

A WATERSHED IN POLICING

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"Civilisation is nothing else but the attempt to reduce force to being the last resort."

Ortega y Gasset

After the 1981 turmoils, and the Scarman Report, there seemed to be a turn in the policies of many police forces towards a primary concern with winning the consent and support of the community. Even the Police and Criminal Evidence Act, which many see as a further twist of the Authoritarian screw, includes a section (106) that adopts Scarman's idea of statutorily based consultation. (1)

This new emphasis on depoliticisation and reconciliation was not just a matter of Scarman's ideas being the flavour of the month. The Home Office was beginning to realise that for all the bonanza in 'law and order' expenditure since the Conservatives came into office, crime rates had boomed even more. In November, 1983, the Home Office issued a Circular 114 stating firmly that no further increases in police resources or establishment would be sanctioned unless the Home Secretary was satisfied that the best possible use was being made of existing manpower. It became clear that police services would have to be included within the tightening control of public expenditure.

In this climate of financial and political restrictiveness, the 1984/85 miners' strike has been the catalyst for a return of the repressed tendencies towards more militaristic and less sensitive policing. The police response has resembled that of an alcoholic who, having taken the pledge, wakes up to find he has inherited a distillery. At present the lessons of Scarman are vying unequally with the pernicious consequences of policing the bitterest and most polarised industrial dispute of the last sixty years.

(1) Since the June 1982 Home Office circular giving guidelines for consultative arrangements, several hundred formal police-community consultation committees have been established around the country. R. Morgan and C. Maggs, *Following Scarman?* Bath University: Social Policy Papers 1984.

Undoubtedly no government, of whatever political hue, would have countenanced the frustration of its policies (right or wrong) by mass unconstitutional action, and would have supported a policing exercise adequate to prevent this. To this extent the radical critique of policing tactics in the strike, even if correct in detail, is disingenuous (2) _ But the policing of the strike has highlighted several issues which require dispassionate analysis. (3) Among these are: (i) the problems of reconciling contending rights in picketing (and other public order situations); (ii) how standards of police discipline can be maintained amidst acrimonious and confused crowd conflict; (iii) how the police can have available defensive (or even offensive) riot control equipment when necessary, but without aggravating violence through premature shows of force. The logically fundamental problem is that of accountability. The massive police operation has clearly accentuated already on-going tendencies towards greater centralisation. The National Reporting Centre, under the President of the Association of Chief Police Officers (ACPO), has emerged as the pivot of a co-ordinated national operation without any clear lines of accountability to either national or local elected authorities. The problem of achieving some adequate structure of accountability for institutions of policing at national level, which may well be necessary on some occasions, must be addressed with urgency now the strike has ended.

This task will be made much more difficult by the political polarisation around the issue of policing which the strike has accentuated. This was most marked at the 1984 party conferences, which the Labour Party passed several resolutions highly critical of the police, including ones to give day-to-day control of policing to elected authorities, and to limit the police role in industrial disputes. Speaker after speaker hurled abuse at the police, with one rejecting Mr. Kinnock's comparison of the police to the meat in the sandwich of conflicting forces. They were not the meat, she said, but the salmonella poisoning. It is scarcely surprising that the Police Federation Chairman reacted by wondering whether the police would be able to continue to give equally loyal service to a Labour as to a Conservative Government. The Conservative Conference, for its part, basked the police in glory, and the Home Secretary pledged to limit one of the few powers of

(2) For examples, see Taking Liberties, A Sheffield Police Watch Report, November 1984 and J. Coulter, S. Miller and M. Walker, State of Siege, London: Canary Press, 1984.

(3) These are usefully explored in the First Report of the Independent Inquiry, Civil Liberties and the Miners' Dispute, London: National Council for Civil Liberties, December 1984.

local police authorities by making attempts to remove a chief constable subject to an appeal to the new Police Complaints Authority. This was a response to the attempts of various police authorities, notably South Yorkshire, to express disapproval of the strategy (and expenditure) used in the miners' strike, by such measures as disbanding the police band or mounted section.

The Left has begun to develop its own stance on policing, but it is a one-sided attempt to compensate for previous lack of concern.⁽⁴⁾ Its interest has been entirely critical, the mirror image of the Right's law and order position. Policy initiatives have crystallised almost entirely into the issue of accountability, conceived in a purely negative way, as the task of bringing into account police excesses and wrong-doing. The only positive measures of reform on the agenda remain the ones initiated by the police themselves following Scarman. The increasing social polarisation certainly makes the project of restoring police legitimacy an uphill struggle. But Sir Kenneth Newman's strategy is clearly predicated on accepting this, as he implies in his 1983 Annual Report (p. 2). The original achievement of police legitimacy in Britain was the product not of social harmony, but the acute political conflicts of the early nineteenth century.

