

# THE BOSTON PHOENIX

## **A civilian force for change**

None of the proposals you've heard for ending police brutality will work. But there is an alternative

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By Harvey Silverglate

The news reports have been shocking, even to the most jaded New Yorkers. Justin Volpe, a 25-year-old white Brooklyn police officer, along with another officer, allegedly rammed a toilet plunger up the rectum of a Haitian immigrant in the bathroom of the infamous 70th Precinct station house while screaming racial slurs at him. If the allegations turn out to be true -- they have reportedly been corroborated (somewhat belatedly and reluctantly) by people present in the station house at the time -- it means that a sadistic psychosexual and physical attack was perpetrated by uniformed keepers of the peace while the victim's blood-curdling screams were ignored by dozens of police. Abner Louima, the alleged victim, faces months of surgery to repair what is left of his colon and bladder.

Now come the familiar calls for reform: investigation and prosecution; more blacks, and particularly Haitians, on the police force; a more powerful and responsive civilian police-review board; increased sensitivity training; and stepped-up programs to help the police and the community understand each other better. The problem is that even though some of these ideas may help, none of them gets to the heart of the issue.

Police brutality is a nationwide problem. No big-city police force -- not San Francisco's, not Chicago's, not Boston's -- is immune. It is also a cultural problem. The conditions in which police must operate breed an atmosphere of alienation and isolation from the mainstream, buttressed by the "blue code of silence." Break the isolation, and the problems will subside. The best way to do that is to inject a civilian presence into our police departments by offering college scholarships or vocational training to men and women who are willing to serve a two- or three-year term on a big-city police force, side by side with the lifetime professionals. It is time to send a message to police departments everywhere: we value your service, but we cannot tolerate brutality; we understand your frustrations and are prepared to take our place among

you -- helping, but at the same time watching. It is time for the police forces to institute the voluntary equivalent of a civilian draft.

When Amnesty International USA looked for an American city in which to study police problems, it selected New York. AI's June 1996 report, "Police Brutality and Excessive Force in the New York City Police Department," concluded that, notwithstanding a number of recent reforms, "there remains a serious problem of police brutality and excessive force which . . . needs to be urgently addressed." It went on to describe in detail more than 90 cases from the late 1980s to early 1996, noting that "allegations of police brutality have continued to rise."

Here in Boston, such complaints have been on the decrease in recent years. More-activist police chiefs, more-responsible mayors, and a change in attitude at the offices of the Suffolk district attorney and the state attorney general have all helped. Corruption and brutality are tolerated less than they were a decade ago. The police culture has changed in small but significant ways.

Still, as recently as 1992, Attorney General Scott Harshbarger had to ask a superior court judge to issue an injunction ordering 13 Boston police officers and a Boston University police officer to refrain from using excessive force in dealing with criminal suspects. And in March, the US Attorney's Office indicted two veteran Boston detectives, Walter F. Robinson Jr. and Kenneth Acerra, for terrorizing and stealing money and drugs from suspected drug dealers. (They have yet to be tried.) Boston Police Department higher-ups expressed surprise, but many other observers were not so shocked.

Nationwide, serious abuses have erupted on a regular basis, some (like the Rodney King case) sparking riots. But observers of police misconduct point out that less-heralded problems persist year in and year out. State affiliates of the American Civil Liberties Union complain that they receive far more requests for help with brutality cases than they can possibly handle. Some police departments are better than others, and sometimes things improve following a high-profile case or riot, but the problem remains a serious one across the country.

In some circles, brutality is explained away as a cost of doing business. The New York City police force, at Mayor Giuliani's insistence, has been much more aggressive in enforcing laws against minor crimes, such as loitering and disorderly conduct. Overall crime rates have dropped since this strategy was launched. But is excessive force a necessary byproduct of the vigorous policing that reduces crime?

Absolutely not. In Boston, for example, civilian complaints against police have dropped along with the crime rate. Indeed, analysts regularly credit improved community relations for the decrease in crime here. Fighting crime means fighting excessive force, not accepting it.

On the other hand, many people fail to understand the circumstances that can lead police to abuse their power. The police, after all, are society's designated front line in dealing with the worst that human nature produces. When they intervene, they are often turned upon by the criminals and sometimes even by the crime victims. They are expected to enforce absurd and counterproductive laws (the "war on drugs," for example, and the laws against gambling, consensual sodomy, and prostitution). And when they arrest people for truly antisocial conduct, their work is often lost in the canyons of an overwhelmed, underfunded, and archaic judicial system that is often a haven for political hacks.

It is no wonder that officers cast into this situation retreat into a shared subculture where resentment, self-protectiveness, cynicism, and an "us-versus-them" mentality take hold. This is the heart of the problem.

IN 1992, New York City formed the Mollen Commission in response to the latest round of revelations concerning corruption, perjury, and abuse within the ranks of the police department. After a two-year investigation, the commission concluded that institutional problems were responsible for the widespread patterns of abuse it uncovered. It found police perjury to be the single most serious and prevalent problem. It condemned a "do-nothing" Internal Affairs Bureau charged with investigating (or, more frequently, with whitewashing) reports of wrongdoing. It cited a core of officers who "are violent simply for the sake of violence," and an attitude "that far too often pits the police against the people they are sworn to serve."

The Mollen Commission's 1994 report recommended that an independent monitor oversee the department's internal handling of complaints of brutality, perjury, corruption, and other misconduct. That was never done, in part because Mayor Giuliani and the police opposed it. In fact, New York already had -- and still has -- a civilian review board. The problem is that, like most such boards scattered here and there around the country (Cambridge has one), it is a toothless tiger. Given the police code of silence, and the effectiveness of a coverup when fellow officers are the only witnesses to abuse, it has proven virtually impossible for review boards to get at the truth. Indeed, in no major city where there is such a board has the problem of police misconduct abated to any remarkable degree.

