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POLICE CORRUPTION: AN HISTORICAL OVERVIEW

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SPEECH

POLICE CORRUPTION: AN HISTORICAL OVERVIEW*

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I am in a position where for twenty to twenty-five years I have been something of an expert in the area of what to do anytime a cop got into trouble. Since Whit Knapp[1] was a federal judge, and chairman of the Knapp Commission,[2] he didn't feel he could come in publicly when a cop got in trouble. Since I was the Commission's counsel, people would come and ask me for advice. And now I will, as Douglas MacArthur said, "fade away," because I am no longer relevant in light of the wonderful work that all these people have done on the Mollen Commission.[3]

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* Michael Armstrong 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].

** Mr. Armstrong served as chief counsel of the Knapp Commission.

1. Whitman Knapp was appointed chairman of the Commission to Investigate Allegations of Police Corruption and the City's Anti-Corruption Procedures by Mayor John V. Lindsay in 1970. In 1972 he was appointed as a United States District Judge for the Southern District of New York. Judge Knapp is currently senior district judge for the Southern District of New York. *See* WHO'S WHO IN AMERICAN LAW 496 (8th ed. 1994).

2. The Knapp Commission, comprised of five private citizens appointed by Mayor Lindsay in 1970, was created to investigate allegations of police corruption in the New York City Police Department. *See* N.Y. CITY COMM'N TO INVESTIGATE ALLEGATIONS OF POLICE CORRUPTION AND THE CITY'S ANTI-CORRUPTION PROC., COMM'N REP. (Dec. 26, 1972) (Whitman Knapp, Chair) [hereinafter KNAPP COMM'N REP.].

3. The Mollen Commission, a temporary commission established by Mayor David N. Dinkins in July, 1992, was created to investigate the extent of corruption in the New York City Police Department as well as to propose reforms for future prevention of police corruption. *See* N.Y. CITY COMM'N TO INVESTIGATE ALLEGATIONS OF POLICE CORRUPTION AND THE ANTI-CORRUPTION PROC. OF THE POLICE DEP'T, COMM'N REP. (July 7, 1994) (Milton Mollen, Chair) [hereinafter MOLLEN COMM'N REP.].

But first, a brief historical note: Nick Scoppetta[4] was back there with me and has continued to work in the field since. But, I think that looking back on what the Knapp Commission found and contrasting it with what the Mollen Commission has found is instructive. Maybe it's instructive to see what we can do to avoid having another commission twenty years from now.[5] When we looked at the problem of police corruption, we found that it was more widespread and less intense, perhaps, than what the Mollen Commission has found. The problem that we found was a Police Department that was completely permeated by an attitude of permissiveness and tolerance for low-level corruption.[6]

Frank Serpico[7]—whom you probably know from the movie,[8] if nothing else—had a very, very wise comment about the Department, although I don't think his figures were exactly right. He said that ten percent of the Department is absolutely honest and ten percent absolutely corrupt—and the other eighty percent, they wish they were honest.

That was really true. We found people in those days who would brag about doing corrupt things that they had not done, just to be one of the boys. It was kind of a macho thing to be involved in the generally pervasive low-level corruption, that would get fairly high-level at times.

The corruption was also openly organized. You had the plainclothes units at the time, admittedly not a large percentage of the 30,000 man Police Department—and I use the word "man" advisedly, because it pretty

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4. Nicholas Scoppetta was appointed chairman of the independent oversight commission created by Mayor Rudolph W. Giuliani, in February, 1995, to combat police corruption. Mr. Scoppetta previously served as Deputy Mayor for Criminal Justice for New York City and as Associate Counsel to the Knapp Commission. *See* OFFICE OF THE MAYOR OF THE CITY OF NEW YORK, RELEASE #080-95: MAYOR GIULIANI CREATES INDEPENDENT COMMISSION TO COMBAT POLICE CORRUPTION (1995).

5. There has been a seeming twenty-year regularity of police scandals going back to 1894, when a state Senate committee concluded that City police officers were extorting money from "disorderly houses" and gamblers. Interestingly, the 1894 probe was funded by private contributions because the state refused to appropriate the money. There were additional probes in 1911 (extortion by police from gambling and prostitution rings), 1932 (Seabury Commission), 1950 (twenty-one police officers indicted for accepting regular payoffs from gambler Harry Gross), 1972 (Knapp Commission), and 1992 (Mollen Commission). *See* William Murphy and Leonard Levitt, *It's Blue Deja Vu News Scandal Reads Like Old Police Stories,* N.Y. NEWSDAY, June 21, 1992, at 7; *see also* KNAPP COMM'N REP., *supra* note 2.

6. *See* KNAPP COMM'N REP., *supra* note 2, at 61.

7. Frank Serpico is a former New York City police officer who exposed widespread police corruption in the New York Police Department in 1970 and prompted the creation of the Knapp Commission. *See* David Gates & Alexander Stille, *The Lonely Odyssey of an Honest Cop,* NEWSWEEK, Feb. 6, 1984, at 9.

