibition: "Many otherwise law-abiding Americans seemed to take a perverse delight in challenging a law which they considered an invasion of their privacy."¹²

The illegal liquor business was itself a crime, but it led to more serious forms of crime. Thriving on bootlegging, organized crime boomed and the gang wars began with the accompanying killing, burning, looting, extortion, etc. Everyday violation of Prohibition made many Americans insensitive to law observance. The irrational emphasis on materialistic gain was an added factor working against law

¹¹Morris, Greenleaf, and Ferrell, p. 566.

¹²Ibid.

and order. As a result, the crime wave advanced on all fronts.

Discussions of "crime waves" are usually accompanied by the presentation of statistics to illustrate and dramatize the problem. Unfortunately, we are speaking of a period in which the compilation and use of criminal records and statistics were in an extremely crude and primitive stage of development. There was no system of classification and reporting as we know today, and the only comprehensive and comparable figures available were those compiled by independent researchers. These statistics were taken from police department records and contemporary observers are quick to point out their questionable validity and reliability.¹³ However, rudimentary as they are, reported crime statistics from the period can provide at least an indication of the immensity of the problem. In one contemporary survey of thirty-one American cities, it was found that, in 1920, the total number of homicides for the cities included was 1,756 or 8.5 per 1000.¹⁴ Ten years later, in 1930, the total had risen to 2,692 or 11 per 1000.¹⁵

¹³See Raymond Fosdick, American Police Systems (Montclair, N.J.: Patterson Smith, 1969 [reprint]), p. 16, n. 1; and Vollmer, Police in Modern Society, pp. 8-9.

¹⁴Vollmer, Police in Modern Society, p. 18.

¹⁵Ibid.

Chicago reported seventy-seven murders in 1915.¹⁶ By 1925, it was reported that the Windy City had reached the average of one murder every day.¹⁷ The total number of prison commitments for robbery in the United States was reported to be 1,236 in 1910.¹⁸ At the end of the Roaring Twenties, the number of commitments for robbery rose to 6,988, an increase of 465 percent.¹⁹ For every 100,000 of the general male population of the United States, 12.7 were admitted to prison in 1910; this rate had risen to 20.6 by 1930, an increase of 63 percent in twenty years.²⁰ The American Bankers Association reported 136 hold-ups in 1921; this number rose steadily throughout the twenties and by 1930, the total reported was 402.²¹ Of course, in view of their questionable accuracy, these figures must be considered with limitations in mind. And it must be pointed out that the remarkable crime levels reached by 1930 were probably related, at least in part, to the onslaught of the Great Depression. However, these statistics serve to indicate the dramatic rise in crime which took place during the 1920's.

¹⁶Fosdick, p. 11.

¹⁷Mark O. Prentiss, "War on the Growing Menace of Crime," Current History, XXIII (October, 1925), 2.

¹⁸Vollmer, Police in Modern Society, p. 28.

¹⁹Ibid.

²⁰Ibid., p. 41.

²¹Ibid., p. 31.

* * * * *

Americans were aware of the serious problem which plagued them and it was the general public outcry against the lawlessness which led to the Wickersham investigation. The national distress and alarm over the problem was vividly expressed in magazines and journals, a veritable plethora of which appeared in the twenties as a testimony to America's new-found sense of worldliness and sophistication. A sampling of opinion will serve to depict contemporary perspectives on the extent and nature of the crime problem. Mark O. Prentiss, who was a prominent figure in the national crime commission movement discussed later in this section, writing in Current History, bemoaned the growing menace of crime:

Crime in this country is still on the increase, and danger from criminals is growing greater and greater everyday. . . . Crime in America has become so astounding in its extent and so alarming in its contagious spread that it has got beyond the grasp of the constituted authorities of the Nation, State and city, and is terrorizing the honest citizens who have a right to expect protection.²²

Lawrence Veiller, a writer for World's Work magazine, called for a national war against crime and warned:

Unless something is done, and done soon, to check the rising tide of crime in this country, the very

²²Prentiss, loc. cit.

foundations of the country itself will be threatened. We must control crime or crime will control us.²³

Many theories were advanced to explain the causes behind the crime wave. Some writers attributed it to Prohibition. J. A. Stevenson, analyzing the "noble experiment" in Fortnightly, wrote:

There is abundant proof that Prohibition has been responsible for an ominous growth of corruption and lawlessness which is a source of anxiety to all thinking Americans, and administrative standards as well as general morals are suffering from a progressive deterioration which threatens the health of the whole social order of the country.²⁴

William L. Chenery, the famous editor of Collier's Magazine, called the United States "the most lawless nation among the civilized powers" and criticized Prohibition as a law passed in opposition to public opinion, demand, and custom, asserting that it "invites disregard for other laws."²⁵

Spencer Brodney, an Australian journalist viewing the problem as an outside observer in Current History, called Americans an "undisciplined people" and attributed the crisis to the American tradition of restlessness, adventurousness and instability which was plainly evident

²³Lawrence Veiller, "Way to War on Crime," World's Work, LI (April, 1926), 609.

²⁴J. A. Stevenson, "Analysing the Noble Experiment," Fortnightly, CXXXV (April, 1931), 515.

²⁵William L. Chenery, "The Most Lawless Nation," Collier's Magazine, LXXVII (February 20, 1926), 25.

at the time.²⁶ He also condemned the materialism of post-war America as a major cause of crime, claiming that the average American's "get rich quick" philosophy was probably the greatest single cause of this country's "inferior sense of social obligation."²⁷

Heavy criticism was aimed at the American criminal justice system. There was extensive disenchantment with the government's response to crime. The editors of World's Work claimed that the slow and ineffective system of justice "has removed crime from the list of extra-hazardous professions" and blamed the system's inefficiency for the crime problem:

The present crime wave does not arise from obscure causes. It is the logical consequence of reducing the chance of punishing criminals until the danger of punishment is so small that it does not deter them. . . . The administration of justice, the preservation of law and order, is the first duty of a state. Generally in the United States it is neglected.²⁸

W. C. Shepherd, writing in Collier's Magazine, charged that "the breakdown of law enforcement extends in varying degrees to all our laws, exists in every community throughout

²⁶ Spencer Brodney, "American Lawlessness a Result of Social Conditions," Current History, XXVII (October, 1927), 332.

²⁷ Ibid.

²⁸ "Enforcement of Criminal Law in Boston," World's Work, LI (February, 1926), 337.

the country."²⁹ The editors of The New Republic detected a general undermining of respect for law and order within the United States and attributed it to "a growing skepticism in regard to the integrity and competence of higher officials of justice."³⁰ Spencer Brodney, in Current History, was less subtle, referring to "corrupt judges, grafting police officers, dishonest lawyers, and a whole army of perverters of justice."³¹ Even officials within the criminal justice system were quick to attack its failure. Emory Bruckner, United States District Attorney for New York, stated:

The administration of the Federal criminal law in my Federal district has almost broken down. It can't get much worse. . . . I understand that this situation exists throughout the land.³²

Ewing Cockrell, a State Judge from Missouri, writing in Collier's, scoffed:

No one with enough business ability to run a country store without competition would even attempt to run the forces of justice as they are now run in this country.³³

²⁹W. G. Shepherd, "Flat-Wheeled Justice," Collier's Magazine, LXXVI (November 14, 1925), 7.

³⁰"Law and Order" (editorial), The New Republic, LII (November 16, 1927), 328-29.

³¹Brodney, p. 333.

³²Shepherd, p. 8.

³³Ewing Cockrell, "One Down, All Down," Collier's Magazine, LXXVII (January 23, 1926), 8.

* * * * *

As this study will be focusing on the police in its discussion of the findings and recommendations of the Wickersham Commission, it would be useful at this point to take a brief look at the state of law enforcement in the 1920's. An in-depth discussion of the Report on Police will be included later in the paper, but as a part of the background, a general overview of the field as it existed prior to the Commission's investigation is in order.

Apparently, the criminal justice system, in general, was in a state of chaos, hardly able to put up an effective and sustained fight in the battle against crime. As for the police, in particular, two words probably best characterize their performance during this period: incompetent and corrupt. George S. Brooks, writing in Scribner's, gave this assessment of the situation:

We citizens of the United States have abundant reasons for being convinced that the police generally are stupid, lazy and incompetent. . . . There is also a well-founded belief that they are dishonest.³⁴

Brooks claimed that the public had little right to expect any better from their police in view of the lack of support given to law enforcement. He stated that the low quality of personnel was directly attributable to the fact that police salaries, averaging only \$2000 a year in 1927, were

³⁴George S. Brooks, "Those Stupid Policemen," Scribner's Magazine, LXXXI (March, 1927), 262.

so low that only incompetent misfits were attracted.³⁵

Brooks further pointed out that the few honest and capable men employed in law enforcement often left their departments for jobs in private business paying up to seven times more than their police salaries, and concluded that, under present employment conditions, the police had "no chance to become an intelligent, self-respecting, efficient arm of government."³⁶

Corruption and lawlessness were acute problems within government in general, and law enforcement in particular, as the Wickersham Reports were later to demonstrate. A Special Grand Jury investigation in Chicago, conducted through the efforts of the Chicago Bar Association in 1929, found that criminals had come to possess powerful public positions; that elections had been conducted under the control of terrorist guns; that political bosses and gangs of gunmen had dominated entire wards during election contests; and that police stood idly by while hoodlums worked at slugging, shooting, and kidnapping.³⁷ The press was also critical of the existing situation. The New Republic was particularly chagrined by the tactics used by the police

³⁵Ibid., p. 263.

³⁶Ibid., pp. 266-69.

³⁷Frederick J. Crawley, "American Police Systems," Journal of the American Institute of Criminal Law and Criminology, XX (May, 1929-February, 1930), 168.

in the name of law and order, especially the third degree, and condemned official lawlessness:

Police work in some American cities has degenerated into a species of gang warfare, in which the police gang differs from the other gangs not so much in its methods as in being on better terms with the constituted authorities.³⁸

* * * * *

Any discussion of crime and law enforcement in the 1920's would hardly be complete without some consideration of the work of Raymond Fosdick. Author of two of the classic works in criminal justice literature, European Police Systems and American Police Systems, Fosdick was probably the foremost law enforcement expert of his time. American Police Systems, published in 1920, was based on the author's study of over seventy large police departments throughout the country from 1915 to 1917. Although that study slightly predated the decade under discussion, the conditions described therein were certainly applicable to the 1920's (and, as consideration of the Wickersham Reports and later writings will show, with little updating, Fosdick's findings, analysis, and recommendations would be duplicated in the most current and informed writing in the field for decades to come).

³⁸"American Torquemadas," The New Republic, LXII (March 19, 1930), 114.

Fosdick opened American Police Systems with an immediate comparison between American and European police: "To the American student of European municipal police bodies, the contrast with similar institutions in the United States furnishes slight basis for pride."³⁹ Fosdick went on to present a basically pessimistic picture of policing as "perhaps the most pronounced failure in all our unhappy municipal history."⁴⁰ He attributed much of the police problem to the recent waves of foreign immigrants arriving in America, to the considerable movements of Negroes from the rural South into the urban centers of the North, and to the lack of community cohesion associated with each of these developments. He stated that there is "indisputable evidence that America's crime rate is greatly augmented by the presence of unassimilated or poorly assimilated races."⁴¹

One of the major criticisms voiced throughout American Police Systems was against the machinery of the courts and criminal law. "There is no part of its work in which American law fails so absolutely and so ludicrously," said Fosdick, "as in the conviction and punishment of criminals."⁴² He bitterly attacked technicalities of procedure which often resulted in the discharge of criminals. The leniency of criminal law was assailed as a "game" in which the

³⁹Fosdick, American Police Systems, p. 3.

⁴⁰Ibid., p. 41. ⁴¹Ibid., p. 26. ⁴²Ibid., p. 28.

defendant was given every possible chance to escape due to the delays of the courts and the slow-moving criminal process.⁴³ Fosdick was especially critical of the many unqualified judges and prosecutors who manned the courts and concluded that "our police suffer from connection with a system that has all but broken down."⁴⁴

One of the primary obstacles to the effective enforcement of the law, according to Fosdick, was the attitude of the public. "The weak sentimentality of the community in relation to crime and the criminal," he said, "is a final factor in the failure of our administration of justice which cannot be overlooked."⁴⁵ Much of the uncooperative public attitude was attributed by Fosdick to the fact that the police were required to enforce many unpopular laws regulating conduct, behavior, and morals. In regard to these so-called sumptuary laws, he wrote:

The views of particular groups of people on questions of private conduct are made the legal requirements of the state. We are surrounded by penal laws whose only purpose is to enforce by threat certain standards of morality. . . . We like to pass laws to compel the individual to do as we think he ought to do for his own good. We attack symptoms rather than causes and in so doing we create a species of moralistic despotism which overrides the private conscience and destroys liberty where liberty is more precious.⁴⁶

This most perceptive observation will be repeated in other

⁴³ Ibid., p. 31.

⁴⁴ Ibid., p. 46.

⁴⁵ Ibid., p. 43.

⁴⁶ Ibid., p. 48.

writings throughout this paper and is certainly as relevant today as it was in 1920. The obligation of the police to regulate social conduct, especially in reference to "crimes without victims" has been a constant source of police-community tension as well as a catalyst for corruption and demoralization in law enforcement.

Fosdick devoted considerable discussion to the influence of politics on the police. He traced the origin of political interference to the 1840's when police chiefs, captains, and in some cases, even patrolmen were popularly elected. Stating that the marriage between the police and politics had "retarded the natural growth of the police function," Fosdick went on to describe the pervasive influence of politics on contemporary police work:

There is scarcely a city in the United States in which the police department has not been used as the ladder by which political organizations have crawled to power. . . . The effect of this treatment on police organization has been peculiarly disastrous. The department has been stunted and dwarfed; with no opportunity for rational development.⁴⁷

The political control of the police did much to stifle the development of professional administrators. Fosdick criticized the commission form of government which was very popular in the 1920's. Under this system, popularly elected amateurs were given complete control over managing police departments. The political orientation and short

⁴⁷ Ibid., pp. 115-16.

tenure of most commissioners caused chaotic instability in police affairs. Fosdick was quite ahead of his time in his advocacy of a highly educated and competent group of professional police administrators. He admitted that there was little possibility of developing effective management from the ranks and instead called for a program to train civilian specialists in administration to become police directors. The director would be appointed for an indefinite tenure and would function much as a city manager, free from political influences. The position of chief would be maintained, but in the capacity of "field manager" over the operations of the department. Fosdick pessimistically realized that his proposals for professional police education and administration were too far advanced for immediate implementation:

It is possible that public administration as a science will at some period be so far developed in America that a training school for police administrators will be a practicable project. . . . This plan, however, is for the time being too visionary for consideration. In the present state of American politics, it has no immediate practical value.⁴⁸

American Police Systems dealt with a multitude of topics which were important in law enforcement in 1920. A survey of Fosdick's treatment of some of these issues provides great insight into the state of the art at that time. One of the most significant contemporary developments in

⁴⁸Ibid., p. 247.

police work was the growing acceptance and use of the automobile as a patrol tool:

The use of an automobile for patrolling the streets is gaining in favor and will doubtless soon supercede the present foot patrol method as far as the outlying sections of our cities are concerned.⁴⁹

Fosdick noted that the Berkeley, California, Police Department was the first to use cars on a large scale and that their progress of equipping each officer with an automobile had shown great effectiveness in decreasing crime. He also described Detroit's adoption of patrol cars with the purchase of 150 vehicles in 1918. Fosdick pointed out that the use of the automobile in police work was still in the trial stage and noted that many departments were reluctant to expend the large initial outlay for a fleet of cars.⁵⁰

In the area of training, Fosdick reported that, although some of the larger cities had established police academies, the great majority of departments sent their recruits out on the street with no training at all:

Another group of cities, by far the larger number, holds to the view of the old time police official, that text-books, classes of instruction and written tests are of little worth in training a recruit for his task. In these cities, therefore, men are turned out on the streets in uniform with no previous preparation, beyond perhaps a little preliminary practice in patrol. . . .⁵¹

⁴⁹Ibid., p. 310.

⁵⁰Ibid., pp. 310-12.

⁵¹Ibid., p. 298.

The issue of consolidation was growing in importance as the expansion of the suburbs and large continuous population belts was occurring in the metropolitan areas. Fosdick advanced an opinion which has been repeated consistently in progressive law enforcement literature:

Police consolidation for metropolitan areas would undoubtedly produce beneficial results in the United States. The increase of crime in urban districts, traceable in many cases to the isolation of small police departments in heavily populated sections, would seem to make necessary some form of cooperation as yet untried.⁵²

On the subject of police records, Fosdick reported an almost universal lack of effective record keeping. He stated that, even in large cities, there was generally no existing knowledge of the occurrence and clearance rates of crimes. He criticized the lack of efficient business methods and the absence of analysis in record keeping.⁵³ Criminal identification was dominated by the Bertillon system of measurements, and Fosdick revealed that many police officials were still skeptical about the validity of fingerprints.⁵⁴ He proposed that fingerprinting be adopted through a national criminal identification system administered by the United States Justice Department. This national bureau would utilize standard forms which would be collected from every police department in the United States

⁵²Ibid., p. 170.

⁵³Ibid., pp. 340-41.

⁵⁴Ibid., p. 349.

to store fingerprints, a stolen property index, a modus operandi file, and a central records collection. Fosdick's far-sightedness is attested to by the facts that the Uniform Crime Reports were not initiated until 1930, and that the National Crime Information Center, the closest existing institution to his proposal, was not established until 1967.

Fosdick concluded American Police Systems on a rather pessimistic note. He lamented that "there is little conception of policing as a profession or as a science to be matured and developed."⁵⁵ He stated that the public attitude toward the police was more characterized by suspicion and cynicism than by confidence and trust. He expressed the opinion that the little progress which had been made was largely negated by political interference and corruption. He closed with the following unhappy picture:

We have, indeed, little to be proud of. It cannot be denied that our achievement in respect to policing is sordid and unworthy. Contrasted with other countries in this regard, we stand ashamed. . . . Our progress has fallen far behind our needs. Successful in the organization of business and commerce, pre-eminent in many lines of activity, we must confess failure in the elemental responsibility laid on all peoples who call themselves civilized, of preserving order in their communities.⁵⁶

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⁵⁵ Ibid., p. 380.

⁵⁶ Ibid., p. 382.

The crime and law enforcement situation of the 1920's described thus far seems rather hopeless. There was, however, an attempt on the part of concerned citizens to combat the menace. A constructive movement developed during the decade in response to the wave of lawlessness and to the lack of success of the authorities in dealing with it. The crime commission movement began in 1919 with the founding of the famous Chicago Crime Commission and gained impetus throughout the decade. The philosophy and direction of the movement was described in a contemporary article in the Journal of the American Institute of Criminal Law and Criminology:

The high rate of crime in the United States has resulted in a country-wide movement against crime. The most satisfactory organization formed is the crime commission, or some variation from it, which has been either national, state or city in scope. Each has had the same purpose, that is to evolve some remedial measures and to arouse public interest. The problem includes the study of statistics of present and past crime, the causes, the criminal himself, the criminal laws, their enforcement, criminal procedure, the preventive measures and the method of punishment.⁵⁷

The Wickersham Commission, which was the culmination of the efforts of this movement, was very much based on the above model. Following is a list of the major crime commissions

⁵⁷ Esther Conner, "Crime Commissions and Criminal Procedure in the United States Since 1920," Journal of the American Institute of Criminal Law and Criminology, XXI (May, 1930-February, 1931), 129.

established during the 1920's:⁵⁸

- 1919--Chicago Crime Commission
- 1920--Law Enforcement Association of Kansas City, Mo.
- 1921--Cleveland Crime Commission
- 1922--Minneapolis Crime Commission
- 1923--Baltimore Criminal Justice Commission
- Crime Commission of Los Angeles
- 1925--California Commission for Reform of Criminal Procedure
- National Crime Commission
- 1926--Missouri Association for Criminal Justice
- Illinois Association for Criminal Justice
- Nebraska Crime Commission
- Kentucky Commission to Study the Causes of Crime
- New York State Crime Commission
- Massachusetts Crime Commission
- New Hampshire Crime Commission
- 1927--New Jersey Commission to Investigate Crime
- Minnesota Crime Commission
- California Crime Commission
- 1929--Michigan Crime Commission
- National Commission on Law Observance and Enforcement

The foremost citizens' commission to come out of the movement was the National Crime Commission, founded in August, 1925, in New York City at a meeting attended by such luminaries as Charles Evans Hughes, Governor Frank O. Lowden of Illinois, Governor George S. Silzer of New Jersey, Governor Alfred Smith of New York, Franklin D. Roosevelt, and George Wickersham.⁵⁹ The Commission, under the direction of the above men and other leading figures in business

⁵⁸Dorothy Campbell Tompkins, Sources for the Study of Criminal Justice (Sacramento: Special Crime Study Commissions and the California State Board of Corrections, 1949), p. 18.

⁵⁹Mark O. Prentiss, "War on the Growing Menace of Crime," Current History, XXIII (October, 1925), 8.

and government, was privately funded. Its program consisted of such efforts as compilation and tabulation of nation-wide crime statistics and standardization of classes and definitions of crimes; support of gun-control laws to prohibit interstate transport and commerce of firearms and to prohibit mailing of handguns, catalogs, and advertisements offering guns; creation of a national record information bureau for fingerprints and statistics.⁶⁰

The National Crime Commission also conducted a unique nation-wide study of the crime problem three years before the Wickersham Commission was created. Based on the premise that the police would either be uncooperative or would supply questionable information, the study instead relied upon data supplied by newspaper editors across the country on the subject of crime in their cities. The Commission reasoned that the most reliable and current information would be in the hands of editors and police reporters who worked daily with the police but who were not constrained by departmental pressures. The findings provided some interesting insights into the contemporary crime problem:⁶¹

1. Crime had increased everywhere, but varied from city to city in a nonuniform manner.

⁶⁰Ibid., p. 6.

⁶¹John Bakeless, "Policemen in Mufti," The Independent, CXVII (October 16, 1926), 437.

2. Professional criminals were turning largely to bootlegging, as it was safer and more profitable than any other form of crime.

3. Violent crimes were being committed mostly by boys, ages sixteen to twenty-one.

4. Crime had greatly increased among youth in general, a trend the Commission attributed to "too much prosperity" and the pressure on youth to have money to spend on socializing and entertainment; when more money was needed than was supplied by their parents, the youth resorted to crime.

5. Justice was lagging behind crime, making it easy to escape detection and punishment, so that even "respectable citizens" participated in criminal activity without the fear of being caught.

The Commission formed subcommittees to study various aspects of the crime problem. One of these committees, headed by Governor Lowden, released a report on the efficiency and intelligence of policemen. The report revealed that police inefficiency was largely due to a lack of average intelligence among policemen, especially in the supervisory levels. A study made in Cleveland was cited which found that only 33 percent of the patrolmen had average intelligence, while 25 percent belonged

in the moron grade.⁶² Among the other findings of the committee report were that the police made few arrests in proportion to the number of crimes committed; that the office of sheriff had degenerated into a "joke"; that prosecuting attorneys, wielding great power, were not sufficiently accountable to the public; and that the minor judiciary exhibited "poor character."⁶³

Most of the State and city commissions conducted surveys which were published into reports. Perhaps the most famous of these surveys and probably the most extensive was the monumental Illinois Crime Survey, published in 1929 through the joint efforts of the Illinois Association of Criminal Justice and the Chicago Crime Commission. Of particular interest in this survey are the studies of rural and Chicago policing by Bruce Smith and August Vollmer, respectively. These two men were authors of classic works on law enforcement which will be discussed later in this paper.

Smith found that rural crime in Illinois had assumed "grave proportions" and that "the time-honored agencies for rural crime repression have either avoided all responsibility

⁶²"Stupid and Inefficient," Literary Digest, XCVI (March 24, 1928), 14.

⁶³Ibid.

or have been overwhelmed."⁶⁴ He recommended re-organizing the State highway patrol, which he claimed was deeply involved in local politics, into a trained and mobile State police force, operating under a single administrative head responsible directly to the governor.⁶⁵ Vollmer's study of the Chicago Police Department discovered a situation of utter chaos. The department was paralyzed by total demoralization, virtually controlled on the precinct level by ward bosses, and administered by chiefs and policies which shifted with each political change in city government.⁶⁶ Among the more deplorable situations revealed was the department's training program:

The recruit, after a brief month's training, becomes a full-fledged policeman; so his real education is acquired only in the school of hard knocks. If he is not killed, sent to jail, or discharged in the first ten years, he may develop into a passable policeman.⁶⁷

Vollmer found the department infested with political corruption and warned that until political influence was removed, "there is little hope for any substantial betterment."⁶⁸ Vollmer made recommendations covering all areas of the department's operations, and many of these proposals were to be repeated in the Wickersham Commission's

⁶⁴Illinois Crime Survey, p. 351.

⁶⁵Ibid. ⁶⁶Ibid., p. 359.

⁶⁷Ibid., p. 363. ⁶⁸Ibid., p. 372.

Report on Police, of which Vollmer was editor. Among the more important recommendations in the Chicago survey were:⁶⁹

1. Rigid selection of personnel by civil service and psychiatric examination.
2. A police academy of six months duration.
3. In-service training courses prior to promotion.
4. Advanced and specialized training for division commanders.
5. An indefinite appointment period for the chief and the assurance that he would be removable only for cause after a public hearing.
6. Removal of vice and traffic responsibilities from the department.
7. More extensive use of the automobile.
8. Establishment of a city-wide signal system.

