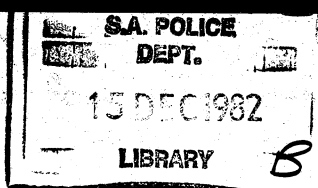


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## "THE ELEVENTH BIENNIAL CONFERENCE A.C.P.C." POLICING A DEMOCRACY

By  
W. Clifford\*

### AUSTRALIAN CRIME PREVENTION COUNCIL



- Policing the Police
- Policing A Democratic Society —  
Co-operative or Coercive
- The Role of the Rule of Law
- Rapporteur's Report

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\* "Policing a Democracy", the keynote address presented to the Eleventh Biennial Conference of the Australian Crime Prevention Council, Canberra, 31 August 1981 by Mr W. Clifford, Director Australian Institute of Criminology. This particular address was very well received by police forces in Australia as well as receiving commendation by overseas authorities. Mr Clifford was formerly Director, United Nations Crime Prevention and Criminal Justice Programmes; Sometime United Nations Inter-region (Global) Advisor for Social Planning; Member United Nations Technical Assistance Education Team to Iran and Professor of Law, New York University School of Law (teaching graduate course on International Criminal Justice Planning and Reform).

#### INTRODUCTION

Democracy as a desirable form of government attracts a great deal of lip service: but in actual practice a democracy is distinguished from other types of government by the type and measure of its policing. Greek democracy emerged from the polis which arose from the earlier assemblies of armed citizens. The word "police" has the same derivation polis coming to mean gradually the government of the city. We need not be surprised therefore that Sydney's Police Regulation Act of 1833 gave the police a number of local government health and hygiene ordinances to enforce as well as the criminal laws. The underlying ideas of Greek democracy were law, freedom and equality and it is important for us to note that these were the very principles which were used later by demagogues to crumble the noble edifice of democracy. But Greek city states were very small. A friend of mine who is a classical scholar once pointed out the area covered by the Athens city-state and concluded that it was not much more than a square mile. As states got bigger the law needed more than rhetoric for it to preserve the democratic structure. Moreover we must not overlook the existence of slavery which made Greek democracy look so hypocritical today.

Democracy calls for liberties under the law but who is to deal with abuses? It is sadly true that people are not automatically prone to respect the rights of others. Sex, power and material possessions have provoked envy, greed, jealousy, violence, venality and bitter contention from time immemorial. How was it ever possible then to balance public and private interests in any state without some form of policing? One of the most remarkable characteristics of the long chronicle of man's history and cultural development is that he did indeed manage, either without or with no more than token policing for an incredible period of time. This of course is tantamount to saying that he did not enjoy democracy for an incredible period of time. The rules might have been right but their application had to be left largely to private or community enterprise.

People's interests were left to be balanced and protected by the people themselves, by their families and friends. Vengeance was permitted within prescribed limits and had to be bought off with compensation. Long after powerful states rose and the concept of the "king's peace" developed, order was very much a matter for local communities and there was little evidence of a pursuit of abstract justice. Nor need we go so far back in history. This situation obtains today in many remote parts of the world without more than token police forces.

We tend to forget, in an industrial city, how many parts of the world never see a policeman. There is order and a balancing of interests in geographically remote areas where police could not by any stretch of the imagination provide protection or detect offenders that the local communities did not choose to surrender. After all, within our own large cities order prevails even though the police can clear only a fraction of the crime or offer only superficial protection to most people. The very existence of law and enforcement machinery has its effects on behaviour of course, but we already know that most people do not obey the law because they are frightened of the consequences of illegal behaviour. And a great deal goes on in our societies which takes little account of the law of the land.

Until quite recently in the Middle East, for example, vengeance killings were an expected if not actually a tolerated part of rural life. France has only just repealed its lighter penalties for crimes of passion and in Greece a father or brother is positively expected to take revenge for any dishonouring of a woman. There are similar "higher" codes of loyalty and obligation recognised by professional groups or local gangs and even within the police there

## TWELFTH BIENNIAL CONFERENCE

Australian Crime Prevention Council

### "THE ALIENATED GENERATION?"

The Twelfth Biennial Conference of the Australian Crime Prevention Council will be held in Brisbane, Queensland, from 5 to 9 September, 1983. Venue will be St John's College, University of Queensland where all facilities will be provided.

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are traditions of "sticking together" which can sometimes over-ride the law — as has emerged in several of the prosecutions for corruption.<sup>1</sup>

In earlier situations all crimes (except those of a sacred nature) were dealt with as civil wrongs. Victims or their relatives were left to pursue their own rights in the communal assemblies or courts. And even when all this had evolved into a more sophisticated procedure and the law was established and developed it did not always work fairly or serve an abstract justice. Leaving people to their own devices favours the strongest or most cunning. There was no illusion about equality or the absolute rule of law. The more powerful nobles or rich families could always prevail — by force if not by technicalities of the law. So we see that possession was and still is nine-tenths of the law. The law itself accepted the situation and protected the *fact* of possession more than the *right* of ownership.

As everything depended upon the power which could be mustered, the ordinary people, where they could not rely on their communities sought shelter in the service or under the protection of the local baron. With such organised private security, might was right, whatever the law; and the earlier judges depended more upon their holy orders than on the law to protect them. (They were of course priests). There were few provisions for enforcing court orders and much reliance on the community for arrest, evidence and execution of the penalty.

For a long time however the noble or distinguished families relied upon their own private armies, or rich families on paid gangs to protect them and enforce their rights. The freedom of the ordinary citizen was therefore proportionate to the amount of protection he could command. He could be accused of crime and might be convicted by the number of oaths taken against him. There was no investigation of crime as we know it and supernatural methods such as the ordeals by fire or water or trial by battle could determine guilt. Even where guilt could not be established a "confession" might be extorted by torture. When the revolutions came the various forms of summary justice with little thought for orderly investigation continued to find favour — as indeed they still do after governments are overthrown.

That is why democracy is so clearly linked with policing. On the one hand you have this "might is right" concept of relatively untrammelled free enterprise which favours eventually the powerful. On the other hand you have totalitarianism which is quite accurately called the police state. In between you have a delicately balanced condition which we call democracy with discretionary policing at its core.

## THE DEMOCRATIC DISTASTE FOR THE POLICE

Democracy in Ancient Greece was quickly destroyed when personal bodyguards became too powerful — and this form of private security was also evident in the later Roman Republic, where armed gangs were used for political purposes and were difficult to suppress — except of course as Milo and Sestius finally managed to control the gangs of Clodius — by arming larger gangs against them. Our modern debate between social control and human rights finds an ancient echo in Cicero's intense disapproval of Pompei being asked to move troops into Rome to keep order. This democratic distaste for martial law continues to pervade the democratic movement. It was evident when the army was used in England in Georgian times.<sup>2</sup> In modern Greece it brought the downfall of the Junta of army generals, and it still plagues those who believe martial law is essential to democracy in the Philippines.

It is therefore significant that when eventually Augustus made the first serious attempt to arrange for a special force to keep order in the city, it was possible only after the Romans had actually lost their *libertas*. Authority had over-ridden the delicate balance of Republican interests. So the need for regular trading between controls to maintain freedoms and freedoms jeopardised by controls, is the heart of democracy. The give and take to obtain optimal liberty is a conflict of compromises. The political struggle no less than the intellectual conflict could probably be traced to pre-history and it will no doubt accompany us into the 21st century.

