

of jury trials, more than enough to justify a further edition or, at least, a supplement.

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POLICE COMMAND: DECISIONS AND DISCRETION. By Brian A. Grosman. Toronto: Macmillan Company of Canada. 1975. Pp. ii, 154. Index. Cloth \$12.95, Paper \$5.95.

Those who define law strictly—as a closed, logical system of authoritative rules—will find little of relevance in Professor Grosman's *Police Command*. Instead, they will find that a law professor has used social science techniques to describe what municipal police organizations do, and to give his views on what they should do, with useful emphasis on the gaps between the two phenomena. This short book is a useful addition to the scarce literature in Canada in political science, public administration and organizational theory. But is it relevant to lawyers in their various roles as advisers, litigators, judges, legislators and reformers?

For all those roles, *Police Command* is not only relevant to law as a learned profession; it is the type of reading that should be required of lawyers as a matter of their continuing self education. This is not to say that the book lacks shortcomings. It does not try to be definitive in its field, largely because it seems aimed less at the social scientist than at the average person. And it will be important to point out what it should encourage in the way of further research. But in fairness to the author's effort to take a first step, his book should also be evaluated as an important start in Canada to substitute knowledge for opinion in understanding the essentials of the legal process as it takes place beyond the law we find in books. For those who define law as a process for formulating and applying rules, formally and informally, for facilitating intended results, it will surely be more enlightening studying *Police Command* than spending the same time perusing the Criminal Code.

In large, growing North American cities during the past decade, police departments have been more subjected to the pressures of rapid social and technological change than other urban institutions, save local government as a whole. The sudden increase in the professional literature on criminal justice in recent years in the United States reflects this fact. That some ninety per cent of the citations in *Police Command* are American suggests the need for more research and writing in Canada. To be sure, the policing problem in Canadian cities is more recent, and differs in significant respects

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from the American problem. But the differences and similarities cannot be assessed and dealt with appropriately until the Canadian problem is systematically examined.

In his response to this need, the author's focus of analysis, within the complexity of the law-enforcement part of the criminal justice system, is the role of the police chief. An aim of his two-year effort in interviewing police personnel in five English-speaking Canadian cities (as well as in three California cities, for comparative purposes) was "to get as close as possible to the world of the Police Chief in order to interpret this world and its problems as it is seen and felt by the Chief and those around him".<sup>1</sup> This is a useful focus for it is the police chief that should find himself as the bridge between the police organization and those to whom it is politically accountable. But we discover in Grosman's description of the process that the police chief is not as important as one would expect the top man on the pyramid to be. Unlike the typical organization, such as the business firm, in a police department, it is not true that as one goes up the hierarchy he assumes more responsibility for competently exercising discretion. Rather, the policeman-on-the-beat has the major responsibility for invoking coercive sanctions.

Those who believe that the police mechanically apply laws written by elected officials would see no problem here apart from making sure that policemen-on-the-beat know the criminal law. But, as Grosman usefully depicts, the process in the real world is sharply different. Criminal laws cannot be written, nor supervisory techniques devised, to avoid the exercise of discretion when specific action in various ways is called for under varying circumstances. The policeman who has to cope with trouble on the spot needs judgment, and that is a quality most organizations develop over time by maturity and experience, along with some formal education. Can the bottom, most numerous persons in the police pyramid reasonably be expected to have the quality of judgment the typical organization expects only in middle management?

Most problems of police disorganization that call for new leadership come from this pyramidal inversion of competency. The author argues convincingly that the para-military organization for police does not work, except in the narrow area of "crime-busting". It works here, perhaps, because police can be technically trained for that role, and the more competent can be selected and trusted to exercise their discretion. But what about the average policeman who most of the time is engaged in crime prevention, peace keeping and regulatory enforcement? For him, there has to be better leadership, and this can come only from the police chief. He cannot be the crime-busting, authoritarian, broker type of leader if he is to do the job. His leadership style has to be interpersonal, democratic and originating. Until the right type of police chief is selected, other improvements in the delivery of police services will not survive. It may be noted in passing that

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<sup>1</sup> B. GROSMAN, *POLICE COMMAND: DECISIONS AND DISCRETION* 4 (1975).

not infrequently lawyers serving on police commissions or city councils or as attorneys-general have a good deal to say on the selection of police chiefs.

Also worthy of mention is that the difficulties of selecting the right kind of police chief were dramatically illustrated in Calgary in 1972. Possibly for reasons of timing, the author did not include Calgary in his sample of cities. If he had, he might have concluded differently than he did<sup>2</sup> about the advantages and opportunities of an outside appointment. He might also have a different opinion on the capacity of the RCMP to provide persons with the needed leadership style, and on the need for decisive political leadership for introducing and sustaining modern police leadership. What makes the Calgary example more interesting is that the initial appointment for police chief was Charles Gain, whom Grosman implies<sup>3</sup> is the kind of police chief he has in mind. But the Calgary story would merit a case study on its own.

