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Mr. David Rohde/The New York Times
100 Centre Street
New York, New York

RE: JOURNALISM THAT MAKES A DIFFERENCE


Dear Mr. Rohde:

I look forward to speaking with you tomorrow when you are back in the office.

Meantime, I take the occasion of this day -- the 27th anniversary of the Knapp Commission's 1972 report of systemic police corruption -- to enclose pages 252-262 from Peter Maas' book, Serpico, about the pivotal role played by The New York Times in the groundswell which led to the formation of the Knapp Commission.

The public should rightfully expect that the Times will not shy away from playing a similar role by its reportage of the systemic governmental corruption, *documentarily-established* by the record of the pending Article 78 proceeding against the New York State Commission on Judicial Conduct.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosure

the way to create more enthusiasm about combating the problem?

At the mention of Delise all of McGovern's pent-up resentment seemed to boil over. He had not been in the office when Delise called, but if he had, the answer Delise got would have been the same. "If Delise has a problem," he said, "it's his problem." Delise had been around. If he wanted to get rid of a man, he knew how to "write up a report" to have him transferred.

Serpico started to ask McGovern how this sort of tactic was going to solve anything, but he stopped, sensing that it would lead to endless argument. Instead, he simply said, "It's the hope of the city to back up men like Delise."

Had McGovern not taken this as a personal attack on himself, perhaps Serpico would have let it go at that. After all, it wasn't the first time he had had to listen to a mealy-mouthed defense of the *status quo*. But he listened dumbfounded, as the man who was supposed to be the Police Department's guardian against corruption smugly declared that, while Serpico might not see it his way, he, Joseph McGovern, had done "a lot"—at least *he* had protected the Police Commissioner "against the onslaughts of outside agencies."

On that note they parted. But McGovern's pointed remark about "outside agencies" especially infuriated Serpico, and he began to reconsider an idea originally proposed to him by David Durk. During the 7th Division investigation he had seen Durk periodically and had told him of his growing fears that it was going to be a washout. Durk replied that he had the perfect solution. No longer would they try to deal with officials in the city; Durk had a contact on *The New York Times*, and they would go to him and blow everything wide open. Serpico had turned down the idea. He had had enough of Durk-inspired projects—the meetings with Captain Foran, Jay Kriegel, and Commissioner Fraiman. Besides, he reasoned, it was highly unlikely that *The Times* would act simply on the say-so of two

cops at their level, even though Durk was a detective. But after the meeting with McGovern, certain now that nothing would ever change with men like him in power, Serpico had another thought. Suppose a superior officer, a full inspector, a Paul Delise, accompanied him to *The Times* and confirmed what he had to say about corruption in the department and the system which allowed it to flourish? That, maybe, *would* make a difference.

When Serpico approached Delise and asked him if he would consider going to *The Times* with him, Delise looked away for a moment and rubbed his cheek, and said, "Frank, I have twenty years, or whatever, in the department, I have a wife and kids, and I just bought a house and there's a mortgage on it, and if I had to leave the department I don't know what other field I could go into. . . ."

Delise's voice trailed off, and Serpico thought, I can't really blame him. He was asking a great deal of Delise, to put his whole career on the line. It was against regulations to do what Serpico had suggested, and if Delise went along with it, the department could throw the book at him if it wanted to. Serpico remembered, too, how other policemen had quietly come up to him, or called him, and complimented him on his stand, but always added that of course they could not be quite so independent and risk so much—they had families, wives and children, to support and worry about. Serpico had largely accepted this, and wondered if he had unconsciously avoided the conditions—marriage and the rest—that they used as an excuse not to get involved. Durk was married and had children, but Durk was different. Serpico had never truly considered him as just another cop; he did not doubt in the slightest Durk's concern about corruption, but he felt that Durk was anxious to make a dramatic name for himself, possibly as a prelude to going into politics, or to rising high in police circles in New York or elsewhere. Once, when Seattle was rocked by a police scandal, Durk had told Serpico that he was in line to become head of Seattle's police force and that

he would make Serpico his chief of detectives. Later Serpico said to him, "I'm glad I didn't pack my bags."

Inspector Delise, however, had already done more than his share, more than Serpico had ever expected from any superior officer, and if going to *The Times* was asking too much, Serpico would understand it without question.

The two men looked at each other, and then, as Serpico turned to leave, Delise quietly added, "Well, I made my little speech. Now you do what you have to do. I'll back you up a hundred per cent. Anything you want."

