

# HOW THE CITY BEAT THE BLACKOUT



Wednesday, the thirteenth. It wasn't New York City's finest hour—not by a long shot. But once the looters had no more to take, once the worst of the fires were out, once light and running water were restored, many New Yorkers had much to be proud of. We had not just survived, after all; we had prevailed. From the volunteers who directed traffic at dangerous intersections, to firemen who stood on their station-house roofs to spot fires when the alarms failed, to restaurateurs who hauled tables out onto sidewalks and turned their neighborhoods into impromptu street festivals, many New Yorkers were at their best during the crisis. And it is this spirit that we celebrate on the next eight pages: The heroes—cops who stayed calm, made their arrests, and held their fire. The powers-that-be and the Monday-morning quarterbacks who have some ideas on how New York could have turned the blackout into a triumph. Some of us were unprepared—including Con Ed's Charles Luce. Others were ready for action—including the looters. And for next time, if there is one, we offer some practical suggestions on coping. Live and learn. And flourish.



# WHY THE COPS DIDN'T SHOOT

By Thomas Plate

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**Body count:** Crushed mannequins litter a clothing store on Broadway near 99th Street.

**Gate crashers:** Looters pry up a gate at Broadway and Ralph Avenue, Brooklyn.

**Dazed:** The owner of Comfortable Shoes on Amsterdam puts shoes back on racks.

“...The relative restraint of our police during the blackout was no accident of history. It was the direct consequence of history...”

In the aftermath of the Con Ed-inspired looters' war, there was some ringing applause for the New York Police Department's response to the crisis—only two civilians killed, no police fatalities, no wider rioting, more than 3,800 arrests. But there were also quite a few Bronx cheers—most loudly from community leaders in the worst-hit areas and from some enterprising politicians who took the position that National Guard troops should have been brought in. The *New York Post*, as if disappointed at NYPD's failure to produce a more grisly body count, took to task Police Commissioner Codd's “absurd order to go slowly . . . as the mobs ran wild.”

But the relative restraint of our police in this instance was—for better or for worse—no accident of history. More to the point, it was the direct consequence of history. It wasn't many years ago that severe urban riots were regularly jolting American cities; when the lightning hit cities like Los Angeles, Detroit, and Newark, the nation was electrified with fear.

In 1968 not long after the Detroit riots, the so-called National Riot Commission issued an astonishing report. It claimed that police heavy-handedness in the ghettos had made matters much worse. (Some observers argued an even more startling point: Hot-blooded and empty-headed cops were actually a major cause of the

disorders, creating so-called “police riots.”)

Oddly enough, the city with the largest, most Calcutta-like ghetto in the country suffered nothing so terrible as a Watts or a Detroit. Was New York just lucky? Or should we have tipped our hats in the direction of our local gendarmerie?

Maybe. For whatever its other faults, top management of the NYPD has seemed consistently on top of the ghetto-policing issue and the use of firearms. In the early seventies especially, management understood that a clear, well-thought-out policy was far preferable to a random throw of the dice every time there was trouble. By early 1972, the Firearms Discharge Review Board was set up, and it was a high-level big deal. Its job was to develop a fully explicit policy concerning the use of firearms in all situations, and that policy—Temporary Order of Procedure 237, August 18, 1972—was sent down through the ranks from the office of the chief inspector—then, interestingly, Michael Codd. The temporary order was only a two-page document, but, as things turned out, it marked a sort of watershed in the modern history of the NYPD.

More or less in the same era, other aspects of the problem were firmed up: Training was emphasized anew. Officers were given crowd-control schooling at the Police Academy; others underwent a hostage training seminar (now held at Floyd Bennett Field). And all officers were required to show

up for periodic marksmanship and tactical schooling (*when* to shoot—and *when not* to—as well as *how*). In retrospect, of course, none of this seemed too much to ask, and perhaps the new regulations were not so much innovative as they represented a new intensity in the NYPD. The annual marksmanship requirement had existed for years, for instance, but it had not been uncommon for officers, especially *superior* officers, to play hooky (often by the mere expedient of pressing a friend to sign the register for them). It was a very messy, unprofessional, halfhearted, half-joking near farce.

But more than a change in atmosphere was involved: For, in effect, the department evolved a position on the use of firearms that put tougher restrictions on its officers than even the state penal law. Explains Deputy Commissioner Philip Michael: “The department's requirement is that officers exhaust all other means *before* resorting to the use of the gun. Our rule is that maximum professional judgment be used, compared to the *carte blanche* of the state law.” For instance, under the state code it is not illegal for a police officer to fire at a fleeing vehicle whose driver is resisting arrest, but under NYPD rules and regulations, the officer may fire at a fleeing vehicle only if shots have been fired at him.

