

## CHAPTER 1

CRIME AND THE LAW  
ENFORCEMENT RESPONSE

The history of modern policing as we know it can be traced to London in 1828 when Sir Robert Peel introduced a bill to provide for a trained and uniformed police force. The force, because of Peel's backing, quickly became known as bobbies or peelers. Encouraged by this development, New York City followed the same path in 1844, when the old Night Watch was legislated out of existence. In 1845 the first shield was introduced. The device has a rather peculiar history. Up until that time the police preferred to patrol in civilian clothes, seeing uniforms as a British custom not befitting freeborn Americans. The eight-pointed, star-shaped copper shield was worn on civilian clothes to denote the wearer as a police officer. These persons quickly became known as coppers or cops. In New York City, formal training and official uniforms would not appear until 1853.<sup>1</sup>

Although there is much detailed history related to the subsequent development of policing in New York City and other locations throughout the United States, from this simple beginning the structure of modern law enforcement was laid. As it grew and evolved, it faced challenges both great and varied: draft riots during the Civil War, bandits of various ilk in the unsettled West; the fear of sedition during World War I; Prohibition and the rise of organized crime; black marketeering and military preparedness during World War II; the civil unrest of the 1960s; and, of course, drugs.

As the 1960s began to meld into the 1970s, despite the best efforts of law enforcement, crime continued to be one of the leading concerns of the public. In 1968, crime was the number-one domestic issue cited in the Gallup poll, the first time that had ever occurred. Crime rates were soaring, with the FBI reporting the following increases per 100,000 persons in the U.S. population between 1969 and 1970:<sup>2</sup>

Murder	Up 56 percent
Aggravated Assault	Up 92 percent
Forcible Rape	Up 95 percent
Robbery	Up 186 percent
Burglary	Up 113 percent
Larceny (\$50+)	Up 240 percent
Auto Theft	Up 150 percent

Rader and McGuigan commented on these times in the following manner in 1983:

Either crime has been increasing over the last decade or clocks are ticking slower. In 1971, Americans could expect a murder every thirty minutes, a rape every thirteen minutes and a violent crime every thirty-nine seconds. In 1981, murders were occurring every twenty-three minutes, a rape every six minutes, and a violent crime every twenty-four seconds. Moreover, the average American is experiencing crime firsthand more often. A 1981 study by the Department of Justice found that 25 million American households (30% of the total) were victims of crime. Accordingly, U.S. families are more prone to have a member attacked in a serious crime (rape, robbery, or aggravated assault) than to have a residential fire or have a member injured in an automobile accident, and more likely to have a member robbed than to have a member stricken by cancer or heart disease, the nation's leading health problems.<sup>3</sup>

Were this not bad enough, urban America—Baltimore, Chicago, Detroit, Miami, Newark, and Washington, D.C.—experienced major riots, and significant parts of some of these cities went up in flames. Police control was tested, with the National Guard and even regular Army units being called up to assist. Serious commentators were debating the proper role of the military in assisting the police in the discharge of their duties and the Constitutional issues this would raise.<sup>4</sup>

Thomas Repetto, the head of the New York City Crime Commission, has commented on the state of crime in that city during the era. In 1961, the NYPD reported 390 murders; by 1964, the rate was 637, an increase of two-thirds in just three years. By 1972, the rate was close to 1,700, quadrupling over a single decade. The number of robberies reported had risen from 23,000 in 1966, the first year statistics for such crimes had been kept accurately, to nearly 90,000 at the beginning of the 1970s.<sup>5</sup>

New York City was hardly alone in its crime problems. Meltzer observes that other cities had their issues as well:

Bad as the situation in New York was, it was worse in other cities. In 1987 New York ranked ninth in murder and manslaughter among the twenty-five

largest cities. Detroit was first (with a rate two and a half times that of New York), and New Orleans was second in rates per 100,000 people.”<sup>6</sup>

The United States was also not faring well when compared to other countries, as Meltzer also notes:

The United States has a higher homicide rate than any other industrialized country. In the 1980’s about 20,000 murders a year were committed in the United States. Each year 10 Americans of every 100,000 were murdered. In West European countries the homicide rate was fewer than 2 per 100,000. Taking Australia, Canada and New Zealand together, the homicide rate was less than 3 per 100,000.<sup>7</sup>

