



ARCHIVED - Archiving Content

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

ARCHIVÉE - Contenu archivé

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.



Managing the Boundary Between Public and Private Policing

Malcolm K. Sparrow, Ph.D.

Executive Session on Policing and Public Safety

This is one in a series of papers that will be published as a result of the Executive Session on Policing and Public Safety.

Harvard's Executive Sessions are a convening of individuals of independent standing who take joint responsibility for rethinking and improving society's responses to an issue. Members are selected based on their experiences, their reputation for thoughtfulness and their potential for helping to disseminate the work of the Session.

In the early 1980s, an Executive Session on Policing helped resolve many law enforcement issues of the day. It produced a number of papers and concepts that revolutionized policing. Thirty years later, law enforcement has changed and NIJ and the Harvard Kennedy School are again collaborating to help resolve law enforcement issues of the day.

Learn more about the Executive Session on Policing and Public Safety at:

www.NIJ.gov, keywords "Executive Session Policing"

www.hks.harvard.edu, keywords "Executive Session Policing"

Introduction

The boundary between public and private policing is messy and complex. Police executives deal with some aspect of it almost every day. Private investments in security continue to expand and public/private partnerships of myriad types proliferate, even as budgets for public policing stall or decline.

This paper provides police executives an opportunity to explore the critical issues that arise at this boundary. The analysis here starts with a number of assumptions: First, that it is no longer possible for public police to ignore the extent and pervasiveness of private policing arrangements. Second, that being in some general sense "for" or "against" private security is not helpful, as such views are inadequately nuanced or sophisticated given the variety of issues at stake. Third, that the interests of private parties will rarely, if ever, be fully aligned with public interests. Fourth, that it is not sufficient for public police agencies simply to deal with the private security arrangements that exist today; rather, public police have a role to play in influencing future arrangements and in

making sure those arrangements serve the public interest.

For the purposes of this discussion, *private policing* is broadly construed and means the *provision of security or policing services other than by public servants in the normal course of their public duties.*

The *clients* for private policing may therefore be public (as with neighborhood patrols) or private (as when corporations contract with private security firms or employ their own security guards).

The *providers* of private policing may include:

- **Volunteers.** Private individuals acting as unpaid volunteers (e.g., neighborhood watch).
- **Commercial Security-Related Enterprises.** For-profit commercial enterprises that provide some aspect of security/policing services (e.g., security companies, hired guards, hired neighborhood patrols, private investigators, alarm companies).
- **Specialist Employees in Private or Not-for-Profit Organizations.** Employees who have specialist policing, security or risk-management roles within organizations whose core mission is something other than security. These personnel may be employed

by corporations as security officers, by a retail establishment as store detectives, by a private university as members of the university's own police department,¹ or by the owners of other commercial premises (e.g., shopping malls) as guards or patrols.

- **Non-specialist Employees in Private or Not-for-Profit Organizations.** Employees with more general duties who are nevertheless asked to pay attention to security issues (e.g., store clerks watching out for shoplifters, airline flight crews observing passengers for suspicious behaviors).
- **Public Police.** Circumstances in which public police are paid by private clients for specific services. In some situations, the officers are off duty or working overtime for a private purchaser (as with paid police details). In other cases, police officers are on duty but committed to a specific policing operation paid for at the agency level by a private client (e.g., policing a major sporting event).

Bayley and Shearing's NIJ-commissioned study (2001) described the plethora of structural permutations that were emerging around the world at the boundary between public and private policing.² They reported that the distinguishing features of the reconstruction of policing were "(a) the separation of those who authorize policing from those who do it and (b) the transference of both functions away from government."³

Many types of structure are now familiar. We see information-sharing networks straddling

the public and private sectors. We see subsets of public policing functions being contracted out to private industry. We see public police officers working for private clients under a variety of different arrangements. We see not-for-profit associations forming, with membership from public and private organizations, allied around some common security-related purpose. Public police also cooperate on a daily basis with security guards and patrols operating in privately owned or quasi-public spaces, such as shopping malls, industrial complexes, private universities or gated residential areas. Also — this is not so new, but nevertheless at the boundary of public/private policing — police routinely rely on private individuals, co-opted as confidential informants, to assist in their investigations.

Given the range of different structures, putting together reliable statistics on the overall “size” of private policing seems an almost impossible task, as any estimate will depend heavily on the definition of what is covered. One European study (2013)⁴ estimates an overall European ratio of 31.11 private security personnel per 10,000 inhabitants — only slightly lower than the public police ratio at 36.28 per 10,000 inhabitants. In the United States, the number of private security guards overtook the number of uniformed public law enforcement officers in the early 1980s, exceeded it by 50 percent by the late 1990s,⁵ and is now projected to grow from roughly 1 million in 2010 to 1.2 million by 2020.⁶ In Australia, the number of private security personnel outnumbered public police by 2006, and now the ratio could be as high as 2:1.⁷ In Israel, the ratio was between 2:1 and 3:1

20 years ago. Sklansky (2011) and others remark how difficult it is to generate valid estimates for the scale of private policing, and for a variety of reasons: Private police are hard to count, their organizations have a tendency toward secrecy, statistics tend to undercount employees who have some security functions, and calculations omit altogether the increasingly ubiquitous practice of public police engaging in private duty.⁸

Background

Skillful management of the relationships between public and private policing constitutes a core competency for police executives. Realizing this and accepting it, however, has taken the policing profession a good long while, and the route followed to arrive at this point varies by country.

In the United Kingdom, public police for decades steadfastly resisted any association with private security. Adam White (2010)⁹ provides a detailed history of private security in Britain from 1945 onward and reveals the decades-long obdurate refusal by the Home Office to recognize the industry. The emerging industry itself — comprising mostly large firms that provide guards and security patrols for commercial premises — wanted desperately to be regulated. Regulation would signal recognition and approval and might even provide governmental quality assurance for established firms, which they could use as a marketable stamp of approval. Establishing standards for qualification and conduct would help keep irresponsible or incompetent players out of the market, thereby enhancing the credibility and reputation of the established firms.

But the British government perceived commercial interests and private involvement as a threat to the essential “stateness” of security provision — a belief deeply embedded in British culture, as in the cultures of Canada and Australia.¹⁰ The concept of “stateness” reflects the view that only state (civic) institutions can be trusted to provide security while judiciously balancing the multiple and often conflicting rights of different groups or individuals. Any form of government recognition for the private industry could compromise or distort the public policing mission; and the government, even by playing the role of regulator, would be seen as taking responsibility for the conduct of an industry whose motivations and competence it regarded as inherently untrustworthy.

Things changed significantly during the Thatcher era (1979-1990).¹¹ Thatcherism emphasized the role of free markets and advocated privatization of state functions. A belief in the merits of privatization required a higher level of appreciation for the capabilities of the commercial sector and a greater degree of trust in the ability of competitive markets to sort out the good from the bad.

The “New Labour” philosophy¹² (1994-2010), espoused by Prime Ministers Tony Blair and Gordon Brown, carried forward many of the themes of Thatcherism, which endorsed market economics, deregulation and privatization. Public/private partnerships became all the rage as mechanisms for efficient and effective delivery

of public services, and so it became natural for government to embrace private security as partners in the fight against crime.

Thus ended the British government’s reluctance to engage constructively with the private security industry. For the London Olympics in 2012, the contract with G4S, at the time the world’s largest international security corporation, was so extensive that the “bungling” of the contract — when it became clear that G4S could not provide enough guards — became an international spectacle and led to the resignation of G4S Chief Executive Nick Buckles.¹³

According to White, the United States was never so concerned with “stateness” and always displayed a greater appreciation for the role of commercial enterprise.