Whatever might have been the devices used to achieve a balance at different periods of our democratic history it is unthinkable in a modern industrial and urbanised society to even begin to approach it without some kind of formal control. This we believe to be necessary to

protect rights and contain abuses. However distasteful the function, most people today acknowledge the need for policing. Policing should not therefore be regarded as inimical *per se* to human or civil rights: it is the only way to protect those rights for everyone. Unfortunately the problem does not end there and never has ended in such a simple statement of principle. The difficulties arise when the "protection" begins to stifle the exercise of the rights by people who are better educated, perhaps more affluent and generally sensitive to rights — rights which in relative terms may have become broader than they were once supposed to be. Who then is to assess the appropriate and acceptable levels of control? It is this uncertainty about how far the police should be allowed to go which exercises civil rights movements. It is this problem posed in the form of restraints which the police in Britain are contemplating profoundly after being blamed by some for provoking youth riots. It is this question which underlies the recent Victorian debate on the types of bullets to use. It is this unresolved issue which is the delight of the media since it gives all the scope that may be needed for division and debate. It has always been the key problem.

Sir Samuel Romilly is famous for saying in 1817 "the laws of England are written in blood" — when he was seeking to reduce the hundreds of offences for which the death penalty could be awarded at that time; and he was, of course, campaigning for a better criminal justice system. Yet the enlightened Sir Samuel made another remark on the Robert Peel proposal for a police force which, in the light of events, may be thought quite prophetic. He feared the creeping authority of any such police force to limit the freedom of the populace:

"However great and inordinate the powers with which the officers of such a police might be armed, they would, in the end be found insufficient. Those very powers, rendering the persons who possessed them the objects of suspicion and perhaps of public detestation would make other and still more extraordinary powers necessary, till all the precautions, all the restraints and all the severities of the most jealous tyranny were one by one established."

This was typical of much opposition to the idea of the police in early 19th century England. For so long communities had policed themselves, had their own Watchmen and though this had been shown to be conspicuously inadequate by the turn of the 19th century, even tolerating the crime you knew seemed preferable to some to having a special core of law enforcers.

And there were bitter battles within England to prevent the establishment of the police force because of the way in which the gendarmerie had been used in France with its centralised authority and its secret army. Military Police forces were too frequently used for political suppression for civilian forces to be too easily accepted in the form we know them today. Nor were the misgivings so unfounded. The Royal Irish Constabulary which preceded the London Police was a form of gendarmerie designed to keep political order as well as prevent crime: the Indian police service was established on this Irish model; and it had reflections in the organisation of the South Australian and New South Wales forces. Moreover military men moved into key positions in other forces, so that the concern that England might follow the continent in the style of it's policing was at that time, well founded. There was certainly no unequivocal commitment then to the traditions of the civilian police force which developed later.

Today as we know there are people who still feel really strongly about keeping police powers to a minimum because of the risk of abuse — and there are policemen who believe that proper control through a recognised force is not only a divine right but a system essential to the survival of society. One side has too much faith in human nature — the other side too little knowledge of social history. Obviously the cumulative accretion of powers improperly exercised can make a police force repressive. So can its use to enforce unpopular legislation — which is presumably why separate agencies are used to enforce tax and customs or business legislation. Drawing the line between necessary regulation and unnecessary control is never easy when already the sheer weight of legislation exceeds anything which might be called reasonable.

## UNREAL EXPECTATIONS OF THE POLICE

On both sides of the modern social defence and human rights debate there are unreal expectations. I have just mentioned the mass of legislation. We all know, though we may not always acknowledge it, that ordinary social intercourse would be impossible if all laws were enforced all the time. The police know this too — and they are expected to exercise discretion. But they are not allowed to exercise such discretion in relation to their own conduct. They are not supposed to "bend the rules". Sometimes when they seek explicit powers they are seeking to avoid a temptation that not all officers have been able to resist. They would prefer to be trusted with authority rather than cut legal corners.

One of the best and most distinguished as well as one of the most brilliant and successful Scotland Yard detectives I ever knew had quite an uncanny sense of direction when he was looking for stolen goods. So sometimes he had to stand outside a building knowing from a number of circumstantial clues that the illegally obtained property was inside and might well be removed within the hour. He knew he could not afford the time to get a search warrant. For this kind of situation he always carried a dog licence and he would use it to raid a building if he felt strongly enough about it. He was, fortunately always right: he had to be wrong only once to face charges and perhaps lose his job. He was bending the rules. There are many notorious criminals in gaol because police officers found a way to follow the letter of the Judge's Rules if not the precise spirit. Or should it be the spirit if not the letter? I'm sure it depended upon the case. Equally, there are many highly respected and distinguished people in our society who might have embarked on lives of crime had they been prosecuted by the police according to law for offences as juveniles. It is instructive to remember when we are seeking ways of diverting young people from a labelling criminal justice system that there was a time when station sergeants would have reprimanded a constable who brought in a person under the age of 15 or 16. The constables were expected to be able to keep order on their own beats without formal charges.

There may have been some abuse in all this but in the vast majority of cases the officers involved were prepared to risk their own futures by skirting the rules so as to prevent what they saw as being much greater social evils. Something is wrong with a system which refuses covering authority but expects results which cannot be obtained without it.

With the legal system as it is, you either have to give the police cover — or indemnify them in some way whilst at the same time keeping them under a form of judicial surveillance which will avoid abuse. This is done exceptionally sometimes for secret security agents but not for police. Of course there is a risk whichever way one handles this dilemma of more powers to help the police become efficient, or less powers and strict accountability under the law with the consequences of possible inefficiency. A former Deputy Commissioner of the New York Police who described some of the processes of corruption drew attention to the weaknesses of our legal system when he wrote:

"The courthouse was (for prosecutors) a kind of concrete temple in which resided the god of justice but this temple was built on the most fragile of underpinnings, namely the testimony of witnesses. These fragile underpinnings were protected by one thing only, the sworn oath"<sup>4</sup>

The courts need evidence and I am not sure that we give enough attention as to how it is to be obtained in a period when few people respect the oath as a guarantee of truthfulness, when accused persons can stand mute and avoid cross-examination and when the police are expected to prove the case beyond a reasonable doubt. These, as has often been shown, are formidable requirements and it is clear that when police are circumscribed too much the evidence becomes unobtainable and offenders can profit; and it is sometimes this sense of unfairness which makes police call for more powers than they need. But the police have to recognise the Common Law penchant for tolerating even crime rather than harassing the innocent. On the other hand we need a more realistic approach to the evidential realities of our noble court structure if the police work is to be effective.

This enables us to dispose of another unreal expectation of police. There is a naive impression abroad that when crime increases it simply means that we have not enough police. This flows from the idea that crime is the sole concern of the police. It is a bit like increasing the number of clergymen to reduce sin. Of course if we populate Kings Cross, Sydney with virtuous churchmen the brothels and porn shops may find trade declining. If we put policemen on every corner the opportunities for street crime may decline. But both sin and crime are more subtle concepts. They both derive from the human nature which is prevalent even amongst clergymen and policemen and never in their history have either sworn constables or consecrated priests, been able to deal with more than a tiny fraction of the total morally or legally prohibited behaviour. The level of intolerable crime in any society is a community concern. The community by which we mean family, neighbours, workmates and friends can stop crime before it requires police attention. Even when it does require police attention, the police can rarely deal with it without information from the public.<sup>5</sup>

It is equally important for the public to understand that police protection to prevent crime does not necessarily mean a police service for victims. People burgled or attacked are often dismayed at the little attention the police can give them after recording the event and taking statements. They somehow expect the police machinery to concentrate more on them — not appreciating either the number of similar cases occurring or their own role in the legal system as it is now. The police see the victims, are often deeply moved by their suffering. The police have done a great deal to bring this to public attention to restore the balance when the media were sometimes directing attention to the plight of the offender. But essentially the police are there to enforce the law and obtain evidence. The victim in this pattern of obligations is a witness to be brought to court and be examined and cross-examined like any other witness. The police cannot prevent that, nor can the police always testify that the witness is telling the truth — or give in support of this what they know about the record of the offender. Nor are the police usually able to provide a personalised protection for the victim after the offenders conviction for as long as the victim might require it. Now that new victims organisations are arising there may be an improvement with a more realistic appreciation of the limitations of the police role.