The crime commission movement was raising the nation's consciousness in regard to the need for affirmative action by government against the forces of lawlessness. It was this growing awareness, described by the Michigan Crime Commission in its Report of 1930, which led to the recognition by President Hoover of the need for a Federal investigation:

The great amount of publicity that the so-called crime-wave has recently received is directing public attention to it and awakening public interest to an

⁶⁹ Ibid.

unusual degree. The public is realizing that one of its principal problems is the protection of society against those with criminal tendencies. It is to be hoped that this awakening of public interest will be sustained and directed until a constructive solution of the crime problem is applied.⁷⁰

* * * * *

This, then, is the setting for the creation of the Wickersham Commission. It came upon the American scene in the midst of a turbulent domestic crisis, and was the official response to and a logical extension of a growing movement of public concern and indignation over the crime problem. With the background thus set forth, the study will now turn to an examination of the history of the Wickersham Commission itself.

⁷⁰Michigan Crime Commission, Report of 1931,
p. 23.

Chapter 2

EARLY HISTORY OF THE WICKERSHAM COMMISSION

The National Commission on Law Observance and Enforcement was officially born on March 4, 1929, the day Herbert Hoover was inaugurated as the thirty-first President of the United States. March 4, 1929, was also the last day in the life of the Seventeenth Congress of the United States and, in the final moments, that body passed a bill known as the First Deficiency Act of 1929. This bill, a supplementary appropriation list covering a wide range of last minute handouts, contained an obscure clause authorizing:

For the purposes of a thorough inquiry into the problem of the enforcement of prohibition under the provisions of the Eighteenth Amendment of the Constitution and laws enacted in pursuance thereof, together with the enforcement of other laws, \$250,000, or as much thereof as may be required, to be expended under authority and by direction of the President of the United States, who shall report the result of such investigation to the Congress, together with this recommendations with respect thereto.¹

Authorization was originally granted for fiscal years 1929 and 1930, and was extended in 1930 to cover fiscal year 1931.

¹United States Congress, United States Statutes at Large, 70th Congress (Washington: Government Printing Office, 1929), p. 1613.

Although not legislated into existence until March 4, 1929, the idea of a Presidential commission to study the national crime problem can be traced back at least to the summer of 1928. The Presidential election of that year pitted Herbert Hoover against Democrat Governor Al Smith of New York. Two major issues were at hand in that contest--Smith's Catholicism and Prohibition. The exact point at which Hoover's idea of a fact-finding commission originated is probably lost forever in the pages of the history of smoke-filled rooms. However, certainly one thing is clear: as initially conceived, the commission idea was limited to the issue of Prohibition. One version of how the commission plan originated is contained in the pages of Outlook Magazine. According to the editors of Outlook, who were virulently anti-Hoover and anti-commission from the start, the original idea was "designed solely to reconcile both Wets and Drys to Mr. Hoover's candidacy."² Outlook claimed that Hoover's supporters conceived of the idea to avoid an outright stand on the highly sensitive Prohibition issue. Realizing that election would be impossible without support from the large pro-Wet industrial states, Hoover's people concluded that they could cater to both Wets and Drys by proposing a commission of inquiry to study the Prohibition question. Such a proposal

²"Backstage in Washington," Outlook, CLIV (February 5, 1930), 218.

would attract the Wets by giving them a hope for recommendation of repeal or revision. The Drys would be tempted by the possibility of stronger enforcement growing out of such an investigation. Whether or not this was the inspiration behind the idea is purely speculation, but in his first public mention of the proposal, Hoover did in fact speak only in terms of the Prohibition question. Speaking before a crowd of over 70,000 at the Stanford University Stadium in his acceptance of the Republican Presidential nomination on August 11, 1928, Hoover stated:

Our country has deliberately undertaken a great social and economic experiment, noble in motive and far reaching in purpose. It must be worked out constructively.

Common sense compels us to realize that grave abuses have occurred--abuses which must be remedied. An organized investigation of facts and causes can alone determine the wise method of correcting them.³

William C. Murphy, writing in Commonweal, noted:

Whatever meaning Mr. Hoover may have intended to convey in his acceptance speech, the public, from that day until Inauguration Day, thought in terms of a commission having to do with prohibition.⁴

Murphy appeared to agree with Outlook's theory of the commission's origin. He noted that during the campaign, the proposal was construed in Dry regions as "an investigation to ascertain more effective methods of enforcing the Volstead Act in all its verbatim sanctity," while in Wet

³New York Times, August 12, 1928, p. 3.

⁴William C. Murphy, Jr., "The Sphinx Commission," Commonweal, X (July 3, 1929), 249.

areas "it was held out as a lure to the thirsty and construed as meaning that Mr. Hoover was not entirely sure that the Eighteenth Amendment is an improved substitute for the Ten Commandments."⁵ This strategy, if indeed it was the intended game plan of the Hoover forces, obviously worked well with the Ku Klux Klan inspired opposition to Smith's religion, because Hoover carried both Wet and Dry strongholds in his landslide victory over the "Happy Warrior."

The commission proposal throughout the campaign had centered on the Prohibition. On Inauguration Day, however, the idea took on a new character, broader in scope than the general plan. In his Inaugural Address, Hoover announced his new intention:

I propose to appoint a national commission for a searching investigation of the whole structure of our Federal system of jurisprudence, to include the method of enforcement of the Eighteenth Amendment and the causes of abuse under it. Its purpose will be to make such recommendations for re-organization of the administration of Federal laws and court procedure as may be found desirable.⁶

No longer was this a commission whose primary purpose would be to study the Prohibition question; it was now intended to be a broad investigation of the whole American system of criminal justice, of which consideration of the enforcement of Prohibition would be but a single part.

⁵Ibid.

⁶New York Times, March 5, 1929, p. 6.

Hoover's supporters hailed and justified this broadening of the commission's field of inquiry as evidence of the President's concern over the crime situation. However, a large and vocal segment of contemporary opinion was, as it often tends to be, concerned only with the major popular and controversial issue of the moment, in this case Prohibition. Those who were understandably seeking a quick and easy solution to the Prohibition dilemma, and had grasped onto the original commission idea as an immediate means toward achieving that end, now felt betrayed and suspected Hoover of trying to avoid the issue now that he was in office. Murphy described critics who did not flatter the President's sincerity by holding that Mr. Hoover, having used the idea of a Prohibition investigating commission for campaign purposes, now sought to spread the work of the commission over so much territory that the original objective would be forgotten before it had completed its duties.⁷

Despite the charges that he was playing politics with the commission idea, Hoover steadfastly maintained his newly conceived and expanded notion of the commission's purpose. In his first press conference as President, he elaborated on the proposal made in his Inaugural Address:

The purpose and scope of the law enforcement commission, as stated in my inaugural address, is to critically examine the entire Federal machinery of

⁷Murphy, p. 250.

justice, the re-distribution of its functions, the simplification of its procedure, the provision of additional special tribunals, the better selection of juries, the more effective organization of our agencies of investigation and prosecution.⁸

The President seemed to go out of his way to play down the importance of Prohibition in the over-all investigation by stressing the intended comprehensiveness of the study:

It is intended to cover the entire question of law enforcement and organization of justice. It will also naturally include consideration of the method of enforcement of the Eighteenth Amendment, and abuses which have grown up, together with the enforcement of laws in respect to narcotics, to immigration, to trade restraint, and every other branch of Federal government law enforcement.⁹

Although contemporary critics may have seen the broadening of the commission's scope as an attempt to avoid dealing with the sticky Prohibition problem, there is no doubt that Herbert Hoover was genuinely concerned with the whole crime problem and saw the need for improvement in the entire criminal justice system. On April 22, 1929, before a large audience attending the Associated Press Luncheon in New York and a nationwide radio audience, Hoover delivered a sensational address on the crime crisis in which he expressed a kind of candor and distress not frequently exhibited by Presidents of the United States. In a shocking announcement made to his countrymen and to

⁸New York Times, March 9, 1929, p. 1.

⁹Ibid.

the entire world, the Chief Executive declared that "Americans are the most lawless of all civilized people."¹⁰

Hoover sent on, with little restraint, to expound upon the seriousness of the crime situation:

More than nine thousand human beings are lawlessly killed in the United States every year--twenty times as many people in proportion to population as in Great Britain. At least fifty times as many robberies in proportion to population are committed in the United States as in the United Kingdom, and three times as many burglaries. Even in such pre-meditated crimes as embezzlement and forgery, our record stands no comparison with stable nations. No part of the country, rural or urban, is immune. Life and property are relatively more unsafe than in any other civilized country in the world.¹¹

Hoover went on to speak of the commission proposal. He noted that the idea had met with "gratifying support" and expressed confidence that "it will have the cooperation of the bar associations and crime commissions in the various states in the widespread effort now being made by them."¹²

The reaction to the speech was intense and favorable throughout the country. Literary Digest observed:

It was a new Hoover that many a wondering editor beheld when the President spoke. . . . It is now obvious . . . , in view of the President's earnest denunciation of lawlessness, that he considers it a fundamental duty of his administration to awaken a spirit of law observance.¹³

¹⁰New York Times, April 23, 1929, p. 2.

¹¹Ibid.

¹²Ibid.

¹³"The New Hoover Drive on Crime," Literary Digest, CI (May 4, 1929), p. 5.

The editor of Catholic World compared Hoover to a high priest making public confession for the sins of his people, and noted:

There may be some critics of Mr. Hoover who say that he ought to have been more discreet, and not to have uncovered our shame. Nevertheless, I for one, am glad that Mr. Hoover spoke as frankly as he did.¹⁴

The New York Times said that "the President was accurate and justified in maintaining that the prevalence of crime in this country is a national disgrace," and supported the commission proposal as a positive step:

It is a long and arduous task which he is to lay, in the first place, upon his crime commission. Then to translate its recommendations, when they come, into statutory reform will itself be an immense labor. But the country will feel all the time that the President is headed in the right direction.¹⁵

* * * * *

The immediate concern now before Hoover was to find a group of people capable of serving as members of the commission. In his own words, the President sought "high-minded men, impartial in their judgment, skilled in the science of law and our judicial system, clear in their conceptions of our institutions."¹⁶ Another more pragmatic

¹⁴J. M. Gillis, "Editorial," Catholic World, CXXIX (June, 1929), 353.

¹⁵New York Times, April 23, 1929, p. 28.

¹⁶Ibid., p. 2.

criterion was that the members be acceptable to both Drys and Wets on the Prohibition question. The panel, which was eventually chosen, was representative of all geographic sections of the country, and was distinguished by a public posture among its members of impartiality in respect to Prohibition. The members appointed were:

Henry W. Anderson--a prominent corporation lawyer from
Virginia

Newton D. Baker--former Secretary of War under President
Wilson

Ada Comstock--Dean of Radcliffe College and the only
woman to be appointed

William I. Grubbe--United States District Judge from
Alabama

William S. Kenyon--former United States Senator from Iowa
Monte Lemann--a prominent lawyer and educator from New
Orleans and President of the New Orleans Bar
Association

Frank J. Loesch--former Governor of Illinois and lead-
ing member of the Chicago Crime Commission

Paul J. McCormick--United States District Judge from
California

Kenneth McIntosh--Judge of the Washington State Supreme
Court

Roscoe Pound--Dean of Harvard Law School

George Wickersham--former Attorney General of the United States under President Taft.

Wickersham was chosen to be chairman of the group, which came to be known by his name. Wickersham was a vigorous seventy-one years old at the time of his appointment and came to the commission as an eminent elder statesman. Born in Pittsburgh and orphaned at an early age, Wickersham was raised by his grandfather, a wealthy banker and first president of the Philadelphia Stock Exchange. He attended Lehigh University and graduated from the University of Pennsylvania Law School in 1880. In addition to serving as Taft's Attorney General, Wickersham served on the National Industrial Board under President Wilson and was United States Representative on the League of Nations Committee for Codification of International Law. He also served as president of various organizations including the American Law Institute, American Society of International Law, and the National Probation Association. A world-renowned expert on international law, Wickersham was also an author of note, his principal works being The Changing Order, Essays on Government, and Monopoly and Education. Wickersham was a purebred statesman of the patrician class, accustomed to the life of high society. He was described in Outlook as "a patron of the symphony and opera, a collector of engravings and mezzotints, and a linguist who reads his Dante in the

original."¹⁷ As one whose life had been spent in public service, Wickersham appeared to be the ideal choice for chairman, a nationally respected leader who could be relied upon to remain above petty politics and to avoid getting personally involved in the fiery Prohibition issue. Unfortunately, as shall later be seen, it was Wickersham's inexperience in the rough world of politics which led him to naively commit various blunders and become the center of heated controversies throughout the life of the commission.

* * * * *

The Commission commenced its work on May 28, 1929, at an opening meeting in the Cabinet Room of the White House with President Hoover in attendance. Its first act was to adopt the name "The National Commission on Law Observance and Enforcement." In choosing this title, the Commission left no doubts as to the extent of its investigation. It was now made perfectly clear that the study would be broad in scope and not limited to Prohibition.

In his charge to the Commission, President Hoover pointed to the growing national concern over disobedience of the law and abuses in law enforcement and launched the

¹⁷Robert C. McManus, "Unhappy Warrior," Outlook, CLVI (September 18, 1930), 88.

group on its mission with these words:

It is my hope that the Commission shall secure an accurate determination of fact and cause, following them with constructive, courageous conclusions which will bring public understanding and command public support of its solutions. The general public approval of the necessity for the creation of this Commission and the extraordinary universality of approval of its membership, are in themselves evidences of the responsibility that lies upon you and of the great public concern in your task, and of the hopes that you may succeed. I do pray for the success of your endeavors, for by such success, you will have performed one of the greatest services to our generation.¹⁸

Chairman Wickersham responded on behalf of the Commission members:

We approach our task with a profound realization of its importance and with minds open to consider on their merits all intelligent suggestions from unprejudiced sources. We are under no illusions as to the difficulties of our task. We know there is no short-cut to the millenium. But we have confidence in the fundamental honesty and right-mindedness of the American people, and in their readiness to support sound methods of reform when the existence of evils is exposed. . . . We pledge our best endeavors, invoking divine guidance in the performance of our task.¹⁹

With this auspicious beginning behind them, the members of the Commission moved to their new offices in the Tower Building in Washington and set to work. They divided their work into thirteen areas of study, forming into committees to consider each with the assistance of an appointed staff. These areas, covering the entire spectrum

¹⁸"President Hoover's Commission Begins Work," American Bar Association Journal, XV (July, 1929), 389.

¹⁹Ibid.

of American criminal justice, were Prohibition, criminal statistics, prosecution, enforcement of deportation laws, the child offender in the Federal system, Federal courts, criminal procedure, penal institutions and probation and parole, crime and the foreign born, lawlessness in law enforcement, the cost of crime, the causes of crime, and the police. The Commission secured a number of prominent experts to direct the various staff reports, among them Sam Bass Warner of Harvard for criminal statistics, Zechariah Chafee Jr. of Harvard Law School for lawlessness in law enforcement, Dean Edith Abbott of the University of Chicago Graduate School for crime and the foreign born, and August Vollmer, Chief of Police in Berkeley, California and Professor of Police Administration at the University of Chicago for the study of police.

In its early days, editorial comment and opinion was favorable to the Wickersham Commission. There was widespread support for the investigation and a feeling that, at last, the government was taking some action. The editor of the American Bar Association Journal expressed strong support for the Commission:

The Commission recently appointed should serve the invaluable purpose of making sound views of causes and remedies a part of public consciousness. Backed by the prestige of its national character and, in particular, by the President of the Nation himself, it can secure for its conclusions an attention which

no other body at present functioning in the field of law improvement could hope to attract.²⁰

The Nation praised the Commission for its plans to undertake a study of lawlessness in law enforcement. Its editors emphasized the belief that official lawlessness and corruption in government were the roots of the American crime problem, and commented that "if the Hoover Commission brings the fact home to the American people, it will have justified its existence."²¹ The Review of Reviews supported the need for a study of "the most malign danger that faces the United States," and noted that although it would be many months before the Commission issued its verdict, it was already attracting national attention.²²

While the initial public reaction to the Commission was generally favorable, it centered on only one aspect of the investigation. As the editors of the Baltimore Sun pointed out, "while the purpose of the Commission is to study the entire question of law enforcement and organization of justice, its make-up is being analysed chiefly with a view to ascertaining one thing--the attitudes of its

²⁰"President Hoover's Legal Engineers," American Bar Association Journal, XV (July, 1929), 418.

²¹"The Root of Our Lawlessness," The Nation, CXXIX (October 30, 1929), 480.

²²"The Lawless American," Review of Reviews, LXXX (July, 1929), 64.

members on Prohibition."²³ The Washington News noted that "the first thing that will strike everyone about the members is that they are not of the fanatical type . . . they are neither rabid Wets or Drys."²⁴ The New York Herald also praised the composition of the group, but again in terms of Prohibition, stating that "the best testimony to the admirable quality of the personnel of Mr. Hoover's Commission, is the unanimity with which it is being applauded by Wets and Drys alike."²⁵ Outlook claimed that many aspects of the Commission's work would demand notice, but the "problem of Prohibition enforcement is paramount both in importance and popular interest."²⁶

Although the trend of popular thought regarding the Commission centered on Prohibition, there were exceptions from more far-sighted and perceptive quarters. The New York Times noted that the keen public interest in the Commission's attitude on Prohibition tended to exaggerate the importance of Prohibition in the overall scope of the study, and claimed that the Eighteenth Amendment and Volstead Act were only "accomplices after the fact" in a crime problem which had long been growing larger and more serious due to

²³"A Commission with a Herculean Task," Literary Digest, CI (June 1, 1929), 5.

²⁴Ibid.

²⁵Ibid.

²⁶"The Hoover Commission," Outlook, CLII (June 5, 1929), 214.

many other factors. The Times urged its readers to "get it out of our heads that Prohibition enforcement is to be the main business of the Commission's labors."²⁷ Unfortunately, voices such as that of the Times were muted by the hysteria which attached to the Prohibition issue. It was the national pre-occupation with the Dry Law which caused public attention to be centered on that particular aspect of the Wickersham Commission's study and the controversy which was eventually to surround the Report on Prohibition greatly overshadowed the Commission's later work.

* * * * *

Little is known of what actually transpired in the day-to-day operations of the Wickersham Commission's investigation. The study was carried out through the use of hearings, meetings, and staff committee work. However, to allow for a scholarly atmosphere and a scientific approach to the inquiry, as well as to avoid political interference and public pressure, the Commission conducted its operations secretly, behind doors closed to newsmen and Congressmen alike. Official reports of the Commission's progress were few and far between, limited to an occasional remark by Chairman Wickersham or one of the other members. As a result suspense grew and rumor and speculation abounded,

²⁷ New York Times, May 22, 1929, p. 26.

especially in regard to the Commission's anticipated findings on Prohibition. The New York Times reported that the Commission was during this time, "under constant fire because of the secrecy concerning its activities," and that members of Congress had been "bombarding it with demands that it reveal to Congress and the public just what has been happening behind the closed doors."²⁸

It was not until January 10, 1930, nine months after the Commission had begun work, that any substantial indication of progress was released. The Commission issued a preliminary report, which summarized the progress made in each field of study. The report was quite cursory, giving only capsule accounts of the work of the committees and listing the various experts who had been engaged to direct the different reports. The Commission did, however, choose at this time to deliver the first public statement regarding its initial findings, saying that the examination thus far "demonstrated unquestionably that the criminal law enforcement machinery is entirely inadequate."²⁹ Three days later, on January 13, 1930, in an obvious response to public and Congressional pressure, the Commission released the Preliminary Report on Prohibition. In his transmittal letter to Congress accompanying the report, President Hoover summarized

²⁸ New York Times, June 11, 1931, p. 1.

²⁹ Ibid.

its principal findings:

After exhaustive examination of the subject, the Commission on Law Observance and Enforcement and the officials of the Department of Justice and of the Treasury Department, unite in the conclusion that increasing enactment of Federal laws over the past twenty years, as to which violation of the Prohibition laws comprises rather more than one-half of the total arrests, has finally culminated in a burden upon the Federal courts of a character for which they are ill-designed, and in many cases entirely beyond their capacity. The result is to delay civil causes, and of even more importance, the defeat of both justice and law enforcement. Moreover, experience shows division of authority, responsibility, and lack of fundamental organization in Federal enforcement agencies, oftentimes results in ineffective action.³⁰

While discreetly avoiding any judgment which might be construed as a final recommendation on the subject, the Preliminary Report did concede that Prohibition enforcement had been less than successful. Four proposals were offered to improve the situation. The first, and the only one to be enacted into law, was the transfer of investigation and preparation of Prohibition cases from the Treasury Department, which had been given primary responsibility under the National Prohibition Act, to the Justice Department. The second suggestion was codification of the more than twenty-five federal statutes applicable to enforcement of Prohibition. The third proposal dealt with strengthening the so-called padlock injunctions against Prohibition

³⁰Wickersham Commission, Preliminary Report on Prohibition (Montclair, N. J.: Patterson Smith, 1968 [reprint]), p. 1.

violators. The fourth, and the most controversial plan, called for relieving the congestion of the Federal courts by enabling petty cases of violation to be prosecuted by information rather than indictment and disposed of by a hearing before a United States Commissioner. Judgment of acquittal or conviction and sentence would be imposed by a Federal magistrate without a jury trial unless formally requested by the accused.³¹

The Preliminary Report on Prohibition did answer to some extent the raging public question of just what the Commission was doing. However, by releasing news of the Prohibition study first, the Commission did little to change the minds of the majority of Americans who saw the Prohibition issue as its primary concern. Moreover, the recommendation on handling of petty offenses raised an outcry from the liberal sector which saw it as a violation of civil liberties and due process. In an attempt to settle these issues, Chairman Wickersham made a nationwide radio broadcast over the National Broadcasting Network on January 22. In his address, Wickersham declared:

Despite much clamor and many lurid statements, the enforcement of Prohibition is only a part and not the most important part of our task.³²

³¹Ibid., pp. 8-11.

³²New York Times, January 23, 1930, p. 9.

He stressed that the problems which the Commission was studying were present and acute long before the Eighteenth Amendment was adopted, and were the result of many causes, "partly sociological, partly political and partly from defects in judicial organization and judicial procedure."³³ Wickersham went on to defend the petty offense procedure recommended in the Report as within the limits of the Constitution and absolutely necessary to relieve the congestion in the courts and he closed with a plea for public support of the Commission's work.³⁴

* * * * *

Unfortunately, George Wickersham, as talented and learned a lawyer as he was, was not adept at playing the rough game of politics and as the months of 1930 passed by, politics became more and more the name of the game for the Commission. Congress and the public grew anxious again, eagerly awaiting the final results of the Commission's investigation into Prohibition. The policy of secrecy was steadfastly maintained, but rumors and speculation continued to flow. With intense pressure coming from both Wets and Drys espousing their respective causes, the Commission led a tightrope existence, attempting not to make any public statements which would alienate either side. As chairman

³³Ibid.

³⁴Ibid.

of the Commission, and a man of immense personal pride and integrity, Wickersham felt compelled to answer attacks on the Commission and thus became embroiled in personal quarrels with journalists and politicians. Robert C. McManus, writing in Outlook, commented on Wickersham's conduct throughout these ordeals:

He fights, as we have seen, but only for his beliefs, never professionally, never for the mere sake of badgering an opponent or winning himself notoriety which are the motives which lead politicians into battle. Politics as such has no charms for him.³⁵

George Wickersham's honesty and high ideals combined with a political naivete remarkable for a career statesman to get him into trouble on many occasions. In one instance, it almost cost him his job. Wickersham had received a letter from Governor Franklin Roosevelt of New York, asking for some ideas for a speech on Prohibition which Roosevelt was planning to deliver before the upcoming Governors Conference in New London, Connecticut. The Chairman replied, in his own hand, on the stationery of the Bar Harbor, Maine, hotel at which he was staying at the time, that the governors might try to approach the Federal government with the idea of turning over Prohibition enforcement to the States and further commented that "National and State laws might be so modified as to become reasonably enforceable."³⁶ Such a statement, supporting the notion of revision of the

³⁵McManus, p. 116.

³⁶Ibid., p. 86.

Prohibition law, if made public, would surely bring the wrath of the Drys down upon Wickersham's head. The Chairman obviously considered this a confidential personal correspondence. However, Roosevelt, for whatever his motives, thought otherwise and chose to read the letter in its entirety to the whole assemblage of governors and the attending press. As would be expected, a furor arose as Drys in the Senate, equating Wickersham's comments to anti-Prohibitionist revisionism, called for his head. Several Senators, led by Borah of Idaho, demanded the Chairman's immediate resignation for committing himself publicly to one side of the question before the Commission's report had been released. Highly embarrassed Administration officials in the White House frantically issued statements to the effect that the letter was supposed to be confidential and was never meant to be released publicly as Wickersham's official stand. But true to his gentlemanly ways, Wickersham himself maintained a stoic silence throughout the controversy, preferring to remain aloof from the political battle which he had unwittingly instigated.

Although the "Roosevelt Letter Crisis" eventually died down, its effect was to irreparably damage both Wickersham's and the Commission's credibility in the public eye. Moreover, criticism of the Commission and its secrecy mounted, as the public grew more and more impatient for a final decision on the Prohibition question. Felix

Frankfurter, then a Professor at Harvard Law School, was among the thoughtful few who supported the Commission in those troubled days. In a speech before the New York Bar on April 17, 1930, he warned that the political controversies over Prohibition threatened the potential accomplishments of the Commission which, he reminded his listeners, was meant to conduct "a scientific inquiry into all classifications of the law and its enforcement."³⁷ Frankfurter also pointed out that in order to conduct a valid scientific investigation the Commission had every right to receive as much time as it needed, with freedom from public scrutiny and political interference.³⁸

* * * * *

By May of 1930, The National Commission on Law Observance and Enforcement seemed to be in trouble with everyone. Its slow progress, lack of definitive results, and closed-door proceedings had alienated both Wets and Drys. Thus it was an especially inopportune time to have to approach Congress for more funds. However, as authorization of the Commission's funding would end with Fiscal Year 1930 on June 31, and as the Commission was far from finished with its work, having completed only its

³⁷New York Times, April 18, 1930, p. 19.