... in the USA private security companies are able to act as ordinary commercial organizations selling ordinary commodities — their activities do not seem to be structured by state-centric expectations about how security ought to be delivered

... deeply embedded capitalist free-market ideology [...] seems to permeate most aspects of American life, including the domestic security sector. This ideological persuasion means that market signals in the American domestic security sector are not bound up with moral and normative considerations as they are in many other countries.¹⁴

Greater cultural acceptance of private policing does not mean, of course, that concerns do not arise. Concerns arise in the writings of legal, constitutional and democratic theorists seeking to clarify what societal aspirations the United States should hold, even if its history is different. Concerns arise as a result of failures, scandals and abuses in the industry, each instance of which provides another opportunity to appreciate the risks associated with private policing. Concerns arise when new technologies in the hands of private actors affect civil liberties or privacy in ways that ordinary citizens had not anticipated or imagined. Concerns arise as private policing continues to grow apace, becoming ubiquitous and touching the lives of ordinary citizens on a daily basis.¹⁵

Concerns that have arisen, and which have been discussed in the literature, include the unnecessary use of force, abuses of power, denial of access to public spaces, dishonest business practices, unequal access to security provision and weak accountability mechanisms for private agents.

Nevertheless, as Elizabeth Joh (2006) explains, prevailing official attitudes in the United States have portrayed such problems not as “fundamental faults inherent to private policing, but technical issues amenable to improved regulation.”¹⁶ Many of these criticisms, after all, are often directed at public police agencies also. But Joh, in her examination of private policing, expresses surprise at the superficial nature of the attention that concerns about private policing have received:

What is striking, however, is that even in embryonic form, these concerns hardly register in discussions about partnerships, which ... are typically presented with unalloyed enthusiasm.¹⁷

Other commentators point to subtle problems that relate very specifically to the character of private policing. Gary Marx, as long ago as 1987, pointed out the importance of *revolving door* effects:

The [private security] industry, particularly at the more professional and leadership levels, is composed of thousands of former military, national security, and domestic police agents for whom public service was a revolving door. Some federal agents leave when they face mandatory retirement at age 55. Many local police retire at a relatively early age after 20 years of service. However, limited mobility opportunities and more lucrative private-sector offers attract many others long before retirement.

These agents were schooled and experienced in the latest control techniques while working for government, but are now much less subject to its control. They may also maintain their informal ties to those still in public policing. An insurance company executive, in explaining the rationale behind hiring former police officers for investigative work, notes that if the latter cannot gain direct access to the needed information, “there are their friends.” This

“opens up the doors for us so we can work both sides of the street.”¹⁸

Marx referenced organizations such as the Association of Federal Investigators, the Society of Former Special Agents of the FBI, the Association of Retired Intelligence Officers, and the International Association of Chiefs of Police. He stated that such organizations may create “formal and informal networks that serve to integrate those in public and private enforcement,”¹⁹ and questions whether former government agents employed in an investigative capacity by private firms (whom one might normally expect to be better skilled and more publicly oriented than those with no public-sector experience) should in fact face *greater* restrictions and registration requirements as a result of the specialist knowledge and access they acquired through public service. They might know how to hide improper investigative techniques from discovery by public authorities. They might retain high levels of expertise in surveillance. Their “old boy networks” might provide improper access to information and intelligence.

At the leadership levels, private security firms may hire senior ex-FBI or Secret Service agents or former police chiefs as directors or as other senior executives. In part, no doubt, it is their skills and experience that these private firms value. But such appointments also serve to cloak the for-profit enterprise with a veneer of public-spiritedness as well as providing strong personal links into the law enforcement establishment.

Marx (1987) and more recently Sklansky (1999)²⁰ have examined another set of concerns related to the fact that private police agents, being constitutionally classed as citizens (unless officially deputized), can legally do things that public police cannot.²¹ For example, there is no constitutional protection against unreasonable search and seizure by private citizens. There is no requirement for private security agents to issue Miranda warnings. There are no exclusionary rules for evidence obtained through unauthorized searches or questioning conducted by private agents. These factors might heighten anxiety about private agents who could be highly skilled (such as ex-government agents) but subject to less stringent legal constraints and less effective oversight than their public service counterparts.

We might also worry, but in a rather different way, about private security agents who are untrained, unqualified, or unprofessional, or those who use unethical practices or excessive force. The affront to civilized society that the behavior of such agents provides may be less subtle and more visible to ordinary citizens. Law enforcement officials often complain about private police as “untrained, unprofessional, unregulated and unaccountable police wannabes that simply get in the way of ‘real police work’.”²²

Marx also raised concerns about the extensive deployment of police details for private clients:

During off-duty hours public police may serve as private police. ... In many big city departments such employment is a jealously

protected perquisite. Some departments in effect run private businesses out of headquarters. While operating on behalf of private interests they have all the powers of sworn agents and may even drive official patrol cars.²³

Within the United States at least, such concerns — subtle or otherwise — have never been sufficient to make any serious dent in the general enthusiasm for commercial private security. The industry grew rapidly beginning in the late 1960s. “Partnership” was established as the basis for interactions between public and private policing beginning in the 1970s.

Ethical issues raised are treated as peripheral concerns in the United States. The primary motivation is to control crime, now generally recognized as too extensive and complex to be dealt with by public police alone.²⁴ Governments have moved “beyond passive acceptance to active encouragement,” trusting that, for the sake of getting some more help, they can overcome the problems associated with the profit motive in commercial security.²⁵

Recent terrorist incidents illustrate and emphasize the importance of security collaboration across the public/private sector divide. Joh (2006) notes increased emphasis on public/private partnerships in the post-9/11 world, with contributions of private security guards regarded as essential components of critical national infrastructure protection.²⁶ In the wake of the Boston Marathon bombings in 2013, investigators made extensive and very

public use of video surveillance tapes provided by commercial entities (as well as photographs and video provided by members of the public) to identify and track suspects.²⁷

In 1976, a report on private policing commissioned by the Law Enforcement Assistance Administration declared “the sheer magnitude of crime in our society prevents the criminal justice system by itself from adequately controlling and preventing crime.”²⁸ Since then, Joh observes, the notion that private security could serve as “*equal partners* with the public police in the co-production of security, rather than simply as subordinates providing a complementary service” has gained prominence.²⁹ One could interpret this shift as reflecting a maturing of the ideals of community policing, wherein the police and the public (including private firms) work collaboratively to set the security and crime-control agenda and then to carry it out.

Bayley and Shearing (2001) also point to a more complex range of partnership arrangements that go beyond the outsourcing of specific police functions:

The change in policing cannot be understood in customary terms. It is often mischaracterized, for example, as “privatization.” Because the distinction between public and private domains becomes problematic in the new policing, the more appropriate description for what is occurring is “multilateralization.”³⁰

The Law Commission of Canada, in a 2013 report, likewise signals a deeper kind of symbiotic and networked set of relationships:

In the last several decades, we have seen the extraordinary growth of the private security sector, offering a wide range of services. However, it is not simply the case that private security is filling a void left by the public police. Today, it is more accurate to suggest that policing is carried out by a network of public police and private security that is often overlapping, complimentary [sic] and mutually supportive. Within this context, it is increasingly difficult to distinguish between public and private responsibilities.³¹

So private policing is here to stay, “warts and all.” It just needs to be managed. As Bayley and Shearing (2001) conclude:

It is important for governments to continue to safeguard justice, equity, and quality of service in the current restructuring of policing. To safeguard the public interest in policing, governments must develop the capacity to regulate, audit and facilitate the restructuring of policing.³²

Values at Stake

A body of literature discusses the pros and cons of a variety of private policing arrangements, and recounts the shifting attitudes of public police toward private security over time. Academic literature has focused slightly more on the cons, with particular emphasis on threats to

democratic governance, procedural protections, civil liberties and human rights.³³ By contrast, government inquiries and reports seem to accept the rise of private policing as inevitable and focus more on how public police should best exploit and manage the partnership opportunities presented.

