

Bridging the Great Divide

Article

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Do Public / Private Partnerships Hold the Key to the Survival of Local Law Enforcement?

If a police officer employed by Pinkerton's Security showed up at your door to respond to a false burglar alarm or to remove the abandoned vehicle parked in front of your home, would it matter that they weren't employed by the City? This just may be the future of policing – a public / private collaborative effort that allows private companies to provide certain non-essential police services while more traditional, life-threatening crimes continue to be handled by public police officers.

Local governments are becoming increasingly more comfortable with outsourcing the delivery of non-essential city services to help reduce their operating budgets. In the near future, we may also see City and County Administrators looking to expand the private sector's role by tasking them to provide other, more critical services as well, capping government personnel costs and helping the economy by providing new jobs to the local community.

How will chiefs and sheriffs respond to outsourcing the delivery of these kinds of services? If the goal of public safety is to protect and serve their community, doesn't that require their services be offered in a fiscally prudent manner that allows critically short dollars to be freed from their budgets so they can be used elsewhere? Can the private

sector provide similar cost savings and operational efficiencies to public safety agencies that they've brought to other less critical government service agencies already?

Both federal budget deficits and a generally stagnant national economy have resulted in significantly reduced funding levels for local governments across the country. In California, this economic malaise is intensified by the long-term impact of Proposition 13, which constitutionally restricts state and local governments' ability to raise taxes or impose fees for services rendered. This has resulted in reduced municipal budgets, the involuntary furlough of government employees, and the massive borrowing of money to help bridge the gap from one fiscal cycle to another.

Further stressing the financial crisis with which so many cities and counties now find themselves struggling are the non-discretionary public safety personnel costs that have exploded over the past few years. Increases in health insurance premiums offered by CalPers, the largest municipal retirement system administrator in the United States, have exceeded 20 percent over each of the past three years. Recent retirement program enhancements approved by the California Legislature and adopted by many communities have resulted in massive cost increases being passed on to local public safety agencies, driving some municipalities to the brink of bankruptcy.

Cities like San Rafael California, a municipality of 56,000 people located in the heart of the San Francisco Bay Area, have struggled with budget cuts for each of the past three years. In Fiscal Year 2003-2004, the city (whose annual operating budget approaches

\$60 million) faced a deficit of \$2.1 million dollars¹. In Fiscal Year 2004-2005 that deficit rose to \$4.3 million,² and despite a two-week furlough for all city workers and a 5 percent reduction of salary for all department managers and executives, the city still projects a shortfall of more than \$3.1 million in the coming year.³ In spite of their earlier cost cutting measures, the city continues to face a mountain of potential debt and city officials recently reported, "...nothing but more money will prevent drastic cuts to such services as police, fire and street repair."⁴ But is that actually the case?

As local government budgets continue to shrink, some cities and counties have recently turned to outsourcing some or all of the work previously performed by municipal employees in an attempt to save money and continue funding basic services such as libraries, public health agencies, and police and fire departments. In Marin County California, one of the wealthiest communities in the nation, a recent report from the county's Civil Grand Jury urged County Supervisors to explore potential cost savings available to them by outsourcing healthcare service for the county jail's inmate population. The Grand Jury found the provision of healthcare for inmates in the Marin Jail, which has traditionally been provided by the County's Department of Health and

¹ "City of San Rafael Budget Presentation for 2003-2005 Budget Period," 19 May 2003 [on-line]; available from http://www.sanrafaelcityhall.org/budget/review/files/03-05_budget_presnetation_-_cm1.ppt#12; Internet; accessed 28 April 2005. Page 12

² "City of San Rafael Budget Presentation for 2003-2005 Budget Period," 19 May 2003 [on-line]; available from http://www.sanrafaelcityhall.org/budget/review/files/03-05_budget_presnetation_-_cm1.ppt#12; Internet; accessed 28 April 2005. Page 12

³ "The City of San Rafael is Facing Some Tough Choices," [on-line]; available from <http://cityofsanrafael.org/pdf/srtownmeeting1.pdf>; Internet; accessed 28 April 2005.