The department seems to be serious about enforcing its own restrictions. It requires that every shooting incident be automatically referred to the department's Firearms Discharge Review

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## “...‘Many disturbances begin with police incidents,’ wrote the Kerner Commission in its report on the Watts riots of 1965...”

Board. The results of this elaborate, restrictive system, it believes, are worthwhile. Says Deputy Police Commissioner Frank McLoughlin, “To put matters quite bluntly, we’re shooting less . . . and hitting more.” According to figures compiled by the department, there has been a substantial decrease since 1972 in both the gross number of “firearm discharge incidents” and the gross number of “perpetrators killed” by gunshot at the hands of members of the department. In 1973, 54 “perpetrators” were killed; in 1974, 43; and in 1975, 42. Last year, the number of corpses dropped to 27. At the same time, the number of shooting incidents dropped. In 1973, there was a decrease of 29.5 percent in “firearms discharge incidents” over the previous year. In 1974, the decrease was 15.46 percent. In 1975, it was a 6.59 percent drop, and last year the decrease was 14.8 percent. If all these figures are accurate, they make an impressive case for continuing police restraint.

It is entirely possible that with a perhaps freer attitude toward firearms, New York’s police officers could have made more of an impact than they did on the orgy of looting during the blackout. After all, other departments outside New York practically shoot first and ask questions later—this is not written in the official orders, of course, but is understood by all concerned to be standard operating procedure. Occasionally, however, a police chief will make no bones about the policy. According to reports out of Johnstown, Pennsylvania, last week, police were actually ordered to shoot looters who materialized in the wake of the flood. But in the NYPD’s view, a safety-catch-off policy isn’t appropriate in the density of New York’s vertical ghettos.

“If we hadn’t adhered to established procedures, if we had let the men shoot at looters at will,” Commissioner Codd explained, “you would have had dead people littering the streets. A lot of dead people.” At the same time, Codd says, the NYPD’s posture in the looted streets was no pussycat’s: More than 3,800 arrests were made during the Con Ed-created rioting, more than during any other civil disorder in memory in New York, and far more arrests than the rest of the criminal-justice community could absorb. And, Codd adds, the available evidence indicates that the cops were hardly sweeping up innocent “virgins”: Perhaps as many as 80 percent of those arrested, ac-

ording to the state’s Division of Criminal Justice Services, had prior police records. So how bad a job could the cops have been doing?

But could the cops have done more by perhaps shooting more? The argument is awfully tricky. At the time the lights went out, there were only 2,500 cops on duty (the four-to-midnight platoon). It was not widely reported, but not only were the cops in those neighborhoods the real numerical minority group, they were also often utterly immobilized by flat tires from the tin cans and broken glass strewn on the streets. If the police had opened fire under such circumstances, one wonders how many of the bodies lying in the streets would have been wearing blue.

Says Patrick V. Murphy, now president of the Police Foundation in Washington, “Shooting may seem like a simple answer, but it’s not. The police

are terribly outnumbered in these situations. To open fire as a way of stopping the looting is not only morally questionable, it’s also tactically ineffective.” Murphy makes another, more ominous point: “There are a tremendous number of handguns floating around in New York. The cops aren’t the only ones armed. If the police start shooting indiscriminately, you quite possibly could trigger something like an urban shoot-out.” Like a Watts.

Subsequent analysis of the 1965 Watts riot showed that law-enforcement tactics may as much as anything else have contributed to the bloodshed. One tactic seemed to have been a particular irritant to ghetto residents. The National Guard, practicing an occupation-army brand of policing, set up roadblocks all over Watts, creating little Fort Alamos. As stationary targets, they were a visible, macho challenge to rioters. Before long, they were



Unfurnished room: On Thursday afternoon, a cop stands guard near a handcuffed looter caught



a convenient focus of the fury. The postmortem by the Kerner Commission (National Advisory Commission on Civil Disorders) made exactly this point in its report:

Many disturbances begin with police incidents. . . Some activities of even the most professional police department may heighten the tension and enhance the potential for civil disorder. . . . Characteristically, they [the ghetto youth] are not only hostile but eager to demonstrate their own masculinity and courage. Police therefore are often subject to taunts and provocations, testing their self-control. . . .