Much of the debate as to *whether, why, and how much* society should worry about any specific private policing arrangement has focused on a finite number of core issues. It would take too long to trace these issues through all of the relevant literature, so this paper does not take on that task. I simply assert the claim (which others may dispute) that the major issues summarized in the table (presented as five categories of benefits to be derived from engagement with private policing, and seven categories of risks) cover the vast majority of such debate. Of the seven types of risk, the first five represent threats to society at large, and the last two represent risks that more specifically affect public police and police agencies.

Notice that number 3 on the “Benefits” side (Greater Equality in Protection) and number 5 on the “Risks” side (Greater Inequality in Protection) both refer to the issue of equity in access to security and the resulting effects on the level of protection for the poor and vulnerable. That argument can be made either way. Most often in the literature, however, growth in private policing is perceived as increasing inequity and thereby harming the poor. For example, a 2009 report commissioned by the International Peace Research Institute in Norway observes:

Potential Benefits and Risks of Public/Private Police Partnerships

Grounds for Support and Engagement (the Benefits)

- 1. Increased Effectiveness Through Public/Private Partnerships.** Collaboration between the public and private sectors enhances performance by sharing complementary skills, knowledge and resources. Partnerships facilitate information exchange and provide access to broader networks. All parties can benefit from properly functioning partnership arrangements.
- 2. Alignment With the Ideals of Community Policing.** Community policing is essentially collaborative and involves sacrificing a purely “professional agenda” in favor of one negotiated with the community. The community, which includes businesses, should be able to participate in setting the crime-control agenda and should be encouraged to participate in carrying it out.
- 3. Greater Equality in Protection.** The ability of the better off to protect themselves by purchasing private protection at their own expense allows the public police to concentrate their efforts on poorer and more vulnerable segments of the community. The overall effect, therefore, is to raise the floor in terms of levels of protection for the most vulnerable.
- 4. Access to Specialized Skills and Technical Resources.** The private sector can provide the public police with highly skilled and technical specialists that the public sector could not routinely employ. Collaboration with the private sector thus makes highly skilled and specialist resources available for public purposes.
- 5. Efficiencies Through Contracting Out.** Government operations should seek to exploit the efficiencies of private-sector competitive markets by contracting out any components of their operations that can be clearly specified and carved out, and for which competitive markets exist.

Grounds for Skepticism and Concern (the Risks)

- 1. Lack of Accountability.** Private police are not subject to the same formal and legal systems of accountability that govern public police agencies. Nevertheless, they may carry weapons, use force, detain suspects and intrude on the privacy and rights of individuals. They may discover crimes and choose not to inform public authorities. The exercise of policing powers without commensurate accountability is inherently dangerous to society.
- 2. Threats to Civil Liberties.** Many restrictions on the conduct of public police do not apply to private police (unless formally deputized by public agencies). For example, confessions extracted by private police without Miranda warnings and evidence obtained through unlawful searches conducted by private agents are not subject to exclusionary rules.
- 3. Loss of “Stateness.”** Policing services and security operations require judicious balancing of the multiple and often conflicting rights of different groups or individuals. Therefore, only state (“civic”) institutions can be trusted to reflect the broad societal values required to carry out such functions. The particular interests of private clients and the for-profit motivations of commercial providers will inevitably distort the public agenda to some extent.*
- 4. Threats to Public Safety.** Private police, who are not as well-trained as public police, may display poor judgment or overreact to situations, thus endangering public safety. Citizens may be confused about the status or rights of uniformed security personnel and may therefore act in ways that create danger for themselves or others.
- 5. Greater Inequality in Protection.** The growth of private security exacerbates inequality regarding citizens’ access to protection. Citizens will get the level of protection they can pay for. Those who are better off, and are able to purchase or enhance their own security, will reduce their commitment to public policing. Funding and support for public policing will suffer, which will ultimately result in lower levels of protection for the poorer and more vulnerable segments of society.
- 6. Reputational Concerns.** Inadequate performance or improper conduct by private security personnel may produce reputational or litigation risk for public police if the public police have formally recognized, qualified, trained, contracted, or in some other way recognized or validated the operations of private operators. Such operators should therefore be kept at arm’s length.
- 7. Threats to Police Jobs.** Increased availability of lower skilled and lower paid security jobs, coupled with the contracting out of some police tasks to the private sector, may undermine job security and limit career prospects for public police. Competition from the private sector is inherently unfair because of their tolerance for lower training standards and access to cheaper labor.

*The term “stateness” has been used by other commentators as an umbrella term to cover a broader range of public-interest concerns. Several of these concerns, including loss of equity in public security and loss of public accountability, appear as separate items on this list. This paper will hereafter use the “stateness” term to focus more narrowly on the importance of judicious balancing of competing interests and values.

One of the ironies of private security is that it is least affordable by the very neighbourhoods that tend to need it the most. ... [Private security thus] serves the interests of wealthy and ruling elites. ... Privatized enclaves are in a sense an abandonment of the public realm in security. They represent a 'secession of the successful' from the rest of society.³⁴

Four Scenarios

The Executive Session group discussed the subject of private security at our June 2013 meeting at Harvard, using hypothetical scenarios specially prepared to serve as the basis for discussion. These four *hypotheticals* illustrate common dilemmas and challenges that confront police executives, while avoiding the potential embarrassment that could arise from naming any particular police department or private organization. The chiefs of police present said that these hypotheticals were each perfectly plausible. In fact, several were eager to recount (under the Session's conditions of confidentiality) equivalent or similar situations from their own experience. It also became clear, as the discussion proceeded, that each scenario raised a different combination of benefits and risks to be recognized and managed.

These four scenarios are presented here, each on a single page. The set of four is also available as a stand-alone document³⁵ (without any commentary) for use in a training environment. Using these hypotheticals as a basis for classroom discussion would provide police executives an opportunity to think through the benefits and

risks that accompany various types of public/private engagement, and to practice using the specific decision sequence they would need to use in a real-life operational setting when similar situations arise. Such exercises might enhance or speed up issue recognition and diagnostic skills.

To speed up the analysis, an instructor may choose to provide students a copy of the table (which represents a summary listing of issues culled from the literature) to prime them regarding the various benefits and risks to look for. Alternatively, participants could be left to work out for themselves, from scratch, what the relevant concerns might be.

Decision Sequence

Public police examining any private policing arrangement, existing or proposed (and no matter how complex), might follow these basic steps:

Step 1. First, work out the potential benefits for the public. In particular, be clear where the interests of the private parties involved actually align with, and therefore could be expected to advance, the public interest. Look for the benefits listed in the table. Does the scheme bring more players, more technical expertise or increased resources to existing public purposes?

Step 2. Work out what the accompanying risks or threats are for the public. Look for the types of risk listed in the table. Be specific about the ways in which public interests and private interests diverge. Expect to discover that public/private alignment of interests can vary considerably

on different matters, even in the context of one specific partnership. Alignment can be good on some issues and bad on others at the same time, even between the same organizations.

Step 3. Work out what could be done through the actions or influence of public police (as well as through possible enhancements to regulation, oversight or accountability) to mitigate the specific risks identified in step 2.

Step 4. Weigh the benefits and risks, forming an opinion on whether the scheme, on balance, can be defended and promoted as being in the public interest.

Step 5. If it can, clarify the lines of argument that should be used to support the overall scheme as well as the actions required by public police to mitigate the accompanying risks. If it cannot, clarify the lines of argument that public police should use to oppose or resist it.

There is nothing particularly novel in this decision sequence, but it might help provide some structure for police executives when they

are thinking through complex situations of this type. (This five-step template could readily be used as “study questions” for group discussion of the hypothetical scenarios in a training environment.)

