

# Police Discretion: The Ideal Versus the Real\*

By HERMAN GOLDSTEIN

*Executive Assistant to the Superintendent  
Chicago Police Department*

PARKING meters are a common source of irritation to both the public and the police. They were a particular source of annoyance to a city manager-friend of mine whose council membership included one man whose sole concern in life appeared to be those vehicles parked alongside meters on which the time had expired. After repeated criticism of the police department for its failure to achieve a greater degree of compliance and enforcement, the city manager was moved to speak on the issue. He offered the councilman a choice from among what he referred to as levels of enforcement. He suggested that the city could assign one police officer to enforcing all of the meters throughout the city. If this was done, he anticipated that the frequency of checks would be low and the number of overtime violations and red flags would increase. On the other hand, he could assign one police officer to each parking meter in the city. With such extensive coverage, there would be reasonable assurance that a summons would be issued at the moment the meter expired. The city manager then suggested that the council determine through its appropriation, just how many police officers were to be provided and what level of enforcement was desired as between the two extremes. The point was well made.

Without full recognition on his part, the city manager was addressing himself to one of the very basic problems in law enforcement today. We need only substitute people for

» Very often one of the misconceptions about the administrator's job is that the administrator has very little discretion in the execution of the law. Here is a clear illustration of the discretion the administrator actually has, within the framework of law enforcement administration. Here, also, the author clearly indicates that, more often than not, the real problem lies in the avoidance of the tough job of determining, at the policy level, what goals are to be achieved and then furnishing the wherewithal to achieve those goals.

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parking meters and the broader categories of crime for red overtime flags. Given the total amount of criminality in a community and the resources with which to cope with it, what is the position or policy of the local law enforcement agency? Is the agency committed to a concept of "full enforcement" of all laws, or is it committed to something less than full enforcement?

A policy of "full enforcement" implies that the police are required and expected to enforce all criminal statutes and city ordinances at all times against all offenders. It suggests that the police are without authority to ignore violations, to warn offenders when a violation has in fact occurred, or to do anything short of arresting the offender and placing a charge against him for the specific crime committed. It views the police function to be that of relating the provisions of the law to a fine measurement of the quantum of evidence. Out of this cold and somewhat mechanical calculation evolves an answer which provides the basis for police action.

The exercise of discretion, on the other hand, suggests that the police are required, because of a variety of factors, to decide overtly how much of an effort is to be made to enforce specific laws. It recognizes that actions short of arrest may achieve the desired goal.

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It implies that a police officer may decide not to make an arrest even in those situations in which an offense has been committed and both the offender and the evidence are at hand. It tends to portray police officers as something other than automatons—as reasonable men whose judgment is essential in determining whether or not to invoke the criminal process.

To date, this dilemma has been of principal concern to those interested in the total system for the administration of criminal justice—those interested in the workings of the prosecution, the courts, and the correctional agencies as well as the police. To understand how the system functions in its entirety, these students of criminal law have necessarily focused their attention at that point where it is most commonly determined whether or not a person is to be subject to the system—on the initial screening function performed by the police. If a person is arrested, he enters the system and the path which he takes, in large measure, is established. If he is not arrested, the action of the police terminates the case before the person enters the system and the action is not subject to further review.

The bibliography of thinking on this subject is rapidly increasing. This body of thought and analysis is of more than academic interest to the police. It has some very practical implications.

What is the position of the average police administrator in these deliberations? He is most likely to support the view—somewhat hesitatingly—that he is committed to a policy of full enforcement. It is, after all, the policy most commonly enunciated by police agencies. In contrast, the mere suggestion that a police administrator exercises discretion in fulfilling his job may be taken as an affront—an attack upon the objective and sacrosanct nature of his job—that of enforcing the law without fear or favor. Here too, there is a little hesitation—an awareness that discretion must be and is exercised. But like planned parenthood, it may be something you practice; it is not something you admit or even discuss.

This awkward position, in my opinion, places the average police official in a most embarrassing situation. What are the facts?

