Popular Policing?

Sector Policing and the Reinvention of

Police Accountability

A Thesis Submitted for the

Degree of Doctor of Philosophy

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Abstract

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The aim of this thesis is to explain the change in the debate about police accountability in Britain that took place in the 1980s. In seeking such an explanation in the reinvention of police accountability over this period, a four dimensional analysis of accountability is presented. This is used to examine, in turn, the history of police governance in London, the debates about police accountability that took place in the 1980s, and the implications of the growing influence of community policing that culminated in the introduction by the Metropolitan Police of a new style of 'sector policing'.

A series of questions about whether and how police accountability was reinvented in the 1980s are posed, and the implications of the reconceptualisation that took place are assessed in their historical and theoretical contexts. Use is also made of empirical data drawn from a study of the implementation of sector policing on an inner city police area in North London. It is argued that far-reaching changes took place in the conceptualisation of police accountability during the 1980s on all four of the dimensions identified, and that this reinvention of the relationship between police and people made policing in London neither more democratic nor more consensual.

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For Tania and Alex with love

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That this thesis came to be written at all is almost entirely the fault of Betsy Stanko who detected something in a dissertation on police/community consultative groups that convinced her that an MA should not be the limit of my academic ambitions. Whether she was right remains to be seen. But – right or wrong – I owe Betsy more than I can possibly indicate here. Apart from doing all the things that PhD supervisors are supposed to do, her psychological astuteness in dealing with my endless doubts and vacillations, and her apparently unshakeable confidence that - some day - I would deliver carried me through more crises and more years than I care to remember. Every time I walked in to Betsy's office determined to give up, I walked out again equally determined to carry on. I hope it was worth the trouble. And thank you.

I would also like to thank numerous other people at Brunel – teachers, colleagues, fellow students – who have provided support and encouragement since I crossed the University's threshold almost a decade ago. If they ever read this, they will know who they are. Although it is invidious to pick out just two people from so many, Jenny Deiches and Phillip Rawlings deserve special mentions: Jenny for keeping my feet on the ground when they needed to be and Phillip for putting my head in the clouds when it needed to be. Even if they don't know what, or how important, their contributions were, I do.

Beyond Brunel, thanks go to all the people in Holloway – police officers, civilian staff, council officers and members of the public – who put up with me during the fieldwork on which part of this thesis is based and took so much time and trouble to explain to me what they were doing and why. Proper thanks for the support –

The final thought is for Alex whose arrival prompted several crises but made me aware of – though unable to agree with - the Fat Controller's opinion (expressed in *Thomas in Trouble*) that 'It's no good arguing with policemen'.

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Introduction

The 1980s was the decade of monetarism, the miners and Margaret Thatcher. It was also the decade of police accountability.[1] No critical dissection of the state of the nation seemed complete without some expatiation on the constitutional status and social role of its most prized asset, the British bobby. As radical conservatism set about demolishing the post-war 'Butskellite' consensus, the police and their governance formed the centrepiece of many an analysis of the 'law and order society' (Hall, 1980).[2] Other writers - concerned as much with 'demystifying' (Reiner, 1985) the police institution itself as with diagnosing the social ills of Conservative Britain – were producing an extensive specialist literature on police accountability.[3] Theoretical criminologists - for whom, hitherto, the issue might have seemed something of a diversion - were also forced to take an interest when two self-styled left realists answered the question, 'What is to be done about law and order?' by calling for democratically accountable policing (Lea and Young, 1984).

By the early 1990s, however, interest in police accountability had subsided. The package of proposals for police reform unveiled by the Major government between 1993 and 1995 led to renewed interest in the subject (Home Office, 1993; Sheehy, 1993; Royal Commission, 1993; Home Office, 1995). But, with the odd exception, the terrain on which the debate was taking place was unrecognisable.[4] In the 1980s, existing mechanisms of police accountability had been widely assailed as inadequate and undemocratic (Jefferson and Grimshaw, 1984; Spencer, 1985; Lustgarten, 1986), and ambitious plans for a thoroughgoing

democratisation of policing put forward (Greater London Council, 1983). But, less than a decade later, critics of the Conservative reform programme were forced to adopt a far more defensive position against what they saw as the centralising tendencies of an overweening state (Reiner and Spencer, 1993). In part this can be attributed to the extent to which successive Conservative governments and their ideological supporters had succeeded in shifting the political agenda on 'law and order' – as on economics, education, and much else – sharply to the right (Downes and Morgan, 1997). With the Labour Party retreating from its radicalism of the early 1980s first into a cautious social democratic realism under Neil Kinnock and then, after a brief interlude, into the neo-conservatism of 'New Labour' under Tony Blair, the political space in which demands for the democratisation of policing had flourished gradually disappeared (Keith and Murji, 1990; Panitch and Leys, 1997).

Reinventing police accountability

But this was not all because, by the mid 1990s, the very concept of police accountability - what an accountable policing force might look like and who it ought to be accountable to - seemed to have changed. At least part of the explanation for the enormous change that had taken place in 'the contours of public discourse about policing', characterised by the virtual disappearance of police accountability from the political and scholarly agenda, seemed to lie in the way police accountability itself had been reinvented (Loader, 1994: 521). That this had indeed happened was suggested in what was, at least for this writer, a seminal paper by Tony Jefferson, Joe Sim and Sandra Walklate presented to the British Criminology Conference in York in 1991. Sub-titled *Accountability, Control and the Social Construction of the Consumer*, the paper's aim was to demonstrate that the criminological project of left realism – 'taking crime seriously' – was 'neither as radical nor realistic as it claim[ed]' (Jefferson *et al*, 1991: 2). In doing this the authors concentrated their fire on four aspects of realism. First they attacked radical realism's 'unproblematised notion of crime'

by suggesting that the 'real crisis in criminology' was not aetiological as the realists argued but definitional.[5] Allied to this, they argued, was a failure to situate 'the debate about crime and disorder within the broader political programme of Thatcherism' that undermined realism's radical credentials.[6] 'Ritual calls for more democratically accountable policing' did not place 'the state and state power centre stage' where realism claimed it should be. Thirdly – and it was here that they addressed the issue of accountability directly – Jefferson and his colleagues argued that:

> [T]his failure to situate [realism's] work within the concrete context of new right politics renders invisible precisely what any radical project needs to keep central, namely, the shift within the 'Law and Order' debate from the left-inspired issues of the accountability of the state for its use of <u>coercive force</u>, to the more problematic notion of citizen as individual consumer of a range of state-run and privatised <u>services</u>. This shift, at the heart of the political project of Thatcherism is hardly challenged by the narrow focus on certain individual victims of crime so central to the new realist project. (Jefferson *et al*, 1991: 3, emphasis in original)

As a result of their almost exclusive focus on individual victims of crime, Jefferson *et al* went on to suggest that realists rendered invisible the 'contradictory dialectic' between victims, the state, the public and offenders. This in turn flawed realist attempts to understand the 'complex interactions' between the four points of what they liked to call the 'square of crime' and prevented them from engaging with the problems of (in)justice that flow from the state's lack of accountability.[7]

> Critics of the state's lack of accountability, whatever their other differences, highlighted the way state coercion was focussed [sic] upon

the economically marginalised, the politically disenfranchised, and the socially outcast – epitomised most dramatically by relations between the police and black youths during the 1970s and 1980s. It was these criminalised 'offenders' who were, and are, 'victims' of a variety of state practices. [...] More generally, many official victims of crime come from the same social category as offenders – with the important exceptions of crimes against women, racial attacks and crimes of the powerful (which all too often fail to get registered anyway). (Jefferson *et al*, 1991: 3)

Apart from exposing the hollowness of left realism's claims to radicalism Jefferson and his colleagues raised several critical issues about how the focus of the debate on law and order and therefore - as part of that broader discussion - on policing moved over the course of the Thatcher years. What they seemed to suggest was that, from being concerned with the way in which the police as a state institution charged with the use of coercive force were held to account for its social distribution, the policing debate moved on to their accountability for providing a service. In the process, awkward questions about the justice of over-coercing and under-protecting the least powerful members of society were neatly avoided, and the exact nature of the 'service' the police deliver became conveniently obscure. At the same time, ideas about what it meant to be a citizen and the relationship of the citizen to the state and its institutions were changing too. With Mrs Thatcher famously declaring that there was no such thing as 'society', the people to whom the police were accountable were reconstructed as citizen-consumers of a service delivered to them individually as victims of crime, and collectively as 'communities' from which 'the over-policed, marginal, and powerless groups, for whom policing ... constitutes part of the their problems' were excluded (Jefferson *et al*, 1991: 6).

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Taking Jefferson *et al's* paper as its starting point, this thesis sets out to answer three basic questions. First, was the concept of police accountability reinvented during the 1980s as they suggest? Second, if so, what was it exactly that changed about its conceptualisation and how did the change come about? And, finally, what were the implications of any reconceptualisation that did take place for the accountability of the police in practice? In answering these questions I will concentrate on Britain's largest police force, the Metropolitan Police (MPS), and its implementation of a new style of community-oriented 'sector' policing designed to deliver policing by popular consent. I do this partly because the unique – but seldom studied – system of police governance pertaining in the Metropolitan Police District (MPD) highlights many of the issues I want to address; and partly because the design and implementation of sector policing provided a rich and - for reasons that will become clear in a moment – accessible source of empirical data on changing conceptions of police accountability and their impact on police/public relations.[8]

The thesis in outline

I begin the search for answers to the questions prompted by Jefferson *et al* in the next chapter by considering what is meant by 'accountability' in the context of 'the police' and how it relates to the notion of 'policing by consent'. After reviewing some of the literature on accountability in the police and other public services both within the criminal justice system and beyond, I set out a four-dimensional analysis of police accountability that provides the main theoretical framework for what follows. In Chapter 3 I apply this four-dimensional analysis to developments in the governance of the Metropolitan Police from its foundation in 1829 to the coming of Thatcherism 150 years later. In doing so, I suggest that, while the unique constitutional position of the force remained constant throughout this period, the way in which the main parties to the arrangement both perceived their roles and behaved changed quite dramatically. I then show how the *de facto* independence of the force was defended against all-comers during the course of

the 1980s. Chapter 4 looks at some of the vast critical literature on accountability that accumulated during the 1980s and identifies four distinct theoretical approaches to the problems posed by police governance. The proposals for reform, and suggestions as to how it might be accomplished, offered by writers with these different perspectives are also considered. Chapter 5 takes this a step further and looks in some detail at plans for the 'democratisation' of the Metropolitan Police put forward by the generation of 'municipal socialists' who dominated local government in many parts of London until the mid 1980s. An account is also given of how the debate about police accountability ran its course between the early 1980s and the early 1990s in the London Borough of Islington. The chapter ends with a four-dimensional analysis of the various positions and plans that emerged from the critical literature of the 1980s. In Chapter 6 I examine the origins and development of sector policing as an explicitly community-based style of policing and argue that, in common with other programmes in the 'community policing' tradition, its design contemplates a significant reconceptualisation of police accountability at neighbourhood level. This point is taken up and developed in Chapter 7 which considers the implications for accountability of four elements or themes central to the design of sector policing. Once again, the dimensions of accountability identified in Chapter 2 provide the main analytical tool for the discussion. Having examined the theory and design of sector policing in some detail, I turn in Chapter 8 to its implementation on an inner city police division in north London. Using data collected during over 18 months of field work I try to illustrate how far the reinvention of police accountability had progressed by 1992 when sector policing was implemented and indicate what the implications of its reinvention were for policing in a not untypical slice of urban Britain. A ninth and final chapter draws the threads together as I attempt to answer the questions I have posed.