Note that this analytic sequence does not provide the kind of *bright line* that some officials wish to draw — a line that would neatly separate those functions that must always be public from those that can be private. The idea that public and private security provisions are already deeply intertwined and interdependent makes discovery or specification of such a line seem implausible.

Rather, this analytic route uses a different *bright line* — identifying, for any proposed interaction, the issues on which public and private interests will be well aligned; at the same time, carefully identifying the other issues where public and private interests will naturally be at odds. Deriving the benefits of alignment while dealing with areas of potential conflict goes right to the heart of the challenge of managing partnerships effectively.

SCENARIO 1**ELITE HOSTAGE RESCUE UNIT**

You are chief of police in a major U.S. city. The country's military budgets are shrinking, and many military units withdrawn from Afghanistan face demobilization. Members of an elite special-forces unit, formerly based in your jurisdiction, have set up a new commercial venture offering a range of security services. The company, SafeConduct, has established its headquarters adjacent to a local airstrip and operates two executive jets and two helicopters. It offers executive hostage rescue and security services for major international companies, working mostly abroad.

However, the company always has at least one "team" at home (i.e., not deployed abroad). The CEO of SafeConduct offers to provide armed containment and hostage rescue services for your department on a "time and materials" basis. Fees would be charged only upon deployment, and there would be no costs to the city for training or for maintaining readiness.

Readiness, he promises, is not an issue. SafeConduct could guarantee a team on site anywhere within your jurisdiction within 3 hours of notification. The company would provide its own communications system and would, for every deployment, provide a unit commander to act as liaison with police Incident Command.

All of its unit members have extensive operational experience in Afghanistan and elsewhere and are proud that they have not "lost a hostage" in their past 10 deployments.

Your own hostage rescue unit (a subunit within your SWAT team) spends two days per month training for this role, but has been deployed for hostage situations only four times in the past three years. (SWAT is deployed more often, of course, to deal with a broader range of incidents involving armed, or potentially armed, offenders.) None of the officers currently assigned to the hostage rescue unit has been involved in more than two actual hostage rescue operations.

A deal with SafeConduct would save the city substantial costs involved in training and maintaining your own hostage rescue capability. SafeConduct teams would participate in training exercises as required (likewise, on a time and materials basis). SafeConduct's CEO explains that he is prepared to offer these very favorable terms because, given the nature of the work his company does, he views good working relationships with law enforcement and security agencies as a critical strategic asset.

The CEO hands you a recent press clipping from England, which describes the four "tough tests" that the British Labour Party recently proposed for deciding which aspects of police work should be contracted out.³⁶ Any deal with private contractors should (1) represent value for money, (2) ensure security, (3) be transparent and accountable, and (4) foster public trust in the police service. He says he is confident that this proposal easily passes all four tests, especially considering the experience and skills of SafeConduct's personnel and the favorable financial terms he is offering.

DISCUSSION OF SCENARIO 1: ELITE HOSTAGE RESCUE UNIT

In the Executive Session discussion of scenario 1, the police chief officers present were troubled mostly by the issue of accountability, especially in relation to the use of potentially deadly force. If a public police agency deployed a private firm, the public agency would remain accountable for the operations of that firm. In complex and dangerous situations, it seems unlikely that the public agency could exercise effective command over the military unit. The need to exercise effective control would be particularly

acute in this case because use-of-force doctrines differ markedly between military operations and civilian law enforcement. Military units are more oriented toward the use of decisive force against enemies and less toward apprehending violators and achieving peaceful resolution. The police chiefs at the Executive Session were quite uncomfortable with the prospect of being accountable for something they felt they could not adequately control.

This scenario also raises questions regarding which parts of the policing function can reasonably be contracted out. The four criteria proposed by the British Labour Party are certainly relevant, but not sufficiently demanding. In contracting out policing functions, we also have to worry about “stateness.” Contracting out clearly definable tasks (such as servicing vehicles, monitoring alarm systems, or manning turnstiles at a sporting event) seems quite different from contracting out tasks that require careful balancing of competing interests, the exercise of judgment in determining the public interest, or the use of force against citizens. Having private contractors perform carefully circumscribed guard duties seems more obviously acceptable than having them deal with domestic violence calls or attend to neighborhood disputes.

Public agencies should contract out only those functions that pass all of the following tests:³⁷

- a. The services to be purchased are clearly definable and separable from other duties of the public agency.
- b. Unambiguous performance standards can be set, and the public agency has contract oversight staff qualified and capable of monitoring and enforcing those standards.
- c. A series of graduated sanctions can be applied to the contractor, through contract provisions, to correct any instances of poor performance. (This avoids the “all or nothing” trap when the agency’s only recourse is to take the difficult step of canceling a contract.)
- d. An efficient and competitive market exists for the services being purchased. (This guarantees value for money and prevents the agency from being stuck with an underperforming provider due to a lack of viable alternatives.)
- e. The market price for the services is lower than the cost to the agency of providing the services itself.
- f. “Stateness” is not an issue, as the service does not require the use of complex judgments about competing interests or the use of force against citizens.
- g. Profit motives, coupled with the contract pricing structure, will not produce perverse incentives.

(If such distortions seem likely, then item b above becomes of paramount importance in counteracting biased incentives.)

SafeConduct’s proposal fails to satisfy conditions b, d, and f. If SafeConduct’s elite unit is better trained and more experienced than agency personnel, it seems unlikely that clear performance standards could be established and maintained, especially during a high-intensity operation. In the absence of a competitive market, once the agency has disbanded its own hostage rescue unit, it may become too dependent on the one available supplier. Also, for the reasons discussed above, public police executives will not be comfortable being held accountable for something they cannot sufficiently control.

From the table, the most relevant risks for this scenario are (1) Lack of Accountability and (3) Loss of “Stateness.” The proposal could also pose risk (4) Threats to Public Safety, given the differences between military and civilian use-of-force doctrines.

The proposal brings benefits too, as it might produce (1) Increased Effectiveness Through Public/Private Partnerships, (4) Access to Specialized Skills and Technical Resources, and (5) Efficiencies Through Contracting Out.

Participants in the Executive Session discussion, even while they were unwilling to accept the proposal as offered, were eager to find a way to realize these benefits. (As one police chief commented, “I wouldn’t kick this one to the curb.”) They discussed possible variations of the proposal, such as buying training from SafeConduct and renting technical equipment, while ensuring that the use of force in operational settings remained the preserve of public police officers.

Given the infrequent nature of hostage situations and the highly specialized nature of the related training, participants were also keen to realize efficiencies of scale. To do that, they wanted to explore other mechanisms, such as the creation of regional consortia, shared services models spanning multiple jurisdictions, or even buying specialist services from a bigger police department close by — all mechanisms that would preserve the essential “stateness” when it came to the use of deadly force.

SCENARIO 2**NEIGHBORHOOD WATCH**

You are chief of police in a major U.S. city. The population of the city is racially diverse, but largely segregated at the neighborhood level. Your Community Outreach Program collaborates on a formal and frequent basis with 27 Neighborhood Watch Associations (NHWAs), which your Program Officers helped establish.

Your deputy chief, who is African-American, has an 11-year-old son, Jason. Jason has told his dad that he and all the other black kids in the Montvale neighborhood no longer dare walk through Compton — a predominantly white neighborhood — on their way to and from school. The quickest route from Montvale to the (newly integrated) school lies through three pedestrian walkways that pass underneath the highway separating the two neighborhoods. The Compton NHWA patrols apparently set up checkpoints close to these walkways and question any kids who pass by, sometimes asking them to open up their backpacks.

The Compton NHWA patrols openly carry weapons. The state has a “stand your ground” law. There have been no reports of violence or of the Compton patrols actually using physical force. But, clearly, the Montvale schoolchildren are intimidated, and many have chosen to use longer routes to school, adding at least 15 minutes to their journey each way.