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In a democracy crime is the cost of freedom. Freedom must include freedom to commit crime and you can only completely control crime by suppressing that freedom to speak, to move, to lie, to steal and to be aggressive. Since no-one wants that kind of total control and since much of society's own development depends on innovation, creativity, non-conformity and deviation we have to work back from this extreme absolute control of all behaviour, deciding at each stage how much crime to tolerate — or to put it another way — what powers should be given to police and what amount of discretion they should exercise in their law enforcement. It is another myth for the public to imagine that they rely upon the police for the enforcement of all laws. The unions have shown us how, working to the book, can disrupt society and if the police do this with all the statutes we have there will be total paralysis. So a measure of discretion has to be allowed to the police — and a measure of toleration of those crimes which do not arouse public indignation.

I have dealt with police bending rules and taking chances. Now I venture with great hesitation to extend this to a more delicate and even anathematised subject in legal circles, namely the extent to which police can be permitted a certain latitude to overstep minor legal restraints when they are seeking to prevent greater evils. Instinctively we answer "not at all". The police cannot break the law they are seeking to enforce. Some police regulations make the point explicitly. Yet there are instances when it occurs and the fact is known. There are circumstances in which exceptions need to be made if major criminals are not to benefit from all the constraints on the police. So we are not speaking so much of illegalities as the extent to which we are prepared to legalise certain forms of behaviour for police purposes. It is another way of discussing police powers.

Usually governments approve the payments which a policeman makes for some of the information which he receives. Even courts have a convention not to probe when the officer was acting "on information received". But it could be that such payments would be illegal or made in circumstances which might not stand up to public audit. Again police in a high speed chase may exceed the speed limit or go through red lights. Do we prosecute them when we know they were trying to catch dangerous criminals? After the Knapp Commission to investigate corruption in the New York Police no-one could buy a patrolman as much as a cup of coffee, but suppose the patrolman is fostering a relationship to obtain information. Going "dutch" even in social intercourse is a way of asserting independence. The consideration for others comes with the give and take of buying for each other. The line has to be drawn of course but one does not understand the culture complexities of Australia if an over-strict line is expected to be effective.

Lets go further and imagine that in trying to get to the upper echelon of drug traffickers police officers working under cover on long term cases have to participate in illegal gang activities to avoid suspicion — or maybe supply drugs to addicts who are informers, perhaps simply because they do not have the heart to see them suffer and they are afraid of what informers might betray just to get their "fix". Just as we offer immunity in some countries to those prepared to turn Queen's evidence or even lawyers get involved in discrediting evidence they know to be true — or negotiating a plea to avoid the risk of losing their case, so there are areas of questionable conduct which have to be condoned, legalised or overlooked if the more serious crime is to be discovered and successfully prosecuted. Now obviously the danger of abuse of such exceptional privileges is very real. So whether by judicial review or ministerial oversight there is a need for a democracy to keep such exceptional privileges under control.

There are other public myths about the police. I will not dignify with substantial recognition of the politically motivated or sometimes mindless insults fired at the police as "pigs" or "brutes" or "mere pawns of enshrined privilege". But let us not overlook the fact that these too have an interesting social history: far from being no more than scurrilous calumnies, they are sometimes carefully contrived but well known, instruments for the progressive delegitimation of established authority.

Far more serious because they are more sincere are the sociographic models of the police as a self-reinforcing in-group which have been developed by the sociologists. These suggest that the police relish their power, develop suspicions (almost to the point of paranoia at times) about themselves and outsiders, develop a separate and privileged identity in society — and that all this is dangerous given the fact that they are the only civilian body permitted to use force. Of course it is undeniable that such isolating psycho-social processes are at work within any police force. It would be less of a disciplined reliable and cohesive body if its members did not identify themselves as a separate in-group and indeed take a pride in it. The mythical character of such sinister characterisations is dispelled however when we analyse other groups within the community on the same lines. University professors are the most sensitive of people about their privileges and prerogatives within their own discipline. In club-like formations of elites they even control access to publication in the distinguished journals and organise a monopoly over the granting of academic titles. Are there more powerful professional in-groups than doctors or lawyers? Even truck drivers develop a camaraderie which excludes those they find inimical to their claims for privilege and recognition. And if we provide uniforms we surely intend to impart a collective identity.

At the other extreme are the myths about the police as super-intelligences of impeccable integrity, able to ferret out the wrong-doing in our midst. Perhaps these were inspired by the popularity of Sherlock Holmes or the London Bobby tradition. They certainly never took on in New York, despite the Police Force there becoming known as "The Finest". Corruption and political involvement went back a long way and the third degree robbed the American police of the friendly protector image for most people. Here in so many parts of Australia where convicts did the early policing or where police profited from licensing, the people could hardly be expected until fairly recently to develop the trust and confidence which became normal in England.

The fact is that the police are not super-men even though we can depend upon them being intelligent and we try to make them better educated and well trained to operate in a variety of situations. Maybe they should be super-intelligences since they are sometimes expected to make, in seconds, snap decisions which the lawyers will then argue about for months or years. It may need the High Court or the Privy Council to eventually pronounce on the rightness of wrongness of an action which a constable was obliged to decide upon in a split second. But they are not super-men and they themselves know only too well that they are human. The reality is that police can be corrupt, sometimes stupid and occasionally short-sighted or obstinate — but never more so than the rest of us. Opportunities have arisen in the past for assessments of the honesty of police officers and others and usually the police have shown a higher proportion of honest personnel. They are usually a cut above the ordinary citizen by virtue of their training, knowledge of the law and experience.

Moreover the police deal only with the public tip of the crime iceberg. They know that they are dealing with only a fraction of total crime — that fraction reported to them or discovered by them. They are aware of the illegalities perpetuated above and around them by corporate or white-collar offenders — even by politicians — but they do not have the means to make the criminal justice more fair, given its dependence on legal brilliance and the strictness of the laws of evidence.

Again we should never overlook the invidious positions in which police are often placed when they are set to frustrate a widespread public demand for the illegal, be it gambling, drugs or illicit sex. Organised crime can bribe well above their heads and there is no public thanks for cracking down on pleasure. A cut above the average they may be but they need to be special when they are by virtue of their jobs placed into the very mouth of temptation. So we can't expect them always to dispense virtue: but this is why *they* are sometimes the most disappointed when an officer lets them down.

Finally their scientific, technical prowess is respected, yet again a myth when it is appreciated that maybe no more than 5 per cent of their cases are solved by sophisticated techniques of this kind. The vast majority of police cases are solved by information — public information or privately obtained information flowing to the police. Order is really maintained by the community in any country. Without this community underpinning, the police become a blunt instrument only useful for suppression. In this respect the increasing role of the police in maintaining public order needs careful monitoring. Here they have developed expertise which does not depend on public information. Community involvement may mean disorder as we see when some emotional political issue arises. On the other hand the police may be representing the silent majority. Either way they need community support overtly expressed for this role of maintaining order as well as preventing crime.