Methods

It should be clear from what has just been said that this thesis adopts a somewhat eclectic approach to its exploration of police accountability embracing theoretical and historical inquiry as well as the results of empirical research. All that needs to be said for now on my approach to matters of theory and history is that the 'background assumptions' (Gouldner, 1971) I make in addressing the profoundly political issues of consent and accountability are quite deliberately those of mainstream liberal democratic thought. In so far as I offer a critique of police accountability, its main thrust is that the police are not as accountable as they should be if liberal democratic principles are properly applied. Only in the final chapter do I suggest that it may be necessary to step outside the liberal democratic paradigm if truly democratic and accountable policing is to be achieved.

Considerably more needs to be said about my empirical data. A small proportion of the material presented here (mainly in Chapter 5) derives from documentary research using minutes and other papers held in the archives of the London Borough of Islington. These documents provide a public, though not immediately accessible, record of the deliberations of the Council's Police Sub-Committee through the 1980s and into the early 1990s. Original Metropolitan Police documents relating to the design and implementation of sector policing provide the basis – but not much more than that - for Chapters 6 and 7. Only in the next, and penultimate, chapter do I rely almost exclusively on empirical data and it is to some of the issues raised by that data and how it came to be collected that I now turn.

Aims and origins

The most important point about the empirical data on sector policing presented in Chapter 8 is that I use it not to make any large or generalisable claims about its

merits or defects as a policing strategy but to illustrate some of my theoretical arguments about how - and to what effect - police accountability came to be reinvented during the course of the 1980s in very much the same way as Crawford (1997: 8) refers to his research on community crime prevention, community mediation and victim/offender reparation schemes in his analysis of prevailing discourses in the local governance of crime. The research project on sector policing for which the data discussed here was collected originated in a piece of research by Betsy Stanko (1991) on the role of the police in victim-oriented crime prevention strategies. The intention was to follow this work up by investigating how locally based home police beat officers could be enabled and encouraged to work with the victims of violent crime to reduce the risk of multiple victimisation. However, when it became clear that dedicated home beat officers might cease to exist as a result of the introduction of a new style of sector policing throughout the Metropolitan Police, it was decided – in conjunction with the London Borough of Islington who were funding the research and the chief superintendent on Holloway Division where it was due to take place – that the ambit of the study should be extended to look much more generally at the impact of sector policing on the relationship between the police and the public.

Sector policing itself aimed to decentralise service delivery by redeploying all uniformed personnel - including personnel currently working on 'home beats' as well as shift or 'relief' officers - on to small teams responsible for policing clearly demarcated 'sectors' within each of the MPD's existing police divisions. Beyond this the main principles of sector policing set out in guidance issued by the Metropolitan Police's Assistant Commissioner Territorial Operations can be summarised as being to:

- Make the most effective use of resources
- 'Own' and 'get ahead' of local problems by identifying and helping to tackle their underlying causes

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- Encourage visible and accessible patrolling by known local officers
- Deliver a 'better quality service provided by officers 'enjoying the support and approval of local people – policing by consent' (Metropolitan Police, 1991a: 2, 5)

Designed as a preliminary evaluative study of the implementation of sector policing on a single division, fieldwork for the research began on 1st October 1991, some 6 months before sector policing was introduced to Holloway on 6th April 1992, and continued into early February 1993.[9] Though the project was directed by Betsy Stanko and was very much a collaborative effort, I collected all the data presented here. In the process I observed well over 200 hours of operational police work and more than 30 meetings of various bodies involved in police/community consultation. I was also able to observe a number of internal management meetings and spent several shifts in the divisional control room familiarising myself with the co-ordination of local police operations.

Access and the perils of participant observation

Research access to Holloway Division for the purposes of the original project was gained by Betsy Stanko.[10] However, as Tim May (1993) has noted, access to the field for the participant observer is not a once and for all rite of passage but a continuous process of negotiation. These negotiations took place at two levels: formally with the duty or sector inspectors whose permission I always sought before beginning any observation and informally with the officer or officers I was accompanying or met. The first part of this process was quite straightforward. I simply made an arrangement to come in at a certain time with the relevant duty inspector who would then suggest a unit for me to observe. Occasional requests to observe a particular individual or unit or type of activity were never refused and, if inspectors attempted to 'steer' me towards officers who could be trusted to behave appropriately and 'say the right things', they either knew remarkably little about the people under their command or were far from unanimous about what it

was good for a researcher to be exposed to. In any event, once I was out on the street – or in the canteen - managers had no effective means of controlling what I saw or whom I spoke to.

Gaining the trust of the rank and file officers I was observing presented a greater challenge. The respective advantages and disadvantages of what Gold (1969) has called 'complete participant' observation of the police undertaken by insiders such as Holdaway (1983) and Young (1991; 1993) and 'participant as observer' studies made by outsiders like Punch (1979a; 1985), Smith and Gray (1983), Hobbs (1989) and Fielding (1995) have been widely canvassed in the methodological literature (see generally: May, 1997: Chapter 7; and Jupp, 1989: 56-63; 148-57). There can be little doubt that Young's (1991) 'practical policemen' have an enormous advantage when it comes to understanding the deeper meanings of the phenomena observed, although both he and Holdaway comment on the suspicion with which they – 'academic' police officers both – were regarded by their colleagues. 'Analytic researchers', as Young calls them, clearly have a lot of ground to make up before they overcome the police officer's ingrained distrust of the social scientist and can hope to begin 'piercing the protective shield' of the lower ranks (Holdaway, 1983: 5).

While it is for the reader to make her own assessment of the extent to which I succeeded in observing and making sense of 'the backstage language of behaviour' (Goffman, 1984) of operational police work a number of factors seemed to worked in my favour. First there was the fact that, as a white, six foot, thirty-something with a slight northern accent and a studiously police-friendly wardrobe of smart casual (but neither too smart nor too casual) clothes, I looked and sounded (give or take round glasses and my non-participation in outrageously sexist banter) very much like the kind of ambitious young graduate officer that a 'busy' inner city division like Holloway tended to attract.[11] Moreover, at a time

when relations between 'management' (inspectors and above) and the 'shop floor' were strained almost to breaking point over the introduction of sector policing, I was able to make myself useful to both sides. To the lower ranks I was a neutral and reliably discreet conduit for their grievances. To their superiors I was a source of some relatively unvarnished home truths about how sector policing was playing with the 'troops'. Acting both as a sounding board for rank and file discontent and a confidant of managers hungry for feedback on how their plans were progressing was always a balancing act likely to end in a spectacular fall. Discontented constables and sergeants regularly asked me to endorse their complaints about 'manpower' shortages, the threat posed by sector policing to officers' safety and the insensitivity of management in breaking up the extended families that the reliefs or shifts had become. While making what I hoped were suitably sympathetic noises, I tried to avoid taking a clear stance on such highly contentious issues. Most officers respected my guarded neutrality with the notable exception of a long-serving home beat officer who, after one of many conversations about the subject, accused me of 'going over to the other [management] side on sector policing' by refusing to acknowledge that the system was unworkable within existing resource constraints.[12]

For the most part therefore I followed Polsky's (1971: 126-7 quoted in Hobbs, 1989: 11) advice, kept my mouth shut, and let my police informants do the talking. This – with one or two exceptions that seemed to have more to do with individual shyness than any reservation about talking to an 'outsider' – they were more than happy to do. It is hard to judge how successful I was in gaining the trust of the officers in whose company I walked and drove the streets of Holloway and how candid and natural they were in what they said and did in my presence. That I was able to gain the confidence of at least some of the officers I observed and talked to relatively quickly is indicated by the willingness – only four months into the fieldwork stage of the research – of one of the divisional collators to leave

me alone in his office with unrestricted access to the indices of suspects, motor vehicles and so forth that form the lifeblood of low-level police intelligence while he went off duty at the end of a shift. Divisional Intelligence Officers, to give them their official title, were responsible (amongst other things) for collating the often very detailed, if dubiously accurate, information about people of interest to the police and their activities that operational (CID and uniformed) officers thought might be of use to their colleagues. Their records and the raw material from which they were created represent a veritable minefield of potentially explosive material ranging – from what I gleaned during my sojourn in Holloway - from scurrilous gossip and scatological comment about local members of parliament to crudely stereotyped views on the lifestyles and criminal propensities of people from minority ethnic groups. No doubt the officer who left me poring over this material with a casual request that it I put the various books and card indices back where I found them would have been puzzled by my reaction to their contents. But the fact remains that he trusted me, an 'outsider', to make more or less whatever use I wanted of his records, the crown jewels of street-level police crime fighting.

Another incident that makes me believe that I gained a measure of acceptance in the mysterious world of the police occurred when an acting sergeant at the wheel of a patrol car handed me his personal radio with a terse request to keep in touch with the controller while he set off in pursuit of a stolen car despite having neither the correct vehicle nor driver qualifications for chasing round residential streets at high speed. Then, on a third occasion I watched a constable hurl his heavy police regulation torch at the windscreen of an oncoming car (again stolen), only to be brought into an anxious conversation between the officer and a colleague about how the incident should be 'written up' to minimise the risk of the torch-thrower getting into trouble for unnecessarily endangering the life of the driver and other road users.[13] In the end I would like to think I became enough of a 'fan' (Van

Maanen, 1978) to establish a rapport with operational officers without falling prey to the 'seductive interest' of the police world (Punch, 1979a: 16).[14] Nor - as several invitations (only one of which I thought it politic to accept) to do some illicit 'after hours' drinking with senior managers in a well-known 'police pub' on a neighbouring division would suggest - did I allow that rapport to prejudice friendly relations with their superiors.

Of course it was not only police officers with whom I came into contact during the research. Nor, therefore, was it only their 'natural' behaviour that my presence might contaminate. There were also the participants in the many community meetings I attended, and the victims, suspects, witnesses and members of the public dealt with by police offices I was accompanying, to consider. Once again it is impossible to be certain about the impact my presence may have had on what these people said or did. But here too it was probably minimal. It became standard practice at community meetings for the police officer (usually an inspector) to introduce me as 'a researcher from Brunel University' and explain that I was 'looking at sector policing'. This was invariably accepted without discussion. Meetings then proceeded - as far as I could make out – normally and without the participants appearing to give me any further thought. For them, the business they had come along to discuss was far too important for a lone individual sitting in a corner with a clipboard to constitute a distraction. As for people I encountered when I was observing patrol officers at work, most seemed to assume that, since I arrived with the police, I too was a police officer.[15] This occasionally gave rise to some slightly comical misunderstandings with unsuspecting members of the public approaching me with enquiries about some arcane aspect of police procedure or to share some interminable tale of woe. Mostly however my ersatz police persona was a blessing.