This does not mean that a truly independent civilian review board, with the power to subpoena witnesses and records and formally refer wayward officers to prosecutors and grand juries,

would not be helpful. But unless there is virtually incontrovertible medical evidence and enormous political pressure, it is very difficult for even an independent board to break through the blue wall. Even the most powerful investigative or prosecutorial agency is powerless when there are no reliable witnesses other than the abused citizen. In the Louima case, for example, it has been alleged that the victim was severely beaten on a deserted street before being arrested, then beaten again in the squad car on the way to the station house, all before being tortured at the precinct. Volpe and the other officers reportedly claimed that Louima had been injured during violent homosexual sex prior to his encounter with the police.

Other proposed solutions are as inadequate as the Mollen Commission's. New York Mayor Rudolph Giuliani has appointed a task force on police-community relations that is supposed to produce a curriculum and a set of guidelines to solve the problem. And Police Commissioner Howard Safir has insisted that every uniformed officer on the force be required to attend a sensitivity seminar on police-community relations. But the mind-control tactics of sensitivity training has not resolved ethnic conflicts on college campuses, and it has produced more derision than results in business settings; such techniques can hardly be expected to work on hardened police veterans.

Others are calling upon the US Department of Justice and its investigative arm, the Federal Bureau of Investigation, to step in. Where local officials' respect for law and the rights of citizens has utterly broken down -- in the Jim Crow South during the civil-rights era, for example, or in municipalities drowning in corruption -- this may be a necessary short-term option. However, the Justice Department has a questionable record when it comes to assuming local functions over the long term. Federal court intervention in segregated school systems has not been a notable success. Federal agencies have not proven particularly skillful at reforming corrupt labor unions; witness the current scandals within the Teamsters, after years of federal government supervision. Nor does the Justice Department's record of controlling bad apples within the FBI inspire confidence. And even if it were otherwise, one must ask whether it is wise to give the federal government quite so much power over local police functions -- something that the drafters of the Constitution explicitly avoided when they declined to create a national police force.

More than anything else, though, it is race that threatens to sidetrack the search for a real solution. Professional race lobbyists are already calling for the New York City police force to hire more blacks in general, and more Haitians in particular. Race and ethnicity are not, of course, irrelevant here. It is a universal truth that brutal people in positions of authority tend to reserve their cruelest treatment for those who seem most unlike themselves.

And yet decades of experience in the criminal-justice system show that race is not the real issue. Black and Hispanic cops inhale the culture of police violence as deeply as white officers do, and they've been known to beat up members of all races, including their own. (One look at the recent record of Haitian police officers in Haiti should tell us how promising the "diversity" solution really is.) Minority officers, too, know that their future can be threatened if they testify against other police (after the famed police whistle blower Frank Serpico landed many corrupt and brutal cops in prison, he was tormented by fellow officers and nearly got killed in a narcotics raid when he was intentionally exposed by members of the raiding party). If the current federal civil-rights inquiry focuses on race, it will miss the point.

In any event, the Louima case may prove to be poor soil for affirmative-action junkies to plant their proposals in. Officer Volpe, the chief defendant charged with brutalizing the Haitian victim, has reportedly been living with a black girlfriend for a couple of years. In the *New York Daily News*, she was quoted as saying that her boyfriend-in-blue is certainly not a racist: "Impossible. What color were our children going to be?"

The problem is not race. The problem is a police culture that has become hostile and alienated for reasons that are all too predictable.

In the early 1970s, I represented a seaman in a court martial in Boston. I was joined in my defense effort by a young lawyer who was doing a stint in the Judge Advocate General's Corps, which he had joined in part to avoid being drafted. After a particularly contentious day in court, when my JAGC colleague and I had subpoenaed the admiral, I stepped into an elevator that soon filled up with people. Suddenly, in stepped the admiral with two of his aides. Not seeing me crushed in the rear, he began complaining loudly about the young JAGC officers, calling them a "fifth column of civilians" who viewed themselves as "whistle blowers" rather than loyal comrades in the military mission. The admiral had it just right: the American military has always had a substantial civilian component, and this is part of what has kept us free.

That is what the police need. If civilian recruits were in the precinct houses and out on street duty, regular police officers would find it much more difficult to engage with impunity in corrupt and gratuitously violent behavior. After all, there would be witnesses to report such activity or to corroborate the testimony of the victims -- witnesses who would bring to their testimony the same enhanced credibility that normally attends a uniformed keeper of the peace, but who would not depend for their professional futures on the favor of their fellow officers.

The presence of ordinary citizens in blue uniforms could also undercut the destructive "us-versus-them" mentality. After all, some of "them" would in fact be "us," at least for a time.

Conversely, these citizen/officers would probably gain new respect for the tough job that police officers perform -- usually with admirable professionalism, and frequently with heroism as well. And if such recognition were to spread, police officers might feel less unappreciated and misunderstood.

For the recruits, the program would offer terrific training and experience. It would make it easier to pay for college. It would be an adventure. True, the permanent officers might resent the civilians; but as programs like Teach for America have shown, such tensions need not be deadly; they can even make a program more effective.

Those aren't the only potential benefits of a civilian police corps. It would be great PR for police departments. The temps would command lower salaries than seasoned veterans, even taking into account the cost of scholarships and vocational training. And it would introduce true diversity into police forces -- diversity of experience, of opinion, of culture.

It could be an interesting experiment. Of course, howls of protest could be expected from the leadership of the police unions, and probably from the higher-up officers as well. There would be bleating about exposing civilians to potential danger (even though the corps would be strictly voluntary). And people would be sure to protest that it's never been done before in any big-city police department.

That would probably be the best indication of all that it's worth trying.