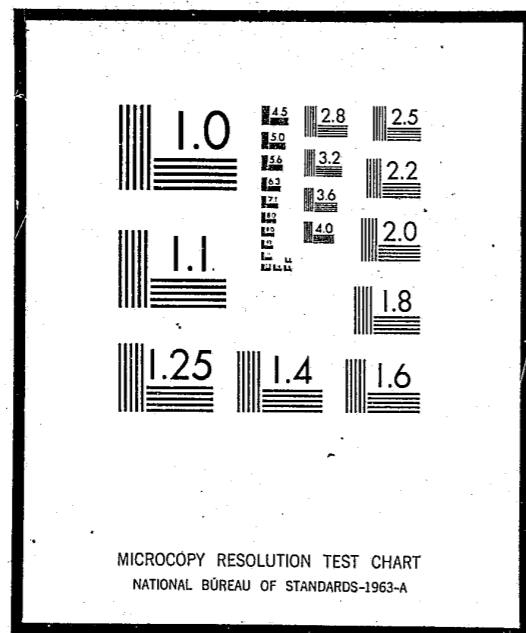


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A TIME FOR REFORM:
A CASE STUDY OF THE INTERACTION BETWEEN
THE COMMISSIONER OF THE BOSTON POLICE DEPARTMENT AND
THE BOSTON POLICE PATROLMEN'S ASSOCIATION

BY

RORY JUDD ALBERT

TECHNICAL REPORT

"INNOVATIVE RESOURCE PLANNING IN URBAN PUBLIC SAFETY SYSTEMS
NATIONAL SCIENCE FOUNDATION GRANT GI38004
RESEARCH APPLIED TO NATIONAL NEEDS
DIVISION OF ADVANCED PRODUCTIVITY, RESEARCH, AND TECHNOLOGY

OPERATIONS RESEARCH CENTER
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CAMBRIDGE, MASSACHUSETTS 02139



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RORY JUDD ALBERT

Technical Report No. 11-75

"Innovative Resource Planning in Urban Public Safety Systems"

National Science Foundation Grant GI38004
Research Applied to National Needs
Division of Advanced Productivity, Research, and Technology

Operations Research Center
Massachusetts Institute of Technology
Cambridge, Massachusetts 02139

FOREWORD

The research project, "Innovative Resource Planning in Urban Public Safety Systems," is a multidisciplinary activity, supported by the National Science Foundation (RANN, Division of Advanced Productivity, Research, and Technology); and involving faculty and students from the M.I.T. Schools of Engineering, Architecture and Urban Planning and Management. The administrative home for the project is the M.I.T. Operations Research Center. The research focuses on three areas: 1) evaluation criteria, 2) analytical tools, and 3) impacts upon traditional methods, standards, roles, and operating procedures. The work reported in this document is associated primarily with category 3, which entails an evaluation of the impact of new criteria, methodologies, technologies, and organizational forms upon traditional crime hazard rating schemes, insurance rating methods, related regulations and standards, personnel performance criteria, system operating policies, neighborhood service indicators, and employees and their organizations. In this report, R. Albert examines the interactions and conflict between Boston Police Commissioner Robert J. diGrazia and the Boston Police Patrolmen's Association, with the objective of discovering the response of the patrolman's de facto union to a reform-minded commissioner. This report details the interactions from November, 1972 (when the Commissioner arrived in Boston) through early summer, 1974. Analysis of this case study illustrates the ways in which a strong, tradition-bound patrolmen's union can limit the extent and types of reforms that can be implemented.

Two companion studies by Prof. M. Levi ("Conflict and Collusion: Police Collective Bargaining," TR-07-74; "And the Beat Goes On: Patrolmen's Unionism in New York City," WP-08-74) address similar issues applying case study analysis to cities other than Boston.

Richard C. Larson
Principal Investigator

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TABLE OF CONTENTS

	Page
FOREWORD	ii
ACKNOWLEDGEMENT	ii
PROLOGUE	1
Evolution of Police Unionism in Boston	4
Appointment of diGrazia	6
Footnotes for Prologue	9
I. POLICE COMMISSIONER ROBERT J. DiGRAZIA	11
BPD Reaction to diGrazia's Appointment	13
DiGrazia's Plans for Professionalizing the Boston Police	15
DiGrazia's Long-Term Goals	19
Footnotes for Chapter One	22
II. THE BOSTON POLICE PATROLMEN'S ASSOCIATION	23
Early Union Development	24
Bargaining History	26
Achievements of Early Bargaining	36
Political Power	43
Impact on Law-Enforcement Policy	47
Impact on Operations	48
Summary	51
Footnotes for Chapter Two	53
III. COMMISSIONER DiGRAZIA'S REFORMS AND THE RESPONSE OF THE BOSTON PATROLMEN'S ASSOCIATION	56
Structure	57
BPPA's Response to Structural Changes	60
Personnel	62
The "Vitello List"	69

Patrolman Lawless	73
Disciplinary Hearings	75
Operations	76
Authority of the Boston Police Commissioner	80
Alcohol Safety Action Program	82
Paid Details	84
Uniform Committee	86
Shotguns	88
Footnotes for Chapter Three	90
IV. THE EXTENT TO WHICH COMMISSIONER DiGRAZIA REALIZED HIS ORIGINAL GOALS DESPITE BPPA OPPOSITION	95
Internal Changes	96
Personnel Reforms	99
Operational Innovations	103
DiGrazia's Impact on the BPD	106
Footnotes for Chapter Four	113
EPILOGUE	115
Footnotes for Epilogue	121

PROLOGUE

For the past two years, Robert J. diGrazia has devoted himself to making the Boston Police Department (BPD) more responsive to its citizens. As commissioner of the oldest police department in this country, diGrazia has not found it easy to implement the reforms he has felt are necessary to deliver more effective and efficient police service. Whether it be the Boston Police Patrolmen's Association (BPPA), the Superior Officers' Federation (SOF), the Boston City Council, the police bureaucracy, or merely a lack of money; there usually has been some roadblock impeding the commissioner's proposals.

DiGrazia's propensity for incurring stiff opposition in Boston resulted from his being hired by Mayor Kevin White to bring the tradition-laden BPD into the twentieth century. The first police commissioner in Boston's history to have had actual experience as a patrolman, diGrazia has been unique in both manner and ideology. An energetic, young, liberal, Italian, he was determined to reform a stagnant, old, conservative, Irish police department. Rather than touting the traditional "law and order" rhetoric of his predecessors, diGrazia pledged himself to elevating his men from mere municipal employees to professional police officers.

DiGrazia came to Boston from California by way of Saint Louis County, Missouri, where he served as chief of their 600-employee police department. During his three-year tenure in that post, diGrazia earned the reputation of a dedicated and effective reformer by eliminating corruption and inefficiency in the department. Yet, his experience in that county, where he received substantial support from the community and from his subordinates and where he faced little union opposition, did not prepare him for the problems he would encounter as Boston's police commissioner. Thus, when he arrived in November of 1972, most

Bostonians conversant with the politics and the customs of the city's tradition-entrenched police department and its militant patrolmen's association, predicted that diGrazia would not survive long in the BPD.

To begin, the task of overhauling the department was staggering. The BPD long since had been noted for its inefficiency.¹ Many police experts in the federal government and in private foundations had begun to recognize it as one of the worst police departments in the nation.² One example of this inefficiency was the status of the department's patrol function when diGrazia assumed command. In 1972, Boston had more police officers per capita (2,694) than any other city in the country except Washington, D.C., and St. Louis, MO; yet an average of 200 calls for help went unanswered during each eight-hour shift (or 600 calls each day).³ Boston also had fewer (277) police cruisers per patrolman than any other city, a situation which hardly was assuaged by the age and the terrible condition of the cars. Moreover, no local auto dealer wanted to submit a bid for new cruisers because of the city's poor payment record.⁴ Finally, even if all the cars were able to patrol constantly, the department's communications system was so inept that it would have been practically impossible to keep track of their status and locations. In fact, a Boston Magazine article reported,

on any given day, no one knows how many police are on the street or what they're doing. This is due, in part to antiquated equipment, but the trouble can also be traced to the fact that Boston has the oldest police officers in the country.⁵

In terms of the age of its manpower, Boston had one of the oldest police forces (if not the oldest) in the country.⁶ It also had a militant police union representing all of its patrolmen and detectives. To these men, diGrazia was a "young outsider," determined to run the department contrary to "tradition." Moreover, diGrazia stood for reform; and reform meant change. This was an

anathema to the men and their union who were dedicated to preserving the status quo. Yet, in the face of such widely divergent demands from his constituency and his subordinates, diGrazia has managed to survive. More importantly, he has succeeded in revamping the structure of the department and in implementing many policies designed to improve police service and protection available to the citizens of Boston.

The primary purpose of this case study will be to determine how, with such formidable opposition from labor unions, politicians, and other antagonists, diGrazia has been able to institute needed reforms within the BPD. The report also will examine these reforms and the oppositions' responses to them in order to give a complete account of the controversies as well as an understanding of how the parties involved perceived the issues, the struggles and one another; and to determine what, if any, impacts these issues have had on police performance in the City of Boston.

The first chapter of this study will be, primarily, a detailed account of Commissioner diGrazia's background, philosophies, sources of support, and priorities for reforming the BPD. Chapter Two will be both a historical and a contemporary investigation of diGrazia's most effective opposition, the BPPA. The chapter will review BPPA organization and control, its collective bargaining history, and its substantial bargaining and political power. Also, this section will outline the impact this organization has had on the law-enforcement policy, personnel policy, and overall operation of the BPD.

The third chapter will delineate each of diGrazia's major reforms in terms of the implementation effects each has had on either the structure, personnel or operation of the department. Where appropriate, this chapter also will discuss the BPPA's reaction to the reform's implementation. The fourth chapter

will assess the extent to which diGrazia was able to realize his original reform goals. It also will attempt to gauge the short-run impacts and the long-run effects of the constant battle between diGrazia and the BPPA on the performance of Boston police officers. Finally, the epilogue will present a diagnosis of the controversies between diGrazia and the BPPA as conflicts which are intrinsic to most police union-management relationships. It also will discuss the use of diGrazia's yet-to-be-implemented concepts of police professionalism as catalysts in promoting a detente between the police commissioner and the patrolmen's association.

First, a brief look at the evolution of police unionism and an account of the events that preceded diGrazia's appointment as Boston's police commissioner will help to illuminate the more current issues.

Evolution of Police Unionism in Boston

On September 9, 1919; 1,117 patrolmen out of 1,544 in the BPD walked out on the job. The sole issue involved in this notorious strike was whether the Boston police force as a body should have been allowed to affiliate with the American Federation of Labor (AFL), which asked the city for recognition and bargaining rights over wages, benefits and working conditions.⁷ The city (and the country for that matter) was aghast at the patrolmen's action and decided to take strong measures. The strikers were fired; the AFL, responding to adverse public sentiment generated by the strike, rapidly revoked all its local police charters; and Massachusetts Governor Calvin Coolidge arose as a national hero for his alleged role in "settling" the strike and was launched on the road to the White House.⁸ Henceforth, the emergence of police-employee organizations was viewed with great suspicion, and the development of police labor relations was curtailed severely by the considerable negative effect of the Boston strike. This negative impact was reinforced later by the anti-union

temper prevalent during the 1920's and early 1930's, and it continued to have a chilling effect on police organizational efforts for a number of subsequent decades.⁹

By the 1960's, however, as police employee dissatisfaction with working conditions continued to mount, officers found that local police-employee associations were natural vehicles for expressing their discontent through both collective bargaining and political channels.¹⁰ The transformation of dissatisfaction to militancy soon followed and, in fact, became widespread during the late 1960's. Some of the reasons often cited for this metamorphosis were: the increased public hostility towards the police; the rapidly-rising crime rate; the use of confrontation tactics at demonstrations; the evolution of the "law and order" philosophy; the poor economic rewards of most police officers relative to other workers, both public and private, which were exacerbated by sharp increases in the cost of living; and a host of poor personnel practices such as the lack of internal civil and constitutional rights for police officers subject to departmental investigations, the lack of grievance procedures, and the lack of protection against being transferred from one shift to another.¹¹

The emergence of militant police unionism followed closely the growth patterns of other labor unions in prior years. That is, loyalty was diverted from traditional organizational goals to the typical union goals of higher wages and fringe benefits, shorter hours and improved working conditions, and pressure tactics to achieve these goals.¹² Although the usual result of police-employee militancy was for the relatively complacent, existing associations to become more active and vociferous organizations, another very noticeable reaction was the formation of new associations. The latter is precisely what occurred in the City of Boston in 1965.

The birth of the BPPA in 1965 is, by now, "a revered piece of police-union folklore:" Fourteen Boston patrolmen decided one night in Dick MacEachern's kitchen to contribute five dollars for the purpose of forming an organization of patrolmen and detectives.¹³ MacEachern was the association's founder and first president. Robert Wise, of the established, Boston labor-law firm of Wise and Wise was the association's attorney during its first seven years. He asserted that the initial purpose of the organization was to protect the patrolmen against widespread charges of police brutality and to hear civilian complaints which began about that time. Considering the fact that one of the first things Wise did was to urge his new clients to include economic items among their goals, it seems pretty clear that the organization was prepared to go much further than he indicated.¹⁴ The new group had an uphill struggle against strong managerial resistance and against four other police-employee organizations which already existed in Boston. However, in 1967, the BPPA soundly defeated a federation of these other associations by a two-to-one vote in a bargaining-unit representation election. From this victory, the BPPA emerged as the official bargaining agent for the patrolmen and, according to Hervey Juris, noted police-union authority, it evolved into one of this country's most aggressive police unions.

Appointment of diGrazia

Just about this time, Mayor White was rapidly becoming embroiled in a "cold war" with Boston Police Commissioner Edmund MacNamara. A former FBI agent, MacNamara had made a minor attempt at reforming the department but soon gave up because of the enormity of the task and relinquished much of his authority to his subordinates. They, in turn, ran the BPD almost as an independent dominion amidst the other, more complimentary components of big-city government. During that period, there was only grudging cooperation between the department

and the mayor, and little, or no, rapport between the department and the community.¹⁵

When he was elected mayor in 1967, White decided it was time for a change. In his view the department was old-aged and old-fashioned. While many Boston police administrators thought this made for a more mature and professional department, the mayor saw it in terms of high absenteeism, long lists of officers injured on and off duty, an overall lack of efficiency, and a department totally set in its ways, resisting change at all costs and interested primarily in protecting its own. Unfortunately, White initially could do little about this state of affairs because McNamara was determined to complete his five-year term.¹⁶ However, McNamara's tenure ended on May 31, 1972, and White began to look for a new police commissioner.

To begin the search, White hired Robert Kiley, a former CIA member and, more recently, a member of the Police Foundation. Kiley sought what he described as a true "super-cop" - one with the reputation of and experience as a tough and incorruptible crime-fighter in a fairly large city with police and political problems similar to those of Boston. His original choice was Clarence M. Kelley, then head of the Kansas City Police Department and presently director of the FBI. Kelley declined the offer but subsequently supported diGrazia, Superintendent of the St. Louis County Police Department, and when spotted diGrazia's name on the list of potential candidates. Kiley eventually recommended diGrazia to White.¹⁷

On September 30, 1972, Mayor White named Robert diGrazia as police commissioner of the BPD for the term of five years because of his "record of rooting out corruption, insistence on the highest standards of professionalism, and reputation as a disciplined administrator."¹⁸ From that day forward, the department was destined to undergo a series of changes which would radically

affect its structure, personnel, and operation - changes which were feared and vehemently opposed by the BPPA leadership. And in cases to be discussed later, even the SOF and the city council opposed some of these changes.

This is the setting within which the case study takes place. It is difficult in an evaluative effort such as this to offer any real panaceas for the problems that will be identified. But, hopefully, this report will encourage some thinking about evaluative measures which might ameliorate these difficulties.

NOTES: PROLOGUE

- 1) See "Discussion of Implementation of IACP Survey Recommendations", The Police Yearbook, 1964, p. 14-19.
- 2) Boston Magazine, October 1973, p. 59.
- 3) Id at p. 76.
- 4) Ibid.
- 5) Ibid.
- 6) Only 25% of all Boston police are under 36 years of age; current average age is 45.6; Boston Globe, March 16, 1974. In California, by comparison, where diGrazia began his police career, 71% are under 36 years of age; Boston Magazine, supra note 2.
- 7) For a full account of the strike see Commonwealth of Massachusetts Report of the Police Commissioner, Public Document # 49, January, 1920.
- 8) Hervey Juris and Peter Feuille, Police Unionism (D.C. Heath and Co., 1973), p. 16.
- 9) Ibid.
- 10) Id. at p. 18.
- 11) Id. at pp. 18-22.
- 12) Id. at p. 1.
- 13) Hervey Juris, Notes on the Boston Police Patrolmen's Association (unpublished manuscript, 1970), p. 1.
- 14) This is evidenced in the wordings of the corporate charter Wise secured, which made the new organization the BPPA, Inc. so as to afford the members a solid entity to which to cling and to assure the undecided police officers that their organization was no transient phenomenon. Id at p. 2.
- 15) Boston Globe, January 30, 1973.
- 16) It has been reported (see Boston Magazine, supra note 2) that McNamara himself was considering a graceful exit early in his term until he discovered that White had already located a replacement for him. "Enraged by White's jumping the gun, he vowed to stay in office and, for the next four years, he and White barely spoke to each other."

Hervey Juris feels that while it is difficult to predict how much the failure of White to oust McNamara had in emboldening the BPPA to fill any BPD leadership vacuum, it is interesting to note that after this event BPPA aggressiveness within the department and in the city council increased markedly. See Juris, supra note 13, p. 70, and Chapter II of this study.

- 17) Soon after, White appointed Kiley to the newly-created post of "Advisor on Public Safety."
- 18) Boston Globe, October 1, 1972.

I. POLICE COMMISSIONER ROBERT J. DiGRAZIA

For a man who first made his living as a department manager for Macy's Department Store and later as a sales representative for the Minnesota Mining and Manufacturing Company, Robert diGrazia has come a long way in his brief (15 year) but eventful police career. The son of immigrants from northern Italy, diGrazia was raised in a small Italian neighborhood in San Francisco. He graduated from high school without getting into too much trouble, served in the coast guard, and then attended a local junior college on the G.I. Bill.¹ Although he always wanted to go into police work, he first acquiesced to his family's desires that he choose a safer profession. Finally, however, at the age of thirty-one and "weary of selling scotch tape," diGrazia gave up his initial vocation to become a cop.²

It should be noted at the outset that diGrazia launched his police career at an age which, according to his presently-held theory on police personnel, was ideally too old to begin. (One of the first criticisms diGrazia had with the BPD was the age of its manpower. In his view, most of these men were too old to be inculcated with new philosophies on police reform and professionalism. Rather than face the prospect of re-indoctrinating these men, diGrazia looked forward to the day when these men would retire from the department so that he could replace them with younger men trained by the police academy in more modern policing methods. However, in doing so, he seemed to lose sight of the fact that he began a remarkably successful police career at an age which now he probably would agree was too old.)

In spite of his age, diGrazia began his police career in 1959 as a deputy sheriff in Marin County, a suburb north of San Francisco. In 1960, when the

city of Novato, California, incorporated and organized its own police force, diGrazia joined as a patrolman. He advanced rapidly and was appointed sergeant in 1961 and chief of police in 1963. He served in that post until 1969 when, after a nation-wide recruitment, diGrazia was offered the top police job in St. Louis County, an area outside the city of St. Louis which ranges from densely-populated slums to sprawling farm country.

As superintendent of its 400-employee police department (the department later grew to over 600 under diGrazia's leadership), he soon gained notoriety by bringing charges against one of the department's most popular detectives. This detective had made a number of spectacular arrests which had earned him 22 department commendations as well as the reputation of a top crime-buster. The only problem was, according to diGrazia, this particular detective had been staging a number of these "busts." After a wild, public battle and a departmental hearing on the charges, the detective was demoted and later "retired." The fact that diGrazia was able to demote a police officer who was so popular and so politically powerful sent shock waves through the department.³ Thereafter, the superintendent came to be known for his total loathing of even the pettiest forms of corruption, often at the expense of department morale. This affair, no doubt, contributed to the BPPA's initial fear of his reform policies.

During this period, diGrazia also was building his reputation as a zealous, if sometimes abrasive, reformer by implementing a number of new policies and programs designed to improve police effectiveness and responsiveness to his St. Louis community. These reforms included a career and educational development program for all officers, a federally-funded helicopter patrol, a program of psychological and physical exams for all applicants

and all candidates for promotion, the appointment of a full-time juvenile officer at some of the high schools and the development of an elected Patrolman's Advisory Committee (PAC).

While evidence indicates that many of these reforms were justified and necessary, it was apparent that some of them severely reduced morale within the department. Many citizens, also, criticized diGrazia as a "young outsider," insensitive to the complexities of the department he commanded. DiGrazia insisted, however, that many of his problems were due to the "intransigence" of many of his subordinates. As one St. Louis reporter put it: "You can argue diGrazia's reforms either way - - - but one thing is certain: one of his personal qualities does not appear to be tact."⁵ (This "lack of tact" will be discussed later as a severe handicap in diGrazia's relationship with the BPD high-command staff and with the BPPA.) It is beyond the scope of this study to ascertain the actual impact diGrazia's reforms had on police performance in St. Louis County, but clearly, diGrazia emerged from his three-year stint as superintendent with a reputation for highly efficient management capabilities and extreme toughness on corruption. It was this reputation that won him the respect of an experienced police person like Clarence Kelley and the opportunity to serve as commissioner of our nation's first organized police department.

BPD Reaction to diGrazia's Appointment

DiGrazia's problems in Boston began even before he arrived in November of 1972. His reputation as a zealous, and oftentimes abrasive, reformer preceeded him. Many officers in the department and in the patrolmen's association anticipated that diGrazia clearly would be a new breed of commissioner. He was to be a "reform"

commissioner in a police department that was long overdue for a comprehensive overhaul. To the men who spent years creeping through Boston's police bureaucracy, intent on retaining the power and authority they had accumulated and hoping to advance another notch, diGrazia posed an immense threat. DiGrazia's arrival at the BPD meant change; change which Boston policemen perceived would affect the department's security, as well as the security of their patrolmen's association.

