

Corpus Christi's Squad Car Lawyer

JAMES BIERY

POLICE OFFICERS R. H. Vegara and H. M. Rice followed a trail of blood recently to track down a suspect who had just been wounded while trying to rob a grocer at gunpoint in Corpus Christi, Texas. They pulled up before a house in which he was hiding, and a woman came out. At about the same time, two more patrol cars arrived. Riding in one car was thirty-four-year-old Wayland Pilcher, a professorial-looking lawyer who since August 1 has been the police legal adviser in Corpus Christi, one of a handful of such professionals in the country.

The woman said in Spanish that the suspect was her son and that she wanted him out of the house. Vegara translated her request for Pilcher, who said: "Ask her to tell us in English whether he is a trespasser." The woman answered "Yes." Vegara and Rice then rushed in and arrested him, confident that they were following legal procedures in accordance with Supreme Court rulings that in recent years have placed greater responsibilities on policemen to protect the Constitutional rights of citizens.

The officers took the man to a magistrate, who informed him of his right to refuse to answer questions and to have a lawyer present during questioning. This process followed the 1966 Revised Texas Code of Criminal Procedure and the guidelines established last June by the Supreme Court's decision in *Miranda v. Arizona*. Having already consulted their lawyer, Officers Vegara and Rice knew the case would not be thrown out of court because of illegal entry. The woman had publicly invited them in, and it would be difficult for her to claim (should she later be reconciled with her son) that she had told Vegara, the only Spanish-speaking member of the police party, to stay out.

The care taken by the police in handling this case and the presence

of Pilcher illustrate two effects that the court rulings have had. Some law-enforcement officers have said that *Mapp v. Ohio*, which compels state courts to exclude illegally



seized evidence, and *Miranda*, which guarantees that suspects may have lawyers with them during police questioning, have "handcuffed" the police. Their mirthless joke has been that "It's getting so bad that lawyers practically have to ride around in patrol cars."

But having a lawyer in the patrol car, while novel, is no joke. He not only helps policemen abide by court rulings; he also helps make their work more effective. For the court pronouncements have only emphasized an old problem: although policemen must decide—sometimes in a matter of seconds—how to apply complex rules made by courts and legislatures to human action,

most have neither legal training nor ready access to legal advice.

Only a few months ago, New York was the only city where lawyers were on the force advising policemen. The New York Police Department's Legal Bureau, which now has twenty-one attorneys, was set up in 1910. It is heavily involved with state and local legislation. The bureau's attorneys propose legislation for the police commissioner and read all state legislative proposals to see whether they relate to the police department or its members; 10,918 bills were read in 1965. Bureau lawyers also made 7,132 court appearances in connection with the prosecution of misdemeanor cases in 1965. But the area that is taking more and more time is that of giving legal advice to police officers over the telephone. The bureau gave 24,620 telephone opinions in 1965, usually within fifteen minutes after the query was received. Most callers asked whether a law had been violated and, if so, the proper law to be cited. The bureau performs all these tasks on a personnel budget of \$270,000 a year.

While putting lawyers in patrol cars is still a luxury for the bureau, attorneys are dispatched to the scene in such potentially sticky situations as sit-down protests at foreign missions to the United Nations, where complications could involve civil rights, diplomatic immunity, and a host of other problems.

NOT UNTIL the recent court decisions did other cities feel the need for such a bureau. There had been no attempt to interest police administrators in getting legal advice, nor had trained advisers been available. To help remedy this situation, Northwestern University's Law School inaugurated a police legal-adviser training program two years ago under a five-year \$300,000 grant from the Ford Foundation. Professors Fred Inbau and James Thompson are training law-school graduates like Pilcher for careers as advisers and are holding annual national conferences to focus attention on the consequences of court and legislative action for police.

"Such cases as *Mapp* and *Miranda* have created a revolution in the practices and procedures of local

law-enforcement officials," Thompson told me. "The resolution of conflicts between maximum police efficiency and maximum individual liberty calls for application of sound legal counsel, not only in the courts and in the prosecutor's office but also at the police precinct, where the average criminal case begins."

In Northwestern's two-year program, law-school graduates spend one year divided between the seminar rooms and the police departments of Chicago, Skokie, or Evanston. They learn police practices and do research on a police-legal subject for their LL.M. degree thesis. The following year they serve on a metropolitan force at no cost to the city; their support comes from the Foundation grant. After this trial period, the adviser is put on the city payroll.