At the same time, he advises, the overall level of violent crime in the U.S. was beginning to show signs of declining, by 21 percent in the period 1980–1984.<sup>8</sup>

Some argued that public concern about crime was merely a function of awareness and perception. To quote the old newspaper adage, “If it bleeds, it leads.” As the 1980s approached, sometimes-sensational coverage, aided by smaller and more mobile remotes and eye-cams brought crime into our living rooms. Like the Vietnam War, daily doses of near-real-time carnage had a powerful impact on the public psyche. Reality television producers realized that for the cost of a camera crew, powerful entertainment could be put forward without the need to build sets and pay actors and scriptwriters. Even the search for fugitives, one of the most basic elements of law enforcement for centuries, could be transformed into a long-running television series.

Such respect for the power of the media has not abated. At the 2002 American Bar Association meeting of its White Collar Crime Section, two entire tracts were devoted to media matters: “High Visibility White Collar Crime Cases: Will the Media Shape Your Case?” and “Inherit the Wind—Dealing with the Media in the 21st Century.” Considering that these topics were competing for scarce presentation time with items such as “International Investigations—The Expanding Extraterritorial Jurisdiction of the United States and the Bill of Rights” and “Grand Jury Reform,” it appears the criminal bar is appropriately sensitive to the influence the media can wield. Indeed, the proceedings of this meeting contained no less than 14 newspaper articles that were believed to bolster the argument for the media’s ability to shape public perceptions.<sup>9</sup>

Others saw broader societal forces at work, affecting not only street criminals but many institutions and professions as well. The Hastings Center, in an ethics report at the end of the 1970s, noted:

On the societal level, our newspapers and pundits have bemoaned symptoms of a moral vacuum... a sense of moral drift, of ethical uncertainty, and a withering away of some traditional roots and moorings. There is a concern

about juvenile delinquency, about white-collar crime, about a culture of narcissism, about the absence of fixed and firm guidelines for both personal and institutional behavior. . . almost all the professions are beset with criticisms concerning the moral behavior of their members. . . A recent Carnegie study emphasized widespread unethical practices by college students. The list of public complaints is long, and the professions have seen a comparative drop in public confidence.<sup>10</sup>

Law enforcement budget enhancements were sought, even in times of fiscal austerity elsewhere in the public domain. One writer noted: “[T]he police administrator is faced with the problem of obtaining more productivity from existing levels of resources, knowing full well that those resources will probably diminish in the future in the face of an increasing demand for the output of those resources.” The writer concludes that the answer lay, in part, through increased officer productivity measured through improved performance appraisal systems. Again, the answer offered is more arrests.<sup>11</sup>

Another writer saw promise in the developing field of *futuristics*, the “use and application of forecasting techniques as an aid in law enforcement decision-making.”<sup>12</sup> He went on to note, however, “In spite of the advances that have been made in policing in the past two decades, American law enforcement continues to operate much as it did at the beginning of the century.”<sup>13</sup> This translates, roughly, into “find the bad guys and lock them up.”

Still others sought understanding in the causal roots of criminal behavior:

[A] decline in family influence in an increasingly youthful society; a permissive attitude toward much criminal behavior; the deterioration of many of our major cities and rapid unplanned growth of suburbs; the failure of our criminal justice system to deal promptly and fairly with persons accused of crimes; the failure to rehabilitate those convicted of crimes. Overlapping most of these factors are the opportunities for crime in today's society and the problem of drug addiction.<sup>14</sup>

Gangs, too, began to become a more significant factor in the nation's crime problems. From being present in 54 cities prior to 1961, they had grown to inhabit more than 170 cities by 1980. By 1992 they were present in 766 American cities, including 91 with a population less than 10,000 persons.<sup>15</sup> By 1992, 54 percent of cities with gangs had from one to five gangs present, and an astonishing 30 cities, 4 percent of the total, had over 50 gangs each.<sup>16</sup> Gang violence had a corrosive spillover effect, not only in terms of violence gang members did to one another or rivals, but also to the uninvolved. One study conducted with data from the Los Angeles Police Department indicated that when gang homicides were compared to nongang homicides, the following characteristics emerged. Gang homicides:<sup>17</sup>