## UNREAL EXPECTATIONS BY THE POLICE

We have seen that it is unrealistic for the police to always imagine that they are treated by suspicion in modern times, whereas in the past they were trusted implicitly. There has always been ambivalence about police powers and sometimes quite good political reasons for the caution.

This suspicion and distrust emerges in a variety of ways. Take the modern arguments about gun control. It is mainly people in urban areas who see the wisdom of gun control and who are quite happy to trust the authorities with the sole use of power backed up by guns. Peasant people and those quite unused to centralised authority take a different view. They see the centralisation of power and the monopoly of arms as a symptom of dictatorship. This, as we know carries over to our shooting clubs and if we ever thought that the pro-gun lobby was a peculiarly U.S. problem we have had two recent seminars in Australia to teach us otherwise. There is a side issue on the extent to which guns are associated with crime but, even in Australia, gun ownership and high crime areas do not always correlate. So, even in this apparently obvious area of gun control it is not simply a matter of helping the police to control crime. We over simplify if we see it only in these terms, underneath is a political division on the role of government. The American Constitution defended the right of citizens to carry arms as a militia. The British control of arms can be traced back not to ordinary policing to prevent crime but to the 1920's, when there was fear that the Russian Revolution might spread and the authorities wished to control the distribution of armed weapons. These are facts however unpalatable and they once again underline the continuing link of policing with political control in any society. There is a case for less political interference with police operations but in policy matters total independence has never been achievable.

Our modern police forces have not usually been reared in a climate of political involvement. They have grown into the image of themselves as the defenders of right against all and everyone, the citizens friend, the first line of public protection against the lout, the violent and the unscrupulous. It is a fine ideal of democracy devoutly to be desired but it has never been quite so in actual practice — and if now we want to move to this police ideal we have to begin by facing the facts getting rid of myths and then improving what we have got. As I hope to show the myths are not only held by the police but also by the people about the police.

The police know even when they cannot admit it even to themselves that much illegal gambling, vice and organised crime could not exist at all without corruption. Not only the police are involved. Politicians and others in authority maybe paid off: but when such scandals break the public confidence is naturally shaken. We cannot avoid the need therefore for someone to police the police.

Again, as the control of public demonstrations against the South African tour in New Zealand has shown; as the involvement of the police in riots in Britain has firmly underlined; and as Australia's own history of police commissioners resigning or being dismissed amply demonstrates, it is just not possible to extricate the police entirely from the political realities of the day. As the overt political actions of police unions and special branches show, this is not necessarily wanted by the police themselves. They too have learned the power of the ballot box and they have organised to develop it for their protection and the advancement of their interests. Modern policemen genuinely believe that they are impartial upholders of the law which is fair to everyone. But even they have been surprised and troubled to find so many of the poor and Aboriginal offenders and so few of the respectable criminals amongst their clients. And they have admitted on television to a natural bias towards family and friends. Obviously they are sometimes constrained to turn a blind eye on informers or at least obtain lenient treatment for them. I can remember when policemen in the north of England carried the numbers of the cars of the members of the Local Watch Committee (which governed police policy at the local level) in their books to avoid giving them tickets. It is not wrong in any moral sense to discriminate in applying the law. In fact we have been taught by a number of fanatical religious sects that the strict adherence to the letter of the law without regard for circumstances can be close to any other madness. If the police did not exercise discretion the average citizen would not be able to move, and society would not be able to meet court costs or build all the prisons necessary. We have to recognise the need for discretion and be prepared for the dangers of discrimination. Somewhere along the line we have to trust someone to exercise the discretion fairly. The police expect this public trust and believe that people should always see them as disinterested upholders of a reasonable law. They should equally appreciate the need for caution. There is a kind of symbiotic relationship between crime and policing which has to be monitored closely, to avoid them becoming intolerably mutually supportive.

Public trust is a rare commodity in a plural society however. Here I mean not only a society of plural cultures but a society of diverse value systems where so many laws are not underpinned by morals and customs.

There has been a marked reluctance to impart public trust to any agency in the last 20 years. The kind of relatively unquestioning trust the police used to get from the man in the street has been eroded. That kind of generalised public trust is obtainable from the public at large only as long as there is a national consensus on basic values and where these basic values are reflected in the laws of the country. In a plural society, the operation of the criminal justice system itself is criticised as discriminatory, becomes a matter for open debate: and the conflicting though complementary issues of law and order and human rights are evocative of a variety of interpretations. These have been the consequences of education and sophistication in democratic states. So that everyone, including the police, needs to appreciate that the citizen, the taxpayer, is always being torn into deciding whether he is being fleeced or served by his government — whether he is getting value for his dollar in genuine protection or being crushed under an overwhelming bureaucracy, whether he is deprived of his rights or sacrificing some of them for the public good and whether he has a police force with aspirations to become a willing instrument of some future Big Brother or whether he has a force which he can depend upon to protect him against any excesses of power even by the officials of governments in authority. However clear and uncomplicated the police position may appear to policemen it needs to be viewed in perspective.

There is another illusion that police entertain, namely that they really can be all things to all people, that they always contain within their ranks the expertise which will be required for efficient policing. Now this is just not so and fierce resistance to change here will simply divert specialist functions from the police. I know all the resistance to the hiring of experts or even consultants who are not policemen, I appreciate the union concern for adequate promotion positions and for places behind desks for men who have borne the heat and danger of front line police work. But we live in a complex society and there has to be provision for occasional if not regular air-conditioning in any service. James F. Ahern, himself a former police chief has put this succinctly:

"Officers who have worked their way up through police-department ranks to become assistant chiefs, chief inspectors and captains find themselves in middle-management positions in multi-million-dollar enterprises without the training and often without the inclination to handle management and planning problems. In most police departments ranking officers have become clerks or petty bureaucrats by default."

And the same warning note has been sounded by Patrick Murphy, President of the Police Foundation in Washington, and Commissioner of Detroit and New York Police Forces. He says simply that:

"...the police, to improve, will require better leadership than is currently provided by closed civil service systems."

Let me say at once that these are not only police problems. Massive bureaucracies unresponsive to social realities, are the bane of the age. But the situation is acute in police forces where unions are beginning to assume some of the communication and morale functions of the administration. If the police are unique in our public services they need to be identified not only by functions but by exceptional administration and morale.

Not only police educational programmes but a whole new level of criminal justice executive and administration training has to be provided. Closed doors have to be opened and universities linked to the integrated operations of police, courts and prisons at the higher levels. Properly organised this would enhance careers in the police and give more opportunity for movement. If it is not done we can expect a proliferation of different types of law enforcement agencies growing up outside the police to deal with security, corporate and organised crime, technological crime and forensic sciences — with the police being relegated more and more to routine patrol and guarding duties. This goes to the heart of the effects of specialization and complexity which I can only mention here but I have no doubt that just keeping order will not attract too many intelligent people to a police career.

The police themselves have the responsibility for breaking out of a strait-jacket of their own imposing. Why do I quote from U.S. police officers to make my point — only because we have not had anything like the same attention paid in Australia to police science and development. The problem here has been coping with the present, not the future.

Finally, since I have dealt with the public's lack of conception of crime as being more of a community than a police problem, allow me to switch the focus to the unreal police conception of community involvement in a democracy. At the Fourth U.N. Congress on the Prevention of Crime and the Treatment of Offenders we had to deal with Public Participation and Professor Norval Morris, a distinguished Australian criminologist, and myself had prepared a working paper to ask what public participation really meant. We discovered that in all countries where police or correctional workers called for public participation they really meant public support in implementing the policies which they, the official services had already designed. There is some justification for this in the accountability of public officers — an accountability not easily shared with the public. But public participation in a democracy has to find a *modus vivendi*. If the public are expected only to support official services it is possible to show that this is exactly what public participation means to totalitarian countries. They too want the public behind their official policies. That is why they set up a wide range of local street, factory and school committees.

