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## **WHY THE NEGLECT OF POLICE UNIONS?**

### **EXPLORING ONE OF THE MOST IMPORTANT AREAS OF AMERICAN POLICING**

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#### **I. INTRODUCTION**

The nature and impact of police unions in the United States is a seriously neglected area of research in the field of police studies. There is very little published research on unions despite the wide recognition that unions have a major impact on policing in many different areas. The recent report by the National Academy of Sciences, *Fairness and Effectiveness in Policing: The Evidence*, a comprehensive review of the literature on American policing, contains exactly one reference to police unions in the index [Full disclosure: this author was a member of the Panel that wrote the NAS report].<sup>1</sup>

The neglect of police unions is extremely curious and defies ready explanation. Because of their impact on matters of urgent public concern – police community relations, discipline for use of excessive force, etc.– one would expect significant and sustained research on the subject. The police-community relations crisis of the 1960s stimulated an enormous body of research that continues today.<sup>2</sup> This includes an extremely valuable body of research on police use of force, including both deadly force and less lethal force.<sup>3</sup> The best of this research, moreover, meets the highest standards of social science research. The racial profiling controversy that burst upon the nation roughly around 1999 has also stimulated a large and still-growing research effort.<sup>4</sup>

Why, then, the neglect of police unions?

The purpose of this paper is to provide a brief overview of the literature on police unions, to review the various areas of policing where unions have some impact, to discuss the possible reasons for the neglect of this important subject, and in doing so place unions in the larger context of police studies in the United States. The paper concludes with a suggested agenda for research on police unions. For reasons of space and focus, this paper does not go into detail about the long history of police unionism in the United States.<sup>5</sup>

## II. PRELIMINARY CONSIDERATIONS

At the outset, it is appropriate to explain some basic considerations that guide the discussion that follows.

First, this paper proceeds on the assumption that employees have a fundamental right to join unions of their own choosing and to engage in collective bargaining over the terms and conditions of their employment.<sup>6</sup> This includes public as well as private sector employees. The precise scope of union rights vis-avis management rights in any particular employment setting is, of course, subject to considerations of law, policy choices and negotiations.

As a part of the basic right to join unions, employees also have a basic legal right to due process with respect to disciplinary actions. This includes, at a minimum, the right to notice about any charges of misconduct, the right to a fair hearing over any alleged misconduct, and a right to appeal any adverse disciplinary action including termination. The precise scope of these rights are, of course, matters of policy debate and negotiations, subject to considerations of law, policy choices and negotiations.<sup>7</sup>

Second, this paper proceeds on the basis of several social science perspectives.

The most important involves how the subject of police unionism is framed, and how such frames shape thinking and research. Among most community activists and many if not most police scholars, police unions are generally framed in negative terms. Specifically, unions are viewed as having an extremely adverse effect on discipline, accountability and police-community relations. This paper approaches police unions from a neutral perspective, regarding them as capable of potentially positive and negative effects. Whatever their negative effects on certain areas, the record indicates positive contributions in some other areas. (Prior to unionization in the late 1960s, for example, police officers were often subject to arbitrary and punitive discipline. Unionization also contributed to professionalization by securing adequate salaries and benefits.)<sup>8</sup>

Additionally, this paper views police unions as a complex and changing phenomenon. There is a tendency among many observers, particularly critics, to stereotype them as an

undifferentiated and unchanging phenomenon. As several sections in the discussion that follows indicate, this paper holds that police unions vary from department to department and also change over time.

## II. THE NEGLECT OF POLICE UNIONS

The literature on police unions is extremely limited and unbalanced. A substantial portion of the extant literature, moreover, is published by labor economists and/or in labor economics journals, rather than in the social science journals where the bulk of the police studies literature is published.

An electronic search of *Criminal Justice Abstracts* using the term “police unions” yielded a total of 19 items – scholarly articles, books, book chapters, or reports by government agencies or private non-profit groups– on police unions in the United States in the past thirty-three years. There are some additional items of value that are not cited in this data base, but they are relatively few and mostly old publications. There are additional articles based on research in Canada, the United Kingdom, and Australia, but this paper focuses on the United States and so they are excluded from this discussion.