Fieldnotes and confidentiality

My approach to recording my observations varied according to the formality of the setting. In community and management meetings I took as full a contemporaneous note of proceedings as possible. I made no secret of the fact that I was making notes and sat quite openly recording what was said. In most cases I was able to check my notes against the minutes of the meeting thus achieving a degree of 'within-method triangulation' (Fielding, 1995: 47), although it has to be said that the typically stilted prose of such official records seldom captures the telling phrase or critical exchange that excites the ethnographer by illuminating his (or her) field of inquiry. Unlike Fielding (1995: 50) and his colleagues however, I did not try to take notes in the presence of officers and/or the public in the unstructured setting of police operations. Nor did I resort to the 'weak bladder' device and adjourn to the toilet on more than a handful of occasions. Early experience of taking notes while observing control room operations convinced me that such intrusive manifestations of my status as an observer only made the inevitably slightly bizarre relationship between researcher and subject even more obviously freakish than it needed to be. Needless to say, officers were not naïve enough to believe that I wasn't mentally noting what they were doing and saying. Indeed, a woman constable whose work in the control room I had openly 'noted' early in the research asked me some months later when I joined her on patrol in a panda car whether I was going to write down everything she said again. When I told her that I had given that up she replied, 'You'll just go home and write it all down instead', which, of course, was precisely what I did.[16]

The final issue to be dealt with here relates to how I propose to use and present the empirical data I collected in Holloway. As I have said, the main purpose to which I intend to put the empirical data in Chapter 8 is to illustrate some of the theoretical points made in earlier chapters. The incidents, conversations and

discussions that appear in this thesis are thus not intended to provide supporting evidence for immediately generalisable propositions about sector policing. However, unless otherwise stated, they are broadly representative of other similar records not all of which are referred to here (cf. Fielding, 1995: 49). In reproducing extracts from my notes, I have made no attempt to disguise the identity of the force or police division on which the research was conducted. Prior publication of a detailed report on the original study renders such dissembling otiose. Similar considerations apply to the naming of the individual sectors into which Holloway was divided. Beyond this, however, I have taken steps to protect individuals by giving pseudonyms to junior officers and referring to their seniors (inspectors and above) by their job title ('sector inspector', 'senior manager' and so on). Owing to the smaller number of senior officers this latter device affords them only limited protection but I am not aware that any of them suffered any repercussions from the publication of the original project report which contained similar - and occasionally the same - material.

Notes

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[1] Stenning (1995: 3) argues that the 1980s can be thought of as 'a decade of accountability' throughout the Western world much as the 1960s are seen as one of 'liberation'.

[2] See, for example, Hall (1985); Gilroy and Sim (1987); Hillyard and Percy-Smith (1988); and Norrie and Adelman (1989). Brake and Hale (1992) provide an often polemical overview of 'law and order' politics since Mrs Thatcher's first election victory in 1979.

[3] The literature is enormous, but see Marshall (1978), Baldwin and Kinsey (1982) and Brogden (1982) for early contributions to the debate.

[4] Loader (1994) makes precisely this point and goes on to develop a set of proposals for the democratisation of police governance that draws on the earlier work of Jefferson and Grimshaw (1984).

[5] Jefferson *et al*, 1991: 2.

[6] Ibid: 2-3.

[7] See Young (1997: 485-6) for a recent exposition of the nature and form of crime using the 'square' as its main analytical device.

[8] Smith (1998) is probably the only recent work to deal with the constitutional position of the Metropolitan Police in any depth.

[9] A full report of the project and a discussion of some of the main findings are contained in Dixon and Stanko (1993; 1995). Some additional material was collected in March 1993.

[10] After registering as a doctoral student in early 1992 I made no secret of the fact that the data I was collecting would be used as the basis both for an 'official' project report and a thesis and discussed my plans with numerous Holloway officers.

[11] The importance of 'looking the part' should not be underestimated as Hobbs (1989: 6) emphasises when he recounts being told off by his principal police informant that his choice of open-necked shirt, sleeveless sweater and corduroy trousers for a 'semi-formal non-police function' made him look like 'a fucking social worker'.

[12] A slightly different but related problem came about as a result of my decision to spend more, but not all, of my time on one of the three sectors into which Holloway was eventually divided. This tempted one of the inspectors on that sector to try to involve me in an oddly acrimonious dispute with colleagues on another sector. In the search for unflattering gossip about his rivals he asked me to confirm that a group of officers on their sector had been 'caught kipping' on night duty. As it happened, I knew nothing about the incident and was able to say so without fear of being discovered in an obvious

lie but the experience reminded me of the need for vigilance in preserving my distance from internal police disputes.

[13] It was eventually decided that the officers' notebooks would record that the driver 'swerved' towards the pavement putting the torch-thrower in fear of his life.

[14] The risk of 'going native' is one of the perennial dangers of participant observation and was brought home to me with some force after a conference where I presented what I thought, perhaps rather naively, was an appropriately 'objective' and scholarly paper (Dixon, 1993) on rank and file reaction to the introduction of sector policing only to be lambasted by an experienced female police researcher in the audience for having 'become one of the boys'.

[15] Fielding (1995: 50) reports that he and his colleagues were also treated as police officers by default.

[16] In practice I wrote up notes in one of two ways. If at all possible, I wrote up a detailed set of notes immediately after I completed a 'block' of observations (usually an 8-hour shift in the case of police operations). On a few occasions when I was too tired after a 'night shift' to commit detailed notes and reflections to paper I tried to construct a short *aide memoire* for myself by jotting down a series of headings fleshed out with short quotations. In either case I always wrote up detailed notes within 24 hours of finishing observation.

2

Consent, Coercion and Four Dimensions of Accountability

The great strength of the Assistant Commissioner's guidance (1991a; 1991b; 1991c) is that it makes the renewal of the relationship between police and people, summed up in the notion of policing by consent, the main aim of sector policing. Its principal weakness is that, while policing by consent is a striking and time-honoured slogan, it leaves important questions about the meaning of consent and the nature of policing unanswered. What counts as consent? How is consent expressed? What are people being asked to consent to? Who exactly are the people whose consent is required? This chapter sets out to answer some of these questions, and to provide a theoretical framework for the discussion of sector policing and the reinvention of police accountability that follows.

The first section of the chapter takes as its starting point recent debates about the nature of policing and what distinguishes those public officials we commonly think of as 'the police' from other individuals and institutions involved in ordering and regulating contemporary societies. This is followed by an investigation of consent and its place in a family of concepts in political theory such as legitimacy, consensus and compliance. Its relationships with members of an extended family that includes power, authority and, most important of all, accountability are also explored. Accountability as a means of achieving policing by consent is the focus of a final section that draws on

the preceding discussions of policing and consent to identify four dimensions of police accountability.

Policing and the police

One of the most striking features of recent writing about policing and the police has been a renewed interest in the nature of 'policing' as a social process involving not just 'the police', but a wide range of other individuals and organisations. This distinction between policing and what the police do has become so crucial to discussions about the role of the police that Robert Reiner (1994: 715-722) devotes a substantial part of an introductory essay on the police to pointing up the difference between the two.[1] He contends that the widespread assumption in contemporary societies that the existence of an organised police force is 'a functional prerequisite of social order' amounts to a form of 'police fetishism' that denies the historical (not to mention cultural) specificity of the conception of 'policing' as a specialised activity undertaken by the 'police' (Reiner, 1994: 715). Far from being the *sine qua non* of social order, the 'police' as a body of specialists in its maintenance are a feature of relatively complex modern societies, and the sophisticated division of labour which their existence implies. By way of contrast, 'policing' refers to a diffuse set of informal and formal control processes that appear whenever and wherever social order is threatened. These processes involve both surveillance for the purpose of detecting breaches of social order, and organisation of an appropriate response to any breakdowns that come to light.

Dissatisfaction with police fetishism and the conflation of 'policing' with 'what the police do' seems to have two main sources. The first of these is the rediscovery by authors such as Stenson (1993) and Rawlings (1995) of the history of 'policing' before the advent of the 'new police'. Reviewing recent work on the rise of 'governmentality' and a science of police in eighteenth

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century Europe, Stenson (1993: 376) argues that the term 'police' connoted not a 'repressive force' but a 'comprehensive, educative process that constitutes the social body as a context for civilised social conduct'. British thinkers of the period like Bentham, Colquhoun, and Adam Smith were also familiar with this broad conception of 'policing' as an enterprise crucial not just to the preservation of social order, but to all aspects of the regulation of early capitalist society (Reiner, 1992b: 762). Furthermore, even within the restricted field of activity commonly associated with the modern 'police' - order maintenance, crime detection and law enforcement - the division of labour was rudimentary (Emsley, 1996; Palmer, 1988; Hay and Snyder, 1989). The paradigm shift from policing as a general project of social regulation in which all responsible and right-thinking members of society should play an active part did not occur until around the turn of the century. And it was not until the early 1800s that the exclusion of the public from 'policing' and its reservation as an area of activity for a specialised body of state functionaries, gathered pace (Rawlings, 1995).

The rediscovery of a history of 'policing' before 'the police' has been accompanied, perhaps prompted, by the rapid growth of alternative forms of policing over recent years (Shearing and Stenning, 1983; South, 1988; Shapland and Vagg, 1988; Jones and Newburn, 1997a) leading to what Johnston (1992; 1993; 1996) describes as a renegotiation of the division of labour between the public and private sectors.[2] Hoogenboom (1991) notes that traditional 'blue policing' is gradually being 'greyed' as police functions are dispersed to a cornucopia of regulatory bodies and private sector organisations with whom 'street cops' co-operate and share information on an informal, unregulated, but regular basis. Writing about policing and social control in contemporary urban America, Davis (1990) and Christie (1993) present an apocalyptic vision of the rampant privatisation of security, the progressive

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destruction of public space accessible to marginal groups, and the gradual 'industrialisation' of crime control. Summing up these developments, Reiner (1992b) and Bayley and Shearing (1996) suggest that they reflect profound structural changes taking place in the policing of late or post-modern societies. Meanwhile, beyond the academy, proposals for hiving selected police functions off either to other agencies or to a new breed of police known as 'designated patrol officers' have met with predictable howls of anguish from police spokespeople warning of the dangers of 'two-tier' policing (Home Office, 1995; Police Foundation/Policy Studies Institute, 1996; Police Federation, 1996).