- More often occurred in the street
- More often involved autos
- More often involved guns
- More often involved injuries to other persons
- More often involved victims with no prior relationship to their assailant(s)

In 1980 there were 351 gang homicides in Los Angeles County, a number that would decline slightly for the next several years, before beginning to rise substantially in the late 1980s and early 1990s.<sup>18</sup>

Some theories of gangs and gang behavior saw a set of factors as promoting gang membership and growth. As we shall see shortly, these factors are remarkably similar to issues raised by “root cause” theorists of crime in general:<sup>19</sup>

- Sufficient number of minority youth, that is ten to thirty
- Absence of appropriate jobs
- Absence of acceptable alternative activities
- Concentrated minority populations
- Comparatively high crime rate
- Absence of community and informal controls

Given the beginning growth spurt of gang activity in the time frame of the 1960s, it is perhaps less than coincidental that the most famous and successful gang movie of all time, *West Side Story*, debuted in this era. The artistic merits of that film aside, gangs were rapidly becoming yet another problem for law enforcement to deal with.

More traditional organized crime groups were active as well, prompting the 1967 President’s Commission on Law Enforcement to comment: “If organized criminals paid income tax on every cent of their vast earnings, everybody’s tax bill would go down, but no one knows how much.”<sup>20</sup>

As the 1970s and 1980s passed, the face of organized crime in the United States became more varied. The old group, the mafia or La Cosa Nostra, was in full flower, especially in major cities, but they were being joined and pushed by newcomers on the scene—highly organized and often-vicious gangs from Mexico, China, Cuba, Colombia, and Jamaica.<sup>21</sup>

As a result of these pressures, more prisons were built, often bringing badly needed jobs to communities suffering economic blight. The Federal inmate population alone increased over 600 percent, from 21,266 in 1970 to 131,419 as of October 2001.<sup>22</sup> Overall, at the midyear point of 1998, there were estimated to be 1.8 million inmates in the United States, double the number of a decade

earlier.<sup>23</sup> The private sector saw opportunities and responded, with private prisons coming into being.<sup>24</sup> The defense industry, impacted by the effective end of the Cold War, saw growing law enforcement needs as an alternative market for their products and technologies. Legislatures and jurists combined, somewhat uneasily at times, to produce mandatory sentences, sentencing guidelines, “three strikes, you’re out” legislation, and other remedies. The number of persons in various forms of incarceration in various jurisdictions began to put a strain on some budgets.<sup>25</sup>

The public’s fears also spilled over into other areas, again funding private-sector growth. The Security Industry Association, a trade group, reported that U.S. businesses spent \$82.3 billion on security systems and products in 1996.<sup>26</sup> Personal safety products and services sprouted; guard and alarm companies prospered; professional associations thrived; and near-endless meetings, symposia, roundtables, and conferences were held.

Former New York Police Commissioner William Bratton captured the tenor of these times when discussing the earlier stages of his law enforcement career. He noted that in the 1970s the guiding principles of much of law enforcement were the three R’s: rapid response, random patrols, and reactive investigation.<sup>27</sup> In many ways, these precepts make perfect sense. Rapid response to a call for service can be vitally important; the sick or injured are tended to sooner, a fleeing perpetrator may be caught close to the scene of a crime, and valuable witnesses and evidence may be secured before they are lost. Much was made of measuring average response times down to the fraction of a second on a city-wide basis. Random patrols were meant to discourage criminal behavior by making the criminals unsure when or where a cop would appear. Reactive investigation was designed to place detectives and investigators at the scene of serious incidents. In theory, it made sense; however, structural issues soon came into play.