³⁸Ibid.

Preliminary Report on Prohibition, President Hoover was obliged to request additional funding. On May 2, 1930, he sent a message to Congress asking for an additional \$250,000 for continuation of the Commission's work through Fiscal Year 1931.³⁹ Both Wets and Drys took this opportunity to vent their frustrations over the nagging Prohibition question on the Commission.

Rumors had been spreading throughout Washington to the effect that the Commission was working on a substitute for the Prohibition laws. On June 11, at the House hearing on the Second Deficiency Bill for 1930, which provided for the Commission's funding, Chairman Wickersham was called to confirm or deny these reports. Wickersham revealed that, while he was convinced that the Commission must accept the Eighteenth Amendment as part of the Constitution and confine itself to the question of enforcement, there were other members of the Commission who were questioning the validity of the amendment itself.⁴⁰ This development brought an outcry from Dry leaders and led Representative Cramton of Michigan to issue the threat that all appropriations would be cut off if the Commission considered anything more than the question of enforcement. Cramton and other Drys maintained that the Commission's original

³⁹New York Times, May 3, 1930, p. 11.

⁴⁰New York Times, June 12, 1930, p. 2.

authorization permitted it to consider only issues relating to enforcement, not the validity of the laws themselves.

The Wets were the next to take the offensive. On June 20, 1930, led by Representative La Guardia of New York, they blocked Hoover's request in the House of Representatives on the grounds that original authorization for the Commission extended only to the end of Fiscal Year 1930 and thus further funds could not be granted for Fiscal Year 1931.⁴¹ On the following day, the Senate Appropriations Committee received the House version of the Second Deficiency Bill with no provision for continuation of the Commission fund as a result of the La Guardia move. The Committee voted to restore funding, but at a greatly reduced appropriation level of only \$50,000 and attached the limitation that the money be spent only for the study of Prohibition enforcement, thus discontinuing the studies into other phases of criminal justice.⁴² On June 23, the Second Deficiency Bill was reported to the Senate with an item for the Commission of \$50,000 in new appropriations and \$88,000 of unexpended funds from the original appropriation, "for the exclusive purpose of continuing the inquiry into enforcement of the prohibition law."⁴³ On June 27, the

⁴¹New York Times, June 21, 1930, p. 5.

⁴²New York Times, June 22, 1930, p. 16.

⁴³New York Times, June 24, 1930, p. 6.

full Senate approved this version of the bill. The comprehensive study of America's criminal justice system envisioned by President Hoover was apparently dead.

An immediate outcry arose from supporters of the Commission who saw the importance and need for continuing its broad investigation. President Hoover issued an angry statement denouncing the Senate for its action refusing to curtail the Commission's study:

With growing crimes of all kinds and with insistent recommendations from every bar association and public body concerned that we should have an accurate study of the reforms necessary in our whole judicial and administrative machinery, that we should have some constructive program for decrease and control of crime as a whole, I cannot abandon the question for one moment or allow the work of this commission to cease. I have asked the commission to proceed with its full program of work and it has consented to do so.⁴⁴

In a further unprecedented move, the President also announced that he would personally seek funds from private sources in order to continue the work of the Commission, setting a fund-raising goal of over \$100,000.⁴⁵ A group of prominent lawyers from across the country issued a statement in the New York Times deploring the Senate cut as "a grave sacrifice of the public interest," and calling for full restoration of funds and authorization to continue the study of all aspects of criminal law enforcement."⁴⁶

⁴⁴New York Times, June 28, 1930, p. 1.

⁴⁵Ibid.

⁴⁶New York Times, June 30, 1930, p. 21.

The Federal Grand Jury Association also released a statement criticizing the failure of Congress to provide President Hoover with the requested funds:

Our members serve on Federal grand juries and from first hand knowledge are acutely aware of the need for a comprehensive investigation. We strongly urge Congress to vote the full appropriation of \$250,000 needed.⁴⁷

The New York Times criticized both Wets and Drys for trying to "cut the claws out of the Commission," pointing out to its readers that while Prohibition was to be only one part of a comprehensive inquiry into law enforcement, it had become the principal interest of the politicians now putting pressure on the Commission to abandon all other aspects of its work. The Times claimed that these calls for quick results limited only to Prohibition were "unjustified" and assailed the Drys in particular for taking out their frustrations over the failure of Prohibition enforcement on the Commission.⁴⁸

Meanwhile, and Administration was mustering its forces in both Houses of Congress to restore the funds. The cut version of the Second Deficiency Bill which had been voted by the Senate was now returned to the House for final confirmation. With strong White House pressure being exerted, the Republican leadership was able to attach a

⁴⁷New York Times, July 1, 1930, p. 22.

⁴⁸New York Times, June 25, 1930, p. 24.

rider to the Senate version calling for the full appropriation of \$250,000 and authorization to continue the full investigation. This amendment passed the House with surprising ease, 272 to 41, and was sent back to the Senate.⁴⁹ There, led by Senator Jones of Washington, Administration forces were able to reverse the previous vote and, by a 37-22 margin, restore the full appropriation and full authorization to the Commission.⁵⁰

* * * * *

The Commission had been given a new lease on life and now returned to the task at hand. The work of the various committees proceeded. On September 23, Chief Philip T. Bell of Kearney, New Jersey, President of the International Association of Chiefs of Police, and his executive committee met with the Commission to discuss the study on police. After a morning meeting with Chairman Wickersham, Bell met with August Vollmer at which time they discussed problems relating to scientific crime detection and political influence on the police.⁵¹

⁴⁹New York Times, July 2, 1930, p. 2.

⁵⁰New York Times, July 3, 1930, p. 1.

⁵¹International Association of Chiefs of Police, Proceedings of 37th Annual Convention, 1930, Police in America Series (New York: Arno Press, 1971), p. 13.

The Congress, the public, and the press, however, continued to be concerned with just one thing--the Commission's study of Prohibition. Throughout the autumn months of 1930, speculation raged over when the Commission's report would come out and what it would say. The Drys were hoping for findings and a verdict favorable to the Prohibition laws and enforcement. The West optimistically anticipated a judgment advocating modification of the Eighteenth Amendment or even its outright repeal. Rumors flew from both sides and conflicting predictions of the report's outcome appeared almost daily. Meanwhile, the Commission was in constant session, under great pressure to get its Prohibition study completed before the Congress adjourned in December. Several times reports appeared that the study was near completion only to be followed by announcements that it was being delayed for numerous reasons. The official news blackout surrounding the Commission's activities aggravated the situation. On November 8, in response to numerous newspaper articles claiming to forecast the Commission's recommendations, Wickersham released a statement calling all such reports "purely conjectural" and reporting that the final recommendations were not yet formulated.⁵² This statement apparently went unheeded, for three days later, the New York Herald came out with a

⁵² New York Times, November 9, 1930, p. 14.

"scoop" which claimed that the Commission was ready to publicly call for repeal of the Eighteenth Amendment and would recommend a constitutional convention to that end.⁵³ Reports began circulating that internal dissension was rife among the Commission members and that there was the threat of a split over the Prohibition question.⁵⁴

On November 1, the New York Times carried a front page headline reporting that the Commission would oppose outright repeal of the Eighteenth Amendment, but would call for major revision of the Volstead Act and other laws regulating Prohibition enforcement.⁵⁵ However, no official word came from the Commission which seemed to be hopelessly deadlocked over the issue. The panel recessed for a twelve-day Thanksgiving holiday on November 26 with the Times reporting that rumors were "thick as autumn leaves."⁵⁶

This was an especially tense period for ardent supporters of Prohibition. All indications seemed to point in the direction that either the Eighteenth Amendment or the Volstead Act, or both, were in real trouble. Typical of the apprehension felt in the Dry camp were the comments

⁵³ New York Times, November 12, 1930, p. 8.

⁵⁴ New York Times, November 14, 1930, p. 1.

⁵⁵ New York Times, November 18, 1930, p. 1;

⁵⁶ New York Times, November 19, 1930, p. 24.

expressed in their December issue by the editors of the
Christian Century:

The Commission has been working seventeen months. During this time opponents of prohibition have intensified their efforts to break down the people's respect for law. The prolonged sitting of the Commission has created a widespread feeling that the prohibition law is in suspense and will continue to be in suspense until Mr. Wickersham's commission is ready to report.⁵⁷

* * * * *

The Commission finally completed the long-awaited Report on Prohibition on January 19, 1931, and sent it immediately to the President. The New York Times reported that the President dropped all other tasks to study the report before sending it to Congress. The Times also commented on the secrecy surrounding the release of the report:

Despite the few words that have leaked out from the Commission's long closed doors, the main parts of both the majority and individual reports have remained shrouded in a secrecy almost unparalleled in Washington.⁵⁸

The following day, on January 20, 1931, President Hoover released the report to Congress and the Nation. The Report on Prohibition was an enigma to say the least. The Report devoted its first eighty-two pages to a

⁵⁷ "A Draft Report for the Wickersham Commission," Christian Century, XLVII (December 3, 1930), 1472.

⁵⁸ New York Times, January 20, 1931, p. 1.

detailed discussion of the failure of Prohibition both in citizen observance and in government enforcement. The report observed that there was considerable drinking among all segments of society and in all parts of the country, "in quite frank disregard of the declared policy of the National Prohibition Act."⁵⁹ The report went on to relate that liquor was being imported and manufactured in distilleries and homes, illegally and in large quantities.⁶⁰ The report found that in the enforcement of Prohibition on the Federal level "cases of corruption have been continuous"; that local enforcement was marked by "police corruption in every type of municipality, large and small"; and that there was a "connection between corrupt local politics and gangs and the organized unlawful liquor traffic."⁶¹

The findings of the report clearly pointed to a conclusion that Prohibition, the "great experiment," was an absolute failure. Few were observing it and virtually none were enforcing it. And yet, contrary to the report's findings, the Commission's recommendation, which followed the main body of the study and which had been so long awaited by the entire nation, opposed both repeal of the

⁵⁹Wickersham Commission, Report on Prohibition (Montclair, N.J.: Patterson Smith, 1968 [reprint]), p. 21.

⁶⁰Ibid., pp. 22-33.

⁶¹Ibid., p. 44.

Eighteenth Amendment as well as any modification of the National Prohibition Act.⁶² However, they did present a proposed revision of the amendment if revision was ever contemplated in the future. To further complicate matters, each of the eleven members of the Commission issued individual statements of their personal opinions following the majority recommendations. Of the eleven members, five--Anderson, Comstock, Kenyon, Loesch, and Pound--called for revision of the Eighteenth Amendment, and two, Baker and Lemann, demanded immediate repeal!⁶³ Thus, in effect, the Commission's Report on Prohibition revealed that Prohibition was unobserved and unenforceable; while at the same time calling for continued observance and enforcement; while at the same time stating the opinions of the majority of commissioners, who agreed that the law was unobserved and unenforceable! If this strikes the reader as contradictory and puzzling, then his reaction is no different from the millions of Americans who found themselves in complete bewilderment over the report which many had hoped would lead the country out of the Prohibition dilemma.

The initial reaction to the report was, as might be expected, total confusion. Press comment compounded the chaos. Dry papers across the country cautiously claimed that the report supported their side, while the

⁶²Ibid., p. 83.

⁶³Ibid., pp. 87-161.

Wet press maintained that it bolstered their viewpoint.⁶⁴
 New York newspapers were compelled to change their headlines on each successive edition as the editors kept changing their interpretation of what the report said. Finally, the Telegram came out with this headline:⁶⁵

FIGURE IT OUT YOURSELF - - -
 WE CAN'T!

The reaction in Washington was described by the New York Times:

While Administration Senators and Representatives were reticent, there was a flood of comment produced by the report, in political and other quarters, with drys interpreting it as distinctly in their favor and the wets contending that it supported their claims. . . . A feature of the comment was that many Senators and Representatives expressed themselves as unable to determine just what the Commission proposed.⁶⁶

One contemporary columnist offered this wry parody of the Commission's recommendations:

Prohibition is an awful flop.
 We like it.
 It can't stop what it's meant to stop
 We like it.
 It's left a trail of graft and slime,
 It's filled our land with vice and crime,
 It don't prohibit worth a dime,
 Nevertheless, we're for it.⁶⁷

⁶⁴"Where the Wickersham Report Leaves Prohibition," Literary Digest, CVIII (January 31, 1931), 5-7.

⁶⁵"Confusion Worse Confunded," The Nation, CXXXII (February 4, 1939), 116.

⁶⁶New York Times, January 21, 1931, p. 2.

⁶⁷Hofstadter, Miller, and Aaron, The American Republic, p. 438.

President Hoover himself took issue with the Commission. The President, a staunch Prohibitionist, was obviously disappointed and embarrassed by the Commission's findings that the noble experiment had failed as well as by the Wet views of the majority of its members. In his Transmittal Message to Congress, accompanying the report, the President stated:

I do see serious objections to, and therefore must not be understood as recommending, the Commission's proposed revision of the Eighteenth Amendment which is suggested by them for possible consideration at some future time. . . .⁶⁸

After having gone so far as to stake his reputation on defending the Commission against its foes in the past, it was now apparent that President Hoover was disassociating himself from its final product. As the New York Times noted, "The President repudiated his own commission."⁶⁹ Hoover, writing many years later in his Memoirs, recalled that the Commission's Report on Prohibition was a major disappointment to him and, in reference to the furor which accompanied it, remarked that "my personal difficulty was something that did not appear upon the surface."⁷⁰

⁶⁸Wickersham Commission, Report on Prohibition, p. iv.

⁶⁹New York Times, January 22, 1931, p. 22.

⁷⁰Herbert Hoover, Memoirs (New York: MacMillan Company, 1952), p. 278.

Confusion and mockery soon turned into frustration and bitter criticism of the report's discrepancies. The Report on Prohibition had been anticipated for almost two years and many people had echoed the hopes expressed by President Hoover, in his charge to the Commission, that it would provide "constructive, courageous conclusions" which would "bring public understanding and command public support." However, the final product of the Commission failed to provide any guidance or direction at all. The day after the report was released, rumors started circulating around Washington that the Commission's recommendations had been influenced by strong pressure from the White House. It was charged that President Hoover and his Dry cronies, fearful that the Commission would embarrass their cause by coming out against Prohibition, blocked a verdict to that effect and forced the Commission to instead issue its recommendations against repeal or modification.⁷¹ These claims were vigorously denied by both the White House and the Commission but, as Outlook pointed out, suspicion was still strong:

Despite Mr. Wickersham's denial, which would have carried more weight had it not been for his previous performance, the Capitol firmly believes that Mr. Hoover intervened to block a recommendation for revision of the Eighteenth Amendment.⁷²

⁷¹New York Times, January 22, 1931, p. 1.

⁷²"Backstage in Washington," Outlook, CLVII (February 4, 1931), p. 171.

Senator Tydings of Maryland introduced a resolution in the Senate calling for an investigation into these charges, as well as for an inquiry into the contradictions in the report. After heated debate, however, this resolution was defeated.⁷³

Press comment on the report was overwhelmingly hostile, as J. A. Stevenson, writing in Fortnightly, described:

The publication of the Wickersham report immediately let loose a flood of discussion and controversy which is still proceeding. The general verdict of the press was very condemnatory, chiefly on the grounds that its incoherence and obvious contradictions prevented it from offering any real guidance to the American people upon their most baffling problem.⁷⁴

The Nation called the report "amazing and amusing" and asked its readers, "How did eleven intelligent men and women ever come to make such a report?"⁷⁵ The Nation's editors doubted that the report would have much constructive impact:

We are back to the old possibilities. We may go on as at present, with perhaps more vigorous attempts at enforcement, but, so far as can be determined, with little promise that the lawlessness, corruption, hypocrisy and nullification now prevailing in great sections of the country will be much lessened.⁷⁶

The religious press was particularly virulent in its attack on the Commission. Perhaps more disappointed

⁷³New York Times, January 22, 1931, p. 1; January 27, p. 2.

⁷⁴J. A. Stevenson, "Analyzing the Noble Experiment," Fortnightly, CXXXV (April, 1931), 523.

⁷⁵"Confusion Worse Confounded," The Nation, CXXXII (February 4, 1931), 116.

⁷⁶Ibid.

than most were the country's religious leaders, who were hoping for moral leadership in a time of moral crisis.

The Christian Register, a Unitarian weekly, described the report as a "mammoth muddle which lacks moral conviction, ethical idealism, faith in inherent human dignity and purpose, and that high courage that we have considered a mark of the leaders of our country."⁷⁷ The Methodists' Western Christian Advocate called the report "a demonstration of intellectual straddling on the part of great minds, . . . a demonstration on the part of some of moral cowardice."⁷⁸ The Christian Leader, a Universalist journal, predicted that the country was in for a long battle over the report, a battle in which "friendships will be broken and reputations will be smirched."⁷⁹ Catholic World stated:

The Commission expended a hundred thousand dollars to arrive at some foregone conclusions. Seriously and solemnly they reported that conditions are very bad, recommended that nothing be done about it.⁸⁰

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⁷⁷"Denominational Slam at the Wickersham Report," Literary Digest, CVIII (February 21, 1931), 20.

⁷⁸Ibid.

⁷⁹Ibid.

⁸⁰"Editorial Comment on the Wickersham Report," Catholic World, CXXXIII (April, 1931), 99.

One might say that the Wickersham Commission "bombed on opening night." The farce that was the Report on Prohibition so damaged the Commission's reputation and credibility that little attention was given to its work after January, 1931, although it was to go on to produce twelve more major reports. This was unfortunate because the Commission's later studies on all phases of American criminal justice were of far greater historical significance than the Prohibition report. The later studies, especially those dealing with the police, are actually the primary considerations of this paper. The background and results of the Report on Prohibition have been given such detailed treatment because of the profound influence which this initial debacle had on the Commission's later work. The remarkably negative public response given to the report was the primary factor behind the Commission's ultimate ineffectiveness. The present study will now turn to an examination of the Wickersham Commission's subsequent study of law enforcement in America.

PART TWO

THE WICKERSHAM COMMISSION'S STUDY OF
AMERICAN LAW ENFORCEMENT

INTRODUCTION

On April 16, 1931, George Wickersham delivered a major address before the Cincinnati Regional Crime Committee. He took this opportunity to publicly outline the scope of the Commission's remaining work following the release of the Report on Prohibition. Wickersham began by assuring his listeners and the nation that the Commission was still alive and functioning:

Since the National Commission on Law Observance and Enforcement rendered its report on the problem of the enforcement of prohibition under the provisions of the eighteenth amendment and the laws enacted pursuant thereto, I am constantly asked if our work is not finished and when our commission will dissolve.

The overwhelming public interest in prohibition has obscured the fact that the commission was charged with the duty to study and report on any other subject.

But, as a matter of fact, for many months bodies of research experts and scholars have been at work for us, probing sources of information bearing upon many of the problems suggested by the title of the commission, and patiently gathering facts and formulating recommendations for our consideration. All this is being done in fulfillment of the mandate laid upon the commission by the President, to study and report upon the whole of the problems involved in criminal law enforcement.¹

¹The speech which followed presented an overview of the Commission's investigations, and reported on some of its major findings. The text of the address, pursuant to a resolution passed by the Commission on April 22, 1931, was printed for public distribution under the title "The Problem of Law Enforcement."

Although the Commission published fourteen reports covering the whole spectrum of criminal justice, the intention of the present study is to examine, in depth, its findings and recommendations relating to the police. This subject is dealt with primarily in the Report on Police and the Report on Lawlessness in Law Enforcement. In addition, the Report on the Cost of Crime and the Report on Criminal Statistics provide significant perspectives on contemporary law enforcement. These reports are examined individually in the following section.

Chapter 3

THE REPORT ON POLICE

The Report on Police was prepared under the supervision of August Vollmer, Chief of the Berkeley Police Department, Berkeley, California, and Professor of Police Administration at the University of Chicago. He was assisted by David G. Monroe and Earle W. Garrett, research assistants from the Department of Political Science of the University of Chicago. The report was built around the results of a survey, conducted under the authority of the Commission, of 745 American cities having over 10,000 population. The report began with a statement by the members of the Commission setting forth and concurring with the principal findings of the study. Six major problem areas were developed:¹

1. The short, insecure term of office of the chief or executive head of the police force, characterized by political control over both appointment to and conduct of office, and by a general lack among police chiefs of independence, competence, efficiency, and honesty.

¹Wickersham Commission, Report on Police (Montclair, New Jersey: Patterson Smith, 1968 [reprint]), pp. 3-6.

2. The general poor quality of the rank and file policemen, attributable to selection based on partisan politics, with civil service offering little in the way of improvement; to poor educational attainment; to a lack among most patrolmen of the qualifications needed for the discharge of their duties; and to an insufficiency of training and probationary screening.

3. Poor and obsolete communications systems and equipment, resulting in the inability of the police to deal with the modern criminal who had far surpassed them in mobility and in the use of technology.

4. Widespread corruption in law enforcement, characterized by the well known and oft proven alliance between criminals and politicians which controlled the police forces of many communities.

5. The rapid growth of the cities, together with the arrival of millions of immigrants, ignorant of American language, laws and customs, and the influx of large numbers of southern Negroes into the northern urban centers.

6. The vast multitude of difficult and varied duties placed upon each police officer, which was the outcome of the unplanned transition from rural to urban policing.

* * * * *

The main body of the report consisted of nine chapters dealing with the following major subjects: the police

executive, personnel selection, training, communications and equipment, records, crime prevention, State police, and summary and conclusions. Each chapter will be examined separately, in detail.

CHAPTER I--THE POLICE EXECUTIVE

The Commission's primary theme in the two chapters on the police executive was the short, insecure tenure of the average American police chief and the evils which resulted from such a situation. The survey of 745 municipal departments produced 545 responses on this subject, which indicated that the average term of office in cities of over 10,000 population was 4.28 years; in cities of from 50,000 to 100,000, 4.11 years; in cities of from 300,000 to 1,000,000, 3.62 years; and in cities over 500,000, only 2.41 years.²

The discussion of the police executive began with the observation that, in the United States, "law enforcement agencies are usually held in contempt and law enforcement is one of our national jokes."³ In assessing the crime situation, the Commission reported that approximately 12,000 homicides were committed in the United States in 1930:

This is an outstanding record of reckless disregard for life and is unparalleled in the history of the world. Nowhere, at any time, has a civilized

²Ibid., p. 51.

³Ibid., p. 17.

country shown so little respect for life as there is to be found in this country in this age. . . .⁴

This judgment was bolstered by the traffic accident record for 1930, 32,500 deaths and over 1,000,000 injuries.⁵ The Commission predicted that "there is reason to believe that there will be greater use of streets in the future with a constant increase in the death curve."⁶ Improved highway engineering, public education, and effective but limited enforcement were offered as the best approach to the problem.⁷ The rapid growth of traffic in the United States obliged most police chiefs to devote a disproportionate amount of their time and resources to its control, resulting in a lack of proper attention to patrol coverage. The complexity of these modern police problems required highly qualified administrators to deal with them:

The original purposes of the police organizations were difficult enough, but superimposed on these difficulties are these modern problems which aggravate the situation and complicate it enormously. All other governmental activities are dwarfed in comparison. Every other line of human endeavor is simple when placed alongside of the problem that is presented to the police for solution, . . . Executive capacity of the very highest degree should be demanded and universities should vie with each other in turning out from their institutions men adequately trained to serve their country as efficient police leaders.⁸

The increasing mobility and sophistication of criminals, especially their use of the automobile as a tool of

⁴Ibid.

⁵Ibid.

⁶Ibid.

⁷Ibid., p. 18.

⁸Ibid.

crime, presented a new dimension in the deployment of manpower and resources. Questions raised in the report are still left largely unanswered today: How many men are needed for patrol duty during the different periods of the day? What factors determine the size of a manageable beat? How many persons are required for traffic control and regulation, and how many are needed for investigative purposes? What should be the size of the clerical and executive branches of the service? Are cities which spend the most money for police protection overpoliced? Are the cities which spend the least underprotected? The fact that taxpayers were demanding answers to these questions and the wide variations which existed in police costs from city to city, were offered as sufficient reasons to organize and manage police departments on a scientific basis.⁹

The difficulties of the police chief's job were described to dispel the commonly held belief that any person who had average intelligence and who was fairly honest could satisfactorily discharge the duties of the office. The Commission outlined the tremendous pressures on the chief, from both legitimate and illegitimate sources. The insuperable personnel problems facing the executive, including improper recruiting methods over which he had no control, required him to run a department with incompetent and/or

⁹Ibid., p. 20.

dishonest subordinates. Unenforceable repressive moral legislation, prohibiting such popularly supported activities as gambling, prostitution, and bootlegging, was made the responsibility of the chief rather than of those who passed the laws. Traffic control, regulating the movements of thousands of people and vehicles, was the duty of the police executive. Emergency situations, such as civil disorders, were often left to the police chief to manage. Apparently riots and mass protests were just as much a problem in 1930 as they have been in recent years, and the Commission exhibited highly enlightened thinking in proposing ways of dealing with them:

Another exacting duty of the police is the handling of anarchistic or other antigovernment groups; this is always fraught with danger. Riots may be precipitated and innocent persons injured or killed, unless great care is exercised in dealing with these violent groups. Even sympathizers not connected with antigovernment organizations are quickly won over by them when police officials do not meet the situation intelligently, but resort to force or violence where the circumstances do not warrant such action.¹⁰

In disputing other popular misconceptions, the report offered evidence that a police chief spent most of his time neither brutally oppressing the weak, nor sleuthing like Sherlock Holmes, but, in reality, was required to devote his full energies to the business and administrative affairs of running his department.¹¹ The idea that the chief was to blame when professional criminals

¹⁰Ibid., p. 23.