The state, the police and coercive force

Against this background, it becomes both more important and more difficult (Johnston, 1992: 187-195) to pinpoint precisely what it is that distinguishes the public officials we conventionally think of as 'the police' from the growing number of other individuals involved in 'policing'. Yet in doing so it is possible to make out the essence of policing by the 'police', and why popular consent to it is so hard to win. The first, and in many ways the most fundamental, distinguishing feature of 'the police' is their relationship with the state. Mike Brogden (1982) has argued that the standard accounts of the nature of the state - and by implication of the function of the police as a state agency - offered by political theorists as different as Weber, Dahl, Miliband and Poulantzas are less than satisfactory, tending either to assume the existence of an over-arching social consensus as the basis for police (and state) power, or to emphasise the role of the state in enforcing class rule without providing an adequate explanation of the relationship between the two.[3] Less controversial is the prominence in Western political thought of the state's capacity to use or threaten to use coercive force in regulating society and upholding political order.[4] Hobbes, for example, went so far as to contend that

'the state constitutes society through the power of command of the sovereign (set down in the legal system) and through the capacity of the sovereign to enforce the law (established by the fear of coercive power) (Held, 1989: 17-18). Unlike Hobbes, John Locke did not believe that the coercive force wielded by an omnipotent state was needed to constitute society. He preferred a more restricted role for 'government' in preserving the 'life, liberty and estate' of free, equal, and independent citizens by monopolising 'the process of formulating, administering and enforcing laws' (Keane, 1988: 39-40). Bentham, James Mill, and the utilitarians went along with Locke in seeking strict limits on state power but argued nonetheless that the use of coercion to enforce duly enacted laws was justifiable in so far as those laws upheld the general principle of utility.

But perhaps the clearest exposition of the centrality of the use of force in defining the modern state is contained in the work of Max Weber:

> Of course force is certainly not the normal or only means of the state
> - nobody says that - but force is a means specific to the state ... the
> state is a relation of men dominating men, a relation supported by
> means of legitimate (ie. considered to be legitimate) violence.
> (Weber, 1972, quoted in Held, 1989: 40).

Thus, as David Held (1989: 40) puts it, 'The modern state ... has a capability of monopolising the legitimate use of violence within a given territory ...' largely through the agency of the 'state police' who are given a more or less exclusive franchise on exercising this monopoly power.[5] Hence, among the 'web of agencies and institutions' which find their 'ultimate sanction in the claim to the monopoly of coercion', the police have most to gain from the modern state's ability to arrogate to itself the exclusive right to the use of force (Held, 1989: 40).

This analysis leads on to a second distinguishing feature of 'the police' that emerges most powerfully from the work of Egon Bittner. Rather than enter a sterile debate about the relative importance of 'law enforcement' and 'social service' as the essence of police work, Bittner (1975: 46, emphasis in original) argues that:

> [T]he role of the police is best understood as a mechanism for the distribution of non-negotiably coercive force employed in accordance with the dictates of an intuitive grasp of situational exigencies.

In what has become a classic statement of 'the specific competence of the police' Bittner (1974: 35) makes the crucial point that, unlike other state agents who may *on occasion* exercise legitimate force,

> The policeman, and the policeman alone, is equipped, entitled, and required to deal with every exigency in which force may have to be used, to meet it.

Thus, if their capacity routinely to exercise the state's monopoly on the use of legitimate force distinguishes 'the police' from private citizens (employed by private security firms or acting under the auspices of their local neighbourhood watch, for example) undertaking 'policing' activities, it is the breadth of their mandate, and the sheer variety of the situations in which they may use coercion, which marks them off from other state agents who enjoy a more limited franchise. [6]

The idea that, in Bittner's (1975: 46) words, 'the mandate of the police is organized around their capacity and authority to use force' has become

something of a commonplace in the literature on policing (see Reiner, 1992a: 142-3; 1997: 1007-8 for example). But this is not to say that it has gone unchallenged. Les Johnston (1992: 189) for example has argued that Bittner's emphasis on the capacity of 'the police' to use legitimate force as the principal franchisees of the state monopoly on its domestic use has had a blighting effect on the development of a more broadly based sociology of 'policing'. By implying that all 'policing' activity presupposes the existence of the right to use state-sanctioned coercive force Bittner's analysis has tended to obscure the fact that, on the one hand, the public and other state agents often coerce with the backing of the state's authority while on the other, corrupt 'police' officers may act without that authority. However, as Johnston (1992: 189, emphasis in original) himself concedes:

> [I]t *is* necessary to demarcate between the actions of sworn police
> officers and those of private individuals. There are clearly important
> differences between actions carried out with the authority of the state
> and those carried out without such authority - especially when
> coercion is involved.

It is in making this demarcation between 'what police officers do' and other kinds of 'policing' that Bittner's observations are so pertinent. What makes 'the police' unique is the intimacy of the sworn officers' connection with the state's monopolisation of legitimate coercion, *together with* the breadth of the mandate they are given in using or threatening force in all those situations that involve *'something-that-ought-not-to-be-happening-and-about-which-someone-had-better-do-something-now!'* (Bittner, 1974: 30). Thus, as Carl Klockars (1985: 12) put it in another much quoted sentence:

> Police are institutions or individuals given the general right to use
> coercive force by the state within the state's domestic territory.

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Heidensohn (1992: 72-3, emphasis in original) takes a slightly different line in criticising the elision of 'coercion' with the application of force, which, she argues, '*implies physique* and hence policing by *men*'. She (1992: 73) describes Bittner's (1974: 35, emphasis in original) qualification that police work consists not of using force to solve problems but of 'coping with problems in which force *may have to be used*' as a 'cop out' since force 'thus becomes not the defining factor of policing but the limiting case, the exception that is meant, somehow, to prove the rule'. The point about the danger of eliding 'coercion' with brute force and therefore a male preserve is well made, but the underlying criticism of Bittner is unfair. The fact that coercive force is (or should be) the instrument of last resort scarcely invalidates the argument that its possession by 'the police', and their capacity to make state-legitimated use of it in an infinite variety of situations, marks them out from other 'policers'.[7] Moreover, if the authoritative use of coercive force is the distinctive feature of 'policing' by sworn police officers acting within the mandate they have been given by the state, then it is to the distribution and application of coercive force that the people are being asked to consent when one talks of 'policing by consent'. The discovery that the use of force is the pre-eminent feature of 'policing' by the 'police' and represents, therefore, the core activity to which the consent of the public is sought, has profound implications for police accountability and is one of the main themes of this chapter's final section.

The power to exercise the state's monopoly on the use of legitimate coercive force confers awesome responsibilities on the police. The use of force is the most drastic form of action at the state's disposal and it is deployed by the police in the most controversial and sensitive areas of political and social life - in regulating social conflict and setting and patrolling the boundaries of

acceptable behaviour. Decisions made by the police about the use of coercive force are crucial in determining the social distribution of both the negative consequences that flow from coercive action and the benefits of state protection that flow from it. In using or threatening force to protect the integrity or freedom of one individual or group, it is almost inevitable that the police will have to compromise the autonomy of another.

> The police are arguably the central public service in a modern state. They are there to protect our essential freedoms and to do so have a monopoly over the legitimate use of force" (Jones *et al*, 1994).

In societies emerging from long periods of political tyranny such as South Africa or the countries of Eastern Europe and the former Soviet Union, policing may extend what Braithwaite and Pettit (1990: Chap. 5) have described as 'dominion' by improving the life chances of the exploited, the marginalised and the disadvantaged. Alternatively it may contribute to the continued oppression of such groups by stifling political activity and acting as a brake on social change (Brogden and Shearing, 1993: 1-2). But, even in the very different conditions of a mature liberal democracy, the power of the police to distribute protection and coercion unevenly through society may be crucial in reinforcing (or reducing) the political, social and economic marginalisation of social groups ranging from organised labour (Fine and Millar, 1985; Green, 1991), to black people (Cashmore and McLaughlin, 1991; McConville and Shepherd, 1992; Jefferson, 1993), women (Hanmer *et al*, 1989), gay people (Burke, 1992), and political dissidents or 'subversives' (Bunyan, 1977). As Robert Reiner (1992a: 4) has noted, the connection between politics and the police is no etymological fluke, for 'policing is an inherently political activity' involving judgements about the use of extreme measures in defining social morality and the limits of tolerable behaviour.

Consequently, popular consent to the use of force by the police has to be achieved over hotly contested political terrain in circumstances where the distribution of coercion will have far-reaching effects on the ability of citizens to play an active part in society. It is at this point that we have to return to the notion of consent and its use in the context of policing.

Consent

Winning and maintaining the consent of the people is a key problem for the liberal democratic state and its institutions. So it is entirely predictable that 'policing by consent' has become something of a 'shibboleth' (pessimists might prefer chimera) in times of declining public confidence in the police (Reiner, 1992a: 250).[8] What is meant by 'consent' in this well-worn phrase is rarely explained however. And when an attempt is made to explicate the nature of consent in the context of the relationship between police and public, commentators come up with quite different answers. Mike Brogden (1982) for example characterises popular consent to policing in an advanced capitalist society such as Britain as constructed around an 'imaginary' relation between the police and subordinate social classes. In order to secure the consent of these groups, police activity is presented as serving general societal interests rather than those of the dominant social classes represented in a relatively autonomous local and central state.[9] By way of contrast, the introduction to the Operational Policing Review (Joint Consultative Committee, 1990: Introduction: 4) adopts a much more benign view of the nature of public consent to 'traditional British policing' as meaning not 'acquiescence but a broad tolerance indicating a satisfaction with the helping and enforcement roles of policing'.

Species of consent

If nothing else, such divergent views demonstrate the need for the conceptual

thicket to be cleared before any sense can be made of the nature of consent, and its application to policing. To do this I want to return to the work of the political scientist David Held who begins his discussion of consent by locating it as part of a 'family' of potentially ambiguous concepts that includes consensus, compliance and legitimacy (Held, 1989: 101). In a passage worth quoting in full, he goes on to distinguish between seven different grounds for agreeing or consenting to something:

1. There is no choice in the matter (*following orders, or coercion*).

2. No thought has ever been given to it and we do it as it has always been done (*tradition*).

3. We cannot be bothered one way or another (*apathy*).

4. Although we do not like the situation - it is not satisfactory and far from ideal - we cannot imagine things being really different and so we 'shrug our shoulders' and accept what seems like fate (*pragmatic acquiescence*).

5. We are dissatisfied with things as they are but nevertheless go along with them in order to secure an end; we acquiesce because it is in the long-run to our advantage (*instrumental acceptance or conditional agreement/consent*).

6. In the circumstances before us, and with the information available to us at the moment, we conclude it is 'right', 'correct', 'proper' for us as an individual or members of a collectivity: it is what we genuinely should or ought to do *(normative agreement)*.

7. It is what in ideal circumstances - with, for instance, all the knowledge we would like, all the opportunity to discover the circumstances and requirements of others - we would have agreed to do *(ideal normative agreement)*. (Held, 1989: 101; and 1987: 181-2).

Having conceded that these analytically distinct types of consent tend to

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overlap and combine in practice, he contends that ideal normative agreement - though well nigh impossible to achieve in an imperfect world - provides a handy yardstick against which other less complete forms of acquiescence and agreement may be measured.[10] While Held uses this typology of consent to analyse the legitimacy of the entire British political order, it is equally helpful in making sense of the notion of consent when it is applied to the police as the main state agency charged with upholding that order.