Durk's contact on *The New York Times* was a slender, intense, prematurely balding, thirty-seven-year-old reporter named David Burnham. Before coming to *The Times* in 1967 Burnham had served for two years in Washington as assistant director of the President's Commission on Law Enforcement and the Administration of Justice. Burnham worked for the city, or metropolitan, desk as it's called at *The Times*, and his initial assignment was to cover the whole local law-enforcement scene—criminal justice, the court system, jails, judges and district attorneys, the police, and crime itself. He found himself, however, concentrating increasingly on police matters, and he more or less inherited Durk from another *Times* reporter to whom Durk had been feeding tips from time to time.

As Burnham continued to pay particular attention to the police, his indignation about the inroads that graft and corruption were making in the department was based less on moral grounds than on the practical problems of law enforcement, and one of his first major stories about cops—which dealt with cooping, or sleeping on the job—reflected this attitude.

Burnham was already trying to dig out specific evidence of police corruption when on February 12, 1970, Serpico, Delise, Durk, and a fourth cop Durk brought along, who still insists on anonymity although his contribution was

minuscule, arrived at *The Times* for an interview conducted by Burnham; Arthur Gelb, the metropolitan editor; an assistant editor; and another reporter.

Serpico's instinct that Inspector Delise's presence was vital proved to be correct. Burnham later said, "If Delise hadn't been there, nothing would have happened." Even so, it was not going to be easy. Before the interview started, Gelb touched on the delicacy of the subject and noted that there would be enormous difficulties involved in publishing such a story, and Serpico, angry and nervous, snapped, "So it's going to be the same old bullshit. You'll let me down like everyone else." But this was quickly forgotten as the editors and reporters listened spellbound during the long interview.

Burnham had prepared a memo on how he was going to treat the story, and now received a go-ahead. It was to be a thoughtfully worked-out, three-part series with much of what Serpico had detailed scattered throughout all three installments, the first one measuring the extent of corruption in the Police Department, the second showing how the corruption had developed, the third suggesting what could be done about it.

After the interview and after he had finished writing the articles, Burnham, like any reporter, became fretful when they were not published at once. But when he went to his editors, he was assured that the series would run, that *The Times* was simply waiting for a hook to hang it on.

More time passed and the story still did not appear. Then, by accident, Burnham got the opportunity to provide the hook he had been told was needed to print his story. On a Saturday in the middle of April a friend took Burnham along to a cocktail party given by Richard Aurelio, who had been Mayor Lindsay's campaign manager in his successful bid for re-election, and was now a deputy mayor in the administration and Lindsay's closest political confidant. Also at the party was Thomas B. Morgan, Lindsay's press secretary. Burnham had not met Morgan before,

but seized the chance now to talk to him, and in the course of their conversation Burnham mentioned that *The Times* had a story in the works involving corruption in the city, but did not go into any specifics.

The following Tuesday, April 21, Burnham telephoned Morgan at his office in City Hall, reintroduced himself and reminded him of the story he had spoken to him about at Aurelio's party. Morgan said that he indeed remembered both Burnham and the story he had alluded to, and then Burnham told him it was about police corruption and that it was going to be a blockbuster.

Instantly—"within five minutes," as Morgan later recalled—he was in Mayor Lindsay's office with the news. Deputy Mayor Aurelio was notified, as was Police Commissioner Howard R. Leary, whom Lindsay had brought to New York in early 1966 from Philadelphia, where he had occupied a similar post. A hurried series of conferences followed, and it was finally decided to beat *The Times* to the punch: the Mayor would immediately form and announce a committee to look into allegations of police corruption in the city.

There were some interesting side effects. Serpico got a call from Jay Kriegel, almost three years to the day after he had gone to him to report the corruption he had personally encountered—including the three-hundred-dollar envelope and Captain Foran, and the pad in the 7th Division. Serpico had not seen or talked to Kriegel since.

Kriegel's dialogue on the phone was filled with his usual disjointed sentences, about how busy he was, and, as if to demonstrate this, he continually told Serpico to hold on while he took other calls. But out of the twenty-odd minutes of talk, a theme did emerge in Kriegel's rush of words. "I feel terrible about this whole fucking thing," he said. "Obviously we just didn't have very good communication in the last conversation. We ought to do something again. I know what happened in that last disaster. . . . I'd like to sit down and talk about the problem again [and] see what

kind of approach would come to my mind again." Kriegel added that "if that sounds rotten and uninspiring, I'm sorry about it." He said that he had spoken to David Durk, and "I feel like a bastard."

Serpico replied that he didn't see much point in another meeting, but that he was curious about one thing. Had Kriegel relayed what he had told him to Mayor Lindsay? Was Lindsay aware of it? At this point Kriegel grew vague. "Not directly," he said. "We talked about the problem. He had the same problem I did. It had to be referred to the Department of Investigation, the Police Commissioner." They had the "legal authority" to follow through on the allegations.