In addition, diGrazia announced that he would be bringing a civilian aide with him for whom the city council was requested to approve an annual salary of approximately \$22,000. As Joseph Klein of Boston's Real Paper told it: "This resulted in howls from politicians like xenophobic City Councilor Albert 'Dapper' O'Neill, always eagle eyed when it comes to interlopers, and especially from within the department itself."⁶ O'Neill was distraught when he discovered that diGrazia was planning on not one but four civilian aides.⁷

DiGrazia, however, was confused. Hiring experts to aid in police reform was a common enough procedure in other cities and, therefore, it just never occurred to him that there would be any controversy over this. Many department members and union officials, however, interpreted his move as an obvious vote of "no confidence" in the department and were especially galled by the fact that these civilian "whiz kids" would actually be giving orders to superintendents. DiGrazia countered that these aides would be just staff assistants without any command responsibility. On the contrary, he explained, their job would be to relieve the uniformed command staff of paperwork, research and other non-police duties so that these superior officers would have more time to command. These aides were young, liberal and extremely loyal to diGrazia. Actually, the commissioner became closer to them than to anyone on the

department's command staff. And when high-ranking officers got the impression that these aides were giving orders, the men of the department and the patrolmen's association grew to feel as threatened by them as by their commissioner.

DiGrazia's Plans for Professionalizing the Boston Police

Upon his arrival, diGrazia discovered that the BPD did not conform to any of the generally recognized precepts governing most modern, progressive police departments. Instead, he found himself confronting a police department that was relatively unaffected by the "big-city" police reform movement which had transpired in the early part of this century. According to Robert Fogelson, noted urban historian and author of Big City Police: An Essay On Institutional Change, early police reformers believed the structure of police departments inherently violated some of the cardinal principles of municipal government, and they attempted to correct these infractions. Some of these violations - ones which diGrazia found persisted in the BPD - were: local districts operated independently; many sensitive and critical duties were delegated to ordinary patrolmen with no special expertise; many unqualified or incompetent persons were retained; many departments were organized along municipal lines and were controlled or influenced by local officials; and formal authority and organization corresponded very little with actual power and operation.

The consensus of these early reformers was that the primary purpose of police was to provide the best possible service to the community at the lowest

possible cost and that authority over the police should be vested in the mayor or his appointee and not in the city politicians or the police district captains. According to Fogelson, this consensus laid the groundwork upon which another generation of reformers (diGrazia's generation) would attempt to transform big-city police in the coming years. Thus, although this early reform movement failed, many of the progressive principles were incorporated into the conventional wisdom of big-city policing.⁹

DiGrazia was determined to reform the department's structure, personnel and operation in accordance with three of the early reformers' primary recommendations. First, power and authority within the department had to be reinvested in and channeled through the appropriate ranks. Second, police personnel had to be upgraded through better recruiting procedures and better police training and by weeding out unqualified or incompetent personnel. Third, the police officers had to be relieved of clerical, administrative, and other incidental services to perform regular police functions.

DiGrazia also had some preconceived notions, based on his experiences in other locations, as to what police work should be and how it should be accomplished. Such concepts as police professionalism and pride, police ethics, community involvement in departmental decision making, and complete public candor were among the many innovations that he wanted to adapt to the BPD and its sworn personnel.

The development of police professionalism and pride for their work was of paramount importance to the commissioner. Although recent studies have produced

a plethora of suggestions on upgrading law enforcement, there has been little consensus on defining the goals of professionalism or on developing a workable program.¹⁰ Among the possibilities diGrazia envisioned for the Boston police were: grouping all police functions according to their similarity and purpose, and providing for a unity of command throughout the department; abandoning para-military rank and procedures; implementing an ombudsman system to monitor police activities; and developing a self-administered, modern, concise code of ethics for police officers. However, before he could even begin to realize his goal of professionalizing the police, there were numerous other problems which had to be alleviated.

For example, diGrazia was very concerned with the role of the police in the overall criminal justice system. The police were angered by the court system, especially when they observed criminals released time and time again after being arrested in the act of a serious crime. DiGrazia wanted to see the development of training programs oriented toward providing the police with a better understanding of all aspects of criminal justice, especially the correctional process. He wanted to see the department move toward criminal justice training rather than simply police training. Moreover, he wanted the community to recognize that the policeman was not just a man interested in re-arresting released offenders as soon as they hit the street. DiGrazia told his men that their job was "to serve and protect." Patrolmen spent less than 20% of their time on crime-related activities. Therefore, as the larger portion of police work dealt with a wide range of social problems, diGrazia had been known, on occasion, to tell his officers that they were "social workers."¹¹

Another important prerequisite to police professionalism, and one to

which diGrazia addressed himself immediately, was the level of conduct that a police officer would be expected to maintain. The commissioner believed that this level of ethical conduct must exceed that of other professions. His reasons were quite basic: no other profession invested in all its members the same degree of power given to individual policemen to make technical, legal and moral decisions that may determine the fate of its clients; nor must other professionals perform their duties with the same degree of public exposure. Thus, regardless of how difficult the short-term considerations were diGrazia felt that he had to eradicate, or at least ameliorate, corruption and incompetence within the department before the police could enjoy the respect and status accorded other professions.

The commissioner suggested a number of ways to attain this respect and status. First, as with other professional groups, there was a camaraderie among policemen and a reluctance to discredit -- or to "rat on" -- a fellow officer. This silence often resulted in lowering internal principles and professional pride. Therefore, diGrazia stressed the need for a code of ethics which would require officers to report incompetence or unmoral conduct to the appropriate authority. Second, criminal codes had to be simplified and unenforceable laws, especially those dealing with "victimless crimes" had to be repealed so that patrolmen would not be tempted to circumvent these laws via the "pay-off" route. Finally, the commissioner asserted that both he and his command staff had to be visible and accessible to the public, to the news media, and, most importantly, to every member of the police department. Moreover, he wanted all police officials to communicate directly with the people they service and to demonstrate to the community their willingness to meet problems with total openness and candor.¹²

DiGrazia's Long-Term Goals

DiGrazia had three basic long-term objectives. First priority among these was the restoration of public confidence in the police department. This meant not only public confidence in the simple integrity of police officers, but also confidence in the department's service. Further, it meant assurance that the department would be managed efficiently, that excessive use of force by police officers would diminish, that public safety would improve, and that the department would continue to be concerned with its public image.

To the extent that public confidence in the police depended on the quality of their service, diGrazia's second long-term objective was to improve the department's responsiveness to its members and to the citizens. Internal responsiveness meant instituting clear and sensible rules and personnel policies; experimenting with alternatives to the authoritarian, quasi-military police structure; and involving department people, at all levels, in planning and decision making. Community responsiveness involved increased mobilization of the patrol force; permanent assignment of officers to areas in small, effective teams; centralized authority and decision making; increased service orientation; and greater involvement of police officers in the neighborhoods they police. To attain such goals, it was necessary also to revamp the command and control, data, and communications systems so that, on the basic mechanical levels, the department would function smoothly. Additionally, diGrazia also applied for LEAA funds for studies involving data processing, automobile maintenance and resource allocation.

Improvement in the department's technical systems, like all other improvements, depended on the people in the department. Therefore, diGrazia's third long-term priority became personnel improvement. The average age of department personnel was approximately 44 years, and unknown numbers of them were on limited

duty or were disabled. This lack of available personnel hampered diGrazia's attempts to build a service-oriented department. The prospects for real change here depended upon supervision, counseling, and in-service training. These measures notwithstanding, personnel improvement meant personnel turnover. However, before large numbers of men could step aside with dignity, diGrazia had to improve the department's retirement system.

In addition, an improved personnel system was needed which would recruit just the person required for a single position, rather than recruit en masse. This system would promote according to merit, measured by a well-developed personnel evaluation scheme. It also would provide a variety of career opportunities for sworn personnel rather than confine the patrolmen to single career tracks.

In implementing these changes, diGrazia received support from the mayor and his aides, from the news media, and from the community itself. The mayor felt that Boston finally had a police commissioner who was responsive to the needs of the community as well as one who worked closely with the mayor's office. In turn, Mayor White offered no political interference to diGrazia's reforms and, indeed, gave him total political support. The news media, especially the press, gave diGrazia pretty much of a free ride. They overwhelmingly supported most of diGrazia's reforms, particularly those designed to ameliorate police corruption. Some reporters asserted that diGrazia's appointment was one of Mayor White's most important accomplishments. The public, for the most part, also was pleased with White's choice. Through his numerous, evening, community appearances (one of his methods for improved police/community relations), diGrazia attempted to convince Boston residents of his dedication to reform and to improved police performance.

Initially, this overwhelming support enabled diGrazia to implement many of his reforms. However, as indicated earlier in this report, there were those who opposed the police commissioner. And diGrazia soon realized that this opposition was powerful enough to affect radically and, in some instances, to prevent his reforms.

NOTES: CHAPTER ONE

- 1) DiGrazia has been continuing his education at Boston College and received a B.A. degree in January 1975.
- 2) Boston Magazine, October 1973, p. 61.
- 3) Boston Globe, October 5, 1972.
- 4) Boston Globe, October 4, 1972.
- 5) Reprinted in Boston Magazine, supra note 2, p. 74.
- 6) Id at p. 74.
- 7) As Klein goes on to illustrate, the only civilian in the department hierarchy, up to that point, had been a confidential secretary to previous commissioners "whose job it apparently had been to secure Bruins tickets and dinner reservations." Id at p. 75.
- 8) Robert Fogelson, Big City Police: An Essay On Institutional Change, 1890-1972. (Unpublished manuscript: 1974), Chapters 1-2.
- 9) Ibid, Chapter 5.
- 10) Hervey Juris and Peter Feuille, Police Unionism (D.C. Heath: 1973), Chapter 6.
- 11) May 12, 1973, speech delivered by diGrazia to the Boston Social Welfare Seminar.
- 12) January 11, 1974, speech delivered by diGrazia before the Law Enforcement Association on Professional Standards and Ethical Practice.

Early Union Development

The Boston Police Patrolmen's Association is an independent union limited exclusively to patrolmen, the lowest rank in the BPD. When it was first organized it had approximately 1,800 members out of a total patrol officer complement of approximately 1,980. As indicated in the prologue, it was established by the patrolmen in 1965 in response to widespread charges of "police brutality."

According to BPPA's original counsel, Robert Wise, several considerations entered into the decision to limit membership to patrolmen. First, the BPPA was patterned after the Patrolmen's Benevolent Association (PBA) in New York City, which also limited its membership exclusively to patrolmen. If a patrolman was promoted, he no longer could vote in the union and was not represented by the union in collective bargaining. Second, the patrolmen were concerned that if superior officers were included, they would dominate the organization in either direct or subtle ways. Wise stated that the Boston Police Department was characterized by an implicit "establishment" (a small group of influential and self-perpetuating superior officers) who had long maintained a "system" which denied fair consideration of the interests of the patrolmen. Third, Wise stated that there was a functional difference in interests between the patrolmen and the superior officers. That is, the sergeants, lieutenants, and captains supervised and directed the patrolmen in the performance of their duties and were "management" in the real sense. Wise also pointed out that captains sat on the trial boards which were set up within the department when a patrolman was tried for some infraction of the rules which might result in a major disciplinary action.

Although the Boston Police Patrolmen's Association was founded in 1965, it had no union prerequisites until early in 1966 when the fledgling

II. THE BOSTON POLICE PATROLMEN'S ASSOCIATION

Among the opposition groups with whom Commissioner diGrazia had to contend, none was more aggressive, more vociferous nor more effective than the Boston Police Patrolmen's Association. The following pages will describe the ascendancy of the BPPA from its inception to its present role as a militant and highly-successful police union. This will include an examination of both the contextual and the variable dimensions of the association's power.

The contextual dimensions of union power are those which affect the union's ability to achieve its objectives but which cannot be manipulated meaningfully in the short run. However, they are important determinants in the relative power of the parties. To illustrate, the BPPA's ability to achieve its goals are affected by the structure of bargaining as well as by the economic, political and statutory context in which the bargaining takes place.

The variable dimensions of union power are those which the union can manipulate. These include: negotiating expertise; lobbying ability with public officials to improve the probability of attaining union objectives; political activity such as molding public opinion and participating in the election campaigns of candidates; disrupting normal police service with job actions; enforcing dispute-resolution procedures such as litigation, grievance arbitration (both binding and non-binding), fact-finding and mediation; and merely threatening to embark upon any of these actions.¹

organization's lawyers were able to lobby an amendment through the Massachusetts legislature granting the benefits of a 1965 law to police officers. This legislation originally had authorized collective bargaining for all public employees except policemen. Even with the passage of this amendment, the BPPA did not really begin its ascendancy to power until the following year, due primarily to the formation of a rival organization: the Collective Bargaining Federation (CBF). The CBF was an amalgamation of the Massachusetts Police Association (a statewide, lobbying group), the Superior Officers' Association (a social organization for sergeants, lieutenants, and captains), the Boston Police Relief Association (a group which provided low-interest mortgages to its friends), and the Committee for the Protection of the Rights of Police Officers (a group concerned with abuses toward police).²

The CBF, which claimed to represent all ranks, and the BPPA soon became serious rivals for patrolmen's pledges. BPD management exacerbated this rivalry by obviously favoring the CBF and antagonizing the BPPA. For example, BPPA President Richard MacEachern was transferred four times during a single year, always to undesirable jobs such as traffic. As one researcher put it: "While on the traffic post, his (MacEachern's) supervising sergeant's primary job duty seemed to be to hide at the corner and watch MacEachern for mistakes so he could be disciplined."³ At one of the disciplinary hearings, Robert Wise represented MacEachern and saw to it that he was accorded his constitutional rights. Up to that point, such an occurrence was unheard of in the BPD, and "the top brass was livid that an impudent labor lawyer would dare to intrude on a police department disciplinary hearing to provide constitutional rights to a policeman in 1966."⁴ Although Wise was not particularly successful at that hearing, the perseverance of MacEachern and others in that instance served as a source of

great strength and inspiration to the rest of the BPPA leadership and members, most of whom gave total credit to MacEachern for keeping the BPPA alive in those dark days.

Things began to change late in 1966, when the CBF filed an election petition with the Massachusetts Labor Relations Commission (MLRC) in an attempt to win representation of the patrolmen as well as the superior officers. A representation election was scheduled for September, 1967. Meanwhile, the BPPA launched a massive propaganda war. They blasted the CBF as a "puppet" of management. Then, timed to gather maximum election support, they filed a \$300,000 overtime suit against the city, demanding time and a half for the thousands of overtime hours patrolmen had worked during the 1967 summer civil disturbances. (The city council had voted the previous year to override Mayor Collins' veto of an ordinance that would give the police overtime pay at time and a half, but the mayor refused to appropriate the funds.)⁵ In addition to claiming credit for securing the overtime ordinance, the BPPA election handouts claimed the association also had obtained council approval for the establishment of straight-time paid court appearances. As if that were not enough, the BPPA also induced the council to pass a resolution to the effect that all police be given the right to vote while on duty on election day.

The election resulted in a 1295-to-688 vote in favor of certifying the BPPA as the official representative for patrolmen. Since the CBF won overwhelmingly among the superior officers, it became the official representative for the rank of sergeant through captain.

Bargaining History

Immediately after this representation election, the two certified agencies commenced collective bargaining for their first contracts. Two months after

beginning negotiations the CBF hastily accepted the city's offer of a 5-7% pay increase, but their demands for time-and-a-half overtime, binding grievance arbitration, and fixed-shift scheduling went unfulfilled.

To the BPPA leadership, it was obvious that the city had signed the CBF agreement with the express purpose of coercing the association into signing a similar agreement.⁶ However, the events associated with the mayoral campaign in Boston induced the BPPA to stall negotiations until the change of administration. The two leading candidates for mayor were Kevin White and Mrs. Louise Hicks. Mrs. Hicks was a militant member of the school committee in Boston and had gained local fame, if not notoriety, by her strong stand against busing. It was expected that Hicks would draw the support of the "racists" in the community and the "law and order" groups. Indeed, during the campaign, Mrs. Hicks came out in favor of an annual starting salary of \$10,000 for all Boston patrolmen. At the time, this was viewed as a major blunder on her part because it excited further anxiety among the voters concerned with where the money would come from and what the impact of such an increase would be on tax levels.⁷

White was more restrained in his approach to police salaries. But he did issue a position paper which stated that the Boston policemen should be the highest paid in the state. In effect, whoever won the election would have some general political obligation to treat the BPPA well in negotiations. The BPPA membership informally supported the candidacy of Mrs. Hicks.

The BPPA had made the tactical decision to wait until after the new mayor had assumed office in January, 1968, before finalizing an agreement. Wise's explicit objective was to try to leap-frog the CBF's agreement. During November and December, the BPPA bargained with the city and various police department officials in order to work out some basic concepts such as union

security, grievance procedures, and related issues. However, no serious bargaining was carried out over the economic issues. Wise noted that during this period there was substantial pressure from many of the BPPA's rank and file members to enter into a quick agreement, but Wise persuaded the association's officers to hold out until Mayor White, who had won the election, took office.⁸

In its negotiations with White, the BPPA listed various demands that it felt were critical. First, the BPPA demanded a salary of \$9,300 per year for patrolmen. The current salary was \$7,300 per year. Second, the union asked for time and a half for overtime, minimum call-in pay for the time spent at court appearances connected with arrests, and time and a half for periods worked "out of turn" (shifts other than those scheduled for the individual patrolman). Third, the union wanted 12 paid holidays. And fourth, the union insisted on retroactivity of all wage gains, including the various overtime provisions, to January 1, 1968--regardless of when the contract was finally signed.

The BPPA obviously made progress in negotiations with White as the city then made its "best" offer providing for a salary of \$8,200 per year for patrolmen, but without retroactivity. It also included time-and-a-half compensation for overtime and call-in pay for court appearances, but reduced the number of paid holidays from 12 to 10. To balance out the package, the city also offered \$100,000 life insurance for each patrolman.

In order to sell the offer to the BPPA, Mayor White resorted to the unprecedented move of appearing before the association's executive council when that decision-making body considered the package, to advocate acceptance of the city's offer. This was to little avail, however, as the executive council refused the offer in a vote of 45 to 2.

With the rejection of the contract, a new series of maneuvers was set in

play. The BPPA approached the city council and asked them to vote an annual wage of \$9,300 a year for the patrolmen. During the hearing on this provision, the BPPA packed the council chambers and otherwise attempted to exercise political pressure on the councilmen. The council did approve the \$9,300 annual salary. However, this act was meaningless except to mobilize political strength since it was clear that the mayor had the right to veto the ordinance. In fact, he did exactly that after the provision was passed.

The negotiations became more intense as they extended into February and early March, 1968, without agreement on a contract. At the end of January, a mediator from the Massachusetts Department of Labor had entered the picture, and he ultimately developed a package offer acceptable to both sides. In fact, Robert Wise attributed most of the credit for arranging the final settlement to the mediator. However, the contract included all the BPPA demands originally submitted to White, except for the \$9,300 salary. It was a two-year contract which included: a wage reopener in October, 1968, for the 1969 calendar year; a wage increase of \$1,020 to \$8,320 per annum; 12 paid holidays; time and a half for all overtime including court appearances; four-hour minimum call-in pay; binding grievance arbitration, a weak management-rights clause; and a very strong union-rights clause including a dues check-off provision. All wage gains, including time and a half for overtime were to be retroactive to January 1, 1968. One of the most important concessions the association fought for and received was contract language which provided for time and a half for all "out-of-turn-work"-- that is, an employee required to work other than his regular shift would have to be paid at the rate of time and a half for all such work. Previously, men were bounced around from one shift to another with little or no advanced notice. Therefore, their first contract had the effect of stabilizing work hours for

the first time in the history of the BPD.⁹

The number of dues-paying members in the BPPA radically increased during the week following the contract's signing. Dues also increased from two dollars per quarter to one dollar per week, and by the end of 1968, the BPPA could lay claim to over 1,800 dues-paying members.

Whereas the agreement between the association and the city made the BPPA look great, it also had the unfortunate side-effect of making the CBF look silly. As a result of the contract, a top-grade patrolman's pay was higher than a starting sergeant's pay--a situation which hardly was ameliorated by the fact that the BPPA had won paid details, overtime, and court appearances. Pressure developed among the superior officers for a renegotiation of their "quickie" contract. And in February, 1969, the city and the CBF settled for much the same concessions as the BPPA had received. These included time and a half for overtime and court time, binding grievance arbitration, and the establishment of salary differentials: sergeants received 21.5% more than patrolmen; lieutenants, 15% more than sergeants; captains, 15% more than lieutenants.¹⁰ This set a precedent which still is adhered to today where the CBF, or Superior Officers Federation (SOF) as it is now called, receives the same wage increases and benefits that the BPPA wins for its members. The SOF, though, was never a very aggressive organization. This quiescence was due, in some measure, to their smaller budget and fewer members. However, this nonmilitancy could be explained more accurately by the fact that its members were older and were serving the police department in a managerial capacity. Thus, they obviously did not want to jeopardize their positions in the department by becoming more controversial. Indeed, Hervey Juris asserted that:

. . .the SOF is a parasitic organization which rides on the backs of the BPPA. As long as the present BPPA strength holds up and the salary differentials remain the same, this BPPA/SOF relationship will continue.¹¹

The first contract had a wage-reopening date of September, 1968, but things did not really begin to jump until the following year, when a fact finder was appointed to hear salary-increase presentations from the city and the association. By the time the fact finder settled the wage issue with a substantial \$2,000 wage increase to \$10,300 per year effective January 1, 1970 (BPPA demands for retroactivity to March, 1969, were rejected), it was time to renegotiate the non-wage issues of the previous contract.