When we are bemoaning the behaviour of young people we complain sometimes that family guidance and schooling is no antidote for the influence of peer groups. A totalitarian country sets out to provide its own peer groups by monopolising leisure and providing the channels for massive public participation. They set out to develop all kinds of social groupings which can be guided by official directives.

In a democracy this has to be different. When we talk of community involvement we mean bringing the public in, not only at the implementation levels but at the decision making levels. This is always a very disturbing idea for professionals. It is not only the police that would rather do their own thing and then get the public on side: this is also the idea of lawyers, doctors and businessmen. In fact businessmen have made more progress in this direction by means of advertising than any other groups. They call it marketing. Lawyers and doctors have marketed their product via politics and academia: the police too are becoming more sophisticated in public relations. This may be a less coercive approach than that of totalitarian societies but the attempt to capture the public market is in the same direction. The idea is sometimes to convince the public that an inferior product is the best. It is a subject needing more attention than I can give it here but again the idea is to bring the public into line with decisions made for them. To the extent that the public choice is vitiated by this process we have affected the very notion of democracy.

Community participation in a democracy has to be at policy levels. In crime prevention this is equally true. It is no use bemoaning the lack of community support for the implementation of policies which communities do not feel to be their own. At national, state and local levels the community needs to be brought more effectively into the movement to control crime. This means better public education, opportunities to question official policy and involvement at all levels. It could mean disturbing a lot of complacent policy making but it could be enlightening too.



## INDEPENDENCE OF THE POLICE

The crux of the problem is always how much power we entrust to the police for the protection of a democracy and to what extent we render them immune from interference by executive and political authorities. This has emerged very clearly in the struggle to get outside tribunals to hear complaints against the police. The police wanted to deal with this inside the force and to be fair to them the majority of police despise colleagues who abuse their powers or become corrupt. Moreover, this desire for internal discipline was analogous to the internal discipline of doctors, lawyers and other professions. There were differences however according to private practice and organisational practice but the extent to which doctors and lawyers even in organisations feel bound to professional standards set by their own professional bodies (who incidentally may even campaign for their remuneration) allows the analogy. However, a democracy if it remains so has to be seen to be fair so that claims for external participation in policing the police has or will succeed simply because it is a democracy. Now, of course, this will increase complaints and lead to problems of morale. But Goethe once said that Germans faced with a choice between freedom and order would prefer order. Maybe the democracies are prone to prefer freedom. However it is the Anglo-Saxon based systems are unlikely to prefer exclusive authorities closed to outside supervision. We all want to prevent crime but not to prevent it completely — as we could do by controlling all movement or using modern drugs to control behaviour. Here the remedies are worse than the disease, so that crime as being a cost of freedom has to be understood by citizen and policeman alike.

It has been argued in Common Law countries that essentially the police acting as citizens with statutory powers of arrest, were independent. The extent to which constables' powers can be interfered with by his superiors has been questioned. But this notion of complete independence has always been, politically speaking, a fiction rather than a fact. For one thing the constable, however legally responsible, is part of a disciplined force. He takes orders. In particular when he is engaged in keeping order rather than in investigating crime he is part of an organisation and rarely functions independently. Secondly, he has to be protected when he makes honest mistakes in the course of his work and becomes liable to damages. Even though this protection can extend only so far it still serves to qualify the independence of operations. And who can expect a police officer to do other than weigh the effect of his actions on his own promotion prospects and peace of mind. How often will he stand out on a principle regardless of the consequences? It has happened: but it is not usual. When making an arrest he will obviously assess for himself the extent to which the accused is going to be able to challenge him in court and distort his intentions. This happens now more frequently than it did in the past so that an officer is clearly governed by what he might reasonably expect to be the consequences of his action.

There is no need to be upset about this questionability of the true independence of the police. This is not a circumstance peculiar to the police. Tremendous political pressure can be, and has been, brought upon the courts in certain circumstances. I have had some personal experience of this in countries abroad, when there were serious political implications to penalties being meted out to persons or groups who had contravened the law. Can one really believe that the media had no part to play in influencing the Judge and Jury dealing with the Yorkshire Ripper. A democracy precludes us hearing all cases *in camera* or resorting conditions such as we associate with the Star Chamber. By the same token it opens judiciary and juries to subtle pressures. They do not necessarily succumb but they cannot avoid the influence. I remember being in the chambers of one Supreme Court judge when he decided he had to throw out a case of murder of a wife because of the lack of evidence. But he said, "I'm doing this but my wife has already convicted him!". Constitutionally we believe in the doctrine of the separation of powers so that technically the executive does not interfere with the judiciary, but we have only to look at the office of Lord Chancellor in the United Kingdom to see that we have a person who is a member of the government actually controlling appointments to the judiciary and linking in himself judicial and executive functions. Small wonder then that the happy myth of a politically immune police force has had its own problems in practice.

## THE FUTURE

Democracy then depends on the quality of policing. If overdone then freedoms are threatened, if underdone then license tyrannises. A good police force may not be able to dictate to its political masters: but it can moderate their excesses. It needs power and authority to do its work but uses these liberally at its own peril and to the detriment of democracy. Just to state such principles is to highlight the balances which are easier to describe than achieve. The problem is that we do not yet have objective measures of good police performance in preventing crime. A recent study of a provincial force in England highlights the extent to which the non-police groups in the population contribute to statistics and the way in which police policy affects the figures. For example the figure for "crimes known" is manipulatable but is the demonimator for "offences cleared". The offences with which people are charged when the police are keeping order at football matches or in the streets affects the numbers of "crimes" dealt with. Concentrating on known professional offenders can clear more crimes even if it clears less offenders: and of course in terms of statistics for crimes cleared, long periods spent tracking down a murder may not show much credit. Again all kinds of extraneous factors such as opportunities for overtime help to decide actions which affect figures.<sup>7</sup>

We have lived through a generation which has seen the traditional police image tarnished by proved charges of insensitiveness and corruption — but which has also seen the police develop through union action a better appreciation of their industrial clout. They can now change policies they do not like and they have substantially transformed the former autonomy of police administrators. We are not sure what all this has done to the quality of policing. There are all kinds of figures but for reasons given they do not satisfy evaluation criteria.

For what the figures may be worth, Dr Mukherjee of the Australian Institute of Criminology has calculated that since 1900 in Australia, whilst the rate of clearance of violent offences per police officer fell from 1.66 in 1900 to 1.35 in 1976, the clearance of property offences per officer rose from 2.71 to 5.70. Moreover, between 1963 and 1976, the clearance rates for robbery more than doubled whilst that for burglary remained constant. This does not seem a bad record but we cannot be complacent. Ex-Commissioner Whitrod has reported a falling rate of clearances per detective and it would be indeed remarkable if there were not diminishing returns as the police bureaucracies grew. If we are thinking of policing for a democracy we must count a less than 100% efficiency as an indication of tolerance. It should not be imagined for example that a village constable is not doing police work when he doesn't prefer charges.

Anyway, whatever the media may have said about the police, public opinion has always been shown to be behind the police. Public opinion polls have demonstrated solid public backing for the police even when certain sections of the public were trying to make the police officers life difficult. The friction has unfortunately encouraged myth building and a polarisation of positions however. Radicals deride the supposed detachment of the police, call for more controls of police, more investigations of abuses of power, of corruption and of decriminalisation. On the other hand extreme unionism threatens to bring the police into an entrenched conservative position. As we look to the future, with the demand for more police, and overtime swallowing increasing amounts of public funds, the tolerable levels of policing as well as the tolerable levels of crime are crucial issues. Compromise, understanding and flexibility are now needed to keep the balance.