Your senior management team has discussed the situation. Your general counsel advises that the neighborhood patrols, provided they do not use physical force, are merely acting as private citizens and

have not committed any offense. Also, they cannot be held accountable should their patrol patterns suggest racial bias because they are not public police and have not been formally deputized. Counsel advises the only legal remedy lies in civil lawsuits.

The captain in charge of the Community Outreach Program has discussed the situation with the Compton NHWA coordinator, who denies any racial bias and reports that focusing on schoolchildren passing through has eliminated a significant rash of late-afternoon domestic burglaries in the Compton neighborhood. Your Compstat director confirms this was a growing problem and that it evaporated over recent weeks.

In the wake of the Treyvon Martin tragedy, 20 of your 27 NHWAs have voluntarily agreed to stop carrying any weapons and to strictly limit their activities to an “observe and report” role. Your Deputy has suggested an urgent policy change, whereby the department would officially and publicly dissociate itself from any NHWAs that choose not to adopt this restriction.

While you are considering your options, you also learn from your public relations officer that the Montvale NHWA, incensed by the intimidation and humiliation their children have suffered, and who also openly carry weapons, are considering escorting their children through Compton in the mornings and afternoons. The city’s major newspapers want to know how your department plans to deal with the deteriorating situation.

DISCUSSION OF SCENARIO 2: NEIGHBORHOOD WATCH

The second scenario illustrates many of the dangers associated with vigilantism and aggressive neighborhood watch patrols. The literature on private policing and security clearly alerts us to these dangers.

In a 2013 article called “Watching the Watchers: The Growing Privatization of Criminal Law Enforcement and the Need for Limits on Neighborhood Watch Associations,” Sharon Finegan warns that

“... neighborhood watch members wield significant authority, but they lack the training and limitations to which police are subject.”³⁸ Finegan proposes statutory controls that would limit the ability of neighborhood watch members to confront suspects, mandate training, and expand exclusionary rules to bar the admission of evidence seized illegally by private citizens engaged in law enforcement activities.

But using regulation as the mechanism for protecting civil liberties might be fraught with difficulties, even if such legislation could ever pass. Neighborhood watch is often conducted by volunteers, many of them self-appointed or belonging to loosely formed informal networks. An “association” might not actually exist in any formal sense and would therefore be hard to control through regulatory oversight. Moreover, the introduction of stringent requirements might deter many volunteers. Hence, the only controls generally available might indeed be those pertaining to the conduct of ordinary citizens.

Finegan also points out that the procedural rules and law used to limit racial profiling by police do not extend to private security companies nor to ordinary citizens. Companies may train their staff to be unbiased, but such training is most unlikely to reach neighborhood watch groups.

Burdened by (and perhaps unaware of) their own individual biases, coupled with the lack of procedural safeguards or training, neighborhood watch members may act on their biases and target individual suspects on the basis of race or ethnicity. . . .

While more and more private actors are performing the tasks previously associated with police officers, constitutional safeguards have not been extended to the conduct of private actors.³⁹

In the scenario, several risks are clearly apparent. The relevant ones from the table are:

- 1. Lack of Accountability.** As the police department’s general counsel observes, the only forms of legal accountability — those pertaining to private citizens — are not adequate for governing the behavior of the neighborhood patrols.
- 2. Threats to Civil Liberties.** Armed patrols searching backpacks and intimidating schoolchildren to the point where they will choose circuitous detours rather than risk an encounter is clearly not acceptable.
- 3. Loss of “Stateness.”** We clearly cannot trust the neighborhood watch volunteers in Compton to balance the multiple and conflicting rights of different groups or individuals. They are totally focused on the security concerns of their own community and pay little heed to others’ rights or the importance of any broader public tranquility.
- 4. Threats to Public Safety.** The situation is deteriorating, and the treatment of the Montvale children by Compton patrols is producing genuine hostility between communities and could even lead to conflict between armed groups.
- 5. Reputational Concerns.** The police department, by virtue of its working collaboration with the neighborhood watch groups, becomes at least in part responsible for their conduct.

It is evident that this situation scores very heavily on the “Risk” side, triggering five of the seven major categories of concern. But it also shows some potential benefits, which may include increased effectiveness in crime control (Benefits: (1) Increased Effectiveness Through Public/Private Partnerships) and engagement of the community in setting the agenda and achieving results (Benefits: (2) Alignment With the Ideals of Community Policing).

Clearly, in this scenario the risks outweigh the benefits. But that does not necessarily mean that the police should automatically dissociate themselves from any patrol groups whose tactics seem unacceptable. They should not (like the general counsel) throw up their hands and say “we have no legal way to control them.” The police, by virtue of their relationship with these groups, can exert influence over them and use that influence to re-establish public priorities.

Police might emphasize with these groups, and with the broader public, that protecting *life and liberty* takes precedence over protecting property, and that to get any support from the police department, a group formed to protect a neighborhood should also take responsibility for preserving safety and protecting civil liberties within their neighborhood and for anyone passing through it. Otherwise, that group’s mission is inherently unbalanced and not sufficiently *public*. The police might even make it clear that they will intervene whenever the actions of a neighborhood watch group elevate one neighborhood’s concerns at the expense of a broader and more balanced public agenda, or endanger public safety through the exercise of poor judgment.

SCENARIO 3**STATE SAFETY ASSOCIATION**

You are chief of a U.S. state police department. The Governor's chief of staff calls to ask your opinion of a proposal that has been presented to the Governor by a consortium comprising three large security companies that, between them, share 80 percent of the private security industry revenues for the whole state. They propose to establish a State Safety Association as a vehicle for enhanced collaboration between the private security industry and public police. The Governor believes in the value and effectiveness of public/private partnerships and has championed their use in many areas of public policy.

Under the plan, members of the proposed State Safety Association would be able to:

- Send selected employees to various courses offered by the State Police Academy and have them certified by the academy as proficient in the relevant subjects.
- Publicly display the phrase "Member of the State Safety Association" on their insignia, documents and websites.
- Develop a deeper collaboration with the state police and other local police agencies in the form of threat-based intelligence-sharing networks.

Each company would pay a substantial annual fixed-fee subscription in the form of unrestricted revenue for your academy. Each would also pay variable fees per student/course attended by its staff, with fees set high enough to be an attractive financial proposition for the state. All the details, of course, remain open to negotiation.

All three members of the consortium have recruited retired senior police officers to sit on their governing boards or hold executive-level positions. The largest company hired your predecessor (former chief of state police), whom you know well, as its CEO. All three companies profess their commitment to public safety and their desire to make major and high-quality contributions to public security.

When the idea first surfaced, police unions were vehemently opposed. In a public statement, the Patrolman's Association President declared, "Corruption is defined as the abuse of public resources for private gain. Using the resources and staff of the State Police Academy to advantage private for-profit commercial companies fits the bill exactly. Such a deal would be blatantly corrupt."

Noting union opposition, the consortium members then offered to include the provision that each member company within the association would be obliged to offer paid details for off-duty state police officers at an aggregate level not to fall below 5,000 hours per year per company. "This would be valuable," a consortium spokesman said, "to guarantee the quality and depth of the relationship. The presence of public police officers on company projects will enhance the professionalism of our own staff and keep us focused on critical public purposes."

The Governor is eager to understand your views. Several other security companies have complained to the state's Commerce Department that this scheme would disadvantage smaller and newer players within the security industry and constitutes anti-competitive trade practice by the "big three."

DISCUSSION OF SCENARIO 3: STATE SAFETY ASSOCIATION

On its face, the proposal to create a State Safety Association may score some points in the "Benefits" column: (1) Increased Effectiveness Through Public/Private Partnerships, (2) Alignment With the Ideals of Community Policing, and possibly (4) Access to Specialized Skills and Technical Resources.