There are 9 articles in refereed journals, 3 books, 1 book chapter and 6 government or private organization reports. Over half of the items (10 out of 19) were published between 1973 and 1979, indicating that interest in police unions has actually declined over time. Only 1 item (a book chapter) was published between 1981 and 1996. There was a flurry of research in the early to mid-1970s when police unionism was first establishing itself. These items were clearly immediate responses to a new phenomenon in policing. Of the 6 articles in refereed journals published since 1996, 2 are in labor economics rather than standard criminal justice journals. (The net result of this is that, given the traditional specialization on the part of academics, many social scientists do not read the labor economics articles.) Within a few years, however, interest quickly waned.

An electronic Lexis/Nexis search proved to be very problematic. A search using the term “police unions” yielded a total of 4 items, only one of which dealt with police unions in the United States. A search using the term “police officers” yielded 54 items, only 4 of which deal with police unions per se (that is to say, unions as an institution). Many of the articles deal with police disciplinary issues which inevitably implicate provisions of collective bargaining agreements, and in that respect deal indirectly with police unions.

There is exactly one piece—a short (5 pp.) book chapter—by a prominent scholar discussing police unions from a social science perspective and which suggests a set of research questions. James B. Jacobs brought a valuable perspective to the subject from his research on

unionization in correctional agencies.<sup>9</sup> There is only one recent social science article that could be considered a general study of police unions as an institution.<sup>10</sup>

Given the importance of police unions and their impact on many different aspects of policing in America, the scholarly neglect of this subject is truly appalling. The various areas of impact are discussed in the following section.

### **III. THE PREVALENCE OF POLICE UNIONS**

Police unions are a prevalent feature of American policing, although that prevalence varies substantially by region and size of department.

The 2003 LEMAS report on *Local Police Departments* indicate that only 41 percent of all local departments have collective bargaining. This is very misleading, however. Collective bargaining exists in over 80 percent of all the agencies in communities with 500,000 or more people. This represents the overwhelming majority of sworn police officers in the United States. The largest 189 (out of almost 13,000) departments employ 52 percent of all officers. Collective bargaining exists in only 13 percent of the agencies in communities with populations under 2,500 people. Since 47 percent of all police departments have 9 or fewer sworn officers, this represents a huge percentage of all agencies but a small percentage of all the sworn officers in the United States.<sup>11</sup>

Police unions are also relatively rare in the southeastern region of the United States where unionism has traditionally been very weak even in the private sector. There are no police unions in North Carolina, South Carolina, Georgia, or Mississippi. [There are reasons for questioning the accuracy of some items in the annual LEMAS survey, largely as a consequence of the methodology used, and we should not accept its data at face value.]<sup>12</sup> In cities outside of the southeast, however, police unionism is the norm and has been for many decades. The prevalence of unionism in big cities further distorts public perception of police unionism, since activities by unions in response to controversies in New York City, Chicago and Los Angeles, for example, often gain national publicity.

Unlike the general pattern in the private sector and even most of the public sector, there is no national police union. Just as policing itself is highly fragmented in the United States, so police unionism is fragmented into highly autonomous local unions. Many belong to different national federations (e.g., the Fraternal Order of Police), but the police unionism is not centralized as is the case with public school teachers.<sup>13</sup>

### **IV. THE IMPORTANCE OF POLICE UNIONS**

Virtually everyone with an interest in American policing –police managers, public officials, community activists, and police scholars– recognize the importance of police unions –at least in conversation. Community activists have been particularly concerned about what they see as the negative impact of unions on discipline, accountability and community relations. Because there has been no overall assessment of the nature and impact of unionism on policing, the full impact on policing is probably not recognized by most people.

The following section attempts to identify the major areas of impact and the nature of the known or potential impact in each one. As the discussion below indicates, there is considerable overlap with many of these areas. Police discipline and accountability issues, for example, have direct impact on police-community relations.

### **A. Impact on Police Management**

Police unions have a direct and significant impact on the management of law enforcement agencies. Unionism, in both the private and public spheres, represents a form of *shared governance*, with employees, acting through their union, having some voice in some but not all areas of management.

The significance of shared governance in policing must be seen in the context of the history of American police management and in particular the history of police reform in the twentieth century. The police professionalism movement appeared early in the twentieth century as a self-conscious effort to replace the tradition of political influence over policing and to institute both a mission of non-partisan public service and modern notions of management.<sup>14</sup>

As it developed, the new tradition of professional police management was highly authoritarian. The history of police reform is largely the story of strong chiefs who unilaterally imposed professional standards in their respective departments. The leading examples include August Vollmer in Berkeley, O.W. Wilson in Wichita and later Chicago, William Parker in Los Angeles, and Clarence Kelley in Kansas City.<sup>15</sup> Reformers both inside and outside of policing developed the strong belief that reform could only be accomplished through authoritarian, top-down management. Reformers regarded rank and file officers as uneducated and incompetent individuals who, as a group, needed to be uplifted through the imposition of higher recruitment standards, better training, and of course expert leadership.