⁴ Tad Whitaker, "Public Gets Say About Possible Tax Hike" San Rafael (California) Marin Independent Journal, 12 May 2005

Human Services, was second only to San Francisco for cost in the nine Bay Area counties.⁵ Using public employees, Marin spends, on average, almost \$12,000 per inmate for jail healthcare. In neighboring Alameda County, the cost for similar care provided under private contract was just over \$4,000 per inmate. The Grand Jury concluded the County could save almost half of its annual budget for this function merely by contracting with one of several different vendors that specialize in the custodial healthcare field.⁶ This issue has prompted a full scale review to assess the impact of such a move, and action by Supervisors could transfer these duties in the near future.

The use of private sector contractors to perform non-essential government work has become, in some cases, quite pervasive. As local government becomes increasingly reliant upon the private sector to help reduce the cost of providing city services, police executives must consider the possibility they too might be asked to turn to the private sector to find cost efficiencies not otherwise available to them in the public sector service delivery model. When that happens, how prepared will they be to effect that change without undue turmoil or unnecessary organizational instability? How successful will they be in striking a balance between the often competing interests of their police labor unions, elected leadership, and tax paying constituents?

⁵ Marin County Civil Grand Jury Report, "Marin County Jail Healthcare; Plush and Expensive," 18 February 2005 [report on-line] available from http://www.co.marin.ca.us/depts/GJ/main/cvgrjr/2004gj/Marin_County_Jail_Healthcare_Plush_Expensive_FINAL.pdf; Internet; accessed 28 April 2005. Page 1 of 7

⁶ Marin County Civil Grand Jury Report, "Marin County Jail Healthcare; Plush and Expensive," 18 February 2005 [report on-line] available from http://www.co.marin.ca.us/depts/GJ/main/cvgrjr/2004gj/Marin_County_Jail_Healthcare_Plush_Expensive_FINAL.pdf; Internet; accessed 28 April 2005. Page 2 of 7

Historical Perspective

“One of the most important obligations of government is to protect peaceful citizens from criminal fraud and violence.”⁷ Local governments have historically relied upon municipal police departments or county sheriff’s offices to provide that protection to their citizens, but both have become increasingly expensive to operate. In the recent past, both have forced other city and county departments to compete for the limited financial resources that are available in today’s economy.

The existence of private police forces in the United States can be traced as far back as the early 1800’s. Perhaps the most famous of the early American private security providers was Pinkerton’s National Detective Agency.⁸ Founded by Allan Pinkerton in 1850 and specializing in the protection of railroad property, the company is best known for uncovering and foiling an early plot to assassinate President Abraham Lincoln. Pinkerton’s Inc. continues in business even today, some 150 years later, under the umbrella of the international private security giant, Securitas.

Throughout the 19th and 20th Centuries, private police forces continued to provide protective services to railroad companies. Between 1918 and 1920, railroad police

⁷ “For the Health of It: A New Look at Protecting the Public,” [on-line]; available from <http://www.mackinac.org>; Internet; accessed 25 August 2004

⁸ “Securitas - About our History,” [online], available from <http://www.pinkerton’s.com>; Internet; accessed 27 September 2004

averaged 60,000 arrests per year, with a 97% conviction rate, a record unmatched by public police forces.⁹ As late as 1992, major U.S. railroad companies employed 2,565 agents who were fully commissioned, but privately employed, law enforcement officers.¹⁰

Railroad police maintain a significantly higher case clearance rate of 30.9% than do their public police counterparts, who manage to solve only 21.4% of the cases they receive.¹¹ Property recovery rates in the private railroad police departments also outpace that of their municipal counterparts, although public police officers make an average of eight more arrests per year than do the private officers.¹²

In 1990, 1.5 million private police officers were employed in the United States, three times as many as those employed by public law enforcement agencies. Business, corporate, individual, and public agency expenditures made to private security firms that year totaled \$52 billion dollars, almost twice the amount collected in taxes for public police expenses.¹³ These statistics illustrate just how much various business communities and the American public have begun to rely on private police forces to secure their property and protect their employees, but with few exceptions, there has been

⁹ "Using the Private Sector to Deter Crime (2001)," [online]; available from: <http://www.ncpa.org/studies/s181/s181e.html>; Internet; accessed 25 August 2005

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

little movement toward outsourcing some or all of a city police department's operational responsibilities to a private contractor.