What are the issues. First there is the definition of the police function. Are the police there primarily to keep order or prevent crime? It would be interesting for someone to follow up the effects on conventional crime prevention of the New Zealand Police of the South African Rugby Union tour. Maybe their control of demonstrations is preventing the most serious crimes. Or do we envisage two types of police — the uniformed officers committed primarily to keeping order and the detectives to investigating crime? How are the functions to be defined in relation to public demand and how is this to be assessed, by the media or by the number of reports received? Should the police encourage the growth of a variety of other law enforcement agencies — perhaps moving into them as their own high specialisation develops into an alternative professionalism? Or should they try to incorporate within the police services a wide variety of sub-professionals — as with forensic sciences, sophisticated fraud squads with accountancy expertise or traffic specialists. This has been extended to the computer field, nuclear science and bomb disposal to mention only a few areas. How far should investigations of crime be specialised?

We have never really solved the problem of what the police should be doing in a democracy. I began by referring to their local government as well as prevention of crime functions. We have used them for traffic, child care, as firemen, veterinary inspectors, licensing authorities and prison officers. We think of the police primarily as preventing crime but it has been suggested that less than 20 per cent of their total time is spent on crime work. We have thought of them sometime as a 24 hour social service, the only one of its type that we have: but most policemen would not divorce this from crime. How should their resources be used to the best advantage? What kinds of patrol work or response patterns get the best results? To what extent do they help victims or act as an official rubber stamp for insurance companies? To what extent is police effectiveness blunted by the internal bureaucracy with its ratchet effect on growth from which every force suffers? How do we deal with the problem of getting the most experienced and skilful policeman on the beat in contact with the public when his promotion prospects point him in the opposite direction? How do we provide for all the specialisations types of crime? How do we extricate police from the stifling overlay of other government bureaucracies. To what extent do the records which police keep infringe basic freedoms? How far do the various forms of surveillance undermine the citizen's personal liberty? The whole range of police science and police management or administration is still to be properly explored in Australia. Since no democracy can afford the number of men which any conscientious police Commissioner would wish to have, how are the resources best placed and their effects evaluated? All these questions have to be addressed to adjust policing to

democratic requirements. It is a reflection of society's improved education and concern with the quality of life that we are aware of such issues.

We have literally stumbled into modern industrial democracies carrying our police forces with us. In the past they had to be conscious of the superior elites in society who wielded power. Now, more and more they have to become responsive not only to the more enlightened population at large but to the reality that that is a divided population on basic values and police work will inevitably have to be done under challenge from one quarter or another.

As the plural societies emerge with untold and incredible technologies we have to know more about police potential and police significance. We cannot go back to the earlier centuries of community policing with the elected sheriff mobilising his posse — as still happens in parts of the United States. Neither can we drift forward, building an authoritarian monolith of public surveillance with a beaocracy which no-one can control. We know that this means less real crime prevention anyway. So where do we go from here?

The first task is to build up knowledge of what works in policing and what doesn't. So much is taken on faith whether it is better patrol cars, neighbourhood policing on getting the policeman back on the beat. We have had some attempts to apply in Melbourne the lessons learned from the Kansas City study but really police research and police science is so much in its infancy that we go on making acts of faith as a prelude to investing more and more public funds in "more of the same". The operation has to be costed, evaluated and progressively streamlined to get better value for the dollar. If the official police in a democracy are not to be circumvented by the sophistication and dynamism of democracy and reduced to more and more routine work whilst all kinds of glamorous new agencies are created to do what the police cannot do, we have to know more about the costs and benefits of different types of law enforcement and we have to be better informed about what works. Though I have no doubt the idea would be anathema to some police agencies committed to protecting their prerogatives we may have to promote the idea of specialised law enforcement outside the present forces simply because it will be a generation at least before they are able to break out of their traditional strait jacket. On the other hand the advantages for the existing forces of developing their own proposals for large scale improvements and adjustments to the realities of the day are substantial. If unions and management can get together on this with the best outside advice we may see a real transformation. One of my own staff with experience in this field suggests that such broad planning for the future should be based on the idea of public security rather than policing i.e. the net should be cast much more widely.

For such forward planning a large research programme is needed. Fortunately we don't have to start from scratch. The U.S. and Europe have poured money into projects of this kind and have got some of the answers. Not surprisingly the answers have raised other questions — but this is the meaning of research. The L.E.A.A., for example, has shown that a single man in a patrol car can be as effective as two men, that separate detective bureaux are not necessarily more successful in investigating crime than systems where responsibilities are generalised and more scope given to men in uniform; that up to 38 per cent of officers shot are shot by themselves or fellow officers so that guns need to be better controlled. To what extent is this all true in Australia? We can begin by replicating the studies and doing some of our own. One study of policewomen's work in Melbourne suggests that they may provide more of an acceptable social service than other welfare agencies — and that this may be changed as women are moved to general duties and men moved into the work now being done by women. It is all very interesting but we have a long way to go in providing the information needed for a more streamlined public policy.

Secondly, as already suggested we need more public participation at higher levels. Predictably the Lusher proposal for a Police Commission rather than a police Commissioner was rejected by the N.S.W. police organisations. But what about widening the concept to obtain a broader coordination? If we use this to provide for Crime Prevention Commissions, the details of which I have spelled out elsewhere we will not only do better forward-planning for the police, but also we will have standing bodies able to monitor operations and avoid the need for the occasional Royal Commissions when the politicians or the public want to know what is going on. Properly handled such Commissions could be safety valves for tensions likely to be created otherwise by head on clashes between management and unions. Of course we do not know if they would increase the police effectiveness in controlling and preventing crime — but if we wish to avoid the inevitable temptation of existing bodies to protect the status quo at any cost we have to experiment gradually and the Crime Commission idea would enable this to be done.

In the same context of getting public involvement the police have to bring under the microscope their own decision-making on the beat as well as in the offices. We have so much evidence accumulating that our criminal justice systems are biased against the poor, deprived or neglected segments of society that we have to know why. I am convinced that it cannot all be ascribed to malevolence and political discrimination. Rubenstein writing of the New York Police in 1973 said:

"Many of the cues the police look for in assessing people are association with poor people and people who are indifferent to the mores dominating our public life. . . . But they also commit more street crimes, steal the most cars and are most often the victims of their neighbours degradations."<sup>8</sup>

Yet are secrets of bias locked in the processes of law enforcement which the police can help us reach? There is a relationship about the way in which they go about their work and the characteristics of those who appear in court. A great deal has been done to distinguish between the bias in proactive policing and the things that may pass for bias in reactive policing. Police have done much to improve methods and reduce discrimination in recent years but the figures indicate that more is needed to balance our criminal justice. Maybe it is not only the police but the rules of evidence and the expectations of the public which find their way into policy making. Whilst there is a need to avoid a departure from impartiality by responding too obviously to political noises there is a need to investigate demonstrated discrimination. Full public participation depends on each segment of the population feeling a responsibility for the police. To get this we have to avoid any bias that can be consciously removed and seek to prove that all are served equally.

Thirdly, rather than keep the police isolated and so negatively self sufficient that they suffer eventually from their own publicly expensive insularity, we need a broad approach to better higher level training in criminal justice and crime prevention generally. I have already suggested a new form of National Academy for Criminal Justice. We have already begun this integrated approach at the Australian Institute of Criminology but we now need resources to give it permanent educational status and influence with qualifications that spell promotion and opportunity for policemen, correctional workers and a variety of civilian administrators in this field. Again this is spelled out in detail elsewhere.