Many police departments operate on a clearance system. A call for service, measured for speed of response, can be cleared in a number of ways. A criminal can be arrested in the case of a robbery, an ambulance can be called in the event of a heart attack, a tow truck can be called in the event of an accident, and an unruly group can be dispersed in the event of a noise or nuisance complaint. Clearance rates are also tracked as an indicator of the responsiveness and effectiveness of police services. The widespread adoption of the 911 system in most major cities, designed to speed the rate of response, only operated to exacerbate already existing problems with how the public and police interacted. Calls for service flooded the systems, the vast majority of them for nonemergency matters, and the incentive within police departments was to move them through the system as quickly as possible. Little thought was given to what the net impact of all this activity produced.<sup>28</sup>

Bratton recounts one extreme example that highlights the flaws in this system. During his career in Boston, there was one corner where a gang of local

juveniles liked to hang out at all hours. An older man lived above the corner and called to complain about the kids and the disturbance they were creating. A car with two police officers would be dispatched, arrive quickly (response time), and disperse the kids (matter cleared). Within minutes, the kids would return and the scenario would repeat itself. In one year there were 1,300 calls for service at this one corner! Each one was cleared and the situation never changed.<sup>29</sup>

The important element to appreciate in thinking about response time is that it is the junk that clouds over the truly important issues. In my 25-year career in the FBI, I have been on both sides of the response time issue; many times I responded, and a few times I was responded to. In both situations, time is critical.

Bratton comments on the effects of this mentality when he took over as the Commissioner of the NYPD some years later:

The police department has always thrown numbers at the community. "Look at all of our arrests, look at our activity." But the department only measured activity, it didn't measure results. Civilians who complained about the squeegee men were in the same situation as the guy at I Street and East Seventh in Southie who placed 1,300 calls to 911 and never got satisfaction. The cops were a powerful group who could walk into community meetings and say, "It's the criminal-justice system that doesn't take this seriously, it's the judges who let these squeegee guys go, it's the society who created them in the first place. Don't blame us." People would back off because the numbers don't lie, and so nothing ever got done.

But it was a lie. The strategies the NYPD was using were not effective, and the department knew it. They'd go after squeegee people and for a month show substantial arrests and summonses, but there was no urgency. They'd go after them for an hour, once a week. It was the same as working with prostitutes; if you tell them "Friday is sweep day, I'm going to arrest you; the rest of the week you can make all the money you want," you are inviting failure. Success comes with constant attention.<sup>30</sup>

That this system was ineffective is beyond the point. Measures define success and measures drive systems, to include police departments. By the measures used at the time, this was successful police work. There were other problems as well—a major disconnect between what the police thought was important to the public and what the public actually wanted. The police took the common-sense view that since serious crime was by definition, serious, it was high on the public's list of expectations. Resources were budgeted and deployed accordingly. The public, meanwhile, actually had much more mundane issues they wanted the police to do something about.<sup>31</sup> The police thought as long as they focused on the big things, the public would tolerate and accept the smaller ones as less important in the great scheme of things. The public, meanwhile, fully expected the police to handle the big issues and do something about the small ones as well.

Recognizing the apparent disconnect between public expectations and law enforcement objectives and strategies was not an act of obstinacy or stupidity. Rather, as Peter Manning points out, it was in many ways a logical consequence of the basic societal foundations of the policing function. Manning has devoted a considerable amount of time to the study of the police, mainly in the United Kingdom but also the United States, and has speculated on the nature of the social contract they hold with society, the implications of it, and how their efforts to fulfill that contract and survive as an institution have shaped their mission, organization, and self-perception. He notes that early pressures to regulate the possibility of violent intervention to effect their responsibilities relied on a system of strict accountability, a military rank structure, rigid control over communications, and constant supervision. As a result of these factors, the police came to be what he calls a “symbolic bureaucracy.”<sup>32</sup>

Manning also describes eight attributes he believes characterize the nature and limits of police power.<sup>33</sup> From our perspective, it is useful to think of these attributes in two lights. The first, which we examine in this chapter, is the set of elements that tended to work to produce the types of responses that characterized the law enforcement mission for the first seven decades of this century in the United States. The second, which we shall examine in the next chapter, is how these same elements figured into the rethinking necessary to effect improvement in the police function:

1. The police symbolize the state, both in the sense of representing its political unity and also in being the arbitrators of adherence with its dictates.
2. They characterize their activities as being based on political consensus and serving society as a moral whole.
3. Although they are charged with enforcement of the law, they frequently encounter situations where the law is a weak resource.
4. They must do their work with few procedural guidelines while observing various constraints designed to protect individual rights.
5. From prior experience with criminals they often believe they should, or must, decide guilt or innocence before an arrest.
6. The police are highly dependent on the gathering, receiving, processing, and use of information.
7. In theory the police are apolitical.
8. Although the police often claim active control over issues of crime and public order, they are in reality highly dependent on information from others to even begin to approach the discharge of their duties.