Negotiations for the second contract began in late 1969, and continued into early January of 1970. The biggest issue at that time related to resource allocation: How should patrolmen be assigned to shifts? Day patrolmen were unhappy because they had to work ten-hour shifts while the night men worked only a little over six hours (an incentive for working nights). The day officers were unhappy also because they were precluded from the lucrative overtime for court appearances. And shift assignments were fixed so that day and night men could not alternate assignments.

Eventually, the BPPA was able to secure an eight-hour shift for day patrolmen and a \$15 per week "shift differential" for the night men to induce them to go along with the plan. Interestingly enough, they accomplished this by first lobbying a permissive, local-option bill through the state legislature which granted the police an eight-hour day. The only stipulation to the bill was that the city council had to adopt the measure. This was no problem, and the association then lined up the necessary support but never actually had to push for its passage. Finally, during negotiations for their second contract, the BPPA let it be known that they had more than enough votes for passage of the bill. This was a threat to Mayor White that if he did not accede to their demands for an eight-hour day and a night differential, they would see to it that the measure was passed anyway.¹² At the time, rumor was that the BPPA controlled the council;

and recognizing that passage of that ordinance would cost the city two hours of time-and-a-half overtime to each day patrolman every day, White decided not to call their bluff. Thus, the police department established three eight-hour shifts and was given the right to establish a fourth shift if necessary. The significance of this change in shift hours was reflected in a letter from Acting Police Commissioner William Taylor to the BPPA chairman stating: "This is an historical contract which has created the greatest breakthrough in working conditions for Boston Police Officers in more than 100 years."¹³

Indeed, the BPPA had secured a number of "historic benefits" in this contract including an agency shop, a \$2.25 hourly increase in the paid-detail rate with a four hour minimum (this brought the rate up to \$6.75, at that time a national record!), a minimum of \$22.50 guaranteed for all court appearances, the creation of a long list of specialist ratings carrying an additional \$6 to \$19 per week, and a stipulation permitting the BPPA to bargain with the police commissioner (rather than the city) over the implementation of shift changes.¹⁴ Needless to say, the association's membership voted overwhelmingly in favor of the package.

Events did not work out quite as favorably for the association, however, during their third contract negotiations in March of 1971. It was a local election year, and both sides were playing a waiting game in anticipation of the results of the current council and mayoral campaigns. In fact, talks became deadlocked practically as soon as they began when White, in accordance with his city-wide austerity policy, announced that any wage increase for the patrolmen over the 5.6% increase that had just been approved for the city's firefighters, teachers, nurses, and librarians would not be in the overall interests of the city. In light of White's alleged pre-election promise to raise patrolmen's pay

to approximately \$12,500, the BPPA decided not to settle for the mayor's offer of \$11,500. Talks remained at this impasse for almost one year. In the interim, the union decided to generate public support by picketing Mayor White's 1972 inaugural ceremony¹⁵ and by initiating a suit against federal guidelines which prevented the city from granting salary increases beyond the President's wage boundaries.¹⁶

During this stalemate, two additional but interrelated issues surfaced: education incentives and service recognition. The problem had its genesis in two "home rule" bills, passed by the Massachusetts Legislature in 1970, to encourage the higher education of police officers in any community which chose to accept these provisions. The first bill, Chapter 834, provided for full tuition at a state university for police officers who enrolled in a four-year degree program. The second, Chapter 835, offered a generous financial incentive to individual officers who had completed part or all of their college education, amounting in part to 15% of base pay for an associate degree, 20% for a bachelor's, and 30% for a master's or a law degree.

Neither the city nor the BPPA, however, were enthused about the impending adoption of these bills. The city's reservations were based less on immediate cost (the state would pay half the bill) than on precedent. The city did not believe an educational inducement of 20-30% was warranted to encourage the police, or any other group, to pursue a college program. The association was not pleased with the idea because it felt that most of its members, particularly the older ones, were not likely to reap substantial benefits from the bill. Many patrolmen did not meet the high school diploma requirement for entrance to college; and over 60% of them, having more than 10 years policing service, were not likely to go back to school. Therefore, if there were to be any educational incentive offered, the BPPA insisted that there be a corresponding dollar offset

based upon service or experience in the department for those men who did not elect to take advantage of the incentive program. It is important to note that the association's position on this education incentive program was an early indication that it was unlikely to become a vehicle for the professionalization of the Boston police.

By May, 1972, the patrolmen had been working without a contract for over 14 months. In an attempt to settle both the wage and educational incentive issues, White made another offer. This package included an annual salary of \$11,518 plus \$618 in retroactive pay and a provision for substantial career and education rewards.¹⁷ White's proposal eventually was accepted overwhelmingly; and, after working without a contract for 16 months, the patrolmen were set until June, 1973.

Bargaining for the patrolmen's current contract (in effect at the time of this writing) began early in 1973. These negotiations were marked by several events. Boston Police Commissioner diGrazia had been appointed and took an active role in deliberations through his representatives; the law firm of Wise and Wise had been dismissed as BPPA attorneys, and state labor-relations machinery was used extensively throughout the negotiation period. Bargaining commenced with the presentation of the BPPA's "shopping list" - a 37-item proposal calling for higher salaries, increased overtime pay, and a larger voice in police personnel and policy matters.¹⁸

The immediate reaction from the mayor's office was that the requests "bordered on the absurd," particularly in light of the mayor's austerity program.¹⁹ The police commissioner's reaction was much the same. However, he had some other problems. Faced with a new militant BPPA leadership, diGrazia, through his representatives, was unable to assert his managerial demands in any of these negotiations.

One of the BPPA's most controversial demands was for a contractual provision for the formation of a "hearing board" to handle cases of patrolmen objecting to their transfers and for the establishment of a right to appeal any of the police commissioner's decisions to the mayor. DiGrazia maintained that such a contractual stipulation would strip him of much of his authority. He decided to forward a letter to each captain stating that because "some of the department's current practices and contract restrictions work against...efficient and professional service..." he was soliciting their suggestions for changes that could be made in the upcoming patrolmen's contract which "would provide the department with maximum flexibility in meeting its obligation to the public and to the men."²⁰ The BPPA, perhaps anticipating pressure from the superior officers and always sensitive to actions which could be interpreted as diminishing their power and influence over their membership, slammed this as "as clever attempt to bypass...association committees."²¹ From this point, negotiations proceeded rapidly downhill for many months.

In the interim, the BPPA replaced its former lawyers with Frank McGee, a military lawyer of national repute. The switch was made, ostensibly, to reduce legal costs, but more likely than not it had some basis in the low media profile that the Wisers had urged upon the association and also in the militant turnover of association leadership. Under McGee's stewardship, the number of suits and grievances over unfair labor practices began to soar. During the bargaining impasse, McGee began filing unfair-labor-practice charges with the Massachusetts Labor Relations Commission (MLRC), the state administrative agency established to regulate public labor relations. He charged the city with refusing to meet and bargain in good faith and charged diGrazia with circumventing

the association as the duly-certified bargaining agent for the patrolmen. These charges were instigated actually by another letter which diGrazia had sent directly to each member of the BPPA stating that he (diGrazia) would defer major changes in the contract in the interest of promoting more stability in the current negotiations.²² These letters only served to confirm the association's initial apprehension and mistrust of diGrazia. Moreover, diGrazia's lack of sensitivity and diplomacy in dealing with the BPPA during these contract negotiations severely impaired his ability to win their support for many of his later reforms.

In February of 1974, the BPPA membership finally voted to accept a two-year contract guaranteeing them an immediate 5.5% salary increase retroactive to the expiration date of their previous contract plus an additional 5.5% raise to take effect that July. This resulted in an increase in base pay of over \$1,300, making it approximately \$12,820. The contract also contained an agreement stipulating that former union officers and district delegates would not be transferred from their present assignments during the life of the contract. Finally, the contract provided that collective bargaining on working conditions would not begin until March, 1974. This postponed a decision on the managerial prerogative that diGrazia wanted to secure, specifically the power to control work hours and shift assignments in relation to the starting times of tour assignments. The affected patrolmen would be given 30 days' notice and the change would be in effect for a minimum of six months. This delay also confirmed that the association's bargaining power was as strong as ever.

Achievements of Early Bargaining

In its seven years, the BPPA had secured many benefits for its members through the collective bargaining process. While a good deal of this history had been shaped by the political events to be analyzed in the next section of

this chapter, some important factors regarding collective bargaining should be discussed here.

The most striking characteristic of the negotiations between the BPPA and city officials was the favorable contractual language obtained by the association through adroit bargaining. From the beginning, the city consented to a very strong union-rights clause and to an extremely weak management-right's clause. Later, the city compounded this error by assenting to contract language which gave the association the right to bargain or grieve over almost any change in department policy. Generally, two reasons are cited for this outcome. The first belief was that city and police department administrators acquiesced to the language in the initial contract in "a spirit of cooperation," and did not foresee the strong union pressure which would be exerted through the grievance procedure.²³ The second, and more plausible, explanation related to the Wises' labor relations expertise. Henry Wise had been drafting labor contracts since the 1920's and knew precisely the type of favorable provisions he wanted, whereas the primary negotiator for the city was relatively inexperienced and made many mistakes.²⁴ Many of the Wises' achievements were carried over into the present BPPA contract and included a strong union rights clause relative to management rights, an agency shop, binding grievance arbitration, retention of prior benefits, and the supremacy of the contract over conflicting orders by the police commissioner.

Another outstanding characteristic of the association's bargaining history was the emphasis on fringe benefits. In addition to wage increases, the BPPA put great stress on overtime, court appearance pay, and other forms of compensation. According to Hervey Juris, the BPPA contract had some of the best fringes of any police contract he had seen.²⁵ Benefits such as time-and-a-half

overtime for all "out of turn work," court time and night differential have already been cited. In addition to these, the BPPA bargained for supplementary payment to patrolmen who held special duties. Thus, a patrolman in charge of Canine Corps operations received an extra \$10.00 a week, a radio operator received an additional \$6.00 a week, and the patrolman in charge of the department's law library received an additional \$10.00 per week. These "extras" were included directly in the contract.

The union also negotiated for "paid details," an important part of the total earnings of many of the patrolmen. This unique practice, used in Boston and a few other cities, enabled a private person or business to request a policeman for a special service. The service was carried out by patrolmen during their off-duty hours, and compensation was paid directly from the private individual or firm which requested this service. The current rate for these details is \$6.75 per hour, with a guaranteed minimum of four-hours' pay per detail.²⁶ Procedures and standards governing the distribution of these details also were written into the collective bargaining agreement.

Hervey Juris indicated that the greatest accomplishment of BPPA bargaining for paid details was the elimination of the police department's "punitive club." Prior to the union contract, police officials would remove a patrolman from the detail roster for one month if he refused a detail without good reason. The contract stipulated that a man cannot be removed, merely that he be credited with the hours refused. As a result, the police department found it difficult to fill all of the special detail requests and, therefore, would like to re-establish the club. Thus far, the union has resisted these efforts successfully.²⁷

In the past, the association also attempted to prevent the police department

administration from making changes which would eliminate any special details. This issue arose over the paid detail established for Metropolitan Boston Transit Authority (MBTA) buses through the Roxbury-Dorchester areas on Friday and Saturday nights. The MBTA requested two policemen to ride each bus to protect the bus drivers and the passengers against harassment, assault, or other crimes. In June 1968, the police department, after consulting with the mayor, changed the arrangement making assignment to the MBTA busses a regular detail (part of a patrolman's normal tour of duty). In addition, only one policeman would be assigned to each bus.

The BPPA bitterly protested this change on two counts. First, by changing the assignment from a paid detail to a regular detail, the city reduced the supplementary-income opportunities of the patrolmen. Second, they argued that the assignment of one policeman to a bus was unsafe for the bus driver, the passengers and the policeman. That is, a single officer was not adequate to handle any disturbance which might arise on the bus. In addition, the patrolman might be beset and trapped with no source of help.

Therefore, the BPA initiated a grievance under Article XVI, Section 4, of the collective bargaining agreement which stated:

Except as improved herein, all benefits specified in the published rules and regulations, general and specific orders in force on the effective date of the Agreement shall be continued in force for the duration of the Agreement. No employee shall suffer a reduction in such benefits as a consequence of the execution of the Agreement. 'Benefits' hereunder shall be deemed to include, by way of example and not by way of limitation, sick leave, vacation leave, and paid injured leave.

Since paying details were provided for in the published rules and regulations of the police department, Wise alleged that the department violated the above clause by abolishing one of the details or "benefits" which was in effect at the time the agreement was negotiated.

The city, however, upheld the police commissioner's right to assign on-duty men one at a time to bus runs and the association never disputed the matter. The end result of this controversy was that the MBTA began to hire its own police force. This incident further indicated the wide scope of the BPPA's involvement in wage and, indeed, earnings determination of Boston patrolmen.

This paid-detail issue also illustrated another important characteristic of bargaining between the BPPA and the city - the association's extensive use of grievance machinery in policing its contract. In the past six years, the BPPA has filed well over 200 grievances with the city labor relations department dealing with everything the association could possibly claim as a violation of the contract.²⁸ (These grievances will be discussed at a later time in this chapter in relation to the substantial impact they have had on the operation of the BPD and on the formulation of law enforcement policy.)

Another feature of BPPA bargaining was the non-negotiation policy over promotion, seniority and merit. There was no seniority clause in the agreement. Promotions beneath the rank of captain were covered by civil service, and the BPPA generally adhered to the authority and jurisdiction of the civil service in this area. However, the BPPA (and the SOF) showed a strong interest in related matters and pressured the city on an extra-contractual basis. In one case, Mayor White established the new position of Deputy Superintendent for Community Relations. This job was established primarily to help build harmonious relations between the Boston Police Department and the black community. The job was filled by a black detective who, in effect, was jumped four ranks. When the appointment was announced, the SOF protested vociferously on the grounds that it was a violation of the civil service procedure since the job was not channeled through a civil service eligibility list. Behind this complaint, no

doubt, elements of racial animosity were at play. Mayor White replied that he was not obliged to use civil service in this case. That is, promotions to the rank of captain and above are not made from a civil service list, but by the police commissioner. Therefore, the police commissioner and the mayor had the discretion of promoting whomever they wanted based on considerations of "merit."

In another more visible case, the BPPA successfully opposed the extension of the police cadet program. Under that program, the department hired young men between the ages of 18 and 21 to serve as police cadets. These cadets performed certain duties normally assumed by regular police officers and received training so that when they became 21 they might qualify as regular patrolmen. The young men were hired without reference to civil service procedures.

The reasons for establishing the police cadet program were various. First, the use of police cadets for particular chores would free patrolmen for actual police duties. Second, much of the margin of Mayor White's victory over Mrs. Hicks in the 1967 election was attributed to the strong support he received in the black community and the police cadet program had been advertised as a vehicle to increase the recruitment of blacks for the Boston police force. (Actually, very few blacks joined the program.)

The BPPA initially did not oppose the program because the cadets were used largely for clerical and other office work. However, in July 1968, Mayor White sought to hire 100 additional police cadets to direct traffic, particularly in downtown Boston. When this expansion was announced, the BPPA mobilized its resistance, revealing two basic reasons for the program's undesirability. First, there was undoubtedly an anti-black animus among significant components of the Boston police force, and the resistance to the police cadet program reflected resentment at the recruitment of more blacks. Second, the traffic assignments

in downtown Boston generally were desirable because the policemen became familiar with influential citizens and businessmen. Also, traffic assignment was viewed as preferable to walking a beat. Although the BPPA stated that it opposed the extension of the police cadet program because it further weakened civil service procedures and protections, it is clear that in this case the BPPA was waving the civil service flag to rally support against a program which it felt was undesirable for these other reasons.

When Mayor White introduced an ordinance before the city council for the expansion of the cadet program, the BPPA appeared in opposition and prevented passage of the ordinance. One of the union's additional arguments made before the city council was that the use of police cadets, who could not carry guns, would reduce the level of police protection in the downtown area. When Mayor White was thwarted at the city council, he went to the state legislature to push through the same program. Under the existing home-rule relationship between Boston and the state legislature, this governing body could have mandated such a program. Again, the association appeared in opposition and prevented the expansion of the police cadet program.

This issue illustrated various aspects of the early relationship between the association and the City of Boston. The BPPA proved itself to be sufficiently adroit politically to thwart the mayor. Also, it demonstrated how the association could use civil service as a protective device. And last, it revealed the explicitly strained relations which had developed between the policemen's union and the black community in Boston.

The success enjoyed by the BPPA at the bargaining table is only one measure of the union's impact on the affairs of the City of Boston and its police department. Another dimension of BPPA influence lies in its political power.

Political Power

The BPPA was just as successful in the political arena as it had been at the bargaining table. While the involvement of Boston police officers in politics predated the formation of the association (in 1950, they successfully campaigned for a referendum measure to get a five-day work week), their 1966 lobbying effort for collective bargaining rights was the union's first solid accomplishment.²⁹ As described previously, other early BPPA political victories included persuading the city council in 1966 to override the mayoral veto of time-and-a-half overtime and delaying negotiations for their first contract until after the mayoral election. When the first contract was signed between the conservative patrolmen's association and the activist, liberal mayor; the stage was set for the many conflicts that were to occur between these two protagonists.

It did not take long for their first battle to commence. During his election campaigns, White had solicited actively for the black vote; and the Model Cities Program was one of his ways to repay them. When White sent his model-cities proposal to the city council for approval, they, in turn, sent it to the BPPA for their approval of provisions relating to the police. This act was interpreted as another indication of the growing political clout of the association. As illustrated in the previous subsection, association leadership redrafted the entire proposal when they discovered such inclusions as relaxation of civil service requirements for minorities, plans to establish a limited civilian review board, and community control through an elected citizens advisory panel. The proposal easily passed the city council in its new form and subsequently was approved by the federal government.³⁰

If 1968 was not White's year for implementing his police proposals, 1969 was even less so. One of the biggest issues of that year was the question of

name tags on police uniforms. The controversy began when demonstrators at Harvard University claimed that police officers had removed their badges so that they could "crack heads" with impunity. The BPPA contended that the badges had been removed to prevent their being used as weapons against the police and to protect officers and their families from the wrath of dissidents. Mayor White, believed that patrolmen as public servants should be identifiable because their anonymity would breed suspicion and would create poor community relations. He had a simple solution for the problem: sew name tags on the police uniforms. The police commissioner agreed (one of the few times McNamara and White were on the same side) and sent a memo to all Boston police informing them that name tags would be issued and that provision had been made to have the tags sewn on uniforms at police headquarters. The BPPA then threw up a picket line around headquarters which the union tailors refused to cross and the "sewing bee" was postponed. The association filed its usual grievance, which it quickly lost, and the matter went to arbitration.³¹

In the meantime, however, the union introduced a permissive local-option bill into the state legislature which, if adopted by the city council, would replace the name tags with identifying numbers.³² While the arbitrator was busy holding hearings on the name tag controversy, the city council voted to adopt the state law restricting name tags and then overrode White's veto of this measure.

The arbitrator eventually issued his award in favor of the city, but by that time the question was moot and Boston police officers did not wear name tags. This episode again indicated the BPPA's capacity to exploit the current political winds and their support in the state legislature and city council-- this time for the purpose of overturning an order of the mayor and the police commissioner.³³

The other big issue in 1969 was civilianization. In Mayor White's opinion, it was time to introduce civilians into non-police jobs which were performed by sworn personnel so that these officers would be free for police-related duty. The reasons for this were clear: sworn personnel were not trained to handle administrative and clerical tasks and, furthermore, their new salaries had priced them out of the market for these jobs. Thus, White planned to hire 50 civilian traffic directors for use downtown and 50 civilian clerks for duty at headquarters and in the district station houses. The BPPA's reaction, in the words of Hervey Juris, was:

Inside clerical jobs and downtown traffic jobs are cream puff jobs and they (the patrolmen) don't want to give them up. Their answer to the call for more cops fighting crime is to hire more men, not reassign some men and replace them with civilian scum.³⁴

Surprisingly, White emerged semi-victorious in this conflict by persuading the city council to fund at least his civilian clerk program. But the end result was that headquarters then had "50 clerks plus 50 cops they were supposed to replace still inside doing clerical jobs."³⁵

In May of 1970, there occurred in Boston what Hervey Juris referred to as "the purest example I have yet encountered of a political pay off between a municipal employee union and a politician."³⁶ This issue started with the "Hemenway Street" disturbances during the Cambodia turmoil, when the police interceded and, according to the New York Times report of May 15, 1970, "indiscriminately beat people, broke into apartments, and threw rocks and bottles at people from the tops of buildings." White charged the officers with overreacting. Two months later, at a second disturbance in the same area, a bank was firebombed and an apartment was set on fire. The police refrained from even entering the area and White charged them with underreacting. The BPPA, by now unsure of how the cops

were supposed to act, lashed out at White. They accused him of handcuffing the police and of ordering them to stay out of the area.³⁷ White was furious at the BPPA; and their relationship, which conceivably could not get any worse than it was, hit a new low. However, soon after this falling-out, Henry Wise arranged a small meeting between the association leadership and White where the two sides shook hands and agreed to be friends again. This reconciliation prompted the association's endorsement of White for governor during the Democratic primary campaign. Subsequent to this meeting, White changed the normal police weekly schedule from five days on, two days off to four days on, two days off. In addition, he promised to institute a "minimum manning" program. That is, 50% plus one of the cars in each district would have to man the streets at all times, even if it became necessary to call men in on overtime to do so (and it did become necessary). Finally, White guaranteed the BPPA that the BPD would continue using the two-man car exclusively. Thus, White bought the BPPA's backing in the primary and, indeed, won by a handsome margin. However, in spite of the union's support, he lost the election for governor.³⁸

For the next two years, the relationship between the BPPA and Mayor White was practically blissful. With the arrival of diGrazia, however, it took a precipitous turn for the worse. This decline could be explained also by the change in BPPA leadership in November of 1972, from Dan Sweeney to the more militant Chester Broderick. Soon after Commissioner diGrazia's appointment, the BPPA began making chimerical public accusations "that Mayor White had allegedly secret plans to infiltrate the BPPA through his contemplated wholesale transfer of personnel."³⁹ They further charged "the mayor has moved CIA-trained personnel into the department," and "Commissioner diGrazia has demonstrated that he is more interested in following the line of City Hall than he is in fighting for our supposedly common goal of a more professionalized police department."⁴⁰ Early in 1973, the association filed an unfair labor practice suit with the MLRC

claiming that the mayor refused to sign Association Founder Richard MacEachern's 100% disability pension because of MacEachern's union activity. After a battle over whether White could be subpoenaed before the MLRC (the commission later ruled that the mayor must appear), intensive negotiations began between White and the union which resulted in MacEachern's receiving his pension and the union withdrawing the charge. The BPPA/White relationship is still poor, and probably will remain so, particularly as long as the mayor continues his total support of the police commissioner.