The Achievement of Policing by Consent

From a position of almost complete invisibility as a political issue, policing has thus become a babble of scandalous revelation, controversy and competing agendas for reform. Since the climacteric of 1981 - the riots, Scarman, and all that - there has been a remarkable redirection of police thinking and strategy. But the viability of the associated reforms is threatened from two sides: contradictory implications of Government policy and a near consensus on the Left that the new policing initiatives are at best window-dressing, at worst an insidious hardening of social control. The police force as an institution is beset by innovation and undergoing changes which are the most momentous since the 1829 establishment of the Metropolitan Police. The delicately drawn tacit contract between police and people has begun to fray. The still open question is whether current efforts will suffice to repair it.

(4) For an excellent critique see M. Kettle, "The Police and the Left", New Society December 6, 1984, pp. 366 - 367.

From the perspective of police history the 1950's (as in many other respects too) was a unique Golden Age of tranquility and accord. In 1955 an editorial in the Police Journal commented: "The law-abiding sections of the community (and in this we include the larger majority of all classes, working, professional and leisured, alike) have come to accept the police more as guardians, and not as oppressors. Time and experience have dispelled old fears, and even when engaged in illicit or unofficial strikes trade unionists now rarely resort to rowdiness or disorder." In the same year Geoffrey Gorer in his survey Exploring English Character claimed that the police "had an appreciable influence on the character of most the population during recent decades, so that the bulk of the population has incorporated the police man or woman as an ideal and become progressively more 'self-policing'."

It is this period which colours our perception of the last twenty years of increasing involvement of the police in political controversy. Policing by consent was not an automatic product of English national genius, as the cop-sided version of police history which was the received wisdom in the 50's and 60's would have us believe. It was the hard-won and brittle coincidence of deliberate strategies adopted by the architects of British policing (notably Peel, Rowan and Mayne), and wider social and economic developments which were a precondition of the success of their agenda⁽⁵⁾ As the more critical recent contributions to the history of the police (which now amount to a new revisionist orthodoxy) emphasise, not only was the establishment of the police bitterly resisted before and immediately after 1829 (as the conventional histories recognise) but this opposition was only slightly attenuated throughout the nineteenth century. Acquiescence in policing by many sections of the working-class continued to be grudging and volatile.

The gradual achievement of consent was the produce of policies adopted specifically to secure legitimation of an institution at first widely seen as an instrument of political oppression and a threat to liberty. These policies centred on the de-politicisation of the police image and the presentation of policing as the enforcement of a neutral law and order.

(5) These are explored more fully in R. Reiner, The Politics of the Police, (Brighton: Harvester, 1985) Chaps, 1 and 2.

This was accomplished by: the bureaucratic organisation of the force subjecting constables to a strict set of rules; the adoption of a strategy of minimal force in riot control and routine patrol (what Mark referred to as "winning by appearing to lose"); the encouragement of the service role of the friendly bobby; and insulation from politics in the double form of the development of the doctrine of constabulary independence from governments and non-involvement of police officers in political activity. Gradually also the police secured what Ignatieff has called "a near-monopoly over the market in violence and redress."⁽⁶⁾

These elements combined in the presentation of an image of police as neutral agents of the law, impartially representing the communal interest. The wider precondition for the successful achievement of this was the whole set of processes accomplishing the incorporation of the working-class into the social and political order. This meant that no structured, self-conscious group saw itself as in conflict with the police.

The Politicisation of Policing

In the late 1950's a series of what seem with hindsight relatively minor causes celebres (one involving Brian Rix of Whitehall farce fame) led to the establishment of a Royal Commission which examined the fundamental issue of the constitutional status of the police for the first time in the century since their foundation. The Commission's Report and the 1964 Police Act which derived from it, laid down the respective roles of Home Secretary, local police authority, and chief constable, with the latter firmly in the saddle as far as operational policy was concerned, a source of much current controversy.

At first, however, the 1964 Act constituted a settlement which was generally accepted. The re-organisation of policing in the mid-60's with the replacement of the foot patrol system by Unit Beat policing. 'Panda' cars and personal radios, was widely welcomed as a 'police revolution' in the fight against more sophisticated professional crime. The image changed from Dixon to Barlow, but neither was seen as a politically controversial figure. The police were no longer Flods, but not yet pigs.