Because of these factors, Manning theorizes that the law enforcement function often displays highly representative characteristics. First, while the police



typically characterize themselves as crime fighters, they more often are involved in helping or order-maintenance roles.<sup>34</sup> Second, they are, by the nature of their mission, often put into roles wherein the demands being made on them are contradictory or incapable of logical resolution. Manning notes:

The demands made on the police lead them to pursue both contradictory and unattainable ends. Further, the nature of their problems does not permit them to devise anything approaching a "solution." They lack a practically relevant theoretical understanding of the causes of crime, and even possession of that knowledge might not yield satisfactory crime control. . . . Rather than educating the public about their limits, the police have manipulated public opinion and have sought an uncritical public acceptance. To accomplish these goals, they adopt a vocabulary describing their conduct and aims as "professions."<sup>35</sup>

The result of these pressures, objectives, and mandates, Manning finds, is a movement toward bureaucracy, with the prototypical police organization being one that is rational, efficient, scientific, and technologically sophisticated. Also, as one might expect, one that is oriented toward the maintenance and use of statistics.<sup>36</sup> By and large, these statistics are the result of what gets reported to the police and are easily characterized by them as crime, and not necessarily the primary issues present in the social environment in which the public understands and lives.

In trying to understand the logic of these divergent perceptions of police activity and public expectations, Bratton is instructive. He notes that when he took over the New York Transit Police in New York City in 1990, more than 3.5 million people used the subways every day. For many, it was their only way to get to work and move around the city. Robberies had jumped by 48 percent in the past two years, and with other problems, like aggressive panhandlers and sleeping drunks, the subways had become an issue in the eyes of many New Yorkers. Bratton recounts that even after this increase in robberies, with a peak of about 55 per day, the total number of crimes that occurred in the subways was only about 2 percent of all crime in New York City. Fifty-five robberies a day is a small percentage when viewed from the perspective of 3.5 million daily users, yet these and other crimes made subway use problematic, especially at night, and especially for women.<sup>37</sup>

When Bratton involved the Transit Authority's (TA) director of corporate communications, John Linder, in the effort to better understand the public's perception of crime on the subways, the results were telling. Bratton recounts them as follows:

Linder's focus groups told him that despite the fact that the TA had virtually wiped out graffiti on the trains, about 20 percent of the respondents said it was still there. Things had gotten so bad, people didn't even believe what they

saw. In one set of focus groups, Linder asked women what percentage of the city's crime they thought was committed on the subways. They said 30 to 40 percent. Homicides? Forty to 50 percent. When he asked men, crime came back at 20 to 30 percent, homicides to 30 to 40. In fact, 3 percent of the city's felony crime and between 1 and 2 percent of its murders happened on the subways. "What would you think if I were to tell you that 3 percent of the city's crime happens on the subway?" he asked the women. "Would that change your level of fear toward the public-transportation system?" They answered, "Absolutely not."<sup>38</sup>

Thus was a crime problem defined by the populace, and not the police.

Although the public defined what crime was and was not, from their perspective, the police defined the response to crime. Bratton recounts the results he encountered when he had one of his key lieutenants, Jack Maple, conduct a study of how the NYPD was approaching the crime problem in New York:

When Maple analyzed the Bureaus, the news got worse. The Narcotics Bureau, he discovered, worked largely nine to five or five to one, Monday through Friday. The warrant squad was off weekends. Auto-crimes squad, off weekends. Robbery squads? Off weekends. The community-policing officers—those six thousand baby-faced twenty-two-year-olds who were going to solve all the neighborhoods' problems—off weekends. Essentially, except for the detectives, patrol officers, and some other operations going round the clock, the whole place took Saturdays and Sundays off. The criminal element was working nights, they were working weekends, they worked the late shifts and legal holidays. They were working harder and smarter than we were. No wonder crime was up; and prevention was down.