One exception was, however, the town of Sussex New Jersey. After a 1992 drug scandal resulted in the termination of four of its police officers, the community of 2,200 residents closed the department and contracted with Executive Security and Investigative Services Inc. to provide police services for the town.¹⁴ Shortly thereafter, State officials forced Sussex to discontinue the contract due to protests by police labor unions opposed to the private operation of a municipal police force. Even with only a two-month history of operations, Sussex saw significant savings in outsourcing their police work with no discernable drop in service to the community.

Future Potential of Private Police Forces

In spite of labor union opposition to the private operation of public law enforcement agencies, there are private police forces that have found a small niche in some U.S. cities today. Starett City, a Brooklyn apartment complex with 20,000 tenants, and the apartment complexes operated by the Flint Michigan Housing Commission are both patrolled by private police forces that operate independently of the public law enforcement agencies who maintain responsibility for policing the areas immediately surrounding those particular complexes.¹⁵

¹⁴ "Using the Private Sector to Deter Crime (2001)," [online]; available from: <http://www.ncpa.org/studies/s181/s181e.html>; Internet; accessed 25 August 2005

¹⁵ Ibid.

Prison facilities provide another example of the privatization of security services within the United States. Clear and convincing evidence from the United States and elsewhere shows that privatizing correctional facilities results in better public service at a lower cost than government operation can provide.¹⁶

In the 1980's, frustration over a perceived failure of the penal system to successfully rehabilitate offenders, a reluctance to provide more funding for correctional institutions, and an increasing demand for more jail space fueled a drive to contract out, in part or in whole, the operation of prison facilities.¹⁷ The federal government led the way in seeking private correctional opportunities, with both the Immigration and Naturalization Service and the U.S. Marshals Office negotiating small contracts with firms like Behavioral Systems Southwest and Eclectic Communications Inc.¹⁸ In 1984, the first private county correctional facilities opened in Hamilton County Tennessee and Bay County Florida. One year later, the Commonwealth of Kentucky became the first state to take advantage of the savings offered by the private prison industry¹⁹.

In 1987, the number of prisoners housed in private prison facilities worldwide totaled only 3,100. Just one year later, that number had risen to 132,000. In the United States

¹⁶ Private Prisons Succeed (2001), National Center for Policy Analysis, [online] available from <http://www.ncpa.org>, Internet; accessed 27 September 2004

¹⁷ James Austin and Garry Coventry, "Emerging Issues on Privatized Prisons", Bureau of Justice Administration, National Council on Crime and Delinquency, February 2001

¹⁸ "Private Prisons Succeed" (2001), National Center for Policy Analysis, [online] available from <http://www.ncpa.org/~ncpa/ba/ba191.html>; Internet; accessed 27 September 2004

¹⁹ Ibid.

today, there are 158 private prison facilities operating in 30 states, Puerto Rico, and the District of Columbia. The total revenue allocated to private prisons and jails is now at \$1 billion dollars.²⁰

Over the past twenty years, many benefits associated with the private operation of prison facilities have been found. Not a single private facility today operates under a consent decree or court order as a consequence of suits brought by prisoner plaintiffs. Private prisons have a higher rate of accreditation with the Commission on Accreditation for Corrections than do government facilities and construction costs for private prisons are 15 to 25 percent less than comparative projects built for county, state or federal systems. An argument can also be made that because the builders of private prisons build facilities to generate profit; their designs are substantially more efficient than those constructed by government subcontractors that are not concerned with the “bottom line.”²¹ One might pause to consider the cost savings to states and counties nationally if the construction and operation of all custody facilities were transferred to contractors dedicated to the effective and efficient management of jails and prisons.

²⁰ James Austin and Garry Coventry, “Emerging Issues on Privatized Prisons”, Bureau of Justice Administration, National Council on Crime and Delinquency, February 2001

²¹ “Private Prisons Succeed” (2001), National Center for Policy Analysis, [online] available from <http://www.ncpa.org/~ncpa/ba/ba191.html>; Internet; accessed 27 September 2004

The World Market

In March 2001, Security Australia predicted the world market for private contractual security services would grow 8.4 percent per year until 2004, at which time the estimated annual expenditures for private security would approach the \$100 billion threshold.²²

This estimate was made prior to the 9-11 terror attacks on the United States and the acceleration of public and private security efforts across the nation that followed.