¹¹Ibid., p. 24.

roamed at large was also repudiated with the contention that the police were powerless in the face of statutory limitations on their power of arrest and unethical legal machinations in the courts.¹²

Thus the Commission did not place the blame for failure entirely upon the chiefs themselves, but pointed to the subverting influences upon them. Political combines frequently composed of banks, newspapers, public organizations, and labor unions constantly scrutinized the chief, ready to make his life miserable should he ever make a mistake, while corrupt politicians and underworld figures aligned to subvert all his attempts at enforcing the laws without fear or favor. The result was a general inability to effectively fight crime and the inevitable removal from office after a pitifully short tenure.¹³ The Commission severely criticized this cycle and called for police chiefs to be selected with care and then retained for an appropriate term in office. Constant interference would have to be eliminated if changes for the better were to be made.¹⁴ The first chapter closed with a remarkable little discourse on the benefits of employee-centered management. If employees were guided rather than driven, it was reasoned, positive results would soon be exhibited in the areas of creative initiative, morale, efficiency, and

¹²Ibid., p. 25.

¹³Ibid.

¹⁴Ibid., p. 27.

productivity.¹⁵ Such thinking was probably not popular among police chiefs in 1930.

CHAPTER II--THE POLICE EXECUTIVE (CONTINUED)

In Chapter II, the attack on the brief tenure of police chiefs continued:

Police morale is built on a foundation of honest, intelligent, and continuous leadership. No single factor has contributed so greatly to police demoralization as has the practice of limiting the tenure of department heads. Not until this stupid practice is discontinued, can we ever hope to make material progress in police procedure in this country.¹⁶

This discussion then turned to the problem of the growing mobility of crime. The report noted that crime was no longer a strictly local problem, but now, with the recent advent of rapid transportation and the automobile, transcended traditional geographic boundaries. The critical need was cited for cooperation and coordination among police departments across the country. Police executives needed sufficient time and stable positions in order to develop and maintain such cooperation among each other.¹⁷

The problem of police corruption provided further justification to the Commission for advocating a long term of office for the chief. Long experience in office enabled a chief to become thoroughly familiar with his department and thus to determine the sources and extent of

¹⁵Ibid., pp. 27-28. ¹⁶Ibid., p. 32. ¹⁷Ibid., p. 37.

graft and corruption. A short and insecure tenure weakened executive control and made impossible the gathering of necessary intelligence to reveal and root out illicit police activity. The frequent removal of chiefs was condemned as an immense benefit to criminals:

Criminals and underworld characters know that police leadership turnover works to their advantage. They leave nothing undone to encourage and make possible frequent changes. With the removal of police executives, police departments pass through some form of upheaval and when this occurs, the policemen are more concerned with interior strife and politics than with the effects of criminal depredations.¹⁸

The Commission demonstrated a direct correlation between length of executive tenure and departmental effectiveness. The police department of Milwaukee was commended for a fine record of service under only two chiefs in the past forty-six years. On the other hand, the deplorable situation of lawlessness and corruption in Chicago was noted, where the police department had struggled along under fourteen different chiefs in the past thirty years.¹⁹

Civil Service protection of the chief was offered as a possible remedy to the situation. In consideration of the contention that such protection might perpetuate tyranny, incompetence or corruption, the counter-argument was advanced that such abuses could be easily proven if true and removal through appropriate trial board proceedings would

¹⁸Ibid., p. 42.

¹⁹Ibid., p. 43.

then not be difficult. Moreover, if civil service protection applied to the chief, more care and discretion would be exercised in his selection. The Commission also considered and took issue with the civil libertarian opposition to a strong police executive:

Jealous of their liberties, the American people have hesitated to place too much power in the hands of their police. Accordingly, every known political device has been experimented with in order to fix responsibility for police service without placing the head of the department and the members thereof beyond the pale of the people. All have the same common defect. Limiting the power of the police executive by placing absolute control of police under the mayor, commissioners, or city manager has opened wide the door for every conceivable type of incompetency, political corruption and organization demoralization.²⁰

The discussion of the police executive concluded with the observation that, in adherence to democratic theory and fear of oppression, the American people had gone too far in limiting the control of police chiefs and had instead, unwittingly, turned over their law enforcement agencies to corrupt politicians. The result was the deplorable quality of policing found everywhere in the United States.²¹

CHAPTER III--PERSONNEL: SELECTION

Following the two chapters on the police executive, the Report on Police turned to an examination of police personnel in the United States, concentrating on selection.

²⁰ Ibid., p. 49.

²¹ Ibid., p. 51.

The chapter opened with the idea that while America had been transformed in recent years from a predominantly rural to an urban industrial nation, with numerous and critical new social problems, the country was still relying on the simplistic old-style policeman for protection. The report described the usual basis for police selection:

To the great mass of our peace protectors, "getting in" the force and "staying in" are not correlatives of good conduct becoming a police officer and a gentleman. The former consists largely in being within the friendly toga of some politician, the latter in having the good luck to pick a winning boss.²²

The report went on to describe the current situation in which appointments were made solely on the basis of political considerations. Appointing officials acted on the principle that party loyalty constituted the highest qualification required for a police officer. Moreover, appointments were valid only as long as the party which made them remained in power. When a new political regime gained control, whole departments faced the possibility of being dismissed. The result was a preoccupation among policemen to use every opportunity for gain before the inevitable loss of their jobs. Figures were cited which indicated that, in Kansas City for example, 53 percent of the officers had less than three years experience, due to the fact that large-scale dismissals occurred each time a new city administration

²²Ibid., p. 54.

was inaugurated. In 1921, with the election of a new mayor in the city, 350 men were dismissed.²³ These revelations give a sobering picture of what conditions were like in the "Spoils Era."

The report presented a revealing profile of the contemporary American policeman. The Commission found that "the majority of police are not suited either by temperament, training or education for their position."²⁴ Citing the results of various studies, the findings demonstrated the low level of educational attainment among policemen. In a survey of members of the Kansas City Police Department, 5 of 7 lieutenants did not go beyond grade school, 31 out of 35 sergeants did not enter high school, and 228 out of 316 patrolmen questioned had never gone beyond the grades.²⁵ In Detroit, a study of 143 patrolmen revealed that 72 percent had never reached high school.²⁶ The results of an administration of the Army Alpha Tests to the police officers of Los Angeles, Minneapolis, Kansas City, and Cleveland revealed that most policemen had low levels of intelligence. On the test, an "A" rating indicated very superior intelligence with the ability to make a superior record in college. A "B" rating indicated capability of making an average college record. A score of "C" exhibited intelligence

²³Ibid., p. 58.

²⁴Ibid.

²⁵Ibid.

²⁶Ibid.

sufficient to finish high school. A "D" rating indicated such inferior mentality that continuation beyond the fourth grade would be difficult, and a "D-" score placed the recipient into the moron grade of feeble-mindedness. While it had been determined by the Los Angeles Civil Service Commission that a man would have to attain at least a "B" rating in order to qualify as an effective policeman, only 27 percent of the officers in Los Angeles, 26 percent in Minneapolis, 18 percent in Kansas City, and 17 percent in Cleveland were able to obtain a "B" score. A considerable proportion of the officers tested ranked below a "C" rating.²⁷ From these results the Commission concluded that "we are forced to recognize the fact that over 75 percent of the members of the police force of this country are not mentally endowed to perform the duty assigned."²⁸

According to the findings in the Report on Police, selection standards were very low, with little effort to assess the quality of incoming manpower. An instance was cited in which a man with a record of eight arrests in five years was appointed to a major city police force.²⁹ The results of lax admission procedures were frequent dismissals of the many misfits who had entered the service. In Los Angeles, for example, 294 men left the police department in one year, 115 of whom were dismissed under pressure for

²⁷Ibid., p. 60. ²⁸Ibid., p. 61. ²⁹Ibid., p. 62.

such causes as extortion, theft, neglect of duty, conduct unbecoming, intoxication while on duty, suspicion of rape, under warrant for arrest from another city, and suspicion of murder.³⁰ Standards relating to the age of recruits were virtually nonexistent. In one large department, 280 officers were over thirty years of age at the time of appointment, 170 men were over forty years old when recruited, and 2 men were actually appointed to the position of patrolman at the ages of seventy-four and seventy-eight years old! A survey of 300 cities indicated that the overall average age of patrolmen was between thirty-five and forty years old.³¹ A review of the occupational backgrounds of patrolmen found that 75 percent had been unskilled laborers prior to appointment. The most frequently encountered prior occupations were farmers, railroad workers, chauffeurs, and the like.³²

Residency requirements were very rigid, often ranging up to three years or more of required local residence prior to appointment. Agreeing with Raymond Fosdick, the Commission advocated abolishment of these requirements and called for open recruitment in order to obtain the best material available. Reference was made to Vollmer's Berkeley Police Department which, in a program far ahead of its time, recruited actively within a 330 mile radius of the city, at colleges, universities, business schools, army bases, and

³⁰Ibid., p. 61. ³¹Ibid., pp. 62-3. ³²Ibid., p. 63.

professional employment bureaus.³³ On the subject of civil service, the report stated that, while the spoils system had largely been neutralized in those cities which had civil service programs, the quality of manpower had not considerably improved. The Commission scoffed at the method of testing often used:

It is of small moment that the applicant can locate the Tropic of Capricorn or compute the number of rolls of wallpaper required to paper a room of given dimensions. The police administration seeks neither navigators nor interior decorators.³⁴

The report recommended a minimum weight requirement of 150 pounds and a minimum height of five feet nine inches. Also called for were thorough physical examinations, standard intelligence tests, and detailed character investigations of all applicants. Such investigations were rare, and, if conducted at all, often required no more than two letters of recommendation or a "good word" from the ward boss.³⁵

The low level of compensation was criticized by the Commission, and the observation was made that if entrance standards were to be raised, salaries would have to be drastically increased. Salaries were found to run as low as \$100 per month in many cities, with the average ranging around \$150 per month. Even when taking into account the differences in the cost of living and in the value of the

³³Ibid., p. 64. ³⁴Ibid., p. 65. ³⁵Ibid., p. 66.

dollar between current standards and those of 1930, such figures appear to be pitifully low. Benefit compensation was either poor or nonexistent, with no uniformity in sick leave, insurance, or vacation provisions among different departments.³⁶ The average policeman's working day was ten or twelve hours long, as compared to the standard eight-hour day which had already been adopted in industry. The Commission concluded that law enforcement personnel practices and working conditions would have to become competitive with those of private business before a better type of man could be attracted into police work.³⁷

CHAPTER IV--PERSONNEL: TRAINING

The nature of police training in the United States was determined by the Commission in two ways. First, a training survey was conducted by the staff of 225 towns of less than 10,000 persons, and of 75 cities ranging in population from 10,000 to 75,000. Secondly, training data were received from 383 of the 745 cities which were sent the Commission's questionnaire. The findings for the towns of under 10,000 population were as follows:

There is absolutely nothing done, which by any stretch of the imagination could be considered as police training. . . .

Briefly, then, in the counties, towns and hamlets of this class, it must be stated that assumption of

³⁶Ibid., p. 68.

³⁷Ibid., p. 69.

badge, revolver, and the authority of the law, has as a prerequisite no training or police experience--in fact, nothing.³⁸

The results of the questionnaire for larger cities were similar. Only 78 of 383 cities, or 20 percent, required some form of training, ranging from one week or less to six months, and, of these, only a small minority provided courses which the Commission considered strong enough to provide the recruit with a proper background.³⁹ Existing training programs generally consisted of a few hours each week over a period of a month, briefly covering city ordinances, method of arrest, patrol practice, and a cursory survey of criminal law. Physical conditioning and firearms training were virtually absent.⁴⁰

The discussion of training then turned to an examination of four different training programs, those of Louisville, New York, Cincinnati, and Berkeley. These programs were singled out as being particularly advanced and each compares favorably with present-day standards.

The Louisville police training course consisted of four separate programs: an academy for new recruits; inservice seminars for patrolmen and patrolwomen; inservice training for detectives; and an inservice specialist course for supervisory personnel. The recruit training covered a six-week period with daily classes from 8 am to 6 pm and

³⁸ Ibid., p. 70.

³⁹ Ibid., p. 71.

⁴⁰ Ibid.

two additional hours in the evening. The following subjects were taught:

1. Government, criminal law, ordinances, evidence, court procedure and arrest--100 hours.
2. History, geography of the city and environs and maps--36 hours.
3. Records and reports--30 hours.
4. Organization, rules, and regulations of the department--24 hours.
5. Traffic rules.
6. First aid and rescue work--18 hours.
7. Patrol problems--30 hours.
8. Identification and investigation--20 hours.
9. Physical training--108 hours.
10. Firearms and target practice--54 hours.

The inservice program for the patrol force consisted of follow-up training in criminal law, ordinances, psychology, and first aid. The detective division received further instruction in criminal law, evidence, court procedure, criminology, investigation, identification, modus operandi, chemistry, and microscopy. The supervisory officers' seminars dealt with special management problems.⁴¹

The New York Police Academy covered a three-month course of study with classes held five days a week for

⁴¹Ibid., p. 73.

eight hours each. Four areas were covered: general recruit training, physical instruction, firearms, and first aid.

The initial recruit training phase was 148 hours in length and covered the following areas:

1. Introduction, orientation to the police department and city government, discipline and deportment.
2. Rules and regulations.
3. Criminology.
4. City ordinances.
5. Criminal procedure and arrest.
6. Summons.
7. Evidence and court procedure.
8. Public assemblages.
9. Fires.
10. Accident cases.
11. Observation.
12. Patrol methods.
13. Traffic.
14. Federal cooperation.
15. Reports and records.

The physical instruction phase was a rigorous course in conditioning, self-defense, etc., and also lasted 148 hours. Firearms training involved six hours. Ten hours were devoted to first aid, sanitation, and anatomy. The academy training was supplemented by actual practice on

patrol, usually accomplished on weekends accompanied by a veteran officer.⁴²

The Cincinnati program extended over eight weeks, the first six covering 289 sessions of forty-five minutes each in the areas of law, procedure, regulations, drill, target practice, traffic control, first aid, ordinances, organization, and specialized aspects of investigation. The seventh week was spent entirely on beat patrol and the final week was a review and evaluation of experiences. The training program was supplemented by an 800-page bound volume of police instructions prepared by Captain Gustav A. Lorenz, director of the academy.⁴³

The Berkeley Police Academy, started by Vollmer, was by far the most advanced of its time. It was remarkable in its scope and orientation, especially in view of the fact that it was begun almost fifty years ago. Stressing the study of human behavior and abnormal psychology, the school was conducted on an evening basis, with classes meeting three nights a week for two hours each over a period of two years, a total of 625 hours of instruction. The major elements of the course were:

1. Preliminary exercise--self-defense, drill, exercises, target practice and firearms, rules, first aid, geography, ordinances, city government and ordinances.

⁴²Ibid., pp. 73-5.

⁴³Ibid., pp. 75-6.

2. Criminal law and procedure--history of criminal law, general principles, state laws, arrest, evidence.

3. Criminal identification--fingerprinting, handwriting, photography, modus operandi.

4. Police methods and procedure--general duties, patrol, traffic, vice, court procedure, parades, civil disorders, records and reports.

5. General investigation--examination of witnesses, inspection of locality, equipment, expert assistance, weapons, practices of criminals, blood samples, fraud, arson, deception tests.

6. Police psychiatry--mental defects and their relation to crime, major psychoses, psychopathic personalities, perversions and inversions, feeble-mindedness, physical diseases, social factors in crime.

7. Police organization and administration--powers and limitations, force distribution, crime prevention, traffic.⁴⁴

All members of the Berkeley Police Department were required to be tested once each year on all of the above subjects.

These programs were put forth by the Commission, not as standard examples of contemporary training efforts, but rather as exceptions, as models upon which effective programs could be based. The Commission pronounced its

⁴⁴Ibid., pp. 77-9.

mandate for improved training:

It immediately becomes obvious that the training made necessary by present-day conditions can not be met by the old methods. In fact, the ultimate goal is possible only through two means: State supported and controlled schools for police only; secondly, university co-operation.⁴⁵

A plan was then proposed which was not to be adopted until almost a half-century later: regional State-supported police training academies to be attended by all officers in every State.⁴⁶ These academies, aimed at providing complete training for even small-town policemen, would cover a curriculum similar to those of the four model programs discussed in the report. The Commission also recommended the establishment of minimum standards of instruction, curriculum and performance to govern law enforcement training in each State.⁴⁷

The pioneer college-level police science programs being offered at the time were then discussed. These consisted of various short-term courses in different aspects of police work. Such courses were being conducted at the University of Chicago, the University of Tennessee, Wilamette University in Oregon, and Northwestern University. The two-year program at San Jose State Teachers College, the forerunner of present-day community college programs, was described as having course work in police administration

⁴⁵Ibid., p. 79. ⁴⁶Ibid., p. 80. ⁴⁷Ibid., p. 139.

the criminal justice system, criminology, firearms training, psychology, chemistry, English, physical education, and electives for a total of forty-eight credits.⁴⁸ The discussion of training closed with an optimistic prediction which, unfortunately, was not to be realized until many decades later:

Necessity has demanded the application of science to police work. Colleges, universities, police department schools are all recognizing that necessity. The last 15 years have inaugurated the change, the next 15 may see a great chain of instruction throughout the country which will make possible an education for every policeman. Only in this manner can the police ever hope successfully to cope with the crime situation.⁴⁹

CHAPTER V--COMMUNICATION SYSTEM AND EQUIPMENT

In this chapter, the Commission examined the contemporary state of communications and equipment in law enforcement. City governments came in for initial criticism for failing to provide their police departments with adequate, modern equipment and communications systems. Effective communications capability was deemed absolutely necessary to meet the increasing mobility of the criminal:

Until the last decade the central siren, the telephone and the call box have constituted the sole means of intercommunication. And so long as the highways and byways did not offer a fast exit for the crook, and so long as he did not begin to capitalize on fast "eights" such systems were, in the main, satisfactory enough. Today however, . . . we have conditions which cannot

⁴⁸Ibid., p. 84.

⁴⁹Ibid., p. 85.

tolerate the older systems for a moment. Speed is essential in these days of rapid transportation. . . .⁵⁰

The Commission stated that a minimum signal system consisting of electrically controlled call boxes equipped with bell, light or horn for emergency summoning and placed at regular intervals throughout a city, was necessary to meet modern conditions.⁵¹

The Commission surveyed the communications situation in two ways: First, through its questionnaire sent to 745 cities of which 390 responded on the subject; and secondly, through a staff survey of 225 towns under 10,000. Municipalities were broken down into five groups, and the results of each were as follows: In Group 1, small towns of under 10,000 population, the inadequacy of equipment was called "tragic," with the police totally incapable of meeting the growing epidemic of small town crime. Of the 225 towns surveyed, 207 had no signal boxes, 108 had no system of general alarm, and at least 1 department was not even equipped with a telephone. In Group 2, towns of from 10,000 to 30,000, lack of adequate call boxes was still in evidence. Less than forty-five of the police agencies in this class were found to have acceptable facilities. In Group 3, cities of from 30,000 to 50,000, thirteen of the sixty-eight surveyed were unequipped with a recall system and less than

⁵⁰Ibid., p. 87.

⁵¹Ibid.

50 percent of the systems in use were judged to be effective. Group 4, towns of from 50,000 to 100,000, included twenty-five municipalities, of which only three were without call boxes. However, only 25 percent of the existing systems were rated efficient. In Group 5, cities over 100,000, all departments had call box systems, with all but two having emergency lights with bell or horn. In the 390 cities answering the questionnaire a total of approximately 14,200 call boxes were in service, but, in the opinion of the chiefs responding, an additional 11,700 were needed. In general, existing call box systems were deplored as grossly inefficient with such defects as poor recall signals and grouped wiring on single circuits allowing for one failure to inactivate an entire system.⁵²

Communication between district stations was found to be largely limited to the telephone, making rapid contact with headquarters virtually impossible. Chicago was cited as an example where general alarms required individual phone calls to all forty district stations, taking up to thirty minutes to complete.⁵³ To remedy this situation in large cities, the Commission proposed installation of teletype systems consisting of electrically operated typewriters connected to the telephone line. A message sent from headquarters would be automatically repeated at all connections

⁵²Ibid., pp. 88-92.

⁵³Ibid., p. 93.

along the circuit, with all stations accessible within a few minutes. Statewide teletype systems were already in use in Connecticut where twenty major cities were connected, and in Pennsylvania, where 100 police departments all over the state were linked up in a teletype network originating in the State capitol. A proposed system was also being planned which would link major agencies in New York, New Jersey, and Pennsylvania.⁵⁴ These systems, described in the report, were the prototypes of modern Statewide and regional radio and automated information systems.

The Commission next considered the use of the newly developed radio in law enforcement. The city of Detroit was commended for being the first to put the radio to practical use by outfitting all their cars with mobile units. The Commission saw great potential in the radio-equipped automobile:

With the advent of the radio-equipped car a new era has come. The sadly depleted ranks of the patrolman who walks the beat is now bolstered up. Districts of many square miles, which formerly were officially watched by only a few men who in the very nature of the case could not watch the area, are now covered by the roving patrol car, fast, efficient, stealthy, having a regular beat to patrol, just as liable to be within 60 feet as 3 miles of the crook plying his trade. . . .⁵⁵

The Commission, though forecasting the great future of police radio, perceptively saw the grave danger of congestion

⁵⁴Ibid., pp. 94-5.

⁵⁵Ibid., p. 97.

of the broadcast spectrum:

Should the air channels be occupied by the smaller towns, whose problem cannot be of the same magnitude as the large cities, a very serious check will be placed over the proper use of radio. The situation is particularly true in metropolitan areas, where the use of a number of radios would greatly complicate the situation.⁵⁶

The Commission recommended that the Federal Radio Commission set priorities of use and selectively allocate police radio frequencies on the basis of demonstrated need.

Police buildings in most cities were found to be totally inadequate. Increased manpower (it was estimated that the numerical strength of most departments had doubled in the thirty years since 1900), and the need for new automobile maintenance, detention and communications facilities had introduced new factors for which older buildings were unsuited. Many departments were housed in old, ramshackle buildings, with poor lighting and unhealthy sanitary conditions. Such facilities existed in Kansas City, Los Angeles, Minneapolis, and Denver.⁵⁷ The Commission advocated redistribution of precinct stations to meet changing conditions in population and crime. Many cities were maintaining substations in areas where population movements or industrial development had rendered the location obsolete while other newly settled districts were left unattended.⁵⁸ To remedy the equally serious problem of poor communication and

⁵⁶Ibid., p. 97. ⁵⁷Ibid., p. 100. ⁵⁸Ibid., p. 101.

cooperation between city and county criminal justice agencies, the concept of city-county justice buildings such as those in Milwaukee, San Francisco, and Detroit was supported.⁵⁹

In most police departments, both large and small, each officer had the responsibility of purchasing, with his own funds, his personal equipment, including uniform and gun. Many small departments, sheriff's offices, and State police units also required their men to furnish, maintain, and fuel their own motorcycles. Two hundred of the 225 small towns which were studied required their officers to purchase equipment. The Commission observed that this practice often led to graft and corruption as most officers were forced to borrow money from politicians or underworld figures.⁶⁰ The chapter closed with a recommendation to replace the motorcycle, which was then in wide use, with the automobile as the primary mode of police transportation.⁶¹

CHAPTER VI--RECORDS

A short discussion of police records revealed the methods currently in use. Record keeping was accomplished largely through the use of file cards to classify and store reports, complaints, and information. Newly introduced in

⁵⁹Ibid., p. 102. ⁶⁰Ibid., p. 103. ⁶¹Ibid., p. 104.

some departments were statistical sections which utilized the early punch card, sorting, and tabulating machines. The Commission claimed that police records were not being used to their full potential:

The statistics section is rarely the effective tool in police work in to which it can be made. Executives in general have not appreciated the strategic value of the vast amount of information which lies dormant around police departments.⁶²

The most frequently employed method of criminal identification was the Bertillon system of anthropometric measurements. Fingerprinting had not yet come into widespread use as the standard identification technique.

The Commission summarized the status of police records as in need of much improvement. A lack of primary information upon which to base administrative and operational decisions was found. Patterns in the occurrence of crime were largely ignored, and arrest records were seldom used to advantage, investigative report writing was generally poor, and record systems were decentralized and unorganized. Record divisions were commonly staffed by officers who, removed from patrol for inability or disability, were neither qualified for their work, nor committed to it in any degree. These men were termed "obstructionists" who resisted any efforts to improve the quality of their work and thus greatly decreased the effectiveness of the

⁶²Ibid., p. 106.

unit. The Commission recommended that unqualified sworn personnel be replaced in the records division by civilians trained and organized for clerical efficiency.⁶³

CHAPTER VII--CRIME PREVENTION

The Wickersham Commission's treatment of the issue of crime prevention was remarkably enlightened. The Report on Police contained the observation that prevention had traditionally been viewed in terms of mechanical devices and protection of property, with little concern for the problems of offenders. In assessing the causes for the contemporary crime wave, the Commission quoted a report of the New York State Legislature, which was strikingly similar to the words of today's social commentators and which provides a fascinating account of what things were really like in the "good old days." Among the causes to which the crime problem was attributable were:

. . . the great mass of unenforceable laws; the decrease in social and moral responsibility on the part of people generally; the ease and facility with which persons can obtain the tools of criminals--the pistol and the automobile; the waning of religious faith; the breaking up of home life; the lessening of responsibility of the family; the modern doctrine of "self-expression"; the departure from the old doctrine of discipline; the glorification of the criminal in the popular press and in fiction; the influence of moving pictures in similar fashion; the hip flask; narcotic drugs; the alien strain in our population; the display of great wealth; the Bedouin life existence of the Modern American and his greater mobility. . . .⁶⁴

⁶³Ibid., p. 109.

⁶⁴Ibid., p. 112.