For example, McConville *et al* (1991: 92-95; and cf. Dixon, 1997: Chapter 3) have noted that the safeguards for suspects stopped and searched on the street provided in s. 1 Police and Criminal Evidence Act 1984 and its accompanying Code of Practice (Code A) are routinely circumvented by police officers who succeed in obtaining suspects' 'consent' to a 'voluntary' search. They argue that the threatened use of coercive power by the police is crucial in 'constructing' this consent - a fairly unambiguous example of Held's first type of 'coerced consent' (C_1). But the fact that a citizen's consent to police action taken against her may be coerced, does not mean that her consent to the police as an institution, and its more general distribution of protection and coercion throughout society, has similar origins. If the suspect is regularly stopped and searched, her attitude at this institutional level may be one of pragmatic acquiescence (C_4) or, at best, of instrumental acceptance (C_5) if in some way she believes that, in the long run, the positive effects of the protection the police provide to her in other ways serves to counterbalance the negative consequences of the actions taken against her. The type of consent to policing given by an individual or group depends on a wide variety of factors. These include:

1. Whether 'policing' is taken to refer to a specific action or operation, to the pattern of policing in a given area, or to the existence and practice of the police as a social institution.

2. The individual or group's experience and knowledge of the police and the police use of coercive power both against them and on their behalf.

3. The extent to which the individual or group feels committed to, or alienated from, the social norms and values that the police are perceived to embody and promote.[11]

In the chapters that follow, the focus will tend to be on the pattern of policing in a given area rather than on particular actions and operations, or the police as an institution.[12] But this is not to deny that the quality of consent at one level is likely to be affected by experiences and perceptions of policing at another. People who are frequently stopped and searched on the street, or feel that incidents they have reported have been ignored or handled insensitively, are likely to be more grudging in the consent they give to the overall pattern of policing in the area in which they live or work.[13] In any case, the very nature of police activity as the distribution of non-negotiable coercive force means that consent to policing 'cannot imply complete and universal approval' (Reiner, 1992a: 5). The most that can be expected is that coerced consent is restricted to those who are policed against in as limited a number of individual actions and operations as possible, while popular reaction to local patterns of policing, and the police institution itself, comes as close to ideal normative agreement as material conditions permit.

Policing by consent

Having established that the notion of consent is flexible enough to encompass everything from following orders under duress to free agreement given in conditions of perfect information, it is important to understand how these very different types of consent may be signified. Fortunately, Rod Morgan (1989a; 1990) has subjected this aspect of 'policing by consent' to some detailed conceptual analysis. In the course of two important contributions to the debate

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on policing by consent, he shows how it may be demonstrated 'contractually' in the form of legal and political consent or 'socially' as attitudinal and operational or procedural consent. In the first instance consent inheres in the fact that:

> The police are established, governed, regulated and empowered by
> statute. This body of law, approved by a democratically elected
> Parliament, ideally represents the will of the people. (Morgan,
> 1989a: 218).

This species of *legal* consent is complemented by *political* consent

> ... realised through a delicately balanced mystery of influences
> brought to bear by politicians locally and nationally on what officers
> decide and on *ex post facto* accounting by the police. (Morgan,
> 1989a: 218)

For Morgan (1989a: 218-220; 1990: 85-89, 90-3), evidence of legal and political consent is thus to be found in the workings - and shortcomings - of the doctrine of constabulary independence and the tripartite structure for the governance of the police. But this is only half the story. *Attitudinal* and *operational* or *procedural* consent – evident, respectively, in the level of public co-operation with the police and in police methods and tactics – must also be taken into account.

Helpful though it is to disentangle the legal, political, attitudinal and procedural aspects of consent, and treat them all as ways in which consent to policing may be signified, the differences between consent in a social and a contractual sense are stark. The search for indicators of consent in public attitudes and policing methods is primarily an empirical inquiry - a matter of

surveying public opinion and observing policing practice. Arguments about the interpretation of the data may rage, but the validity of the procedure for collecting it is relatively straightforward and uncontroversial.

Empirical techniques undoubtedly have their place in testing the degree of consent evident in the functioning of the legal and political processes of police governance, but these processes must also be understood and analysed *as processes* operating within a specific institutional framework. The doctrine of constabulary independence, the tripartite structure and so on are in themselves highly complex and deeply controversial. To question the workings of the institutions of police governance and legal regulation is to raise doubts about the democratic control of one of the most crucial agencies of the modern state. And to talk as Morgan does about regulation, empowerment, influence and accounting is to address not simply the presence or absence of consent as empirical fact, but the mechanisms and structures by and within which consent is manufactured in a liberal democratic political system predicated on the rule of law. In practical terms it may scarcely matter whether the phrase 'policing by consent' is used - as it tends to be in official police rhetoric - to characterise an ideal state of police/public relations rather than to specify the institutional and organisational arrangements by which it may be brought about (Dixon and Stanko, 1995). But it must be important nonetheless to be clear about the distinction between ends and means. The legal and political dimensions of 'consent' identified by Morgan are therefore best analysed as *mechanisms* for holding the police accountable for their actions, leaving the existence and qualities (according to Held's typology) of consent as an *end* to be assessed by the empirical investigation of public attitudes and police practices.

If, to put the same point in less abstract terms, 'policing by consent' was the end which the Metropolitan Police hoped to achieve in implementing sector

policing (Metropolitan Police, 1991a: 2), then greater accountability would have to be the means by which it could be accomplished (Dixon and Stanko, 1995). Used in this way to describe the state of relations between police and public at a particular time and place, the phrase 'policing by consent' takes on what Rod Morgan (1990: 87) himself has called 'the general normative sense of congruence between the values and actions of the police and the public they allegedly serve'.[14] This of course brings us on to the main concern of this chapter - the notion of accountability, and how sense can be made of one of the most contested concepts in the lexicon of contemporary politics.

Dimensions of accountability

If accountability is a conceptual will o' the wisp it seems prudent to begin with at least a vague idea of what to look out for before setting off in pursuit of it. The first task therefore is to come up with a serviceable working definition of 'accountability' - a project made considerably easier by Patricia Day, Rudolf Klein and Jon Vagg whose work can be used to derive the following proposition:

Accountability refers to the quality of a relationship where one party (A) has a duty to report on, to explain, and/or justify her actions and decisions to another (B); and that duty arises because A has powers which are not originally hers but are in some way delegated to her by B. (Adapted from Vagg, 1994: 1; Day and Klein, 1987: 4)

The object of such an accountability relation is to make sure that A's actions and decisions are broadly in line with (or, in the ideal case perhaps, identical to) those which B would have performed or taken if she had exercised the powers delegated to A directly rather than vicariously.[15] In other words, if A is

accountable to B, the quality of that relationship should ensure that A's actions and decisions are in accordance or (to persevere with the terminology used in the previous section) congruent with the values and priorities of B. With this working definition in mind, the rest of this Chapter is devoted to identifying four closely interlocking dimensions of accountability relevant to the task of detecting changes in the conceptualisation of police accountability, and understanding how they may affect policing at local level. (The first of the questions under each of the following headings indicates the general line of inquiry to be pursued; the second frames the question in terms of the working definition of accountability outlined above.)[16]

1. *Content:* What kind of actions and decisions should the police (A) be held accountable for? What is the nature of the delegated powers that they exercise?

2. *Direction:* Who should the police be accountable to? Who is the other party (B) to the accountability relation or relations in which the police are involved?

3. *Mode:* What kind of account of their actions and decisions do the police have to provide? What kind of report, explanation and/or justification of their actions and decisions will satisfy B, and what does this suggest about the nature of the relationship between the police and B?

4. *Mechanism:* How are the police held accountable for their actions and decisions? What institutional structures exist for holding the police to account for their actions and decisions to B?[17]

Since I have already begun to address some of the issues raised by the first of these dimensions of accountability it makes sense to start detailed discussion with the content of police accountability.

The content of police accountability

The conclusion of the discussion in the first part of this chapter was that the distinguishing feature of (public or state) police activity is the ability of officers - acting in a uniquely varied set of social situations - to threaten or use legitimate coercive force. It follows from this that decisions about the use of force form the core content of police accountability and, by their very nature, make the process by which consent to policing is negotiated between police and public peculiarly problematic since, wherever coercion is threatened or used, someone is policed *against*. In other words policing, as an essentially adversarial activity, creates its own opposition. Trying to involve those who are policed against in a process designed to provide consent for that activity, and thus legitimise the use of force against themselves, presents obvious but not necessarily insuperable difficulties. Consent to the general pattern of coercion – even to particular instances of coercion – might, for example, be forthcoming if the benefits and burdens of the police use of force were evenly or - according to some generally agreed criteria - fairly distributed throughout society.[18]

'Rough' and 'respectable'

In reality of course, the social distribution of the use of force by the police is highly uneven with the result that significant sections of the population are policed against not just occasionally but regularly, and far more frequently than others (Singh, 1994). Research evidence on the police use of powers of stop and search reveals that the risk of coming into contact with the police as a target of this kind of coercive activity is closely related to a number of basic economic and social factors as well as differences in lifestyle and routine activities (Skogan, 1990; 1994).[19] Thus, summarising his analysis of the 1988 sweep of the British Crime Survey, Skogan (1990: 31) notes:

A clear picture emerges from the factors examined here: the police
are more likely to stop and question young, single, unemployed
Afro-Caribbean males. Having a record of past criminal encounters
with police also put one at substantially greater risk of being
stopped, as did going out frequently at night and driving a great deal.

The consequences of this unevenness in the distribution of coercive activity
are evident firstly in the higher levels of dissatisfaction with the police
reported by those who have been stopped, and secondly in the corrosive effect
which socially skewed patterns of street enforcement have on relations
between the police and those sections of society against whom such action is
taken (Skogan, 1990: 35, 43). Moreover, as Michael Keith (1993) amongst
others has observed, police reliance on the use of force as a means of dealing
with groups thought to be a threat to social order may also have an important
spatial dimension.[20] He describes how, during the 1980s, 'policing without
consent' became institutionalised in three inner London neighbourhoods that
became 'symbolic locations' in a protracted struggle between the police and
black (African-Caribbean) people for the control of public space.

The implications of all this for the accountability process are far-reaching.
Individuals and social groups whose main experience of policing *is being
policed against* have nothing to gain from participation in a process designed
to manufacture consent for the police use of state-sanctioned coercion. On the
contrary, as Beetham (1991: 93) has noted in a slightly different context, the
participation of the relatively powerless in negotiating the policies adopted, or
services delivered, by those who exercise power over them may in itself be
taken as an expression of consent to their subordination. For the routinely
policed against to take part in such a process, they would need either to believe
that the force used against them could in some way be justified, or that the
police could be persuaded that the current patterning of its distribution was

wrong and should be changed. Since altruism or optimism of such a high order is rare, the effect of unevenness in the social distribution of the police use of force is to alienate targeted groups from the police and discourage them from taking part in any process aimed at holding the police accountable for their use of force.