Do we have full enforcement, as the term is defined here? Obviously, we do not. How often have law enforcement personnel re-

leased a drunk and disorderly person without charging him? released a juvenile offender to his parents? warned a driver who had clearly committed a violation? ignored the enforcement of some city ordinances? arrested an individual known to have committed fornication or adultery? arranged for the release of a narcotic addict in exchange for information? dropped charges against an assailant when the victim failed to cooperate in the prosecution? ignored Sunday blue laws or simply been instructed not to enforce a specific law?

And yet, in acknowledging that some or all of these practices exist, police officials feel a sense of guilt; that these actions were not quite proper; and that they had no basis in law. Why, then, do police officials do these things? Because they are, consciously or unconsciously, acknowledging what they do not wish to proclaim—that the police must exercise discretion.

### The Exercise of Discretion

Why must discretion be exercised? Let us take a look at some of the laws under which the police operate, some of the procedures which must be followed, and some of the pressures which exist in the typical community which the police serve.

Examine, for example, the criminal code of any one of our states. By its action, the legislature has attempted to establish those forms of conduct which its members desire to be declared criminal. But this action, as reflected in the statement of the criminal law, is often expressed in such broad terms as to render a clear interpretation of the legislature's intentions most difficult. Ambiguity may be intentional so as to provide greater flexibility in enforcement; it may result from a failure to envisage the day-to-day problems encountered by the police; or it may simply be a result of language limitations. Whatever the basis for the broad statement of the law, the need for resolving these ambiguities frequently places the police in the position of having to determine the forms of conduct which are to be subject to the criminal process.

The State of Illinois has a typically broad statute defining gambling. Under its provisions, the flip of a coin to determine who shall purchase coffee or the playing of penny-ante poker must be considered a violation. As a general policy, the Chicago Police Depart-

ment devotes its efforts to seeking out gambling activities which are part of an organized operation. We do not devote manpower to ferreting out social card games conducted in the privacy of a home. But, upon complaint, we have an obligation to conduct an investigation of any alleged gambling activity.

In March of this year, the department received a complaint of gambling in the basement of an American Legion Post. Three police officers were sent to investigate. They quickly established that the affair was being run by the post auxiliary as a benefit and that a variation of bingo was to be played with the proceeds going to the men at a veterans' hospital. The officers politely warned against any activity which would be considered gambling and left. The patrons of the social, however, got panicky, grabbed their hats and coats and fled. The expected flurry of letters and newspaper articles followed. One such article concluded with this statement addressed to the Superintendent: "Most of the people of Chicago don't want you or your men to raid a women's social. They want you to go chase some crooks and leave the good people alone."

Both state statutes and city ordinances may be explicit in defining conduct to be considered criminal, but there may be little expectation on the part of those who enacted the laws that they be enforced to the letter. The statute or ordinance may be stating the ideals of the community; that adulterous activity, for example, will not be tolerated. Through this action, the community is placed on record as opposing a form of conduct considered morally wrong. Lawmakers and citizens alike derive a certain degree of comfort from having legislated against such activity. Should this false sense of comfort be a source of concern to the conscience of a legislator, he is faced with a dilemma: he might more easily choose to seek full enforcement than to be caught supporting the repeal of such a prohibition. Since few legislative consciences are upset, it falls to the police agency to live with the law without enforcing it.

The problem does not always stem from a double standard in matters of morality. Often it stems from mere obsolescence. Earlier this year, the Chicago Police Department was subject to the wrath of the community for having arrested a driver of a jeep, equipped with a

snow plow, which was used in the plowing of neighborhood sidewalks as a friendly gesture and without charge. The young officer who made the arrest had been confronted with a complaint. The benevolent driver had piled snow in a driveway to the displeasure of its owner. The officer was unable to find an ordinance that prohibited piling snow in driveways, but he did find an ordinance which prohibited four-wheeled vehicles from being driven on sidewalks. The public became enraged as news of this action spread and we were once again asked if we had run out of honest-to-goodness crooks in need of apprehension. Members of the department no longer arrest the drivers of four-wheel sidewalk plows; the ordinance, however, remains on the books. We have just decided not to enforce it.

