

FEDERAL COURTS LAW REVIEW -- 2004 Fed. Cts. L. Rev. 4
BOOK REVIEW
THE HISTORY OF POLICING

A review of *The Role of Police in American Society: A Documentary History*
by Bryan Vila and Cynthia Morris (Greenwood Press. 1999)

Hon. David D. Noce *

[1] History is a potent teacher. By describing past experiences, it arms us with forethought to meet recurring challenges. Probation officers, pretrial services officers, prosecutors, defense attorneys, judges, and students of criminal justice will have a greater appreciation of policing after reading *The Role of Police in American Society*. This book offers instructive, influential, and entertaining excerpts of documents that chronicle American law enforcement. It is the ninth documentary history in the Greenwood Press series "Primary Documents in American History and Contemporary Issues".

[2] Editors Bryan Vila and Cynthia Morris have assembled selections from 95 documents that embody and describe how policing in America has evolved from 1631 (the Boston Night Watch) to 1997 (A Time to Remember). They organized the documents by historical period and important developmental topic. Each part first places the documents in their historical context. Each document then is similarly introduced and illuminated. Frequent cross-referencing shows the interplay of the forces and factors that drive the development of policing.

[3] Of the 95 documents presented, some 75 either caused or contemporaneously described important events or developments in policing. These include quotations from the Bill of Rights, Supreme Court opinions, statutes, reports of commissions, theses, and speeches. Other documents provide articulate and provocative commentaries on policing. The documents are well edited to pique the readers' interest in deeper research or in just continuing to read the book.

[4] In their preface, the editors confess that there is more to policing than any limited number of documents could cover adequately. As a result, they supplement their materials with a seven-page list of significant dates and events; a page of citations to the U.S. Supreme Court opinions excerpted in the work and to relevant opinions not selected; two pages of addresses (postal and email) of national groups related to police work; and a 13-page bibliography for further research. An index makes documents on specific topics reasonably accessible.

[5] Part I describes American experiences with law enforcement during the 17th and 18th centuries. During this period, the duties of policing civilians passed from the military to a citizen night watch, consisting of constables who walked their rounds watching out for internal criminal activity and external

threats and fires, and announced the time and weather. The editors take the reader through the historical experiences that begat the slave patrols, vigilantes, Texas Rangers, United States Marshals, Pinkerton detectives, and modern city police forces.

[6] Early concerns recur throughout the history of policing. For example, limitations on the authority to arrest without warrant, established in English legal tradition, were expressed in the Duke of York's Laws in 1665. The duke's Laws further provided that each constable be equipped with a badge of office and a six-foot staff and, in certain circumstances, had authority to take "bayle" for those arrested.

[7] The editors selected portions of ten Supreme Court opinions that demonstrate the rule of law's limitations on the police. The book also directs the reader to the reports of various commissions that investigated the causes of civil unrest.

[8] This history of policing is rich with colorful characters and historical figures. In 1737, at age 31, Benjamin Franklin criticized the inability of the Philadelphia night watch to adequately safeguard the burgeoning city. His comments later caused the creation of a more modern police force. In the 1860s, Allan Pinkerton dispatched privately employed detectives whose methods would be adopted by municipal police forces. In 1895, one of Teddy Roosevelt's early civic duties was to rid the New York City police force of Tammany Hall's corrupting influence. Roosevelt's spirit of progressive reform rooted out the police protection racket's extortion and blackmail, and introduced pistol practice for officers, the Bertillon identification system, and the police bicycle squad. In 1924, at age 29, J. Edgar Hoover became director of the federal Bureau of Investigation to cleanse it of its role in the Teapot Dome scandal. Hoover's innovative accomplishments became models for other police organizations.

[9] Perhaps the most entertaining documents depict the enthusiasm generated by successive generations of "modern technology" adopted to keep pace with progress. In 1886, horse-drawn paddy wagons were praised for reducing the need of officers to encourage their arrested charges to hurry as they hustled them on foot through the city streets to the calaboose. In 1896 it was firearms training; in 1909 police automobiles and street corner telephone call boxes were innovative; and in 1929 police car radios were on the cutting edge. This reviewer will let readers discover for themselves the even-then hard to believe requirement that "Government radio authorities" placed on police broadcasts (described at page 121).

[10] Part I appropriately closes with quotations from the Bill of Rights which laid the constitutional foundation for the proper governance of policing in America.

[10] In Part II, the editors depict the 19th century as a time when westward national expansion and urban industrialization demanded different policing strategies. England's Metropolitan Police Act in

1829 presaged a quantum leap in organizational development of urban police forces in America. The English Act defined standards for quality policing. A contemporaneous newspaper article pointed out the importance of accurate police reporting and the need for the officers to curb their exercise of authority without cause and to keep control of their tempers. At this time Home Secretary Robert Peel's London bobbies replaced the night watch. The idea of preventing crime, as well as reacting to it, soon crossed the Atlantic.

