

January 1995

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Recommended Citation

Richard J. Condon, *POLICE CORRUPTION AND THE NEED FOR OVERSIGHT*, 40 N.Y.L. SCH. L. REV. 55 (1995).

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SPEECH

POLICE CORRUPTION AND THE NEED FOR OVERSIGHT*

RICHARD J. CONDON**

I have looked at corruption within the New York City Police Department, and as the head of investigations for the special prosecutor's office and as Commissioner of the Police Department.¹ I have also read all of the studies that have been done on corruption.² Corruption is typically described as occurring in a twenty-year cycle: First there is corruption, which leads to scandal, which is followed by reform, which eventually creates a period of quietness—only to begin again. I do not

* Mr. Condon delivered these remarks at a symposium sponsored by the New York Law School Law Review in conjunction with the New York Law School Center for New York City Law on March 30, 1995 entitled *Police Corruption, Municipal Corruption: Cures at What Cost?* [hereinafter Symposium].

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1. Commissioner Condon spent nineteen years in the New York City Police Department, retiring in 1976 as Deputy Investigator. From 1976-1982, he served as Director of Investigations in the Office of the Special Prosecutor for Corruption in the Criminal Justice System in New York City. Commissioner Condon served as the Deputy Criminal Justice Coordinator from 1982-1983 and as the Commissioner for the New York State Division of Criminal Justice Services from 1983-1986. In 1986, he was appointed the First Deputy Commissioner for the New York Police Department and on Oct. 23, 1989, he was appointed the Commissioner of the New York City Police Department.

2. See, e.g., N.Y. CITY COMM'N TO INVESTIGATE ALLEGATIONS OF POLICE CORRUPTION AND THE ANTI-CORRUPTION PROC. OF THE POLICE DEP'T, COMM'N REP. 72 (July 7, 1994) (Milton Mollen, Chair) [hereinafter MOLLEN COMM'N REP.]; REP. OF THE COMM'N TO INVESTIGATE ALLEGATIONS OF POLICE CORRUPTION AND THE CITY'S ANTI-CORRUPTION PROC. (Dec. 26, 1972) (Whitman Knapp, Chair) [hereinafter KNAPP COMM'N REP.]; *Hearing Held at the United States Court House, Foley Square, New York, N. Y., Mar. 14, 1951 before the Senate Special Comm. to Investigate Organized Crime in Interstate Commerce*, 82nd Cong., 1st Sess. 975 (1951); SUP. CT., APP. DIV., FIRST JUD. DEP'T, FINAL REP. OF SAMUEL SEABURY, REFEREE, IN THE MATTER OF THE INVESTIGATION OF THE MAGISTRATES' CTS. IN THE FIRST JUD. DEP'T AND THE MAGISTRATES THEREOF, AND OF ATTORNEYS-AT-LAW PRACTICING IN SAID CTS. (Mar. 28, 1932) (Samuel Seabury, Referee); REP. OF THE SPECIAL COMM. OF THE BOARD OF ALDERMEN OF THE CITY OF N.Y. TO INVESTIGATE THE POLICE DEP'T (June 10, 1913) (Henry H. Curran, Chair); REP. AND PROC. OF THE SPECIAL COMM. APPOINTED TO INVESTIGATE THE POLICE DEP'T OF THE CITY OF N.Y. AS TRANSMITTED TO THE LEGISLATURE (Jan. 18, 1895) (Senator Clarence Lexow, Chair).

think that is so. Having read all of the reports, I think that what happened up until the formation of the Knapp Commission was corruption, scandal, an attempt at reform, a lying low of the people who were involved in the corruption, and then a flourishing of the corruption again. The hierarchical nature of corruption in the Police Department was proof of this. For example, when vice was prominent, everyone in certain units had the right to be paid to protect gambling and vice. By the end of the Knapp Commission, it was visible even with the City.

But following the Knapp Commission's report, I think what happened is that the nature of corruption actually changed, and I think this change was very important. Several things came together to effect this change: the Knapp Commission; the Office of the Special State Prosecutor;³ a reform Police Commissioner in Pat Murphy;⁴ and the *New York Times* actively covering the investigation.⁵

So there was a change that took place between 1972, when the Knapp Commission held its hearings,⁶ and 1993 when the Mollen Commission held its hearings.⁷ The Mollen Commission, which I think did a very fine job, by the way, found no evidence of corruption that went above the level of patrolman.⁸ There may have been one or two sergeants, but for the most part it was police officers.⁹ I think what the Mollen Commission found, and what I personally find frightening, was crews of patrol cops who were either "shaking down" or actually robbing narcotics

3. In 1972, as a result of the Knapp Commission, the Governor created the Office of the Special State Prosecutor. It had city-wide jurisdiction to investigate allegations of corruption within the entire criminal justice system, including the Police Department. See MOLLEN COMM'N REP., *supra* note 2, at 72.

4. Patrick Murphy was Police Commissioner from 1970 to 1973. Mr. Murphy also participated in the Symposium. See Patrick V. Murphy, Speech: *Police Corruption and the Need for Leadership*, 40 N.Y.L. SCH. L. REV. 65 (1995).