The above examples seem to support the BPPA's reputation as one of the most politically powerful police unions in the country.⁴¹ Some explanations for this power will be postulated at the end of this chapter. First, however, the impact and implications of that power on law-enforcement policy and the operation of the BPD will be identified and examined briefly.

Impact on Law-Enforcement Policy

The BPD's law-enforcement policy was affected significantly by the BPPA's political activities. For instance, due to its influence with the city council, the association was able to scrap White's model cities proposals relating to civilian complaint boards, neighborhood control of police, and relaxation of civil service entry requirements. Through its lobbying power with the state legislature, the BPPA also was able to block a mayoral plan to give police cadets guns and powers of arrest--a program which would have increased manpower on the streets. Similarly, although the BPPA lost the name-tag grievance arbitration, they won the name-tag war through political manipulation in the city council and in the state house. Finally, the association fought every attempt to civilianize traffic, clerical, and other non-police jobs.

Many issues emanating from collective bargaining also had implications for

law-enforcement policy. For example, when the BPD changed the MBTA bus assignments from an off-duty, paid detail to a regular tour of duty, the men involved "got sick" with what many in the department felt was the BPPA's tacit support. In addition, during late 1969 and early 1970, when the city and the BPPA were negotiating for their second contract, the union organized a paid-detail strike to pressure the city to accept the union's terms. This strike deprived many businesses and influential parties of the special protective services, and the resulting dissatisfaction quickly reached city hall. Soon afterward, the BPPA and the city agreed on a new contract.⁴² Through collective bargaining, the union also secured time and a half (with a three-hour minimum) for all court appearances. Henceforth, some police officers became a bit more zealous in making arrests as a method of supplementing their income.⁴³

In sum, the BPPA's will prevailed in such law-enforcement policy areas as: increased neighborhood control (model cities); entry requirements (model cities, cadet guns and arrest powers); identification and accountability (name tags and "Hemenway" disturbances); police functions (civilianization); determination of regular police service to public and private sectors (paid details); financial incentives for arrest (time-and-a-half overtime for court appearances); and method of delivery of patrol services to the community (two-man cars and minimum manning).⁴⁴

Impact on Operations

The association had an equally substantial impact upon the operation of the BPD and exerted this influence primarily through four channels: collective bargaining, political manipulations, compulsory grievance arbitration, and litigation. Beginning with negotiations for their first contract, the BPPA

demonstrated an adroitness in bargaining for their goals. Prior to this initial contract, patrolmen were often bounced around from one shift to another with little or no advanced notice. By winning time and a half for all "out-of-turn" work, the BPPA was able to stabilize shifts for the first time in the history of the BPD. In addition, the association's insistence upon time and a half for all overtime, with a four hour minimum for all recalls, reduced such previously prevalent practices as calling men in early, calling them in on their day off, and holding them past the end of their shifts. The initial contract also provided for binding grievance arbitration. With the BPPA's reputation for filing more grievances than all other city unions combined, the BPD management was more careful about contract violations. Finally, the union had a contractual right to bargain with the police commissioner over any matters which arose during the life of the contract, especially changes in hours and shifts. This had the profound effect of forcing the commissioner to consider the anticipated reaction of the union before he made any decisions that may not have kept precisely to the letter of the contract.

As far as political manipulations are concerned, most of the exchanges between Mayor White and the association which have been discussed throughout this chapter, and especially those which influenced law-enforcement policy, similarly have had an impact on the operation of the BPD. At the very least, such disputes as two-man cars, minimum manning, and the four-and-two work week, have had a substantial impact on scheduling and overtime budgeting in the police department.

The multi-step grievance procedure, culminating in final and binding arbitration, provided a prime vehicle through which the union could seek redress for managerial infractions of the contract. The union made it their policy to

pursue aggressively all grievances which arose, no matter how tenuous their claims to contract violations. Apparently, they did this to maintain an equal voice with the police commissioner in the determination of departmental decisions affecting operations and personnel. Although the BPPA lost most of the grievances it had filed over the past six years, the presence of and aggressive use of the grievance machinery kept the BPD management on its toes when making such decisions, most particularly in the areas of assignments, transfers, overtime, and disciplinary actions. The BPPA often protested the transfer of patrolmen, especially union representatives, for arbitrary or capricious reasons or as a form of discipline or as an indication of displeasure.⁴⁵ In one such case, a group of Boston patrolmen won an arbitration award that provided retroactive overtime payments, to the tune of \$13,000, for 30 men who were not compensated for out-of-turn work in the department's communications control room.⁴⁶

The grievance machinery also had the effect of regularizing departmental discipline procedures. Soon after the original contract was signed, the BPPA successfully used the grievance procedure to establish a "bill of rights" guaranteeing Miranda rights to police officers. (That is, the right to counsel at interrogations and hearings and a guarantee that anything the accused officer said during the investigation would not be used against him in a criminal proceeding.)⁴⁷ This effected the elimination of department trial boards. Now, by state law, the police commissioner hears all disciplinary cases and metes out punishment. The patrolmen are less apprehensive about the process because they know that they are guaranteed union representation and access to legal counsel.

Finally, the association used the grievance procedure as a delaying tactic.⁴⁸ An example of this use was the name-tag issue when the BPPA was able to gain enough time to persuade the state legislature to pass their local option bill banning the wearing of name tags. The union's frequent resort to

arbitration probably was due to the fact that the grievance machinery was a less expensive source of power. Bargaining and political actions incurred high costs of lobbying, publicity, job actions and more complex legal advice.

The importance of litigation as another direct source of BPPA power was demonstrated by the fact that the association had regular access to legal services and was often a party in law suits. Even though it was unsuccessful in most of the suits it filed, the BPPA found that, in some instances, the act of filing itself achieved a desired goal. In fact, the first suit the BPPA filed serves as a good example of this tactic. In 1967, just before the union representation elections, and just after the city council passed a time-and-one-half overtime ordinance over the mayor's veto, the BPPA filed a \$300,000 overtime suit for the many hours worked during the 1967 summer civil disturbances. The suit was eventually dismissed, but the first contract did give the union time and one half for-overtime.

A direct parallel to litigation also was observed in the BPPA's resolution to bring a multitude of unfair labor practice suits before the MLRC. While few of these cases ever reached the prosecution stage, the fact that this alternative existed for the union prompted department policy-makers to consider carefully the consequences of any proposed changes in operations or personnel. The use of these tactics will be discussed in the following chapter as they became more prevalent when diGrazia assumed command of the BPD.

Summary

Throughout this chapter we have witnessed the rise of the BPPA from a small organization of uniformed street men into one of the most powerful and aggressive police unions in this nation. In the early days, the association's biggest

weapon had been their reputation for political success. This was due in large part to the Wises' political expertise and innumerable political contacts, to the association's tremendous capability to block almost any police matter in the city council if it so desired, and to the fact that Boston has had one of the highest police/citizen ratios in the country. When it came time to sign their first contract with the city, the BPPA already had acquired a reputation as one of the strongest unions in the city. This reputation was enhanced by a number of other factors--the personal militancy of early BPPA leaders, the rising militancy of patrolmen, the exclusion of superior officers in the organization who might have provided a leavening influence, the rise of the law-and-order phenomenon, and the union's substantial income (approximately a quarter of a million dollars per year) which gave them access to expensive legal talent. These assets combined to produce an organization whose "reputation gets more potent and begins to be more important than any objective measure of (its) real power."⁴⁹

In the next chapter we shall assess the impact of the BPPA's power, by now de facto if not de jure, upon the structural, personnel and operational reforms which diGrazia introduced.

NOTES: CHAPTER TWO

- 1) Hervey Juris and Peter Feuille, Police Unionism (D.C. Heath and Co., 1973), Chapter 4.
- 2) Hervey Juris, Notes On The Boston Police Patrolmen's Association (unpublished manuscript, 1970), pp. 3-4.
- 3) Id at p. 4.
- 4) Id at p. 5.
- 5) Juris and Feuille, supra note 1, at p. 129.
- 6) Juris, supra note 2, at p. 8.
- 7) Id at p. 9.
- 8) Id at p: 8.
- 9) Juris and Feuille, supra note 1, at p. 130.
- 10) Juris, supra note 2, at p. 11.
- 11) Id at p. 12.
- 12) Juris and Feuille, supra note 1, at p. 126.
- 13) Juris, supra note 2, at p. 15.
- 14) Id at pp. 15-16.
- 15) Boston Globe, January 2, 1972.
- 16) The suit, Civil Action # 71-1807-C, United State District Court, was eventually dismissed as moot when the city and the BPPA finally entered into agreement over a new contract in July, 1972.
- 17) The career incentive awards gave an additional \$300 per year to men with 5 years service; \$600 to those with 10 years service; and \$800 to those with 15 years service. The proposal similarly guaranteed to patrolmen with an associate degree a 7.5% hike in salary; 10% to those with bachelor's degrees; and 15% for those possessing master's degrees. (Boston Globe, May 28, 1972.)
- 18) The BPPA proposal requested a salary increase, from a current base of \$11,518, to \$12,500 in 1973 and to \$13,500 in 1974. The association also requested:
 - Double time "for hazard pay, for time devoted to riots, demonstrations or turbulent group action."
 - Inclement weather pay "for all work carried on in temperatures below 15 degrees or above 90 degrees and during snowstorms or gales . . ."
 (The BPPA failed to specify how much weather pay they wanted.)

- A provision to require all overtime pay to be computed as double time after seven daily hours.
- Overtime pay for Sundays and holidays be computed on the basis of double time and one half for each hour of duty.
- Six new holidays (five Jewish holidays "that are now granted to the members of the Jewish faith and Martin Luther King day.)
- A \$2,000 tax abatement for all patrolmen who live within the city limits.
- Formation of a hearing board to review cases of patrolmen who object to transfers by the commissioner.
- A right to appeal to the mayor any decision of the police commissioner.
- The right to retire from the BPD on the completion of 20 years full-time service regardless of age.
- "Leave of absence" to include the death of a patrolman's paternal and maternal grandparents.
- All police cruisers to be manned by at least two patrolmen.
- Patrolmen's Association officers not to be transferred "out of their unit, district, division or bureau, nor be reassigned from one platoon to another, except upon their own request, for a period of 5 years after his termination of service to the association." (Boston Globe, February 1, 1973.)
- 19) Boston Globe, February 1-2, 1973.
- 20) Boston Globe, January 14, 1973.
- 21) Pax Centurion (The BPPA's official newspaper), December, 1973.
- 22) Massachusetts Labor Relations Commission, case numbers MUP-563, MUP-579, MUPL-40.
- 23) Juris, supra note 2, at p. 21.
- 24) Id at p. 20.
- 25) Id at p. 21.
- 26) Hervey Juris notes that this is probably the highest paid detail rate in the nation.
- 27) Juris, supra note 2, at p. 17.
- 28) These figures are based on an interview I conducted with Daniel Sullivan of the City Labor Relations Office.
- 29) Juris, supra note 2, at p. 26.
- 30) Juris and Feuille, supra note 1, at p. 112.
- 31) City of Boston v. BPPA, American Arbitration Case # 1130-0341-69.
- 32) Juris and Feuille, supra note 1, at p. 140.
- 33) For further details on the "name tag" issue refer to: Juris and Feuille,

supra note 1, at pp. 139-140; Juris, supra note 2, at pp. 31-34; Boston Globe, April 14; 16; 18; 19; 20; June 20; August 11, 1969; Record American June 19, 1969.

- 34) Juris, supra note 2, at p. 35.
- 35) Ibid. For information on civilianization see: Boston Globe, July 13; August 10, 1969.
- 36) Juris, supra note 2, at p. 38.
- 37) Boston Globe, September 5, 1970.
- 38) Juris and Feuille, supra note 1, at p. 84.
- 39) Boston Globe, January 7, 1973.
- 40) Pax Centurion, January, 1973.
- 41) Juris, supra note 2, at p. 26.
- 42) Juris and Feuille, supra note 1, at pp. 87-88.
- 43) Juris, supra note 2, at p. 47.
- 44) Id at p. 51.
- 45) Juris and Feuille, supra note 1, at p. 93.
- 46) Ibid.
- 47) Id at p. 143.
- 48) Id at p. 94.
- 49) Juris, supra note 2, at p. 42.

III. COMMISSIONER DiGRAZIA'S REFORMS AND THE RESPONSE OF THE BOSTON PATROLMEN'S ASSOCIATION

When Commissioner diGrazia assumed command of the BPD, he perceived many intrinsic inadequacies in its structure, personnel and operation which would have to be rectified before the department met his criterion of effective and efficient police service for the community. One of the biggest problems was the extreme decentralization of the department. Formal authority rarely corresponded with actual power, and formal organization had little to do with the actual operation of the department. In addition, a number of sworn personnel were either incompetent or unqualified for the duties they were performing, and many of them were unfit for duty because of various incapacitating disabilities. Finally, department morale was low, leadership and discipline were lax, corruption was fairly prevalent throughout the department, and the incumbent police administration was devoid of any initiative to alleviate these conditions.

DiGrazia initially had three goals in mind when he began to reform the BPD. First he wanted to diminish the power of the individual district captain so that the patrolmen would be more responsive to headquarter's staff. He wanted his orders to filter down through supervisory personnel to the individual patrolman. Second, he felt it was imperative to upgrade the present sworn personnel and to "professionalize" the police department. In diGrazia's opinion, the lack of proper recruitment and training programs inherent in the present BPD personnel policies was "appalling," and the existence of a personnel system which forced disabled police officers to remain on the job until they reached retirement age was "inhumane." Third, he wanted to change many of the department's operational

aspects which he felt were responsible for poor police response and performance. He wanted to narrow considerably the function of police, giving priority to crime-prevention activities.

Structure

A cursory examination of Boston's police structure revealed to the new commissioner "a pattern that shows a lack of internal communication both horizontally and vertically. . . between police districts, between units and between men of different rank."¹ Further, he discovered that police enforcement duties overlapped with the Massachusetts Department of Corrections, MBTA, and Capitol police. And he was dismayed at the lack of coordination and centralization among these agencies in such areas as information files, purchasing agencies, training, and computer tie-ins for individual district stations. One of his most disturbing discoveries was that many high-ranking officers had built their own domains within the department hierarchy.

These revelations prompted diGrazia to organize a major realignment of the department bureaucracy. He envisioned this reorganization as a prerequisite to putting more police officers on the streets, to improving the department's response to citizens' calls for assistance, and to making the police more effective when they did respond. This restructuring of the department hierarchy was accomplished in four months and occurred in three stages: Phase I involved superintendents and deputy superintendents, Phase II affected captains and detective-sergeants, and Phase III dealt with all other supervisory personnel.

During Phase I, all police functions were grouped according to their similarity and purpose; and the lines of authority and communication were defined more clearly, became more direct, and were more coordinated.² The major effect

of this change was to establish a chain of command by removing the power and responsibility from captains and lieutenants and giving it to superintendents and deputy superintendents who were responsible directly to the commissioner.

The two key elements of this reorganization stage were the consolidation of command offices and independent agencies into five new bureaus, each headed by a superintendent at the headquarters level; and the establishment of six quasi-independent patrol areas throughout the city, each commanded by a deputy superintendent at the district level.

The Bureau of Field Services, the largest and most important of the five, combined all of the police divisions that directly served the public.³ This bureau was responsible for providing preventive patrol, effective response to calls for police assistance, detection, apprehension and emergency services. The six deputy superintendents of the patrol areas were responsible directly to the head of field services. Each deputy superintendent selected two district captains for his area and was responsible, then, for the activities of his captains. This chain of command was designed to eliminate the problem of "buck passing." To further increase accountability and responsiveness, 331 detectives, who previously were assigned to districts but were under headquarters' control through the Bureau of Special Operations, were placed under the direct command of the new deputy superintendents.

The other four bureaus created under Phase I were mainly the result of consolidating services previously performed by other divisions or personnel of the BPD. The new Bureau of Inspectional Services was established to provide the police commissioner with accurate and reliable information on the department's performance in providing police services to the community. The creation of the Bureau of Traffic Services marked the upgrading and strengthening of traffic

control from a division to full bureau status. The Bureau of Administrative Services combined the day-to-day administration of the department and included the Personnel, Training, and Services divisions. The fifth bureau was Technical Services, which supervised the operation and maintenance of the department's communications and information systems. All of these bureaus reported to the police commissioner through the superintendent-in-chief (who initially was William J. Taylor, the former acting commissioner, now retired), whose responsibilities under the new plan also included the supervision of the new offices of Labor Relations and Legal Affairs. Initially, diGrazia had hoped that these two new offices would make great strides in improving communications with the different police unions. Unfortunately, they did not make these inroads.

Serving the commissioner directly were four special divisions: the Special Investigations Unit, Informational Services Office, Planning and Research Section and Staff (administration and field operations).

The Special Investigations Unit (SIU) was established as a "watchdog" agency to detect and to prevent corruption within the department before it could spread. This unit, headed by Deputy Superintendent Joseph Doyle, a 33-year veteran of the force, handled the most sensitive investigations into corruption within the police department and concentrated mainly on gaming, narcotics, prostitution, and other areas associated with police corruption. Each member of the unit served on a voluntary basis and was required annually to submit a financial statement and to take a polygraph test. The SIU was also responsible for monitoring the effectiveness of all individual district commanders. To aid this unit and also to encourage support from the public, diGrazia established Post Office Box 911 where citizens and officers could send anonymous information regarding alleged illegal acts or inefficiencies of police department personnel.

The Informational Services Office, directed by Steven Dunleavy, a former reporter for the Herald American, was established by diGrazia to open up the flow of information both within and without the BPD. DiGrazia, encouraged by his favorable rapport with the news media, felt that the BPD had a duty to keep the public informed about its activities.

The Planning and Research Section, under the leadership of Mark Furstenburg, a former colleague of Robert Kiley at The Police Foundation, made great strides in lending some order to a police department badly in need of organization. This section was responsible for formulating plans and procedures for all phases of department operations, including diGrazia's structural reorganizations.

The other two phases of diGrazia's reorganization plan dealt primarily with shifting personnel to effectuate his Phase I plans. In accordance with Phase II, nine out of eleven plainclothes detective sergeants, who previously were permitted to operate on their own, were reduced in rank to patrol sergeants. The new deputy superintendents were to select their own detective sergeants as well as new captains to head the districts under their command. Phase III was also part of diGrazia's philosophy that area commanders and division commanders should be allowed to choose the men they wanted to aid them. Under this third phase, 20 lieutenants and 46 sergeants were transferred to other districts and units. Also, the vice-squad was revamped and those men who were not selected by superior officers to remain on the squad were reduced in rank and assigned to street duty. The total effect of Phase III was to increase the street patrol force by 100 men.

BPPA's Response to Structural Changes

The initial reaction of the BPPA and the SOF to diGrazia's "purge" was relatively mild. Collectively, they opposed the polygraph tests and financial statements required of the SIU personnel. They also criticized diGrazia for

"promoting certain superior officers below the rank of captain to the rank of deputy superintendent or superintendent," and termed the promotions "a blatant political abuse of authority." The reaction of the SOF to the demotion of the detective sergeants, however, was much stronger. They charged that the affected men had a right to a hearing before a board of captains and asserted that diGrazia's motives were, again, politically motivated. (This is an interesting charge since most of these detective sergeants were reputed to have acquired their powers through political channels.⁴) Yet, the SOF filed no grievances, the usual method for resolving such charges. DiGrazia asserted that the SOF's charges were "insulting, devisive and with no factual basis," and countered that such charges were, in fact, politically motivated.⁵

The BPPA reaction to diGrazia's structural reorganization was not as vociferous as would normally be expected. This was probably because diGrazia's reforms, which affected primarily the superior officers, were not perceived as an immediate threat by the BPPA. However, they were distressed by the creation of the four special sections and, as was discussed in the previous chapter, were extremely critical of the fact that young, civilian aides were chosen to head three of these new sections. The BPPA feared that these aides would not be as responsive to the association's inputs as older, sworn personnel would have been. Their apprehension, in fact, was not entirely groundless as these aides often were named parties to unfair labor practice suits. As for the SIU, the only new division under the control of a police department veteran, the BPPA publicly stated it was not opposed to the principle of having fellow police officers investigate the internal affairs of the BPD. Nevertheless, the association criticized many of the methods employed in SIU investigations (especially financial statements and Box 911) and began a "defense fund" for the accused or suspected patrolmen.⁶

DiGrazia's structural alterations only set the stage for other, later reforms. These initial changes simply provided the foundation upon which diGrazia could formulate and implement further personnel and operational innovations.

Personnel

One of the keys to diGrazia's reform of the BPD lay in improving and upgrading the quality of the department's personnel. This meant raising the physical, mental, and morale standards of the officers as well as increasing their pay and improving working conditions. It meant developing physical and psychological testing procedures which would weed out incompetent officers and expanding training programs which would teach police officers to be "professionals." These professional police eventually would emphasize efficiency and managerial rationality in their decisions, rather than strictly law and order. Correspondingly, it meant disciplining and discharging incompetent and corrupt personnel. For the future, it meant attracting better educated and more capable applicants to the force. These were merely a few of the changes which diGrazia envisioned for the personnel under his command. However, an examination of the personnel reforms which were instituted during his first two years as police commissioner will indicate that he was not totally successful in achieving these goals.