(6) M. Ignatieff: "Police and People: the birth of Mr. Peel's "Blue Locusts" New Society, 30 August 1979, p. 444

However, a series of related changes during the late 60's and 70's have re-politicised the police, undoing the achievement of the previous century and a half. These can be seen as the reversal and undermining of each of elements of legitimation. The rule-bound image of the policeman was dented by a series of revelations of widespread police deviance, both in the sense of corruption and violation of due process of law. The corruption scandals stretched from The Times probing of the "firm within a firm" of 1969 to the fiasco of the Countryman inquiry into corruption in the Metropolitan Police. A continuous undercurrent of allegations of police malpractice and brutality from radical circles was given some quasi-official backing by the Fisher report into the Confait case and the Policy Studies Institute study of the Metropolitan Police.⁽⁷⁾ The minimal force strategy seemed to be departed from as the police reacted to increasing problems of handling public order by stiffening their capacity to mobilise in mutual support (culminating in the nationally co-ordinated police response to the 1984/85 miners' strike), intensified riot control training for ever larger numbers of officers, increasing reliance on protective equipment (shields, helmets), and, since 1981, the stockpiling in many forces of CS gas, water cannon and rubber bullets. In addition, although the British police remain the only force in a major industrial country not to be routinely armed, there has been a rapid increase in the number of officers trained to use firearms and the number of occasions they have been issued. Concern over this trend was crystallised above all by the 1983 shooting of Steven Waldorf. The service role of the friendly Dixonesque bobby was down-played as an unintended consequence of the reliance on technology and specialisation associated with unit beat reorganisation.

The traditional non-involvement in politics of the British police ended in the 1970's as the bobby lobby grew in the wake of Robert Mark's famed 1972 Dimbleby TV lecture, which initiated the new practice of chief constables, and later the Police Federation, of trying to mobilise public opinion behind a set of demands for harder-line "law and order" measures. The climax of this was pretty open support for the Tories in the 1979 general election, and the unprecedented release in Sir David McNee's 1981 Annual Report of 'mugging' statistics analysed by race, which was widely interpreted by critics as a last-ditch attempt to 'mug' Scarman. The

(7) J. Baxter and L. Koffman, "The Confait Inheritance - forgotten lessons" *Cambrian Law Review*, 1983; D.J. Smith et al., *Police and People in London* (4 vols.). London: Policy Studies Institute, 1983.

worsening of relations between blacks and the police (and more generally youth and the police) has meant that there are now specific groups self-consciously in conflict with the police, From the point of view of the public in general, the capacity of the police has furthermore been called into question because of their apparent ineffectiveness in the 'fight against crime', which the police have emphasised in order to accrue resources. the police have never had it so good, in terms of money, manpower, equipment, legal powers and government aid and comfort generally, as in the Thatcher years, but crime is a boom industry, Crime increased at 10 per cent per annum in the first three years of this Government, the fastest annual rate since the Macmillan era. Finally, the 1960's counter-culture and its legacy brought the police into regular conflict with sections of the articulate and aware 'talking classes', as many forms of deviance came to be seen in a political light.

All these developments have re-politicised the issues of law and order and policing. Within policing circles debate polarised in the 70's between the advocates of (crudely put) "hardline" versus "community" policing. Since 1979 the Labour and Liberal Parties have departed from the tradition of regarding law-and-order as a non-partisan issue, and thrown their weight behind demands for clear accountability to elected police authorities, and opposition to the Government's Police and Criminal Evidence Act.

From Scarman to Newman

In this highly politicised context the riots of 1981 served to crystallise debate, and the subsequent Scarman report became the focal point for a fundamental re-orientation of police thinking. The key to this is Scarman's clear prioritising of "the maintenance of public tranquility" over "law enforcement" as the principal object of policing. This is not really a departure from hallowed tradition: indeed Scarman draws on Richard Mayne's 1829 instructions to the new Metropolitan Police in arguing his case. But the clear message that comes over from Scarman is that in the balance between "hardline" and "community" policing, both of which must co-exist in an overall strategy (he rightly rejects "a simplistic dichotomy between 'hard' and 'soft' policing styles)" the emphasis has tilted too much towards the reactive "fire-brigade" pole.