Once selected, the police chief finds his leadership problems in the areas of effective communications, bureaucratic inertia, recruitment, and continuing education of personnel. These are typical problems of large-scale organizations as the literature reveals. The difficulty, however, is that the police chief has a different production goal from a corporation president and thus cannot rely on the system of hierarchical supervision for ensuring quality control. The police are organized to deliver services, not products that can be inspected and corrected if defective. Once delivered, police services have to stand or fall on their level of quality. That level depends primarily on the competency of the policeman-on-the-beat in choosing how to use coercive sanctions and other methods in coping effectively with trouble on the spot. Thus, again, the point has to be made that a police chief has to deal with the atypical organizational problem of the inversion of competency. It is this difference that compounds his difficulty of successfully solving, according to the literature, the four typical organizational problems the author discusses at length.<sup>4</sup> These are problems caused or aggravated by large-scale organization. They are not the same, even when present, in a police force in a small town where face-to-face relations still exist. We have to assume that Regina did not differ from Toronto and Vancouver, or Winnipeg and Edmonton, in this connection. The author does not provide the valuable data he may have for making such comparative analysis, however.

The police chief, to be sure, has the general policy discretion. He is not simply a manager. He is finally responsible for allocating limited police resources for servicing the various areas of violent crimes, theft, fraud, gambling, traffic offences, drugs, prostitution, domestic disputes and the like. Also, middle management has important decisions to make, such as the radio dispatcher.<sup>5</sup> But these areas are typical organizational challenges, and they

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<sup>2</sup> *Id.* at 16-19.

<sup>3</sup> *Id.* at 13,112.

<sup>4</sup> *Id.* at 31-76.

<sup>5</sup> *Id.* at 81-82.

can be managed in accordance with familiar organizational theory, or the political process. It is still the policeman-on-the-beat who delivers police services in most instances, and so it is on the quality of his delivery that the success of the police organization has to be largely judged. What does the modern police chief do when most members of the force are authoritarian, aggressive and subservient, the very qualities least productive of informed, adaptive judgment for coping effectively with trouble on the spot?

This problem, more than any other, constitutes the real world of a police chief who wants to improve his organization. Grosman usefully discusses what a modern police chief should expect, and what he has to consider in ensuring his own survival. But the author stops short of the critical problem in organizational theory. After he has got better recruits, improved educational opportunities, allocated rewards according to contribution, changed the structure of promotions and job responsibilities to fit the new scheme, selected supervisors who will not feel threatened by educated younger policemen, after he has done all that—which is no mean accomplishment—what does the police chief do with the bulk of the force who joined up and played the game under the old rules and now see their status, work-style, promotional opportunities and perhaps even their jobs in jeopardy? How does he handle such “people problems” when the “human” solution to them is exactly what frustrates organizational effectiveness? Much more can now be said about Canadian experience on this critical problem in law enforcement by examining the Calgary experience since 1972 than the author was able to say at the time of his interviews.

But, even with new experience to add to Grosman's analysis, the larger problem of comprehending the process conceptually remains. Modern police leadership cannot function in a vacuum. It has to have an appropriate structure into which it can fit. Grosman is clear that the military (pyramidal) model has to be abandoned.<sup>6</sup> But what is to be put in its place? On this vital point, Grosman is unclear. On the one hand, Grosman favours a substantially altered semi-military model, which one assumes still has the pyramidal structure intact but within a more democratized, decentralized process. But, on the other hand, he approvingly discusses John Angell's theory of police leadership as like that of a hospital administrator.

This theory presupposes a more radical model for organizing resources in the delivery of services. The hospital administrator is not on top of a pyramid. A hospital, like a university or scientific community, is structured on the inversion of competency and positional authority. In a hospital, the quality of health services would be impaired unless medical professionals closest to the patient could countermand orders of their colleagues above them in the hierarchy.<sup>7</sup> Moreover, the hospital administrator,

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<sup>6</sup> *Id.* at 143.

<sup>7</sup> See P. DRUCKER, *MANAGEMENT: TASKS, RESPONSIBILITIES, PRACTISES* 564-65 (1974).

who may not be a medical professional, cannot legitimately interfere with professional judgment in the delivery of medical services, and therefore is more properly seen in a facilitative role in the centre of operations. In no sense is he a part of even the most altered semi-military model of organization.

Authority is decentralized in a hospital to protect the autonomy of judgment of medical professionals who are supposedly (but not really) at the bottom of the pyramid. Decentralizing authority in a business firm makes top management stronger in getting their policy choices carried out.<sup>8</sup> Which type of decentralization would be best for a police organization?

I do not raise this, or other problems, to criticize the author for failing to do more than he set out to do. That his lucid account of the real world of the police chief encourages the identification of problems that were not before widely seen is no unwelcome contribution. Nor is it unimportant that *Police Command* can help us better understand the difficulties of law enforcement as an integral part of the process of law.

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CANADIAN CONSTITUTIONAL LAW. By J. D. Whyte and W. R. Lederman. Toronto: Butterworth & Co. (Canada) Ltd., 1975. Pp XXIV, 808. \$42.50.

As Professors Whyte and Lederman declare in their Preface, this book is "primarily a teaching book, intended for study at the level at which the constitutional law of our country should be considered in Canadian law schools".<sup>1</sup> Taken in that perspective, their book is a very good one and constitutes a valuable contribution to the study of Canadian constitutional law.

The work is divided into three parts: the first part is entitled "General Considerations"; then in the second part the authors deal with the federal distribution of legislative powers by subjects; the last part relates to "Human Rights and Freedoms". This division is logical and follows the curricula in constitutional law of most Canadian law schools. Part II is the most extensive; this is normal since in a federal state the distribution of legislative powers is the core of constitutional law.

Obviously the work is not intended to be a treatise as the authors say in the Preface. Their ambition was to give an "up-to-date selection of what

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<sup>8</sup> *Id.* at 301-02.

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<sup>1</sup> J. D. WHYTE & W. R. LEDERMAN, CANADIAN CONSTITUTIONAL LAW vii (1975).