In addition to Pilcher in Corpus Christi, second-year men currently are stationed in Pittsburgh and Chicago. Another adviser served in Oakland, California, until November 1, when he became director of a program to provide legal information to Michigan police. Three lawyers are now in the first year of the program, and a hundred have applied to enter during 1967.

The program assumes that the average city attorney (the officer usually charged with providing advice to all city departments), while doing an effective job in the area of civil laws, has neither the time nor the staff to keep abreast of the criminal laws and to give advice to policemen. "As a result," Thompson said, "police forces suffer from a lack of detailed, up-to-the-minute legal services. The biggest problem today is the establishment of law-enforcement practices consistent with Supreme Court decisions in the areas of arrest, search and seizure, confessions, and civil rights. The legal adviser can interpret recent decisions and bring police practices into line with them."

On the Corpus Christi Range

Corpus Christi, a progressive city with a population of 200,000, sprawls over 101 square miles of land and 124 square miles of water in a sparkling bay that opens onto the Gulf of Mexico. Recent annexations have spread the 250-man police force thin. A slum cuts through the city, pro-

viding an environment for violence in the midst of general prosperity based on agriculture, industry, oil, and tourism.

Chief R. T. Runyon, a policeman for twenty-six years, told me that "It is a definite asset to have an attorney trained in law-enforcement procedures. Our people utilize Wayland Pilcher's services, where in the past they might let a question go. We don't hesitate to call him day or night."

From noon to 4 P.M., Pilcher may lecture to rookie policemen on juris-



diction of cases, meet with vice-squad detectives to discuss warrants, or look up answers to officers' questions at the City Hall law library. From 8 P.M. to 1 A.M., he cruises the city in a radio car, ready to render curbstone opinions from five thick volumes of the annotated state statutes and the 1966 Revised Texas Code of Criminal Procedure that he carries in the trunk.

When he stopped in police headquarters one night recently, he was questioned by Juvenile Officer Sanchez Cruz. A mother had complained that her teen-age son was drinking in the home of a teen-age married couple. "The law says you can drink in your home," Cruz said. "But is there an age limit? Both kids are seventeen." Pilcher said that the statutes prohibited a minor from

drinking except with an adult parent or spouse. Cruz nodded, armed with information that could help him control the situation with a warning—or an arrest, if necessary.

As he drove around the city that night, Pilcher listened for such radio signals as 27 (someone shot), 33 (cutting), 25 (burglary inside). Responding to a Signal 22 (accident), he found a two-car collision on one of the wide bay roads. He helped lift a stretcher into an ambulance, then asked an officer to call him if a fatality resulted so that a case of negligent homicide could be filed. "This statute is tricky. We'll want to wrap up the case carefully for the district attorney," Pilcher said. Procedural mistakes make cases less tenable for prosecution, and the district attorney has the option of whether to pursue such cases.

Pilcher returned to headquarters, where an officer reported that a tavern owner was drinking at work, which was clearly illegal. He was also carrying a gun—was this illegal? The question was quite relevant because the county attorney had just opened a campaign to "get the guns off the streets" and two nights earlier a man had been shot to death in another tavern. Some two thousand to three thousand guns are registered in Corpus Christi each year; but the statute covering their use, like most statutes, is subject to interpretation. "The statutes say he can keep it in his place of business," Pilcher advised the officer. "They don't say he can't be carrying it." The man was arrested only for drinking while tending bar.

A GRADUATE of the University of Texas Law School, Pilcher was an assistant city attorney in Corpus Christi for four years before entering the Northwestern program. Progressive police departments like Corpus Christi's have three-month training programs for recruits, Pilcher told me, but little time is available for presenting information about the laws the policeman is to enforce or the procedures used to enforce them. Most of the course involves the perfecting of a large number of mechanical skills—driving a car in high-speed pursuit, measuring distances at accidents, giving first aid, handling a gun. Such a subject as

the law of evidence, which is taught four hours a week for a semester in law school, is covered in only one four-hour period in the city's police school.

Pilcher makes use of his informal contacts with officers to show them principles they can use in the field. "On questions of arrest, for example, I point out a case where there were definite grounds for arrest; then I point out one where there were not. Then I start changing the facts to arrive at a case where there could or could not be an arrest, depending on the officer's judgment."