Crime prevention in the Commission's view could best be effected by improving the physical environment and mental health of the young. To this end, establishment of special police crime prevention units to work with community welfare agencies was advocated. Such units would receive official recognition from their departments in order to command respect and cooperation of all officers. The units would be staffed by specially trained officers, chosen for professional competence and ability to handle delicate sociological and psychological problems. The crime prevention units would work closely with advisory committees consisting of representatives from schools, churches, welfare societies, charities, and the probation department. The Commission also called for crime prevention training for all patrolmen to enable them to detect juvenile problems on their beats.⁶⁵

In its consideration of crime prevention, the Report on Police included a discussion of the role of women in police work. There were reported to be 509 policewomen serving in 200 different departments in 1930. Women were found to be effective in handling cases of delinquent girls, in supervising dance halls, and in censoring motion pictures. However, the Commission stated that "their value as investigators in certain cases has been only partially realized in this country."⁶⁶ The chapter concluded with a

⁶⁵Ibid., pp. 115-17.

⁶⁶Ibid., p. 117.

plea for greater emphasis on crime prevention:

It is apparent that any program which gives promise of immediate or ultimate reduction of crime is justified in having a fair trial. Intensive work with juvenile delinquents deserves the considerable attention of all police departments.⁶⁷

CHAPTER VIII--POLICE SERVICE AND THE STATE

In this chapter, the Commission discussed the growing State police movement. Police service in each State was found to be the responsibility of a multitude of small, uncoordinated departments with varying standards of organization and effectiveness. Often acting completely independent of each other, these small police agencies provided totally inadequate patrol and protection. The Commission contended that the best solution to the ineffectiveness of these decentralized services was the creation of a State police force which would be under professional leadership, free of local political influences. Such an agency could recruit State-wide and operate unrestricted by municipal or county boundaries.⁶⁸

The State police movement was still in its early stages at the time the Commission's report was written. Only eight States, Pennsylvania, New York, New Jersey, Michigan, Massachusetts, Connecticut, Rhode Island, and West Virginia had police forces with full enforcement

⁶⁷Ibid., p. 122.

⁶⁸Ibid., p. 125.

jurisdiction, while fourteen others had limited police or highway patrol organizations. The report noted that home-rule advocates and labor organizations had defeated State police legislation in some states and attributed the latter opposition to the frequent involvement of State police in strikes. Support for the creation of State forces came from the International Association of Chiefs of Police.⁶⁹

The Commission claimed that the traditional sheriff-constable system of rural law enforcement was inadequate to meet current needs. The political nature of the sheriff's office, its discontinuity of tenure, the usual lack of training, insufficient manpower, and poor communications were all mentioned as common defects of the system. A State police force, united under a single administrator, was offered as the only practical method of rural policing.⁷⁰

CHAPTER IX--SUMMARY AND CONCLUSIONS

The Report on Police concluded with a summary of its findings and the presentation of its recommendations:

1. The corrupting influence of politics should be removed from the police organization.
2. The head of the department should be selected for competence, preferably a man of considerable police

⁶⁹Ibid., p. 127.

⁷⁰Ibid., p. 129.

experience, and removable from office only after preferment of charges and a public hearing.

3. Patrolmen should be able to rate a "B" on the Army Alpha test, be able-bodied and of good character, weigh at least 150 pounds, measure at least 5 feet 9 inches tall, and be between 21 and 31 years of age.

4. Salaries should permit decent living standards, the work day should be eight hours, and provisions should be made for annual vacation, fair sick leave with pay, just accident and death benefits, and reasonable pension.

5. Adequate recruit and inservice training is imperative.

6. The communication system should provide for call boxes, telephones, recall system, teletype, and radio.

7. Records should be complete, adequate, and used to secure administrative control of investigations and of department units in the interest of efficiency.

8. A crime prevention unit should be established and qualified women police should be engaged.

9. State police forces should be established to provide rural protection.

10. Bureaus of criminal investigation and information should be established by every State.⁷¹

* * * * *

⁷¹Ibid., p. 140.

REACTION TO THE REPORT ON POLICE

The Report on Police was released on August 1, 1931. Reaction was mixed. As might be expected, police chiefs and city officials in those cities which were singled out for criticism were quick to take issue with the report. Chicago's Mayor Cermak disputed the allegations made pertaining to the substandard intelligence of his city's policemen, claiming that "the men of the Chicago police force, as I know them, are of average intelligence."⁷² Cleveland's Chief George Matowitz denounced the Commission's charge that only 17 percent of his men were mentally fit for duty as "an outrage and an insult."⁷³ In Kansas City, Police Commissioner Russell Field stated that charges against his department in the report were based on conditions that had existed in years past, but had long been corrected.⁷⁴ Press reaction, according to Literary Digest, was largely critical as city newspapers rushed to the defense of their police departments.⁷⁵ The New York Times questioned the report's validity on many points, stating that it was "impossible to read without feeling that the study has been imperfectly done," and maintaining that the report was "too frequently

⁷²New York Times, August 2, 1931, p. 10.

⁷³Ibid. ⁷⁴Ibid.

⁷⁵Literary Digest, CX (August 15, 1931), 5.

superficial and careless . . . often making use of obsolete material."⁷⁶

Support for the Report on Police was equally vocal. Arthur V. Lashly, former director of the Illinois Crime Survey, writing in the American Bar Association Journal, observed that the report "recorded additional striking proofs of our failure as a nation to measure up to standards of efficiency in government," and praised the Commission's work as "official and authentic, based upon facts gathered by patient research, intelligently and expertly directed and conservatively reported."⁷⁷ A review of the report by George F. Chandler in the Journal of the American Institute of Criminal Law and Criminology, called the document "an excellent resume of the police situation throughout the United States" and claimed that the report was "of great benefit to the citizens of the United States, and should be given wide publicity."⁷⁸ The Nation joined in praise of the report:

The report is all the more striking in the completeness of its denunciation since it comes from no muckraking daily, but from a sober and conservative board of inquiry appointed by the President of the United States. It declares that there is a "general

⁷⁶New York Times, August 3, 1931, p. 16.

⁷⁷Arthur V. Lashly, "The Report on Police," American Bar Association Journal, XVIII (February, 1932), 93.

⁷⁸George Chandler, "The Report on Police," Journal of the American Institute of Criminal Law and Criminology, XXII (Mar, 1931-March, 1932), 783.

failure" of the police . . . [which] is of course precisely what everybody at all familiar with the police situation expected to learn.⁷⁹

Support for the Commission also came from a rather interesting source: The American City, the professional magazine of city administrators. Addressing its readers, who consisted largely of mayors, city managers, and police chiefs, the magazine cautiously expressed approval of the report:

Some self-restraint will be required by many of the American City's readers for a dispassionate study of the Report on Police. . . .

But assuming that George W. Wickersham and his associates on the Commission who signed the report, would make numerous exceptions to this general indictment of our police departments, and assuming a desire of municipal officials and chiefs of police to improve the public safety and administration of justice in their respective cities, the report under discussion contains much that is constructive and helpful.⁸⁰

⁷⁹"Our Police Failure," The Nation, CXXXIII (August 19, 1931), 173.

⁸⁰"Certain Acute Problems of Police Departments," The American City, XLV (September, 1931), 75.

Chapter 4

THE REPORT ON LAWLESSNESS IN LAW ENFORCEMENT

The Report on Lawlessness in Law Enforcement was a searing attack on the practice, widely used in police work in the early twentieth century, of the third degree. The report was prepared with the assistance of Professor Zechariah Chafee Jr. of Harvard Law School, and Walter H. Pollak and Carl S. Stern, both of the New York bar.

The report began with an introductory statement by the Commission in which the term "third degree" was defined as: "The employment of methods which inflict suffering, physical or mental, upon a person, in order to obtain from that person information about a crime."¹ The practice of the third degree was said to violate such fundamental rights as (1) personal liberty, (2) bail, (3) protection from personal assault and battery, (4) the presumption of innocence until proven guilty by due process, and (5) the right to counsel.² The Commission found the third degree to be frequently employed:

¹Wickersham Commission, The Report on Lawlessness in Law Enforcement (Montclair, N.J.: Patterson-Smith, 1968 [reprint]), p. 3.

²Ibid.

After reviewing the evidence obtainable the authors reach the conclusion that the third degree . . . is widespread. Protracted questioning of prisoners is commonly employed. Threats and methods of intimidation, adjusted to the age or mentality of the victim, are frequently used, either by themselves or in combination with some of the other practices mentioned. Physical brutality, illegal detention, and refusal to allow access of counsel to the prisoner is common.³

Delays in bringing accused persons before a magistrate in order to work on a confession, holding persons incommunicado from family, friends, and counsel, and brutality in making arrests were also found to be common and frequent in both urban and rural areas.⁴ Practice of the third degree was not limited to police officers and detectives but was carried on with the participation of prosecutors as well.⁵ Only among Federal officials was the practice found to be rare. The Commission's opening statement on the third degree closed on this note:

This Commission has deemed it to be its duty to lay the facts--the naked, ugly facts--of the existing abuses before the public, in the hope that the pressure of public condemnation may be so aroused that the conduct so violative of the fundamental principles of constitutional liberty . . . may be entirely abandoned.⁶

Before turning to the main body of the report, the Commission commented on the raging controversy surrounding the Mooney-Billings case in California. Strong urging had come from many sources for the Commission to investigate

³ Ibid., p. 4.

⁴ Ibid.

⁵ Ibid., p. 5.

⁶ Ibid., p. 6.

the actions of the police and prosecution in the celebrated case involving the conviction of radical labor activists Thomas J. Mooney and Warren H. Billings for the 1916 San Francisco Preparedness Day bombings.⁷ The Commission considered the question at a meeting in November, 1930, and unanimously adopted a resolution that intervention in such individual State cases was beyond the scope of its authority.⁸ It was decided to limit consideration of the case to a brief reference in the Report on Criminal Procedure.⁹ However, Chaffee, Pollack, and Stern, all dedicated to the cause of civil liberties and supporters of the National Mooney-Billings Committee, had decided to conduct their own investigation of the arrest, trial, and conviction, without the knowledge of or authorization by the members of the Commission.¹⁰ Commissioner Kenyon, who was also sympathetic to the Mooney-Billings cause, presented this hurriedly completed 240-page document to the other surprised members in the summer of 1931 as the Commission was winding up its affairs and preparing to release its final reports. Chairman Wickersham and the others were angered by this brazen

⁷Robert H. Frost, The Mooney Case (Stanford, Cal.: The Stanford University Press, 1968), pp. 412-13.

⁸Ibid., p. 413.

⁹See Wickersham Commission, The Report on Criminal Procedure (Montclair, N.J.: Patterson-Smith, 1968 [reprint]), p. 43.

¹⁰Frost, p. 414.

disregard for their earlier decision and refused to accept the report.¹¹ In officially accounting for the failure to release the report, the Commission stated that "it was beyond its province to investigate individual cases with a view to making recommendations as to their disposition, particularly in State courts."¹²

The decision not to make public the Mooney-Billings Report brought widespread criticism from many circles, especially from the liberal press. The editors of The New Republic bitterly denounced the Commission:

The fact is that the Commission was afraid of the Mooney case and for political reasons decided to suppress the report. . . .

.
It is impossible to avoid the conclusion that their present action is one of sheer political expediency and moral cowardice of a sort which will go with them to their graves.¹³

A group of progressive United States Senators led by Burton K. Wheeler of Montana, holding that "no study of 'lawlessness in law enforcement' could be complete without an analysis of this now-famous case," introduced a resolution in the Senate calling upon the Hoover Administration to produce the suppressed report.¹⁴ The Mooney-Billings

¹¹Ibid.

¹²Report on Lawlessness in Law Enforcement, p. 9.

¹³The New Republic, LXVIII (August 19, 1931), 3.

¹⁴The Mooney-Billings Report Suppressed by the Wickersham Commission (New York: Gotham House, Inc., 1932), p. viii.

Report was then sent to the Senate by the Justice Department, but a new resolution was offered to publish and distribute the report at the government's expense. The estimated cost of the publication was \$1800.¹⁵ However, as Senator Wheeler later related, "at every turn our efforts were blocked," and with adjournment, the resolution died in the Senate Judiciary Committee.¹⁶ The report was eventually published privately in 1932 under the title, The Mooney-Billings Report Suppressed by the Wickersham Commission.¹⁷ It was also recently released again by Patterson-Smith Publishers as part of their reprint edition of the Wickersham Commission Reports.¹⁸

CHAPTER I--INTRODUCTION

The main body of the report began with a discussion of the scope of the investigation employed in compiling the report. The report dealt with third degree cases verified by appellate court opinions from 1920 to 1930. Recognizing that accurate accounts would be impossible to get from the police themselves, the Commission relied upon these reported

¹⁵Frost, p. 414.

¹⁶The Mooney-Billings Report Suppressed by the Wickersham Commission, loc. cit.

¹⁷Ibid.

¹⁸See Wickersham Commission Reports, The Mooney-Billings Report (Montclair, N.J.: Patterson-Smith, 1968).

judicial decisions as well as on information gained from defense appeal briefs, newspapers, judges, former police officials, prosecutors, and voluntary public defenders. In addition, the Commission sent letters to forty-seven local bar associations and to the fifty associations in the States and Territories. The response, however, was very poor, with the majority of lawyer groups, for whatever reasons they had, wishing not to cooperate with the study.¹⁹ Detailed field studies of fifteen major cities were conducted to ascertain the existence and extent of third degree practices.

In its study, the Commission concentrated on the third degree but also considered other police practices which were illegal or oppressive. These included unauthorized raids and dragnet arrests, confinement in bad detention quarters under deplorable conditions, and unfair bail practices, all of which were related to prolonged and illegal detention and the subsequent use of the third degree.

CHAPTER II--THE EXISTENCE OF THE THIRD DEGREE IN THE UNITED STATES

The examination of the existence of the third degree began with a survey of the literature, in which eighty books or articles were found dealing with the subject. In considering opinions denying the existence of illegal practices,

¹⁹Wickersham Commission, Report on Lawlessness in Law Enforcement, p. 24.

arguments were presented by several chiefs, made at the 1910 convention of International Association of Chiefs of Police. The thrust of the chiefs' statements was that the third degree was a public misconception, created by yellow journalism and shyster lawyers; that prisoners were not mistreated, but merely questioned, with careful consideration of their rights; that police interrogation was no worse than courtroom testimony (the Commission pointed out the lack of defense counsel and an impartial judge in station-house proceedings).²⁰ Some chiefs absolutely denied the existence of the third degree, while others claimed that, if it did exist, it was a necessary police tool. One such statement, made by Chief Davis of Memphis, is noteworthy in its extraordinary disregard for due process and the concept of innocence until proven guilty:

If police officials were simply allowed to take the statement of a prisoner (when I say prisoner, I refer to a thief or murderer), and not attempt to contradict him in any manner, shape or form, there would be few convictions of criminals. The intelligent police officer generally knows when he has a guilty man under arrest.²¹

The Commission observed, that if all these contentions made in 1910 were correct, then things had certainly gotten worse since, in view of the findings of their study.²² The opinions of Dean Wigmore in his work on evidence were also considered as denials of the existence of the third degree.

²⁰ Ibid., pp. 39-40. ²¹ Ibid., p. 41. ²² Ibid.

Wigmore attributed stories of the third degree to "the reckless press and the doctrinaire critics of government."²³ The Commission also refuted this opinion in light of its current findings.

Opinions were then surveyed asserting the existence of the third degree. Wharton on Criminal Evidence was quoted as charging that brutal inquisitions were commonly held by the police in order to gain desired confessions.²⁴ The results of a survey of police chiefs conducted by the Russell Sage Foundation in 1921 were cited which indicated far more evidence of physical brutality than shown in the statements by the chiefs in 1910, and also revealed widespread use of mental pressure upon accused persons.²⁵ The report made in 1930 by the American Bar Association's Committee on Lawless Enforcement of Law was also quoted to support the existence of the third degree:

The "third degree" in the sense of rigid and severe examination of men under arrest by police officers or prosecuting attorneys, or both, is in use almost everywhere, if not everywhere, in the United States.²⁶

The Committee on Lawless Enforcement criticized the courts for their inability to control such practices and accused prosecuting attorneys of frequent participation in the illegal grillings.²⁷ The Commission cited numerous other

²³Ibid., p. 43. ²⁴Ibid., p. 44. ²⁵Ibid., p. 46.

²⁶Ibid., p. 47. ²⁷Ibid.

articles and accounts which asserted widespread use of the third degree.

Following the survey of the literature, reported cases of appellate courts were considered. These statements of reviewing tribunals based on a record of testimony taken in open court were offered by the Commission as strong evidence of the use of illegal police methods. Sixty-seven cases from 1920 to 1930, in which it was proven that third degree methods were employed to extort confessions, were studied. These cases came from three Federal and twenty-six State courts. Thirty-nine additional cases were examined in which there was some evidence of third degree practices. The Commission noted that these cases probably represented only a tiny proportion of the actual use of the third degree.²⁸

The next thirty pages of the Report on Lawlessness in Law Enforcement, pages 52 to 83, presented the facts from many of these third degree cases, describing the victims and methods of the illegal police interrogations. The stories were of incredible cruelty, rivaling any horror story imaginable.

The Commission then presented the results of its studies of fifteen major American cities. These surveys consisted of reviewing local laws relating to the detention

²⁸ Ibid., p. 53.

of prisoners and of interviews with criminal justice officials, city officials, leaders of the bar, representatives of the American Civil Liberties Union, social workers, journalists, citizens committees, and former prisoners. The findings in each city will now be reviewed.

New York

The city charter of New York contained a provision which enabled suspects to be detained overnight until the next sitting of a magistrate.²⁹ This provision, apparently contradictory to the New York State Code which gave defendants the opportunity to give bail at any hour of the day or night, was criticized by the New York Bar Association as giving police "the opportunity whether availed of or not, to perpetrate those acts of intimidation and coercion. . . ."³⁰ The bar association also contended that accusations of brutal and violent assaults to extort confessions were well founded in New York City.³¹ The Commission attributed the extensive use of the third degree in New York to the widespread corruption in the city's criminal justice system. Graft often enabled criminals, who had been brought to justice through hard and effective police work, to get off through political influence. Thus police had become frustrated and, unconcerned with the future prosecutions, were "inclined to take the easiest

²⁹Ibid., p. 84.

³⁰Ibid.

³¹Ibid., p. 85.

course and merely try to get a confession without a too nice regard for the means employed."³²

Use of the third degree in New York was further encouraged by the attitude of city officials. Mayor Jimmy Walker had stated that "for successful police work, the old-fashioned nightstick was far more effective than the new scientific ideas," while Police Commissioner Grover Whalen had remarked in a public address that criminals were to be "driven out of New York regardless of their constitutional rights."³³ Proponents of the use of force by the police in New York claimed that the city's unique and explosive crime problem called for such extreme measures, and that any restrictions on police action would result in the criminals getting the upper hand.³⁴

Brutality during arrests was found to be very common in New York. The Voluntary Defenders Committee in 1930, found 284 alleged cases of beatings by the police at the time of arrest.³⁵ The Commission noted that strong evidence of the use of such force in arrest indicated that the New York Police were more likely to use brutality for other purposes, including the third degree in interrogations.³⁶ Their investigators in New York found this to be true, that the third degree was "widely and brutally employed in New York

³²Ibid., p. 87. ³³Ibid. ³⁴Ibid., p. 88.

³⁵Ibid., p. 89 (note). ³⁶Ibid., p. 90.

City."³⁷ In interviews with lawyers, district attorneys, and other officials, the field study revealed that the third degree was frequently used by the detective force in felony cases, although usually not employed for misdemeanors.³⁸ Arrested persons were often seen to enter station houses in good shape only to be seen shortly afterwards in the New York Tombs covered with blood. The standard police excuse was that "the prisoners fell downstairs."³⁹ The report related the gory facts of numerous third degree cases and presented statistics compiled by the Voluntary Defenders on the incidence of police brutalities.

Buffalo

The Buffalo Police Department was found to obtain "an exceptional number of confessions."⁴⁰ Indicative of the attitude in Buffalo were the statements of the police commissioner:

If I have to violate the Constitution or my oath of office, I'll violate the Constitution. . . . Shysters have turned the Constitution into a refuge for the criminal. . . . I'm going to protect the community. If in doing so I make a mistake and trespass on somebody's rights, let him sue.⁴¹

The Commission concluded that, based on its evidence and all indications, "there seems little doubt of the existence of the third degree in Buffalo."⁴² Suspects who were

³⁷Ibid. ³⁸Ibid., p. 91. ³⁹Ibid., p. 92.

⁴⁰Ibid., p. 102. ⁴¹Ibid., p. 103. ⁴²Ibid.

uncooperative with the police were often held for as long as six days before arraignment, in crowded, filthy cells.⁴³

Boston

The third degree and related types of police illegality were found to be at a minimum in Boston. Although charges of brutality were made occasionally, they were judged to be not serious and often unsubstantiated. The Commission attributed the virtual absence of the third degree in Boston to the following factors: a citizenry which would not tolerate it, a vigilant press, a strong departmental tradition against lawlessness, the absence of machine-dominated politics in the city, the absence of gangs in the city, the superior quality of the Boston police courts, the policy of the police department requiring each officer to pay his own judgments when sued for lawlessness, and the city and State statutes and procedures which lessened the opportunity for practice of the third degree.⁴⁴ The Boston Police Department was praised as a professional agency under strong leadership. Such findings are indeed interesting in view of the serious charges of brutality and ineffectiveness brought against the Boston Police Department in recent years.

⁴³Ibid.

⁴⁴Ibid., p. 106.

Newark

The third degree existed in Newark, but "subject to control."⁴⁵ While the use of pressure in various forms was found to be frequent, there were no outstanding flagrant cases. Pressure was not applied by uniformed patrolmen but was limited to the detectives. The "hard and soft" method was frequently used by which one officer roughed up a suspect, and, unsuccessful in his attempts to get answers, was then replaced by another detective who used deceptive friendliness and sympathy to gain the suspect's confidence and a confession.⁴⁶ The holding of suspects incommunicado was often used and was defended by police as essential to the interrogation process. Forty hours was the usual period of such detention.⁴⁷ The Commission concluded that, while the conduct of Newark's police was nothing to admire, it was at least not as bad as that of most other departments which were observed.⁴⁸

Philadelphia

While the third degree was frequently employed in Philadelphia for many years, the Wickersham Commission found that it had virtually disappeared under the administration of Director of Public Safety Lemuel Scholfield.⁴⁹ However,

⁴⁵Ibid., p. 110. ⁴⁶Ibid., p. 111. ⁴⁷Ibid., p. 112.

⁴⁸Ibid. ⁴⁹Ibid., p. 114.

brutality in connection with arrest persisted and prolonged detention was common, with uncooperative suspects put into "cold storage," for up to three weeks incommunicado.⁵⁰

"Cold storage" was defended by the Philadelphia police as essential to the "merciful method" of gaining confessions. Detention facilities for such purposes were found to be filthy and overcrowded.⁵¹

Cincinnati

Despite an abundance of Ohio laws protecting the rights of suspects, the Cincinnati police often held persons "for investigation" over long periods of time, sometimes up to fourteen days. This was a common, accepted practice with no attempt by police to conceal their actions.⁵² Detention cells were dark and infested. While street brutality occasionally occurred against Negroes, and incidents of "ill judged" shooting by policemen were sometimes reported, the Cincinnati department got a passing grade from the Commission because of its opposition to the third degree.⁵³ Illegal interrogations were infrequent, a fact attributed to the authority of the city manager to dismiss delinquent officers and to the vigilance of the city's Voluntary Defender office.⁵⁴

⁵⁰Ibid.

⁵¹Ibid., p. 115.

⁵²Ibid., p. 116.

⁵³Ibid., p. 117.

⁵⁴Ibid.

Cleveland

The third degree was very prevalent in this city, with charges that it was practiced constantly by the police. Prolonged relay questioning, starvation of prisoners, depriving suspects of sleep, and physical beatings were all employed to extort confessions.⁵⁵

Detroit

In the Motor City, while evidence of the use of the third degree existed, the practice was found to be limited, with no outstanding cases reported. Questionable methods which were employed, however, included interrogation of murder suspects at the city morgue, in view of the corpses of their supposed victims, and detention incommunicado, accomplished by shifting a prisoner from station to station before could be reached by friends or counsel.⁵⁶ Street brutality was also a common occurrence in Detroit.

Chicago

Although Illinois had several statutes making criminal the infliction or threat of violence upon prisoners by the police, the third degree was found to be "thoroughly at home" in the Chicago Police Department.⁵⁷ The Commission was informed that it was an exception when a suspect was

⁵⁵Ibid., pp. 118-20. ⁵⁶Ibid., p. 121.

⁵⁷Ibid., p. 125.

not subjected to personal violence. There were indications that the use of the third degree was decreasing, but for an interesting reason. The Chicago police were beginning to fear retaliation by the city's notorious gangs who had taken revenge on individual policemen found to be responsible for the beatings of their members. Thus, a suspect with gang or political connections was usually immune from the third degree. Independent prisoners, however, continued to be subject to brutality.⁵⁸

Participation by prosecutors in third degree grillings was common, as was illegal detention incommunicado.⁵⁹ The practices of "kidnapping prior to arrest," and "losing" suspects for days at a time, were employed to circumvent the requirement that the accused be produced in court without unnecessary delay after arrest.⁶⁰ Round-up arrests and street brutality were known to occur, and excessive bail requirements aided the illegal detention practices. The Commission found these abuses to go unchecked, largely due to the concern of Chicago's "good citizens" over the raging crime problem which had beset their city.⁶¹ This was the era of open gangland lawlessness in Chicago and the extreme police measures were justified by the public as necessary to meet the rough situation.

⁵⁸Ibid., p. 126.

⁵⁹Ibid.

⁶⁰Ibid., p. 127.

⁶¹Ibid., p. 130.