An increasing reliance on private security companies has created a fundamental tension between those who argue the policing of public places is essentially the responsibility of the public police, and is to be undertaken in the “public interest” while the role of the private police is essentially confined to the protection of private property in the interests of its owners.²³ This tension exemplifies the fundamental conflict between the principles upon which public policing and private security personnel operate. While public police have a legislated duty to provide protection and law enforcement universally (or at least on the basis of the greatest need) private police usually focus on supplying risk protection selectively based on financial incentive.²⁴ It is in this inherent tension that creative law enforcement executives will find opportunity to create calm from chaos and adapt a strategy of a planned implementation of public / private collaboration and avoid the

²² Rick Sarre, “Private Police: The Future of Policing and the Broader Regulatory Framework”, Australian Institute of Criminology, (2002): Page 2

²³ Stenning, Philip, “Powers and Accountability of Private Police”, 12th Criminal Colloquium Proceedings, (2000),” [on-line]; available from: http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Police_and_internal/security.org; Internet; accessed 24 September 2004, Page 1 of 14

²⁴ Sarre, Rick and Prenzler, Tim, “The Relationship Between Police and Private Security”, The International Journal of Comparative and Applied Criminal Justice, (2000): Page 24

confusion and inefficiencies inherent in ad hoc programs that evolve based on need, not vision.

The pluralization between public and private police forces is gaining momentum and can only be expected to grow in light of the increased security needs resulting from the terror attacks of 9-11. “The growth in private security has been interpreted as reflecting an adaptive strategy in mixed market economies where government provision of services has not kept pace with public perceptions of an increased crime threat.”²⁵

This increased reliance on the private sector to enhance public security helps demonstrate the clear value of embarking on a defined public / private cooperative effort (PPCE). The greatest potential for providing responsive service at an affordable cost lies in the ability of public and private policing agencies to develop and sustain these kinds of cooperative relationships, but the difficulty inherent in these relationships is to create an environment in which the greater community good is the force that drives the resulting service delivery model and not the need to create profit.

So promising is the potential good that can result from a PPCE in today’s law enforcement environment that policing theorists are moving “...beyond the public/private

²⁵ Johnson, L., “The Politics of Private Policing”, *Political Quarterly*, (1992): Page 341-349

debate, preferring to review models of complementarity rather than engaging in an ideological dialectic.”²⁶

Brian Frost, a member of the Australia Pensioners and Superannuantes League, supports the idea of finding complimentary relationships between public and private police forces, writing “The great contemporary challenge confronting public safety is not primarily to decide whether privatization is a good thing. It is to find a way to shape and coordinate our resources and energies to secure the safety of those quarters of society that are least able to afford effective security, public or private. Wealthy communities can afford to take care of themselves both publicly and privately, and they do so. Poor people, especially minorities living in areas with the highest concentrations of crime, cannot.”²⁷

Where do we go from here?

In 1980, Hallcrest Systems Inc. was selected by the National Institute of Justice to conduct a 3-year, national study on the roles and resources of private security, as well as the nature, extent, and growth of security markets nationwide. The results of that study were published in a 1985 report entitled, “The Hallcrest Report”²⁸

²⁶ Rick Sarre, “Private Police: The Future of Policing and the Broader Regulatory Framework”, Australian Institute of Criminology, (2002): Page 2

²⁷ Frost, B. and Manning P.K, “The Privatization of Policing: Two Views”, Washington DC: Georgetown University Press, (1999) Page 40

²⁸ William C. Cunningham, John Strauchs, and Clifford W. Van Meter, “Private Security Trends 1970 – 2000”, (McLean, VA: Hallcrest Systems, 1990) Page 3

The Hallcrest Report found that gradually, from the early part of the century until the late 1970's, public police agencies assumed more and more non-crime related services such as assisting the mentally ill, policing the homeless, dealing with runaway children, and responding to abandoned vehicles and lost property calls. By the late 1970's, only about 20 percent of police workload was crime related.²⁹ Faced with ever-increasing calls for service, tighter budgets and few additional personnel, police administrators have sought ways to reduce the number of non-essential tasks their officers are asked to perform.³⁰ Most Police Departments have civilianized non-essential services as a means to minimize the workload of patrol officers; however, this traditional means of retaining control over "police" tasks may still be too costly. It seems logical, therefore, that some departments might be interested in transferring the responsibility for handling certain non-essential services to private security companies as well.