The specific benefits of the proposal are all rather obvious: better training for private security personnel, substantial financial support for a public training facility, enhanced information and intelligence sharing across the public/private divide, and the prospect of enhanced effectiveness through operational collaboration between public police and members of the association.

However, the proposition described threatens to seriously muddy the waters between public and private interests, and thereby presents some serious and rather subtle threats to the “stateness” of security provision (Risks: (3) Loss of Stateness).

All the risks associated with “revolving door” situations (discussed above) are evident. Public police executives might find their loyalties to old colleagues (now in corporate roles) in conflict with their public responsibilities. They may have trouble saying “no” when they should. Some police officials, contemplating their future prospects and potentially lucrative career options, might be tempted to grant favors or simply get too close to the commercial companies’ for-profit agendas.

This scenario also serves to remind police executives that large corporations are sophisticated when it comes to strategy. As one of the participants in the Executive Session commented,

... you can deal with the neighborhood watches ... you may be even able to deal with the business improvement districts and the universities you’ve got, but can you deal with these multi-billion dollar companies that are going to come in and offer you deals, and all the rest of it, and you really think you’re still in control?

Forming an association of the “big three” established firms and creating a substantial financial hurdle for entry (the requirement to provide an unrestricted subsidy to the police college) could well be designed as an anti-competitive strategy, a way of marginalizing or creating a disadvantage for newer and smaller companies. The use of insignia that signal the

government’s blessing creates significant reputational risk for those public agencies and public officials involved (Risks: (6) Reputational Concerns).

The union first cries foul, worried that private agents given the same training as public police could no longer be denigrated as poorly trained substitutes for real police (Risks: (7) Threats to Police Jobs). The union at first seizes the moral high ground (“this is corruption”), but is then placated when the corporations offer a bribe in the form a lucrative package of paid details for public police officers.

Perhaps the most worrying aspect of this proposal is that there seems to be no way out of the arrangement, no available exit. The corporations would have it so. The police college will become dependent on the corporate funding stream. The revolving door will keep turning. The lines between public and private purposes will become increasingly blurred. Also, when an important decision looms that finally reveals the misalignment between public and private interests, the public decision-makers may find themselves compromised, too deep in the muddied waters to be able to extract themselves and pursue a clear public agenda. This is how corruption in the public sector often begins.

Clarity regarding public policing purposes demands some reasonable distance between public and commercial agendas. It seems just fine, highly desirable in fact, for public agencies to engage with private organizations through partnerships governed by suitably crafted frameworks and protocols. But public police who become inextricably intertwined with commerce, as with this proposal, would seem to be asking for trouble in the long term.

SCENARIO 4**PRIVATE UNIVERSITY POLICE DEPARTMENT**

You are chief of police in a major city on the West Coast of the United States. The campus of a private university lies entirely within your city limits. The chief of the university police department (UPD) answers directly to the university's general counsel, who answers directly to the university president. The relationship between your department and the UPD has always been excellent.

Street robberies in the vicinity of the campus have increased significantly over the past three years. Many victims are university students. Attacks, many of them involving a weapon, have occurred both on and off campus. Students are routinely advised not to resist and to give up their possessions if confronted. Most of them do so, and robberies have involved few injuries and no fatalities. However, in one assault that occurred off campus, two female Chinese students were badly beaten with tire irons and are now hospitalized with serious injuries. Detectives have suggested that these particular students might not have understood what their attackers were asking for.

Your public relations officer has been fielding media inquiries about this particular attack. She asks for your advice because she has now been asked by her counterpart at the UPD to play down — or preferably not mention at all — that the victims were students at the university. The UPD press officer has stressed that there was really no link between the crime and the fact that these were university students, given the off-campus location where the attack occurred.

Your public relations officer shows you the latest annual Clery Act⁴⁰ report from the university. An appendix shows figures that clearly reveal an escalating trend in robberies and reported rapes over the past three years. But the text of the report fails to mention those phenomena and presents a reassuring picture of a safe environment with declining overall crime rates. Your public relations officer also shows you a recent article from a student-run newspaper, prompted by the trend in the rape figures. Student reporters had interviewed the university's general counsel, who said rates remained very low compared with national averages and that he believed the rise in the complaint rate was a direct result of a campaign run last year by the Student Welfare and Advisory Services, which encouraged sexual assault victims to come forward to university authorities.

Apparently, the university's admissions office has been getting more and more inquiries about campus safety from college advisors at feeder schools. Also, with the local economy in the doldrums, the university has been aggressively pursuing foreign enrollments, particularly from Asia, and would not want any publicity that directly linked the university with this recent and particularly vicious attack or with the escalating pattern of assaults and robberies in the vicinity. The college has just mailed its annual batch of admission offers and wants to avoid any adverse publicity, especially publicity that might reach China. Such adverse publicity could lower the yield⁴¹ on their offers.

DISCUSSION OF SCENARIO 4: PRIVATE UNIVERSITY POLICE DEPARTMENT

The fourth scenario provides a clear reminder that public and private interests can be well aligned with respect to some issues and very poorly aligned (even diametrically opposed) with respect to others. What that means, in practice, is that a specific public/private relationship (in this case, the relationship between the public police agency and the private university police department) might provide opportunities for fruitful collaboration (Benefits: (1) Increased Effectiveness Through Public/Private Partnerships and (2) Alignment

With the Ideals of Community Policing) at the same time as it may endanger the public interest when nonaligned public and private agendas become entangled (Risks: (3) Loss of "Stateness").

This occurs often in other regulatory domains, where a regulated industry's incentives align with public purposes in some areas but not in others. In civil aviation, for example, business interests and public interests align extremely closely on flight safety issues. A major plane crash is not only a human tragedy; it is

also a business catastrophe. Airlines, if held culpable for a crash, often end up going out of business, are taken over, or at least have to change their name. The business costs of a safety failure are enormous. Hence we see quite naturally, on safety issues, a rather close and collaborative working partnership between regulators and the regulated.

But what about consumer protection issues for airline passengers? Should we trust the airlines' private incentives with respect to practices such as aggressive ticket pricing, gouging consumers with excessive or unexpected baggage fees, imprisoning them too long in planes on the tarmac, endangering their long-term health by providing inadequate leg room⁴² or making it impossible or inconvenient for them to use their frequent flyer miles? On these and other consumer protection issues, the more the airlines can get away with, the more profitable they become.⁴³

Similarly, in banking regulation, the nature of the relationship between regulators and the regulated varies by the type of risk. *Prudential regulation* (ensuring the solvency of financial institutions) serves the long-term interests of the banks as well as the stability of the overall financial system. By contrast, on consumer protection issues (e.g., cheating customers, deceptive marketing, imposing excessive fees) the relationship is more naturally adversarial, as public and commercial interests diverge.

Considering the nature of the relationship between public and private police, Joh (2006) puts this beautifully:

... private police neither work under the direction of the public police, nor cooperate fully even when the public police would wish them to. Instead, private police managers cooperate with the public police when doing so serves their interests or, more specifically, their clients' interests. Thus, passive non-cooperation is also an important aspect of the relationship between the two groups.⁴⁴

When scenario 4 was discussed at the Executive Session, several of the police chiefs present guessed that this scenario had been fashioned based on the conduct of specific universities within their jurisdictions. In other words, the general features of this story (putting aside the precise details) seemed commonplace.

I would argue that the tensions described in this scenario will always be commonplace, simply because they are perfectly natural and therefore predictable. They still have to be managed, of course.