8. SERPICO (Paramount Pictures 1973).

much was in those days.[9] There were probably about seven or eight hundred plainclothesmen, but they were spread throughout the City and so well organized in their corruption that there was a take, a share, if you will, of the payoffs that were collected from gamblers each month.[10]

And everyone would go out and get their payoffs from the gamblers, bring it in and then divide it up like shares in a corporation.[11] The plainclothes cops would have one share, supervisors would have one and one half shares, and the top supervisors would have two shares.[12] And when you moved from one precinct to another, the values of the shares would change, of course, because you would get a much, much higher take in a precinct where there was a lot of gambling than in some precincts where there wasn't.[13]

So the value of the share would range from one that was worth $400 a month, in some divisions, up to $1,200, as I recall.[14] And when you moved from one division to another, you had to get checked out in the new division for, I think, a month or two, before you would get included—but that was okay because you were getting "severance pay" from your last division.[15] This was so typical of how well known and how open the whole thing was. I think that Dick Condon,[16] who will be speaking here later on, commented at the time that special prosecutor Maurice Nadjari,[17] who figured he was going to have a lot more work than he actually did, didn't count on the Police Department going honest.

And that's really kind of what happened. The eighty percent Serpico talked about who wanted to be honest, took the opportunity when the

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9. *See* KNAPP COMM'N REP., *supra* note 2, at 69.

10. *See id.*, at 69, 74.

11. *Id.* at 74.

12. *Id.*

13. *See id.* at 75-77.

14. *See id.* at 75.

15. *Id.*

16. Richard Condon succeeded Benjamin Ward as Police Commissioner in October, 1989. *See* Kevin Flynn, *Cuomo Denies Top Cop Pressure*, N.Y. NEWSDAY, Nov. 29, 1989, at 17. Mr. Condon also participated in the Symposium. *See* Richard Condon, Speech: *Police Corruption: The Need for Oversight*, 40 N.Y.L. SCH. L. REV. 55 (1995).

17. In response to the Knapp Commission's findings, Governor Nelson Rockefeller appointed a special state prosecutor to investigate corruption in the criminal justice system, and thereby took the task out of the hands of New York City's five district attorneys. *See* Leonard Levitt, *Special Prosecutor, Now Just A Memory*, N.Y. NEWSDAY, Nov. 15, 1991, at 31. Maurice Nadjari was the first state special prosecutor, appointed by Governor Nelson Rockefeller in 1972. Mr. Nadjari resigned in 1976 and has since opened his own law practice in Huntington, New York. *See* Dennis Duggan, *Cops Hang Easily*, N.Y. NEWSDAY, Apr. 26, 1994, at A24.

Department changed under Pat Murphy[18] as well as under other Police Commissioners. That eighty percent, I think, welcomed the opportunity for the Department to change its pervasive attitude. And so, what you had was, I think, a substantial cutting out of the activities of what the late Sid Cooper[19] used to call the "grass-eaters" as opposed to the "meat-eaters."[20] And what happened with that eighty percent—which I was led to believe not just by cops and people in the business, but by bartenders and people who used to get shaken-down regularly before then—is that a lot of the shaking-down just stopped; it wasn't going on anymore.[21]

But the "meat-eaters" were still there; the crooks were still there—as a matter of fact, it got better for them because they no longer had so much competition.[22] Those guys were just crooks—they had to be caught and put away. But apparently what happened over the years is that, while the "grass-eaters" were still not as pervasive as they had been, the "meat-eaters" got worse. They got worse because the drug culture changed,[23] the attitudes changed, and the cops changed.

Heroin was just beginning to be a corruption problem in the Department when we were there.[24] It turned out to be—as Nick Scoppetta well found out when he was handling the Bob Leuci

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18. Patrick V. Murphy served as New York City Police Commissioner from 1970 to 1973 and is currently the Director of the Police Policy Board of the United States Conference of Mayors. *See* Ted Gest et al., *Violence in America*, U.S. NEWS & WORLD REP., Jan. 17, 1994, at 22. 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).

19. Sydney Cooper headed the Internal Affairs Division of the New York City Police Department at the time of the Knapp Commission investigation. *See* Tony Schaeffer, *Ex-Cop Sydney Cooper, Was on Knapp Commission*, N.Y. NEWSDAY, Jan. 12, 1994, at 92.

20. Meat-eaters "spend a good deal of their working hours aggressively seeking out situations they can exploit for financial gain, including gambling, narcotics, and other serious offenses which can yield payments of thousands of dollars." Grass-eaters "accept gratuities and solicit five- and ten- and twenty-dollar payments from contractors, tow-truck operators, gamblers, and the like, but do not aggressively pursue corruption payments." KNAPP COMM'N REP., *supra* note 2, at 65-66.

21. The Knapp Commission's recommendations stopped much of the widespread "grass-eater" corruption for a period of time. *See* MOLLEN COMM'N REP., *supra* note 2, at 5-6.