The advent of police unionism in the late 1960s and early 1970s was a rude shock to police reformers. Many despaired that reform would stopped in its tracks with the rank and file having a formal, legally-required voice in management decisions.<sup>16</sup> These fears were fueled in part by many of the early conflicts over police unionism where unions opposed reforms designed to improve relations with the African American community.<sup>17</sup>

Quite apart from specific issues in collective bargaining agreements that limit the power of police chiefs (discussed below), unions periodically conduct votes of no confidence in a chief. Although such votes are purely rhetorical gestures with no actual power, they undoubtedly have a disruptive effect on day-to-day management.<sup>18</sup>

The neglect of police unions even in management circles is indicated by the most respected text books on the subject. The most recent edition of O.W. Wilson's classic *Police Administration*, for decades regarded as the "Bible" on the subject, devotes exactly 16 of 600 pages to police unions.<sup>19</sup>

Union contracts today typically give unions a voice in a number of important issues related to the management of police departments. These issues include:

### *1. Unit Determination*

Determining which employees are a part of the collective bargaining unit ("unit determination") is a threshold issue in all labor relations.

In policing, the relevant issue is whether the unit consists only of rank and file officers or also contains officers at the rank of sergeant, lieutenant, captain, or even deputy chief. Practices across the country vary considerably. In some departments, the union represents only the rank and file. In some large departments there are separate unions representing different ranks. This further complicates the task of police chiefs who must secure agreements with more than one union. In some other departments the collective bargaining unit includes supervisors up to and including deputy chiefs.<sup>20</sup>

The composition of the unit has a significant impact on police management. When first-line supervisors or middle managers are part of the collective bargaining unit, the relationship to rank and file officers is complicated, and some would argue compromised. Common sense suggests that it is difficult for a supervisor to review the performance of a subordinate when they are both members of a labor organization that may file a grievance against the supervisor and the department.

### *2. Personnel Standards*

Although recruitment and promotion standards are generally the responsibility of civil service systems that are independent of law enforcement agencies. Nonetheless, unions have been successful in gaining the right to negotiate over some personnel issues.<sup>21</sup>

One of the most important involves mandatory drug testing for current employees. In another recent case, the union has challenged physical fitness standards that involve penalties for officers who do not maintain minimum height and weight standards.<sup>22</sup>

### *3. The assignment of officers.*

The power of police managers to assign and deploy police officers is directly and indirectly affected by collective bargaining. While this is basically a management right, certain collateral issues limit management's actual power.

Union contracts typically require that officers be assigned on the basis of seniority. Thus, a police chief does not have free hand to assign particular officers to (or away from) high crime areas or areas where community relations are volatile. The seniority rule applies to the assignment of patrol officers and to sergeants.<sup>23</sup> The major result is that, typically, the youngest and least experienced officers (and sergeants) are assigned to the most volatile patrol areas: the highest crime neighborhoods during the high crime periods of the day (roughly 4 pm to midnight). Some departments have developed a fourth shift, operating during the high crime period from roughly 6 pm to 2 am and overlapping the traditional shifts, in order to deploy more officers during that critical period. In some instances this innovation has been challenged by police unions as a change in working conditions.<sup>24</sup> To the extent that a proposed innovation would involve required overtime pay, the contract requirement might discourage implementation of that particular program.

Some union contracts limit the ability of police chiefs to deploy one-officer patrol units. Since at least the 1950s it has been recognized that one-officer patrols are both more efficient and no less safe than two-officer units. Under some contracts, however, police chiefs are not free to disband two-officer units and deploy one-officer units.<sup>25</sup>

The implementation of community policing in Chicago (the CAPS program) illustrates the potential impact of union contracts on the assignment of offices. Under the contract, "it was impossible for downtown [District] managers to do any detailed tinkering with the matching of officer's skills to varying district conditions." The contract also required overtime pay for officers assigned to "important components of the program." The FOP, the local union, "remained tolerant" of CAPS, however, and community policing was successfully implemented. Eventually, it even endorsed the program.<sup>26</sup>

While the union contract did not impede community policing in Chicago, research is needed on the experience of other departments on the question of the extent to which the union contract limited or perhaps even prevented changes in assignment related to innovative programs or other routine changes in a department's mission.