Another major factor which forces the exercise of discretion is the limitation on manpower and other resources—a factor to which previous reference was made. Few police agencies have the number of personnel that would be required to detect the total amount of criminality which exists in a community and to prosecute all offenders. Rarely is consideration given to the relationship between the volume of what can be termed criminal acts and the resources available to deal with them. New legislation declaring a form of conduct to be criminal is rarely accompanied by an appropriation to support the resources for its enforcement. The average municipal administrator who has budget responsibilities brings a different orientation to the problem than does the police chief: his determination as to the size of the police force is based more directly upon a value judgment as to what the tax structure can afford rather than upon a determination of the degree to which the community wishes to enforce the criminal laws; he is more concerned with efficiency, production, and quality of service in handling the routine tasks which accrue to the police and which are so important to the citizenry; he has only a slight interest in or knowledge of the provisions of the criminal law.

Since there are no established priorities for the enforcement of laws prohibiting one type of conduct as against another, the police official must determine the manner in which available manpower and equipment will be used. The daily assignment of manpower is,

therefore, perhaps the most easily identifiable exercise of discretion on the part of the police.

This need for discretion was acknowledged in at least one case adjudicated in 1909 in the State of Michigan. The Michigan Supreme Court held:

"(T)he (police) commissioner is bound to use the discretion with which he is clothed. He is charged not alone with the execution of the liquor laws of the State within the city of Detroit, but he is likewise charged with the suppression of all crime and the conservation of the peace. To enable him to perform the duties imposed upon him by law, he is supplied with certain limited means. It is entirely obvious that he must exercise a sound discretion as to how those means shall be applied for the good of the community."<sup>1</sup>

In establishing priorities of enforcement, greater attention is ordinarily given to more serious crimes. A determination not to arrest is most common at the level of the petty offender—and especially if the offender is an otherwise law-abiding citizen. Policies—albeit unwritten—begin to evolve. Just as social gamblers may be arrested only if their activities become organized and move into public places, so drunkards may be arrested only if they are belligerent and homeless as distinct from those who are cooperative and long-established residents.

Discretion may be exercised on the basis of a police officer's particular assignment. Many police agencies have officers assigned to specific types of investigations, such as those relating to homicide, burglaries, or narcotics. Officers so assigned understandably consider their respective specialized function as being of greatest importance to the department. The generalization can be made that police officers frequently refrain from invoking the criminal process for conduct which is considered of less seriousness than that which they are primarily responsible for investigating. A group of officers, intent on solving a homicide, for example, will complain bitterly of the lack of prostitutes on the streets from whom they may obtain information. Narcotic detectives will likewise make frequent use of gamblers and may even tolerate petty larcenies and minor drug violations on the part of their informants. Whatever the merits of the practice, the goal is an acceptable one: that of solving the more serious crime.

<sup>1</sup> *Gowan v. Smith* [157 Mich 443, 473, 122 NW 286, 297 (1909)].

Where the volume of criminal activity is high, it is common to observe police policies which result in the dropping of charges against minor assailants when the victim is unwilling to testify. Without a complainant, the case cannot usually be prosecuted successfully. While an effort can be made to prosecute in the name of the state, the mere volume of work demanding attention ordinarily rules out a decision to do so. The determination not to proceed is clearly an exercise of discretion and terminates at this early stage in the process a case in which an offense has clearly occurred and an offender was identified and apprehended.

Discretion is often exercised by the police in a sincere effort to accomplish a social good. This is a sort of humanitarian gesture in which the police achieve the desired objective without full imposition of the coldness and harshness of the criminal process. The drunk may be ushered home; the juveniles turned over to their parents; the new woman driver warned of being found headed in the wrong direction on a one-way street. It is the exercise of discretion such as this to accomplish a desired goal to which others refer when they exhort the police to enforce the "spirit" rather than the "letter" of the law.