Scarman has been much criticised by the Left for accepting the need for the 'hard' elements of policing, and not arguing for control of police policy by elected authorities (as distinct from consultation). It is certainly true that the bulk of Scarman's recommendations are what Professor Lawrence Sherman of the American Police Foundation has called 'people' rather than 'system' theories of police reform, emphasising measures to alter individual police characteristics through changes in selection, training and increased minority recruitment. In his thorough review of how in the United States "police-minority relations substantially improved throughout the 1970s" following the 60s ghetto riots. Sherman mainly credits structural factors like increasing black political power, tougher police discipline and more restrictions on discretion, with the 'people' factors only marginal in significance(S). As Sherman recognises, the crucial structural factor in the United States - black political control of some cities - is not attainable in Britain. However, the crucial implication of black political control was to shift "the very philosophy of police work away from a rigidly mechanistic conception of enforcement of every law to a more malleable conception of keeping the peace." The significance of Scarman is that he encourages the same shift in philosophy. This explains the opposition to Scarman among police hard-liners which radical critics have pointed to but which secretly justifies their interpretation of his report as a ratification of the status quo.

However, if the trigger for a re-orientation of policing was Scarmania, the mechanism has been the taking-over of key positions of power by sympathisers, notably Newman as Metropolitan Commissioner and Lawrence Byford as HM Chief Inspector of Constabulary, with a batch of important reports from the Home Office Research Unit (as well as the much publicised and seminal PSI Report) to provide the intellectual backbone. The key promise of the new approach is that crime control cannot be (in Newman's words) "a strategy for the police alone, but rather the most apparent feature of the contract between police and public." This premise is drawn from a series of research studies in the United States and Britain which have demonstrated the key role of the public in the recording and detection of offences, and the unresponsiveness of crime rates to strengthening traditional tactics of patrol and criminal investigation⁽⁹⁾. In short, the

(8) L. Sherman "After the Riots: Police and Minorities in the U.S. 1970-1980", in N. Glazer and K. Young (eds.) *Ethnic Pluralism and Public Policy*, London: Heinemann, 1983.

(9) R. Reiner (1985), *op. cit.*, Chap. 4

"law and order" equation encapsulated in a Police Federation pay campaign slogan "Up Police Pay - Down Crime" does not hold. The twin pillars of the Newman strategy for dealing with this are a combination of more purposive and efficiently directed policing, and greater involvement of the "public" and other social agencies in crime prevention.

In line with some of the criticisms of the PSI report which found that "much patrolling by police officers on foot and in vehicles is apparently aimless" an attempt is being made to move towards "policing by objectives." This involves relating resource allocation to a tighter definition of priorities determined at divisional level by special research teams established at each station. The priorities for these plans are often based on surveys of the "public", and are the basis of targetting particular areas and individuals.

Changes in internal police procedures and organisation are intimately related to attempts to achieve the active co-operation of the public. This is intended to be both instrumental in crime prevention and the source of legitimation of police activity more generally. In Newman's words, "I see consultative committees as the focal point for my attempts to encourage a constructive problem-solving approach to many of the issues which have hitherto been dealt with exclusively by police but which are suitable for more broadly based community action. For example, initiatives to combat juvenile delinquency and vandalism ... The committees will help police achieve some consensus about the optimum style and method of policing for different areas."

Other elements of the strategy include neighbourhood watch schemes, greater use of the Special Constabulary (and attempts to recruit more blacks into it) and lay visitors to police stations, reporting back to the local police consultative committee.

The new approach to policing has been bitterly attacked by many on the Left, notably the GLC Police Committee and writers associated with it. The criticisms are summed-up in a recent article:

"community policing is not an alternative to reactive policing ... (it) is an attempt at the surveillance and control of communities by the police,

an attempt which operates under the guise of police offering advice and assistance, and which is all the more dangerous because it not only merges the activities of different agencies of the state, but does so under the control and direction of the police ... community policing offers no prospect of greater democratic control of the police and policing(10)."