Then on Thursday, April 23—two days after Morgan reported *The Times* story to Lindsay, two and a half years after Serpico had first told Chief McGovern about Captain Philip Foran and the three-hundred-dollar envelope, months after Serpico raised it again with McGovern and asked what he was doing about it, and with the Police Department's high command now in a frenzy of activity—McGovern finally questioned Foran.

Foran denied practically everything. He conceded that Durk had brought Serpico to see him. He said that he could not recall whether he was actually in the Department of Investigation at the time, although both Serpico and Durk said that the meeting had taken place in August 1966, six months after Foran had taken up his post there, and although Foran did remember that during the meeting Serpico had said he was on "riot duty"—an assignment which Serpico's official record showed took place in the summer of 1966.

Captain Foran flatly denied ever seeing an envelope with or without money, or ever advising Serpico that if he pursued the matter, he would wind up "face down in the East River," or ever agreeing that Serpico should turn over the envelope to any sergeant. All Serpico did, according to Foran, was to tell him that he expected to receive a payoff

to pass on to his fellow plainclothesmen, and when Foran suggested that "we dust the money," Serpico refused because he would be "marked lousy or something like that."

Under questioning by McGovern, Foran admitted that he had made no notes of the meeting with Serpico and Durk, nor did he report it to his superior, Investigation Commissioner Fraiman. Presumably by way of explanation, Foran said that Durk had once recommended Serpico for an assignment in the Department of Investigation, and that he had made inquiries into Serpico's background and had received confidential information that Serpico was a "psycho." Foran also told McGovern, "I don't know whether I should say this. There was some indication that he had homosexual tendencies. This, of course, is confidential, and I may not indicate my source even if I can remember, which I don't know if I do."

Throughout the meeting with Serpico, Foran said, he was "very, very apprehensive" that Serpico was "trying to set me up." His big mistake, Foran insisted, was not immediately throwing Serpico out of his office, but, "because of my, I guess you might say, fatherly approach to life, I let the man prattle on."

While it was one thing to have a cop like Serpico wandering around alone trying to convince the city to do something about police corruption, getting *The New York Times* into the act was quite another; and the same day that Foran was being questioned—Thursday, April 23—Mayor Lindsay formally announced the creation of a five-man committee "to review all city procedures" for investigating possible corruption in the Police Department. The committee would be headed by the City Corporation Counsel, J. Lee Rankin, and would also include Robert K. Ruskin, who had succeeded Fraiman as Commissioner of Investigation, Manhattan District Attorney Frank S. Hogan, Bronx District Attorney Burton B. Roberts, and Police Commissioner Howard R. Leary.

At *The Times* Burnham rushed excitedly to the met-

ropolitan editor, Arthur Gelb, with Lindsay's announcement, and Gelb agreed that at last the paper had a hook to run Burnham's story. Burnham's original three-part series was torn apart throughout most of Thursday night and rewritten by him and other reporters and editors under Gelb's direction so that all of Serpico's charges, plus other examples of graft that Burnham had gathered on his own, were lumped together in one package.

Around noon the next day A. M. Rosenthal, the managing editor of *The Times*, read the story and approved it. Burnham then called press secretary Morgan, and told him that the corruption exposé would appear the following morning and that he was sending down two copies "for comment."

Morgan hurried into the Mayor's office with one copy and sent the other one to Commissioner Leary, who was holding a meeting in his own office at Police Headquarters, a large, mahogany-paneled room featuring over a mantelpiece the stern features of a predecessor, Theodore Roosevelt. Present was First Deputy Commissioner Walsh, Supervising Assistant Chief Inspector McGovern, and Captain Foran. Foran was in the middle of repeating the denials he had given McGovern when *The Times* story arrived.

Leary and the others barely had time to go over it before the Mayor summoned them. In Lindsay's office they joined another dour gathering that included Deputy Mayor Richard Aurelio, City Corporation Counsel Rankin, Investigation Commissioner Ruskin, Morgan—and, hunched over by a window, chewing on a fingernail, Jay Kriegel.

Parts of the story were still being passed around while the Mayor maintained an icy reserve, his usual manner in front of a group as large as this when he was especially angry. Not everybody there was in accord. Ruskin and Leary, in particular, did not like one another. Ruskin had once asked Leary how he handled corruption, and Leary said, "Walsh handles it," and Ruskin had said, "Well, how

do you decide what to do about the complaints you receive?" and Leary replied, "I don't see them until after they've been investigated."