Once trained, the policeman becomes responsible for enforcing a staggering body of complex laws. The five-volume Texas Penal Code that Pilcher carries in his car has 1,723 sections setting forth offenses. The Code of Criminal Procedure has 910 sections, many of which are relevant to policemen.

Penal Code Article 483 describes, with Texas flavoring, the prohibition against carrying arms: "Whoever shall carry on or about his person, saddle or in his saddle bags, or in his portfolio or purse any pistol, dirk, dagger, slungshot, black-jack, hand chain, night stick, pipe stick, sword cane, spear or knuckles made of any metal or hard substance, bowie knife or any other knife manufactured or sold for the purpose of offense or defense shall be punished by a fine of not less than One Hundred Dollars nor more than Five Hundred Dollars or by confinement in jail for not less than 1 month nor more than 1 year." While this may seem more or less straightforward, some 250 annotations tell what various Texas courts have decided is meant by such phrases as "on or about his person." Twenty-nine decisions relate to the definition of "carry."

"Such laws are written to help the district attorney, to allow him to prosecute what he chooses," Pilcher explained. "However, they make it difficult for the police to decide what is an offense and what is not." He pointed out that policemen also must know what local judges regard as the rule when appellate courts have reached split decisions, and what police-department policy may be on, say, handling searches of cars stopped for traffic violations. "If I

can help the man on the beat see the separate elements he is contending with—statute law, district attorneys' needs, judges' opinions, the departmental policy—I will be of help."

Spreading the Legal Gospel

The experience of other legal advisers shows the variety of help they can give to the police. Since the middle of last summer, twenty-four-year old Douglas McBroom has been

was named aide and legal co-ordinator last summer on the staff of Chicago Police Superintendent Orlando Wilson. The *Journal of Criminal Law, Criminology and Police Science* has published his thesis, "The Police Control of Obscenity." To help keep policemen abreast of new court rulings and legislative acts, Rogers has introduced a monthly law-training bulletin for the department.

Law-enforcement agencies across the country are now looking with



with the Pittsburgh Police Department. David W. Craig, Director of Public Safety, said, "I don't know what we did without him—and this despite good help from the city attorney. An adviser on the scene can be a hundred per cent specialized on police matters and be available for the necessary synthesis of legal and administrative roles." Among other things, McBroom has developed a procedure for breathalyzer examination of suspected drunken drivers that is consistent with the *Schmerber* decision, which was handed down by the Supreme Court soon after *Miranda*. It upheld the police in taking blood samples from a driver and implicitly permitted such tests as the breathalyzer.

Last November 1, twenty-nine-year-old Mel Gutterman became director of an experimental educational program operated by the Institute of Community Development at Michigan State University in East Lansing. An electronic extension of the adviser concept, this program will send lectures on the law of arrest, search, and seizure via telephonic hookup to ten locations in the state where policemen and other interested citizens can gather and ask questions of the lecturer.

Another Northwestern-trained adviser, Charles Rogers, twenty-eight,

interest at the operation of the Northwestern program. Police departments in nineteen cities say they would like to try out an adviser. Professor Thompson of Northwestern estimates that the cost of adding such a full-time lawyer to a force would approximate the cost of hiring two new policemen. It is still problematical what national role these professionals will play in the revolution of Constitutional law now invading police departments, but it is already clear that an injection of legal aid into the arm of the law can be salutary.

"For one thing, it gives the men confidence," Captain L. H. Davis, a thirty-one-year veteran in Corpus Christi, told me. "I like the idea that Pilcher is out in the field, for the police officer today is treading on dangerously thin ice when he is enforcing the law. I remember thirty years ago one chief made it a practice to shame young hoodlums by shaving their heads before letting them go. But you can't do that any more."

Officer Vegara, a member of the force for two and a half years, added: "Our main concern is how our work will stand up in court. Mr. Pilcher? He's right there when you make a big call. You just turn around, ask a few questions, and then get on with your business."

Title VI Disturbs The Moss of Beaufort

JAMES K. BATTEN

BEAUFORT, SOUTH CAROLINA
THIS is one of those quiet, gracious towns where the Old South myth is almost believable. Beaufort (pop. 6,298) is on a side road to the coast off busy Route 17, halfway between Charleston and Savannah. Its well-kept old mansions and live oaks heavy with Spanish moss evoke the mood of another era, when rice, cotton, and slaves made life comfortable for the plantation aristocracy.

