

BOOK REVIEW

LAW ENFORCEMENT HANDBOOK FOR POLICE. By LOUIS B. SCHWARTZ & STEPHEN R. GOLDSTEIN. St. Paul, Minnesota: West Publishing Co., 1970. Pp. xv, 333. \$4.00 (paperback).

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If any men of good will still function in our rapidly polarizing society, they should take heart in Professors Schwartz and Goldstein's bravura attempt to bring comprehension and moderation to an understanding of the police role in the law enforcement process. If there are too few such men to make any difference, then *Law Enforcement Handbook for Police*¹ should be preserved to enhance future anthropological research into the question why a civilization with outstanding technical and intellectual resources was destroyed by fear and mistrust. We present survivors can only thank the Federal Law Enforcement Assistance Administration and the Trustees of the University of Pennsylvania for sponsoring this exercise in sanity.²

The *Handbook*, based on a series of ten manuals written for the Philadelphia police and directed at the fledgling police trainee, attempts broadly to analyze the inevitable tensions between the prerequisites of efficient law enforcement and the values of a calculatedly inefficient democratic polity. The two are rendered potentially antithetical because of the competing values of efficiency and due process.³ The *Handbook* chooses the latter value without hesitation or reluctance while recognizing the hard realities that make the former so attractive to men on the line, whether that line be traffic duty, juvenile delinquency disposition, or criminal investigation. Hopefully, it will convince trainees who are not yet wed to the "efficiency" ethic that the rules of criminal justice often operate to bind law enforcers, not just alleged law violators.

Unlike the President's Crime Commission of 1967,⁴ the authors realize that one very good reason for rejecting the "efficiency" model is simply that very little would be gained by adhering to it. They do

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¹ The *Handbook* was originally published by the University of Pennsylvania Printing Office as a series of 10 manuals, entitled *Police Guidance Manuals*, intended for use by the Philadelphia Police Department. The individual manuals are now separate chapters in the *Handbook*, slightly revised for use by national readers.

² Costs of publishing the original *Manuals* were met by these agencies.

³ See H. PACKER, *THE LIMITS OF THE CRIMINAL SANCTION* 149-73 (1968).

⁴ See PRESIDENT'S COMMISSION ON LAW ENFORCEMENT & ADMINISTRATION OF JUSTICE, *THE CHALLENGE OF CRIME IN A FREE SOCIETY* (1967).

not pretend that crime can be "abolished" or that even strict law enforcement can do much to reduce it. Because crime is a complex phenomenon often rooted in sociological and psychological aspects of our tense, driven society, even unimpeachable law enforcement bears only a slight relation to the amount, incidence, and nature of extant crime.

Refreshingly, the *Handbook* also recognizes that policemen do all sorts of things beside "fight crime"—for example, they keep order, get involved in family disputes, and pick up nondangerous drunks—and that, whatever the task, it can be done with a decent respect for human dignity, as well as common sense.

The reasonableness of the authors' perspective is evidenced by statements like, "Nearly everybody is or has been a criminal,"⁵ or more startlingly:

The job of law enforcement . . . is not to wipe out the criminal population, but to keep the pressure on by catching and convicting enough offenders so that everybody knows it's risky to violate the law.⁶

Hopefully, such cautionary and modest language will put to rest the nonsense about "crusades" and "drives" to wipe out the "pestilence" of crime, if only because the impressionable police trainee is likely to buy that flamboyant rhetoric at the cost of suffering inevitable disillusionment when the shibboleths prove inadequate.

Although the *Handbook's* sentiments are liberal and humane, the language and style are realistic. The necessity for law enforcers to observe due process is stated not with Holmesian eloquence, but in ordinary, matter-of-fact style—always with the reminder that constitutional liberties are meant to protect the innocent and to deter undesirable police conduct, rather than to provide a safe haven for the "guilty." Understanding those constitutional propositions may be often more effective than the kind of pamphleteering discourse that often inflates civil liberties discussion to the level of pomposity.

At times, the authors are blunt about the environment in which the police must operate. They make it quite clear that the corruption of urban life is not only confined to city streets: "Magistrates are not always wise, well-trained, or even honest."⁷ With luck, such comments should cushion the "reality shock" young policemen encounter when they leave training academies and descend (in more ways than one) into the streets.⁸ Insofar as that shock is a primary cause of the remarkable growth in police cynicism which creates law enforcement-community difficulties, any anticipation of it must be valuable.

⁵ L. SCHWARTZ & S. GOLDSTEIN, *LAW ENFORCEMENT HANDBOOK FOR POLICE 74* (1970) [hereinafter cited as *HANDBOOK*].

⁶ *Id.*

⁷ *Id.* 153.

⁸ See A. NIEDERHOFFER, *BEHIND THE SHIELD* 48-51 (1967).