The NYPD had people bluffed. They had a reputation as the greatest crime-fighting machine in the history of policing, but the big blue wall was a lot of blue smoke and a few mirrors. They were good at responding to crime, they just weren't very good at preventing it. They weren't even trying to prevent it. They were cleaning up around it.<sup>39</sup>

Part of the reason for this orientation, Bratton learned, was the manner in which over time both the Department and its officers had come to perceive themselves, their work, and what elements of it were important. Upon taking command of the NYPD, Bratton formed a series of 12 reengineering teams, staffed by 300 NYPD personnel. They surveyed more than 8,000 NYPD officers and made more than 600 recommendations for change. Bratton observed that he was astounded by their findings. With regard to the Department itself, he learned:

At the highest levels of the organization, the basic aim of the NYPD was not to bring down crime but to avoid criticism from the media, politicians, and the public. As one police executive put it, "Nobody ever lost a command because

crime went up. You lose a command because the loudest voices in the community don't like you, or because of a bad newspaper story, or because of corruption.

The greater the distance from headquarters, the lesser the trust from one rank to the next. Exclusion was the rule. Creativity was actively discouraged. One commander said of his troops, "I have three hundred potential (career) assassins in my unit."

Police officers believed the department had not backed them up, even when their actions were warranted.

The department was structured to protect its good name (and the careers of its senior executives) rather than to achieve crime-fighting goals.

The Internal Affairs Bureau was seen as intent on tripping up officers for minor infractions rather than rooting out real corruption.<sup>40</sup>

Because of such deeply seated organizational assumptions within the Department, Bratton notes, it was also not surprising that there were significant discrepancies between how the rank and file saw what was expected of them, as opposed to what they thought was important. Bratton summarizes these disconnects as follows:<sup>41</sup>

Considered by officers to be most important to the department:

1. Write summonses
2. Hold down overtime
3. Stay out of trouble
4. Clear backlog of radio runs
5. Report police corruption
6. Treat bosses with deference
7. Reduce crime, disorder, and fear

Considered by officers to be most important to themselves:

1. Reduce crime, disorder, and fear
2. Make gun arrests
3. Provide police services to people who request them
4. Gain public confidence in police integrity
5. Arrest drug dealers
6. Correct quality-of-life conditions
7. Stay out of trouble

While one can overemphasize the findings with regard to one large department, given the prevailing attitudes and assumptions of the era, it is likely that many, if not most, police departments viewed their tasks in a similar light. They were in the business of producing numbers in the face of a burgeoning level of crime, and the better they produced those numbers, the better off they were.

One should be cautious in thinking that the police were some sort of aberration on the organizational landscape because of this behavior. There is perhaps no force so great in organizational psychology as what is familiar. Graham Allison, in his remarkable book on the Cuban missile crisis, *Essence of Decision*, has commented insightfully on the tendency of most organizations to see the world in terms of what he refers to as their “organizational routine.” During that critical moment in modern American history, the State Department saw the event as essentially a diplomatic problem, while the military saw it as fundamentally a military situation. Both were viewing it from the perspective of their organizational skills and mindset, while discounting other explanations of the situation.<sup>42</sup>

Thus, too, the police. With more than a century of organizational history behind them, they had concluded that the solution to crime was arrests, just as it always had been. If there was an abnormally large amount of crime, there would have to be an abnormally high number of arrests to solve it, and this would probably require an abnormally high number of cops.

In an environment in which *case processing*, a term we shall later examine in more detail and context when used by Kelling, was the norm, so was the response. The police saw themselves largely as a production line, ruled by the theories of “scientific management” and “Taylorism.” The object was to get greater production out of the line, much like Henry Ford when he began to build his fortune in the manufacture of cars. Former NYPD Chief of Detectives Al Seedman describes what was at the time a radical concept within the NYPD in the early 1970s to improve detective efficiency. For scores of decades, detectives were assigned to each NYPD precinct, normally occupying the second floor, with the uniform cops on the first floor. They investigated the more serious crimes within that precinct. Whether their caseload was high or low, there was always a certain complement of detectives assigned to each precinct, because that was how it had always been done.