Allied with this widening knowledge and expertise in the police would be a greater understanding of the criminal justice system itself. Police groups have been known to make obscurantist remarks about the working of the system without apparently being aware of the facts available to prove the contrary. For example, the police, like anyone else are entitled to their views about the death penalty but such views sound reactionary and uninformed when they are made publicly without reference to the data available on the effects of the death penalty. These don't necessarily disprove the police view but they always qualify it. Again Patrick Murphy who cannot be accused of not understanding policing has complained of the police reliance on imprisonment without understanding its defects. He is said to have offered to reduce by 80 per cent his requests for federal funds for police development if the funds could be applied to improving the correctional system. Sadly prisons do not correct. When the police express their disappointment at a rise in crime from prison, they frequently display their lack of knowledge of proportionate rates of crime to population or age groups, the earlier changes in rates of escape or the extent to which people have been kept in custody unjustly. So better educated and informed police will be better public guides to appropriate policies for the control of crime. One would imagine that police officers have lived through so many "crack-downs" on crime that they might suspect that they are facing a problem of wider dimensions. Yet there are still simplifications which both they and we need to avoid. Better training and education all round will achieve this.

Fourthly, I believe we need to keep a much closer eye on the development of private security. For reasons which I hope this paper has made clear there is a discernable relationship between the rise of private security and the decline of police/community effectiveness in offering protection from crime. I trust I have also drawn attention to the way in which private security favours those able to pay for it and could be a shift of the pendulum from right to might. The trouble is that I have also to admit that no modern industrialised community can hope to avoid private security.

In modern conditions the question of whether a democracy is more of a democracy when the citizen is provided with the facilities to protect himself and to guard his own property, or whether it is more of a democracy when an official police force is entrusted with the task, can still be approached from either side. It is still an issue in our day-to-day life. The regular police are not usually interested in guard and escort duties and they have served notice on the public in some Western countries that they cannot undertake to protect them all against assault and breaking and entering. Private security and a whole industry of security devices has therefore developed. This returns us to the problem of security being available only for those able to pay the high price. On the other hand it underlines the other well known fact that the police alone can never control crime. They need public support. There has to be public involvement. Private security is one form which it can take: but it is a development which has to be monitored carefully if some are not going to get a bigger share of the justice cake than others.<sup>9</sup>

Starting from the premise of a need for public security we may need a fairly intensive research project designed to explore what is meant by public protection and bringing in the subjective and objective aspects of the fear of crime — and its probability. We have to know what levels of security people are prepared to pay for and to live these up with different combination of official, community and private protection.

Fifthly, we have to look at management. This does not mean simply inviting management consultants to build a new structure. If the public has to be brought in this is one area in which they could be helpful. But more than that, policemen themselves know more

about what needs to be managed than anyone else. So management-union tasks forces are needed to draw up designs which can then be discussed with the public and outside experts. There are ways to tackle things like distaste for rural service, long periods without promotion prospects, transitions to less active jobs before retirement.

However, it is vital to understand the difference between the short term and long term interests that will be represented round the table. The most senior officers may be near retirement, the economic pressures may dictate a search for quick returns for younger staff. Yet by devising procedures which satisfy immediate demands the longer term needs of the organisation and society no less than the longer term prospects of the younger policemen could be jeopardised. This is a complicated area in which specialisation inside and outside the force, complexities of large scale organisations with problems of communication, the matching of union and administration interests, the new concepts of a disciplined force without sanctions, the changes being brought by new technology and the proper response to new information gathered by research will be in juxtaposition. But society is changing so fast that solutions to police administration and management questions must be found to streamline and improve the organisation.

Sixthly, it is already well appreciated that the police need to develop better public relations. Sir Robert Mark who has advised Australia on police matters has a reputation for an open door to the media. Police have nothing to hide so they should disclose as much as possible without, of course, jeopardising their confidentiality, dealing with matters *sub judice* or breaking security. Unfortunately this has not always proved an advantage to the police. Media specialists have their own angles to develop and they are far less interested in years of good policing than one blatant mistake. They are looking for drama or dissent, disagreement and confrontation more than routine efficiency and public satisfaction. This would seem to imply the need for a new potential in the police to present their material more dramatically. Usually this can be done, though one eye needs to be kept on the court case in the making. There are ways in which the media can be used as part of the widening public participation. They have been used in the past to develop campaigns for road safety, education in drug abuse and for the raising of the security consciousness and to reduce vandalism.<sup>10</sup> But in general the gap between police and public has been widened rather than narrowed by the media and this needs to be corrected.

Seventhly, I believe we need to look carefully at the police link with prosecutions. Now I know that this is a very sensitive issue for police who value this traditional link with the courts but in the interests of public relations and a more secure democratic role for the police you will see that there are virtues in bringing in legal prosecutors as a distinct service at an early stage of police investigations — and in concentrating police attention on the development of more effective methods of detecting and producing evidence rather than on presenting it in court. I'm not just thinking of changing labels and calling police prosecutors "lawyers". Nor do I have any illusions that lawyers *per se* will improve investigations: but having worked in both adversary and prosecutorial systems, I believe there would be merit in linking the best in both systems. Again there is not space or time to develop the theme here, but recent proposals by the UK Royal Commission on Criminal Procedure point in this direction and the development of law in the Common Market in Europe is forcing Common Law and Civil Law systems to take each other seriously and to learn from each other. Australia should at least investigate the possibilities of a new look at prosecution work. The development of a separate police, security and investigatory profession can be assisted if it is less of a handmaid to the legal profession and I believe the public image would benefit. All the quarrels about admissibility of confessions would be settled by an independent official taking those statements: the police will be able to concentrate more on the accumulation of other evidence — and it is not an unreasonable assumption that it would be easier if they were not doing their own prosecutions, to entrust them with all the undercover authorities they need. Outside legal involvement would enhance credibility.

Eighthly, a great deal more attention than in the past must be paid to the control of riots and demonstrations. This public role of the police in a democracy may be expected to increase and become more complex. Whilst professional skill is obviously required and there can be no substitute for experience it might be worthwhile considering how the public could become more directly involved. The New Zealand police have sworn in as special constables a number of citizens to help them with their difficult task of maintaining order. I am well aware that this is an idea vigorously opposed by police unions in Australia and, for that matter, disliked by police in England and elsewhere. For that reason it could be postponed to the time when the results of a long term research on future public protection have been obtained. Much experience has been gained around the world with police cadets and police auxiliaries. There is experience here in Australia. Therefore when this has been gathered and results of research are available unions could be brought into discussion on the approach most likely to have long term value.

Lastly, and still on controversial police subjects, I believe the police should go all out to develop their role as a reliable 24 hour social service. It has never been a formal role but it is an aspect of police work which should not be ignored. It has been suggested that there is a conflict between coercive and helping roles. I don't believe it. There are many agencies that have to combine authority and assistance. I cannot develop the argument here: I merely wish to indicate that there is a case for consideration.

The flow of information about crime is already invaluable from the police role as a social service and this could be improved. Police/public relations and the image of the police as protectors could be promoted more effectively if the social service role was embraced by police less reluctantly instead of it being a side line to ordinary police work. I would even see no problem about the police running their own hostels for the vagrant and homeless which could be bail hostels when necessary. I believe they already need such services for children and to cope with everyday family situations. Where they can, they use other agencies: but there are situations or times of the night when this is not possible. The police could have their own trained counsellors and concentrate on early identification and prevention of problems. We all know that much of this has been done informally by the individual officers: police youth clubs are rightly famous; there is no reason why more could not be taken on. Who knows, it could reduce the demand for police officers to deal more directly with violent crime.