5. See, e.g., David Burnham, *City Opens Study of Policing Police*, N.Y. TIMES, Apr. 24, 1970, at A1; David Burnham, *Gamblers' Links to Police Lead to Virtual 'Licensing'*, N.Y. TIMES, Apr. 26, 1970, at A1; David Burnham, *Graft Paid to Police Here Said to Run into Millions*, N.Y. TIMES, Apr. 25, 1970, at A1; David Burnham, *Police Corruption Fosters Distrust in the Ranks Here*, N.Y. TIMES, Apr. 27, 1970, at A1; William E. Farrell, *Leary Assails Articles in Times on Police Corruption as 'Unfair'*, N.Y. TIMES, Apr. 29, 1970, at A1; Martin Tolehin, *City Opens Study of Police Graft*, N.Y. TIMES, Apr. 28, 1970, at A1.

6. The Knapp Commission Hearings were held between Oct. 19, 1971 and Dec. 21, 1971. See KNAPP COMM'N REP., *supra* note 2.

7. The Mollen Commission Hearings were held between Sept. 27, 1993 and Oct. 7, 1993. See MOLLEN COMM'N REP., *supra* note 2.

8. *Id.* at 15-16.

9. *Id.*

dealers,¹⁰ and they seem to have flourished in small groups in several precincts. I agree with Ben Ward's belief that the Mollen Commission's findings do not reach the level of what the Knapp Commission found.¹¹ But I think the importance of what the Mollen Commission recognized, and what the independent oversight board will hopefully continue to recognize, is that if this type of corruption continues, eventually you will return to this same hierarchical type of corruption. If these groups of cops who are stealing money from narcotics dealers are not caught, eventually they will be promoted within the Police Department.

These are the people that are going to go on to other assignments. If anyone thinks that you get religion after you leave a particular assignment, that's not true. People who are corrupt are corrupt, and continue to be corrupt. I think the real strength of the Mollen Commission's contribution was pointing out that there was a new type of corruption,¹² the type of corruption that we have to be more aware of than we are. I think what happens too is that, like the army, we fight the last war. I do not think that anyone thought that this type of corruption was going on to the extent that it seems to have been—and, unfortunately, this type of corruption is probably not going to be the last type of corruption.

I think you just have to look to wherever the money is. You have new immigrant groups pursuing activities that are different from activities that are being pursued now. If there is a chance to make money that way, then people who are corrupt and police officers who are corrupt will try to make money that way. You have to constantly look at what is going on in the city of New York, re-evaluate, and find out how to stop the emerging type of corruption.

There are a few other things that I wish to suggest. I believe that there should be an independent group overseeing police corruption in the city of New York. I think that the Police Department, internally, will always have other imperatives: it has a certain budget, a certain number of people, and a certain number of things that must be pursued.

Pat Murphy talked about police officers who were shot in 1971.¹³ In the late 1980s, I cannot recall a police officer who was murdered who was not murdered in relation to the crack epidemic that took hold of the City during that time. If you look at the people who are running the Police Department now, you will find that the fellow who is running the

10. *Id.* at 22-23.

11. See Benjamin Ward, Speech: *A Former Commissioner's View on Investigating Corruption*, 40 N.Y.L. SCH. L. REV. 45, 45 (1995).

12. MOLLEN COMM'N REP., *supra* note 2, at 10, 16 (testimony of Michael Armstrong).

13. See Murphy, *supra* note 4, at 71.

Internal Affairs Bureau came out of Narcotics.¹⁴ We put him into Narcotics during that time, the late 1980s. That was our war. We took the best people we had, the brightest people that we had, and we put them into Narcotics.

We had some success in Narcotics. Unfortunately, that success came with a price: some failures in internal affairs. So you have to understand that every police department will always have these imperatives, they will always have budget problems, and those budget problems will have something to do with where the resources are put.

But if you have an outside independent overseer whose sole focus is corruption, whether you call it the Mayor's independent commission, the Council's independent commission, or an office of special prosecutor, then we should be more successful in ferreting out that corruption. I think that however the Mayor and the Council resolve their issues with the Independent Commission, it will be very helpful to the Police Department.¹⁵

14. At the time this speech was delivered, Chief Patrick E. Kelleher was the head of the Internal Affairs Bureau.

15. In the aftermath of the Mollen Commission, the New York City Council formed the Independent Police Investigation and Audit Board to oversee the Police Department and to investigate for corruption. Mayor Rudolph Giuliani challenged the Council's actions in court, alleging that their move violated separation of powers principles under the New York City Charter. The New York Supreme Court held in favor of the Mayor and invalidated the Council's Board. *See Mayor of New York v. Council of New York*, No. 402354, 1995 WL 478872 (N.Y. Sup. Ct. June 30, 1995), *appeal docketed*, No. 95-3710 (1st Dep't N.Y. App. Div. Nov. 16, 1995). Presently the Mayor and the City Council are negotiating in efforts to reconcile their opposing views. According to Richard Weinberg, Chief Counsel of the New York City Council, in the event no common ground is reached, the Council will pursue its appeal of the decision. Telephone Interview with Richard Weinberg, Chief Counsel for the New York City Council (Oct. 11, 1995).