The effects of unevenness in the distribution of the use of force by the police are not restricted to the targets of coercive policing. They are also keenly felt by police officers themselves. A detailed account of why police coercion tends to be targeted on certain social and economically marginal sections of the population is beyond the scope of this work. But it is worth noting that the structural position of the police in a society riven by class, race, sex, and age divisions (to mention only the most obvious) is crucial to any understanding of their role in social regulation, and the sharply divergent ways in which rich and poor, black and white, male and female, and young and old are treated (Brogden *et al*, 1988: Chapter 6; Reiner, 1993b; Chan, 1997).[21] It also provides an important clue as to how the police are likely to perceive potential participants in the accountability process. On this view, the main determinant of police practice is their role in reproducing structures that differentiate between, and disadvantage, people falling on the wrong side of the major social and economic fault lines that fracture modern industrial society. In order to make sense of their work as the first line of defence against threats to the prevailing social order, police officers develop informal rationalisations, norms, and values that coalesce to form the occupational culture of the police.[22] Central to this culture are a set of social typologies that inform the day to day decisions (including decisions about the use of force) rank and file officers have to make in the course of their work. Constructed by the police around people's ability to create trouble, and fit in with the conservative middle class value system to which most officers adhere, these typologies are

only incidentally related to more sociologically informed distinctions of class and status.

Although writers such as Reiner (1992a) and Holdaway (1983) have used the wealth of observational data available on police culture to identify some quite finely drawn ideal types in the social pantheon (and demonology) of the police, the most fundamental and durable distinction remains that between the 'rough' and the 'respectable' (Reiner, 1978; Holdaway, 1983; Smith and Gray, 1985; and Young, 1991).[23] Put crudely, these categories represent, respectively, those who are to be policed against and those for whom policing is done. Lee (1981: 53-4, quoted in Reiner, 1992a: 118) coined the term 'police property' to denote a category of people - skid row alcoholics, the unemployed or casually employed reserve army of labour, prostitutes, gays, members of deviant youth cultures and radical political organisations - that 'respectable' society has effectively turned over to the police to control using the uniquely coercive means at their disposal. And, having been entrusted with the regulation of these dissolute groups, police perceptions of them are adjusted accordingly. A member of a 'police property' group attempting to make use of a service provided by the police and get some policing done *for* rather than *against* her is thus likely to be given short shrift and treated as 'rubbish' – an irritant to be dealt with as quickly as possible (Smith and Gray, 1985: 349-50; Reiner, 1992a: 119).

Over-coercion and under-protection

This raises another important point for - as Reiner, the Policy Studies Institute researchers, and successive sweeps of the British Crime Survey have suggested - 'rough', 'police property' groups are not only over-coerced but under-protected. Black people, for example, are disproportionately likely to be the target of various kinds of coercive policing (see Reiner, 1993b for a review

of the evidence).[24] But the first comprehensive analysis of British Crime Survey data shows that they are also more likely than whites to experience criminal victimisation (Aye Maung and Mirrlees-Black, 1994).

If, as classical liberal democratic theory in the tradition of Hobbes and Locke would have it, the citizen gives some measure of consent to the state's use of coercive power in regulating society, she expects a corresponding measure of social protection in return. Indeed it has been suggested that the occurrence of victimisation represents a failure on the part of the state to discharge its obligation to maintain law and order (Council of Europe Convention on *Compensation for Victims of Violent Crime*, 1983, quoted in Zedner, 1997: 603-4). Any attempt to fix the state with legal responsibility for compensating victims of crime has been firmly resisted in Britain, but even here the Criminal Injuries Compensation Scheme is based on 'notions of public responsibility and sympathy for the victim, suggesting that 'the state is not responsible but feels a sense of responsibility' (Walklate, 1989: 114). In any case, however the state's obligation to the citizen is characterised, it seems fairly clear that, for black people and other 'police property' groups, under-protection is as much a feature of their experience of policing as over-coercion. Unevenness in the distribution of the social benefits of police coercion thus provides another reason why their consent to the general pattern of policing may not be readily forthcoming.

Summary

Unevenness in the distribution of the benefits and burdens of the police use of force means that those social groups with the most experience of being policed against will tend both to exclude themselves, and to be excluded, from any process designed to hold the police to account for their conduct. The nature of the powers delegated to the police, and the content of the actions and decisions

they should be held accountable for, are such that large sections of the population may fail to take part in any process by which consent to policing is to be negotiated. Any account of the routine use of force against the 'roughs' is, thus, likely to be provided not to them but to 'respectable' society on whose behalf that force is used. This raises questions about the identity of the other party or parties to police accountability relations, and it is to this problem which I now turn.

The direction of police accountability

Adopting once again the terms used at the beginning of this section, the next set of problems to be addressed are to do with the source of the power to use force exercised by officers of the public police. In the working definition provided at the beginning of the Chapter, the other party to the accountability relation or relations in which the police (A) are involved was identified simply as B. Further explanation is now in order, not least because the issue of B's identity has been thrown into sharp relief by the foregoing discussion of the content of police accountability.

Immediate directions of accountability

The first point to make about the direction of accountability is that, for most practical purposes, we are looking not at a single accountability relation between 'the police' as an amorphous social institution and B as a single, distinct, individual or institution to whom the police owe a duty to report on, explain and/or justify their actions and decisions. On the contrary, we are confronted by a multiplicity of accountability relations. These involve, on the one hand, individual police officers and identifiable groups of officers (vehicle crews, shifts, sector teams, police divisions, the Metropolitan Police, and so); and, on the other, a vast array of other individuals (police officers and public officials as well as ordinary citizens) and institutions entrusted with overseeing

public police work. A quick glance at some of the other parties to which officers at different levels may be individually and collectively accountable illustrates the complexity of the relations involved. Though subsumed within 'B' in the working definition these other parties include senior officers within the police hierarchy, the courts, police authorities, the Home Secretary, the Audit Commission or National Audit Office, Her Majesty's Inspectorate of Constabulary, community/police consultative committees, lay visitors panels, pressure groups, tenants' associations, and the ordinary members of the public with whom the police come into contact in the course of their work.[25] Nor in most cases is the accountability relation between the police (at whatever level) and any given manifestation of B the end of the matter. Further accountability relations exist linking many of the individuals and institutions - such as senior officers, the auditing bodies, police authorities, and the Home Secretary (I will call them B_1, B_2, B_3, B_n) - encompassed by B. Hence, while the beat constable's most obvious accountability relation may be with the sergeant or inspector in charge of his team or unit (B_1), this is only the first link in a chain of such relations leading up through the command structure (B_2, B_3), to the Commissioner (B_4), and, beyond the confines of the police organisation, to the Home Secretary (B_5). She may also become personally involved in other accountability relations, for example with the courts if she is prosecuted or sued, or with ordinary members of the public in providing a service to them either individually or collectively.

General direction of accountability

However, the sheer number and variety of the directions in which the police are *immediately* accountable must not be allowed to obscure the *general* direction in which all accountability relations must run. This is determined by the nature of the political order and, in a liberal democracy, it is 'the people' or *demos* (B_x) to which government and public services, including the police, are

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finally accountable (Day and Klein, 1987; Jones *et al*, 1994).[26] To put it another way, while the police may be immediately accountable to many individuals and institutions, both the police and these intermediate bodies are, in a liberal democratic society, generally accountable to 'the people'.

The association between particular forms of accountability and democracy - and the special meaning and resonance that the phase 'democratic accountability' acquired during the police accountability of the 1980s – forms the main subject matter of subsequent chapters. All I want to do here is to sketch out the contours of liberal democracy as a political theory, and highlight some of the more significant problems that may crop up in using it as the basis for a critical analysis of police accountability. Debates about its principles and practice have absorbed political theorists for as long as something identifiable as liberal democracy has existed.[27] Anything approaching a definite and uncontroversial account is therefore hard to find. However, the following definition - though doubtless open to criticism - raises most of the issues relevant to this discussion and has the considerable merit of being relatively concise:

> 'Democracy'... refers to the *location* of a state's power, that is, in
> the hands of the people, whereas 'liberal' refers to the *limitation* of a
> state's power. From this viewpoint, a liberal democracy is a political
> system in which the people make the basic political decisions, but in
> which there are limitations on what decisions they can make. More
> precisely ... this conception would be that a liberal democracy is a
> political system in which (a) the whole people positively or
> negatively, make, and are entitled to make, the basic determining
> decisions on important matters of public policy; but (b) they make,
> and are only entitled to make, such decisions in a restricted sphere
> since the legitimate sphere of public authority is limited. (Holden,

1993; 17, emphasis in original).

Several difficulties are immediately obvious here. For example, in the first limb of Holden's conception of liberal democracy: what is the significance of the distinction between positive and negative decision-making, and how are 'basic determining decisions' and 'important matters of public policy' defined? Important though these definitional questions are for the political theorist, the search for answers to them need not detain us here other than to observe that the social distribution of legitimate coercive force can hardly be conceived of as other than a vital matter of public policy about which, as a matter of principle, 'the people' should take the basic determining decisions.[28] Nor need we dwell on the details of liberal democratic political processes. But, having said that, it is worth pausing for a moment to consider the implications of some of the principles identified or implicit in Holden's definition for a liberal democratic conception of accountability.

Liberal democracy

The most important issue to be confronted concerns the notion of 'the people' as the location or source of state power in a liberal democracy. For political theorists, deciding on the appropriate territorial unit within which members of society are to count as 'the people' for the purposes of democratic functioning presents an immediate difficulty. Accepting the nation state as the relevant unit of analysis is an obvious solution, and will certainly suffice here.[29] But this still leaves open the question of who is to count as 'the people' for the purposes of the democratic process within the territorial unit of the nation state. Who, in other words, stands behind the state as the source of its powers and its monopoly on the use of legitimate force?

Again, theorists have debated the answer to these questions at some length, but

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Bobbio's (1978: 17) view that, in a liberal democracy, 'the people' who take part in making political decisions consist of 'all citizens who have reached legal age without regard to race, religion, economic status, sex etc.' seems to come close to the consensus on the subject. The principle of universal suffrage for all but the very young and the mentally incapable is one of the hallmarks of liberal democracy, and enables us to draw a reasonably accurate portrait of 'the people' from whom the state, and state agencies such as the police, derive their power.[30] So, at the level of the nation state, the exclusion of the socially and economically powerless from political decision-making cannot be reconciled with the precepts of liberal democracy. Moreover, if we return to what was said towards the end of the previous section on the content of police accountability, it also seems safe to say that any exclusion of the disproportionately 'policed against' from the process by which the police are held to account for the use of their coercive powers would also be inconsistent with liberal democratic principles. As full citizens of the nation state, the policed against number among 'the people' who have delegated the power to use force to the police and should therefore be entitled to play an active part in the accountability process that relates to the use of that power.

Modes of police accountability

Having sketched in a framework for police accountability by examining its content and direction, we can move on in this and the following section to what most of the literature treats as the central issues of the debate. That is, the kind of account the police are under a duty to provide for their actions and decisions; the nature of the relationship between the police and those to whom they have to account; and the features of the institutional mechanisms that exist to make the accountability process work. Throughout what follows it will be important to bear the outcome of the preceding discussion in mind, and to remember that what we are looking at here are different methods of, and

mechanisms for, holding the police account to 'the people' on whose behalf they exercise the power to use force. The various modes and mechanisms of police accountability determine the nature and outcome of, and give effect to, the immediate accountability relations that form the links in the chain between police and people.[31] But, in the final analysis, it is only as part of this general process of accountability that their effectiveness can be judged. The true beauty of the process of police accountability can only be appreciated through the eyes of 'the people' who behold it.