Dallas

In Dallas, the prevailing illegal practices were arrests without due cause, detention without proper charges, and denial of access by counsel.⁶² However, while suspects were frequently held for days in "incommunicado cells," no clear conclusion was reached as to whether the third degree was actually employed by the Dallas police.

El Paso

Conditions in this Texas city were found to be better than usual, a fact the Commission attributed to a vigilant press. Newspaper reporters and lawyers were allowed free access to police headquarters so that excommunicado detention and third degree interrogations were virtually nonexistent.⁶³

Denver

The Denver police, though subject to definitive Colorado statutes safeguarding the rights of the accused, were found to engage in flagrantly illegal practices. Long periods of isolated detention in horrible, filthy jails were common. While the third degree was not used as a standard operating procedure, brutal methods of obtaining confessions were employed in special cases where police were under pressure to solve a case.⁶⁴ The Commission found in Denver,

⁶²Ibid., p. 138. ⁶³Ibid., p. 139. ⁶⁴Ibid., p. 141.

a generally poor law enforcement situation which the community had found difficult to improve.

Los Angeles

Despite statutory provisions against it, and the presence of organized opposition by the Los Angeles Bar Association, the third degree did exist in this city. Arrest on suspicion, stationhouse beatings, and lengthy detention incommunicado were all reported to be common.⁶⁵ Vagrancy charges were frequently used as a pretext for arrest until further evidence could be obtained against persons suspected of crime. These illegal practices persisted in the face of wide public opposition to police lawlessness, led by such groups as the Southern California Academy of Criminology, the Constitutional Rights Committee of the Bar Association, the Los Angeles Public Defenders, and the American Civil Liberties Union.⁶⁶

San Francisco

Street brutality, patrol-wagon beatings, and the third degree were practiced with abundant frequency by the San Francisco Police Department. Arrests in the city were said to result in "the systematic beating of virtually all suspects" and "loose and perpetual brutality" was the

⁶⁵Ibid., pp. 143-44.

⁶⁶Ibid., p. 147.

standard operating procedure.⁶⁷ Most of the beatings occurred at police headquarters situated ironically, in a building called the "Hall of Justice," and were perpetrated largely on persons with criminal records, poor people, radicals, and persons of low mentality.⁶⁸ The Commission observed that, unlike Los Angeles, "no public body seems to have interested itself in the problem."⁶⁹

Seattle

Seattle, a seaport center frequented by lumberjacks, sailors, smugglers, and a "tough underworld," was described as a city "of the kind that would engender fighting qualities on the part of the police."⁷⁰ Severe beating accompanying arrest was standard practice, and continued in the police cars on the way to jail and in the booking room. Booking was often on "open charges" and detention incommunicado was common. With so much violence preceding interrogation, use of the third degree to extract confessions was usually not necessary.⁷¹

After presenting the findings of its survey of the fifteen cities, the Wickersham Commission stated several conclusions regarding the use of the third degree by police in the United States:

⁶⁷Ibid., p. 148.

⁶⁸Ibid., p. 149.

⁶⁹Ibid.

⁷⁰Ibid.

⁷¹Ibid., p. 150.

1. Existence of the third degree was widespread.
2. Physical brutality was extensive.
3. Protracted questioning was common.
4. Threats and intimidation were frequently used alone or in combination with other practices.
5. Prisoners were often held for long periods of time incommunicado.
6. Jail conditions were deplorable.
7. Police brutality during arrest was common.
8. The third degree was known to exist in over half the States in the Union and cases involving its use had been proven in thirty-five major cities.⁷²

The Commission concluded with this statement:

When all allowances are made, it remains beyond doubt that the practice is shocking in its character and extent, violative of American traditions and institutions and not to be tolerated.⁷³

REACTION TO THE REPORT ON LAWLESSNESS IN
LAW ENFORCEMENT

Reaction to the Commission's report on police lawlessness was, for the most part, favorable. A review by E. W. Camp, a Los Angeles attorney, in the American Bar Association Journal, predicted that "the report will be a standard book of reference and should have lasting effectiveness," and noted that investigations of police

⁷²Ibid., pp. 153-55.

⁷³Ibid., p. 155.

brutality had already begun in Los Angeles, San Francisco, and Washington, D.C.⁷⁴ The Christian Century expressed full support for the work of the Commission:

The facts in regard to the administration of the third degree are never easy to collect and prove with perfect certainty. The experts employed by the Wickersham Commission have, nevertheless, assembled a body of evidence which is cumulatively convincing, . . . The weight of the total body of facts--of "ugly, naked, facts" to use the Commission's own phrase--is overwhelming.⁷⁵

Professor Albert Hart of Harvard, writing in Current History, supported the Commission's findings and called for immediate action to improve the terrible jail conditions revealed in the report.⁷⁶

Heavy criticism, however, came from police officials across the country. Literary Digest reported the reaction of the law enforcement community:

Indignant denials from police officials and defenses of police methods burn up the press wires as they crackle from city to city. To summarize the headlines: New York denies; San Francisco denies; "untrue" says Richmond's chief; "unfair" says Buffalo's.⁷⁷

The International Association of Chiefs of Police devoted

⁷⁴E. W. Camp, "Review of Report on Police," American Bar Association Journal, XVIII (January, 1932), 868.

⁷⁵"Lawlessness in Law Enforcement," Christian Century (XLVIII (August 26, 1931), 1061.

⁷⁶Albert B. Hart, "The Use of Torture in America's Prisons," Current History, XXXV (November, 1931), 250.

⁷⁷"The Third Degree Under Fire," Literary Digest, CX (August 22, 1931), 7.

part of their 1932 Convention in Portland, Oregon, to an open discussion of the findings in the Report on Lawlessness in Law Enforcement. Hugh D. Harper, president of the association, and Chief of the Colorado Springs Police Department, claimed that "the Wickersham Commission report has done more to injure the whole question of law enforcement than anything else has ever done."⁷⁸ Chief Duncan Matheson of San Francisco (who, coincidentally as captain of the bomb squad in 1916, was the detective in charge of investigating the Preparedness Day Bombing in San Francisco which eventually led to the arrest of Thomas Mooney and Warren Billings) remarked that "nothing has happened throughout the United States in the last fifty years, that has hurt the police departments of this country so much as the Wickersham Commission Report."⁷⁹ Chief W. G. Walker stated that "propaganda of this kind creates a lot of false illusions concerning officers which, when it is broadcast concerning law enforcement, is very bad for our work."⁸⁰ A motion was passed to appoint a committee of five to investigate the Report on Lawlessness in Law Enforcement and to report its findings to the next convention. At the 1933 convention, held in Chicago, Chief Austin J. Roche, of Buffalo, whose department was singled

⁷⁸International Association of Chiefs of Police, Proceedings of 39th Annual Convention, June 14-17, 1932, p. 152.

⁷⁹Ibid., p. 153.

⁸⁰Ibid., p. 155.

out for severe criticism by the Commission, presented the statement of the "Committee to Investigate the Report of the Wickersham Commission." Chief Roche delivered this denouncement of the report:

The Wickersham Commission, after many months of investigation, and at a cost of thousands of dollars, instead of reporting the cause of crime and suggesting a remedy, returned a report based on misrepresentation, garbled statements and distortion of truth to the President of the United States, that, in my opinion, amounted to a general indictment against policemen in particular, and law enforcement agents in general, charging us with unlawful law enforcement. . . . I am convinced that public indictment of policemen was unfair and has done no good."⁸¹

Roche went on to call the report "ridiculous and far-fetched" and stated that while the report contained many unfounded charges, it did not make any suggestions to bring about better law enforcement.⁸² (Actually the Commission presented several recommendations for reforms in prosecution and criminal procedure aimed at eliminating police lawlessness.)

* * * * *

The Report on Police and the Report on Lawlessness in Law Enforcement constituted the major part of the

⁸¹International Association of Chiefs of Police, Proceedings of 40th Annual Convention, July 31-August 3, 1933, p. 41.

⁸²Ibid.

Wickersham Commission's treatment of law enforcement in America. Together they present a terrifying picture of futility, chaos, corruption, and violence. These sweeping indictments of the police are all the more shocking when one realizes that they came not from a group of dissident protesting crusaders, but from a very conservative panel of judges, lawyers, and public officials, appointed by and responsible to the President of the United States.

To complete the review of the Commission's study of law enforcement, two other reports will now be considered which provide further insights into police administration in the early twentieth century.

Chapter 5

THE WICKERSHAM COMMISSION'S STUDIES ON THE COST OF CRIME AND CRIMINAL STATISTICS

THE REPORT ON THE COST OF CRIME

The Wickersham Commission undertook the first comprehensive, scientific study of the economic impact of crime and criminal justice ever attempted in the United States.¹ The study was conducted by the staff under the direction of Goldthwaite H. Dorr, former assistant Attorney-General of the United States and Sidney P. Simpson of the New York Bar. The study included an examination of all the published material, including statistics, relating to the subject; the collection of material relating to the costs of State police and penal institutions; a pioneer nationwide field survey of the cost of administering criminal justice in 300 American cities of over 25,000 population; a study of the cost of Federal criminal justice; a collection of data relating to private expenditures for crime protection; and an analysis of private and community losses attributable

¹Wickersham Commission, The Report on the Cost of Crime (Montclair, N.J.: Patterson-Smith, 1968 [reprint]), p. 1.

to crime. Consideration of the Report on the Cost of Crime in the present discussion will concentrate on those findings relating to the police in particular.

The treatment of the police in the report was limited to "that part of the cost of the police properly allocable to the activities of Federal, State, county, and municipal police agencies in preventing and detecting crime as distinguished from their administrative activities."²

Federal Law Enforcement

The two most important Federal law enforcement agencies were the Bureau of Investigation and the Bureau of Prohibition, both of the Department of Justice. The Bureau of Investigation was charged with the investigation of most offenses against the United States, except Prohibition violations and counterfeiting and was also designated to collect criminal identification records and police information. The cost of police activities of the Bureau of Investigation was approximately \$2.7 million in the fiscal year 1930.³ The Bureau of Prohibition had responsibility for investigations and apprehension of violators of the laws relating to Prohibition. The budget of this bureau was \$9 million in the fiscal year 1930.⁴ However, the total cost of enforcement activities relating to Prohibition was estimated to be

²Ibid., p. 46. ³Ibid., p. 95. ⁴Ibid., p. 96.

\$34 million out of a total Federal criminal justice expenditure of \$52 million.⁵ The cost of police activities of the United States marshals for the fiscal year 1930 was approximately \$3 million.⁶ The report estimated that the total cost of criminal police activities in all Federal law enforcement agencies was \$35.9 million in the fiscal year 1930.⁷

State Police

The Commission presented a cost study of the State police forces of Connecticut, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, Texas, and West Virginia. These were the only states which had police forces regularly exercising general police powers.⁸ The cost data presented were from the year 1928. The total cost of the eleven forces was approximately \$2.5 million.⁹ New York, with a force of 593 men, had the largest budget, \$1.85 million, while Texas, with a force of only 30 officers, operated with only \$69,000.¹⁰ Salaries in State police agencies were very low, ranging from a low of \$1,229 per year in Maine, to a high of \$1,949 annually for the Connecticut force.¹¹

⁵Ibid., p. 2.

⁶Ibid., p. 102.

⁷Ibid., p. 106.

⁸Ibid., p. 197.

⁹Ibid., p. 2.

¹⁰Ibid., p. 199.

¹¹Ibid., p. 200.

Municipal Police

The Wickersham Commission's monumental study of the cost of administration of criminal justice in American cities was conducted in 300 cities of 25,000 or more population. Assisting in the study were hundreds of field investigators from municipal research bureaus, universities, chambers of commerce, and civic organizations. The studies were coordinated through the use of detailed field manuals which provided instructions and procedures to be followed by researchers in each city. The total cost of criminal justice in 1930 for the 300 cities surveyed, including police, prosecution, public defense, courts, correctional facilities, and probation, was approximately \$243.5 million. Of this total, \$194 million went for the costs of municipal police.¹² The highest per capita costs for local policing were found to be \$7.45 in Jersey City, N.J.; \$7.29 in Philadelphia; \$7.14 in Washington, D.C.; and \$6.23 in New York City. Average per capita expenditure ranged from \$1.00 to \$3.00.¹³

Unfortunately, the study of municipal costs in criminal justice was limited by time and a lack of technology. Without the assistance of modern data processing, the Commission was unable to conduct a comparative analysis of the more than fifty pages of data gained from the study,

¹²Ibid., p. 333.

¹³Ibid., pp. 283-89.

and was able to present only the raw data. However, the figures presented do provide some significant insights into the economics of police administration, circa 1930.

In assessing the findings of the Report on the Cost of Crime, the Commission came to two important conclusions:

1. The preponderant share of the total funds used for criminal justice purposes which was being allocated to police departments indicated the critical need for active measures aimed at increasing police efficiency to a level commensurate with the very large expenditures involved. From the standpoint of the burden imposed on the taxpaying public, the police were to be considered the most important part of the machinery of criminal justice, and the one where high standards of efficiency and economy in administration were most needed.¹⁴

2. The cost of criminal justice could be greatly reduced by limiting the extent to which social control by means of the criminal law was attempted. A significant part of the money required to be expended in the administration of criminal justice was being spent in the enforcement by criminal proceedings of statutes regulating social conduct. It was debatable whether the police and the courts were intrinsically qualified to deal with personal behavior through invocation of the criminal law. A thorough

¹⁴Ibid., p. 444.

overhauling of the criminal codes, with a view toward evaluating the social benefits of such statutes in light of the exorbitant costs of their administration, was highly desirable.¹⁵

THE REPORT ON CRIMINAL STATISTICS

The Commission's Report on Criminal Statistics indicated that increasing recognition was being accorded to the need for accurate information on which to base police action. In 1930, the science of criminal statistics was still in its primitive stages. The report stated that a system of gathering, compiling, and reporting of statistics relating to crime, criminals, and criminal justice had not yet been achieved on a national scale and that such a system was essential for improvement.¹⁶ Five basic principles of criminal statistics were outlined:

1. Compilation and publication of criminal statistics should be centralized.
2. There should be a correlation of State and Federal statistics in one Federal bureau.
3. Local officials should do no more than turn in to a central State office what their records

¹⁵Ibid., p. 447.

¹⁶Wickersham Commission, The Report on Criminal Statistics (Montclair, N.J.: Patterson-Smith, 1968 [reprint]), p. 3.

disclose. There, analysis would be conducted by experts.

4. To insure accuracy of statistics, the compilation and publication of data should be undertaken only by a bureau which is not itself engaged in law enforcement activities.
5. There should be a comprehensive plan for an ultimate complete body of statistics covering all areas of criminal justice.¹⁷

The Commission commended the International Association of Chiefs of Police for inaugurating the collection of national police statistics in January of 1930, but pointed out that more than private initiative was needed for success of a national comprehensive plan.¹⁸ The collection of police crime records had been taken over from the I.A.C.P. by the Bureau of Investigation of the Justice Department in September, 1930, and their publication as the Uniform Crime Reports had recently begun on a monthly basis under the direction of J. Edgar Hoover. The Commission observed that the Bureau, itself a law enforcement agency, and subject to pressure for productivity, presented its crime reports as authoritative, quoting and interpreting them without qualification. The limitations of the Uniform Crime Reports were emphasized:

¹⁷ Ibid., p. 5.

¹⁸ Ibid., p. 12.

It requires no great study of these reports to perceive a number of weaknesses which should impose a more cautious promulgation of them. The basic reports are made by persons and under conditions which involve varying degrees of guarantee of their accuracy and reliability. Indeed, the significant fact that cities are beginning to use these reports in order to advertize their freedom from crime as compared with other municipalities suggests at once a difficulty under which the voluntary system of gathering police statistics for national purposes must labor.¹⁹

It is interesting to note that, almost fifty years after this perceptive and valid evaluation, the Uniform Crime Reports are still accepted virtually without reservation, in spite of the facts that their validity is yet open to question and that abuses in their compilation and use probably still persist.

The Commission went on to recommend that the responsibility for police statistics be transferred from the Bureau of Investigation to the Bureau of the Census, which already had jurisdiction over prison statistics.²⁰ J. Edgar Hoover, still in the early period of his empire-building, took this proposal and the criticism of the Uniform Crime Reports as a threat to his young bureau's growing prominence and issued a public statement opposing the Commission. He defended his method of collecting police statistics as "the most satisfactory yet found," and vowed to continue the reports "without abatement."²¹

¹⁹Ibid., p. 13.

²⁰Ibid., p. 15.

²¹New York Times, March 6, 1932, Section II, p. 2.

A survey of police statistics in the United States was conducted for the Commission by Professor Sam Bass Warner, of Harvard Law School. The survey found that out of all the municipalities in the country, only 285 cities published some form of police statistics.²² These statistics came invariably from the records of city police departments and were, for the most part, skimpy and crude, with no uniformity in format.²³ The Commission recommended that State record bureaus be established to receive, correlate, and verify local police statistics.²⁴ The Bureau of the Census would then receive statistics from all the States and analyse and publish them for national distribution.²⁵ A further recommendation was made that the Federal government should not, at the present time, attempt to obtain statistics of crimes known to the police:

Everybody admits that correct statistics of crimes known to the police and other crime-detecting agencies are worth collecting and are the best known index of the amount of crime committed. At present, statistics of offenses committed are, however, so untrustworthy in most American cities as to be unworthy of a place in a national publication. . . .²⁶

The Commission maintained that the publication of these police statistics by the Federal government would be, in effect, giving them official sanction. The result would be

²²Report on Criminal Statistics, p. 32.

²³*Ibid.*, p. 33. ²⁴*Ibid.*, p. 49.

²⁵*Ibid.*, p. 50. ²⁶*Ibid.*, p. 52.

that public opinion and legislation would be based on false and incorrect information.²⁷ The Commission held instead, that court statistics of prosecutions were the best existing index of criminality and recommended that information concerning persons arrested be obtained only from court records and not from the police.²⁸

* * * * *

It has been attempted in the previous three chapters, discussing the reports of the Wickersham Commission dealing directly with the police, to present a composite picture of the state of American law enforcement in 1930. While further insights might be gained from surveying additional sources, the writer believes that the authority and comprehensiveness of the Commission's findings permit the conclusion that the preceding pages provide an accurate overview of the contemporary state of affairs. The next section of this paper will consider the results and impact of the three-year study of the National Commission on Law Observation and Enforcement.

²⁷Ibid., p. 55.

²⁸Ibid.

PART THREE

THE RESULTS AND IMPACT OF THE
WICKERSHAM COMMISSION

INTRODUCTION

The National Commission on Law Observance and Enforcement came to a very quiet and obscure end on July 1, 1931. By that time, the Commission had already disbanded, the staff had ceased work, and only the final tasks of auditing the completing the Commission's business affairs remained. The many people who had been associated with the Commission could now turn to other endeavors and wait to see if their labors of three years would come to any fruition.

Indications are that the Commission members themselves were disappointed in the outcome of their efforts. Most of the Commissioners felt that the many reports had hardly been used at all and would probably have little impact.¹ George Wickersham, addressing the Conference of the Religious Education Association of America, in 1932, observed that most of the Commission's work had received "little or no attention," following the uproar over the Prohibition reports.² These pessimistic assessments were

¹Winthrop D. Lane, "Utilization of the Wickersham Reports on Law Observance and Enforcement," Proceedings of the 59th National Conference of Social Work (Chicago: University of Chicago Press, 1932), p. 546.

²New York Times, May 4, 1932, p. 15.

confirmed in the 1931 Annual Report of the United States Government Printing Office, which revealed that not a single bound set of the fourteen Commission reports had been sold, despite the fact that 300 sets were printed and offered to the public at a very modest \$6.75 each.³

What were the ultimate final results of the Wickersham Commission's investigation? What, if any, impact did it have on the subsequent development of law enforcement in the United States? Did any substantial changes occur as a product of its findings and recommendations? Perhaps these questions can best be answered by those experts who wrote on the subject of the police in America during the years following the Commission's work. Chapter 6 will consist of a survey of law enforcement literature covering writings from 1935 to 1965 and will concentrate on commentary in those specific areas which were dealt with in the Wickersham reports. Chapter 7 will consider the findings and recommendations of four Presidential Commissions created between 1965 and 1970 to study various aspects of crime, violence, and law enforcement. The purpose of the next two chapters will be to examine the development of American policing since the Wickersham Commission with a view toward assessing its impact.

³New York Times, January 23, 1932, p. 2.

Chapter 6

THE DEVELOPMENT OF THE POLICE IN AMERICA--

1935-1965: A SURVEY OF THE LITERATURE

Five years after he had directed the study of the Report on Police for the Wickersham Commission, August Vollmer published a major work on law enforcement, The Police in Modern Society. This book, released in 1936, would probably be the best indication of any immediate impact which the Commission had on American policing. Coming from the man who supervised the Commission's police study, it would be most sensitive to any changes resulting from that study. Vollmer's opening statement allows for little optimism that any immediate substantial progress had been made:

The police services of the United States have traveled just as far toward the control and prevention of crime as the public will permit. So long as legal procedure and political influence are allowed to bring comfort and aid to a criminal population of more than five million persons . . . so long will the police labor in vain and the American people carry a weight of human loss and tragedy that cannot be measured.¹

Vollmer reported a staggering rate of major crimes of violence, the growth of organized crime, kidnapping, gang

¹August Vollmer, The Police in Modern Society (College Park, Md.: McGrath Publishing Co., 1969 [reprint]), p. 1.

wars, subversive activities, and riots as the major crime problem facing the police in 1936.² His observations in many areas appear very similar to those made in the Report on Police, thus indicating that he had perceived very little progress. He cited poor quality personnel as still the greatest weakness in American policing:

In departments of all sizes, the percentage of men suited to police work is woefully small. Far too many policemen are purely political appointees, with no technical knowledge of the work and quite unsuited to it.³

Vollmer contended that 90 percent of the patrolmen in the United States were not mentally fit for duty and claimed that Civil Service was not working to improve the caliber of manpower.⁴ He noted that training was still being ignored:

Daily, demonstrations of incompetency in various police forces are made, but no one, apparently, cares to heed the lesson they should teach. Where untrained persons are permitted to function as policemen, no person's life or liberty is safe.⁵

According to the information contained in The Police in Modern Society, coordination between jurisdictions was still lacking, and the police were still relying on obsolete and inadequate equipment.⁶ Communications systems had not substantially improved.⁷ Infiltration and control of police departments by corrupt politicians remained a

²Ibid., p. 2. ³Ibid., p. 4. ⁴Ibid., p. 224.

⁵Ibid., p. 231. ⁶Ibid., p. 4. ⁷Ibid., p. 35.

severe problem.⁸ From the indications presented by Vollmer in 1936, it would appear that conditions remained virtually unchanged in the years immediately following the Wickersham Commission.

In 1939, there appeared a study by R. Weldon Cooper, entitled Municipal Police Administration in Texas. Cooper presented a composite picture of the typical Texas police chief which was essentially identical to the Wickersham Commission's findings on the police executive:

The Chief is an appointive official, ordinarily selected by the council or mayor; he is approximately fifty years of age; his tenure is less than four years, and his compensation, except in the largest cities, is below \$2000. . . . The practice of selecting the police executive from the ranks of the department is followed ordinarily by an uncertain and brief tenure dependent on the vagaries of politics.⁹

Cooper also found that there was, among the chiefs in the State, a general lack of interest in police advancement, as evidenced by the fact that only four chiefs in the entire State, out of a total of 286, were members of the International Association of Chiefs of Police.¹⁰ Cooper also discovered that the merit system was virtually nonexistent:

By and large, the Texas municipal civil service, save for the uncertain safeguards in the six cities

⁸Ibid., p. 69.

⁹R. Weldon Cooper, Municipal Police Administration in Texas (Chicago: University of Chicago Libraries, 1939), p. 100.

¹⁰Ibid., p. 99.

with formal merit systems, is subject to all the usual practices of spoils politics.¹¹

This fact was illustrated by the example of one city of 40,000 which, in 1937, had experienced a complete change in the offices of mayor and city council, and, as a result, dismissed thirty-two of its thirty-three police officers.¹²

Cooper's findings revealed that little progress had been made in police training. Only the four largest cities in the State had training programs and these, for the most part, were "sporadic, being conducted not as a continuous program but from time to time as occasion permits."¹³

Compensation was found to be grossly inadequate, with officers in cities of from 10,000 to 40,000 working an average of seventy-six hours per week for a wage of \$0.35 an hour.¹⁴

Police Systems in the United States by Bruce Smith first appeared in 1940. It was revised in 1949 and that edition is used in this review to give a clearer picture of police development during that decade. Smith's book was an overview of the nation's law enforcement system and covered a wide range of topics and issues. Bruce Smith was perhaps the first of the new breed of police consultants, and through the auspices of the Institute of Public Administration in New York, conducted detailed surveys of

¹¹Ibid., p. 153.

¹²Ibid.

¹³Ibid., p. 172.

¹⁴Ibid., p. 160.

numerous foreign, State, and municipal departments. He was also the author of four other books relating to law enforcement. Smith thus presented a picture of the American police which was based on considerable first-hand knowledge and experience.

Smith began his work with the pronouncement that the police problem "is still a prominent feature of the American scene largely because of errors of long standing in organization and management."¹⁵ He saw two major factors comprising the police problem: the public and politics. He sensed a genuine public antipathy toward the police and feared that "perhaps a majority of Americans share the belief that American police systems are beyond all hope of reconstruction, and that in the future, as in the past, they will merit little of public esteem."¹⁶ Smith saw an imbedded distrust of the police and attributed it to past performance, as well as democratic attitudes inherent in the concept of liberty. He noted a "recurrent opposition to vigorous exercise of police authority" and reasoned that "in city after city, and in State after State, it is literally true that the general public does not want law enforcement in the strict sense of the term."¹⁷

¹⁵ Bruce Smith, Police Systems in the United States (Rev. ed.; New York: Harper and Brothers, Publishers, 1949), p. 1.