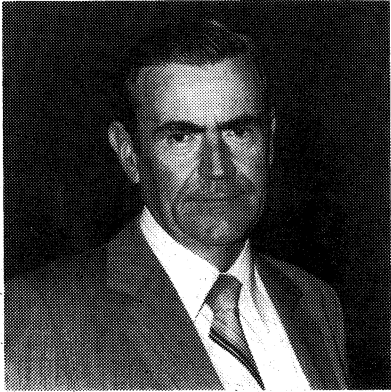
Conversely we have gradually learned the value of off-loading all kinds of routine jobs onto either special services or the community itself. We now have traffic wardens, pensioners at school crossings, social services for drunks instead of police cells. This movement should increase as police/public relations are improved and as there is a closer day-to-day involvement of the community in its own protection and development. Again, of course, I am anticipating the results of a closer investigation of protection needs and administration processes. The pattern of functions assumed and off-loaded will have to be determined.

There are still people prone to mock at the very idea that our modern industrial states of the West are democracies at all. They point to all the inequalities and injustices and to all the obvious differences between the noble rhetoric and the sordid realities. But with all their faults there are few other places in the world which qualify any better for the democratic title. Our police deserve a share of the credit for this desirable, if not perfect, state of affairs. They are there to prevent the permissiveness becoming destructive and to prevent the weight of existing law slipping into a landslide of legal if not, political repression. They are of the people as well as for the people — which is another way of saying not only that they too have rights and legitimate expectations but also that they are very human. With crime so threatening to democracy and so difficult to detect they remind us that for an upright society we have sometimes to allow the police to restrain and even be devious. But they have demonstrated that they can justify this public trust. They cannot always guarantee us justice, equality or total freedom of action: but they stand between us and something likely to be far worse i.e. the demagogue's own interpretations of justice, equality and freedom. The challenge is always there so that there is no period of time when we are relieved of the obligation to get our policing right — if we want democracy at all.

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9. See Clifford D. Shearing, Margaret B. Farnell and Phillip C. Stenning, "Contract Security in Ontario", Centre of Criminology, University of Toronto. A recent study which looks not only at the issue of corporate control of "policing" but at the implications for the security industry of foreign ownership.
10. The results of a Home Office study of the effects of such media campaigns just published suggests however that they are ineffective in changing behaviour on their own. They need to be adjuncts to other measures.

# POLICING A DEMOCRATIC SOCIETY — CO-OPERATIVE OR COERCIVE?



Paper by:  
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#### The Objective of a Police Force.

There is a need to define a fundamental philosophical purpose for a police force in terms of ultimate realities and general principles and this should be expressed as a single corporate objective. The corporate objective for a police force in a democratic society is -

*achieving an acceptable level of tranquillity in the community.*

This brief objective is more formally stated in this way: To guarantee, as far as possible with the resources available, the security and serenity of people resident in or visiting New South Wales by protecting their life and property from criminal intent, uncontrolled behaviour or the lack of judgment of others and from natural and man-made hazards.

To achieve this corporate objective a number of strategies are required:

1. Protection of life and property.
2. Detection of Crime.
3. Detection of crime and apprehension of offenders.
4. Prosecution of offenders.
5. Maintenance of public safety where this is threatened by accident, foolhardiness, crowds, or disaster.
6. Control traffic.
7. Establish and maintain close co-operation with the clerical and administrative supporting services within the Police Department and with other Government Departments and organisations working in related fields.
8. Pursue a continuing programme of development for all police.
9. Maintain an action based research programme directed toward the identification of improved force objectives, strategies and tactics and to provide source material for law and administrative reform.
10. Provide a central registry search and communication service for missing persons and those who have been the victims of tragedy and disaster.
11. Where required, exercise non-police regulatory and service functions of government where the policeman is the only appropriate responsible officer available.

All of these strategies need to be effectively followed to achieve the single corporate aim of maintaining an acceptable level of tranquillity in our society.

We need to use the vast body of knowledge and experience available to us to devise suitable tactics to pursue the strategies which will assist us to achieve our corporate objective. It is in the area of tactics that we consider a veritable constellation of techniques. Included in the notion of tactics are issues such as preventive patrolling, unit beat policing, disaster and rescue, neighbourhood watch programmes, juvenile aid bureaux, random breath testing, visible traffic patrolling, liaising with other departments and organisations, recording crime, extraneous duties such as motor registry work and so on and on.

#### Historical Development Of The Role For Police As Specialists In Law Enforcement.

Alderson <sup>(1)</sup> identified four police epochs (1) the Anglo-Saxon tribal collective system which suited the mainly simple agrarian scattered settlements of their time. Responsibility to the King for social order fell to tithings of ten families and to hundreds, which were ten tithings. There was an obligation on all subjects to maintain law and order and join the hue and cry in the event of a crime. (2) in the 13th century came the City Watch which was associated with the growing prosperity of England. The Constable became the enforcing agent of his community. (3) the epoch of the Justice of the Peace followed and proved to be the most durable of police arrangements and (4) in the 19th century came the emergence of the type of professional police forces which were the forerunners of the organisations of today.

For many centuries the responsibility for social control belonged to the citizen and this obligation was reflected in the Common Law. In the 19th century there began an acceleration in the industrialisation and urbanisation processes and sociologists such as Durkheim identified the division of labour phenomenon. While this phenomenon is essential to social development it has created some problems which should be discussed briefly. People evolved from being able to turn their hands to many tasks to being specialists in particular occupations. As the process of specialisation developed the citizen shed some of the roles which were expected of him in earlier days. Many people have all too readily abdicated from what would once have been considered their social responsibilities, adopting the attitude that there are experts to cope with most problems.

In the area of social control the citizen gradually withdrew. Crime and disorder increased. While there was widespread distrust of the proposal to develop organised police forces with a professional constabulary, crises of public order forced the issue. The middle classes saw a need for organised protection of person and property and the political elite wanted some security against the collective antagonistic behavior of the lower classes.

With the growth of industrialised civilization we have had people specialising in particular occupational roles. At the same time professional police forces were evolving and it was inevitable that the citizen would lose his sense of responsibility for the maintenance of law and order and be content to leave it to the trained professional.

#### Urbanisation

The development of huge cities with all their technological wonders has been an essential associate of the growth of industrialised societies. This consequence has brought detrimental effects which have been regarded with some resignation as the inevitable price of progress. Civilisation has not kept pace with this growth of the cities, for social harmony has become somewhat discordant where urbanisation has intensified. Urbanisation and civilisation could be compatible if we adopt the advice of C. Wright Mills <sup>(2)</sup> to social scientists: He wanted them to help people to become self-educating and consequently, reasonable and free. Huge urban populations tend to become mass societies and Mills felt that people in a mass society are gripped with personal problems with which they have neither the skill nor the wit to deal. The knowledgeable person in a genuine public is considered by Mills to be one who translates problems into issues. In his words, "People in masses have troubles but they are not usually aware of their true meaning or source; men in publics confront issues and they usually come to be aware of their public terms." Urban society will become truly civilised when the education system can generate a desire in individuals to be self-cultivating, free and rational. People will then recognise some of the problems associated with the urbanisation and be more prepared to assume their true role in such areas as social control.

Ted Robert Gurr <sup>(3)</sup> examined the consequences of urbanisation in criminological terms and found that since the 1930's the rates for index crimes have risen alarmingly and are continuing to rise. Biles <sup>(4)</sup> confirms this with some variation of the rates for various crimes.