

Unionism in Law Enforcement

Richard D. Carpenter

Abstract

The changing public climate in the 1960's and 1970's, in which challenges to authority became fashionable and the enactment of public sector bargaining laws, are chiefly what led to the evolution of collective bargaining by government employee associations. Other incentives for public sector employees to turn to collective bargaining were an expanding role of the government in societal affairs, increased educational levels by public employees, and race/gender discrimination.

Law enforcement officers today possess a variety of skills and knowledge. They have to act as social workers when called upon to quell family disputes. They have to administer emergency medical treatment to victims of violent crimes or traffic crashes, and they must be able to operate sophisticated equipment. At times they struggle physically with suspects refusing to be taken into custody, and it is imperative that they keep abreast of the ever-changing rules of criminal procedure.

The constant change, increasing demands for service, vicarious liability, and the increase of lawsuits being filed against individual officers have caused law enforcement officers to continue to seek refuge in bargaining organizations. This paper analyzes the reasons why law enforcement officers organize, and the impact of those organizations on law enforcement agencies.

Introduction/Overview

“Of the public sector process, no other facet has changed more dramatically than labor relations” (McPoil, 1995 p. 6). In most cases collective bargaining is viewed as an adversarial process characterized by conflict between the interests of management and organized employees. The term union normally has a bad connotation and is usually associated with the disagreeable practices of the Teamsters, strikes and organized crime.

“Police employee organizations have existed since the turn of the century” (Bent, 1988 p. 176). These organizations are diverse and have traditionally furnished representation to members for welfare benefits, better pay and better working conditions. “In general, employees consider that collective bargaining protects them against arbitrariness in personnel and managerial decisions” (Cayer, 1986 p. 155).

Police officers, through unions and collective bargaining have:

“... attempted to obtain a voice in departmental policy making, frequently in those areas traditionally reserved to management prerogative, such as discipline, manning and shift assignments. Many police officers have begun to emerge from a previously passive acceptance to use pressure tactics and occasional work stoppages to dramatize grievances and achieve employment goals” (Bowers, 1974 p. 7).

The demands of police unions and their members, if not met usually have negative consequences. Management must understand what unions are seeking for their members, and why police officers organize. “...Police Unions have become a force with which to be reckoned. They have ... plunged deeply into the labor relations process in an attempt to obtain the standard of living they desire and help mold an

improved profession” (Salerno, 1981 p. 17).

Because law enforcement is a public service and cannot usually be replaced by privatization, it is of interest to explore labor relations in the public safety sector, determine why these organizations were formed, determine what benefits police officers gain from union representation, determine if union issues affect services provided by law enforcement agencies, explore whether or not union activities and demands help or hinder police managers, and attempt to project the future of these unions.

Definitions

Collective bargaining is a multifaceted phenomenon that is usually defined in very simple terms. To labor, collective bargaining may be a tool used to win benefits and force changes in policy. To management, collective bargaining may be an alternative to expensive suits and job actions. While both of these definitions may be right, they are narrow in perspective.

As noted by Maddox (1975) the Taft-Hartley Act provided a legal definition of collective bargaining as follows:

To bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet and confer in good faith with respect to wages, hours and other terms and conditions of employment and the execution of a written contract incorporating any written agreement reached (p.4).

While this is sterile and bland, it offers a workable definition. According to Taft-Hartley, collective bargaining has three important components: 1) a mutual obligation on the part of labor and management to meet, 2) good faith bargaining on the part of both parties, and 3) the agreement must have a written contract to formalize the event.

Why Law Enforcement Officers Organize

Police Chiefs and Chief Executive Officers of departments have long been confounded as to why officers under their command choose to associate with an employee organization. Chiefs often take this association as a direct slap at them and feel threatened in their positions of power. Because chief executive officers normally serve at the pleasure of elected officials, some may be hesitant to be overly vocal or supportive of demands providing more benefits to the rank and file.

According to Maddox (1975) certain historical events have served as precedent setting phenomena with regard to police collective bargaining. The earliest precedents were negative, as they symbolized management’s inflexible position toward implementing any system of shared-decision making in the police service. Generally speaking, the clamor for collective bargaining is directly related to: 1) the rise of police employee organizations, 2) the plummeting social and economic status of officers, 3) increased hazards of the job, 4) the successful use of collective bargaining by workers in other career fields, 5) the enactment of federal and state legislation on collective bargaining, generally advocated by non-police employees (e.g., teachers, firemen, postal employees, etc.), and 6) the absence of normal channels of organizational communication through which policemen could communicate job-related proposals and grievances.

