

Chapter Seven

CONSTRUCTION

"It is virtually impossible for a builder to erect a building within the City of New York and comply with every statute and ordinance in connection with the work. In short, many of the statutes and rules and regulations are not only unrealistic but lead to the temptation for corruption."

So said H. Earl Fullilove, Chairman of the Board of Governors of the Building Trades Employers Association of the City of New York, in testimony before the Commission on October 29, 1971, summing up a situation which has led to extensive graft in the construction industry. The Commission found that payments to the police by contractors and subcontractors were the rule rather than exceptions and constituted a major source of graft to the uniformed police. It must be noted that policemen were not alone in receiving payoffs from contractors. Much larger payoffs were made to inspectors and permit-granting personnel from other agencies.

The Investigation

In its initial investigation into corruption in the construction industry, the Commission came up against a stone wall. Sixteen veteran job superintendents and two project managers interviewed at construction sites solemnly denied that they had ever paid off the police or known anyone who had. Similar denials were made under oath by other construction people and by three patrolmen and their precinct commander, who were subpoenaed by the Commission. Later, in private talks with members of the construction industry, quite a different story began to emerge. From information obtained in these lengthy, off-the-record interviews, the Commission was able to piece together a detailed picture of corruption in the construction industry.

Although several of these sources were unusually helpful to the Commission in private talks, only one agreed to testify extensively in executive session (and then only under the cloak of anonymity) and none would testify at the public hearings. Their testimony could at no time be compelled, because the Commission lacked the power to obviate claims of Fifth Amendment privileges by conferring immunity. However, it was arranged that the construction industry would be represented at the public hearings by Mr. Fullilove, whose association is made up of 800 contractors and subcontractors, including industry giants as well as smaller companies.

Speaking for his membership, Mr. Fullilove said, "Many—if not most—people in the industry are reluctant to appear at an open hearing and to testify on these matters. Our members feel that unless the entire situation can be remedied in one fell swoop, it's a tremendous burden on a member to become a hero for a day and then suffer the consequential individual harassment." He then went on to detail the laws and ordinances leading to police harassment and consequent graft. This information was corroborated and buttressed by the testimony of Patrolmen William Phillips and Waverly Logan.

Reasons for Police Corruption in Relation to Construction

Corruption is a fact of life in the construction industry. In addition to extensive payoffs contractors make to police and others in regulatory agencies, there is evidence of considerable corruption within the industry itself. Contractors have been known to pay owners' agents to get an inside track on upcoming jobs; subcontractors pay contractors' purchasing agents to receive projects or to get information helpful in competitive bidding; sub-subcontractors pay subcontractors; dump-truck drivers exact a per-load payment for taking out extra loads they don't report to their bosses; and hoist engineers get money from various subcontractors to insure that materials are lifted to high floors without loss or damage. In this climate, it is only natural that contractors also pay the police.

The heart of the problem of police corruption in the construction industry is the dizzying array of laws, ordinances, and regulations governing construction in the City. To put up a building in New York, a builder is required to get a minimum of forty to fifty different permits and licenses from various City departments. For a very large project, the total number of permits needed may soar to 120, 130 or more. These permits range in importance from the initial building permit down through permits required for erecting fences, wooden walkways and construction shanties, to seemingly petty ones like that required whenever a track vehicle is moved across a sidewalk. "This [latter] regulation is often violated," Mr. Fullilove told the Commission, "because it is tremendous inconvenience to obtain a one-shot permit to move a bulldozer over a five-foot stretch of sidewalk." In practice, most builders don't bother to get all the permits required by law. Instead, they apply for a handful of the more important ones (often making a payoff to personnel at the appropriate agency to insure prompt issuance of the permit). Payments to the police and inspectors from other departments insure that builders won't be hounded for not having other permits.

Of the City ordinances enforced by the police which affect construction, most relate to use of the streets and sidewalks and to excessive dust and noise. Ordinances most troublesome to contractors are those which prohibit double-parking, flying dust, obstructing the sidewalk, or leaving it strewn with piles of sand and rubble, and beginning work before 7:00 a.m. or continuing after 6:00 p.m. (This last is for the protection of neighborhood residents already subject to eleven legal hours a day of construction noise.)

Most large contractors seem to regard all of the ordinances mentioned above and many of the permit requirements simply as nuisances which interfere with efficient construction work. Thus, they are willing parties to a system which frees them from strict adherence to the regulations.