#### *4. The Impact on Innovation.*

Union contract restrictions on the assignment of officers may also have an effect on innovation. The case of community policing in Chicago discussed above illustrates the potential impact on one major innovation.

In a more general sense, it is widely believed --but not investigated or proven-- that police unions stifle good management in general, innovation in particular, and limit productivity in police departments.<sup>27</sup> This view holds that, regardless of whether a particular issue is subject to negotiations under the local contract, a police chief is ever-mindful of the possibility of a challenge to any new measure --either in the form of a threatened or actual grievance or simply passive resistance. Even a blatantly ludicrous claim by the union that a certain change is subject to negotiations can stall implementation until the matter is resolved. In one recent case, for example, the police union opposed a plan to transfer the dispatching function to another agency.<sup>28</sup>

This point is admittedly a matter of speculation. The author of this paper has heard it discussed on numerous occasions by police managers, academic experts and police consultants. One item on the research agenda regarding police unionism (see below) is to develop the appropriate research methodology to confirm or refute it.

As David Bayley argues, the last quarter century has been a time of enormous innovation in American policing.<sup>29</sup> Since most of this innovation has occurred in large police departments, it has occurred within a context of collective bargaining. We can assume, therefore, that some departments have been able to manage innovation better than others: instituting organizational reforms more quickly and maintaining innovations over time. An important but as yet unanswered question is the extent to which successful innovation is the result of different management strategies for relating to the local union and the terms of the collective bargaining contract..

The case of the Chicago community policing case illustrates a point, discussed in more detail below, that unions cannot be stereotyped as an undifferentiated or unchanging phenomenon. In that case the union did not oppose an innovation, even though the contract gave it the opportunity to obstruct it, and eventually became a supporter of it.

#### **B. Impact on Discipline and Accountability**

The impact of police unions on discipline and accountability is arguably the issue that causes the greatest concern among community activists, public officials, and many police executives. The impact is felt in several different ways.

First, police unions play a role in reinforcing the norms of the police subculture (see the discussion, below). One of the most important aspects of this involves the “code of silence,” the refusal of officers to testify against other officers who are accused of misconduct. The code has been widely cited as perhaps the major obstacle to the effective investigation of misconduct and the discipline of guilty officers.<sup>30</sup> Missing from these discussions, however, is any analysis of the extent to which the police union sustains the code of silence by (1) negotiating a contract that inhibits thorough investigations of misconduct, (2) providing tangible support for accused officers in the form of experienced legal representation; (3) providing moral support for accused officers through organized group solidarity.

Second, there are specific provisions in many collective bargaining agreements that inhibit investigations. Police union contract provisions typically specify detailed procedures for the investigation of alleged misconduct, including the time, place and manner, of interviews or interrogations, etc. Many, if not most of these provisions represent legitimate due process protections for employees. These include the right to notice of charges, the right to legal representation, the right to a hearing, and the right to an appeal, among others.<sup>31</sup>

About 14 states also have state Police Officers Bills of Rights which contain provisions similar to those in police union contracts. In their content analysis of these statutes, Keenan and Walker found a few provisions that inhibit accountability. The Maryland POBR prohibits questioning of officers by investigators who are not sworn officers. Such a prohibition precludes the investigation of complaints by an independent citizen oversight agency.<sup>32</sup>

All of these impacts on discipline and accountability have a consequent impact on police-community relations, a separate and important area of impact that is discussed below.

Police unions have had a major impact on the development of citizen oversight of the police. They have been and continue to be the major force opposing the creation of independent citizen oversight agencies, whether in the form of civilian review board or police auditors, or some other arrangement. Most famously, pressure by the local police unions were responsible for the demise of the two major civilian review boards in the 1960s, in New York City and in Philadelphia.<sup>33</sup> To the extent that an effective citizen oversight agency contributes to accountability, police unions can be said to play a very negative role in improving the quality of policing.

One of the most important changes since the 1960s has been the decline of opposition to citizen oversight on the part of police chiefs, leaving the field almost entirely to the unions. Most big city chiefs today realize that to maintain good relations with African American community they cannot appear to be strongly opposed to citizen oversight.<sup>34</sup>

Unions have fought the creation of citizen oversight agencies on several grounds. They include opposing the concept per se, arguing that it violates provisions of the local city charter, arguing that it violates either the existing collective bargaining contract regarding discipline

and/or the state police officers bill of rights law.<sup>35</sup> Once a citizen oversight agency has been created, police unions have often waged a guerilla war against them. Tactics have included discouraging office cooperation with investigations, challenging certain provisions in court, and seeking legislative repeal of the enabling ordinance. Unions have been particularly aggressive in legal challenges to subpoena power for citizen oversight agencies and the requirement that officers be compelled to participate in investigations of alleged misconduct.