One of diGrazia's first personnel actions was to subject all high-ranking police officers to a series of psychological and intelligence tests before he shuffled the department hierarchy. Although these tests were the first of their kind to be administered to Boston policemen,⁷ they were only one of many determinants in the evaluative process. Nevertheless, the attorney for the SOF unsuccessfully sought an injunction in superior court to block the tests and other information requested in a personal questionnaire. He claimed that such

information violated the police officer's right to privacy and that this information could be used against them in the future.⁸ Approximately one year later, the police commissioner sought to have a clause included in the new contract proposal which would allow him to require "permanent, and newly hired, employees of the BPD to participate in psychiatric and social sensitivity training and testing, whether or not such training or testing are conditions of employment." This soon became the subject of an unfair labor practice suit filed against the commissioner.⁹ (At the time of this writing, the case is still pending.)

In May of 1973, diGrazia ordered the Boston Police Harbor Patrol to discontinue operations. The patrol was responsible for search and rescue operations, vessel traffic control, port safety and water pollution control for Boston Harbor. The cost of maintaining the patrol had been more than \$1.2 million annually. The harbor patrol was disbanded because of its rather large drain on the police budget and also as a part of the commissioner's policy of placing more police on the streets where they are needed to fight crime. Most of the men belonging to this emergency service unit, as well as the personnel of similar units (i.e. the bomb squad and other rescue units), were assigned to regular patrol but were still available for such rescue operations when needed. DiGrazia maintained that the citizens of Boston would benefit in two ways from the cessation of this patrol. First, he asserted that they no longer would have to pay for policing of the harbor out of their local tax money (the Coast Guard, paid out of federal funds, took over these duties). Second, 68 policemen who had previously been assigned to rescue operations were added to the street patrol to combat crime.¹⁰

In a similar move, the police commissioner ordered the city prison to be closed by July, 1973, to release more men for street duty and to conform to the new state law which made intoxication a non-criminal offense.¹¹ Closing this

prison freed 17 officers for patrol duty and saved the police department well over a quarter of a million dollars.

The BPPA objected more strenuously to the discontinuance of the harbor patrol than to the closing of city prison. While their objections might appear to be illogical (after all, the duties of the harbor patrol had been assumed by the Coast Guard, making future patrols by the Boston police superfluous), diGrazia's eliminating this patrol presented a very real threat to the BPPA. They interpreted his move as an attempt to reduce the power of the association by attrition through the wholesale transfer of men to different districts and units.

The BPPA's reaction to the elimination of the harbor patrol provides an excellent opportunity to discuss the policies and powers of the police commissioner regarding transfers. Soon after diGrazia's announcement that the patrol would be disbanded and its personnel transferred to other districts, the association filed an unfair labor practice charge against the commissioner with the MLRC. Specifically, they charged that the transfers were ordered to harass certain members of the union leadership assigned to the harbor district and attributed this to a general anti-union animus of the commissioner.

DiGrazia's position was that the transfers were precipitated to add more personnel to street duty and coincided with Mayor White's intent to reduce the costs of city government. He firmly denied that the transfers were motivated by the union activity of the police officers affected. DiGrazia also pointed out that if he were engaged in a pattern of harassment toward association members, it would have been far simpler for him to transfer only the officers in question and not the entire harbor patrol facility. Finally, he contended that the association had no right to bring this complaint before the MLRC because they had a contractual obligation to utilize the grievance procedure for such cases.¹²

One of the police commissioner's basic rights in the Management's Rights Clause of the union contract, was the right to reassign association officers as long as the transfers were not discriminatorily motivated. Nothing in the contract obligated (as the association contended) the commissioner to bargain over transfers. In fact,

the National Labor Relations Board rulings in this area indicate employee union officials are not guaranteed greater rights than are available to other employees but that, most emphatically, they are not to be denied basic rights, available to other employees, because of their union involvement.

As this was also a precedent of the MLRC rulings, the complaint against diGrazia was dismissed.¹³

The union also resisted a number of personnel changes that diGrazia deemed necessary for improved police performance. For example, in December of 1973, he again shook up his command staff by demoting a superintendent and two deputy superintendents and by promoting a captain and a sergeant to deputy superintendent. Additionally, an evaluation of the detective function by the Bureau of Field Services revealed that the department was extremely top-heavy with detectives and specialists. So, diGrazia reduced 35 detectives to the rank of patrolmen. In diGrazia's opinion, this action was essential for his program to streamline the department, to beef up the uniformed services, and to increase police visibility. Understandably, this worried the entire 279-man detective force. A detective had a much more desirable job than a patrolman, and he earned over \$600 more per year than a patrolman. The BPPA and SOF were highly critical of these promotion/demotion moves.

The SOF accused the police commissioner of going too far in departmental tightening and publicly deplored the demotion of three top officers.¹⁴ Legally, however, they had little recourse because those positions were not under civil

service jurisdiction. The BPPA claimed that the demotions provided "clear and undisputable proof that Commissioner diGrazia is determined to utilize every weapon at his command to break the BPPA."¹⁵ The SOF and the BPPA also alleged that one of the officers was reduced in rank solely because he, as head of the BPD's Labor Relations Office, made a binding decision which upheld the union's position in a case concerning the Alcohol Safety Action Program. (This issue will be discussed in the next section.)

The BPPA also filed grievances and unfair labor practice charges against the commissioner for his reassignment of the 35 detectives. A petition was filed also with the Massachusetts Commission Against Discrimination, charging that the men were "demoted" and reassigned on the basis of age. The association also contended that the demotions violated the affected men's seniority rights and that the evaluative methods used to select them violated the contract. In view of the BPPA's strong stand on seniority, their reaction to diGrazia's move in this case was understandable. In the end, however, diGrazia's decision was upheld by the MLRC.

With the reassignment of these detectives, more than 200 officers had been added to street duty during the first year of diGrazia's leadership. Also, the number of police cars rose from a daily average of 179 to 262, increasing mobilized street patrols by 46%. (The increase in police cruisers will be discussed in greater detail in the operations section.) In addition, diGrazia announced plans to hire civilian clerks to free even more patrolmen for police work. When diGrazia had come to Boston, there were many police officers assigned to clerical duties. The commissioner felt that these men should be out on the streets performing the duties for which they were trained. On the other hand, the patrolmen's association supported the right of those officers to retain their highly-desireable

desk jobs. At present, surprisingly, there have been no real battles between the commissioner and the association over replacing these men with less costly civilian clerks. (In the past, civilianization had been a very sensitive issue with the BPPA, and, an issue which they had opposed at all costs.)

In another of his efforts to increase patrol manpower, diGrazia decided to discontinue a departmental program which permitted 25 Boston police officers per year to earn a B.S. degree in social science. During their schooling, these men were given part-time assignments in the BPD at full-pay. Begun in September, 1968, this program afforded all Boston police personnel holding high school diplomas, the opportunity to participate in a baccalaureate program at Boston State College. All education expenses were paid by the Municipal Police Science Institute, a non-profit organization composed of Boston police officers and other interested persons from the business and academic communities. Among the ultimate goals of the program were an increased sensitivity among the police officers to the social, cultural, and economic conditions within the community and the upgrading of the academic level and competence of police personnel. In addition, it was anticipated that the program would increase morale in the department, stimulate an interest in the educational development of department personnel, and act as a means of attracting a high calibre of applicant for police service. This approach to the curriculum and the full-pay, full-tuition funding represented a significant departure from the typical, existing police college programs.¹⁶

In November of 1972, the acting police commissioner issued an order which indicated that the "release time" feature of the baccalaureate program (permitting officers to work part-time assignments while still receiving full pay as long as they were enrolled in the program) would terminate as of June, 1973.¹⁷ The BPPA filed a grievance contending that the benefits of the program could not be

unilaterally withdrawn by the police commissioner according to Article XVI, Section 4 of their contract. This clause provided that "All benefits. . . in force and effect on the effective date of this agreement shall be continued in full force for the duration of the agreement."¹⁸ The department's brief indicated that the commissioner's action was precipitated by severe administrative concerns: the department was greatly undermanned since no civil service appointments had been made because of litigation and an austere city budget, and they considered it unfair to those officers attending college but not under the program and unable to receive the "release time" privilege.¹⁹

While this case was being contended, diGrazia had taken command of the police department and the "release time" problem then became his headache. For much the same reasons as the acting commissioner, diGrazia announced in February of 1973, that the "release time" benefits would be discontinued for all students entering the program on or after September, 1973.²⁰ In August, 1973, the American Arbitration Association (a voluntary labor tribunal empowered to hear and render judgment upon all grievances at the final and binding stage of arbitration) rendered an award upholding diGrazia's right to terminate the "release-time" privilege since it was a "benefit" which the patrolmen could retain only for the life of their present contract.²¹

Unfortunately for the BPPA, their contract expired before the arbitration association reached its decision. The union was furious at this unfavorable decision and filed suit in Suffolk Superior Court against diGrazia and the arbitrator, contending that a written stipulation agreed to by them and by the city prevented the city and the police commissioner from altering "wages, hours, or working conditions during negotiations for the new contract." Thus, the BPPA contended, this stipulation froze the "release time" privilege into the contract thereby precluding the arbitrator from deciding otherwise. The court disagreed

and held that the stipulation did not extend the life of the agreement itself and could not prohibit the police commissioner from discontinuing the privilege.²²

The "Vitello List"

One of diGrazia's most virulent personnel conflicts with the patrolmen's association was over the tremendous increase in the number of departmental investigations and resultant hearings (trials) which had been conducted since the commissioner assumed office. The first of these investigations, one which had a devastating and lasting impact upon diGrazia/BPPA relations, involved the so-called "Vitello list."

This list, which diGrazia reported contained the names of at least 58 Boston police officers, was found during a raid on alleged West Roxbury bookie Francis Vitello's home in late 1972. Further investigation of the list and interrogation of many more patrolmen disclosed a number of contradictions in the testimony of 91 patrolmen. In order to get to the bottom of things, diGrazia ordered the 58 patrolmen to complete detailed financial questionnaires similar to those required of some employees by the Federal Government and by the New York City Police Department. The information required of the patrolmen included: total income from all sources and all other assets (property, stocks, other investments) as well as the income and assets of the patrolman's immediate family for the years 1966 to 1972. DiGrazia announced that any of these officers who refused to complete the questionnaire would be subject to discharge, suspension, or reduction in rank. The commissioner also noted that, since the investigation was being conducted on an administrative basis, anyone whose name appeared on the list could resign and end the department's inquiry since they would no longer be under the BPD's jurisdiction. However, criminal complaints could still be sought by the D.A. who was

also conducting his own investigation of the matter. DiGrazia received full support in this investigation from the mayor and from the press.²³

The BPPA opposed the order to submit the financial information and instructed its members not to complete the forms. They termed the action a violation of the patrolmen's constitutional rights and announced that diGrazia's order could not stick unless it was applied department-wide. The association asserted that diGrazia had "apparently decided that police officers are second class citizens when it comes to protecting their rights as citizens and public employees. . ."²⁴

As it turned out, 44 of the 58 patrolmen completed the form, 11 left the department, and 3 refused to file under advice of the association's counsel. DiGrazia immediately ordered a departmental hearing for the three men who refused to file financial statements. During this hearing, the union repeatedly requested that diGrazia disqualify himself from sitting in judgment, claiming that he would render a biased decision; but the commissioner, holding this responsibility by state law, refused to appoint a substitute. Meanwhile, the association voted to set up a defense fund to help any officers suspended without pay because of departmental investigations. They blamed a "heartless administration for threatening to stop a man's pay without due process," and lashed out at diGrazia's proposal to drop investigations against officers on the list if the suspected men left the department. The BPPA termed the proposal "shameful," and alleged that such action "would make every police officer who either retires or resigns during the present period an automatic suspect of wrongdoing."²⁵ Also, in a public letter to Mayor White asking him to complete financial disclosure forms identical to those requested of the patrolmen, the BPPA chairman said:

If you are satisfied that those questions are fair, then I call upon you as chief executive to complete the attached questionnaire and make same public. . . Such action on your part would go a long way toward restoring public confidence in government.²⁶

Mayor White respectfully declined the offer noting that the chairman's request was wholly inappropriate.

The hearing for these three officers was held during early April of 1973. At the hearing, counsel for the BPPA argued that a police officer should not be compelled to submit such statements as diGrazia required if he were not being charged specifically with a wrongdoing. He pointed out that the Vitello list was just a little piece of paper, unsigned and undated, that had a bunch of names on it which the commissioner chose to assume were names of patrolmen. In the association's view, diGrazia's "shotgun" approach of sending questionnaires to every patrolman in the department with a last name corresponding to the last names (only) on the alleged bookie list indicated that he had no proof that these particular men were involved in Vitello's operation or that they even knew Vitello.²⁷

DiGrazia did not subscribe at all to the BPPA's point of view and placed the three patrolmen on a 30-day suspension without pay. In his decision, diGrazia noted that none of the suspended patrolmen initially had appealed his order to disclose their net worth, but that they "chose simply to disobey." He noted that this was a direct contravention of their sworn oath to obey their superiors. He also pointed out that the required financial statements could prove innocence as well as guilt and that the three police officers would be required again to complete the statements at the end of their 30-day suspension. Following diGrazia's ruling, the BPPA released a statement charging that the hearing "was rigged because of misjustice administered in a complete kangaroo court" and proclaimed that no subordinate was compelled to obey an unlawful order.²⁸ DiGrazia was accused also of "headline grabbing" and given the appellation of "Goddess of Publicity." The association vowed it would fight diGrazia's ruling as an invasion of public employees' rights to privacy, as far as the U.S. Supreme Court if necessary.

Immediately after the departmental hearing, the BPPA filed an appeal on behalf of the three suspended patrolmen with the Massachusetts Civil Service Commission. At the civil service hearing, the union attempted to introduce evidence to show that diGrazia's order was unreasonable and illegal, but the hearing officer refused to admit the case claiming it did not fall within his jurisdiction to pass on the legality of diGrazia's orders. He also excluded the testimony of one of the BPD's superintendents, who had chaired the board of inquiry into the Vitello matter, and asserted that the financial statements were irrelevant and proved nothing.

Because Commissioner diGrazia did not violate any civil service rules in his decision to suspend the patrolmen, the civil service commission upheld his ruling. Soon afterward, the attorney for the association appealed the commission's decision to the Boston Municipal Court on grounds that the patrolmen should have been allowed to challenge the legality of diGrazia's order. He argued that police officers should be required to answer only questions "which specifically, directly and narrowly related to the performance of their duty," pointing out that none of the items in the financial questionnaire related to the material seized, that no attempt was made to limit the questions to a particular time period, and that not one of the questions dealt with the performance of police duties or made the allegation that a particular patrolman failed to do his duty. In addition, he asserted that, although the right to privacy is never absolute, the financial condition of a family has always been a personal matter and, in the present case, the police commissioner did not show a compelling interest to violate this right.

DiGrazia countered that the question of the order's lawfulness was not proper before the court because, during the time period allowed for compliance, the patrolmen did not appeal his request nor did they seek declaratory relief in

court. Further, evidence was introduced by diGrazia which indicated that there was nothing unusual or unprecedented about requiring public employees to submit financial statements to their employers, that the use of such statements was an accepted practice in the federal government and in some states, and that his order was a reasonable and relevant one, disobedience of which was subject to disciplinary action. The court, however, held that the hearing officer erred in denying arguments challenging the legality of the demand and ordered a new hearing. In his ruling, the judge also noted that "the three patrolmen appear to have a slim chance of winning on the question of whether the police commissioner had a right to require financial information. . . ."29

Subsequent to this judicial ruling, the association filed a \$1 million damage suit in Federal District Court against diGrazia, alleging that his arbitrary action in this case violated the civil rights of the patrolmen, exposed their families to public scorn and ridicule, and created suspicion among their fellow police officers. Further, they argued that a proceeding which is conducted by one individual sitting as sole prosecutor, judge, and jury, and one in which there were neither rules of evidence nor standards of proof, is repugnant to the fair administration of justice. The chief judge did not agree and dismissed the case.³⁰

Patrolman Lawless

Precisely two months after diGrazia announced his decision in the case of the three patrolmen, another departmental hearing was held which further antagonized the association towards this police administrative practice. Patrolman Robert Lawless of the Traffic Division was accused of conduct unbecoming an officer. The charges emanated from a newspaper story in the Boston Globe, which included his name and a photograph depicting him entering and leaving a tavern where illegal betting was known to occur.³¹ The charges against him, in fact, accused

him of personally placing an illegal bet.

The police commissioner found Patrolman Lawless innocent of the accusations that he was aware of the alleged betting and that he was involved in betting, but only because a preponderance of evidence could not establish the fact. DiGrazia did comment, however, that he found it very disturbing that Lawless was in the tavern as often as he was and still was not aware of what was going on around him. Further, he termed Lawless "a victim of a system" which permitted him to spend his entire 16-year career as a police officer in one division. The police commissioner felt that such a system engendered an inflexibility which stifled career development and promoted the type of unfortunate association which gave rise to this case.³²

The association voiced much the same objections at the "Lawless" hearing as it had at previous hearings. They claimed that the police commissioner was sitting as judge, prosecutor and jury and, thus, their members could not get a fair and impartial trial. Moreover, they asserted that no rules of evidence were employed at these hearings and that a great deal of hearsay evidence was allowed. Also, they objected that no standard of measuring the evidence was indicated to the individual on trial. Compounding these injustices, they felt, was the fact that the charges against Lawless were brought about by unsigned articles in the Globe. From a legal point of view, the association contended that an officer is under no legal duty to answer a civilian complaint which is not verified by an affidavit.³³

Though Lawless was exonerated, the police commissioner transferred him out of the traffic division to another district. The association rose to the occasion by filing a grievance charging that the patrolman's transfer was a punitive measure, that it discriminated against him for having appeared at the hearing and

for having vigorously defended his position. They also claimed that the action was discouraging membership in the union. The grievance reached binding arbitration where diGrazia stipulated that Lawless was transferred because he had always been attached to traffic and that this had stultified his knowledge and had led to the incident in the first place. The arbitrator concurred with diGrazia and noted that no evidence whatsoever existed to establish that the transfer was motivated by anti-union animus.³⁴

Disciplinary Hearings

In a subsequent incident, three BPPA officials filed a \$1 million damage suit charging Commissioner diGrazia with violating the civil rights of the department's 2300 patrolmen. The case, brought in U.S. District Court, questioned the commissioner's right to sit as judge in disciplinary hearings involving police officers because of a statement he made at a command-staff meeting. Specifically, the BPPA charged the commissioner with stating to his command staff that "disciplinary proceedings against police officers should be handled on the theory that the police officers are guilty until proven innocent (emphasis added)."³⁵ Thus, the association contended, policemen were being deprived of their constitutional right to a presumption of innocence during these administrative proceedings.

DiGrazia, however, denied making this remark in the negative context that the BPPA had ascribed to it. He contended that at the same staff meeting he explained as the hearing officer in departmental cases, "I have to be the one who sits in judgment on these officers, and when they come before me they are completely innocent until proven guilty." The commissioner further explained that the point he was attempting to make at the administrative meeting was "the department must investigate complaints against its own men in the same way it would handle any other investigation." Otherwise, he said, "the department runs the

risk of scandal that has afflicted departments in New York, Philadelphia, Indianapolis, Houston and Chicago. . . ."³⁶

The association, already extremely sensitive about diGrazia's departmental trials, was understandably dubious about diGrazia's explanation and pressed forward with the suit. The following month, however, the district court dismissed their case for "no justiciable controversy" since Massachusetts state law required the police commissioner to make the ultimate determination in disciplinary cases.³⁷

Operations

Commissioner diGrazia's major goal and primary impetus for most of his reforms within the BPD was to bring effective and efficient police protection to the citizens of Boston. In fact, most of the structural and personnel reorganizations which have been reviewed in the preceding sections were implemented for just that purpose. Now, an examination of his operational reforms will reveal a complete picture of the BPD's transformation since November of 1972. In the following chapter, this examination also will explore the impact of these reforms on police performance in Boston.

To augment the responsiveness of the Boston police, diGrazia believed it was essential to put more men and police cruisers out on the streets, where they would be visible and would be able to meet the ever-increasing service demands of residents. One of the first things he did was to crack down on Boston police officers who he felt were "misusing and abusing sick leave." When he took over, daily absenteeism averaged 125 men out of 2687 in the department, causing substantial, and sometimes critical, manpower shortages. The commissioner ordered all commanding officers to scrutinize carefully the daily sick-leave record. He announced that sick leave extensions would be granted in "only extremely unusual

circumstances" and then only with his approval.³⁸

Similarly, diGrazia began a crackdown on court-overtime abuses. In cooperation with the district attorney's office, he formulated new procedures to eliminate unnecessary personnel appearing in court and therefore, court time payments to them. (Police officers appearing in court are paid at the rate of time and one half and are guaranteed a minimum of three hours overtime.) The new procedures required that only those policemen who would actually be testifying would appear in court. Supervisors of each district were responsible for ensuring that only necessary officers were sent to court.³⁹

At the time of diGrazia's arrival at the BPD, an average of 600 calls for service each day were unanswered because of the lack of patrolmen and patrol cars on duty. The new police commissioner established the 911 emergency telephone number and calls for service jumped 40%--from a daily average of 2619 to 3800.⁴⁰ Hundreds of calls still went unanswered and, of those that were answered, often-times the unit responding was too late to be of assistance. The commissioner attributed this poor service to the department's extremely limited automotive resources. At the time, the police department had a total of 136 marked police cruisers, over 20% of which usually were being serviced. Thus, Boston had approximately one car for every 16 men compared with a national average of one to ten and a "big-city" average of one to eight.

To improve the police service response, diGrazia first had to research the problems. A study, funded by the Law Enforcement Assistance Association (LEAA), was conducted to ascertain precisely what manpower and automotive resources were needed to answer all emergency calls immediately and to maintain the necessary preventive patrols.