Marshall's typology

For the remainder of this section, however, I intend to do no more than provide an outline, and some preliminary discussion, of two well-known typologies of the mode of police accountability. The first typology originates in the work of Geoffrey Marshall, a constitutional theorist with a particular interest in police governance. Marshall's delineation of two 'styles' or modes of accountability comes towards the end of a short review of developments in police accountability since the Police Act 1964 in which he concludes that 'many liberal democrats' would rather entrust civil liberties and the impartial administration of justice to chief officers of police than to elected politicians (Marshall, 1978: 61). To secure these ends, he argues that, even when 'matters which vitally concern the public interest' are concerned, a 'constitutional and administrative convention' is required to prevent partisan political bodies like police authorities from issuing direct orders to the police.

Having arrived at this position, he contrasts a style of accountability consistent with such a convention (the *explanatory and co-operative mode*), with 'the familiar type of ministerial and political responsibility' that he calls the *subordinate and obedient mode*. According to Marshall (1978: 62) the difference between the two modes of accountability is that, where

accountability is in subordinate and obedient mode, the superordinate party (B) is able to exercise administrative control over, and to direct and veto, the actions of A. However, in the case of explanatory and co-operative accountability, B has no more than 'the capacity to require information, answers and reasons that can then be analysed and debated in Parliament and the press'. In other words, where the one is directive, prospective, and may require little more by way of an *ex post facto* account of A's conduct than presentation of satisfactory evidence that B's wishes have been complied with; the other is permissive and almost exclusively dependent on A explaining and justifying what she has done after she has done it.

Robert Reiner (1993a: 19; 1995: 92) has recently argued for a significant revision of Marshall's typology by the addition of a third, *calculative and contractual*, mode of accountability implicit in the then Conservative government's proposals for amendments to the 1964 Police Act.[32] Pointing in particular to the imposition of fixed term contracts and the use of performance assessment against objectives framed by central government, Reiner suggests that contractual obligations and crude calculations of achievement will replace explanation and co-operation as the basis for chief constables' relations with the Home Secretary.

Morgan and Maggs's typology

The second typology of modes of police accountability, offered by Morgan and Maggs (1985a), is very similar to the first, but adds a fourth mode to the three outlined above. Two of their three modes - termed *steward* and *directive* – correspond with Marshall's explanatory and co-operative and subordinate and obedient styles of accountability. Thus, writing of the steward/explanatory and co-operative mode, they note that it seeks to emphasise the "account' rendered by one who exercises delegated responsibility' (Morgan and Maggs, 1985: 7).

Frequently adopted in accounting for expenditure, this mode involves what they call an 'audit approach' to a variety of other responsibilities and powers based on the duty of the steward (A) to provide a retrospective account, usually in writing, of how she has acted. Evidence of this approach to police accountability is provided by the duty of chief constables to produce an annual report about policing in their area (Morgan and Maggs, 1985: 8).[33] They go on to remark that, were the directive/subordinate and obedient mode to apply to the external political control of policing, it would involve the 'control of police policy resting firmly in the hands of democratically elected authorities' such as Parliament or local councils. On this model, it would be for elected representatives, acting consistently with a duty to uphold the law, to determine 'general policing policy' with chief constables playing no more than an advisory role.[34] Retrospective accounting would then be a relatively straightforward matter of the police reporting to their political superiors on how that policy had been implemented.

Where Morgan and Maggs move beyond Marshall's typology is in adding what they call a *partner* mode to the steward and directive approaches. Like steward mode, partnership allows the police considerable discretion in policy-making 'but stresses the importance of their being formally provided with information about the views of citizens' (Morgan and Maggs, 1985: 8). Here accountability is not just about the police accounting to political institutions (be they local or national) for powers and responsibilities delegated to them by the state acting on behalf of 'the people' as a whole: it is also about ensuring that police priorities are congruent with those of particular groups of people or 'communities' upon whom the police are dependent for information and co-operation in preventing and detecting crime.

Directive and steward

Combining the typologies offered by Marshall (as developed by Reiner) and Morgan and Maggs leaves us with four modes of accountability. Adopting the latter's more concise terminology, and abbreviating Reiner's title for his emergent calculative and contractual approach, they can be characterised as the directive, steward, partner and contract modes. But what do they tell us about the range of possible types of account that the police may have to provide, and the nature of the relationship between the police (A) and the party to whom that account is to be given (B_n)? The first two modes provide the sharpest contrast. Accountability in directive mode within a given accountability relation would involve the police in implementing decisions made by another party (B_n) to whom they are clearly subordinate.[35] Any *ex post facto* explanation or justification of their actions would then have to be couched in terms of those prospective non-police decisions. In steward mode, decision-making would be left in the hands of the police and would itself become the subject of retrospective explanation and justification when an account is rendered. Nor, in this mode, could it be said that the relationship between B_n and the police decision-maker involves the latter's subordination to the former. Looked at in this way, the directive and steward modes imply that distinctive kinds of account should be given, and suggest quite different relationships between the parties concerned.

However the status of the other styles as distinctive modes of accountability is much less certain. It was suggested earlier that if Robert Reiner's reading of developments since 1993 is correct, the contract mode represents an attempt by central government to subvert constabulary independence by placing chief officers under the – albeit very general - direction of the Home Office. By prescribing objectives for every police force in England and Wales, the Home Secretary is making key decisions that would hitherto have been taken at the

level of the individual police force by its chief officer.[36] In effect, orders are being issued with which chief constables must comply, and the accompanying panoply of short term contracts, performance related pay, and objective-linked targets are best seen not as the features of a new mode of accountability, but merely as the machinery needed to make chief officers accountable in the context of a subtly disguised directive mode of accountability.

Morgan and Maggs's partner mode can be subjected to similar criticism. There too it appears that a new mode has been identified when, on closer inspection, the kind of account to be provided by the police, and the nature of their relationship with its recipient, is identical to that required in one of the other modes. When steps are taken to ensure that they are given information about citizens' views on policing priorities, no decision-making powers are redistributed from the police to any party with which an accountability relation already exists such as a police authority or the Home Secretary. Nor does the relative status of the police in any existing accountability relation they may have with the public change in any way. On reflection then the partner mode is no more than a refinement of the machinery employed to operate the steward mode. But this is not to say that the establishment of 'partnerships' between citizens and police may not create new accountability relations.[37] Whether they do create new relationships, and how the content, direction, mode and mechanism of those relations may be analysed, is considered in subsequent chapters.

Summary

To sum up then we can distinguish two modes of accountability.[38] In directive mode, the police (A) are under a duty to report on decisions they make and actions they take using delegated powers to carry out the orders of another party (B$_n$) issued in advance, and with which they are obliged to comply. The

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adequacy of their report – and of any explanation or justification of their conduct that accompanies it – is judged in the context of the directions they have been given. The relationship between the police and this other party is clearly hierarchical, the relationship of a subordinate to a superior. In steward mode, no orders are issued in advance and - although the police (A) remain under a duty to report, explain and justify decisions made and actions taken using their delegated powers - criteria for assessing the adequacy of their account are developed and agreed between them and B_n in the context of a non-hierarchical relationship between parties of roughly equal status.

Mechanism

The final aspect of accountability I want to consider is the mechanism by which the police are made to account for their actions and decisions. Taken together, discussions of mode and mechanism have dominated the literature and I do not propose to attempt an exhaustive review here. A more detailed critical appraisal of mechanisms in London is contained in the chapters that follow. For the present, my intention is to do no more than sketch in the most prominent features of the network of individuals and institutions to which the police have to provide reports, explanations and justifications of their conduct. The literature on police accountability is replete with analyses of the mechanics of police accountability under a variety of headings. But here I will consider four interlocking and overlapping mechanisms - legal, political, public and professional-managerial - through which the police may be held to account for their actions.[39]

Legal mechanisms

The first and, to traditionalists, the only authentic mechanism for police accountability is the law. This is certainly not the place to discuss the many and various routes by which the criminal and civil courts may review police

actions and decision-making.[40] What does need to be noted here is that the attention of both the courts and commentators has tended to focus on the way in which individual police officers have used or abused particular coercive powers of search, arrest, detention and questioning (Reiner and Leigh, 1994; Dixon, 1997; Smith, 1998).[41] Only rarely have the judges been asked to consider the 'structural, institutional patterns of behaviour' (Stenning, 1995: 8) I am concerned with here. On the few occasions that they have been called upon to examine decisions taken by senior officers about operational priorities, the deployment of police resources and the enforcement or non-enforcement of specific provisions of the criminal law, the judges have fought shy of interfering in decisions they regard as falling within the discretion of the police.

Over 30 years ago, Lord Denning MR pronounced chief police officers to be 'answerable to law and to the law alone' in the landmark case of *R v Commissioner of Police of the Metropolis ex parte Blackburn*.[42] Since then, however, neither he nor his fellow judges have shown any inclination to question chief officers' judgement short of an egregious abdication of their responsibility to enforce the law – something with which, as Robert Reiner (1995: 83) has noted, the judges never seem to be confronted.[43] The result of this reluctance on the part of the courts to review high-level decisions about police priorities, and the deployment of resources to meet them over a police force area, is that the impact of legal mechanisms of accountability has, in practice, been restricted to decisions taken by individual police officers about the use of coercive force in particular situations. The accountability relations that do exist between the police on the one hand, and the criminal and civil courts (and quasi-judicial disciplinary tribunals) on the other, have thus tended to concern only relatively junior officers giving retrospective and explanatory accounts of their actions in individual cases.

Political mechanisms

Mechanisms for the political accountability of the police consist of three quite different systems covering the 41 police forces outside London, the City of London Police, and the Metropolitan Police Service.[44] The unique arrangements pertaining to the City need not be dwelt on here. Nor, since they form the subject matter of the next chapter, will I say anything for the moment about the governance of the MPS. The framework of the so called 'tri-partite' regime for the control of provincial police forces was established in its present form by the Police Act 1964, amended by the Police and Magistrates' Courts Act 1994, and is now contained in the Police Act 1996.

Broadly speaking, the division of responsibility between the three parties is that local police authorities are obliged to 'secure the maintenance of an efficient and effective police force' for their areas while chief constables are charged with the 'direction and control' of those forces.[45] The third 'leg' of the structure is the Home Secretary who has an impressive battery of powers to exercise 'in such manner and to such extent as appears to him to be best calculated to promote the efficiency and effectiveness of the police' nationally.[46] Both the merits of the system as a whole, and the relative strengths and weaknesses of its three constituent elements have been the subject of extensive debate both before, during and after the introduction of the 1994 reforms.[47] To attempt to summarise, let alone resolve, the controversies that have surrounded the operation of the tri-partite system since 1964 would occupy far more space than is available here. Suffice to say that the changes in the tri-partite system made in 1994 following the government's White Paper on *Police Reform* (Home Office, 1993) seem to have done little either to embolden local police authorities in their dealings with chief constables or to curb the growing influence of central government in local policing (Jones and Newburn, 1997b). Whether, in the longer term, the

reconstituted police authorities will use their planning and objective-setting powers under ss. 7 and 8 of the 1996 Act to assert themselves more forcefully remains to be seen.[48] In the meantime, however, it seems that the power of chief constables to determine local police priorities with a minimum of interference from their new, more 'business-like', police authorities has been reinforced leaving what political control there is over policing outside London concentrated in the hands of central government (Jones and Newburn, 1997b). Thus, as Rod Morgan (1990: 87) commented almost a decade ago, it remains arguable (to put it no higher) that 'whereas *de jure* we have local police forces politically accountable locally, *de facto* we have a national police force locally administered'.