On issues of safety, both on and off campus, the interests of public police and the private interests of the university are almost perfectly aligned. Less crime is good for everybody, and public police and university police will therefore work quite well together toward that end. If they do disagree on crime control, the disagreements will more likely be about the suitability of means than about the desirability of ends.⁴⁵

But what about transparency regarding levels of crime? Here the interests diverge markedly. The public interest demands full and free disclosure, without any bias or editorial framing, so that members of the public — including students and prospective students — can know the risks, adjust their actions accordingly, and properly assess the performance of relevant policing agencies (both public and private).

But the university, particularly when trying to attract students, has a natural and strong interest in painting a rosy picture. University police may therefore be tempted to downplay, de-emphasize or even mask reality. That explains the need for federal legislation (the Clery Act, 1990) that governs the frequency and nature of disclosures regarding crimes on or near university campuses and involving university students. Regulation was *not* necessary to make the university care about safety, but regulation was required to make them care about transparency.

The lesson for public police is clear. You don't have *one* relationship with any private policing organization; you have *different* relationships with them on different issues. On some matters they are your natural ally, and interactions will be cordial and cooperative. On other issues, you must treat their motivations with suspicion, expect to see something less than full disclosure, and be prepared to intervene when they adopt tactics that endanger public safety, threaten civil liberties, or pursue private interests at the expense of the broader public good. There will always be some issues where their interests are diametrically opposed to the public interest. Public police need to be adept at recognizing those areas, be prepared to enforce compliance with regulatory requirements, and take it upon themselves to act in a way that will rebalance the public agenda.

Conclusion

Private security and private policing have become inescapable. It is no longer useful for public police to hang on to their own regrets about these trends, bemoan their loss of market share, or pretend that public/private partnerships cannot be useful. There are too many reasons to embrace the idea that private contributions can and should contribute to public purposes.

But that does not mean that the risks associated with private policing can be ignored. Grounds for concern remain. Our conclusion must surely be that each one of these grounds for concern, and in each situation in which they arise, represents *work to be done* by public police. The police profession should treat these concerns as policy and operational challenges to be managed rather than as grounds for disengagement.

As public police engage in partnerships and networked relationships involving private and not-for-profit organizations, they become less the *deliverers* of security and more the *orchestrators* of security provision. Public police need to understand clearly the motivations and capabilities of each contributor, develop an understanding of the whole system and what it provides, and do their utmost to make sure that overall provision of security squares with their public purpose.

As one Executive Session participant put it:

... public leadership requires you to be able to lead and manage public functions, both

with the operational capacity you've got and with the wider operational capacity you need. That's the test of public leadership ... if you keep wanting to only do policing through people who report to you, who you can discipline, and you can hire and fire, we're dead, we're never going to get the job done.

Taking responsibility for the overall provision includes taking responsibility for the distribution of protection across society. It is the responsibility of public police to monitor the quality of security in different neighborhoods, to find out who is well protected and who is not, and to find a way to address the deficits.

It is also the responsibility of public police to look ahead — to pay attention not just to the parts of traditional police function that they might lose, but also be prepared to explore new areas that public police have mostly left to the private sector. Law enforcement has engaged relatively little with identity fraud, financial fraud, health care fraud, other white collar crime and Internet-based crimes. Security threats, familiar and unfamiliar, will surely demand an expanded repertoire of collaborative arrangements.

It is my hope that this paper provides a clear framework that police executives can use to examine their interactions with private policing and to determine more readily how to maximize the benefits to society while minimizing the associated risks.

Endnotes

1. The police departments in many *state-run* (i.e., public) university systems have the same authority and training standards as public police and are accountable to public officials. Police departments in many *private* university settings answer directly to university administrators and are not formally accountable to any public official.
2. Bayley, David H., and Clifford D. Shearing, *The New Structure of Policing: Description, Conceptualization, and Research Agenda*, Monograph, Washington, DC: U.S. Department of Justice, National Institute of Justice, NCJ 187083, July 2001.
3. *Ibid.*, vii.
4. van Steden, Ronald, and Jaap de Waard, "Acting Like Chameleons: On the McDonaldization of Private Security," *Security Journal* 26 (2013): 294-309, published online, May 13, 2013, see table 1, which provides a country-by-country breakdown.
5. Sklansky, David A., "Private Policing and Human Rights," *Law & Ethics of Human Rights* 5 (1) (2011): 111-136, 114.
6. Stein, Chris, "As Cities Lay Off Police, Frustrated Neighborhoods Turn to Private Cops," *Christian Science Monitor* (April 5, 2013).
7. Sarre, Rick, and Tim Prenzler, *Private Security and Public Interest: Exploring Private Security Trends and Directions for Reform in the New Era of Plural Policing*, Report, Canberra, ACT: Australian Research Council, LP0669518, April 2011: 5, 14.
8. Sklansky, "Private Policing and Human Rights," 116.
9. White, Adam, *The Politics of Private Security: Regulation, Reform and Re-Legitimation*, Basingstoke, England: Palgrave MacMillan, 2010.
10. *Ibid.*, 181-182.
11. Margaret Thatcher was leader of the Conservative Party in the U.K. from 1975 to 1990 and Prime Minister from 1979 to 1990.
12. The "New Labour" philosophy was used as the British Labour Party's campaign platform from 1994 onward. With Tony Blair and Gordon Brown as Prime Ministers, the Labour Party held power from 1997 to 2010.
13. Chan, Szu Ping, and agencies, "Timeline: How G4S's Bungled Olympics Security Contract Unfolded," *Daily Telegraph*, May 21, 2014. Available online: <http://www.telegraph.co.uk/finance/newsbysector/supportservices/10070425/Timeline-how-G4Ss-bungled-Olympics-security-contract-unfolded.html>.
14. White, *The Politics of Private Security: Regulation, Reform and Re-Legitimation*, 182.
15. The Bureau of Labor Statistics projects the number of private security guards to grow by 19 percent from 1 million to 1.2 million by 2020. "Private Security Industry Poised for Highest

Growth Rate in Nine Years," *PRWeb*, March 14, 2012. Available online: <http://www.prweb.com/releases/2012/3/prweb9277026.htm>.

16. Joh, Elizabeth E., "The Forgotten Threat: Private Policing and the State," *Indiana Journal of Global Legal Studies* 13 (2) (2006): 357-389, 377.

17. *Ibid.*, 388.

18. Marx, Gary T., "The Interweaving of Public and Private Police Undercover Work," in C. Shearing and P. Stenning, *Private Policing*, Newbury Park, California: Sage Publications, 1987. Quotes attributed to Ghezzi, S., "A Private Network of Social Control: Insurance Investigation Units," *Social Problems* 30 (5) (1983): 521-531.

19. Marx, "The Interweaving of Public and Private Police Undercover Work," 5.

20. *Ibid.*, 7.

21. For a comprehensive study of the legal and constitutional issues surrounding the conduct of private police and various approaches to regulating their behavior, see Sklansky, David A., "The Private Police," *UCLA Law Review* 46 (4) (1999): 1165-1287, 1245-1246.

22. van Buuren, Jelle, and Monica den Boer, *A Report on the Ethical Issues Raised by the Increasing Role of Private Security Professionals in Security Analysis and Provision*, Oslo, Norway: International Peace Research Institute, December 2009, 51, citing Schneider, S., in "Privatizing Economic Crime Enforcement: Exploring the Role of Private Sector Investigative Agencies in

Combating Money Laundering," *Policing and Society* 16 (3) (2006): 285-312, 305.

23. Marx, at note 9.

24. van Buuren and den Boer, *A Report on the Ethical Issues Raised by the Increasing Role of Private Security Professionals in Security Analysis and Provision*, 51.

25. *Ibid.*, 51.

26. Joh, "The Forgotten Threat: Private Policing and the State," 388.

27. The same is true of the London Tube bombings in 2005.

28. U.S. National Advisory Committee on Criminal Justice Standards and Goals, *Report of the Task Force on Private Security*, Washington, DC: U.S. Department of Justice, 1976, 18.