Simply stated, law enforcement officers usually join employee organizations for three reasons: 1) when they feel their safety, status or security appears to be threatened; 2) when they believe the organization can provide a needed service which no one else appears to be able to furnish; or 3) because employee organization membership is automatic and required in some departments.

Member Issues in Collective Bargaining

As with any issue, the most publicized often overshadow other important needs. Usually the dollar amount of economic benefits gains the spotlight as the high cost to a governing entity, and the drain on tax dollars. While economics is important, and the desire for officers to make the best living possible, there is also the need for benefits that make their job more secure and dignified. Law enforcement officers have concerns over job security, job protection, citizen apathy, social status, demands for due process, proposals for improved personnel practices and want to be more personally involved in decisions that affect them. A review of Appendix "A" provides a list of common issues brought to the bargaining table as noted by Bowers (1974). It has been 22 years since Bowers described these bargaining issues and the same issues are still addressed at the bargaining table today. With the changes in laws, management styles and department organizational structures, it is of interest to research whether unions in the public sector are still necessary and useful.

Methods

The goal of this research project is to analyze and gain a better understanding of why law enforcement officers organize, and the impact these organizations have on law enforcement agencies. Literature reviews provided a very detailed historical background presenting viewpoints of both the employee and the employer. The sources also provided insight into what issues are faced by labor and management at the bargaining table. This information is presented in Appendix A, B and E.

After becoming familiar with the available literature, information was obtained from the Florida Police Benevolent Association and the Fraternal Order of Police regarding membership, available benefits, services and agendas pertaining to legislative issues and the collective bargaining process. A telephone survey of 5 questions (Appendix D) was conducted with members of class four of the Florida Criminal Justice Executive Institute (FCJEI) Senior Leadership Program who are familiar with or are involved in collective bargaining issues, police chiefs of small, medium and large departments in Southeast Florida who have attended the FCJEI Chief Executive Seminar, and representatives of the Police Benevolent Association and the Fraternal Order of Police. (Appendix C). On the basis of anonymity, 30 sworn FHP officers were also asked to fill out the questionnaire. The purpose of the questionnaire was to obtain insight from a cross-section of those who represent labor and management, and determine if there has been any change in issues pertaining to police labor relations.

Results

The survey results indicated that law enforcement officers join bargaining unit organizations for the following reasons: 1) legal representation to protect their rights against the department as well as the citizenry they serve, 2) economic benefits, 3) job

security, 4) lack of communication within the agency, 5) lack of trust in management (tyrannical managers), and 6) the city or the chief is not responsive to the needs of officers.

When asked what benefits officers derive from bargaining unit representation, 78% felt that job protection by having union legal representation was the biggest benefit, 56% felt that uniformity in disciplinary matters was a derived benefit, and 33% advised that members felt they were able to obtain better economic benefits from this representation.

Of those surveyed 77% felt that the relationship between bargaining units and management is cooperative while 23% felt the relationship uncooperative. One hundred percent of those interviewed felt that unions had some type of impact on the operations of law enforcement agencies. Over 80% of those surveyed felt that bargaining units are here to stay and will continue to grow.

Discussion

Law enforcement has gone from an age of simplicity and has grown into a very complex business of more than 44,000 agencies and more than 500,000 officers nationwide (Salerno, 1981). With this growth, there has also been a growth in police employee organizations, some which have existed since the turn of the century. These organizations were affiliated with the organized labor movement of the early 1900's, and addressed matters of welfare benefits for their members, lobbied for higher pay and fulfilled social and fraternal needs of police officers. These organizations have not always been viewed kindly. According to Salerno (1981),

Aside from their original purpose of preserving the peace and apprehending law violators, the police were often used for other, less legitimate purposes in the past. In some areas, they were used as the muscular arm of corrupt political machines. All too often, police officers were utilized as strike breakers to wade through picket lines and disband lawful pickets with violent means, if necessary. This particular task has left an unsavory taste in the collective mouths of trade unionists to the extend that, even today, union leaders look upon police unions with disdain and suspicion. (p. viii)

