

THE ROLE OF POLICE IN SOCIETY

by Michael M. Benes

NOTHING DESTROYS AUTHORITY SO MUCH AS
THE UNEQUAL AND UNTIMELY INTERCHANGE OF
POWER, PRESSED TOO FAR AND RELAXED TOO
MUCH.

(Francis BACON)

POWER TENDS TO CORRUPT, AND, ABSOLUTE
POWER CORRUPTS ABSOLUTELY.

(John E. ACTON, English Historian)

SOME recent articles in our daily newspapers and magazines, together with programmes and debates on radio and television have focused on the subject of the increased crime rate within our community and how the average 'citizen' is affected by it. Some senior members of our law enforcement agencies maintain, that widening police powers would eventually lead to an increased number of successful prosecutions, which in turn over a period of time will decrease the crime rate.

In a narrow sense the word law refers to the social life of man. Thus we may speak of laws of etiquette, laws of honour, and the moral law. When people first began to live in groups they had no rules or laws, but they soon realised that each man had to pay attention to the needs and welfare of his neighbours in order to make life not only pleasant but possible for the greatest number of people. These rules or customs were at first unwritten. When law in this second sense failed, the State made laws in a third sense. The State set up a positive set of rules, or codes and enforced them.

Let us firstly consider what forms and instruments are at the disposal of the State to protect its citizens against crime. They are: the police, legislation, the judicial system, and the power and means they have to initiate social change. However, it must be said that no government can expect to be wholly effective in protecting its citizens, whilst it allows them at least some degree of liberty. It is at this point, that I would like to closely examine the area of law enforcement; its difficulties in relation to legal power which the members of law enforcement agencies may possess and are expected to exercise.

The difficulties of law enforcement stem from the functions the police serve in the legal system and the necessity of adjusting that legal system to the features of a particular community. In the legal system the primary police purpose is to deal with the criminal in action through routine foot and mobile patrol; detection of crime; accumulation of evidence, etc.

Because they are stationed at the gateway to the judiciary and correctional systems, the police are involved in the procedural aspects of legal power. Because they are so involved, the police must observe the rules of legality through respect for political rights, due process and official accountability. Their observance of individual rights is essential to making democracy a reality in a mass society, but achievement of this ideal is made particularly difficult by the demands that the police also be **efficient** in protecting the community against the criminals, disorder and social unrest.

The external limits of police authority are set forth by statute and case law, but within these limits the officers exercise **wide discretion**. W.R. La Fave has advanced arguments that policemen should exercise discretion in law enforcement. It is virtually impossible to reform the law and to keep it current with changing conditions and social standards. The community lacks sufficient resources to enforce all laws effectively. Finally, automatic enforcement would sometimes result in injustice because of variations between individual circumstances.⁽¹⁾ Law enforcement calls for an unusual degree of discretion in decision making by officers who are situated on the lower level of the organisational status ladder. Such decision making is loaded with uncertainties. There are difficulties in the offender from the non-offender in the anonymity of urban life. There are also many legal issues concerning proper arrest and what is or what is not valid evidence. In striving to maintain order, police officers

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have been accused of supporting the 'establishment'. These criticisms are stimulated by the particular position the policeman occupies in the community's social system as a representative of legal power. Opinions like these are likely to single him out as a target because of his place in the power structure.

Studies of the police suggest that certain elements in their working environment, in combination, produce paranoia. These are: danger, authority, police role and self-image, politicalisation of society and police, community relations.⁽²⁾

An analysis of the police environment and its effect on police attitudes and behaviour shows that 'danger' and 'authority' are the major elements.⁽³⁾ Here the responsibility to respond to acts of violence is felt collectively by the police. This combination of danger and authority as Skolnik⁽⁴⁾ found, generates stress and tension in the police and influences a tendency to circumscribe regulations in order to pre-empt crime. The policeman, therefore, on a daily basis faces symbolic threats or actual danger. The effects of this are graphically described by Kirkham⁽⁵⁾ — an academic turned policeman:

'As a policeman I began to encounter the offender as a real menace to my safety . . . fear ceased to be impersonal and abstract. It became something I regularly experienced. I came to know, as every policeman knows, the true meaning of fear . . . shift after shift, it stalked me . . .'