Seedman came up with and implemented the radical idea, under then-Commissioner Patrick Murphy, of having detectives grouped into detective districts. The old squads would be disbanded, and each district would have four groups of detectives assigned on a functional basis: homicide and assault, burglary and larceny, robbery, and narcotics. The more routine matters they had handled in the precincts would now be handled by the patrolmen. Further, caseloads could be studied between districts and detectives assigned as needed to produce more even workloads. An additional benefit was increased specialization.<sup>43</sup>

Such changes now, in retrospect, seem minor and even obvious, but at the time they were profound. It is more telling that these were essentially

Taylor-esque modifications to what was in many ways an assembly line, albeit an assembly line of crime processing. There was some specialization, and also some prioritization, as detectives handled more serious matters and patrolmen less serious offenses, but these were really slight nudges to a massive system that remained essentially in place.

Irwin Garfinkel, in the foreword to Murray Edelman's book, *Political Language: Words That Succeed and Policies That Fail*, notes the position Edelman takes on such phenomena: "... he argues that public bureaucracies are more effective in using language to shape beliefs about what they do than they are in dealing with the chronic social problems that they are supposed to ameliorate."<sup>44</sup>

Michael Lipsky, in the introduction to the same work, refers to Edelman's work in helping disclose the role that social facts play in public discourse and political debate.<sup>45</sup> The NYPD, it would appear, had conceptualized the crime problem by setting forth the social facts of the situation as they understood them. Once these facts were in place, there followed logical answers. In the case of Seedman's decision, the answers were increased specialization and improved balancing of detective workloads.

This action was neither coy or duplicitous on the part of the NYPD, for they were as much a captive of the prevailing political constructs of their time as the criminals or the public. They saw their world through the prism of their training and experience and accordingly ordered a social definition that seemed to make sense. As Edelman points out, this is more a function of language and its symbolic evocations than of conscious malicious intent: "Only rarely can there be direct observations of events, and even then language forms shape the meaning of what the general public and government officials see. It is language that evokes most of the political 'realities' people experience."<sup>46</sup>

He then goes on to describe the effects of this proposition, once played out in the interactions among social issue(s), governmental response, and public understanding:

... governments shape many public beliefs and demands before they respond to the people's will. Eagerness to believe that government will ward off evils and threats renders us susceptible to political language that both intensifies and eases anxiety at least as powerfully as the language of religion does.

If political language both excites and mollifies fears, language is an integral facet of the political scene: not simply an instrument for describing events but itself a part of events, shaping their meaning...<sup>47</sup>

While the focus of Edelman's work is on poverty and the role of governmental programs in affecting it, his observations hold true as well when thinking about crime and the law enforcement response. He notes, for example, that there are two prevailing schools of poverty causation. The first, essentially, is a collection of beliefs that basically say, "They brought it on themselves, by being lazy,

immoral, etc.” The second says that the poor are at root helpless victims of vast political, economic, and social forces beyond their control. Edelman notes, as I contend with regard to crime and law enforcement, that it is more common than not for policymakers to hold both beliefs, if not individually, then certainly collectively. If this is in fact the case, there are obvious and logical policy responses to the problem at hand, be it poverty or crime. Given that there are conflicting theories of causation, there will likely be varying responses. Because policy response is grounded on social facts that are politically created and cannot be proved in an objective sense, to some degree one answer is as good as another. If this is the case, the objective becomes regulation of the problem, rather than solution.

This is much the situation the NYPD, and many other forces, were in at the time. They had a monster—crime—by the tail; they had no firm idea of what caused or motivated it; and they knew they could not control it. The objective became to just hang on.

From time to time, if events (or, perhaps more accurately, perceptions) warranted, a crisis could be declared. We are all familiar with these phenomena; at the national level we have seen come and go the energy crisis, the inflation crisis, the health care crisis, the Social Security crisis, and many more. Edelman notes several of the attributes of a crisis and comments on how they tend to operate in the political and governmental arena:

The word “crisis” connotes a development that is unique and threatening. When applied to a set of political events, the term is a form of problematic categorization because the development it highlights can also be perceived as recurring rather than singular and as an instance of arbitrary labeling. What events mean for policy formulation depends on whether they are defined as exceptional or, alternatively, as one more set of incidents in a world that is chronically in crisis. . . .<sup>48</sup>

In Edelman’s conceptualization of crises and their impact on the public policy scene, he notes that crisis declaration has interesting properties. It may uncover or mask facts; it may generate activity and political will; but, most important, it conveys a sense of temporal finality. A crisis, by definition, is an exceptional event, and exceptional events do not occur all the time. If they did, they would be routine, and not exceptional. A crisis, therefore, has a limited life, after which some degree of victory can be claimed, and the ongoing work of problem regulation resume.