In September, 1973, at a time when fear of violence reached a peak

throughout Boston and public outcry for increased police protection was most intense, diGrazia released the results of this five-month, federally-funded study and announced a shuffling of police patrol assignments to comply with its recommendations. The report had been developed by a task force which included the police command staff, area and district commanders, and outside consultants. The recommendations were designed to provide immediate response to 95% of all calls for police service, to increase police visibility and to equalize the number of calls each car would answer.

After months of analyzing calls to emergency number 911, the task force arrived at a "Maximum Patrol and Response Plan" which called for an increase in patrol sectors from 74 to 83 within the city's 11 districts and required an expansion of the number of on-duty police cars from a daily average of 179 to 261. This was the largest increase (46%) in police patrol units in the department's history and was sufficient to end the existing automotive crisis and to provide for future growth in handling increased services. A program of preventative maintenance also was developed which immediately reduced the "down-time" of the department's older vehicles by 50%. Under the proposal, top priority was given to patrol, with motorcycle personnel, clerks and patrolmen on fixed assignments occasionally assigned to the cars. In addition, when they were not answering calls, all policemen were encouraged to "walk and talk" with members of the community, maintaining contact through two-way radios so that they could be pressed expeditiously into service when necessary. Thus as diGrazia himself put it, "the plan addresses itself to Boston citizens' prime concerns about their police--response, visibility and responsiveness."⁴¹

Two days after the plan was instituted, the BPPA filed a grievance with the city office of Labor Relations. This time they charged that, by rearranging

patrol sectors, diGrazia's plan violated the contract because the administration had changed working conditions without consulting the Labor-Management Committee of the association. Further, they charged that in one particular district the number of patrol sectors had been reduced, a number of patrol cars had been eliminated, and the size of the remaining patrol areas had been increased. This, they claimed, endangered the health and safety of those men required to patrol the enlarged areas. This grievance was dismissed "for lack of prosecution" when the BPPA failed to provide facts to substantiate their accusations.⁴²

The association also filed suit against diGrazia in Suffolk Superior Court, charging that his "walk and talk" program was, in reality, an attempt to introduce a "one-man car" operation. They claimed that this was not only a violation of the collective bargaining agreement, but an endangerment to the safety of the officers. In addition, the suit also sought to have Commissioner diGrazia cited for contempt. The union declared that the City of Boston and the BPPA had entered into the previously cited, court-approved stipulation that there would be no changes in wages, hours and working conditions until the MLRC issued a decision in the contract-extension case that was still pending at the time. DiGrazia, however, asserted that he was not changing assignments. He merely wanted one officer of the team to walk alongside the patrol car on the sidewalk to increase the visibility of the police and to serve as a crime deterrent. The judge dismissed the association's charges and, in his decision, agreed with the commissioner that this method of patrolling would increase the public confidence in their police force and still would provide adequate protection for the officers involved.⁴³

The only other major program that diGrazia instituted to increase police effectiveness was the creation of a 150-man, city-wide, anti-crime unit which

would use disguises and decoy tactics against criminals who often would wait until uniformed police officers had passed before committing their crimes. The commissioner invited all members of the department to apply for the new unit on a competitive basis. The unit was patterned after a similar squad in New York City which last year made 3600 arrests for street crimes. The head of the Tactical Patrol Force, to which the unit is attached, believed the Boston team could make at least 2000 arrests per year. The association, in its monthly tabloid, gave its tacit support to the new unit.⁴⁴

Authority of the Boston Police Commissioner

Most of the operational conflicts which occurred between the patrolman's association and the police commissioner, however, did not deal with the implementation of new programs. Rather, these disputes concerned encroachments on diGrazia's rights in commanding the BPD. The power and authority of the police commissioner of the City of Boston are established under Chapter 322 of the Acts of 1962, and provide in pertinent part that: "The police commissioner shall have cognizance and control of the government, administration, disposition and discipline of the department and shall make all needful rules and regulations for the efficiency of said police. . . ." Yet, it was this delegated authority that the association constantly attempted to invade. But, more often than not, they were unsuccessful. The following illustrations are just a few of the challenges that the BPPA posed to diGrazia's authority as administrator of the BPD.

The first of these challenges occurred only two months after diGrazia assumed command and dealt with the commissioner's order that, at the demand of the senior officer, patrolmen must remove their firearms before entering riotous situations. As a result of three riots at Boston city jails when patrolmen were ordered to

disarm prior to entering the jail, the BPPA promulgated a letter to all Boston police officers stating explicitly that:

. . .any order to disarm before entering the riotous institution should be refused on the grounds that such an order is unlawful as it unreasonably and unnecessarily exposes a police officer to loss of life or limb.

Subsequently, a number of patrolmen refused to surrender their weapons at the scene of another jail disturbance. The police commissioner ordered that these men be transferred to other assignments on the grounds that, by refusing to disarm immediately, they were delaying the law enforcement response to a serious emergency situation. The association filed a grievance on behalf of these men claiming that their transfer was motivated by an intent to penalize them for protesting the commissioner's order. In making this protest, the BPPA contended that "the men were merely exercising rights under the contract to present grievances under Article VI and to make complaints with respect to unsafe . . .working conditions," and that the commissioner violated Article IV "by discriminating against employees because they choose to make known what they considered to be a grievable matter."

The arbitor did not agree with the BPPA's arguments. He concluded that the order to disarm, far from being arbitrary or capricious, was intended to reduce the risks for all of those concerned and that by setting their judgment against that of their superior, subordinate officers could retard quick, decisive action when it was needed most. The patrolmen were admonished that if they felt the order to disarm were in violation of the contract, the proper procedure for them would have been to obey the order and then file a grievance. Further, nothing in Article VI permits an officer to disobey an order. Under such circumstances, the arbitrator decreed, a management decision to transfer those men who showed a reluctance to obey orders immediately was clearly warranted.⁴⁵

The union also appealed to Suffolk Superior Court for an injunction restraining diGrazia from enforcing an order to disarm before entering rioting prisons, claiming that the order unnecessarily and unreasonably exposed police officers to loss of life or limb and caused anguish to their families. The judge declined to issue an injunction, noting that the Boston police have always been effective in handling people without weapons and, in this case, the police union was asking the court to tell diGrazia how to run his department.⁴⁶

Alcohol Safety Action Program

A similar confrontation between diGrazia and the BPPA occurred the very next month. This dispute concerned the association's boycotting of the Alcohol Safety Action Program (ASAP) because of alleged unfair distribution of overtime and pay hours. Soon after the appointment of diGrazia, the BPPA and the BPD reached an agreement which provided that members of the association would participate in the U.S. Department of Transportation's ASAP project in Boston on an overtime basis. Through this program, officers were to arrest persons suspected of driving under the influence of alcohol. Overtime, paid by federal funds, was to be distributed on a "fair and equitable basis" throughout the police department. Soon after initiation of the program, diGrazia restricted this overtime to the Tactical Patrol Force because he felt they were the only ones making effective patrols and arrests.⁴⁷

Subsequently, the association instructed its membership to refuse to participate in the project, because of the unilateral change in the agreement, until the assignments were distributed on a fair and equitable basis to all patrolmen. The BPPA claimed to have received 100% support in the boycott. In addition, the association began a public-relations blitz charging that diGrazia and the Department of Transportation were "conspiring in a quota system designed to force Boston police officers to needlessly stop and detain citizens suspected of drunk driving," and

were attempting to make these officers into "bounty hunters."⁴⁸

The BPPA filed an unfair labor practice charge with the MLRC accusing diGrazia of interfering with the existence and administration of the patrolman's association. The complaint against diGrazia stated that:

in an apparent attempt to terrorize and otherwise intimidate the membership of the association, [he] first sought to order superior officers to man the patrol cars used for the purpose of carrying out the bounty hunting operation. . . . Those officers resisted, . . . [and] diGrazia then ordered under threat of disciplinary action or discharge certain patrolmen to participate in the project.⁴⁹

The MLRC, agreeing with the association in this particular case, issued a formal complaint of prohibited labor practice against diGrazia and ordered a formal hearing into the matter. Prior to the hearing, however, the police commissioner and the city entered into a "settlement agreement" with the BPPA insuring that the ASAP would be administered in "a fair and equitable basis" throughout the city and that the police commissioner would have the right to administer the program through his superior officers in an effective manner. Part of the agreement stipulated that Superintendent Buchanan of the BPD would act as the final and binding arbitrator in the event of any dispute arising out of the agreement.⁵⁰

A short time later the ASAP program of the Department of Transportation was terminated. However, it soon was reinstated by diGrazia on a regular tour basis. The association was livid (after all, re-establishment of the program on a regular tour of duty status meant a substantial loss of overtime payments to many of their members) and claimed a violation of the "settlement agreement." After reviewing the facts of the case, Superintendent Buchanan ruled in favor of the association and directed the police commissioner to terminate his current ASAP. Ignoring the Buchanan directive, diGrazia continued to operate the program in alleged violation of the agreement. The BPPA filed another unfair labor practice charge with the

MLRC which, at the time of this writing, is still pending. (Incidentally, approximately three days after Buchanan issued his decision, he was demoted to captain and assigned to the traffic division. Even if he were not demoted as the BPPA suggests because he had favored the union, it was, at the very least, poor timing on diGrazia's part to remove him so soon after his unfavorable decision).⁵¹

Paid Details

Before tempers could cool after the ASAP controversies, the association and the commissioner immediately became embroiled in another touchy issue involving paid details. For the off-duty officer, these assignments were very lucrative - \$6.75 per hour with a four hour minimum; \$7.42 per hour for details at labor disputes. This conflict involved actually two, interrelated issues: the first concerned the right of the police commissioner to determine unilaterally whether or not a police assignment should be a tour-of-duty assignment or a paid detail; the second dealt with the right of the commissioner to establish a centralized and computerized paid-detail system.

The first issue arose when the BPD provided police protection for certain Department of State events on a tour-of-duty basis because the department indicated it would not bear the expense of paid details. The association filed a grievance charging that the particular assignments, because they involved private property and inside work (the usual characteristics of paid details), should have been made on the special-duty basis. The police commissioner's position was that he had both a statutory and a contractual right to designate the type of assignment. Since the union contract neither defined a paid detail nor established any particular criteria, the arbitrator awarded in favor of the police commissioner, upholding his right to ascertain the nature of a given

police assignment.⁵²

The second matter was not resolved quite so easily. It began in June, 1973, when diGrazia discovered that he and the association finally might have something in common - a desire to end the uneven distribution of paid-detail assignments. These special details had always been an administrative headache, and the BPPA had received numerous complaints from men dissatisfied with the detail opportunities to which they were assigned. Therefore, diGrazia proposed adopting a computerized system for allocating details to police officers. (During the second contract negotiations, police administrators had proposed to the union that they assume administration of paid details, but they had refused.)⁵³

Proceeding under the misconception that the association had given its tacit approval to the system, diGrazia announced to business establishments who regularly employed the off-duty officers that his Private Detail System (PDS) would go into effect in January, 1974, and that it had the approval of the BPPA. The police commissioner believed the plan would alleviate the inequitable distribution problem and would release the 11 police officers who administered the system for street duty. He also remarked that, because the Internal Revenue Service required the BPD to end cash payments and withhold taxes at the time of detail payment, centralization of details was necessary and inevitable.⁵⁴

The association, on the other hand, was not as pleased with the system and complained that diGrazia had circumvented its Labor Management Committee in announcing implementation of the plan. DiGrazia attempted to placate the union by postponing implementation of the system until April, 1974. This action, however, was in vain. The BPPA soon initiated an unfair labor practice proceeding with the MLRC charging that diGrazia was attempting to undermine

and disrupt the relationship between association members and their leaders by announcing that union officials had approved his plan. The labor commission issued an unfair-labor-practice complaint against diGrazia and petitioned the superior court for a preliminary injunction against his PDS.⁵⁵

The police department, meanwhile, proceeded with its plans for implementing the PDS, while continuing its offer to postpone implementation pending further discussion with the association over their objections to the system. The BPPA responded by calling for a boycott of all private paid details, which was practically 100% effective but caused little disruption in public safety. The boycott lasted only one day because actually it was hurting the BPPA members by reducing their overtime income. Subsequently, the association decided to accept diGrazia's offer to centralize the administration of the details and to postpone the centralization of their assignments pending further discussions with the union. In its monthly newsletter, the BPPA heralded the settlement as a great victory, claiming that diGrazia had "surrendered" and "capitulated" to association demands. In reality, however, the settlement would have to be characterized as a compromise, at best, and more likely, a waste of time and effort for both parties involved.⁵⁶

Uniform Committee

A similar controversy occurred between the association and diGrazia over the establishment of a Uniform Committee and new orders concerning uniforms. The problem initially arose when diGrazia requested that the BPPA designate two patrolmen to serve on a newly-created Uniform Committee. The association declined, saying that matters relating to uniforms and proposed uniform changes were properly within the scope of the Committee on Safety and Health.

After a two-month delay, diGrazia sent a memo to all members of the BPPA which indicated that no patrolmen would be serving on the new committee because the association refused to designate participants. The BPPA filed a suit with MLRC complaining that diGrazia's statements created dissension within its membership by implying the association was obstructing his plan.⁵⁷

Before the labor commission could formulate a decision in the matter, the BPPA filed a grievance challenging diGrazia's authority to issue two Special Orders dealing with uniform policy. Specifically, the BPPA contended the orders required a daily notification of the uniform of the day but that this notification made no provisions for temperature changes common to the New England weather. Thus, they asserted that an appropriate day-shift uniform could be a health hazard for the different night shifts. The association's position was that such orders, because they affected the health and welfare of Boston police officers, were proper subjects of grievance and, therefore, arbitrative. DiGrazia claimed that, under the authority delegated him by state law and by the contract's Management Rights Clause, he had the express power to prescribe uniform changes. Further, he asserted, since the association did not show any specific instance where the uniform policy was unsafe or unhealthy, the grievance was not arbitrational. The arbitrator agreed with diGrazia's contention that uniform decisions were properly within the rights of management and not a subject of collective bargaining.⁵⁸

Not content with this decision, the BPPA then filed a petition in Suffolk Superior Court to vacate the arbitrator's award, claiming that he exceeded his authority in issuing his ruling. DiGrazia contended that the arbitrator correctly ruled that the contract did not modify or disturb his management prerogative with respect to uniform policy. In addition, he asserted that even if the arbitrator had exceeded his authority, the association nevertheless had waived its right to contest this authority by seeking a ruling on the

question of arbitration. The court, always reluctant to vacate an award of an arbitrator unless facts clearly demonstrate a capricious decision, denied the association's petition.⁵⁹

Shotguns

The last operational controversy to be cited in this chapter involved the BPPA's demand that all police cruisers be equipped with shotguns. This issue is especially interesting because not only the BPPA but the Boston City Council became embroiled in the affair. The difficulty occurred late in 1973, when diGrazia's command staff recommended to him that shotguns be issued to all patrol sergeants because of the increasing number of armed holdups with shotguns. The command staff felt there was no need to equip all police cars with shotguns, however, because of the inherent danger of the weapon and because it was the patrol sergeants who responded to all armed holdups and to other serious crimes. Meanwhile, the BPPA pressured the city council into passing an ordinance requiring all city police cars to be equipped with shotguns and hailed the ordinance as "a mandate of the people." Mayor White immediately vetoed the ordinance explaining that the law of Massachusetts vests in the police commissioner the sole power to determine what weapons shall be carried by Boston police officers. Therefore, he contended, the ordinance was not within the province of the city council. The council then overrode the mayor's veto; but diGrazia, echoing White's sentiments, insisted that he was not bound by their ordinance.⁶⁰

The BPPA criticized diGrazia for ignoring the ordinance, remarking that it illustrated "a flagrant and shocking disregard for the very laws [diGrazia] is sworn to uphold . . . which sets a glaringly bad example for the officers under his command." They further charged that diGrazia and White were out of

step with the times on the issue and launched a terrific public relations campaign against both of them. In addition, City Councilor Albert O'Neill, a key backer of the ordinance and harshest critic of diGrazia and his policies, filed a suit in Suffolk Superior Court against diGrazia and White for their refusal to implement the ordinance. The judge held that "the ordinance is plainly an effort by the city council to overstep its authority and invade the business of the operation of the police department." In his ruling, he further remarked that the operation of the department "was set aside for and specifically assigned to the police commissioner," and added that

it is the decision, judgment, and discretion of the Police Commissioner which is required, rather than orders of the City Council or anyone else, who would undertake to force their decision, judgment and discretion upon him.⁵¹

This chapter has cited and summarized the opposition's major criticisms of diGrazia's intended reforms. The next chapter will discuss the extent of and union opposition to implementation of these reforms and the resulting effects on police performance in Boston.

NOTES: CHAPTER THREE

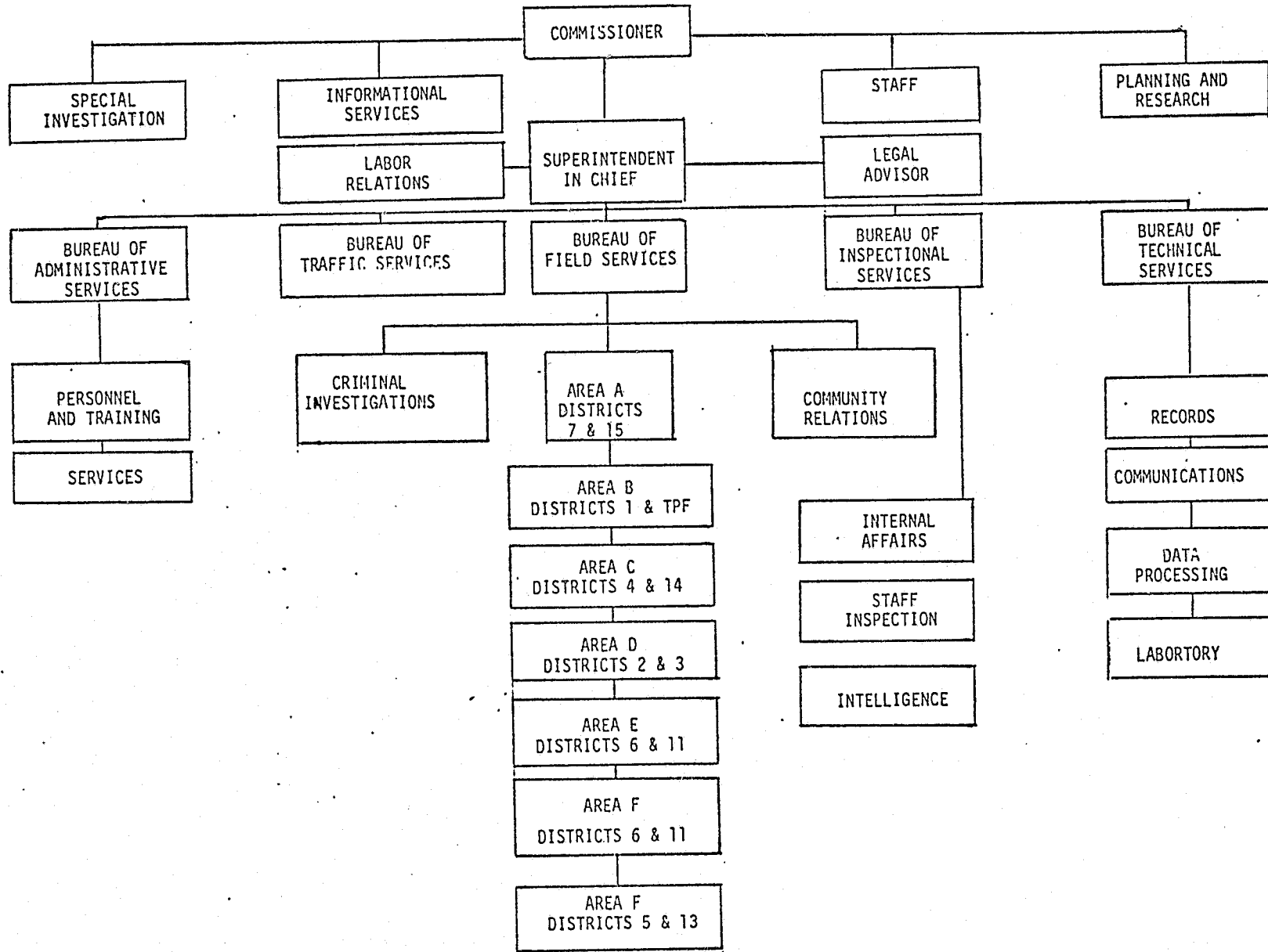
- 1) Boston Globe, January 30, 1973.
- 2) This can be illustrated when the former organizational chart is compared with the present one: see pages 93 and 94.
- 3) On the organizational chart it is a combination of the old Bureau of Field Operations, the Bureau of Community Affairs, and the Bureau of Special Operations.
- 4) Boston Magazine, October, 1973, at 76.
- 5) BPD Press Release, March 29, 1973.
- 6) Boston Globe, March 7, 1973.
- 7) In the past, these tests have been administered by the Federal Government and the New York City Police Department to employees performing certain "sensitive" jobs.
- 8) Boston Globe, January 25, 1973.
- 9) Massachusetts Labor Relations Commission (MLRC), Case # MUP-673, February 21, 1974.
- 10) BPD Press Release, May 31, 1973.
- 11) The new law requires that persons who are incapacitated may be assisted by a police officer with or without his consent to his residence, to a detoxification facility, or to a police station. (BPD General Order #11, June 27, 1973.)
- 12) MLRC, supra note 9, Case # MUP-478.
- 13) Addendum to MLRC Case # MUP-478.
- 14) Boston Globe, December 12, 1973.
- 15) Pax Centurion, December, 1973.
- 16) BPD Special Order, April 3, 1968.
- 17) BPD Special Order, November 13, 1972.
- 18) City Office of Labor Relations, Grievance # 16-76, November 30, 1972.
- 19) ibid.
- 20) BPD Special Order, February 14, 1973.
- 21) American Arbitration Association (AAA), Case # 1139-0198-73, Decision, August 3, 1973.