The unproductive Boston Police Strike of 1919 also quelled police union organization efforts for several years. "Despite these setbacks, police during the post-1919 period continued to form local associations, many which were affiliated with larger state and national groups" (Bent, 1988 p.176). During the 1960's public hostility towards the police was manifested. This hostility took the form of riots and social unrest against the government, which pitted the police against the status quo and rival factions. Court decisions were enacted seemingly to restrict police discretion and power. Civilian complaint review boards were created, and a rising crime rate placed unprecedented demands on the police to solve this problem. The widespread incidence of civil disobedience provided a stimulus to law enforcement to rationalize the public's acceptance of these displays, and resort to pressure tactics of their own to support their own interests. These factors took police union activity from that of a submissive environment to one of intense activism. This was accomplished when benevolent and

fraternal associations, whose sole purpose was to provide a social outlet for those considered to be a breed apart, distinct from other groups, and isolated from the community, were restructured to adopt the behaviors and strategy of trade unions.

As society's values have changed, additional demands have been placed on law enforcement for service. "At one time, when life was relatively simple, a police officer had only to concern himself with apprehending suspected law violators and preserving the peace" (Salerno, 1981, p.vii). These days are gone. As noted by (Salerno, 1981), the police are the only governmental agency that operates 24 hours a day and 7 days a week. Because of this, all types of problems encountered by society have been "dumped" on them. This has put law enforcement in a precarious position, because these added duties and responsibilities have created a new found atmosphere of resentment and disrespect.

Today's police officers are younger, better educated, and more liberal minded. They are better trained, better equipped, more likely to challenge authority, and are less likely to be blindly loyal to the department. Moreover, they are impatient with dominance and unreasonableness, and more willing to engage in overt action in pursuit of their goals. These actions include, but are not limited to job actions, the "blue flu" or the threat of it, work slow downs (i.e., ticket writing), over enforcement of laws, and discretionary enforcement of laws.

The incidence of police unionization has served to solidify the attitude of law enforcement officers that they are craftsmen, professionals demanding that outside and inside influences do not interfere with their independence or the discharge of their occupational responsibilities. The organizations that have developed political strength, have the ability to negotiate with the political powers to be, as well as the administrators of their agencies. Juris and Feuille (1973) state that:

. . . because of municipal management's fragmented authority structure and political nature, the necessity for many employment conditions to be changed via the legislative, electoral, or judicial processes, and the lack of institutionalized collective-bargaining procedures in some cities, police unions cannot and do not rely on the institutionalized collective-bargaining procedure....police unions include lobbying, electoral politics, and other political activities among their self interest efforts. Thus, when analyzing police-union activities, it seems more accurate and appropriate to talk about police labor relations than limiting the analysis to police collective bargaining. (This concept is illustrated in Appendix E).

The traditional hierarchy and rigid structure of law enforcement agencies have been two of the main reasons that agency administrators and elected officials have openly resisted and opposed the concept of collective bargaining and "unionism". This same hierarchy and rigid structure is a major cause of employee dissatisfaction resulting in the emergence of employee organizations. According to Salerno (1981),

"The fear of losing control of a department to outside influences plays an important role in an administrators opposition to collective bargaining. They envision union leaders as tough talking thugs, bent on forcing their will upon the administrator, and willing to use whatever tactics or actions are necessary to achieve their aims. Actually, most police unions are local

in nature and controlled internally by members of the police department the union represents” (p.19).

Traditionally, management has taken the position that bargaining is detrimental to its ability to manage. There is no question that collective bargaining requires management to share its power to govern, and thus have less discretion. However, both labor and management can gain rewards from this process. Management learns its strengths and weaknesses, thus obtaining the education and resources necessary to prepare for negotiating and working with labor organizations. Employees have the opportunity to participate in the decision making process, and are more likely to be committed to the organization than when policy is dictated by management. Regardless of how positive the relationship between management and labor, employees have a need to participate in the process that affects their livelihood. Both sides are scrutinized in the bargaining process because the bargaining focuses on the process as a team effort, therefore, they both have to do a good job. According to Salerno (1981):

Police unions, as a rule, are not hell-bent on taking over the reins of a police department, nor are they necessarily intent on stripping away all the authority vested in a police chief or his ability to manage. Their primary goals are aimed at improving the individual lot of their members, while raising the overall quality of the service. Furthermore, the unions provide the employee with a sense of belong, an accomplishment that he often cannot get from a largely impersonal police department. They provide a much needed buffer between the officer and his chief and give him a voice to express his desires. The solidarity of a union gives strength to individuals who would ordinarily not have the knowledge or courage to speak their minds. They provide a platform from which the officer can reach out and attain his personal and collective goals. (pp. 38 - 39)