Police Enforcement of Laws Regulating Construction

Although building inspectors are responsible for enforcement of regulations concerning construction techniques, the responsibility for inspecting certain permits and enforcing the ordinances outlined above lies with the police. The police officers charged with this responsibility have always been faced with a particularly tempting opportunity for corruption. The Department has attempted, since the Commission hearings, to lessen the opportunities by cutting back on enforcement. It has ordered its men to stop enforcing all laws pertaining to construction, unless pedestrians are endangered or traffic is impeded. If a patrolman observes a condition which affects pedestrians or traffic, he is to call his superior to come to the site and take whatever action is needed. Nevertheless, pending a revision of the laws to make them more realistic, they cannot go entirely unenforced and whoever is given the job will meet the same pressures found by the Commission.

Traditionally, construction enforcement was the function of one foot patrolman in each precinct called the "conditions man" who concentrated on construction enforcement. At the time of the investigation, a growing number of precincts had abolished the post, leaving the responsibility for construction enforcement to other officers, such as "summons men" who had broader responsibilities for issuing summonses in other areas. Foot patrolmen and those in patrol cars were also empowered to go onto any site in their sectors to check for violations. In any case, the patrolman whose duty it was to enforce construction laws was, at the time of the investigation, required to make periodic checks of all construction sites in the precinct to make sure that they 1) had the proper permits, 2) conformed to the limitations of those permits, and 3) adhered to all City ordinances not covered by the permits. If he found any violations, he was supposed to issue a summons. Department regulations provided that he make a notation in his memo book whenever he visited a construction site and maintain a file at the precinct with a folder for each construc-

tion job in his jurisdiction, containing copies of all permit numbers for the site and a record of all civil summonses it had received.

In practice, the Commission found, officers responsible for enforcing ordinances relating to construction simply kept pro forma files and pretty much let the job go at that. Examination of conditions men's memo books in the Twentieth Precinct, where there were between twenty and fifty construction projects underway at one time, indicated that a grand total of thirty-nine visits were reported to have been made to construction sites over the two-year period from March, 1969, to March, 1971, with over half those visits recorded as having been for the purpose of copying down permit numbers. The patrolmen whose notebooks were examined admitted under oath that they did not follow Department regulations in getting permit numbers from new sites or in making entries in their memo books every time they entered a site. In short, the Commission found that these patrolmen had not been doing their jobs properly, were aware that they weren't, and knew that their work would not be reviewed by senior officers.

These rules were designed to facilitate control of corruption. Where the rules were ignored by supervisors, the spread of corruption was almost inevitable.

Patterns of Police Corruption in Construction

The most common pattern of police payoffs in the construction industry, as described to the Commission by police officers and by contractors and their employees, involved payment to the sector car of a fixed monthly or weekly fee, which varied according to the size of the construction job. Occasionally, the sergeants would also have a pad, and in larger jobs, the precinct captain sometimes had one of his own. In addition, all construction sites, no matter how small, were found to be vulnerable to overtures from local foot patrolmen.*

* One small contractor told how it's done: "Put a five dollar bill in one pocket, a ten in the other. Fold it up real small. Size up the situation and pay accordingly. You can pass it in a handshake if necessary. It really isn't. You know the touch is on as soon as he . . . walks on the job to see your permit and questions it."

In a small job like the renovation of a brownstone, the general contractor was likely to pay the police between \$50 and \$150 a month, and the fee ascended sharply for larger jobs. An excavator on a small job paid \$50 to \$100 a week for the duration of excavation to avoid summonses for dirt spillage, flying dust, double-parked dump trucks, or for running vehicles over the sidewalk without a permit. A concrete company pouring a foundation paid another \$50 to \$100 a week to avoid summonses for double-parking its trucks or for running them across a sidewalk without a curb cut. (Concrete contractors are especially vulnerable, as it is essential that foundation-pouring be carried on continuously. This means that one or more trucks must be kept standing by while one is actually pouring.) Steel erectors paid a weekly fee to keep steel delivery trucks standing by; masons paid; the crane company paid. In addition, all construction sites were approached by police for contributions at Christmas, and a significant number paid extra for additional police patrols in the hope of obtaining protection from vandalism of building materials and equipment.

In small contracting companies, payments were generally negotiated and made by the owner; larger firms often had an employee whose sole job was to handle negotiations with agencies which regulate construction. This man, called an expeditor, negotiated and made all such payments, both to the police and to inspectors and permit-granting personnel from other agencies. In either case, when work was started on a new site, arrangements were made with the local police.