These are some of the reasons why the police do, in fact, exercise discretion not to invoke the criminal process in many cases. These same considerations provide ample indication that the police do not, in fact, engage in full enforcement. Why then are the police so reluctant to acknowledge that discretion is exercised?

### **Reasons for Not Acknowledging the Exercise of Discretion**

To acknowledge that law enforcement officials do exercise discretion requires an overt act—the articulation of a position—an action which is rare among those in the police field. Most law enforcement officials long ago resigned themselves to the role of the underdog upon whom the unsolved problems of society were piled high. Having developed what might best be termed a defensive posture, the police have, for example, widely accepted responsibility for all that is criminal despite the fact that crimes are not committed by the police, but rather by the citizens of the community they serve. How often do we hear a police

official admonish a community for a rise in crime? How often does a police official point an accusing finger at conditions which produce crime and criminals? Instead, whenever the publication of crime statistics indicates a rise in crime, he feels that he has in some way failed and that his department has failed. In carrying such a burden, the average police official sees nothing especially strange about having to carry responsibility for a type of enforcement he is unable to fulfill. He has learned two characteristics of his job: he must bear this burden well and he must refrain from discussing it lest it be a source of embarrassment to him and the community.

If he should have the urge to discuss his problem of achieving full enforcement, the average police official would not wish to do so in public. To acknowledge the exercise of discretion belies the very image in which he takes such pride and which he strives so hard to achieve. This is the image of total objectivity—of impartiality—and of enforcement without fear nor favor. A cursory examination of the typical oath of office administered to police officers, the rules and regulations of police departments, and the several codes governing police conduct give the general impression that strict adherence to the "letter of the law" has come to be the ideal toward which all well-intentioned police officers should strive. There is great difficulty in recognizing that discretion can be exercised without being partial. It is, of course, extremely important that police officers be impartial in their enforcement policies, but it is possible for them to be so and still exercise discretion.

Impartiality requires the establishment of criteria for uniform action—a difficult task and one which perhaps constitutes the most valid objection to acknowledging discretionary powers. It is easy, from an administrative standpoint, to support a program of full enforcement. Instructions and training are simple. One need only teach the difference between black and white. If discretion is to be exercised, criteria become essential. And here the problems begin: (1) there is a general reluctance to spell out criteria as to those conditions under which an arrest is to take place lest this written modification of existing laws be attacked as presumptuous on the part of an administrative agency and contemptuous of the legislative body; (2) in the absence of

written instructions, it is extremely difficult to communicate to large numbers of policemen the bounds of the discretion to be exercised; (3) an officer cannot be forced to exercise discretion, since the broad oath which he takes places him under obligation to enforce all laws and he can maintain that he is adhering to this higher authority; and (4) if a written document is desired, the preparation of criteria for the exercise of discretion requires an expert draftsman—one more skilled than the legislative draftsman who may have tried and failed. Is it any wonder that the typical reaction of the police administrator to the mere suggestion that discretion be acknowledged is likely to be: "It isn't worth the trouble!"?

Broadly-stated laws are, after all, one of the lesser concerns of the police. Most attention of law enforcement officers in recent years has focused upon legal provisions which are too narrow. The average police official is not very concerned about having the authority to enforce adultery statutes and not having the manpower or the community support necessary to do so. He is much more concerned because of his inability to attack organized crime effectively. And there may be an occasion upon which he can use an obscure or otherwise unenforced law to launch an oblique attack against a situation or activity which he feels warrants action on his part. His attitude is often that the law should be left on the books; it may come in handy sometime. Why impose self-limitations on police authority beyond those established by the legislature?

Another contention is that discretion breeds corruption and for this reason should be denied. This constitutes another strong administrative argument against acknowledging its existence. The average police administrator spends a considerable portion of his time worrying about the integrity of his force. Corruption, when it does exist, usually stems from the misuse of authority in order to attain selfish ends or from restraint from exerting authority in exchange for personal gain. It is always difficult to investigate. But, it is easier to do so, if policemen are expected to function on a black or white basis. If regulations require that an officer make an arrest when a violation occurs, the officer who does not do so is suspect. If, on the other hand, an

officer is told that his decision to arrest should weigh a number of factors, it is difficult to determine if his failure to act was an exercise of good judgment or in exchange for a favor or a bribe. If the exercise of discretion is sanctioned by a department's administration, it becomes known both to the violator and the officer and creates the atmosphere and bargaining power for a corrupt act. It is the fear of this possible consequence that constitutes another strong reason that open acknowledgment of discretionary authority is frowned upon by most police administrators.