¹⁶ Ibid., p. 3.

¹⁷ Ibid., p. 5.

As did Vollmer before him, Smith devoted much criticism to political influences in law enforcement. He traced the root of the problem to the neglect of the public which allowed the police to gradually come under the control of partisan political machines "which have since exploited them so thoroughly, and with such devastating effect."¹⁸ Smith claimed that "no police force, regardless of its form, qualities or accomplishments, is ever quite free of the taint of corruption," and that "some are tarred from head to heels with political corruption and criminal participation."¹⁹ The result had been, according to Smith, almost complete political domination, poor quality of service, low standards of personnel and management, and a decline of respect and support. He attributed much of the interference of the politicians to the active seeking of favors and advantages from politicians by the policemen themselves and claimed that "if there were fewer police in politics, there would be less politics in the police."²⁰ The over-all result of political interference and the accompanying public antipathy had been, Smith said, an unfavorable environment on which to work and develop.

According to Smith, the problem of police lawlessness was still critical, despite the strong attack made upon it by the Wickersham Commission:

¹⁸ Ibid., p. 1.

¹⁹ Ibid., p. 2.

²⁰ Ibid., p. 8.

Popular opinion is convinced that third degree abuses are both universal and of common occurrence. There is sufficient factual basis for this opinion to assure its persistence.²¹

Smith believed, however, that Federal and State courts were becoming more vigilant in their opinions concerning abuses of police authority and he warned that: "Police should take due note of these judicial expressions because they are likely to become more insistent as the years pass."²² Smith foresaw the day when, in response to police abuse of power, "restriction placed upon even a restrained use of preliminary interrogation may impose severe and unnecessary burdens upon effective law enforcement."²³ This prediction was fulfilled by the numerous Supreme Court decisions of the 1950's and 60's restricting police interrogation.

Smith gave the first indication of progress in the areas of police management and personnel:

An informed and vigorous leadership has gradually produced not only a new standard of management, but an increasing proportion of intelligent, trained, and hopeful members of the rank and file.²⁴

Although the progress described in this exuberant evaluation may be a bit exaggerated, it does reveal a far more optimistic attitude by 1949 than expressed in earlier works. In order to continue this improvement, Smith advocated improved personnel procedures and the development of leadership

²¹Ibid., p. 11.

²²Ibid., p. 13.

²³Ibid.

²⁴Ibid., p. 15.

within the ranks, an effort which Fosdick earlier saw as "in the highest degree improbable."²⁵ Police administration must be adopted to modern conditions, Smith said, and established theories of public administration applied. He criticized the decentralization and duplication among police departments and called for statutory direction of broad-based coordination. He attributed the multiplication of police units to the "inadequacy of each unit standing alone," and contended that reform and consolidation, although not an easy effort, was the only solution.²⁶

Smith devoted considerable discussion to progress in the use of technology. He thoroughly approved of the expanding use of automobiles and police radios which, he said, "in recent years have acquired particular importance because taken together, they make possible a reasonable degree of protection, even though the man-power may be inadequate."²⁷ He estimated that a total of 12,000 police cars were currently in use, nearly 80 percent equipped with radios.²⁸ Smith expressed a note of caution, however, in the use of technological advances. He believed that many police departments, in their enthusiasm to become mechanized, had become over-burdened with equipment. Expensive call-box systems, teletype systems, signal switchboards,

²⁵Ibid., p. 220.

²⁶Ibid., p. 124.

²⁷Ibid., p. 133.

²⁸Ibid., p. 134.

and other devices were often acquired without the necessary expertise, and were usually misused and wasted. Smith pointed out that:

Ingenious contrivances have in truth become a special kind of police problem, both because they are costly and also because they serve to distract the attention of administrators and the public alike away from those primary considerations of organization, personnel and procedure upon which successful police operations ultimately depend.²⁹

Educational levels among patrolmen had risen since the Wickersham study, with recruits averaging eleven years of schooling. However, Smith attributed this development more to compulsory education laws than to a dramatically increased police interest in education.³⁰ He depicted a salary range of a low of \$1160 a year to a high of \$3900 annually and claimed that police salaries were determined largely by the size of the department.³¹ Smith stated that relatively little had been done in the area of character evaluation and called for increased use of psychological, intelligence, and aptitude tests. Smith reported that practically all municipal police recruits were being exposed to at least some form of training, ranging from periods of a few days to several months.³² However, Smith judged that the quality of existing training programs was "exceedingly

²⁹Ibid., p. 133.

³⁰Ibid., p. 151.

³¹Ibid., p. 126.

³²Ibid., p. 151.

uneven" and, except for a few outstanding academies, was "distinctly inferior."³³

In 1950, Donal E. J. McNamara, Director of the Law Enforcement Program, University of Southern California, examined American Police Administration at Mid-Century. It was now about twenty years after the Wickersham Reports and any substantial progress would probably be apparent in such a review. McNamara described American law enforcement in 1950 as:

. . . a sprawling, complex, expensive, inefficient, and confused pattern of vertical and horizontal duplication, fragmentation and overlapping, . . . struggling with somewhat indifferent success against a veritable army of criminals and their political allies.³⁴

McNamara saw the critical need for order and direction in American policing and called for broad-based reform in the areas of coordination and consolidation.³⁵ He predicted that Federal grants-in-aid, to encourage police departments to comply with minimum standards, would come "in the next year or the next decade" and suggested that this might be the only way to effect substantial change.³⁶

McNamara supported a re-evaluation of civil service in order to develop more improved recruitment standards

³³ Ibid.

³⁴ Donal E. J. McNamara, "American Police Administration at Mid-Century," Public Administration Review, X (Summer, 1950), 181.

³⁵ Ibid., p. 184.

³⁶ Ibid., p. 185.

and more valid selection methods.³⁷ Upgrading the educational level of police officers was still a major concern, and a minimum requirement of a high school diploma was still an unattained goal.³⁸ McNamara also noted that little progress had been made in gaining public support and respect for law enforcement: "Not the least difficult of the administrative problems facing American police administration is public antagonism towards the entire police apparatus."³⁹

A collection of articles appeared in 1954, under the title of New Goals in Police Management published by the American Academy of Political and Social Science, under the direction of Bruce Smith. New Goals contained several writings by leading law enforcement experts on current significant issues in police administration. Although these writers meant to present "new goals" for law enforcement in the 1950's, their findings and observations were strikingly similar to those made by the Wickersham Commission twenty-five years earlier.

Smith, writing on the status of the police executive, struck a depressingly familiar note:

Meanwhile, the status of most of our chief police administrators continues to be uncertain at best. Where tenure is assured for a police chief by statute or civil service rule, one finds a pronounced tendency for the actual control to shift to a politically responsive official or commission. The exceptions are not

³⁷Ibid., p. 186.

³⁸Ibid.

³⁹Ibid., p. 187.

numerous. The time is probably still far distant which we shall see the generality of police executives securely established in the official hierarchy.⁴⁰

Stanley R. Schrotel, Chief of the Cincinnati Police Department, addressing the subject of patrol methods, observed that foot patrol was still dominant in the United States, and urged police administrators to make greater use of the radio-equipped automobile.⁴¹ O. W. Wilson, writing on police selection, noted stiff resistance by many police departments to the use of intelligence tests in selection and pointed out that many jurisdictions required only the ability to read and write.⁴² Wilson also repeated the familiar criticism of civil service for its lack of standards and effective appraisal methods, for its obstruction of dismissal and discipline, and for its protection of unqualified policemen.⁴³ Raymond E. Clift, Superintendent of the Police Academy of Cincinnati, evaluated police training in the United States as lending itself to wide criticism. He found that training programs varied from a few weeks to a few months, but, in any case, were "regrettably short," and that such programs generally failed to meet the needs of police departments."⁴⁴

⁴⁰ Bruce Smith (ed.), "New Goals in Police Management," The Annals of the American Academy of Political and Social Science, CCXCI (January, 1954), 3.

⁴¹ Ibid., p. 49.

⁴² Ibid., p. 90.

⁴³ Ibid., p. 95.

⁴⁴ Ibid., p. 115.

Allan Z. Gammage wrote Police Training in the United States in 1963. His assessment of the state of police training in the 1960's was as follows:

Even today, a majority of the more than 300,000 law enforcement officers employed in the many jurisdictions throughout the country have received no formal training whatsoever. Where formal training is available, it is often perfunctory and elementary and contributes little to professionalization of the police service.⁴⁵

V. A. Leonard's classic Police Organization and Management first appeared in 1951. It was revised in 1964 and that edition is used to take the present survey of literature up to the creation of the President's Commission on Law Enforcement and Administration of Justice in 1965. It is interesting and, indeed, distressing to note that Leonard's findings, the most recent included in the survey of literature thus far, bear the strongest resemblance yet to the Wickersham Commission reports. Leonard found that the tenure of police chiefs had remained pitifully unstable. He reported that the average term of office of police chiefs in 1964 was slightly under four years in cities of under 300,000 and less than 2.5 years in cities of over 500,000.⁴⁶ "Continuity of administration," he said, "represents a principle which has not yet invaded the American public

⁴⁵Allan Z. Gammage, Police Training in the United States (Springfield, Ill.: Charles C. Thomas, Publisher, 1963), p. vii.

⁴⁶V. A. Leonard, Police Organization and Management (2nd ed.; Brooklyn, N.Y.: Foundation Press, 1964), p. 52.

services to any marked extent."⁴⁷ Political interference remained a tremendous problem and was still a detrimental influence on the executive:

The American police department continues as a center of political attack, and a shift in the balance of political power in the community or a change in the complexion of the city council often results in the removal of the chief.⁴⁸

Leonard observed that police salaries continued to lag behind those of industry, compelling the police to compete at a disadvantage for high quality personnel.⁴⁹ On the subject of training, Leonard estimated that at least 85 percent of America's police officers had received no formal training.⁵⁰ He stated that, even as late as 1964, the concept of inservice police training was still "on trial" and that less than 1 percent of the personnel of the nation's police forces had been exposed to any form of inservice training worthy of the name.⁵¹

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If the effect of the preceding survey of literature has been to leave the impression that law enforcement existed in a total vacuum, virtually devoid of any advancement between 1935 and 1965, such an impression would, regrettably, not be far from the reality of the situation. While progress

⁴⁷Ibid. ⁴⁸Ibid., p. 53. ⁴⁹Ibid., p. 56.

⁵⁰Ibid., p. 114. ⁵¹Ibid.

was made in certain areas, most notably in technology, the state of the art of policing, as seen through the commentary of the recognized experts in the field, remained largely unchanged during the period. The findings and recommendations of the Wickersham Commission in the areas of police management, personnel, selection, education, and training were, apparently, universally ignored, although the exhortations for police improvement continued for the next thirty-five years.

Chapter 7

THE FINDINGS AND RECOMMENDATIONS OF RECENT PRESIDENTIAL COMMISSIONS--1965-1970

While Herbert Hoover saw the need for and appointed a Presidential commission to study law enforcement in 1929, it was not until thirty-six years later, in 1965, that another President took similar action. Lyndon Baines Johnson, whose very ascension to the White House was the result of a heinous crime of violence, was faced with a situation as serious as that which had confronted Hoover. America, in the 1960's, was in the midst of a new crime wave. Spiraling urban ghetto crime, raging riots in the major cities, massive militant protests against an unpopular war in Vietnam, juvenile delinquency, and drug abuse in epidemic proportions, and organized crime of such a large scale that it made the bootlegging of the 1920's appear like halloween mischief-making in comparison, plagued the United States throughout the decade. Again, national attention was fixed on the police and on their inability to deal with these criminal activities. One observer described the foremost national issue in the minds of most Americans:

Assurances--even modest assurances--of protection in 1966 are precisely what the besieged citizen feels he does not have. He sees little, for example, to

assure him that police are modernizing themselves to keep pace with the constantly modernized crime rates.¹

In his 1967 State of the Union Address, President Johnson committed himself to a war on crime:

Our country's laws must be respected. I will support--with all the Constitutional powers the President possesses--our Nation's law enforcement officials in their attempt to control the crime and violence that tear the fabric of our communities.²

President Johnson had begun his crime control program in 1965 when he created the Office of Law Enforcement Assistance, the first Federal criminal justice funding agency. In that same year, he appointed the President's Commission on Law Enforcement and the Administration of Justice to make a sweeping survey of the entire American criminal justice system. The crisis of crime and violence was of such great magnitude, however, that before the decade was over, Johnson was to create two more commissions, the National Advisory Commission on Civil Disorders, in 1967, and the National Commission on the Causes and Prevention of Violence, in 1968. Moreover, in 1970, President Richard Nixon established yet another commission to deal with police problems, the President's Commission on Campus Unrest. All of

¹Robert Ostermann, Crime in America (Silver Spring, Md.: National Observer, 1966), p. 11.

²Crime and Justice in America (Washington, D.C.: Congressional Quarterly Service, 1967), p. 54.

these recent Presidential Commissions conducted studies of the police system as it related to their particular fields of inquiry. The intriguing question now presents itself: How did the findings and recommendations of these recent commissions compare to those of the Wickersham Commission? The survey of law enforcement literature from 1935 to 1965 suggested the conclusions that the Wickersham Commission had virtually no impact on subsequent developments and that, essentially, little progress was made in American policing in the decades following the Commission's investigation. This hypothesis will be supported or negated by an examination of the official findings of the four recent commissions.

THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT
AND THE ADMINISTRATION OF JUSTICE

On January 23, 1965, President Johnson established the Commission on Law Enforcement and Administration of Justice by Executive Order 11236. The National Crime Commission, as it came to be called, was chaired by Attorney-General Nicholas De B. Katzenbach. Its two-year study of the entire criminal justice system was conducted by nineteen commissioners and sixty-three staff members, including lawyers, sociologists, psychologists, and other specialists. Additional assistance came from 175 consultants and hundreds of advisors from law enforcement and criminal justice. The Crime Commission released its findings in

in a series of ten reports. As has been the procedure throughout this paper, only the findings and recommendations relating to the police will be considered. Many of the topics which were dealt with by the Wickersham Commission were also considered, in updated form, by the Crime Commission and the findings made in each of these areas in 1967 will now be reviewed using the following Commission reports: The Challenge of Crime in a Free Society, the Task Force Report on Crime and Its Assessment, the Task Force Report on Juvenile Delinquency and Youth Crime, the Task Force Report on Science and Technology, the Task Force Report on Organized Crime, and the Task Force Report on Police.

The Police Executive

The Crime Commission advocated the development of a new breed of police executives, who, unlike their predecessors, would be trained administrators rather than career officers who had come up through the ranks possessing only narrow technical skills.³ The Commission found that most departments still limited the selection of the chief to officers within the department, and that little progress had been made in promoting greater freedom of movement on

³President's Commission on Law Enforcement and Administration of Justice, Task Force Report on the Police (Washington: Government Printing Office, 1967), p. 35.

the part of administrative personnel between different agencies.⁴ In regard to the quality of police leadership, the Crime Commission observed that little had been done to improve the caliber of chiefs since the Wickersham Commission:

In the years following the Wickersham Report, some progress has been made in upgrading the level of police leadership. Even so, the overall need for infusing police departments throughout the nation with well trained, educated and able administrators is still clear. . . . Unfortunately, as a rule, procedures for selecting police administrators have changed little during the past 25 years.⁵

The Commission found that only 9.2 percent of America's police chiefs possessed college degrees and that the majority were generally unsuited to the complex jobs which faced them.⁶ The Commission also discovered that most police agencies had serious organizational deficiencies and were being administered under outmoded concepts of management characterized by diffusion of authority, confused responsibility, lack of strong lines of direction, and improper grouping of functions.⁷

Selection of Personnel

The Crime Commission summarized the existing selection standards in the following statement:

⁴Ibid. ⁵Ibid., p. 44. ⁶Ibid.

⁷Ibid., p. 45.

The failure to establish high professional standards for the police service has been a costly one, both for the police and for society. Existing selection requirements and procedures in the majority of departments, aside from physical requirements, do not screen out the unfit. Hence, it is not surprising that far too many of those charged with protecting life and property and rationally enforcing our laws are not respected by their fellow officers and are incompetent, corrupt, or abusive.⁸

The Commission found that poor education continued to be a problem among American policemen and again invoked the Wickersham Commission's findings to compare with its own:

The need for highly educated personnel was recognized as early as 1931 in the report of the Wickersham Commission. But despite the admonition of that Commission to improve low entrance standards, educational requirements remain minimal in most departments.⁹

A 1961 survey of over 300 police departments was cited which showed that 24 percent of those agencies had no minimum education requirement.¹⁰ In New England, 72 percent of the departments surveyed did not require a high school diploma.¹¹ Another survey, conducted in 1964, revealed that only 7.3 percent of 6200 policemen questioned had a college degree, despite the growing emphasis on higher education in the United States.¹² The Crime Commission recommended that recruiting efforts be intensified on college campuses to bring highly educated people into police work.¹³ Recall

⁸Ibid., p. 125. ⁹Ibid., p. 126. ¹⁰Ibid.

¹¹Ibid. ¹²Ibid.

¹³President's Commission on Law Enforcement and Administration of Justice, Challenge of Crime in A Free Society (Washington: Government Printing Office, 1967), p. 109.

that the Wickersham Commission had advocated unrestricted recruiting on college campuses over thirty-five years earlier.¹⁴

Little progress had been made in evaluating individual characteristics among applicants. While intelligence tests had been initiated in many departments, the Crime Commission judged these to be generally ineffective in measuring capability for police service.¹⁵ A 1961 survey was cited which revealed that only 15 percent of the local police agencies screened their applicants for emotional fitness and a 1965 study was quoted which indicated that only 27 percent conducted psychological evaluations.¹⁶ Character investigations were commonly employed, but these were found to be often limited to requiring personal references which were accepted without question, much the same as the ward boss endorsements spoken of by the Wickersham Commission.¹⁷ Although the Wickersham Commission advocated their abolishment thirty-five years earlier, strict residency requirements continued to stifle manpower improvement with an estimated 75 percent of police departments requiring pre-service residency of from six months to five years.¹⁸ The Crime

¹⁴Wickersham Commission, Report on Police, p. 64.

¹⁵President's Commission on Law Enforcement, Task Force Report on Police, p. 10.

¹⁶Ibid. ¹⁷Ibid., p. 129. ¹⁸Ibid.

Commission recommended that these requirements be modified to make recruitment more flexible.¹⁹

Training

While admitting that great strides had been made in recent years in the widespread institution of formal recruit training programs, the Crime Commission was highly critical of the quality of training, calling the total effort in the United States "grossly inadequate."²⁰ Its evaluation of police training was as follows:

While current police training programs are better than what has existed in the past, they nevertheless continue to be a somewhat fragmented, sporadic and rather inadequate response to the training needs of the field in a day when police are confronted with some of the most perplexing social and individual problems we have ever known.²¹

The Commission referred to a study made in 1965 by the International Association of Chiefs of Police which indicated that 85 percent of the officers appointed were placed on street patrol prior to any recruit training.²² Moreover, the training periods in many small departments were found to be less than one week in duration.²³

In response to the need for training improvement, the Crime Commission advocated a minimum requirement of

¹⁹The Challenge of Crime in a Free Society, p. 111.

²⁰Task Force Report on Police, p. 36.

²¹Ibid., p. 37. ²²Ibid., p. 138. ²³Ibid.

400 hours of classroom work combined with supervised field instruction.²⁴ It is interesting to note that the Wickersham Commission was supporting training programs of 625 hours in 1930.²⁵ The Crime Commission also called for the establishment of uniform minimum standards for training programs in each State:

Each State, therefore, should establish a commission on police standards to establish minimum standards for training; determine and improve curricula; identify required preparation for instructors; and approve facilities acceptable for police training.²⁶

Note the similarity of the Wickersham Commission's recommendation in the same area:

State-wide supervision of police schools, . . . the establishment of standards of instruction and curriculum must inevitably be adopted if our police systems are to cope with crime conditions of today.²⁷

Compensation

The forty-hour week had become standard in police work by 1965. The Crime Commission found, however, that police salaries continued to lag behind those of business and industry. The starting police salaries in 1966 ranged from an average of \$4920 in smaller cities to \$5834 in cities

²⁴The Challenge of Crime in a Free Society, p. 111.

²⁵Wickersham Commission, Report on Police, p. 77.

²⁶Task Force Report on the Police, p. 143.

²⁷Wickersham Commission, Report on Police, p. 139.

over 500,000.²⁸ The Crime Commission, as did the Wickersham Commission, called for police salaries to be increased to competitive levels if efforts to upgrade personnel were to be successful.²⁹

Communications and Equipment

The Crime Commission stated that only token progress had been made in the introduction of technology into police work.³⁰ Communications capability was found to have received "surprisingly little attention," with police departments generally relying on obsolete and poorly designed communications equipment and procedures.³¹ The Commission criticized local governments for conventional methods of budgeting which tended to restrict application of new technology.³² The Commission listed congestion of the radio spectrum as one of the most serious limitations on police effectiveness. Remember that, as early as 1931, the Wickersham Commission had foreseen this problem and warned that if the Federal Radio Commission did not begin to set priorities in frequency allocation, such congestion would be the inevitable result.³³

²⁸Task Force Report on Police, p. 134.

²⁹Ibid., p. 135. ³⁰Ibid., p. 57. ³¹Ibid., p. 59.

³²President's Commission on Law Enforcement and Administration of Justice, Task Force Report on Science and Technology (Washington: Government Printing Office, 1967), p. 1.

³³Wickersham Commission, Report on Police, p. 98.

This warning, as did so many of the Wickersham pronouncements, went foolishly unheeded, and by 1967, the situation was critical. The Crime Commission's Task Force on Science and Technology devoted much discussion to the congestion problem. They found that the national radio spectrum shortage was dramatic and cited specific examples of the deleterious effect on police work. In the Chicago Metropolitan area, for example, thirty-eight separate suburban communities, utilizing a total of 350 radio-equipped patrol cars, were required to share one frequency. The congestion which resulted caused excessive delays as patrol officers had to wait to gain the air.³⁴ In the Watts riots in Los Angeles in 1965, radio communication was seriously hampered by hopelessly congested channels, making it impossible for many police commanders to remain in contact with their officers.³⁵ The Task Force Report on Science and Technology noted that "with a few notable exceptions, radio communication is based on the same operational concepts as in the 1930's."³⁶ With indications of growing demand for more frequencies on the part of police communications users in the future, and with keen competition for ever-scarcer frequencies, the Crime Commission made a recommendation which was virtually identical to the one proposed by the Wickersham Commission thirty-five years earlier. A

³⁴Task Force on Science and Technology, p. 30.

³⁵Ibid. ³⁶Ibid., p. 32.

coherent national policy of frequency allocation was offered by the Crime Commission as the only solution. The Federal Communications Commission was urged to direct pooling of radio frequency resources in an efficient network; to reduce the number of frequency allocations; to require municipal governments to make more efficient use of radio spectrum resources under their control; and to set priorities in which all communities, especially smaller towns, would be obliged to justify their needs for frequency resources.³⁷

The Crime Commission's study also revealed that, in many cities, police departments continued to operate under deplorable working conditions, in old, inadequate, and unsanitary facilities.³⁸ Repeating the call of the Wickersham Commission, the recommendation in 1967 supported attractive, modern, well-designed buildings for the police, as well as exploration into uses of more efficient equipment.³⁹

Records and Statistics

Record keeping was still conducted in a primitive manner by many of the departments studied by the Crime Commission. Reports were often found to be hand-written or typed by sworn officers, and in some departments each patrolman was required to maintain his own records.⁴⁰ The

³⁷Ibid., p. 33.

³⁸Task Force Report on Police, p. 136.

³⁹Ibid. ⁴⁰Ibid.

Commission noted that disregard for the use of records in the deployment of forces frequently resulted in ineffective manpower utilization.⁴¹ The Task Force on Science and Technology called for increased development of statistical procedures to aid manpower allocation and patrol distribution.⁴² The Crime Commission also advocated the establishment of areawide central record and statistics bureaus to facilitate cooperation between various law enforcement agencies. A coordinated network of automated, computer-based State and Federal police information systems was envisioned.⁴³ Of course, these proposals are almost identical to the recommendation of the Wickersham Commission for modernized central State record systems and coordinated State and Federal criminal statistic bureaus.⁴⁴

Consolidation of Decentralized Services

The problem of decentralization and fragmentation was deemed critical by the Crime Commission in 1967:

A fundamental problem confronting law enforcement today is that of fragmented crime repression efforts resulting from the large number of unco-ordinated local governments and law enforcement agencies. It

⁴¹Ibid., p. 83.

⁴²Task Force Report on Science and Technology, p. 18.

⁴³Task Force Report on Police, p. 82.

⁴⁴See Wickersham Commission, Report on Police, pp. 105, 130.

is not uncommon to find police units working at cross purposes in trying to solve the same or similar crimes.⁴⁵

The situation had remained completely unchanged since the Wickersham Commission's assessment in 1931:

The multitude of police forces in any State and the varying standards of organization and service have contributed immeasurably to the general low grade of police performance in this country. The independence which police forces display toward each other and the absence of any central force which requires either a uniform or minimum standard of service, leave the way open for the profitable operation of criminals.⁴⁶

Both commissions recommended increased cooperation and coordination between different agencies. The Crime Commission also proposed consolidation of selected staff, auxiliary, and field services as a means of securing a more united and efficient police effort.⁴⁷ The Commission noted that one of the "current trends" in 1967 was the cooperation between municipal and county governments in the construction of city-county justice buildings.⁴⁸ Recall that the Wickersham Commission had spoken of combining city and county criminal justice services in a single or connected building as one of the "current trends" in 1931.⁴⁹

⁴⁵Task Force Report on Police, p. 68.

⁴⁶Wickersham Commission, Report on Police, p. 124.

⁴⁷Task Force Report on Police, p. 71.