29. Joh, Elizabeth E., "The Paradox of Private Policing," UC Davis Legal Studies Research Paper Series, University of California, Davis: School of Law, Research Paper 23, January 2009, 69.

30. Bayley and Shearing, *The New Structure of Policing: Description, Conceptualization, and Research Agenda*, vii.

31. Canadian discussion of the public/private interface has used terms such as "plural policing" and "the safety and security web" to describe collaborative contributions to a safe environment. See Law Commission of Canada, *In Search of Security: The Future of Policing in Canada*, Ottawa,

Ontario, Canada: Law Commission of Canada, 2013, xiii.

32. Bayley and Shearing, *The New Structure of Policing: Description, Conceptualization, and Research Agenda*, viii.

33. Sklansky provides a seminal discussion of the underlying legal issues. See Sklansky, David A., "The Private Police," *UCLA Law Review* 46 (4) (1999): 1165-1287, 1245-1246. For a discussion of the role that the language of human rights might play in discussions of private policing, see Sklansky, David A., "Private Policing and Human Rights," *Law & Ethics of Human Rights* 5 (1) (2011): 111-136.

34. van Buuren and den Boer, *A Report on the Ethical Issues Raised by the Increasing Role of Private Security Professionals in Security Analysis and Provision*, 31-32.

35. A single pdf file containing all four hypotheticals is downloadable from the Program in Criminal Justice website: http://www.hks.harvard.edu/programs/criminal_justice/research-publications/executive-sessions/executive-session-on-policing-and-public-safety-2008-2014/publications.

36. Ross, Tim, "Rush to Hire Private Companies for Public Policing 'Will be Halted,'" *The Telegraph*, October 3, 2012.

37. For detailed analysis of the factors influencing privatization decisions, see Donahue, John D., *The Privatization Decision: Public Ends, Private Means*, New York: Basic Books, 1989. Also,

Waldersee, Robert, and Michael Nest, "Corruption Risks in NSW Government Procurement: The Risk Management Challenge," *Keeping Good Companies* 64 (4) (May 2012): 207-211. This list is the author's own compilation, derived from a variety of sources and discussions on public-sector integrity and risk management.

38. Finegan, Sharon, "Watching the Watchers: The Growing Privatization of Criminal Law Enforcement and the Need for Limits on Neighborhood Watch Associations," *University of Massachusetts Law Review* 8 (1) (2013): 88-134.

39. *Ibid.*, 125, 130.

40. The Clery Act (1990) requires colleges and universities to publicly disclose campus crime rates on an annual basis and specifies precisely which crime types must be reported.

41. The proportion of students offered admission who subsequently accept the offer.

42. Cramped conditions on long flights exacerbate the risk of deep-vein thrombosis.

43. Reputational concerns, for reputable airlines, act to some degree (and only in competitive markets) to realign public and private interests with respect to consumer protection issues.

44. Joh, "The Forgotten Threat: Private Policing and the State," 386.

45. Disagreements about means often arise because the university is inclined to provide a protective and somewhat permissive

environment for students, and even tolerate or manage offending without recourse to law enforcement. University police can find themselves complicit in concealing offenses from the attention of public police agencies.

References

Bayley, David H., and Clifford D. Shearing. *The New Structure of Policing: Description, Conceptualization, and Research Agenda*. Monograph. Washington, DC: U.S. Department of Justice, National Institute of Justice, NCJ 187083, July 2001.

Joh, Elizabeth E. "The Forgotten Threat: Private Policing and the State." *Indiana Journal of Global Legal Studies* 13 (2) (2006): 357-389.

Marx, Gary T. "The Interweaving of Public and Private Police Undercover Work," in C. Shearing and P. Stenning, *Private Policing*. Newbury Park, California: Sage Publications, 1987.

Sklansky, David A. "The Private Police." *UCLA Law Review* 46 (4) (1999): 1165-1287.

Sklansky, David A. "Private Policing and Human Rights." *Law & Ethics of Human Rights* 5 (1) (2011): 111-136.

White, Adam. *The Politics of Private Security: Regulation, Reform and Re-Legitimation*. Basingstoke, England: Palgrave MacMillan, 2010.

Author Note

Malcolm K. Sparrow is professor of the Practice of Public Management at the John F. Kennedy School of Government at Harvard University. This bulletin was written for the Executive Session on Policing and Public Safety at the school.

The author acknowledges the valuable support of Anthony Bator in providing a literature search and research assistance. He also acknowledges the helpful feedback and suggestions of David Bayley, Christine Cole, Ed Davis, Thom Feucht and Darrel Stephens, based on earlier drafts.

Findings and conclusions in this publication are those of the authors and do not necessarily reflect the official position or policies of the U.S. Department of Justice.



MAILING LABEL AREA
(5" x 2") DO NOT PRINT THIS
AREA (INK NOR VARNISH)

Members of the Executive Session on Policing and Public Safety

Commissioner Anthony Batts, Baltimore Police Department

Professor David Bayley, Distinguished Professor (Emeritus), School of Criminal Justice, State University of New York at Albany

Professor Anthony Braga, Senior Research Fellow, Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, Harvard University; and Don M. Gottfredson Professor of Evidence-Based Criminology, School of Criminal Justice, Rutgers University

Chief Jane Castor, Tampa Police Department

Ms. Christine Cole (Facilitator), Executive Director, Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, Harvard University

Commissioner Edward Davis, Boston Police Department (retired)

Chief Michael Davis, Director, Public Safety Division, Northeastern University

Mr. Ronald Davis, Director, Office of Community Oriented Policing Services, United States Department of Justice

Ms. Madeline deLone, Executive Director, The Innocence Project

Dr. Richard Dudley, Clinical and Forensic Psychiatrist

Chief Edward Flynn, Milwaukee Police Department

Colonel Rick Fuentes, Superintendent, New Jersey State Police

District Attorney George Gascón, San Francisco District Attorney's Office

Mr. Gil Kerlikowske, Director, Office of National Drug Control Policy

Professor John H. Laub, Distinguished University Professor, Department of Criminology and Criminal Justice, College of Behavioral and Social Sciences, University of Maryland, and former Director of the National Institute of Justice

Chief Susan Manheimer, San Mateo Police Department

Superintendent Garry McCarthy, Chicago Police Department

Professor Tracey Meares, Walton Hale Hamilton Professor of Law, Yale Law School

Dr. Bernard K. Melekian, Director, Office of Community Oriented Policing Services (retired), United States Department of Justice

Ms. Sue Rahr, Director, Washington State Criminal Justice Training Commission

Commissioner Charles Ramsey, Philadelphia Police Department

Professor Greg Ridgeway, Associate Professor of Criminology, University of Pennsylvania, and former Acting Director, National Institute of Justice

Professor David Sklansky, Yosef Osheawich Professor of Law, University of California, Berkeley, School of Law

Mr. Sean Smoot, Director and Chief Legal Counsel, Police Benevolent and Protective Association of Illinois

Professor Malcolm Sparrow, Professor of Practice of Public Management, John F. Kennedy School of Government, Harvard University

Mr. Darrel Stephens, Executive Director, Major Cities Chiefs Association

Mr. Christopher Stone, President, Open Society Foundations

Mr. Richard Van Houten, President, Fort Worth Police Officers Association

Lieutenant Paul M. Weber, Los Angeles Police Department

Professor David Weisburd, Walter E. Meyer Professor of Law and Criminal Justice, Faculty of Law, The Hebrew University; and Distinguished Professor, Department of Criminology, Law and Society, George Mason University

Dr. Chuck Wexler, Executive Director, Police Executive Research Forum

Learn more about the Executive Session at:

www.NIJ.gov, keywords "Executive Session Policing"

www.hks.harvard.edu, keywords "Executive Session Policing"