To the several arguments already stated, the police will usually add the contention that whatever their practice, they are required by law to subscribe to full enforcement. Indeed, in response to a suggestion that discretion in the area of traffic enforcement be acknowledged, the objection was raised that such an assumption on the part of a police department would be "unconstitutional." Some jurisdictions do go so far as to impose a penalty upon police officers who fail to take action upon learning of a crime, but there is no indication that such jurisdictions provide a higher level of enforcement than do those without such provisions.

There is, among police officers, a healthy respect for "the law" in its generic form whatever the attitude may be toward specific provisions of either the substantive or procedural codes. It is one thing to ignore a law; it is much more serious to acknowledge publicly that it is being ignored.

One of the factors that results in a healthy respect for the law is the knowledge on the part of every police officer that he may personally be held accountable in a legal suit for actions which he takes as a police officer. Should he be subject to legal action, he knows that a literal interpretation of his authority and his actions will determine the outcome; and that any exercise of discretion on his part is, in the eyes of the court, clearly outside the law. Concern for legal actions fosters support for a concept of full enforcement.

There is some basis to share the concern expressed for the legal obligation to enforce all laws without the exercise of discretion. In 1960, the then Police Commissioner of Philadelphia asserted that for lack of funds and personnel, he would limit initial enforcement of the Sunday closing law to large retail es-

tablishments. When a Pennsylvania court reviewed this action, they ruled in favor of one of the large retail merchants and stated that

"The admitted discrimination in enforcement is a calculated result of a definite policy on the part of a public official and thus results in a denial to the plaintiff of the equal protection of the law to which it is entitled by virtue of the fourteenth amendment of the United States Constitution."<sup>2</sup>

Strong as is the fear of legal entanglements, the fear of public reaction to an announced policy of selective enforcement is even greater. Since the police know how difficult it is to meet accusations of nonenforcement when they profess full enforcement, they fear that acknowledging a policy of nonenforcement is even less defensible. The average police official recognizes that no amount of explanation will placate the citizen who, for example, is obsessed with the need for strict enforcement of an ordinance requiring that bicycles not be ridden on sidewalks. He must simply be politely "brushed off." But, what does one tell the citizen who feels that too much effort is going into traffic enforcement and not enough into apprehending burglars; what is said to the citizen who demands additional manpower to apprehend disorderly youths congregating in park areas; and what does one tell the citizen who argues in favor of tripling the effort presently directed toward apprehending narcotic peddlers?

To answer such questions intelligently, the police official must have a defensible formula for the distribution of his manpower. Such a formula rarely exists because of the reluctance of the average police official to make value judgments. He, understandably, is unwilling to decide what should be of greatest concern to the community. The whole thought of trying to defend a policy of selective enforcement is a bit frightening. It is asking for trouble. So, he often concludes that it is, in his opinion, much safer to maintain he has no discretion in these matters.

### **The Advantages Inherent in a Policy of Recognizing the Exercise of Discretion**

Some of the arguments in behalf of a denial of discretion are convincing arguments. They

<sup>2</sup> *Bargain City U.S.A. Inc. v. Dilworth* [29 U.S. Law Week 2002 (Pa.C.P. June 10, 1960)].

lend strong support to those who advocate a policy of full enforcement. If there was any indication that the breach between actual practice and the concept of full enforcement was narrowing, one might be encouraged to lean even more strongly in the direction of supporting a policy of full enforcement. The opposite, however, is true. The gulf between the ideal and reality in criminal law enforcement is growing wider. Every police official is keenly aware that the demands for his services are constantly increasing and that he is not given a proportionate increase in the resources with which to meet these demands. Crime is on the increase and gives no sign of leveling off. But, beyond this, there is evidence of a growing concern on the part of the public for a problem toward which there has more commonly been an attitude of complete apathy. The public no longer tolerates mental illness, unemployment, poor housing, or drop-outs from high school. They do something about these social problems and there is an increasing indication that they intend to do more about crime. As this concern increases, the demands on law enforcement agencies will similarly increase.