The hazardous nature of police work also generates responses which often take the form of 'group solidarity', social isolation and too quick a resort to authority. It also produces a distinctive way of perceiving and responding to the environment. A study of the police on the American 'Skid-row' shows how the police view certain types of people on the basis of probable risk, rather than possible culpability. In these circumstances the rights of the individual are rarely respected.⁽⁶⁾ In this environment the police justify the use of their authority to eliminate possible danger by the need to

be efficient. Because the policeman in this environment, operating under the stress of 'danger' and 'authority' is in constant state of stress and tension, which as Skolnik⁽⁷⁾ found, invariably generates feelings of alienation, solidarity with fellow officers, suspicion, fear of change and cynical belief in the unco-operative attitude of the community in general. A tendency develops in the police towards excessive attention to signs which may suggest danger, violence or crime. A chronic feeling of suspicion dominates police attitudes as Kirkham shows:

'As one who regarded policemen as a paranoid lot, I discovered in the daily round of violence . . . that chronic suspicion is something which a good cop cultivates in the interest of going home to his family each evening.'⁽⁸⁾

This suspicious character of the policeman, inevitably makes him less desirable as a friend. Thus danger and the policeman's response to it, tend to isolate him from the segment of the community with which he identifies.⁽⁹⁾ The policeman's chronic and ingrained suspicion gives rise to a concept of law and order which emphasises predictable regularity to extreme degrees. Thus McInnes says of the English police:

'The true copper's dominant characteristics are an ingrained conservatism and an almost desperate love of the conventional. It is untidiness, disorder and the unusual, that the copper disapproves of most of all. Hence his profound dislike of people loitering in the streets, being strange, or dressing extravagantly or speaking in exotic accents, or simply being a minority — anything which cannot be safely predicted.'⁽¹⁰⁾

The police antipathy towards the unpredictable often influences action against persons innocent of criminal activity or intent. This type of harassment increases the social distance between the police and the community, and at times, leads to resentment of, hostility to the very presence of the police. Riots in England (Birmingham and Brixton) may have been caused by the pre-emptive increase in the police presence in a predominantly black neighbourhood.⁽¹¹⁾ The feeling of alienation in these circumstances is well illustrated by McInnes' hero who states:

'The story is that all coppers are just civilians like anyone else. But that is a legend for mugs. We are often cut off. We are not like everyone else. Some civilians fear us and play up to us. Others dislike us and keep out of our way. But few indeed accept us . . . In one sense we are just like hostile troops in an occupied country. And say what you like, at times that makes us feel lonely.'⁽¹²⁾

The policeman, therefore, soon realises how his work cuts him off from the community. His only refuge, in the circumstances is solidarity.⁽¹³⁾

Lack of public support then produces resentment within the police who see themselves taken for granted. The policeman strongly believes that the general public is also responsible for the maintenance of law and order, and although the policeman sees himself as an 'expert' — especially where violence takes place, nevertheless, he does not want to fight alone. As American Police Chief McHugh some time ago said:

'Those who stand in the front line of the battle against crime insist the citizens must break out of their fortresses and join in the fight.'⁽¹⁴⁾

In fact, the public tends to withdraw from the policeman's work-a-day world, especially when the threat of danger exists. Yet it is precisely here where the policeman may feel in need of support. Thus the policeman's responsibilities for the control of dangerous and violent persons further alienates itself in the policeman's role and the consequences which may follow from it. As a result, the police develop an extremely high attachment to the value of team-work, even to the extreme of supporting each other over what they regard as minor infractions. Thus as Banton found in the Departments which he visited:

'Supervisors appeared to share the same sentiments and solidarity of the men of 'the beat'. They sought the loyalty and shared the same frustrations. In these situations the basic status not only over-rides lateral differentiations but those of rank as well . . . as a result, perhaps, that the command personnel pass through their ranks.'⁽¹⁵⁾

This sort of attitude may be inferred from the Beach Inquiry in Victoria. This also tends to influence the defensive attitude of a 'besieged' community sometimes manifested by the police and always directed towards 'all outsiders' and all 'critics', and which may be seen in the police reaction to the recommendations of the Australian Law Reform Commission relating to fixed statutory standards of procedure in criminal investigations.⁽¹⁶⁾ Thus Whiddett, in a vitriolic attack on the Commission in the ACT Police Journal wrote:

'The truth is that the police community is another victim of an increasingly selfish, hedonistic society whose motivation is expediency. The persistent media-ventilated wailing of a vocal minority and the deafening silence of the apathetic majority permits a handful of individuals to sway those in government by the imposition of their distorted unrealistic view of what is best for society as a whole.'⁽¹⁷⁾

Another element which produces problems and tensions in the police is the police perception of their role as **crime fighters**. In the directions of the original commissioners of Peel's London police, it is stated that:

'The primary objective of an efficient police force is the prevention of crime and maintenance of the (Queen's) peace.'⁽¹⁸⁾

Since 1829, however, this objective has been replaced by that of crime-control, as the emphasis has shifted towards law enforcement. This shift has influenced police attitudes, and as a consequence, they generally operate, motivated by a strong inclination towards crime-control. In actual fact, the objectives of the modern police force operating under the banner of 'crime-control' are unobtainable, for it is quite impossible for the police to control crime; as they tend to realise.⁽¹⁹⁾ This reality presents the police with a dilemma; on the one hand they desperately try to protect an image of efficient crime-control and on the other, they find themselves continually unable to produce the 'goods', and reduce soaring crime rates.⁽²⁰⁾

There is no doubt, that as a result of the treatment given to crime by the news media, increasing crime rates generate a feeling of uneasiness among the segments of population. This uneasiness creates a demand for swift and decisive police action. As a result of this pressure, the police are sometimes influenced to seek quick solutions to their problems by irregularities which the Beach Inquiry found do not stop short of criminal activities.⁽²¹⁾

Adherence by the police to the assumption that they are the ultimate guarantors of social freedom lead them to the conviction that efficiency in disposing of a high proportion of offenders is the ultimate goal of the police and consequently a premium is placed on speed finality.⁽²²⁾ As Bittner found among the police on 'Skid-Row', the police tend to act on pre-emptive principles, seeking to eliminate occasions of possible challenge to the law or their authority.⁽²³⁾ Under the influence of this attitude, interrogation becomes preferred to cross-examination and the confession preferred to investigation. In this regard, in an effort to achieve their perceived goal by maximum efficiency and in order to quickly allay public fear or outcry, the police tend to reverse the very principles underlying the democratic system of justice. Instead of a presumption of innocence, guilt becomes the motivating word. Thus once a determination has been made that there is enough evidence of guilt to permit arrest, all police effort becomes based on the view that the suspect is guilty. This belief tends to influence the police to commit serious offences in order to ensure conviction. In this way, as the Beach Inquiry indicated,

the police, faced with public criticism and pressure to solve crimes, commit crimes themselves in order to justify themselves in their role of 'crime-controllers'.⁽²⁴⁾

Distinct from the 'crime-control' model, is the model which Packer calls 'Due Process'. The basic premise here is that:

'People are poor observers of disturbing events, even more so when the context is emotional. Confessions and admissions by persons in police custody may be induced by physical or psychological coercion so that the police end up hearing what the suspect thinks they want to hear and not the truth.'⁽²⁵⁾

This model, therefore, relies entirely on establishing 'legal guilt', thus upholding the principle that a person is innocent until proven guilty by a legal procedure carried out by legally competent authorities.⁽²⁶⁾ This assumption is intolerable to the police when they base their *raison d'être* on 'crime control'. Serious tensions are thus generated among the police where the courts tend to uphold the 'Due Process' model; as the comments of Kirkham illustrate:

'Efforts to protect society and my own personal safety were menaced by the very courts' decisions. I am sick of being reviled and attacked by criminals who usually find a most sympathetic audience in judges and jurors eager to understand their side of things.'