The main thrust of the meeting, which lasted about an hour and a half, was how to fend off charges in the story. Leary said that it was "a lot of general crap," and blamed "that psycho cop" for it, egged on by his "college pal." This was not exactly the response that Mayor Lindsay had in mind, and finally a statement was worked out which Morgan sent back to *The Times*.

The tenor of Lindsay's statement was that City Hall had everything well in hand: "Police Commissioner Leary has advised me that many of the allegations in this story came from one particular patrolman and were reported to the department in 1967. . . . The department investigated these allegations, referred them to the Bronx district attorney's office and, as a result, a number of indictments were handed down."

Frank Serpico did not have many laughs left in him, but a sentence in the Mayor's statement did produce one: "This government must root out corruption and wrongdoing with every means at its command."

Former Investigation Commissioner Arnold Fraiman, now Justice Fraiman, having been appointed to the State Supreme Court with Lindsay's backing, issued a separate, unctuous declaration that a plainclothesman had furnished him with information about corruption that was "extremely general in nature." Answering a charge in *The Times* story that he had refused to allow a bug to be placed in a 7th Division surveillance truck to overhear cops discussing corruption, Fraiman went on to say that it "would have been a blatant violation of law for the Department of Investigation to do this," neglecting meanwhile to explain why such electronic devices and secret recorders were standard equipment in his department.

The Times ran its story on April 25, 1970, under a front-page headline that said:

GRAFT PAID TO POLICE HERE
SAID TO RUN INTO MILLIONS

The story created a sensation, and for weeks at a stretch police corruption and police shake-ups were page-one topics in *The Times*, the *New York Daily News*, and the *New York Post*, and nightly leads on television and radio broadcasts. To the dismay of the Mayor, whose Presidential ambitions were increasingly evident, the scandal involving his administration became national news as well.

Police Commissioner Leary stirred up more controversy almost at once. While the first story in *The Times* did not identify any sources by name, Leary was perfectly aware that the bulk of it had been supplied by Serpico. Nonetheless, four days later, in charging smear tactics, "McCarthyism all over again," he said that *The Times* had based its report on the word of "prostitutes, narcotics addicts and gamblers, and disgruntled policemen."

As a result, any hope the Mayor entertained that the committee he had appointed with City Corporation Counsel Rankin at its head would smooth things over quickly went by the boards. Five New York City congressmen, led by Edward Koch, who had succeeded Lindsay in the 17th Congressional District, directed their attack at Commissioner Leary's membership on the committee, demanding to know how Leary could investigate himself. At first Rankin defended his group, claiming, "I don't think that an outside committee having no familiarity [with the problem] could do the work with the same skill and effect required of us," and in another interview said he was confident that any statements Leary had made "will have no effect on the action of the committee and its dedication to carry out the assignments that the Mayor had given it."

But the pressure from political enemies, the public, and the press proved to be too much, and City Hall finally ran for cover. In a carefully orchestrated scenario, Corporation Counsel Rankin wrote a letter to the Mayor suggesting that because of the "possibility of conflicts of interest" it might

be wise to turn over the investigation to a citizens' group with a full-time professional staff. The Mayor said he would think about it, and after a face-saving interlude he announced the formation of a new, independent commission to be chaired by a Wall Street lawyer named Whitman Knapp.

It remained for Commissioner Leary to reflect precisely the poisonous atmosphere in the Police Department, the system that Frank Serpico had fought against for so long. Almost a month after the story in *The Times* broke, in a desperate attempt to show that he was doing something, Leary ordered a statement to be read at roll-call line-ups in station houses throughout the city. In the statement Leary urged every policeman with knowledge of corruption in the department to come forward and report it. Nowhere did he indicate that any cops who responded would or should be praised or rewarded. All he did was to assure them that they need not fear any "reprisals."



The flood of charges and counter-charges following *The Times* story, the disbanding of one investigating committee and formation of another, the denunciations and new accusations, the denials that anything was fundamentally wrong, the promises of action—all this left Serpico essentially unmoved. The attention of the city was at last riveted on the issue of police corruption, but it was nothing more than words so far, and it remained to be seen what actually would be done.

For Serpico, the reality of the moment was that he was going to be the key witness against Robert Stanard. Any possibility that he would not be used as a witness had vanished after two trials of Philip Montalvan, a 7th Division plainclothesman, whose unlisted phone number had been found in the possession of the numbers banker Manuel Ortega. All the testimony against Montalvan had come from policy operators, and the first trial had ended in a hung jury, eleven-to-one for conviction. The one juror who held out was overheard to say that he would "never take the word of people like that against a cop." When Montalvan was retried, he was acquitted.

Serpico had a second meeting with District Attorney Roberts and Chief Cooper over the question of his testifying. It was not much of a battle; after the session the previous December, Serpico knew that he would be a witness,