A national survey of law enforcement executives presented in the Hallcrest Report found significant interest in transferring several different job tasks to private police forces heretofore thought to be the purview of public police agencies alone. Responding to burglar alarms, conducting preliminary criminal investigations, supplementing crime reports and transporting arrestees were among the many tasks identified by law enforcement executives as having real potential for transfer to private police forces.³¹ In

²⁹ Eric Scott, "Calls for Service: Citizen Demand and the Initial Police Response", Workshop on Political Theory and Policy Analysis, Indiana University, (1981) Page 6

³⁰ William C. Cunningham, John Strauchs, and Clifford W. Van Meter, "Private Security Trends 1970 – 2000", (McLean, VA: Hallcrest Systems, 1990) Page 271

³¹ William C. Cunningham, John Strauchs, and Clifford W. Van Meter, "Private Security Trends 1970 – 2000", (McLean, VA: Hallcrest Systems, 1990) Page 272

addition, 40 percent of respondents also noted a number of other services that were candidates for privatization, including public building security, parking enforcement, animal control, traffic control, non-injury accident investigation, court security, prisoner transport and housing project patrol.³²

In Fremont California, a San Francisco Bay Area city of 208,000 people, recent budget woes have resulted in the loss of 52 police employees, 24 of whom were sworn police officers. As a result, the agency was forced to take a hard look at the types of calls to which it was responding in an effort to determine where to expend the limited patrol resources it had left. In 2004, the City's police officers responded to over 7,000 burglary alarm activations, eleven percent of its total calls for service that year. Of those 7,000 calls, 98 percent were determined to have been false or erroneous activations. Only 66 of those calls generated a police report and only 26 were reported burglaries. The department estimated over \$600,000 in staff time and equipment costs were expended responding to the 6,900 false alarms.³³

The City attempted to recoup the cost of responding to so many false alarm activations by proposing an ordinance that would fine an alarm company for each false alarm they reported to the police department. That ordinance was, however, successfully challenged by the alarm industry and the city was left to find other means of recovering or preventing the costs associated with this kind of non-essential police response. In

³² William C. Cunningham, John Strauchs, and Clifford W. Van Meter, "Private Security Trends 1970 – 2000", (McLean, VA: Hallcrest Systems, 1990) Page 272

³³ Fremont Police Department Press Release, "Letter to Alarm Permittee," [on-line]; available from http://fremontpolice.org/press/alarm_ltr.html; Internet; accessed 13 May 2005.

February 2005, the City instituted a program of “Verified Response” to all alarm calls, requiring an alarm company to verify an “unusual occurrence” at the location of the alarm before an officer would be dispatched to the scene. The only exception to that policy were the much less frequent panic, duress, or robbery alarms, which continued to be dispatched as priority calls.³⁴ Was this the only alternative available to the City of Fremont, or could the private security industry have offered yet another option through a PPCE?

The 1980 Hallcrest Report explored that very issue, stressing that crime-related law enforcement services are rooted in constitutional responsibilities and may be one of the few mandated functions that should not, or cannot, be contracted away. While contracting out government services does help reduce costs, contracts with private police forces for the provision of police services should be limited only to non-criminal, non-essential services.³⁵ These are the very types of services that plagued Fremont, and in fact significantly impact every other municipality across California as well.

A 1987 National Institute of Justice sponsored report entitled, “Public Policing – Privately Provided” also espoused the idea that only “support tasks” should be considered for contracting out to private police forces. The authors of that study, Marcia and Jan Chaiken, view as unrealistic and implausible the contracting out of total police services.³⁶

³⁴ Fremont Police Department Press Release, “Letter to Alarm Permittee,” [on-line]; available from http://fremontpolice.org/press/alarm_ltr.html; Internet; accessed 13 May 2005.

³⁵ Ibid.