How, then, does the dilemma posed here relate to improved law enforcement? How would its resolution better enable us to cope with present problems and those which develop in the future?

Law enforcement agencies cannot make progress so long as they remain on the defensive. They cannot win public support if they fail to level with the public. They cannot solve their problems if they fail to identify these problems.

There are a number of advantages to be gained by the police by being forthright in acknowledging the role which the police play in determining whether or not to invoke the criminal process. Let us examine the major ones.

Once and for all, acknowledging discretion would enable the police to climb out from underneath the impossible burden which has been placed upon them and which has placed them on the defensive in dealing with the public. And they would be doing so, not by abdicating their legal responsibilities, but by simply acknowledging the true magnitude of their responsibilities. It is the function of the police to demonstrate the impossibility of full

enforcement to the community—making citizens aware that the enactment of laws does not cure a problem unless consideration is given to the means for enforcement. An appeal must be made to the public to accept the best judgment and efforts of the police in their approach to the total problem of criminal law enforcement. The community can be given the alternatives of providing additional funds for a level of enforcement closer to full enforcement, of relieving the police of non-police functions which deplete the effort devoted to criminal law enforcement, or of providing the police with more realistic legal guidance in how to fulfill their broad responsibilities. Citizens will choose a level of enforcement, if it is put to them in terms of cost. Somewhere between the extremes of having a police officer for each citizen and having none, a determination must be made as to the number of officers to be employed. Placed in these terms, the degree to which full enforcement can be achieved is a matter known not only to the police agency, but to the community as a whole.

In the administration of governmental affairs, respect for the law takes a second place only to the need for honesty in dealing with the public. Because police officials have been placed in so awkward a position for so long and have felt compelled to deny the obvious, the public typically reacts with initial shock and subsequent pleasure when a police official is refreshingly forthright in his public pronouncements. Keeping the public well informed on police problems, including police shortcomings, clearly develops support for good law enforcement—and public support is the key to the solution of most police problems.

What are some of the specific implications of a policy which recognizes the discretion exercised by the police? At the present time, new legislation is enacted without regard to its enforceability. The assumption is that the police will, as always, assume responsibility for the new task much as a sponge absorbs water. Rarely is consideration given to possible problems of enforcement—or to the manpower which may be required. If the police are articulate on such occasions, legislative groups may be less likely to act without regard to considering enforcement.

It is not, in the long run, to the advantage

of law enforcement agencies to have laws on the books which are widely ignored. The police have an obligation to help build respect among all citizens for law and order. A law which is known to exist and which is honored more in the breach than by compliance, tends to breed contempt for law enforcement—and usually among the very element in whom there is the greatest need for building respect. Knowledgeable in the techniques of enforcement, the police are probably in a better position to seek repeal of an obsolete or unenforceable law than any other element in the community. Their position need not be based on whether the conduct ought to be criminal, but rather on what are the practical aspects of enforcement.

The unworkability or inappropriateness of a legislative provision becomes apparent to a law enforcement agency more rapidly than it does to a legislative body. To persist in adhering to these legal requirements is nonsensical; such a policy tends only to harass citizens and lessen respect for the police. Applause will greet the police administrator who takes what the community terms an enlightened approach to such problems—publicly acknowledging the inappropriateness of the legislative provision.

Until this past year, members of the Chicago Police Department issued a summons to any motorist having a faulty headlight. This policy had been followed for years. It was, after all, the law. Had an effort been made, it is doubtful if one could have devised a more effective way of antagonizing the public. The violator rarely was aware of his violation.