In Australia the position of the courts in this respect is still undefined. There may however be a distinct bias in the Magistrate's courts for 'crime-control'.⁽²⁸⁾ In the higher courts, however, the position is unclear and while some judicial pronouncements suggest preference for the 'Due Process' model, there is still not that strictness which exists in the USA. The 'Judges Rules', which in Victoria are embodied in police standing orders, frown upon illegally obtained evidence and suggest an interest in the rights of the suspect. The Beach Report points out, however, that in many instances, police regulations are 'more honoured in the breach'.⁽³⁰⁾ Besides, police regulations are not law, and thus there is no rule in Australia which excludes illegally obtained evidence.⁽³¹⁾

As a result of public interest generated by a series of police scandals, the possibility arose that more emphasis would be placed upon the 'Due Process model'. The BEACH Report, and the Australian Law Reform Commission, strongly recommended measures to ensure the protection of the rights of the citizens involved in the criminal process.⁽³²⁾ The police reacted to those recommendations as if they were defending their very existence, going so far as to threaten indus-

trial action and accusing all and sundry of evil intent.⁽³³⁾

The duties of the police frequently demand action which one segment of the community may view with approval, another with indifference and yet a third with disfavour. Yet the police find it necessary to always appear impartial, for as Whitrod aptly put it:

'The greatest disaster which could befall the police is to become strongly supported by one section of the population and strongly disliked and distrusted by another.'⁽³⁴⁾

Unfortunately, the police, because of their ingrained conservatism often tend to be seen as being politically motivated; suppressing at the insistence of the less liberal segments changes sought by those more liberal. In this way, the employment of the police to break up demonstrations, not only polarises public opinion, but also undermines the theory that the police are neutral arbiters in the interest of the community as a whole.⁽³⁵⁾ This neutrality is also lost when the police, fearful of change, see those advocating it as enemies of the State. This situation is best illustrated by the activities of the Australian domestic security (special branch) police. The Salisbury affair (1978) in South Australia and further inquiries in NSW revealed the existence at State level of special security units of the police forces, each operating under:

'... a poorly defined mandate with ill-defined goals and subject to inadequate direction or non-existent political control.'⁽³⁶⁾

The White Report, following investigation of these branches pointed out that these had drifted from the task of detecting and watching spies to that of monitoring dissent.⁽³⁷⁾

There is perhaps, no better example of how collective ideology can change the nature of police operations. Here the special units had shifted the emphasis from gathering evidence after the commission of a crime to gathering information about law abiding citizens before any offence had been committed. In this pre-emptive view, only those persons with whose ideology the police disagreed, became the target of police suspicion and can produce a situation where all society may be placed under surveillance.

The role of the police in a democratic society will always be, by its very nature, contradictory. Consensus is the cornerstone of democracy and the police role must out of necessity, at times, come into conflict with this consensus. The police, generally speaking, will always be viewed as a necessary evil, ever-ready to infringe upon the freedom of the individual and to limit his activities. Increase in police

powers, which may be used to further limit or control these activities, will always give rise to resentment. These occasions are fraught with the danger of 'abuse of authority' which tends to generate hostility and mistrust. This may be avoided if the rights of the individual were clearly delineated in the form of some statute on the model of the United States Bill of Rights. This would certainly reduce the possibility of the police infringing on individual rights with impunity. However, it would be necessary that the police pledged their allegiance to the constitution in which such statutes may be embodied, rather than to some higher abstraction in the form of the 'crown' or the 'law' which still leaves unclear the position of the police *viz-a-viz* the elected government.⁽³⁸⁾

As a result of his role in the community the policeman feels he is obliged to perform functions of great importance for which he gets no commensurate status return. This often results in an occupational culture with overtones of isolation and alienation from the community and a corresponding loss of feeling for it. This loss of feeling for the community may influence the police to see hostility where there is none, for normal public resentment, as has been already pointed out, is taken as an indication of inevitable disassociation from society. Those factors which are readily identifiable as productive of a poor police self-image need to be closely studied. Thus for example, the police ought not be required to enforce such a large segment of the population, as to render the result more socially damaging than the lack of it. Certain confrontations with the public in this sense ought to be avoided, or if it is not possible, they should be left to other organisations. Thus, for example, the ordinary control of traffic, an area highly productive of contact with poor police-community response, ought to be the responsibility of regional administrations employing their own traffic officers, as they do parking officers.⁽³⁹⁾ In this way a considerable proportion of the police force may be released to other duties more related to the prevention of crime.⁽⁴⁰⁾

The police, of course, need to be trained in those sciences which may aid them to recognise the complex interpersonal problems with which they are confronted; see them in their proper social context and be able to cope with them. Working conditions and adequate remuneration should complement the important status the policeman ought to have within the community and its social structure, and also be such as to make it worthwhile to accept those actions and consequences which, to him, may mean personal disappointments — accepting these in the interest of the total society.