- 22) BPPA v. City of Boston and Robert diGrazia, Suffolk Superior Court, Equity # 680693. For further information on the "release time" issue see AAA, supra note 21, Case # 1139-0072-72; 1139-0198-73.
- 23) Boston Globe, January 24; 29; February 19, 1973.
- 24) Boston Globe, January 25, 1973.
- 25) Boston Globe, March 8, 1973; Boston Herald American, March 8, 1973.
- 26) Boston Globe, March 2, 1973.
- 27) Pax Centurion, March, 1973.
- 28) Boston Globe, April 12, 1973.
- 29) O'Neil, O'Brian and Connelly v. diGrazia et al, Boston Municipal Court, Equity # 348054, 348055, 348056.
As of this writing, this case is pending before the Civil Service Commission on a second review.
- 30) O'Neil, O'Brian and Connelly v. diGrazia, United States District Court for Massachusetts, Civil Action # 73-1190-C.
- 31) Boston Globe, March 8, 1973.
- 32) Boston Globe, March 19, 1973; BPD Press Release, June 6, 1973.
- 33) Pax Centurion, August, 1973.
- 34) AAA, supra note 21, Case # 1139-0779-73, Award of Arbitrator, February 28, 1974.
- 35) Pax Centurion April, 1974.
- 36) Boston Globe, March 22, 1974.
- 37) Boston Herald American, April 5, 1974.
- 38) Boston Globe, January 14, 1973.
- 39) Boston Globe, March 10, 1973.
- 40) BPD News Release, September 18, 1973.
- 41) Boston Globe, September 19, 1973. For further details on the "Plan" see: Boston Globe, August 1; 26; September 18; 20; 21; Boston Herald American, September 19, 1973; Christian Science Monitor, September 20, 1973.

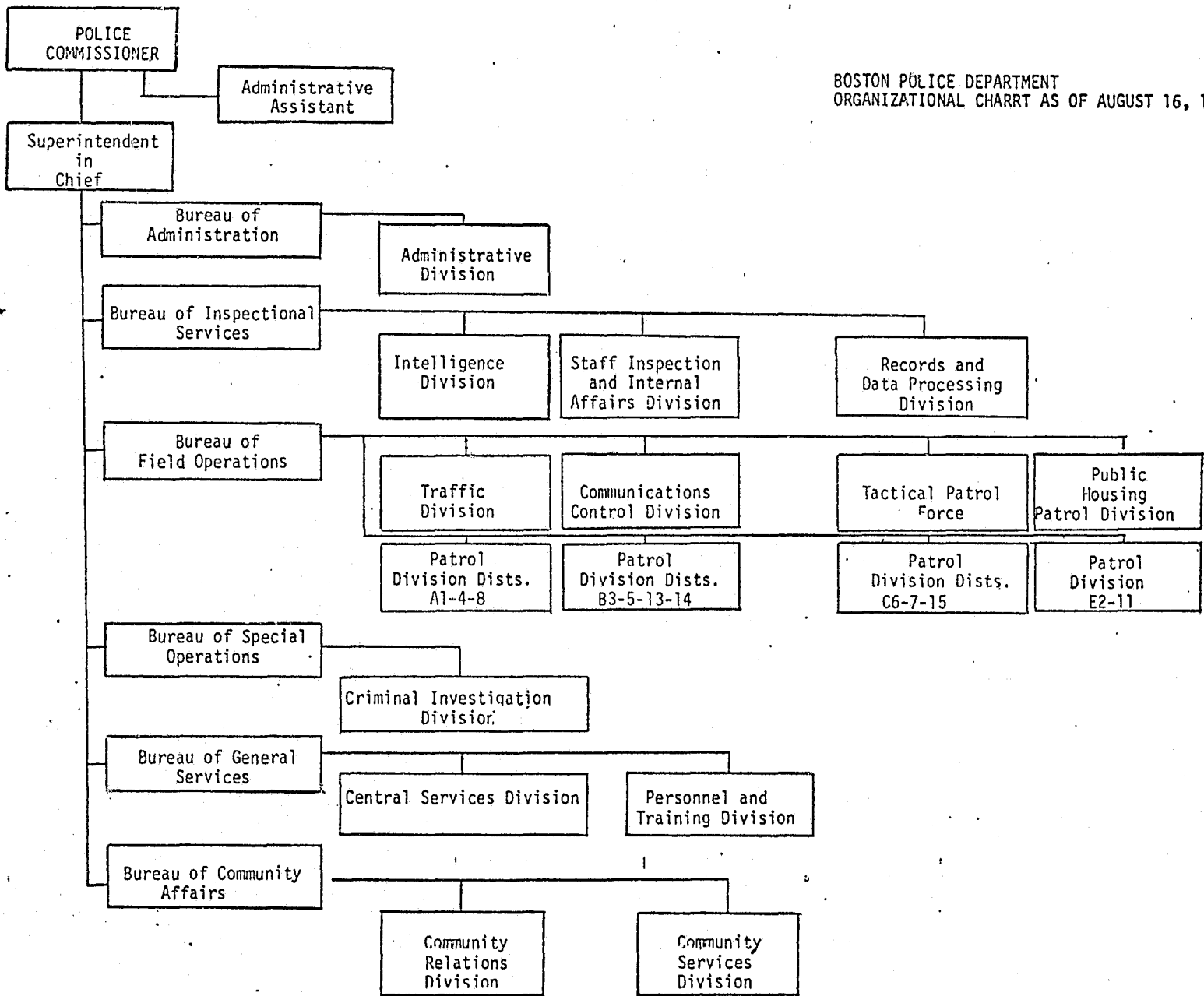
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- 42) City Labor Relations Department, Case # 16-122
- 43) BPPA v. diGrazia and Mayor White, Suffolk Superior Court, Equity # 97553; Boston Globe, September 5; 8, 1973; Pax Centurion, August; September, 1973.
- 44) Boston Globe, December 10, 1973; April 19, 1974; Pax Centurion, April; May, 1974; BPD News Release, March 3, 1973; March 19, 1974.
- 45) AAA, supra note 21, Arbitrator's Award, Case # 1139-0325-73.
- 46) BPPA v. diGrazia and White, et al, Suffolk Superior Court, Equity # 96778; Boston Globe, February 9; 27; March 5, 1973; Boston Herald American, February 9, 1973; Pax Centurion, August, 1973.
- 47) Boston Globe, March 20; April 16, 1973.
- 48) Boston Globe, March 30, 1973; Boston Herald American, March 31; April 8, 1973.
- 49) MLRC, supra note 9, Case # MUP-509.
- 50) Boston Herald American, April 21, 1973.
- 51) MLRC, supra note 9, Case # MUP-649; Pax Centurion, December, 1973.
- 52) Boston Globe, October 20, 1973; BPD Special Order # 138, October 19, 1973.
- 53) Hervey Juris, Notes On the Boston Police Patrolmen's Association (Unpublished Manuscript, 1970), p. 17.
- 54) BPD Commissioner's Memorandum # 74-20
- 55) MLRC, supra note 9, Case # MUP-639, December 3, 1973; Boston Globe, March 23; 27, 1974.
- 56) See also: Boston Globe, March 28, 1974; BPD New Release, March 27, 1974; Pax Centurion, April; May, 1974.
- 57) MLRC, supra note 9, Case # MUP-595, August 7, 1973; Pax Centurion, August, 1973.
- 58) AAA, supra note 21, Award of Arbitrator, Case # 1139-0709-73.
- 59) BPPA v. diGrazia and Jerome Judge (arbitrator), Suffolk Superior Court, Equity # 682762.
- 60) Boston Globe, December 6; 11; 14, 1973; January 9; 15, 1974; Pax Centurion, December, 1973; January, 1974.
- 61) O'Neil v. diGrazia and White, Suffolk Superior Court, Equity # 683216; Boston Globe, April 18, 1974; Pax Centurion, May, 1974.



BOSTON POLICE DEPARTMENT
ORGANIZATIONAL CHART AS OF AUGUST 16, 1972



Internal Changes

As a newcomer to Boston, Robert diGrazia definitely caused substantial changes in the city's police department. Structurally, one of the first things he did was to reshuffle the bureaucracy by totally reorganizing lines of authority and communication. Some of the major objectives he hoped to achieve by this measure included: improving communications within the department; increasing the accountability of department officers and decision-makers; eliminating overlapping functions of different agencies and divisions within the department; and providing more effective and responsive police service to the citizens of Boston.

Although BPPA opposition to this reorganization was relatively mild when compared with their strenuous opposition to diGrazia's reforms, they did object to some of the ramifications of this restructuring. First, they opposed the transfer of power and responsibility from the captains to the superintendents and deputy superintendents and the consolidation of the numerous command offices into five bureaus. This objection is not altogether incomprehensible. One of the most salient characteristics of the BPPA is the apparent cohesion and solidarity of its members. Any major change in the lines of authority, especially centralizing power by removing it from the captains, would tend to weaken that solidarity.

Second, a major result of this reorganization was the "breaking" of the internally powerful detective-sergeant group by eliminating "detective" from the name and putting the men back on uniformed street patrol. Because these men became powerful only through their political influence, diGrazia felt they had to be reduced in rank if his plan for redistribution of authority was to be totally successful.² The BPPA, fearing that an assault would soon be launched on all the department's detectives, opposed those reclassifications, believing the changes would

IV. THE EXTENT TO WHICH COMMISSIONER diGRAZIA REALIZED HIS ORIGINAL GOALS DESPITE BPPA OPPOSITION

When he came to Boston from St. Louis almost two years ago, Robert diGrazia was hailed by Mayor White and his aides as "a liberal with the intelligence and foresight to bring the BPD into the 1970's, to improve its efficiency, and gain the respect of all its citizens."¹ In these beginning months, diGrazia has managed to make a significant start toward improving many aspects of the department by instituting some badly-needed reforms. These reforms also have been the subject of much criticism from various segments of the Boston community. However, as the previous chapter indicated, criticism has been most severe from the patrolmen's association which has regarded diGrazia as a "liberal outsider" determined to run the department contrary to the traditional status quo.

The following chapter will examine both the success and failure which Commissioner diGrazia has experienced in his attempts to implement the reforms delineated throughout this study. In those instances where diGrazia has been successful in realizing his goals, we shall look at how those reforms have affected the overall effectiveness and efficiency of the Boston police in the short-run, as well as predict their potential long-term impacts. Where diGrazia has been unable to achieve his reforms, an examination of the factors impeding their institution will be offered. In addition, the efficiency of these reforms will be examined by assessing the long-term effects of diGrazia's constant battling with the BPPA and his strained relations with his high-command staff. At the very least, this examination will reveal whether or not Mayor White was justified in characterizing Robert diGrazia as "the man to bring the Boston Police Department . . . into the 1970's."

jeopardize their job security. This apprehension was not ill-founded for diGrazia later reduced over 35 detectives to patrolmen as a result of his new personnel policies.

Third, the BPPA opposed the creation of the SIU and Box 911, which diGrazia felt were necessary adjuncts to his plan for making the police more responsive to the community. In diGrazia's view, before police could be responsive they had to be efficient in their duties and free from the influence of corruption. This could only be accomplished by establishing an agency (the SIU) to monitor the performance of patrolmen and the method (Box 911) by which citizens and fellow officers could report anonymously any dereliction to the proper authorities. Although the BPPA always claimed an interest in keeping the department free from corruption, they did not believe these two innovations to be the proper means to achieve this goal. The BPPA felt that such procedures provided encouragement for breaking the traditional "code of silence" regarding misfeasance or malfeasance of a fellow officer. Also, patrolmen feared that anonymous reports would breed false complaints of wrongdoing, thereby unjustly blotting one's service record-- a perfectly reasonable fear.

Fourth, the BPPA objected to the special divisions created by diGrazia's reorganization plan (Informational Services, Planning and Research and Administration) and to his decision to head them with civilians. The association did not see any necessity for the consolidation, and they were particularly piqued when they discovered that these young, civilian aides were giving orders to high police officials. In fact, this was one of the bases for the BPPA's charge that diGrazia was not really in control of his department but was merely a front man for Robert Kiley and Mayor White. They pointed to the fact that at least two of these civilian aides--Gary Hayes and Mark Furstenberg--had worked with

Kiley in the past, and that Kiley was the man who recommended diGrazia for the commissioner's job. In extreme moments of suspicion the BPPA and the city council pointed to Kiley's CIA background and charged that Kiley, diGrazia, and the civilian assistants were part of a CIA-LEAA conspiracy to take over the Boston police and other police departments across the country.³ In fact, the association attributed diGrazia's ability to get federal funding for studies (which they believed were unnecessary) to "his direct line to Washington."⁴

In spite of this opposition from the BPPA, diGrazia was able to realize all of his structural reforms. Moreover, their implementation had some salutary impact on police performance and on public appraisal of that performance. By centralizing power and authority in six district commanders and by giving them the freedom to choose their subordinates, diGrazia improved communication within the department. The creation of the special division (especially Informational Services) improved communications with the community. While some of his critics claimed that the establishment of these divisions, as well as diGrazia's appearances before various community groups, were merely public relations ploys; they brought the commissioner and the department into much closer contact with the citizens. Indeed, they gave many residents a feeling that they had a police department receptive to their problems.

The establishment of the SIU and Box 911, similarly, initiated wide citizen and police response where hesitancy previously had existed in using normal reporting procedures. To date (August, 1974), the department has acted on well over 100 complaints of wrongdoing or dereliction of duty. Yet, as will be illustrated by the discussion of department personnel reforms, the real import of diGrazia's structural reorganization was in setting the stage for his personnel reforms, the primary objective of which was to get more police officers back into uniform and out on the street.

Personnel Reforms

In his personnel policy, diGrazia again was able to realize most of his initial goals. However, BPPA opposition here was much more strident. The first personnel controversy between diGrazia and the BPPA dealt with the administration of psychological and intelligence tests to all high-ranking Boston police officers. DiGrazia felt that these tests were necessary to aid in his structural revamping of the department by matching personnel capabilities to job requirements. Although, this innovation was opposed more strongly by the SOF, the BPPA vociferously protested the use of these tests because they anticipated their eventual application to detectives and patrolmen. When diGrazia attempted to secure in the current contract the right to subject all new BPD applicants to a similar procedure, the BPPA filed an unfair-labor practice suit. This action charged that such tests violated the patrolman's right to privacy. At the time of this writing, the suit is still pending. Nevertheless, diGrazia was not able to attain this right as a managerial prerogative in the contract.

The next conflict arose over diGrazia's decision to discontinue the harbor patrol and the city prisons. DiGrazia's motives in this instance were apparent and readily comprehensible: terminating these auxiliary functions decreased costs to the taxpayers and increased the number of men available for street patrol. The BPPA fought the elimination of these services on two principles. First, they claimed the harbor patrol was responsible for preventing many drownings and, for that reason alone, should be continued. Second, they asserted that the action enabled diGrazia surreptitiously to harass union members of these squads by transferring them to less desirable duties. The BPPA has been unable to support factually either of these contentions; though in the author's opinion there is some truth to the latter one--that is, members of these units were transferred to less desirable jobs and were extremely unhappy about their loss.

Similarly, the association protested diGrazia's decision to reduce 35 detectives in rank and return them to street duty. DiGrazia felt these changes were necessary to streamline the BPD which was "top-heavy" with detectives and to increase patrol personnel. Again, the association charged the commissioner with harassment by arbitrary transfer and age discrimination. They were upset also because these men's salaries would be reduced correspondingly. The BPPA challenged diGrazia's decision by filing a number of grievances and unfair labor practice charges. Ultimately, however, these charges proved groundless and diGrazia's decision prevailed.

The commissioner also prevailed in his decision to terminate the "release-time benefits" for all patrolmen wishing to enroll in the future baccalaureate programs at Boston State College. DiGrazia's motives here were two-fold: fairness to those officers unable to receive the benefits of this program and his ever-present desire to end the manpower drain in an already undermanned department. The association claimed diGrazia's move violated the contract and filed the appropriate grievances, which subsequently were denied at the arbitration stage. That decision was another "win" for diGrazia.

None of the conflicts had as devastating an effect on the relationship between diGrazia and the BPPA as their battles over internal investigations and trials. The unprecedented increase in the number of departmental inquiries under the diGrazia administration prompted the BPPA and others to charge the commissioner with attempting to destroy the association and the morale of the patrolmen. On the contrary, diGrazia asserted that these disciplinary procedures were being utilized successfully to weed out corruption and inefficiency

in a department where the preponderance of sworn personnel were honest and efficient. In the process he hoped to boost department morale and to restore public confidence in the BPD.

The BPPA contended that, in principle, they were not against these investigations and hearings. What they objected to most strenuously was the manner and spirit in which these investigations and hearings were conducted. Their biggest complaints were that the lack of rules of evidence and the fact that the commissioner sat as prosecutor, judge, and jury denied fundamental fairness to the accused patrolmen. Additionally, statements made by diGrazia to the effect that police officers should be considered "guilty until proven innocent" during disciplinary proceedings, provided substantial support for the BPPA's contention that these hearings were inherently unfair and that diGrazia was "out to get" aggressive association members. Finally, the BPPA complained that even if their members were given a fair hearing, in many instances they were transferred to another district as a punitive measure regardless of the outcome of the administrative trial.

Neither of these contentions was without merit. Compared with all the procedural safeguards available in a criminal trial, many of the departmental procedures would appear to be unfair. Yet, the two situations are not really analogous. An unfavorable verdict in a criminal trial in most instances is of much graver consequence (because of the more stringent penalties for conviction) than that of an adverse decision in an administrative hearing. In reality, departmental proceedings are not entirely devoid of protection for the accused patrolman. The BPPA, in their first contract secured a "bill of rights" guaranteeing patrolmen the right to counsel at interrogations and hearings and guaranteeing that what they say at these hearings will not be used against them in criminal trial.

Regarding their contention that patrolmen were transferred regardless of the outcome of these proceedings, the BPPA pointed to the case of Patrolman Lawless as a prime example. If this type of action were to occur in more than one instance, the author might have agreed with the association's charge. However, as diGrazia pointed out in his decision, Lawless was transferred because the police commissioner believed that the patrolman's assignment to only one division and district during his entire 15 years on the force stultified his career and his performance in the department.

The conflicts between the BPPA and diGrazia concerning corruption in the BPD have been differences in fundamental theory. As Globe editorialist David Farrell reported, the BPPA leadership has subscribed to the "rotten apple" theory recently refuted in the Knapp Commission Report on corruption in the NYPD. According to this theory, the New York City police department was considered to be free of corruption in general. However, as in any large police department with thousands of men, there inevitably would be a few "rotten apples" serving as exceptions to the rule. In such cases, the theory dictated that any policeman discovered to be corrupt must be denounced promptly as a rotten apple in an otherwise clean barrel. The doctrine was founded on the premise that official recognition of corruption within a police department would severely impair its morale and on the misconception that official denial of such corruption was necessary to maintain the department's effectiveness and public image. The Knapp Commission concluded that, in many ways, this doctrine was a prime obstacle to meaningful reform. First, it reinforced and gave respectability to the "code of silence." Second, the official view that the department's morale and image prohibited public disclosure of corruption inhibited any officer who wanted to disclose such corruption and justified his silence. Finally, the doctrine made any attempt at managerial reform difficult. For, as the Commission noted:

"A high command unwilling to acknowledge that the problem of corruption is extensive cannot very well argue that drastic changes are necessary to deal with that problem."⁵

Farrell's point was that by taking the position that there is no broad pattern of corruption in the BPD (only isolated incidents), the BPPA

performs a great disservice to the large majority of policemen who are honest, who are trying to do a good job, but whose hands are tied by the code of silence and a general repugnance against turning in an associate who is crooked.

This was precisely what diGrazia and other members of his staff had been trying to get across to the patrolmen and to citizens of Boston. By and large, the press indicated that the Bostonians agreed with him. In the author's view, individual patrolmen also privately agreed with diGrazia. However, due to the fear and anger generated by many of diGrazia's philosophies and reforms, they have felt compelled to denounce publicly and collectively any attempt by him to expose a broad pattern of corruption in the department. Until the BPPA and diGrazia can cooperate to help these men overcome that fear, little meaningful reform in this area, or any other, can take place in the BPD.

Operational Innovations

Whereas the BPPA opposed practically all of diGrazia's changes in personnel policy, they grudged most of his operational alterations. For example, diGrazia decided to make a number of improvements which he believed would improve police performance markedly. The establishment of the 911 emergency telephone number, the implementation of diGrazia's "Maximum Patrol and Response Plan," and the creation of his special "anti-crime unit" were his major operational efforts in making the BPD more responsive and more relevant to the city's residents. The BPPA, while skeptical about the eventual success of the "improvements," offered little resistance to their implementation.

As for the effect these policies had on police service, diGrazia pointed out that previous to their implementation, over 600 calls to emergency number 911 went unanswered. At the present time, these unanswered calls "are down to practically zero." Also, by substantially increasing the number of police cars available and by manning each car with two officers, he claimed that both response time and responsiveness at the scene were vastly improved.

Yet, at a recent city council meeting on the police budget, several council members asserted that a "crime wave" had hit the city and blasted diGrazia for not giving enough police protection to city residents.⁶ They demanded that diGrazia inform them why he did not allow for the hiring of at least 300 additional patrolmen in his budget for the coming fiscal year and why patrolmen weren't out "walking the beat" instead of speeding by in cruisers.⁷ DiGrazia retorted that he was in the process of transferring 161 sworn personnel from clerical tasks to street duty and was planning to hire approximately 60 men from the current civil service list. He also noted that he transferred 15% of the detective unit to uniform duty. When these and similar moves were complete, diGrazia asserted that the department would be at its full complement, without increasing the number of police officers in the department.⁸

Regarding their demand for more police on foot patrol, diGrazia called their attention to the preliminary results of a study underway in Kansas City which indicated that high visibility of police officers, while offering a definite psychological comfort to the public, did little to deter crime.⁹ He argued that "the foot patrolman is obsolete in these days of fast moving cars; that he is merely a cosmetic designed to gloss over the real problems associated with street crime."¹⁰

Rather, the commissioner explained that his practice of using two-man patrol cars accomplished much more. He acknowledged, however, that he had instituted a

policy of having one of the two men leave the car to walk the patrol area, remaining in radio contact with his partner at all times, and added that he hoped this practice would allay fears in the community.