One contractor, whose experiences were fairly typical, spoke at length with Commission investigators and later—with promise of anonymity—testified before the Commission in executive session. He was a small general contractor who worked on jobs of less than one million dollars. He started his own company in the early sixties with a contract for a small job in Brooklyn. During the first week of construction, a sector car pulled up to the construction site and a patrolman came onto the site, asking to see the permits for demolition, sidewalk

construction, etc. He looked over the various permits and left. The following day, another sector car came by, and one of the patrolmen issued a summons for obstruction of the sidewalk. The contractor protested that he had the necessary permit and was in no way violating the law. "If we don't work together," the patrolman told him, "there will be a ticket every day." When the contractor asked how much "working together" would cost, he was told, "\$50 a week." The contractor testified that he balked at this, claiming that his was a small operation and that he couldn't afford such payments. He said he would prefer to operate within the limitations of his permits and go to court to answer any summonses he might receive.

The following day, the contractor received another summons for \$100. Two days later, he was approached again and told that it would be cheaper to pay off the police than to accumulate summonses. "We decided for our own good to make that \$50 payment and not maintain our hero status," he said. He continued to make payments of \$50 a week to a patrolman from the sector car for the duration of the construction work, which lasted about one year. His site was never again inspected by the police and he received no more summonses.

This contractor further testified that he was approached by the police, and paid them, on all the jobs he did in various City precincts. On none of these was he ever served with a summons. On his last job, in 1970, when he was in financial difficulties which eventually led to bankruptcy proceedings, he was, as usual, approached by the police for payoffs. Pleading insolvency, he refused to pay and used various ruses to avoid payment. He again began receiving summonses for violations—the first that had been served on him since he started paying the police.

This contractor stated that in addition to paying the police he has also made payments to personnel from the Department of Buildings, other divisions of the Housing and Development Administration,

the Department of Highways, and such federal agencies as the Department of Housing and Urban Affairs and the Federal Housing Administration.

Another builder, the owner of a medium-sized contracting company which does work for such clients as Consolidated Edison, the New York Telephone Company and the Catholic Dioceses of New York and Brooklyn, told Commission investigators that his company had paid off the police on every construction job it had done in the City, including the six or eight jobs in progress at the time of the interview. He told the Commission that he paid the police from \$50 to \$100 a week for each job he had in progress, and that payments were made by his expeditor, whose job it was to obtain permits and pay off police and others. He went on to say that his company frequently negotiated the amount of payment with the precinct commander either at the building site or at the local precinct.

A reliable informant who was intimately connected with this builder told the Commission that the builder's payoffs were in fact much larger than the \$50 to \$100 he claimed. The informant also reported that the expeditor handled all negotiations for payoffs, then reported to officers of the company, who gave him the appropriate amount out of petty cash. At a later date, the expeditor submitted covering expense vouchers indicating travel or entertainment expenses. During the time this informant was giving information to the Commission, he observed a sergeant approach a foreman at one of the company's construction sites in Queens and threaten to write out a summons for burning refuse. The foreman then told the sergeant that he couldn't see going to court over it and would give him \$20 to forget about it. The sergeant said he would have to discuss it with his boss and left the site. That afternoon, the sergeant returned to the construction site with his precinct captain, who advised the foreman that there were "a lot of violations around." He said he wanted to speak to someone about "taking care of it" (a clear reference to the ex-

peditor), and would return on the Tuesday afternoon following. At this point, the informant's role was discovered and the Commission was not able to find out how big a payoff the captain had in mind, although a three installment \$2,500 payoff which the informant said was arranged with a building inspector a few days earlier indicates that it would have been sizable.

Comments

The current system of laws and ordinances relevant to construction is badly in need of overhaul. Many ordinances now on the books make construction unduly difficult and create bountiful opportunities for graft. The needed review should preferably be undertaken by members both of the industry and of regulatory agencies.

A start has been made in this direction. In June, 1972, *The New York Times* ran a series of investigative articles which described in detail corrupt practices in the construction industry in the City. In response to the newspaper's allegations, a State Senate committee chaired by Senator Roy Goodman held six days of hearings, which resulted in a plan to have industry leaders, legislators, and the appropriate City commissioners review the tangle of City and state laws governing construction, with a view to eliminating those laws which are unrealistic or unnecessary and which lead to corruption. Industry groups have studied the laws and are expected soon to submit recommendations to the appropriate City commissioners.

One other important reform is needed. Builders in special situations may have a legitimate reason for violating ordinances. However, there is currently no procedure whereby such relief may be afforded. A publicly-recognized means for waiving regulations where necessary and appropriate should be established.

As outlined earlier, the Department has curtailed police enforcement of ordinances relating to construction. The Commission favors this step and feels that, insofar as possible, police officers should be