⁴⁸Ibid., p. 93.

⁴⁹Wickersham Commission, Report on Police, p. 102.

Corruption

The Crime Commission devoted a full chapter in the Task Force Report on the Police to the problem of police corruption. It made this observation:

The remnants of corrupt political control allied with organized crime and vice operations have continued to plague some cities--as evidenced by widely publicized incidents during the past 10 years, particularly concerning organized crime activities.⁵⁰

Despite the emphatic pleas of the Wickersham Commission, and later, of Vollmer, Smith, and others, little effort had been made to rid the police of politics and corruption. The Crime Commission's Task Force Report on Organized Crime compared its findings to the situation discovered by the Wickersham Commission: "Today's corruption is less visible, more subtle, and therefore more difficult to detect than the corruption of the Prohibition era."⁵¹ The Organized Crime Task Force pointed out that "neutralizing" local law enforcement was essential for the success of organized crime and stated that, while no large city in 1967 was completely controlled by the underworld, "a considerable degree of corruption" existed in many cities.⁵² The Task Force Report on Organized Crime related, in much the same language as was

⁵⁰Task Force Report on Police, p. 209.

⁵¹President's Commission on Law Enforcement and Administration of Justice, Task Force Report on Organized Crime (Washington: Government Printing Office, 1967), p. 6.

⁵²Ibid.

used by the Wickersham Commission, the corruption aimed at the police executive:

Organized crime is currently directing its efforts to corrupt law enforcement at the chief or at least middle-level supervisory officials. The corrupt political executive who ties the hands of police officials who want to act against organized crime is even more effective for organized crime's purposes.⁵³

Field studies undertaken by the Crime Commission revealed that in several cities, a significant number of officers engaged in varying forms of criminal and unethical activities.⁵⁴ The Commission also found that political appointment and control of police officials was "still a fairly open and tacitly accepted practice" in many cities and counties, and that corrupt political influence continued to have a destructive effect on the morale and honesty of officers in many departments.⁵⁵ The Crime Commission's recommendation in this area was the creation of internal investigation units, responsible to the chief, for the purposes of detecting and eliminating corruption and illegal conduct among policemen.⁵⁶ The Wickersham Commission had also supported internal investigation as a means of combatting the acute corruption it had found.⁵⁷

⁵³Ibid.

⁵⁴Task Force Report on Police, p. 208.

⁵⁵Ibid., p. 209.

⁵⁶Ibid., p. 214.

⁵⁷Wickersham Commission, Report on Police, p. 41.

Crime Prevention

Recall that the Wickersham Commission had devoted a full chapter in the Report on Police to a discussion of crime prevention in which recommendations were made for greater emphasis on juvenile behavioral problems and increased police training and involvement in the prevention of youth crime.⁵⁸ The Crime Commission's Task Force Report on Juvenile Delinquency indicated that the Wickersham proposal had been largely ignored, because it contained almost identical recommendations. The Crime Commission called for improved inservice training in police decision making, in juvenile behavior, and in utilization of community resources, and placed primary emphasis on the diversion of youth cases from judicial disposition.⁵⁹

Expenditures

An interesting comparison can be made between the expenditures for law enforcement for the year 1928, as reported by the Wickersham Commission in its Report on the Cost of Crime and those of 1965, presented in the Crime Commission's Task Force Report on Assessment of Crime. Of course, this comparison must proceed with caution, due to

⁵⁸ Ibid., pp. 111-22.

⁵⁹ President's Commission on Law Enforcement and Administration of Justice, Task Force Report on Juvenile Delinquency and Youth Crime (Washington: Government Printing Office, 1967), p. 19.

the questionable accuracy of figures, to changes in the value of the dollar, to costs of living, and to other economic conditions. Nonetheless, a side-by-side comparison of the figures presented by the two commissions will serve to show the dramatic increase in the impact of crime throughout the twentieth century.

Public Expenditures for Law Enforcement⁶⁰

	1928	1965
Federal Agencies	35,900,000	243,000,000
State Agencies	2,300,000	348,000,000
Local Agencies	<u>194,000,000</u>	<u>2,201,000,000</u>
National Total	232,200,000	2,792,000,000

With all limitations of comparison in mind, it can be seen that public expenditures for police protection in the United States increased more than ten-fold between 1928 and 1965.

THE NATIONAL ADVISORY COMMISSION ON
CIVIL DISORDERS

In 1967, widespread resentment among Black Americans toward deplorable housing, education, employment, and health conditions, which had been smoldering for decades, burst

⁶⁰Wickersham Commission, Report on the Cost of Crime, pp. 139, 203, 333; President's Commission on Law Enforcement and Administration of Justice, Task Force Report on Assessment of Crime (Washington: Government Printing Office, 1967), p. 55.

into open flame during the hot summer months, resulting in massive riots throughout the United States. The resulting loss in life and property was staggering and the nation was forced to engage in a soul-searching inquiry into the causes of the explosion. To this end, President Johnson, on July 27, 1967, appointed another commission, the National Advisory Commission on Civil Disorders, under the chairmanship of Governor Otto Kerner of Illinois. The Kerner Commission examined the whole urban situation behind the riots, and necessarily scrutinized the police of America's cities. Its findings, released in 1968, depicted a situation virtually the same as presented by the Crime Commission a year earlier.

The primary problem found by the Kerner Commission was the bitter hostility between the police and the residents of the urban ghetto. The Commission determined that police actions constituted the precipitating incidents in 50 percent of the disorders they studied.⁶¹ The Kerner Commission stated these general findings:

We have cited deep hostility between police and ghetto communities as a primary cause of the disorders surveyed by the Commission. In Newark, in Detroit, in Watts, in Harlem--in practically every city that has experienced racial disruption since the summer of 1964--abrasive relationships between police and Negroes and

⁶¹National Advisory Commission on Civil Disorders, Report (New York: E. P. Dutton and Co., Inc., 1968), p. 120.

other minority groups have been a source of grievance, tension and, ultimately, disorder.⁶²

Police misconduct and inadequate police protection were considered to be the roots of the conflict. Although strong public and judicial opposition had put a virtual end to the third degree by 1967, the practice of police brutality in street and arrest confrontations, which was observed and condemned by the Wickersham Commission in its Report on Lawlessness in Law Enforcement, persisted in many American cities. The Kerner Commission found a firm and widespread belief among Negroes that police brutality and harassment occurred repeatedly in ghetto neighborhoods.⁶³ Moreover, the conduct of general police operations, stressing "aggressive preventive patrol," and disregarding the human rights and dignity of ghetto residents, were shown to be intimidating and insulting to large number of people.⁶⁴ The observation was made that many city police agencies had adopted practices which "replaced harassment by individual patrolmen with harassment by entire departments."⁶⁵ The Kerner Commission called for policies to end these abrasive practices and for safeguards of constitutional rights.⁶⁶ The Commission also repeated the recommendation of its predecessors for internal investigation units to eliminate police misconduct.⁶⁷

⁶²Ibid., p. 299. ⁶³Ibid., p. 302. ⁶⁴Ibid., p. 304.

⁶⁵Ibid. ⁶⁶Ibid., p. 306. ⁶⁷Ibid., p. 314.

The problems in the urban ghettos were aggravated by inadequate police protection. The Kerner Commission found that qualified personnel continued to be in short supply in many urban departments and the recommendation was again made that screening procedures and recruiting standards be improved.⁶⁸ Training was still found to be grossly inadequate, and in most cities, was conducted along traditional lines, with little regard for the new social conditions which faced urban America.⁶⁹ The Kerner Commission repeated the earlier calls for increased emphasis on recruit and inservice training, stressing the need for preparation for riot conditions.⁷⁰ Poor equipment still hampered daily police effectiveness and was especially inadequate in riot situations.⁷¹ The Kerner Commission also found an urgent need for improved police communications. Again, the problem of radio frequency congestion was discussed, and the Kerner Commission repeated the plea which had been made by the Wickersham Commission:

We believe that the critical communications and control problems arising from the present shortage of frequencies available to police departments require immediate attention. Accordingly, we recommend that the Federal Communications Commission make sufficient frequencies available to police and related public safety services to meet the demonstrated need for riot control and other emergency use.⁷²

⁶⁸ Ibid., p. 306.

⁶⁹ Ibid., p. 489.

⁷⁰ Ibid., p. 490.

⁷¹ Ibid., p. 491.

⁷² Ibid., p. 573.

THE NATIONAL COMMISSION ON THE CAUSES
AND PREVENTION OF VIOLENCE

Those Americans who thought they had seen the worst with the riots of 1967, were sadly disappointed in the following year. In 1968, urban civil disorders continued, augmented by the assassinations of Martin Luther King, Jr. and Robert F. Kennedy, and by violent confrontations between protestors and police at the Presidential nominating conventions in Chicago and Miami. On June 10, 1968, President Johnson created the National Commission on the Causes and Prevention of Violence to study these continuing disturbances as well as the whole question of violence in American life. The chairman of this commission was Dr. Milton S. Eisenhower, President Emeritus of Johns Hopkins University. The Eisenhower Commission worked for two years and presented its final report to President Richard Nixon in December, 1969. This report, entitled To Establish Justice, To Insure Domestic Tranquility, began with an assessment of violence in America (Compare the following statement with those descriptions, presented earlier in this paper, of the crime wave of the 1920's):

Violence in the United States has risen to alarmingly high levels. Whether one considers assassination, group violence, or individual acts of violence, the decade of the 1960's is considerably more violent than the several decades preceding it and ranks among the most violent in our history. The United States is the clear leader among modern stable democratic nations in its rates of homicide, assault, rape and robbery, and

it is at least among the highest in incidence of group violence and assassination.⁷³

The Commission found that the police were generally unsuccessful in dealing with violence and in many cases contributed to it themselves. One of the special investigative reports released by the Commission was the highly controversial, Rights in Conflict or "Walker Report" on the violence at the 1968 Democratic Convention in Chicago. The Walker Report described the riots which occurred during the convention and found that the police did not attempt to quell them but were, in effect, active participants, thus challenging the conventional notion that violence and riots are caused by "mobs" while the police "preserve order."⁷⁴ The "police misconduct" spoken of in 1967 by the Kerner Commission report had escalated by the events of 1968 to "unrestrained and indiscriminate police violence."⁷⁵ Lawlessness in law enforcement was, evidently, still a serious problem.

The Eisenhower Commission depicted the general state of the police in an all too familiar light:

⁷³National Advisory Commission on the Causes and Prevention of Violence, To Establish Justice, To Insure Domestic Tranquility (New York: Praeger Publishers, 1970), p. xxv.

⁷⁴Daniel Walker, Rights in Conflict (New York: E. P. Dutton and Company, 1968), p. 1.

⁷⁵Ibid.

Yet the police themselves are often seen by others as contributing to the failure of the system. They are charged with ineptness, discourtesy, dishonesty, brutality, sleeping on duty, illegal searches. They are attacked by large segments of the community as being insensitive to the feelings and needs of the citizens they are employed to serve.⁷⁶

The Commission stated that "effective police administration is hard to find" and noted that the majority of police departments were headed by chiefs whose training and ability in modern management was limited. The lateral entry of police administrators supported earlier by the Crime Commission was observed to be prohibited by antiquated civil service regulations.⁷⁷

Perhaps no commission since the Wickersham Commission was faced with more negative evidence regarding police personnel than was the Eisenhower Commission. Two of its task force reports, Law and Order Reconsidered and the Politics of Protest, dealt extensively with the question of police manpower. Their findings indicated that the situation was actually worse than that depicted by the Crime Commission two years earlier. Law and Order Reconsidered, the report of the Task Force on Law and Law Enforcement, revealed that many police departments were critically

⁷⁶To Establish Justice, To Insure Domestic Tranquility, p. 129.

⁷⁷Ibid., p. 133.

undermanned.⁷⁸ This inadequacy was aggravated by findings that newly recruited officers generally had even lower levels of education than veteran officers; that recruits were being assigned to duty without prescribed training; that in-service training was inadequate, and that morale was low and supervision lax.⁷⁹ Inadequate police budgets were found to contribute to poor police facilities, inadequate and obsolete communications systems, and a lack of qualified specialist personnel. The Task Force on Law Enforcement also repeated the Wickersham Commission's condemnation of the over-abundance of unenforceable laws regulating personal conduct as contributing directly to police ineffectiveness.⁸⁰

The Politics of Protest, prepared by the Task Force on the Violent Aspects of Protest and Confrontation under the direction of Jerome Skolnick, related even more pessimistic findings. That task force concluded from its study that "law enforcement as an occupation has declined badly."⁸¹ As had the Wickersham and Crime Commissions before it, the Eisenhower Commission's Task Force on Protest found that police pay was lagging farther and farther behind compensation for comparable occupations, and that, as a

⁷⁸James S. Campbell, Law and Order Reconsidered (New York: Praeger Publishers, 1970), p. 287.

⁷⁹Ibid., p. 288. ⁸⁰Ibid., p. 600.

⁸¹Jerome Skolnick, Politics of Protest (New York: Simon and Schuster, 1969), p. 252.

result, the quality of manpower had declined.⁸² As an indication of this trend, it was noted that the percentage of college graduates among recruits in the New York Police Department had decreased from almost 50 percent in 1940 to less than 5 percent in the 1960's.⁸³ The Task Force on Protest observed that "new police recruits are being taken from an ever increasing pool of undereducated persons."⁸⁴ In many departments, older policemen were discovered to be better educated and more qualified than younger policemen, indicating that the personnel problem was getting even worse. A sharp decline in the educational levels of incoming recruits was noted in Oakland and Berkeley, California, and in Washington, D.C.⁸⁵

The manpower crises in many departments resulted in a deterioration of training programs, according to Politics of Protest. The overwhelming need for bodies on the street prompted many police forces to send recruits out on patrol before they had been fully trained.⁸⁶ A New York Times article was cited which stated that more than 2000 new policemen had been assigned to street duty in New York in the first eight months of 1968 without having been cleared by a character investigation.⁸⁷ Graft and corruption were

⁸²Ibid., p. 253.

⁸³Ibid. ⁸⁴Ibid.

⁸⁵Ibid., p. 254.

⁸⁶Ibid., p. 256.

⁸⁷Ibid., p. 257.

found to still be "a way of life" in many cities.⁸⁸ Politics of Protest concluded its review of law enforcement with the assessment that the policeman in America was "overworked, undertrained, underpaid and undereducated."⁸⁹

Being the third in a series of commissions created by President Johnson, the National Commission on the Causes and Prevention of Violence had the benefit of hindsight which its immediate predecessors did not enjoy. In calling for increased private citizen participation in the improvement of criminal justice, the Commission expressed the hope that such involvement, and the belated recognition of the need for immediate action "might lessen the future need for ad hoc Presidential commissions in this field, by assuring greater use of the findings and recommendations of the many commissions that have gone before."⁹⁰

THE PRESIDENT'S COMMISSION ON CAMPUS UNREST

President Richard Nixon established the President's Commission on Campus Unrest on June 13, 1970, in the wake of massive student disorders throughout the United States in protest of the war in Southeast Asia. The killings of students at Kent State University in Ohio and at Jackson

⁸⁸ Ibid., p. 253.

⁸⁹ Ibid., p. 288.

⁹⁰ To Establish Justice, To Insure Domestic Tranquility, p. 143.

State College in Mississippi during confrontations with the police and National Guard units, again focused attention on law enforcement in the United States. The Commission on Campus Unrest released its report on September 29, 1970, and dealt with the law enforcement response to student uprisings in a chapter which provides the most recent insights into police problems yet to be included in this paper. The Commission began its discussion with a review of the work of previous recent commissions:

The President's Commission on Law Enforcement and Administration of Justice, the National Advisory Commission on Civil Disorders and the National Commission on the Causes and Prevention of Violence have already published careful and detailed recommendations concerning police recruitment, training, advance planning, and command and control. . . . Some law enforcement agencies have taken substantial steps to implement these recommendations, but too many others are as poorly prepared to cope with mass disorder now as they were five years ago.⁹¹

The Commission found that many police departments had been simply unable to keep abreast of rising crime and increasing public disorder. Findings and recommendations were stated which, by now, certainly appear painfully redundant. The Commission voiced a familiar call:

In many departments, the need is not for more men, but for better men; it is not for more weapons and equipment, but for training that will give policemen

⁹¹President's Commission on Campus Unrest, Report (Chicago: Commerce Clearing House, Inc., 1970), p. 5/2.

more sophistication, judgment and restraint in dealing with the complex situations they face.⁹²

The Commission on Campus Unrest found continued political influence in police departments and criticized politicians "who--whether through carelessness or for personal gain--inflame the atmosphere in which the police must work."⁹³ Police misconduct and brutality were still evident and the Commission repeated the earlier calls for police departments to deal forcefully with these abuses within their own ranks.⁹⁴ The need for increasing police pay to the levels of private industry was still discerned as was the need for better recruiting methods.⁹⁵

Training had obviously not improved appreciably, for the Commission on Campus Unrest stated that too many of the nation's police officers had been deprived of the training they needed. The overall situation was described in this way:

The police departments of most towns and cities lack the money and the experience necessary to provide such training. Smaller departments, with five or ten recruits entering at a time, cannot economically run adequate recruit or inservice training programs. Even the training programs offered by large departments often do not provide officers with an adequate understanding of the environment in which they work and the complex problems they face.⁹⁶

⁹²Ibid., p. 5/8.

⁹³Ibid. ⁹⁴Ibid.

⁹⁵Ibid., p. 5/10.

⁹⁶Ibid., p. 5/12.

Despite the fact that the Wickersham Commission had called for State-operated training academies to alleviate the burden on small towns, almost a half-century earlier, training in all but a few of the largest cities remained deficient in 1970.

* * * * *

The preceding survey of the findings and recommendations of the four recent Presidential Commissions vividly and emphatically answers the question asked in the beginning of this chapter: How did the findings and recommendations of the recent commissions compare to those of the Wickersham Commission? As has been shown, the recent commissions repeated, in almost identical language, the findings and recommendations of the Wickersham Commission. If any substantial progress had resulted from the Wickersham study, it would have been evident in the writings of the later commissions. And yet, the reports of these commissions, which appeared between 1965 and 1970, appear to indicate that conditions had remained substantially unchanged for over forty years!

CONCLUSION

The National Commission on Law Observance was the first major effort at rational development in the history of American law enforcement. It marked the first time in the United States that the Federal government made an attempt to examine the condition of the nation's police system. It was the first major Presidential commission to study the social and economic implications of crime.

The Wickersham Commission was created during a period of virtually uncontrolled violence and lawlessness. Although originally conceived to conduct a limited study of Prohibition, the Commission developed into the official response of the President of the United States to the crime crisis which was consuming the foundations of American society. Perhaps at no previous moment in this nation's history were the citizens so agitated and preoccupied with the problem of crime. The Wickersham Commission was the first of a long line of future Presidential panels which were to be created to deal with a crisis situation.

The magnitude and scope of the work of the Wickersham Commission have been obscured by the passage of time. The Commission labored for over two years, spending a total of over a half million dollars, no mean sum by the standards of that time. It published fourteen reports, covering 4,023

pages, consisting of over 1,600,000 words. The Commission membership was made up of some of the greatest legal minds of its day. Certainly, no Presidential commission prior to it or since had so dominated the headlines and commentary of the nation's press as did the Wickersham Commission in its early days.

The Commission's monumental investigation revealed that the police in America were an absolute failure, totally incapable of dealing with ever increasing crime and violence. Indeed, through ineptitude, corruption, and brutality, the police actually contributed to the lawlessness. A lack of qualified and stable leadership, of competent personnel, of adequate training, and of effective communications and equipment all contributed to the police failure. The Commission issued recommendations for correcting the above deficiencies and for reform at all levels of law enforcement. Created by Presidential authority, having at its disposal considerable monetary and human resources, and situated in the spotlight of the nation's press, the Wickersham Commission was in a uniquely favorable position to at least initiate a movement for change in the police system.

And yet, if the success of the Wickersham Commission is to be judged by the impact of its work upon its field of inquiry, then the National Commission on Law Observance and Enforcement must be judged a failure--a total, abject failure. The evidence presented in this paper strongly

indicates that the Commission's impact on the subsequent development of law enforcement was virtually nil. Soon after their release in 1931, the Wickersham reports were quietly put away, left to gather dust in obscure corners of government depositories and libraries where they have remained, largely unused, to the present day.

Why did the Wickersham Commission fail? Why did it have such little impact? Some possible answers to these questions can be suggested:

1. The Prohibition Report--The Commission, from the start, became embroiled in the middle of the most fiery social and political issue of its day. Though ultimately charged with the critical responsibility of investigating the whole question of law enforcement and criminal justice in the United States, the Commission was immediately identified with the Prohibition issue. Despite all of President Hoover's efforts and statements to convince them otherwise, the majority of the American citizenry saw the Wickersham Commission as the jury in the trial of the "noble experiment." Everything the Commission said or did was evaluated in terms of wet and dry. In the suspenseful days leading up to the release of the Prohibition report, the public pounced upon every scrap of news relating to the Commission and dragged it through the coals of the raging national debate. The Commission was put at a further disadvantage by the daily press revelations which claimed to present the latest

findings and verdict long before any were reached. This situation was aggravated by the strictly maintained policy of secrecy which surrounded the Commission's work. By the time the panel was ready to report to the nation, the great mass of American people had already made up their minds as to what the report would say. The expectation and anticipation had reached fever pitch by January 31, 1931, when the Report on Prohibition was thrown to the public, like a side of beef to a pack of ravenous wolves. The unfortunate lack of direction and position in the report enabled everyone to read something different into it, although apparently no one was satisfied. The Prohibition report was a major disappointment to the American people, who were desperately hoping for paternal guidance from sagely George Wickersham and his distinguished colleagues. After initial confusion, the report and the Commission became the sources of constant ridicule, and from that point on, the Commission suffered from a critical lack of prestige and a crisis of credibility. With its initial effort marred by the Prohibition fiasco, the Commission's later reports were, for the most part, ignored by the American public and thus were never given a chance to have any impact.

2. Political Interference--The political furor surrounding the early work of the Wickersham Commission further damaged its image. The Commission's status as an authoritative, scientific research panel was severely compromised

by the reports of political obstruction and influence which pointed to the White House. The Commission became a political football which was kicked around indiscriminately by both West and Drys alike in Washington and throughout the nation. The Congressional pressures exerted during the Commission's deliberations over the Prohibition report, the political controversies touched off by the actions of Chairman Wickersham, the attempt by Congress to influence the course of the investigation by cutting off appropriations, and the rumors of Presidential interference all worked to bring the Commission down from a pedestal of scientific nonpartisanship into the ruthless arena of politics. A cloud descended over the Commission which completely overshadowed its later work and negated its impact.

3. Lack of Presidential Support--From all indications, it appears that President Hoover could not keep his hands off the Commission during its preparation of the Prohibition report. After the report was released, however, the Wickersham Commission became an untouchable in the eyes of the Chief Executive. Hoover's disassociation from the Commission after the report was yet another serious blow. A Presidential commission without Presidential support was rather worthless. Hoover did very little to advance the later work of the Commission; in fact, he did much to destroy it. The President took what can only be interpreted as a direct shot at the Commission when, before a gathering of

the International Association of Chiefs of Police in October of 1931, he publicly denounced the Report on Lawlessness in Law Enforcement by declaring that "the public should not condemn honest and courageous policemen on the evidence of admitted criminals."¹ Without Presidential support, the Commission could not hope to have its proposed reforms enacted into law or adopted by State and municipal governments. Without Presidential initiative, any funding which may have facilitated implementation of the Commission's recommendations, even on the Federal level, was certainly not to be forthcoming.

4. Hostility of the Law Enforcement Community--With President Hoover's abandonment of the Commission, it lost the influence and authority of official sanction and thus, critics, especially law enforcement officials, did not restrain themselves from attacking or trying to undermine it. One quality which the Wickersham Commission reports were definitely not graced with was subtlety. In no uncertain terms, they criticized the police and thus gained the enmity of those very segments of opinion whose support would have been essential in any attempt at reform. The police chiefs of the United States, as evidenced by the vindictiveness voiced at their convention, were not about to adopt the

¹See Spring 3100 (New York Police Department), II, 8 (October, 1931), 4; also Literary Digest, CX (October 24, 1931), 10.

proposals of a body which indicted them for every thing from incompetence to corruption.

* * * * *

The Wickersham Commission, though villified and doomed to obscurity by its own generation, was vindicated by history. Writings by law enforcement experts for thirty years following the Commission and the studies of four recent Presidential panels have all reaffirmed its verdict of 1931. The Wickersham Commission findings have been sustained, its recommendations have been repeated, and its predictions have been borne out. The fact that later commissions presented findings and recommendations so similar to those of the Wickersham reports, suggests two conclusions. First, that the Wickersham Commission had such little impact that conditions remained virtually unchanged for forty years afterwards; and second, that the Commission was so far ahead of its time in its insights and perceptions, that its pronouncements remained valid for decades to come.

The question may now be asked, What has been the ultimate effect of the reform movement initiated by early crusaders like Fosdick; articulated for the first time by the Wickersham Commission; sustained in uphill battle by Vollmer, Smith, Wilson, and Leonard; and revitalized by the commissions of the 1960's? The first fruits of this movement are finally beginning to appear. With the entrance of

the Federal government into the American criminal justice system as a catalyst for change through its massive funding effort, the upgrading of the police, as envisioned by the early and recent reformers, is being accomplished. A new major emphasis on educational advancement, vastly improved training, increased application of science and technology, new directions in the recruitment of qualified manpower, an expanding awareness of social and community responsibility, and an unprecedented (if somewhat externally imposed) consideration for Constitutional rights, are all positive developments which have been occurring in only the past five years. While infinitely more needs to be done before justice is established or domestic tranquility insured, there is more reason now than ever before, to anticipate the day when law enforcement in the United States may yet emerge as a respected and honorable profession.

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