So what impact does or will collective bargaining have on an administrators ability to manage and run their department? A great deal depends upon the relationship between the chief and the rank-and-file, as well as working conditions and what the rank-and-file expects and demands from the department. It also depends upon the relationship between the chief and the bargaining unit. Law enforcement agencies are quasi-military institutions, with the chief being the supreme commander. In the past, chiefs have made all of the decisions concerning their departments, and decided what was good for the employees. These decisions were final, with little room for negotiation, and subject only to an occasional lawsuit or court order overruling some matter. Times have changed, and employees are no longer content to sit back and passively accept what is given or not given to them. “The level of intelligence and professional expertise amongst the rank and file of today’s police agencies is rapidly rising and the era of the dumb cop is coming to a close” (Salerno,1981 p. 46). This new breed of law enforcement officer has the desire and willingness to communicate, participate and play a role in matters that affect them and the department. Police administrators have to accept the labor relations process, as it is here and firmly ensconced. To openly oppose and resist organizations that represent members only creates friction and hard feelings and will give rise to militant-type tactics against the administration of a department. Collective bargaining has normally been viewed as an adversarial process.

As administrators of departments and employee organizations change and become more enlightened, this confrontational style appears to be changing and moving towards a more cooperative and participatory relationship. Progressive thinking administrators can utilize this process as a jointly-beneficial medium to improve the overall operations of a department. "An unreasonable administrator will spawn an unreasonable union" (Salerno, 1981 p. 46). Employees want to be heard and offer input into matters of concern and employee organizations provide them with a forum to speak their minds. Management does not have to accept any employee demands; however, effective communication between management and labor usually limits the type of demands from employees.

The collective bargaining process can be whatever labor and management want to make of it, and goes beyond the mere act of bargaining. It is an ongoing, day-in and day-out job, used to administer contract obligations, resolve grievances, and generate an atmosphere of harmony and teamwork. As noted by Juris (1973),

"Unions can impair efficiency in a strongly unionized department if they accelerate cost increases and if they insist on work rules and conditions that hinder the flexible use of management techniques. On the other hand, unions may improve program effectiveness by demanding that the organization be adequately staffed by pressing for equal levels of service or by insisting on a sound safety program." (p. 149)

In years past, union representatives would sit down with management and in a few hours work out a contract pertaining to salaries, benefits, hours and a few needs. Today, labor-management relations are complex and it takes days, weeks or months to reach any type of agreement. Issues addressed range from salaries, benefits and hours, to the disciplinary process, implementation of policies, the Americans With Disabilities Act, sexual harassment, drug testing, crime control strategies, community policing, and educational leave. According to Hays (1990), collective bargaining is often considered more an art than a science. The various dimensions of bargaining, as seen in Appendix B, are horizontal, vertical, internal and external. The horizontal relationship is one in which representatives from labor and management confront one another across the bargaining table and posture through a "laundry list" of demands and issues. (A list of these issues can be seen in Appendix A). The real bargaining however actually takes place vertically and internally. This requires much skill on the part of the representatives, as both sides have constituencies to represent which categorizes the bargaining team's relationship with those at the lower and higher level within the organizations. All of the constituents must be satisfied with the negotiations before a contract can be ratified. The external dimension of bargaining relates to community and special interest groups. Both of these groups are mindful of these contract negotiations, and how any ratifications could affect taxes or services. Both labor and management must be conscious of these groups and develop strategies to win public support for the agreement.

Today, taxpayers and consumers of public services strive to cut the cost of government. As government becomes less able to fulfill the economic demands of unions, law enforcement agency leaders may have to seek alternate sources to hire employees. In some cities, exorbitant demands of unions and city employees have forced them to disband their police departments and contract with county sheriff's

offices or private organizations to provide services to their communities. These contracts call for the servicing agency to absorb the costs of performing the service at an agreed upon monetary figure. If the contract is not fulfilled, the city merely negotiates with another entity to supply needed services. The future could call for contract negotiations with each individual officer based on department needs and what services the individual can supply. These contracts could be the same as in the private sector in that they are limited in duration and offer salary with no benefits, placing this burden on the individual. The cost savings to an agency could be significant and, for all practical purposes end the need for collective bargaining organizations.

The literature and discussions emphasized the need for both labor and management to enter discussions with an open, accepting attitude and be willing to compromise. This is not a win-lose game. Administrators and the members of their departments are still police officers, and neither should have to plead or fight with each other for what is needed.