Like its less picturesque counterparts in much of the rural South, Beaufort (pronounced BEW-fort) saw little change in its genteel, relaxed brand of white supremacy during the decade following the Supreme Court's school desegregation decision in 1954. But in midsummer of 1964, two months before nine Negro children finally broke the color line in Beaufort County's public schools, Congress passed the Civil Rights Act. Title VI of that law prohibited the use of Federal funds to support racially segregated programs. The long reprieve for Beaufort and hundreds of similar Southern communities was ending.

The last two years have brought racial change to Beaufort in a rush. Federal administrators from Washington and Atlanta, armed with guidelines for adapting the broad prohibitions of Title VI to specific situations, have swiftly begun to reorder relations between the county's twenty-three thousand whites and fifteen thousand Negroes. (Beaufort County also has fifteen thousand military people at three major installations.)

In September, 1965, the original nine Negro children in previously white schools were joined by 255 more, who transferred from all-Negro schools under a "freedom of choice" plan approved after extended negotiations with the U.S. Office of Education. Last September, the same plan produced enough additional transfers to put 511 Negro schoolchildren, nearly nine per cent

of the county total, into desegregated schools. A few white children are receiving instruction from a Negro speech therapist for the first time, and a white speech therapist, a white art teacher, and two white music teachers are spending part of their time at all-Negro schools.

ALL THIS has been sufficient, so far, to keep Federal funds flowing into Beaufort schools. But the Title VI enforcement officials in the Office of Education are disappointed in Beaufort's progress, especially on faculty desegregation. Pressure for additional steps will come this spring as plans are laid for the 1967-1968 round of desegregation.

At Beaufort Memorial Hospital, where Negro patients were relegated to a Jim Crow wing before the Public Health Service investigators arrived, the official policy calls for desegregation of everything except wards and semi-private rooms. The hospital board, declaring last June that "a hospital is a place for a sick person to get well and . . . not . . . a vehicle for enforcing integration," has balked at taking that final step. This refusal has cost Beaufort Memorial all Federal support and placed it off limits to Medicare patients. The nearest hospital approved for Medicare is forty miles away.

While a few white liberals privately applaud the changes in Beaufort, most white people are bitterly resentful. For the first time in thirty years, to the chagrin of white officials, the Ku Klux Klan has held rallies in the county. Just after the schools opened last September, "NEVER" signs blossomed on utility poles in the Beaufort business district. And during the elections, a vigorous Republican Party, relying heavily on the guidelines issue, put local Democrats on the defensive.

As for Beaufort's Negroes, many of them are jubilant about the changes wrought by the guidelines

and Title VI. But the key Negro leaders are impatient because Washington is not demanding faster progress toward complete desegregation. They complain that the burden of desegregating schools should fall on school officials, not on Negro parents who must request transfers to put their children in biracial classrooms.

Beaufort's painful path toward a new racial equilibrium, as yet only dimly perceived, is fairly typical of the road that many Southern communities were traveling in the fall of 1966. These small cities and towns, most of which never furnished the dateline for a national civil-rights story, are finally being wrenched from their familiar moorings. And while the sight of a Negro supermarket cashier or an occasional Negro family dining in a restaurant is unsettling to some whites and reassuring to many Negroes, the changes most keenly felt by both races are in the public schools, and to a lesser extent in the hospitals. These are the changes brought by Title VI, which some call the atomic bomb of the civil-rights movement.

The Limits of Congeniality

The Federal guidelines have put many Beaufort people on the spot, but no one more so than Dr. W. B. Southerlin, the mild-mannered fifty-eight-year-old county school superintendent. After spending most of his professional life with the South Carolina department of education, Southerlin moved to Beaufort in 1964, expecting to complete his career in congenial surroundings.

His two years in Beaufort have been far less pleasant than Southerlin had hoped. Almost immediately, he found himself caught between Washington's demands for rapid desegregation and Beaufort's pressures to go slow. Regarded by both sides as a moderate, Southerlin has insisted that Beaufort at least move fast enough to remain eligible for Federal aid.

The county school board has grudgingly gone along, partly because the Marine recruit training center, the Marine airbase, and the naval hospital in Beaufort County make the Federal contribution essential. This year, Washington will provide \$850,000 to the county