One aspect of the neglect of police unions has been the failure of accountability advocates to involve union leaders in discussions of reform measures. In one of the first (and still few) efforts to involve unions in the dialogue, the 1996 National Symposium on Police Integrity not only invited several union leaders to speak, but included among its final recommendations one calling for “research on the perspective of labor organizations on integrity and ethics ....” Involving unions was also included in several other Symposium recommendations.<sup>36</sup>

### **C. Impact on the Police Subculture.**

Another important area of policing that has not been studied sufficiently is the so-called police subculture. The Christopher Commission report on the Los Angeles Police Department, for example, contains a chapter with “LAPD Culture” in the title. The chapter does not, however, contain any substantive discussion of that culture or the role of the local union in maintaining it.<sup>37</sup> The related issues of the police subculture and of organizational cultures within police departments have not received sufficient scholarly attention.<sup>38</sup>

The idea of a distinct police subculture originated in the 1950s and early 1960s, emphasizing group solidarity, hostility to the public, secrecy and toleration of misconduct and even violence against citizens.<sup>39</sup> The initial research on the police subculture was conducted when African Americans were grossly under-represented, as were Hispanics in most departments, and women were not employed on a equal basis as men. In the last thirty years the composition of the rank and file has changed dramatically as a result of both equal employment opportunity considerations and a significant rise in educational levels of officers.<sup>40</sup>

One index of the fragmentation of the rank and file is the prevalence of non-union employee associations based on race, ethnicity and gender. There are both local and national associations of African American, Hispanic and female officers. In some departments, the African American association has been publicly critical of positions taken by both management and the white-dominated police union.<sup>41</sup>

As a result, the entire concept of a distinct police subculture needs reconsideration. Steve Herbert has described a complex, multi-dimensional view of the police subculture that is far more sophisticated than the original concept.<sup>42</sup> There is evidence of very different attitudes on the part of African American officers compared with whites, particularly on the issue of use of

force.<sup>43</sup> A significant body of research, however, has found no meaningful differences in on-the-street behavior among white, African American, Hispanic and female officers. The exception to this rule is that female officers do appear to be far less involved in serious misconduct, repeated misconduct, and as recipients of citizen complaints.<sup>44</sup>

As discussed above, there is special concern about the “code of silence” as one aspect of the police subculture. Numerous reports (as opposed to social science research) label the code of silence as the major obstacle to accountability.<sup>45</sup> Under the code, officers refuse to testify against other officers accused of misconduct. Since other officers are often witnesses to the events in question, their failure to testify, or testify truthfully, obstructs investigations. Discussions of the code of silence, however, rarely discuss it with reference to the extent to which the police union, as an institution, reinforces it as a subcultural norm.

Although the subject has not been investigated, there is good reason for believing that the local police union plays a major role in shaping the attitudes and certainly the public posture of the rank and file within a department. There is anecdotal evidence of departments where relations between the rank and file and management are extremely polarized, with ramifications for all aspects of policing. There is anecdotal evidence of departments where the union is hostile to any and every accountability measure and also departments where the union is willing to accept new accountability measures while at the same time aggressively defending individual officers. There are departments where union representatives present an aggressive face to the public, damaging the image of the department in the eyes of many citizens and community groups, and departments where union leaders play a more low-key public role.

[The idea that there are great differences among police unions is based on this author’s personal experiences. He has had conversations with police union leaders in some departments where they literally go ballistic about the chief and top management within minutes, reciting alleged misdeeds that went back 15 years. It is not accidental that this department has a reputation for being extremely backward and unprofessional. At the other end of the spectrum, this author had a long conversation with union leaders in another department which was very cordial and in which those leaders accepted current assumptions about police accountability, including the need for thorough and fair investigations of alleged officer misconduct.]