Human resources are the most valuable commodity of any agency. It is imperative that chief executive officers understand the needs of their employees, and why they think they need assistance to gain what they feel they deserve.

Major Rick Carpenter has a law enforcement career of over 22 years which includes working both as a police officer and as a deputy sheriff before joining the Florida Highway Patrol in 1978. Currently the Commander of Troop L, covering Broward, Palm Beach, Martin, St. Lucie, Indian River, and Okechobee Counties, Rick has had assignments in Dade, Broward, and St. Johns Counties as well as at the Florida Highway Patrol Training Academy in Tallahassee. He is a graduate of the Florida State University and is currently enrolled in a graduate program at Florida Atlantic University. Married for 19 years, he lives in South Florida with his wife, Sandy and their two children.

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Appendix A

Issues in Police and Fire Fighter Negotiations*

I. Economic

A. Wages

1. Base rates
2. Shift differentials
3. Longevity pay
4. Overtime pay
5. Call in and call back pay
6. Pay for temporary service out of rank
7. Paid lunch hours
8. Court time pay
9. Uniform and cleaning allowance
10. Hardware allowance

B. Time off

1. Vacations
2. Holidays
3. Sick leave
4. Funeral leave
5. Personal leave

C. Education and training

1. Tuition and reimbursement
2. Bonus for credits completed
3. In-service training
4. Recruit training

D. Insurance

1. Medical/surgical
2. Life
3. False arrest

E. End of service

1. Pensions
2. Severance

II. Hours

A. Shifts

1. Length
2. Assignments
3. Substitution

- 4. Rotation
- B. Overtime
 - 1. Allocation of opportunities
 - 2. Rate and type of compensation
- III. Employee Organization
 - A. Union security
 - B. Dues check off
 - C. Time off for union business
 - D. Use of departmental facilities
 - E. Basis of steward representation
- IV. Seniority
 - A. Promotions
 - B. Vacancies
 - C. shift assignment
 - D. Overtime
 - E. Vacation time
 - F. Layoff and recall
- V. Discipline
 - A. Grievance procedure
 - B. Policeman's Bill of Rights
- VI. Working Conditions
 - A. Manning
 - B. Civilian employees
 - C. Safety
 - D. Moonlighting
- VII. Management Rights
- VIII. Strike Prohibition

*Bowers, M.H. (1974). Labor Relations in the Public Safety Services. Chicago, IL: International Personnel Management Association. (p. 36).

Appendix B

Dimensions of Bargaining
(Hays, 1990, p. 155)

Appendix C

Director Ron Bell, Melbourne Police Department (April 12, 1996).

Chief Robert Chalman, Lantana Police Department (May 10, 1996).

Chief James A. Gabbard, Vero Beach Police Department (May 7, 1996).

Sergeant Ernie George, West Palm Beach Police Department, Vice President for Services, Florida Police Benevolent Association (January 23, 1996).

Colonel Ronald H. Grimming, Director, Florida Highway Patrol (May 10, 1996)

Captain George G. Kinzler II, Cape Coral Police Department (April 12, 1996).

Captain Joseph D. Lyons, Stuart Police Department (January 23, 1996).

Director Lee McGehee, FDLE/Florida Criminal Justice Executive Institute (January 29, 1996).

Commander Robert C. Merchant, Jr., Altamonte Springs Police Department (January 23, 1996).

Chief Richard G. Overman, Delray Beach Police Department (January 30, 1996).

Chief Billy R. Riggs, West Palm Beach Police Department (April 17, 1996).

Trooper Michael Sheehan, Florida Highway Patrol, West Palm Beach, member of the Board of Directors, Florida Highway Patrol Chapter of the Florida Police Benevolent Association (January 25, 1996).

Chief Mitchell L. Tyre, Juno Beach Police Department (April 17, 1996).

Director Doyle Woods, Tallahassee Police Department (January 23, 1996).

Appendix "D"

Questionnaire – SLP-4 Research Project

Unionism In Law Enforcement

Name: _____ Rank: _____ Date: _____

Agency: _____ Bargaining Organization: _____

5. Why do law enforcement officers join employee bargaining units?

5. What benefits do law enforcement officers derive from bargaining unit representation?

5. What is the relationship between bargaining units and management?

5. Do bargaining unit activities affect law enforcement agency operations?

5. What is the future of law enforcement bargaining units?

Appendix E
Multi-Spectrum of Police Labor Relations
(Juris, 1973, p. 51)