Achievement of these objectives seems essential and it is perhaps up to the government to provide clear legislation and policy directives as to what exactly are the expectations of the community with respect to their police forces. Nowhere is the citizen's liberty at greater risk than when he is introduced into the criminal process — never is the danger of police/community conflict so great as when the liberty of the citizen is threatened. There is a serious need therefore to ensure the highest standard of integrity and fairness in instance of contact between the police and the public. The best method to ensure this must lie in a legislative commitment to the 'due process' model of enforcing law with strict legal procedure clearly laid down in a statute. This would ensure that this process will not bear fruit if illegally applied. This, may of course influence the police to return to the original role envisaged for them of crime prevention, rather than crime control.

As has been seen, the attempts of the police to employ crime-control principles in situations of confrontation with large segments of the public — protesting or demonstrating or just being different — inevitably result in resentment, hostility and anger against the police, who tend to find themselves identified with the established political body. The inter-combination of all these elements then, influences in the police a development of feelings of isolation and alienation. The police reaction tends to be a deep hostility and suspicion of the whole community and discernible paranoia seems to permeate the police institution.

As has been seen, the combination of stress and criticism from the public tends to cause despair, frustration and feeling of martyrdom within the police which, in many instances, lead to brutality, pre-variation and corruption. None of this should really be surprising. The police perception of their role is far removed from the reality of the functions they actually carry out. This inevitably brings them in conflict with the community they serve, without whose co-operation they cannot function properly and efficiently.

As things are, therefore, the modern policeman, all too often finds himself in a situation of grave stress with which he is neither trained nor equipped to cope. Unless the police are truly trained and prepared to fulfil a role in keeping with the needs and expectations of a democratic and progressive society, the stresses of the police occupational environment will always tend to influence them to seek solutions to the problems which may confront them in policies and activities which may be contrary to democratic principles.

I have in this article tried to analyse some of many difficulties confronting members of our police, mainly being the

difficulties in the area of their occupational role conflict. Any excessive power conferred on the police force would only widen this conflict resulting, as the Royal Commission of Inquiry into Civil Rights Report No. 1 Ottawa, (Canada), 1968 Vol. 1 page 3 suggests "... excessive or unnecessary power conferred on public authorities corrupts and destroys democratic institutions and gives life to all forms of tyranny — some petty and some extreme".

FOOTNOTES

- (1) LaFave, W.R., "Police Discretion", in Richard Quinney (ed), *Crime and Justice in Society*, Boston 1969 pp. 114.
- (2, 3, 4) Skolnik, J.H., "Sketch of the Policeman's Working Personality", in Summers, M. & Barth, T. *Law and Order in a Democratic Society*. Charles Merrill Publ. Co. 1970 Ohio pp. 58 + 70).
- (5 - 8) Kirkham, G. K. "A Professor's Sweet Lessons" Street. See 2, 3, 4 above.
- (9) See 5, 8 above.
- (10) McInnes, C. *Mr Love and Justice*: News English Library 1962 p. 20.
- (11) Smark, P. *Hate and Crime Fuel Black Unrest*: article Melb. Age May 26, 1981.
- (12) McInnes, C. *Mr Love and Justice*: OpCit.
- (13) Janowitz noted that any profession which is continually pre-occupied with the threat of danger and alienation needs a strong sense of solidarity and as the policeman sees himself in danger and in isolation he is drawn towards other policemen, each becoming dependent on the other; Janowitz, M. "The Professional Soldier" quoted in *Law and Order in a Democratic Society*, OpCit.
- (14) Police Chief McHugh, Washington, USA quoted in: "Violent Crime in America": article in Time Magazine, March 23, 1981.
- (15) Banton, M. *The Policeman in the Community* Tavistock; London 1964 p. 114.
- (16) Australian Law Reform Commission *Criminal Investigation* — Extract: Reading material for Criminal Justice System Term 2 Melb. Uni. (Part 2. Chapter 10).
- (17) Whiddett quoted in: Sallmann, P. "The Criminal Justice System: A System Approach".
- (18) Critchley, T.A.: Peel, Rowan and Mayne, "The British Model of Urban Police". OpCit.
- (19, 20) *Police Commissioner R. Di Grazia of Boston USA* admits: "There is little the police can do about crime. Those who commit the offences which worry citizens most — violent crimes — are for the most part the product of poverty, unemployment, broken homes, drug addiction and other social and economic ills about which the police can do little, if anything. Rather than speak up, most of us prefer to stand silent while politicians get away with 'law and order' rhetoric that reinforces the mistaken notion that the police — in ever increasing numbers . . . can alone control crime in. "Violent Crime in America" *Time Magazine*, March 8, 1983.
- (21) The Beach Inquiry (Vic.) concluded that a number of police officers had probably committed offences which