The trouble with this approach is that there is no analysis offered of what "democratic control" of the police would hope to achieve. The emphasis is entirely on the project of altering the structure of governance of the police, premised on a total critique and rejection of current police practices. But no indication is given, except negatively, of what acceptable policy would be like. Two lessons from the American experience of attempts to reform the police seem to be valuable here. One is that the structure of formal control and accountability bears no clear relation to the quality of policing. As David Bayley suggests on the basis of a comparative examination of police and government: "Accountability to a community does not depend on particular mechanisms but on the spirit activating the political system as a whole... Political habits, not administrative structures, are the crucial ingredient in making accountability vital...(11) The second lesson is that while police reform will not occur without the stimulus of some political scandal and, of course, some external accountability is essential, reform attempts carried out in the teeth of police opposition will founder, David Bayley again puts the point well: "The art of achieving accountability, especially when there is clamour for reform is to enlist the support of the police in disciplinary activities. If they become alienated, a crisis will emerge that is not the benefit of discipline, public confidence, or law enforcement. In order for processes of external regulation to succeed in the long run, to be more than a highly publicised morality play, the police must become convinced that they will be trusted to bear most of the active responsibility for ensuring correct performance and that they have much to gain from the favourable testimony of external review agents. If this can be done, then external regulation works in support of the only disciplinary processes that will ultimately be successful, namely, internal ones."(12)

(10) P. Gordon, "Community Policing: Towards the Local Police State", Critical Social Policy, Summer 1984, p.56

(11) D. Bayley, "Accountability and Control of Police: Lessons for Britain." in T. Bennet (ed.) The Future of Policing (Cambridge: Institute of Criminology, 1983) p. 147

(12) Ibid., p. 158

It is this understanding which informs the approach of Scarman, the much maligned Royal Commission on Criminal Procedure (which was equally condemned by police critics), and the PSI study. It is an approach to accountability which mirrors Newman's strategy for policing, stressing the importance of precise objectives and the willing co-operation of each partner to the police-public contract. It is more likely to achieve acceptable and effective policing than a nihilistic condemnation of all police practices and an all-or-nothing demand for political control. Moreover the lower profile version of accountability (local consultative committees, neighbourhood watch and lay station visitors) could open up those parts of policing - the crucial rank-and-file culture which police authorities (even with nominal control of operational policy) cannot reach.(13)

The major problems which may vitiate the success of the current police attempts to restore their legitimacy lie, however, in opposing elements of government policy. The first is the 1984 Police and Criminal Evidence Act, which remains viewed with much suspicion by civil libertarians and the black community, despite the improvements over the original version which have defused the initial almost unanimous opposition. This suspicion may not be well founded, and much of the propaganda against the Bill stressed only the increased police powers it contains, wilfully neglecting even to mention the safeguards it embodies. But whatever the intrinsic merits of the case, the Act is viewed with apprehension precisely by those groups where consent to policing is most fragile.

The more fundamental problem is that "community policing" cannot flourish in the face of economic and social policies which ruthlessly divide the community. As the history of the achievement of consensus policing in England indicates, the police strategies could be effective only in the wider context of the incorporation of the working-class into the political order. Present Government policies are having the effect of de-incorporating sections of society, notably the young "never-employed", especially concentrated among ethnic minorities, swelling the ranks of those groups who have historically and recently been the hard-core of rejection of the police. The harsh consequences of Government policy in this respect are encapsulated by the miners' strike. The Government by its apparent initial

(13) S. Savage, "Political Control or Community Liaison?". Political Quarterly, January-March 1984, pp. 48-59.

reluctance to intervene and encourage a negotiated settlement has created a situation with disastrous and tragic results for police-public relations in the striking areas. Moreover the police operation has accentuated all the centralising and militaristic tendencies which the post-Scarman initiatives were aimed at reversing. This point was made explicitly by George Moores, Chairman of the South Yorkshire Police Committee: "The National Recording Centre is destroying something that we have worked hard for in South Yorkshire - full consultation, policing by consent." The police forces' worst enemies are not their overt critics, but their apparent benefactors - a law and order government which seems unconcerned about destroying the social preconditions of consensus policing and the virtues of the British police tradition. Recent reports of anti-police riots and attacks on the police stations in Maltby and Grimethorpe, South Yorkshire, begin to resemble uncannily the account of anti-police violence a century ago which have been detailed by Robert Storch in his celebrated paper on "The Plague of Blue Locusts."⁽¹⁴⁾ Thus police are bearing the brunt of the miners' resentment, deflecting attention from the sources of the conflict. It is a classic case of executing the bearer of evil tidings, an understandable if unhelpful response. Now the conflict is over the issues raised by it will require some formal parliamentary or judicial inquiry as the NCCL's Report urges. This will have to consider the broader question of how to repair the damage done to the post-Scarman reform initiatives. Perhaps the noble Lord's diary for the coming year is not yet too full?

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(14) R.D. Storch, "The Plague of the Blue Locusts: Police Reform and Popular Resistance in Northern England 1840-57", *International Review of Social History*, 20, 1975, pp 61-90