The *Handbook* also concentrates on the problem of policemen as preservers of lower middle-class morals. They advise the young officer to "cool it" in the face of "wise-guy" insults, even when they amount to profanity. For the tender-hearted (or the tender-eared, perhaps), they caution: "[P]rofanity is part of the customary speech of many groups or classes,"⁹ and "[i]t is not an offense to argue with a police officer."¹⁰ In short, the police should expect a hostile environment, perhaps a corrupt one, but should not overreact lest a bad, though solvable, problem be escalated into a major confrontation by an irrational response.¹¹

The major stylistic fault with the *Handbook* is its informal tone which occasionally shifts into high cornball. One example is: "The way we Americans look at it, a fellow caught in this situation [an arrest] is entitled to one man who's on his side."¹² That kind of "aw shucks" language is not only overly colloquial, but runs the risk of offending those police recruits who have achieved a modest amount of education and a degree of sophistication. (Those horrendous, resolutely humorous illustrations which adorn the *Handbook* also run the same risk.) Fortunately, these lapses are rare and, in general, the authors manfully avoid the temptation to condescend to their audience. Occasionally, some irony relieves the straightforward tone; thus, "[c]apital punishment is, among other things, permanent incapacitation for crime."¹³ More humor and less folksiness might very well be appreciated by some police recruits.

The only major fault with these volumes (apart from their modest length, a reflection of the belief that they are meant to be supplementary materials) is the uneven and somewhat arbitrary division of time given to various topics. For instance, the discussion of civil external review of police activities takes a middle ground:

Internal control must be considered the most important means of making sure that police officers live up to the ideal of their profession. . . . External forces . . . are all removed from the day-to-day problems of the police officer.¹⁴

With the same timorousness that characterized the *Crime Commission Report*,¹⁵ the *Handbook* then briefly discusses civilian review boards. The analysis of the ombudsman and his role in reviewing police and other official conduct is too brief to give the reader a clear picture of

⁹ HANDBOOK 219.

¹⁰ *Id.* 221.

¹¹ Minor confrontations often cause unnecessary arrests. See P. CHEVIGNY, *POLICE POWER* (1968). They are the combustible fuel for potential riots even when the policeman's conduct is correct. *THE CHALLENGE OF CRIME IN A FREE SOCIETY*, *supra* note 4, at 134.

¹² HANDBOOK 14.

¹³ *Id.* 87.

¹⁴ *Id.* 26.

¹⁵ *THE CHALLENGE OF CRIME IN A FREE SOCIETY*, *supra* note 4, at 103.

what an ombudsman does. In contrast, the nine and one-half pages devoted to various theories of punishment are probably too many; about all we learn is that, in fact, disparate theories exist. We cannot relate them to each other, or to the American experience, or to a desirable model of corrections. In short, the reader has been told too much and learns too little.

The chapters entitled Stop and Frisk and Search and Seizure are extremely well done and emphasize the thrust of the Supreme Court decisions in these areas: If in doubt, get a warrant. Here, the "values" orientation of the *Handbook* pays off handsomely, for the emphasis is not on those close cases (with their varying and inconsistent rationales) that end up in appellate courts, but on the extreme indignity and invasion of privacy endemic to all searches—most especially those conducted without warrants. Quite evidently, *Chimel v. California*¹⁶ means that the Supreme Court will view extensive search circumstances with grave suspicion. This justifies the authors' admonition that police should not search an apartment pursuant to an arrest on the street. Perhaps, in the next relevant case, the Court will not confine the doctrine to an arrest occurring, as the authors state, "a few blocks from my apartment,"¹⁷ but to any arrest outside of the apartment. The Search and Seizure chapter will no doubt have to be rewritten, since it omits any detailed discussion of bugging and tapping. For instance, although such practices were illegal in Pennsylvania in 1969,¹⁸ it would be unusual if that worthy Commonwealth does not hop onto the legalization bandwagon now rolling through many state legislatures.

Doubtlessly, the analysis in the Stop and Frisk chapter will have to be revised, should the Supreme Court choose to expand the vague doctrines in *Terry v. Ohio* and *Sibron v. New York*.¹⁹

The discussion of the police role in the preservation of social order commands substantial interest. The *Handbook* takes a critical view of vagrancy and the other crimes against public order traditionally found useful by police to suppress dissent or justify arrests of the aesthetically offensive. It abounds with such statements as: "The question of annoyance to the public should not be confused with annoyance to the police officer."²⁰ Such language must be applauded, since heretofore this confusion has been a primary cause of embittered relations between the police and the public.

Although chapter 10, Demonstrations, Picketing, Riots, is lamentably brief (omitting, for instance, any discussion of the constitutionality of parade permit laws on grounds of unreasonableness, overbreadth, and potential for application to unpopular minorities), it is

¹⁶ 395 U.S. 752 (1969).

¹⁷ HANDBOOK 134.

¹⁸ PA. STAT. ANN. tit. 18, § 3742 (Supp. 1969).

¹⁹ 392 U.S. 1 (1968).

²⁰ HANDBOOK 217.

to the point: "[T]o be guilty of this crime [inciting to riot] the speaker must call for *action*,"²¹ and in addition there must be a clear and present danger that such action will occur. In a warning perhaps not to the Philadelphia police, but to their comrades in Chicago, the discussion emphasizes that:

*Especially, there should be no interference with reporters, press photographers, and others who have a professional justification for being there [at the scene of a disturbance]. . . .*²²

The *Handbook* is both well-intentioned and well written. It is humane and reasonable. It attempts to influence the incoming rookie while his attitudes are still flexible. As broad-gauged, supplementary material, it is pertinent and informative. The question is—is anyone listening?

²¹ *Id.* 300 (emphasis in original).

²² *Id.* 323 (emphasis in original).



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The Editors dedicate this issue to Dean Fordham upon his retirement from the deanship after eighteen years of devoted service to the Law School.