In one of the more interesting twists in the Rampart scandal in the Los Angeles Police Department, the Police Protective League (PPL), the rank and file’s union, retained the noted law professor Erwin Chemerinsky to prepare a report on the scandal and the LAPD. Given Chemerinsky’s status as a prominent civil libertarian, these were unlikely allies, to say the least. Chemerinsky’s report turned out to be more critical of the LAPD than most of the other reports generated by the scandal. Most notably, he concluded that the LAPD’s official report “fails to recognize that the central problem is the culture of the Los Angeles Police Department, which gave rise to and tolerated what occurred in the Rampart Division and elsewhere.” It added that “a code of silence is deeply embedded” in the department. To be sure, the PPL had certain motives in commissioning this report. Nonetheless, it is remarkable that a major police union would

retain a civil liberties attorney and issue a report that candidly discusses the pathological aspects of the police subculture.<sup>46</sup>

These considerations lead to three tentative hypotheses. First, there are great differences in the informal cultures of police departments. Second, the local union plays some role in shaping those differences. Third, these differences have some significant and measurable difference in all aspects of policing, including most importantly police officer interactions with citizens.

An important unanswered question is the extent to which the police union shapes the special culture of a particular police department or is simply a reflection of attitudes that have their origins in other factors. A related question is the extent to which the public posture of a police union changes as a result of changes in the composition of the rank and file and/or changes in leadership. Discussions among community activists, certainly, often assume that “the police union” is a fixed and unchanging entity. Common sense suggests that like all social phenomena, police unions are constantly in flux.

#### **D. Impact on City or County Finances**

Police unions have been generally successful in negotiating good salary and fringe benefit packages for their members. The resulting contract provisions undoubtedly have some significant impact on the finances of cities and counties. The nature of this impact is not known, however. It is believed that police (and sometimes firefighters) negotiations set the standard for negotiations by other municipal employees, although this proposition has not been researched. It is not known to what extent negotiated police salaries and benefits force cities and counties to reduce expenditures for other services such as streets, parks and libraries.<sup>47</sup>

On the positive side, it is generally believed that the advent of police unionism in the late 1960s and early 1970s resulted in significant improvements in police salaries and fringe benefits. This helped to improve the relative attractiveness of law enforcement as a career. It should be noted that the President’s Crime Commission in 1967 reported both lagging salaries and benefits and an inability of some agencies to attract qualified recruits.<sup>48</sup> It might also be noted that nearly twenty years later, a report on police education found that the educational levels of police recruits had risen dramatically in the two previous decades.<sup>49</sup>

Although the subject has not been studied thoroughly, there is widespread concern that police union contracts provide excessively generous fringe benefits and pensions. In a recent controversy, officials in Hollywood, Florida “pointed the finger at police officer pensions as one of the main reasons property taxes are so high.”<sup>50</sup> Some commentators have pointed out that local officials find it easy to grant generous pension provisions because the cost will not come due until they are long out of office.<sup>51</sup>

## **E. Impact on Police-community Relations**

Police experts (apart from union members and union advocates, that is) generally believe that police unions have had and continue to have a serious negative impact on police-community relations. This refers primarily to relations between the police and local African American communities.<sup>52</sup>

The modern police union movement, in fact, originated largely in reaction to the civil rights movement and its criticisms of police conduct during the 1960s. Some commentators have noted the irony of police officers mimicking the thinking and tactics of the very civil rights groups they were reacting against. Both groups asserted their rights in the face of what they perceived as discriminatory or at least demeaning treatment by the majority of society. The tactics included organizing private interest groups, picketing, lobbying and litigation on behalf of their interests.<sup>53</sup>

Many local unions originated or at least became more militant in response to specific police-community relations initiatives in the 1960s. Examples include opposition to the requirement that officers display names or badge numbers (so that aggrieved citizens could identify them in complaints).<sup>54</sup> The most famous episode involved the successful campaign against the newly-independent Citizen Complaint Review Board (CCRB) in New York City by the PBA.<sup>55</sup>

Today, on a regular basis, the actions of police unions are perceived to be hostile to improved police-community relations in several different ways.

First, police unions publicly and aggressively defend police officers accused of misconduct, particularly of using excessive force. The union in this regard represents the public face of the rank and file in ways that offend racial and ethnic minority communities.

Second, as already mentioned, unions aggressively oppose the creation of independent citizen oversight agencies, both in the political arena and in the courts. Given the fact that the creation of citizen oversight has been a principal demand of civil rights leaders since the 1960s, this posture aggravates police-community relations.