A department memorandum was issued. It said, in clear language, that a police officer need not arrest a motorist with a defective light when the police officer was of the belief that the light would be repaired immediately. And further criteria were set forth:

"Where more than one lighting fixture is inoperative, or where one is in such a state of disrepair as to indicate that it was not a recent, temporary malfunction, or where the lighting violation was the cause of an accident, or is only one of several violations, the operator will be cited."<sup>3</sup> (Chicago Police Department, Department Memorandum No. 63-35)

The reaction on the part of the press was that the public had cause to rejoice, that the

<sup>3</sup> Chicago Police Department, Department Memorandum No. 63-35.

department was "thinking big", that the policy was fair, and that the motorist who purposely breaks the law deserves to be punished. The police, they declared, were finally sensible about faulty car lights.

Taking the initiative in these matters has another advantage. A person who is unnecessarily aggrieved is not only critical of the procedure which was particularly offensive to him. He tends to broaden his interest and attack the whole range of police procedures which suddenly appear to him to be unusually oppressive; he may consider the police devoid of concern for civil rights; and perhaps, in moments of extreme delirium, he may even accuse them of fascistic or communistic tendencies. Regrettably, such a person usually resorts to the therapy of letterwriting to vent his emotions, with carbon copies clearly labeled and sent in all directions. The pattern is a familiar one.

Police officials too often fail to recognize that there are many in the communities which they serve who have an inherent distaste for authority—and especially police authority. Joining with others of the same view and those whose beliefs are more firmly grounded in a support for our democratic processes, these people closely guard against the improper use of authority by the police. It behooves law enforcement officials to refrain from unnecessarily creating a situation which annoys such individuals. Such situations can often be avoided through the exercise of proper discretion.

One of the greatest needs in law enforcement is effective leadership. Presently, because of its defensive posture, law enforcement agencies have too often cultivated a form of defensive leadership. Many law enforcement officials today fulfill the need for defensive leadership in their respective organizations, but are not equal to the challenge of the times. Unfortunately, this type of need places a premium on the police administrator who can successfully dodge the issue of why he fails to provide full enforcement, who can create the impression that he is endeavoring to enforce all of the laws all of the time, who can take repeated attacks and onslaughts of public criticism, and who can be devious and less than forthright in his dealings with the public. While such leadership may have served some purpose in the past, it has not



given law enforcement the type of guidance and impetus which is required to meet the problems of the 1960's.

Open recognition of basic police problems gives the police leader a clean atmosphere in which to operate. He becomes a leader rather than a defender. Police service today demands a bolder, more aggressive individual who is adept at articulating police problems in a forthright manner and developing community support for their solution.

The police have sought professional status. But, professional status does not normally accrue to individuals performing ministerial functions. One of the marks of a true profession is the inherent need for making value judgments and for exercising discretion based upon professional competence. To deny that discretion is exercised gives support to those citizens who maintain that the job of a police officer is a simple one, that it requires little judgment, and that it is not worthy of professional status. By acknowledging the discretionary role the police do fulfill, the drive toward a higher degree of respect and recognition for law enforcement personnel is given impetus.

### **The Choice and the Task**

The real choice for a police administrator is not between "full enforcement" and "dis-

cretion" but rather more precisely between the ideal and reality. As the public becomes increasingly intolerant of crime, pressures will develop to improve and streamline not only our police organizations, but the laws and procedures under which they operate. An essential first step will then be to inform the public, to challenge some of our basic concepts, to take stock of the total responsibilities of the police, to recognize the limitations under which the police operate, and to acknowledge the need for the exercise of discretion. It is then likely that a new atmosphere will be created which will foster some new thinking and some new developments to aid in the improvement of the total system for the administration of criminal justice.

This is a big task. It is not a function for the police alone. Law—and the enforcement of law—is a vital element in our form of government. In law enforcement, one comes to grips with some of the basic legal, political and social concerns and issues of our time. Clearly, it warrants more than it has received in attention from not only the public, but from our universities and colleges as well. There is need for a much greater body of knowledge and understanding of our present operations. Such knowledge and understanding is essential if we are to develop intelligent solutions to our present and future problems.