In the Con Ed-triggered looting, the NYPD seems, from all accounts, to have avoided such pitfalls. All through Bushwick, Flatbush, Harlem, and the South Bronx, the policy was to sweep, to arrest, to keep moving, to keep the street people moving. Of the two blackout-related deaths, neither was attributable to the cops. In one instance, a pharmacist shot an intruder with his own weapon in the

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caught at a stripped-bare furniture store in Brooklyn.

course of an attempted robbery. In the other, a suspect held on burglary charges died of natural causes in the Brooklyn Criminal Courthouse. According to the NYPD's Public Information Division, there were only two shooting incidents by police during the entire blackout. They resulted in no injuries.

Of course, what the NYPD could not accomplish—the instant cessation of all looting, the arrest of every wrongdoer—the National Guard, even if it could have been mobilized promptly, could not in all likelihood have effected either. "I was strongly opposed to the National Guard," admits Commissioner Codd, invoking visions of Kent State. "I made the point that the guard is not a panacea. It can do tremendous things in the wake of floods and earthquakes, and in policing a huge public event like the Indianapolis 500, but it's a vastly different thing in a close interpersonal crisis like this. The answer here was not force but finesse."

Few would quarrel with Codd's skepticism about the guard's ghetto riot-control capabilities. The guard is not designed for such sophisticated crisis management, and its members, for the most part, are utterly unfamiliar with the technique of ghetto policing. Indeed, the specter of a platoon of heavily armed guardsmen being supervised by a frightened weekend superior officer from the Finger Lakes whose familiarity with urban ghettos is restricted to vignettes from *Kojak* does not exactly reassure. It is entirely arguable, therefore, that invocation of the National Guard was no real option for decision-makers at all (and, as a practical matter, a good number of the most immediately available guardsmen were in fact the very city cops and firemen already on the streets fighting the disorder). On the contrary, at the point when it is clear to all concerned that the problem is beyond the scope of local police, the real alternative is not the guard but the army. And this was exactly what unfolded in the case, for example, of the riot in Detroit, when airborne troops were flown in from Fort Campbell, Kentucky, and Fort Bragg, North Carolina. But at this point, all is lost. All was *not* lost in the Con Ed looting. On the contrary, the situation was far from another Detroit, thanks in part to the policies and behavior of the NYPD.

But beyond tactics lies a more profound question. Is a police department nothing more than a police *force*, an occupation army in an otherwise alien society? Or is it a police *service*, an agency of help? Under the former conception, minority residents are viewed not as citizens, proper members of society, but as the enemy—the neighborhood gooks. Under the occupation-

army school of policing, the cooperation of the neighborhood gooks, in an alliance with the police against the local hard-core thugs, is regarded as nowhere near as clever as the total intimidation of everyone thrown in together in one big lump of alleged undesirables. But we tried winning through intimidation in Vietnam. Is there any reason to believe this policy could work any better in our own ghetto enclaves?

In all probability, the police department that seeks to maintain order in a democratic fashion—with full regard for bystander and looter lives as well as for the sanctity of property—can be neither an oppressive force (occupation army) nor a social-change vehicle (Latin American-army model). Patrick Murphy, New York police commissioner from 1970 to 1973, believes that it is imperative that a society not give up on its ghetto neighborhoods. "Even the neighborhood with the highest crime rate in the city," he argues, "will be composed of a very high percentage of law-abiding people. . . . It is entirely wrong to make the assumption that a block or even a whole neighborhood has all criminals. . . . Of course, there is no good quantitative study of the criminal class in poverty-stricken, high-unemployment communities. But even if the percentage of such criminals were as high as 75 percent—and I doubt it is even remotely that high—what about the other 25 percent? Can we afford to abandon them? The fact is that most people are law-abiding. You have to work with them."

In this view, a police department in the necessarily difficult circumstances of a democratic society with profound, even structural, socioeconomic injustices, should be designed neither to extinguish nor to ignite—but to maintain order and to contain disorder. And this is exactly what the NYPD did for 25 hours of blackout-inspired hell. The department did not shoot to kill; indeed, it shot in only rare instances; and by restraining itself, it may very well have helped reduce not only the ultimate toll in lives but perhaps even in the overall property destruction as well.

But even if the total policy needs to be reexamined under a harsh postmortem light—and Commissioner Codd in an interview admitted that it very well might—it is still somewhat reassuring to know that the NYPD's behavior during the blackout was far more carefully thought out than Con Ed's. The policy of restraint didn't just happen; it was no act of God. Whatever its faults and drawbacks, the policy reflected a serious effort to do the best with what resources were available, and to try to make brains prevail over brawn.