Third, unions have fought the public release of officer disciplinary records. Keeping information about discipline secret is contrary to the principle of transparency, which police experts increasingly recognize as important, and fosters the reputation of police departments as being closed, secretive bureaucracies.<sup>56</sup>

In passing, it should be noted that the entire issue of secrecy in police discipline is one that demands attention. In this author's home town, the union contract forbids the public release of information about disciplinary actions. This is contrary to the practice in other professions where disciplinary actions are matters of public record. In this author's home state, for example, disciplinary actions involving lawyers and licensed medical professionals are matters of public record and are routinely reported in the local press. One consequence of this secrecy is that we have no idea what the "going rate" is, for example, for a proven case of excessive force or for a racial slur. And as a result we have no idea how the "going rates" in various police departments compare. Such information is essential for any meaningful analyses of police accountability.<sup>57</sup>

Fourth, unions have opposed policy changes designed to foster better police-community relations. In one recent case, a police union argued that a departmental study of racial profiling was subject to collective bargaining. The California Supreme Court rejected this argument, but the challenge not only delayed the study but obviously projected an image of the police union being insensitive to the racial justice issues.<sup>58</sup>

And as discussed above, there are certain provisions of the police union contract that inhibit effective discipline and accountability.

Fifth, white dominated police unions have played the lead role in filing reverse discrimination suits in opposition to affirmative action hiring plans. The underrepresentation of African Americans in police departments has been a major issue for civil rights activists for many decades.<sup>59</sup>

## **F. The Impact on Politics**

Police unions are generally a well-organized interest group, with significant financial resources, and political clout. Police unions regularly endorse political candidates for office, support or oppose proposed ordinances or referenda, and influence city or county budget issues.<sup>60</sup> Margaret Levi argues that unionization of public employees, including all services and not just the police, "has far-reaching political consequences."<sup>61</sup>

A Google News search for just the last few months yields several examples of these activities. In perhaps the most controversial, the Houston, Texas, police union sponsored public advertisements warning about the crime rate.<sup>62</sup> This campaign was designed to obtain authorization for more police officers. The police union in St. Paul, Minnesota, sponsored a similar campaign. Such activities can have a major impact on public perceptions about the community, including dissuading businesses or people from relocating there.

Well-organized to support and provide financial assistance to candidates for local office, particularly mayor and city council. Unions have been very effective in playing the "law and

order card,” and candidates are extremely reluctant to appear to be “soft” on crime. Union activities also affect such issues as police budgets and salaries, citizen oversight agencies, and so on. Since union-supported candidates are generally very conservative, it has contributed to the drift to the right in American politics since the 1970s.<sup>63</sup>

In some cases, former police officers have been elected to office themselves. Two major cities today, San Diego and Portland, the current mayors are former police chiefs. The impact is complex, however, because former police chiefs do not always share the same perspective as police unions, and in fact may see some issues quite differently. (In one odd twist, in Portland, Oregon, the former police chief was the liberal candidate for mayor.)

As discussed above, police union activism in opposing citizen oversight, whether through a proposed ordinance or referendum, has had an impact on both discipline and accountability and on police community relations. Police unions have been active and often successful in lobbying for such issues as state statutes on police officers bills of rights, arbitration or other grievance resolution mechanisms, and other issues.<sup>64</sup>

#### **IV. EXPLAINING THE NEGLECT**

The reasons for the neglect of police unions in American police studies is not clear. Undoubtedly, many different factors have contributed to it over the years.

One possible explanation can be dismissed rather readily. It is not the case of scholars avoiding controversial issues. There is, for example, a large body of research on police use of force, including both deadly force and less lethal forms of force. This author would go further and say that the study of police use of force is one of the highest achievements of American police studies.

It should be noted that the existing literature on police use of force is based largely on research utilizing internal use of force reports. Access to these reports requires the permission of the department itself. While scholars are still denied access in some departments today, reputable scholars undertaking a major project have no trouble finding departments willing to grant access to the necessary files. This openness, it should be said, represents a sea change in the culture of police departments and attitudes toward the value of research. By the same token, in just the last few years a large body of literature has emerged on the controversial issue of racial profiling.

If anything, one would expect that scholars with concerns about police-community relations and police accountability (and it is fair to say that these concerns have been a deep tradition in police scholarship) would have taken up the issue of police unions. This has not been the case, however.

There is no ready explanation for the neglect of police unions by police scholars. One possible explanation is simply the eccentric traditions of academic research in which research is based in previously published research, with new lines of research developing only as a result of dramatic events that upset the existing paradigm.<sup>65</sup>

On the one hand, certain lines of research continue to be pursued. The best example of this involves routine police-citizen interaction on the part of patrol officers. Some of the most important research findings in the entire field of police studies. Closely related is the line of research on police use of force, which in turn, is closely related to research on police use of deadly force.