22. At the same time "grass-eater" corruption became rare, "meat-eater" corruption strengthened. *See id.* at 15.

23. The introduction of the cocaine and crack trade in the mid-1980s exacerbated the "meat-eater" corruption problem. *Id.*

24. *See generally* KNAPP COMM'N REP., *supra* note 2, at 91-115 (referring to numerous incidents of police corruption involving heroin).

investigation[25]—a much bigger problem than anybody thought at the time. But corruption related to the heroin trade was not a pervasive problem. For instance, our chief witness in the Knapp Commission, a man by the name of Bill Phillips,[26] told us when he first came in that there was nothing going on in narcotics because it was dirty money and cops don't take it; even "super thieves" don't take it.[27] But Phillips, who was thoroughly corrupt, and said so, called himself "super thief" when we caught him and cooperated with us as a result of our having caught him. He worked with us for a while, then a few months later he came back and said, "I rode in a car with a guy who just got out of the Special Investigations Unit,[28] and let me tell you that what I told you about narcotics is wrong." And he told us the things that we already knew because of Nick Scoppetta's work with Bob Leuci who had worked with us for a while before he was turned.[29] We already knew that the Unit was corrupt and that there was corruption in narcotics, but Bill Phillips did not.

I think that is instructive. Today, I think, the pervasiveness of drug corruption in the corrupt community, whatever it is, is a whole different thing than it was when we were around.

From what I have read, and from talking to the people who have done such good work on the Mollen Commission in uncovering the current situation, I think that the situation now is that you still don't have the once widely permitted "grass-eater" corruption—but the "meat-eaters" now are a lot worse.

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25. At the time the Commission approached him, Robert Leuci was a detective for eleven years and assigned to the Special Investigations Unit of the Narcotics Division. He was interviewed by the Knapp Commission in February, 1971 and told them everything he knew about corruption in the Special Investigations Unit and proceeded to go undercover to help the Commission expose it. After a month working with the Commission, the information he obtained required manpower and time beyond that of the Knapp Commission, so Leuci's investigation was turned over to the United States Attorney General's Office for further investigation. *See* MOLLEN COMM'N REP., *supra* note 3, at 48-50.

26. Patrolman William Phillips, a decorated police officer with fourteen years of experience, was caught by the Commission when it uncovered his involvement in receiving $11,000 in bribes. In exchange for immunity, he agreed to tell the Commission all he knew about the corruption in the Department and further agreed to work as an undercover agent. *See* KNAPP COMMISSION REP., *supra* note 2, at 50-52.

27. *See id.*, at 52, 67, 92.

28. The Special Investigation Unit, which is no longer in operation, was a main unit of the Narcotics Division. The Unit was responsible for initiating long-term investigations to arrest high-level drug distributors. *See id.* at 93-94.

29. *See id.*, at 49. *See also* MOLLEN COMM'N REP., *supra* note 26.

Those guys who were testifying at hearings, and the people about whom they testified, were real criminals.[30] It seems to me that in the Knapp Commission we dealt with people who were taking money to allow other people to do criminal acts. But now, the people who have been uncovered are people who are competing with the criminals in doing criminal acts[31]—I think that that's a different kind of person and a different kind of problem.

I think the things I have heard from the Mollen Commission sound good. I will say one thing: I am a strong believer in some sort of a strong monitor on the Department. I do not believe that a monitor that is beholden to the Mayor is a good idea. I think there should be some sort of an independent body. I think that the special prosecutor who was appointed after the Knapp Commission got off to a bad start because he got a little political.[32]

When the special prosecutor's office was in the hands of John Keenan,[33] Rod Lankler,[34] Tom Duffey,[35] and people like that, I think it did a very good job because it posed an outside independent body that helped the Department and the District Attorneys who should be in the first line of combating corruption. It helps them to have somebody standing behind them who is independent. I think that is one recommendation of the Mollen Commission that is very wise.

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30. *See* MOLLEN COMM'N REP., *supra* note 3, at 16-17.

31. *See id.* at 2.

32. The special prosecutor appointed after the Knapp Commission was Maurice Nadjari. *See* Schaeffer, *supra* note 19.

33. John Keenan was appointed special state prosecutor after Maurice Nadjari resigned. Currently, Mr. Keenan is a United States District Court Judge. *See* Leonard Levitt, *New York City Lawyer Heads Foster Probe,* N.Y. NEWSDAY, Feb. 24, 1994, at 17.

34. Rod Lankler served as special state prosecutor from 1979 to 1981 and served on the Mollen Commission in 1992. *See* Bob Liff, *Mollen's Cop Panel Fills Out,* N.Y. NEWSDAY, July 8, 1992, at 78. Mr. Lankler is currently a partner in the firm of Lankler, Siffert & Wohl. *See* Levitt, *supra* note 34, at 17.

35. Thomas Duffy was a special prosecutor during 1984. *See* Leonard Levitt, *Once PBA Ally,* N.Y. NEWSDAY, Apr. 12, 1987, at 6.