This "walk and talk" policy had prompted the BPPA to accuse diGrazia of attempting to initiate a one-man car operation in the department. The association, concerned with maximizing patrolman safety under street conditions which it perceived as extremely hazardous, unsuccessfully attempted to get the courts to enjoin implementation of the plan. Thus diGrazia retained his freedom to assign one- and two-man cars on the basis of crime rates in areas and shifts.

There were a number of other instances where the BPPA refused to cooperate with diGrazia on operational matters. When certain patrolmen, at the encouragement of the association, refused to disarm before entering a riotous prison, diGrazia disciplined them for hampering law-enforcement efforts. In a related matter, when diGrazia refused to equip all police cruisers with shotguns because of the weapon's inherent danger, the BPPA cajoled the city council into passing an ordinance overruling diGrazia's decision. Though diGrazia's will prevailed in both these conflicts, the association remained apprehensive about such situations. One of the prime concerns of any police union is the safety and health of its constituents. Therefore, the BPPA pressure for minimal restriction on a police officer's right to use force in the first instance and for heavy armament in the second, could be interpreted as their abiding trepidations for police officers who were patrolling under conditions which they perceived as tantamount to wartime.¹¹ Perhaps if Commissioner diGrazia were to offer concrete evidence to the association indicating some empathy for these patrolmen, the understanding and cooperation between the commissioner and the association might improve immeasurably.

DiGrazia's Impact on the BPD

With very few exceptions, Commissioner DiGrazia was able to implement the reforms which he believed would improve police performance. Moreover, he was able to realize these changes despite the powerful adverseness generated by the BPPA and the Boston City Council. The question that logically must be considered now is: How have these newly instituted reforms affected the performance of Boston police officers?

This question, however, is not answered easily. Partly, this is due to the difficulty in selecting appropriate criteria with which to measure the performance of the Boston police. However, the greatest problem with such a measurement is that, at best, one could only gauge the extremely short-term effects of diGrazia's changes which might not portend their long-run impacts. Despite these impediments, both diGrazia and the BPPA claim they perceive some relationship between police performance and crime statistics.

According to year-end figures for 1973, serious crime¹² in Boston increased approximately 21% after an overall 9.7% decrease in 1972.¹³ In addition, the F.B.I. Uniform Crime Reports disclosed that while 95% of the nation's largest cities experienced a crime decrease in the first 9 months of 1973, Boston underwent a 14% increase.¹⁴ The BPPA alleged that these statistics indicated diGrazia "fed the public false propaganda on police protection in the city" and showed a number of his personnel and operational reforms had deprived certain areas of police protection.¹⁵ On numerous occasions, they demanded that diGrazia cease giving the public erroneous impressions about the number of men and police vehicles available for their protection but they consistently failed to substantiate those charges factually.

DiGrazia, on the other hand, claimed that these statistics were not indicative

of an actual increase in crime. On the contrary, the police commissioner asserted that the statistical increase merely signified that more citizens were reporting crimes, especially since he instituted emergency number 911. He also attributed the increase to the past failure of the Boston police to answer as many as 600 emergency calls because of the lack of men and vehicles on the streets and the reluctance of high-ranking police officers to report crime increases in their districts.¹⁶ Finally, diGrazia claimed that crime statistics were not a particularly accurate reflection of either police performance or the actual incidence of crime. There may, in fact, be a good deal of truth to their assertion. According to a recent study conducted by the Planning and Research Department of the BPD, "all studies dealing with police records and victimization conducted [throughout the country] since 1965" indicate that "reported crime and actual crime have relatively little relationship" because the method by which they are generated is flawed.¹⁷ The report also posited a number of hypotheses for the statistical increase in Boston's crime rate. Numbers of reported crime are effected by recording systems, citizen complaint channels, citizen reporting habits, and management of emergency calls and police response to those calls.¹⁸ Harvard Law Professor Lloyd Ohlin agreed that these were very potent factors in reported crime figures and noted that: "Any change in police responsiveness and public willingness to report can have a profound (upward) effect on crime statistics."¹⁹ This thesis also was echoed by Vincent E. Reul, assistant special FBI agent for Boston, who said that more people were coming forward to report crime in the city because diGrazia was doing "such a marvelous job" of revamping his department.²⁰

In sum, then, perhaps these crime statistics, superficial and inconclusive as they are in measuring the incidence of real crime in Boston, do bear some relationship to police performance. It may be that the recent increase in statistical

crime since diGrazia took command, reflects favorably on the performance of the Boston police. An increased community confidence in the BPD may be seen through such facts as: citizens find it easier to report crime, especially with the 911 system; calls for police service have doubled since diGrazia took command; many more citizens are getting a response to their emergency calls since the institution of the Maximum Response Plan; and diGrazia has become a highly-visible figure and his determination to improve Boston's police service is widely recognized. Indeed, the results of a poll taken by Mayor White show a marked positive attitude of city residents toward police service and toward diGrazia. This privately-commissioned political poll of 500 Boston households, conducted by Cambridge Opinion Research Corp., included two questions relating to diGrazia. The first, measuring the reaction to diGrazia himself, elicited a 71% favorable rating. The second, measuring public reaction to the performance of the BPD under diGrazia, showed 64% believed that police performance in the city had improved.²¹ However, this hardly obliterated the highly negative rating he had with some of the individuals under his command.

To his subordinates, Robert diGrazia is still too "liberal," too "reform-minded." The head of Boston Globe's Urban Team explained:

He (diGrazia) is disrupting a way of life they have come to enjoy, and want to preserve. Never mind that the department had, and probably still has, elements of corruption; that it still has its racists and some very political, narrow-minded members. That is the way it has always been, they feel, and that's the way they want it to be.²²

This view has been shared by the vast majority of the department's 2500 patrolmen and by many of the police commissioner's older command-staff members.

To the BPPA, diGrazia is a man to be feared and resisted, rather than a man to be trusted and assisted. The association recognized that diGrazia was going to be a strong commissioner even before he came to Boston and perceived this as a

formidable threat to the union's power. As a result, they hired Frank McGee, a high-powered attorney, and began a legal assault on almost all of the reforms diGrazia introduced. When asked why the BPPA was so militant toward even the most insignificant of the commissioner's reforms, Mr. McGee replied:

The answer is quite simple. The association stands for contract integrity. The Whites, diGrazias and Kileys are a dime a dozen. The association will be here long after they are gone. All we ask, and demand, is that the City of Boston live up to the terms of the contract which was signed by its mayor and police commissioner.²³

The answer, however, is not quite so simple. It would be a dangerous oversimplification to assume that all the emotional and acrimonious battles over diGrazia's reforms were due only to the BPPA's desire to maintain the integrity of a signed collective bargaining agreement. The real issue has been power. The leaders of the BPPA, not atypical of most other union leaders in both the public and private spheres, have wanted to retain their power at all costs. To accomplish this, some unions have felt it necessary to appear as if they were locked constantly in bitter warfare with their managerial counterparts. This has become especially true in the face of strong managerial opposition. Therefore, the BPPA leaders have perceived diGrazia as a very real threat, not only to the organization's power, but to their own power as well.

The other sentiment implicit in McGee's statement was that diGrazia is merely a transient phenomenon. This notion has been popular with the BPPA leadership since diGrazia's arrival in Boston. When questioned about this, one mayoral aide stated unequivocally that:

What some people don't seem to understand is that the police commissioner is here to stay. He is not stopping off here on a short personal interlude before he goes off to become executive secretary of Interpol. He's here for the duration.²⁴

And this has been exactly the point. DiGrazia, who can be removed only by the

mayor and who has vowed he would leave only at the mayor's request, has remained. Until the association's leaders recognize that diGrazia is neither a union buster nor a passing fancy, there can be no basis for cooperation between them. Also, the BPPA can gain little perceptible advantage for their membership by opposing him.

On the other hand, if diGrazia wants to make any real progress in reforming the BPD, he is going to have to secure the association's support in the long run. With the poor start he has made, the possibility that this will occur in the near future is doubtful. Of equal importance, diGrazia also must win the support and allegiance of his high-ranking superior officers.

In early 1974, relations deteriorated between the police commissioner and several key members of the BPD's top echelon. In March, under the banner headline reading "Top Police Aim Coup At diGrazia," the Herald American charged that "high-echelon officers in the BPD are conspiring to bring about the removal of Police Commissioner Robert J. diGrazia in a departmental coup. . . ." ²⁵ The "coup" allegedly was tied to the fact that these men were beginning to criticize openly and vociferously diGrazia's directives and the motives and inexperience of the commissioner's civilian aides.²⁶ Although the "coup" never materialized (some journalists suggested that the entire story was fabricated by diGrazia's aides for public-relations purposes), there was little doubt that members of diGrazia's high-command staff were becoming dissatisfied with his policies and that internal relations were strained. Staff members objected to the feeling that if they expressed any dissent or reservations about the directives of the commissioner or his young aides, they would be branded as being against reform and their future in the department would be jeopardized. This apprehension became especially threatening in view of the rumor that the police commissioner was attempting to push

many of them into an early retirement. Yet, perhaps their biggest complaint was that they felt

the Commissioner, through his public relations office, appears more interested in conning the public and creating the impression of having more protection on the street than the facts warrant.²⁷

Indeed, a source close to Mayor White, while indicating that much of the blame for the rift between diGrazia and his command staff rested with the command staff, also agreed that "diGrazia must share part of the blame." He charged that "diGrazia is not communicating enough with his officers and other men under him," and that "diGrazia often gives orders or announces changes without input from some of the men involved." Also, he said, "these men resent being given directives through his (diGrazia's) civilian staff."²⁸

DiGrazia, much to his credit, has apparently gotten the message that in order to resolve this situation with his command staff he would have to communicate more with his men. He recently disclosed that he has been holding meetings with his command staff in an attempt to discover what problems exist and how they might be mitigated. In addition, diGrazia's unfamiliarity with the amenities of a big-city police bureaucracy also has alienated many of his men. A veteran, urban reporter for the Globe once said of diGrazia: "He is open, direct and honest. His mind takes no Byzantine turns. What you see is what is there. You don't have to look under the table."²⁹ Mayor White has respected this the most about diGrazia and has agreed that it "is one of the signs of a policeman, a good policeman."³⁰ However, White and many other of diGrazia's supporters have agreed that the commissioner's lack of subtlety and his inability to grasp the nuances of BPD politics and diplomacy have contributed markedly to the internal strained relations.

DiGrazia himself has been cognizant of this problem. As he said in one interview,

It's important to set goals, . . . But you can't go ahead like an elephant bull in mating season [an apt characterization of diGrazia's occasional tactics in implementing his reforms]. You have to finesse some things. Finesse is not one of my strong points. I recognize that.³¹

To sustain his reforms in the long-run, the police commissioner must begin to realize the importance of convincing those affected by his changes that these reforms are in their best interest. Hopefully, once he has accomplished this, his support among the department's sworn personnel may begin to approach the enthusiastic support he has enjoyed from the public. Clearly, this internal support would be essential if the police department were ever to approach the exacting levels of proficiency which diGrazia has envisioned.

NOTES: CHAPTER FOUR

- 1) Boston Globe, December 2, 1973.
- 2) Joseph Kline reports in Boston Magazine, October, 1973, that McNamara had attempted a similar move when he first took over as commissioner by demoting a detective-sergeant who was reputed to be corrupt. But outside political pressure forced McNamara to reinstate the man within a week. According to Kline, diGrazia's ability to reduce successfully nine out of the eleven detective sergeants at one time "sent shock waves throughout the department." (p. 78)
- 3) Boston Globe, May 1, 1974.
- 4) Boston Magazine, October, 1973, p. 78.
- 5) Knapp Commission Report, as quoted in Boston Globe, March 8, 1973.
- 6) It should be noted here that several of the councilmen who blasted diGrazia were endorsed and aided by the BPPA and that those who were not were courting that support. Thus, it is apparent that the association is still powerful enough to influence directly the city council.
- 7) In fact, a move was already underway in the city council to pass an ordinance calling for a minimum of one police officer on foot patrol for every ten thousand inhabitants. (Boston Herald American, November 5, 1973.)
- 8) Boston Globe, December 2, 1973.
- 9) DiGrazia, however, failed to note the final results of that study which revealed that, regardless of how the patrol function was deployed (in terms of men and mobility), the incidence of crime remained relatively stable. Perhaps diGrazia missed the point of the study which was, in my view, that patrolling, in itself, may be obsolete as a crime deterrent.
- 10) Boston Globe, December 2, 1973.
- 11) For a more detailed analysis of this syndrome see Hervey Juris and Peter Feuille, Police Unionism (D.C. Heath and Co., 1973), p. 133.
- 12) These crimes are murder, rape, aggravated assault, robbery, burglary, and auto theft.
- 13) Boston Police Department News Release, February 15, 1974; Boston Globe, February 16, 1974.
- 14) Boston Globe, January 2, 1974.
- 15) Boston Globe, October 30, 1973; December 5, 1973; Pax Centurion, December, 1973.

- 16) Boston Herald American, February 19, 1974.
- 17) BPD Department of Planning and Research, A Brief Look At Crime Rates, February, 1974, p. 2.
- 18) Ibid, pp. 10-12.
- 19) Boston Globe, February 16, 1974.
- 20) Boston Globe, February 16, 1974.
- 21) Boston Globe, March 20, 1974.
- 22) Boston Globe, March 24, 1974.
- 23) Pax Centurion, May, 1974.
- 24) Boston Globe, March 20, 1974.
- 25) This revelation was especially surprising in view of the fact that no member of the command staff--a group of 23 officers comprising a superintendent in chief, 5 superintendents and 17 deputy-superintendents--has ever publicly criticized diGrazia; and no member of diGrazia's staff, including diGrazia himself, has ever publicly criticized members of his command staff. (Boston Globe, March 20, 1974.)
- 26) Boston Herald American, March 19, 1974.
- 27) Boston Globe, March 12, 1974.
- 28) Boston Globe, March 24, 1974.
- 29) Boston Globe, March 29, 1974.
- 30) Ibid.
- 31) Ibid.

EPILOGUE

For nearly two years, the Boston Police Department has been in a state of protracted instability and turmoil. This situation obviously has been exacerbated by the incessant conflicts between the police commissioner and the patrolmen's union. Yet, deeper roots of this antagonism exist in the process of change which inevitably accompanied militant police unionism in Boston and which eventually aggravated the rank and file's bitter opposition to diGrazia's innovations.

The intensification of police personal militancy and the emergence of police organizational militancy occurred during the mid-to-late 1960's. The increased aggressiveness of individual police officers in Boston and throughout the country during this period was engendered by the officers' growing frustrations. Policemen felt increasingly threatened by their external environment which was rapidly becoming more hostile and more violent toward the police. They became bitter and self-defensive when confronting black and student dissidents and when hearing the minority groups and liberal whites clamor for civilian review boards to monitor police behavior. Conflicting demands were made upon them. They were pressured by the public to contain the rapidly-rising crime rate, and they were warned by the courts to observe stricter individual guarantees. Police officers also were harassed by a number of poor personnel practices. With the onset of these hostile external pressures, policemen became aware of their own lack of internal civil and constitutional rights, especially at departmental investigations and in punitive, sudden transfers from one shift to another. Additionally, police officers were dissatisfied with what they perceived as relatively low economic rewards for the increased demands placed upon them.

Militant police organizations were an inevitable outgrowth of these

individual police frustrations. The BPPA was formed while four other employee organizations already existed within the BPD and faced an uphill struggle against strong managerial resistance. But these circumstances only served to increase the solidarity of the membership and to accentuate their militancy. This group cohesion was necessary for the association's survival and was an underlying reason for and is, primarily, a function of the "patrolmen only" restriction. By forbidding superior officers to their membership, the BPPA maintained a cohesive organizational aggressiveness which otherwise might have been diffused among the ranks. Also, patrolmen had less managerial consciousness and less departmental responsibility than the superior officers, and they were younger and less indoctrinated into the para-military mentality of obedience.

According to the Brookings studies,¹ police unions restricted managerial discretion, insisted on management by policy, protected employees against arbitrary or inconsistent treatment, and forced administrators to recognize and to consider employee organizations and their demands. The results of this case-study are entirely consistent with the Brookings findings.

One of the major accomplishments of police unionization in Boston was the erosion of the department's traditional quasi-military ethos. With the collective bargaining process, the BPD no longer could be run in the authoritarian manner of yesteryear. Management became a bilateral process whereby the BPPA had a very substantial impact on the police commissioner's decision making. In addition, Boston police unionism attenuated the traditional department solidarity and replaced it with a "management-labor" relationship between the patrolmen and their higher-ranking administrators.

Commissioner diGrazia himself is also an embodiment of this process of change. A liberal, zealous, aggressive man who came to Boston to bring an ingrown and

archaic police department up to date, he is younger (and less experienced in the field of police administration) than almost all of the supervisory staff he commands and even is younger than most of the policemen on the street. While he has presented a smooth and forthright image to the public, in accent and style he has been markedly different from most of the members of the BPD. He has engendered a sense of insecurity and frustration in his men by emphasizing the policeman's role as social worker and de-emphasizing his role as a crime fighter, by insisting that police officers must be accountable as well as responsive to the public, by moving policemen out of desirable office jobs and onto the streets, by overselling his promise of improved police performance to the community, and by being overly aggressive in the institution of many of his reforms. Also, his occasional bluntness and lack of diplomacy have aggravated relations with his men.

Perhaps the insecurity and friction which currently appears so prevalent in the BPD is merely a product of the process of change, an inevitable consequence of any upheaval similar to what has occurred in the department over the past few years. Perhaps good relations between diGrazia and the BPPA are not even necessary for improved police performance. After all, both protagonists have to answer to their constituencies and need real (and symbolic) conflict to illustrate that they are doing their job. Leaders of the BPPA, and of other police unions, always are sensitive to allegations that they are not doing enough for the men who elected them and, in many instances, encourage conflicts where no issue exists simply to demonstrate their effectiveness in protecting their members' rights. Similarly, diGrazia must project the image that he is serving the public by striving constantly to eliminate inefficiency, waste and corruption in his department. Indeed, such poor relations with the BPPA may improve diGrazia's image with the community who, with his appointment, demanded a perceptible change in the structure and attitudes of the Boston police.

While a good relationship between a police union and police administrator may not necessarily be a prerequisite of better police performance, the professionalization of Boston police officers certainly is such a requirement. As a result of my examination of the BPD, I have formulated a few personal relevant thoughts on the professionalization of Boston police.

To be performed effectively, the job of police officer requires highly-educated and sensitive, well-trained individuals. Precipitated by the escalating public concern with crime, the multiplicity of crimes involving kidnapping and/or terrorism, the complexity of court decisions involving the rights of suspects, and the increase in civil disobedience as a means of protest during the previous decade; police officers have perpetually been called upon to perform increasingly specialized and difficult tasks. However, the dearth of career opportunities in patrol, the limited promotional opportunities, the lack of mobility and the compensation structure encourage the best people to leave patrol, misdirect some of them into administration or investigation, and fail to offer financial motivation for those approaching retirement. The BPD, which only recently has begun to modernize, is one of many police departments throughout the country that suffers from these inadequacies.

Evidence indicates that some police employee groups have used their bargaining power to satisfy professional concerns, or at least obtain some of the trappings of professionalism (i.e. autonomy, professional authority, the power to determine the appropriate character and curriculum of the training process, etc.). However, the BPPA's attitude in this area seems to be one of indifference, and in some cases obstructionism. As we have seen throughout this study, the BPPA, for the most part, has reacted adversely toward incorporating any innovations from various studies of the police function. Without any incentive for participation

they have been reluctant to engage in any process of professionalization. In the past, the association successfully has opposed education incentive programs unless such programs also provided benefits for the majority of the Boston police who had no interest in higher education. In addition, they have fought for job competition by strict seniority to the exclusion of all other relevant criteria and have rejected any plan of lateral entry. Unfortunately, it appears that the BPPA will continue to concern itself exclusively with satisfying the financial and material needs of its membership rather than to serve as a primary vehicle in the professionalization of Boston police.

In view of the association's attitude, Commissioner diGrazia must provide the impetus for patrolmen to participate in their own improvement by defining the goals of professionalism and by devising a workable program for its institution in the BPD.

One suggestion, offered by the President's Commission on Law Enforcement and Administration of Criminal Justice, is that police administrators expand the limits of the patrolman's job description and obligations. For instance, since patrolmen are on the street 24 hours a day and since they perform myriad service functions to the public informally and without official recognition, the President's Commission suggests that police management should incorporate this potential formally into the job description and should adjust the reward structure accordingly. Of course, any plan of job enrichment will evoke an initially negative response from police unions because it threatens the status quo and the perceived job security of current employees. This is exactly the type of problem that diGrazia has faced with the BPPA.

When diGrazia first came to Boston, he indicated to the press and to the public that one of his foremost goals as commissioner would be the development of a program

of police professionalization which would be adaptable to the needs of all Boston police officers and to expectations of the community. Although he has been remarkably successful in realizing many of his other initial reform goals, diGrazia has been largely ineffectual in this regard. This is as unfortunate for the city's residents as it is for its police officers. For if corruption and inefficiency is to be eliminated, if the community is to witness a substantial decrease in the incidence of crime and, of paramount importance, if diGrazia is ever to insure the permanency of his reforms; then he must provide a feasible program for the eventual professionalization of the BPD which would satisfy the officers' needs for welfare and security while progressing toward its ultimate goal. It would indeed be unfortunate if, after all the energy and effort he has expended, Robert diGrazia failed to persevere in realizing the one reform which could insure the perpetuity of all the others.

NOTES: EPILOGUE

- 1) Sumner Slichter, James Healy, and Robert Livernash, The Impact of Collective Bargaining on Management (Washington, D.C.: Brookings Institution, 1960) pp. 947-51.

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