- included: conspiracy to give false evidence; assault; intimidation; obstruction of justice; failure to observe Police Regulations, malicious and unlawful damage to property; unlawful detention; unlawful arrest and imprisonment; fabrication of evidence and corrupt receipt of monies. Sallmann P. "The Beach Report Resurrected: Reasons for Hope and Despair".
- (22) Jackson, R., Deputy Commissioner Police (Vic.); "Law Enforcement — Problems of the Police" claims: "Without the police to act as the instrument of law and order to ensure that citizens may live safely in their houses and go freely about their lawful business, our form of civilised society would disappear". *Australian & New Zealand Journal of Criminology*: March 1970 Vol. 13 p. 31.
 - (23) "The Police on Skid-Row"; Reading material Term 2 BA Crim. Just. Phillip. Inst.
 - (24) Agenda to the Report of the Beach Inquiry.
 - (25) Packer, H.L. *The Limits of the Criminal Sanction*; University of Stanford Press 1968 p. 163.
 - (26) See above.
 - (27) Kirkham, G.L. "A Professor's Street Lessons". OpCit.
 - (28) Sallmann, P. mentions an unpublished survey conducted at Melbourne Magistrate's Court (1975) which showed a conviction rate of 90 per cent over 12 months' period, as against 53 per cent over a two months' period for the County Court. In Sallmann, P. "Criminal Justice — A System Approach". OpCit.
 - (30) Sallmann, P. "The Beach Report Resurrected". OpCit.
 - (31) In *Banner v R. (1970) VR 248* The Court, in finding that the police, their treatment of the prisoner while endeavouring to obtain a confession had been guilty of — criminal acts — aid, that their conduct was destructive of civil liberties and unlawful, and added: "If this conduct were to be adopted in further cases it would indeed be matter for the most serious concern".
 - (32) *Australian Law Reform Commission: Criminal Investigations*. OpCit.
 - (33) Mr T. Rippon, Secretary of the Vic. Police Assoc. — ref.
 - (34) Whitrod, R.W. "The Accountability of the Police — Who Polices the Police?" Milte, K., Weber, T. *Police in Australia — Development, Functions and Products*. Butterworths — Sydney 1977 p. 225.
 - (35) Fox, R.G. "The Salisbury Affair: Special Branches, Security Records".
 - (36) Royal Commission — *Report on the Dismissal of H.H. Salisbury* (Roma Mitchell, Royal Commissioner) Adelaide: quoted in Fox, R.G. *Ibid*.
 - (37) Acting Justice White: *Special Branch, Security Records to the Premier D.A. Dunstan* (White Report) Adelaide 1977.
 - (38) Police officers in South Australia are required to take an oath swearing allegiance to Her Majesty, the Queen of England and Her Heirs and to well and truly serve the law. Police Oaths in other States are similarly worded *Section 16(1) Police Regulation Act 1952-1969 South Australia Sec. 17(1)* of the same Act states: Every person who takes this oath is deemed in contract to serve Her Majesty as a policeman.
 - (39) Discussing the problems of traffic control duties, two NSW police officers told an interviewer on '60 Minutes — A current affairs television programme' that: "The average policeman issues an average of 2,000 tickets each year. This makes us very few friends".
 - (40) Over 13 per cent of the total Australian police forces (State police only) are employed in traffic control duties; statistics in Swanton, B. *The Police in Australia*.

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