So, thus, did the police operate, albeit unconsciously. We have seen come and go the drunk driving crisis, the crack crisis, the gang crisis, the juvenile-offender-committing-adult-crimes crisis, the going postal crisis, the guns-in-school crisis, and more too numerous to recount. Regulation, however, was the norm to which we tended to return, once the crisis was over.

The pressures brought about by swollen crime rates also had other, more troubling consequences than mere organizational inefficiency, significant as that may be. Some officers, believing they had been placed into an impossible situation, came to believe drastic measures were justified. Bratton comments on these unfortunate perceptions as follows:

Some cops lie. We as a profession have finally matured to the point that we can admit that dirty little secret. Cops often lie for what they consider to be the greater good. They lie to get around the exclusionary rule. The Constitution as interpreted by the U.S. Supreme Court has very specific rules concerning how evidence is gathered. Evidence obtained outside legal boundaries is excluded. In an effort to put bad guys behind bars, throughout history cops have gone outside that boundary.<sup>49</sup>

Integrity is indeed a high price to pay to try to achieve greater organizational efficiency, no matter how worthy the cause, for it has a corrosive and lasting quality to it. Once the line of honesty has been crossed, if not the first then surely the second or third time, when is confidence ever restored? Even among fellow cops, not to mention superiors, prosecutors, defense attorneys, judges, victims, and even perpetrators, there will always be doubt, even in instances where none need occur. Such is the price of lies; they eat at the soul—the soul of the officer who mouths them, the souls of everyone who has reason to hear their testimony and wonder if it is accurate, the soul of the court system, which relies on truth as the fuel that drives it, and the soul of the community, which sooner or later concludes that in the fight on crime you cannot trust the cops either.

Professor Edwin Delattre, educator and the leading authority on law enforcement ethics in the United States, refers to this as “noble cause” corruption, which he describes as follows:

What does taint us as moral agents is an arrogant appraisal of ourselves that concludes, “I am entirely justified in my means because my end was noble,” or a cowardly response to demands, such as “I’m damned if I do and damned if I don’t, so it makes no difference.”

Such flattering self-appraisals and failures of nerve are the two forms of noble cause corruption. Arrogance and cowardice imperil the ideals of a constitutional republic, because they are marks of individuals who despair of rising to the ordeal of command. In my experience, the republic has little to fear from officials who face up to ordeals and do not try to get off the hook by complacently justifying themselves or by whining that “the world isn’t fair.” What is fearful are the officials who believe that their ends always justify or excuse their means or who give up in despair but remain in office nonetheless. . . . Arrogance corrupts by obscuring the need for thought, and cowardice corrupts by denying the point of thought, thus forsaking judgment to the whims of impulse.<sup>50</sup>

To some extent, such problems were not new and existed in times of low crime rates as well as high, but as a mechanism to deal with surging levels of crime, lies were a disaster that took many years to overcome.

Despite all the numbers the police were trying to put forward, the public fear of crime persisted.<sup>51</sup> In the earlier years, the late 1960s, part of this problem could be traced to simple neglect. In 1970 the total spending for law enforcement—federal, state, and local—and including police, prosecutors, courts, and corrections, was barely \$5 billion. This compared to \$9 billion spent on tobacco products and \$12.5 billion spent on alcoholic beverages.<sup>52</sup> In this regard, the state of the police was not dissimilar to that of the forensic profession. While by 1999 total U.S. law enforcement spending in all categories for all services had risen to \$174 billion, numbers alone were hardly the answer.<sup>53</sup> In many regards, the law enforcement and security professions were in the state the forensic profession finds itself in today. They were trying everything they could think of, they were getting bigger, smarter, and faster, they were working hard, but they could not get the problem under control.<sup>54</sup>