The case of racial profiling offers a good example of this point. Police scholars had almost completely neglected traffic enforcement by police –apart from the special case of drunk driving– for about thirty years. Yet, traffic stops are the most common form of police citizen interaction, representing about half of all contacts. Roughly around 1999 the racial profiling controversy erupted and that stimulated a wave of research on general traffic enforcement patterns. By the same token, scholarly interest in domestic violence was also largely a function of the women’s movement. In the 1980s attention focused on the deterrent effect of arrest, largely because of the spread of mandatory arrest laws and policies.<sup>66</sup>

In short, police research has a quirky and unpredictable history, with some issues pursued consistently and thoroughly, while others have been neglected until some external event disrupts the prevailing paradigm. For whatever reasons, no event has sufficiently jolted the world of police studies to put police unions on the research agenda.

## **V. TAKING POLICE UNIONS SERIOUSLY: A RESEARCH AGENDA**

As this paper has indicated, there are many unanswered questions related to the nature and impact of police unions. The purpose of this section is to outline a comprehensive research agenda. Some of these points have already been discussed in this paper.

### **1. The impact of police unions on management**

*A. Routine management.* To what extent does a union constrain decision-making by a police chief on day-to-day basis? How is this constraint exercised? Is it felt more strongly in certain areas than others?

B. *Innovation.* To what extent does a police union inhibit innovation in police management? Are there documented cases of blocked, delayed or altered innovative programs? Have the chiefs in some departments been more successful than others in gaining union support for innovation? If so, what strategies have proven successful?

C. *Variations in union-management relations.* Are there measurable differences in the impact of unions on different departments? What are factors associated with relatively harmonious relations in certain departments compared with acrimonious relations in others? Are there measurable differences in the areas of day-to-day management, innovation, discipline that are associated with these different styles of management?

D. *Indirect versus direct effects of unions.* Does the threat, either explicit or implied, of a grievance or law suit affect the day-to-day actions of chiefs and other commanders? To what extent are such threats used in different departments? Have police chiefs developed different strategies for dealing with such threats?

## **2. Impact on discipline and accountability**

A. *Patterns of discipline.* Are there measurable differences in disciplinary patterns in unionized departments compared with non-unionized? Are officers accused of use of excessive force, for example, more likely to be disciplined or to receive more serious discipline in non-unionized departments compared with unionized ones?

B. *Police conduct.* Are there measurable differences in patterns of officer misconduct -- use of force, use of excessive force, citizen complaints, corruption, sexual abuse of citizens-- that can be attributed to the presence of a union or specific union contract provisions?

C. *The investigation of alleged misconduct.* Are there particular provisions of police union contracts that inhibit the thorough and fair investigation of officer misconduct?

## **3. Impact on the Police Subculture.**

A. *Subculture Norms.* Assuming the development of a sophisticated concept of the police officer subculture, is there a measurable difference in the norms of that subculture in unionized versus non-unionized departments? Are there measurable differences among unionized departments? If so, what factors are associated with those variations?

B. *Attitudes toward the community/use of force.* Are there measurable differences in officer attitudes toward the public or specific issues such as the use of force in unionized versus non-unionized departments?

C. *Internal racial and ethnic relations.* To what extent does the presence of a union, or specific union activities, affect relations between white, African American, and Hispanic officers?

#### **4. Impact on police-community relations**

A. *Quality of police-community relations.* Are there measurable differences in the quality of police-community relations (measured, for example, through public opinion surveys) in unionized versus non-unionized cities?

B. *Impact of union activities.* Is it possible to determine the extent to which specific actions by the police union are, independent of other local factors, aggravate police-community relations?

#### **4. Impact of city or county finances.**

A. *City or county finances.* Are there measurable differences in the city or county finances in jurisdictions that can be attributed to the presence of collective bargaining? Does the presence of a union affect the relative proportion of local spending dedicated to public safety?

B. *Pensions.* Is there any truth to the suggestion that police pensions are relatively more generous than pensions for other city or county employees? If so, is it possible to conclude that such provisions are unreasonably generous?

C. *Local fiscal crises.* Is it possible to measure the impact of police unions on local fiscal crises? Are there any documented instances where local police unions have helped to relieve fiscal crises?

#### **5. Impact on politics.**

A. *Overall impact.* Is it possible to measure the impact of police union activity on local or state politics. If so, what are the areas of greatest impact? What have been the indirect effects of that impact?

B. *Cross-jurisdictional variations.* Are there a measurable differences in the impact of police unions in different communities. If so, what factors are associated with those differences?

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