³⁶ Marcia and Jan Chaiken, “Public Policing – Privately Provided”, National Institute of Justice, U.S. Department of Justice, June 1987, Page 3

The Hallcrest Report too found that neither law enforcement executives nor contract security executives want to see contracting of the total police function. Hallcrest did, however, find considerable interest among security companies to contract with law enforcement agencies for non-crime related support functions such as those identified by Fremont.³⁷

Making the Shift from Public to Private

Clearly, transitioning any segment of the traditional law enforcement mission away from local police departments and vesting it within a private security sub-contractor carries an enormous potential for uncertainty. Will these types of contracts erode employment protections now afforded to those employed in the public sector? How will this transfer of power impact the communities served? Will profit become the dominant motivating factor? What level of service can be expected from a private contractor? Will the greater good of the community be adequately served by a for-profit corporate partner who may have no direct ties to the given community?

The implementation of any plan to privatize the delivery of non-essential law enforcement services requires a careful and exhaustive study of the potential savings actually inherent to such an unprecedented move prior to any action being taken to go in this new direction. It is clear the most significant savings opportunities brought about by

³⁷ William C. Cunningham, John Strauchs, and Clifford W. Van Meter, "Private Security Trends 1970 – 2000", (McLean, VA: Hallcrest Systems, 1990) Page 274

any privatization effort would be the result of reduced costs associated with staff salary and benefits. In order to determine just how much savings can be enjoyed, those services subject to outside contract must first be critically identified, with an accurate estimation of just how much staff time will be freed up by transferring those services to a private contractor.

The pace of transition to the private sector must be slow and measured if success is to be found. Stakeholders must first be identified and then actively involved in the planning process, not just to learn of their specific concerns as it relates to a particular privatization effort, but so that they can carry back a message of anticipation and trust to their respective constituencies as well. An emphasis should be placed on creating a collaborative effort between multiple law enforcement jurisdictions within a given region and an identified contract vendor to help realize the economies of scale made available by contracting for services over a larger geographical area than a single jurisdiction is able to offer. Transition to a private sector contract might well involve only a single service function initially, with duties expanding in scope and complexity only as agencies and communities gain confidence in the new service delivery model.

Before a PPCE can be successfully implemented, it must be less expensive yet provide equal or better service levels than what is currently available from local government. The newly privatized service must reduce the amount of public funds expended to accomplish the given task, and the contractual relationship must provide sufficient flexibility to expand and reduce personnel based on actual need – almost impossible in the public

sector where civil service protections and cumbersome hiring processes make this kind of elasticity nearly impossible to achieve.

Conclusion

Advocating a move to the private sector is not without significant risk to the recommending official, but the benefits of such a move might be well worth the inherent danger. Policing is faced with carrying out a significantly different mission today than they were before the terror attacks of 9-11. Shrinking economies have forced city departments to compete for limited funding and to curtail certain non-essential services as a means of accomplishing their more critical societal roles. A progressive opportunity awaits local law enforcement leaders who choose to pioneer a PPCE to deliver police services as a means of minimizing costs without sacrificing quality or effectiveness. -

Chiefs and Sheriffs have previously recognized the potential efficiencies associated with transferring some non-essential police services to private sub-contractors. Since the mechanism for doing so has never been clearly defined, there is significant opportunity to create a system that adequately addresses the needs and concerns of union leaders, elected officials, community members and businesses alike.

Once implemented, evaluating the success of any proposed privatization effort is really quite simple. First, ask if government has become more efficient in providing critical safety services since certain non-essential services were offloaded to a private sector

provider? Second, is the contracted private sector company adequately delivering the non-essential services it agreed to provide in a cost effective manner that conforms to the contracted performance standards? And third, are political leaders, police officials and the community at large satisfied with the services being offered by both entities? If the answer to the above questions is “yes”, privatization can be viewed as a success. If the answer to any of the above is “no”, the flexibility resulting from a thoughtful PPCE will offer the ability to quickly re-evaluate and revise the contract relationship without the constraints and limitations inherent to other more traditional government based programs.

Clearly, privatizing even some of the services traditionally provided by local law enforcement carries significant risk, but properly thought out and correctly executed, bridging the great divide between the public and private sector offers tremendous opportunities both for improved efficiency *and* community satisfaction.