[12] Nineteenth century New York police were distinguished from their London counterparts in large part by their initial reluctance to wear uniforms and their dominance by political forces. Uniforms soon became de rigueur but the influence of politics remained a hallmark of American policing.

[13] In 1871, the first national convention of what later became the International Association of Chiefs of Police (IACP) was held in St. Louis. Reforms first discussed there were later adopted: a police detective system, state and municipal control of police forces, and the classification of prisons. Twenty-two years later, at the next such convention, in Chicago, the police administrators discussed organized cross-jurisdictional mutual aid, especially for apprehending fugitives. Later conventions argued for promotion based on performance, not politics.

[14] Part III covers the substantial developments in policing that occurred between 1900 and 1929. Electoral reforms, the rise of labor unions, and a surge of national isolationism caused rapid changes in the philosophy, economic factors, demography, and technology of policing. In 1909, in his doctoral thesis, *Police Administration*, Felix Fuld argued for attracting quality officers by offering them opportunities for higher education.

[15] 1929 saw Howard McLellan question the value of increasing the size of police departments. He wondered why crime rates remained high when police department budgets, especially in New York City, increased dramatically. These criticisms were met by Bruce Smith's recognition that policemen worked in a constantly changing environment. The job of the police had once been confined to detecting crime and pursuing outlaws. By 1929, however, while remaining the creatures of legislative imaginations and dictates, police officers were seen as influencing the lives of many more people than outlaws. In the period from 1930 to 1959, covered in Part IV, the editors discern "a growing emphasis on police training, professionalism, efficiency, and ethics". During these years America experienced the depression, two wars, great urbanization, and a booming birth rate. In this milieu, national uniform crime reporting was seen as a check on those who would inflate the dangers of crime. As never before, police lawlessness and excesses were institutionally reported and outlawed by commissions. One response was greater police professionalism and training, most notably invigorated by the F.B.I.'s National Police Academy, established by J. Edgar Hoover during the 1930s.

[16] The 1940s saw more unsuccessful attempts to unionize the police. The IACP opposed unionization and the public thought it was entirely unacceptable that officers could strike for benefits and thus imperil the public welfare. Not until the 1960s did officers gain the right to organize. The editors and their historical sources attributed this achievement to the recognition by elected officials that women voters had come to accept the right of officers to unionize.

[17] Part V carries the reader from 1960 to 1978, a period when social change met society's conflicting expectations of policing. Constraining the police to be lawful, the Supreme Court applied the exclusionary rule to the states, prescribed for police an objective protocol of warnings about constitutional rights when arrested persons were interrogated, and expanded and clarified the rights of the police during investigations.

[18] The period from 1979 to 1989, covered in Part VI, shows Americans again reexamining and redefining the role of the police. The police were called on to be community problem solvers and they were expected to always be prepared to act, carrying their weapons even while off-duty. Two authors theorized that smaller police forces would benefit society by requiring citizens to police themselves. In contrast, another writer maintained that more officers would better maintain order.

[19] After the turmoil of Part VI, Part VII presents the 1990s as years of consensus. Three main roles are attributed to the police: maintaining order by peace keeping, fighting crime through law enforcement, and performing community service. The editors, however, also include an excerpt from David Bayley's *Police for the Future*, which challenges the reader with the idea that successful crime prevention and law enforcement require the traditional top-down administration of police to change. Bayley urges a three-tiered system of 1) neighborhood police officers who have the exclusive responsibility for preventing crime; 2) basic police units that would be "full-service command units responsible for delivering police services as needed;" and 3) "police forces" to support and administer the other two components. Part VII includes documents on excessive force, ethics, and women officers, apparently included because the editors correctly feel they are too important to be left out, though they are not entirely germane to Part VII's theme.

[20] The book suffers from two faults, minor when compared with the quality of its selected documents and introductory materials. First, the excerpted Supreme Court opinions might have included *United States v. Leon* for its justification of officers who act on facially valid warrants, *Warden v. Hayden* for its validation of an officer's warrantless actions in exigent circumstances, and *Horton v. California* for its approval of officers' warrantless seizures of incriminating evidence in plain view. Second, Part VII's selection of two news articles (one authored by editor Vila) and seven sociological pieces weakens the work as a documentary history. Yet, even these materials will stimulate discussion and thoughtful consideration.

[21] The Role of Police in American History fittingly closes with a tribute to, as the editors put it, "the very real sacrifices made by the men and women who every day don uniforms in our thousands of police agencies [O]nly the police consciously prepare every day to kill or be killed." As Darrell I. Sanders' "A Time to Remember" closes, "It is not how these officers died that made them heroes; it is how they lived."

* United States Magistrate Judge, United States District Court for the Eastern District of Missouri. This Book Review was originally published in "Federal Probation", Vol. 64, No. 2 (December 2000), and it is being republished here with permission.