Public mechanisms

The third mechanism of accountability involves the police in reporting on, explaining and justifying their actions and decisions directly to members of the general public (Oliver, 1991: 25-6). Legal accountability links the police to the people indirectly through an elected legislature responsible for making the law to which the police may be held to account in the courts. Political accountability seeks to achieve a similarly indirect contact through elected local politicians and a government minister accountable to Parliament. In these instances, it is the legislators and councillors who are directly accountable to the public through the electoral process.

Mechanisms of public accountability work in a very different way by cutting out these intermediate accountability relations and establishing contact between police and people directly at a local level. But those members of the public who do become engaged in public accountability mechanisms are not 'the people' as a whole from whom the police ultimately derive their power to use legitimate force. And, though they may be part of the answer to problems

of police accountability and popular consent, local mechanisms of public accountability cannot be a solution in themselves. I want to postpone a detailed examination of what Rod Morgan (1987) has called 'the local infrastructure' of public police accountability until Chapter 7. Consequently, all I want to do here is to note that well established elements in this infrastructure include neighbourhood watch schemes (Bennett, 1990; McConville and Shepherd, 1992); panels of lay visitors to police stations (Kemp and Morgan, 1989); crime prevention panels (Jones et al, 1994) and community and police consultative groups established under s.106 Police and Criminal Evidence Act 1984.[49]

In addition to these permanent bodies, a vast array of 'multi-agency' working groups and 'partnerships' covering matters such as racial attacks, domestic violence, juvenile justice and child abuse may bring the police into contact with members of the public (and professionals from other central and local government agencies) on a more *ad hoc* basis (Pearson et al, 1989; Saulsbury and Bowling, 1991; Thorpe, 1994; Fielding and Conroy, 1994 and see generally Jones et al, 1994, and Crawford, 1997). A case may also be made for regarding public attitude surveys, the media (Ericson, 1995) and the work of campaigning organisations (Hackney Community Defence Association, 1992) as other still less formal, and often unwelcome (at least from the police point of view), mechanisms of public accountability. Indeed the exponents of 'second generation' victimisation surveys claim that their assessments of public opinion can be seen as 'extending the democratic process and information available for public evaluation of the performance and behaviours of state agencies' (Painter et al, 1989: 4). Jefferson et al (1991: 7-8) have challenged this, arguing that, far from being 'democratic instruments' as left realists maintain, surveys of 'consumer satisfaction' with policing only serve to marginalise 'those who are to all intents and purposes disenfranchised from

a system in which they have no power to count as consumers'. In any case, however useful survey data and media reporting may be in informing public opinion about the police, I prefer to see them not as accountability mechanisms in their own right but as important sources of data for use by those involved in holding the police politically and publicly to account in more formal institutional settings. As for monitoring groups and other independent 'police watchers' (Jefferson, *et al*: 1988), I will return to their role briefly in Chapter 4.

Professional-managerial mechanisms

The fourth set of institutions and procedures for holding the police accountable can be dealt with equally quickly. Embracing the duty to account to 'non-political bodies ... concerned for the most part with matters such as efficiency, effectiveness, value for money and fairness to consumers', Dawn Oliver (1991: 27) calls this final mechanism administrative accountability. Here, in the context of the police, it will be termed professional-managerial accountability (or simply managerial accountability) since I want to use it to encompass not only the institutional machinery by which police forces account to external bodies charged with monitoring their performance, but also to the way in which accountability works within individual forces.

As Molly Weatheritt (1993: 25) has observed, interest in measuring police performance has come about largely as a result of the concern of successive Conservative governments with what she describes as the 'value for money disciplines' of economy, efficiency, effectiveness, excellence and enterprise.[50] Since this concern first manifested itself in the context of the police with the publication of a Home Officer Circular (114/93) on *Manpower, efficiency and effectiveness in the police service*, three bodies have become pre-eminent in attempts to measure the performance of the police against sets of clearly

enunciated indicators relating to key areas of police work.

Her Majesty's Inspectorate of Constabulary (HMIC) has a duty under s. 54(2) Police Act 1996 to inspect, and report to the Home Secretary, on the efficiency and effectiveness of police forces.[51] The role of the Inspectorate has been dramatically enhanced in recent years (Reiner, 1992a: 242-3), and forces are now expected to submit data on a 'matrix of indicators' covering some 700 topics. Apart from annual inspections of individual forces, HMIC also carries out what are known as thematic inspections on particular topics over a number of different forces. Whereas HMIC's authority stems primarily from the status of inspectors as experienced former (and, increasingly, future) chief officers, the second member of the triumvirate, the Audit Commission relies on the breadth of its expertise in promoting the '5 Es' throughout local government and the National Health Service.[52] Set up under the Local Government and Finance Act 1982, the Commission has published a series of studies on the police since 1988. The main thrust of its work has been to introduce the management techniques of the successful private sector enterprise to the police service and it is now under a statutory duty to draw up, and report annually on, indicators of performance for the police covering five key areas of operational police work: handling calls from the public, crime management (crime reduction, investigation and victim support), traffic management, public reassurance and order maintenance, and community policing.

Founded in 1948 primarily as a staff association for chief police officers, the last of the three key 'professional-managerial' bodies, the Association of Chief Police Officers (ACPO), has become a key intermediary between the Home Office and the most senior ranks of the police. Indeed, so critical has its role in representing the 'professional interests' of the police service become that its representative (or 'trade union') functions have recently been hived off to a

separate entity known by the acronym CPOSA (Chief Police Officers' Staff Association) (Barton, 1996: 9). That it was thought necessary to make such a clear distinction between the 'staff' and (largely Home Office funded) 'professional/policy-making' aspects of the old ACPO's function is a tribute to its success as a major player in the development of professional-managerial mechanisms of accountability and its status as 'a corporate and strategic policy-making body' (Savage and Charman, 1996a: 17).

Together with the chain of accountability relations formed by the internal command structure of individual police forces, these professional-managerial auditors of police performance constitute a distinctive mechanism for obtaining accounts of how resources have been used in working towards stated objectives. But the accounts they obtain from the police also represent a very important part of the total stock of information available to the major institutions involved in the political accountability mechanism. Data on economy and efficiency from HMIC, the Audit Commission and ACPO, based on their various sets of indicators, appear to be intended for consumption not just by central government as the main source of funds for local policing, but also for police authorities acting in their role as the 'champion of the consumers' of policing services (Flannery, 1992, quoted in Weatheritt, 1993: 35).

Accountability: some key issues

Having considered four quite specific aspects of police accountability, it only remains to return to the working definition with which we started and highlight some of the more general problems of accountability which emerge both from the present discussion and from the work of Vagg (1994) and Day and Klein (1987) referred to earlier.

Information

That working definition talked of what I have termed accountability relations arising out of a duty on the part of one (A) who exercises delegated powers to report on, explain, and/or justify her actions and decisions to another (B) by whom those powers are delegated. It is obvious from this - and the outline of the mechanisms of police accountability - that such a relationship cannot be sustained unless information about the use of those powers by A is communicated to B, if not by A herself then by some intermediary. The information provided may simply describe the actions A has taken, or attempt in some way to explain or justify them. But this is not all, because the information communicated must also be evaluated by B in order for her to judge whether A's use of her delegated powers has been satisfactory. Moreover, the existence of an accountability relation implies, as Day and Klein suggest, agreement between A and B about the criteria against which B is to judge A's performance. There are therefore at least three sources of disagreement between A and B which may arise in this process of communication and evaluation. The first possibility is that B may not have enough information to come to any sensible judgement about the acceptability of A's performance. The second is that, having been given enough data, and in spite of their agreement about the appropriate language of evaluation, B finds A's conduct to be unsatisfactory. And the third possibility is that A may contest the validity or applicability of the hitherto mutually agreeable evaluative criteria used by B in coming to conclusion about her (A's) performance.

Whether such disagreements occur, and how, in whose favour, they are resolved, will depend on the distribution of information and power between the parties to the accountability relation (Vagg, 1994: 148; Day and Klein, 1997: 237-9).[53] This in turn is related to the visibility, to B and/or relevant

intermediaries, of the actions A takes in exercising her delegated powers. It need hardly be restated here that, as Joseph Goldstein (1960) observed almost 40 years ago, police decision-making at the lowest levels of the bureaucratic hierarchy is both exceptionally wide and of peculiarly low visibility. Two further features of public policing reinforce this lack of transparency. First, as Day and Klein suggest - and notwithstanding recent trends towards civilianisation - public policing is delivered by a highly organised and unified occupational interest group well placed to control the flow of information about its activities. And, secondly - *pace* some of the bullish statements of stump politicians standing on a 'law and order' platform - it is extremely difficult confidently to relate inputs such as increased police numbers to desired outcomes such as a reduction in levels of reported crime or public feelings of security. Together these three factors – the invisibility of street-level policing, its dominance by a single occupational group and the difficulty of relating inputs to outcomes – combine to give rank and file police officers a highly significant measure of control over what others know and are able to find out about their activities.

Jon Vagg (1994: 148-52) adds another dimension to the transmission of information as the lifeblood of accountability. He draws attention to the importance of the way in which those involved in an accountability relation communicate with third parties. In essence he sees accountability as a communicative game that may be played in four ways depending upon whether there is an equal or unequal distribution of control over information, and whether or not there is collusion or co-operation between the parties in depicting their relationship to others (Vagg, 1994: 148). From this he argues that what he calls the 'pure rational bureaucratic model of accountability is played where there is an unequal balance of power and no collusion between participants. The mirror image of this abstract postulate is a co-operative form of 'symbolic accountability' where parties with equal control over information

collude with each other to present (to interested third parties) their essentially co-operative relationship as a suitably robust form of accountability (Vagg, 1994: 148-9).

In reality of course, as Vagg stresses, things tend to be less clear cut with players simultaneously engaged in games played by different sets of rules. But what is particularly valuable about his analogy is the potential disjuncture between the formal rules of the game being played by the parties to an accountability relation, how the game is actually played by them, and the way in which they choose to depict it and its outcome to third parties. Applying this analysis to the two ideal-type modes of police accountability discussed earlier, we can see that, though the formal status of the parties to an accountability relation may be based on equality (steward mode) or subordination (directive mode), this need not determine either how they behave in practice or choose to depict their conduct to others. So, particularly where accountability relations - for example between chief constable, police authority and Home Secretary under the tri-partite structure - are closely interwoven and inter-dependent, it should not be assumed that formal rules and differences of status will automatically translate themselves into the kind of daily interactions between the parties one might expect. Nor can it be taken for granted that the nature of a given accountability relation will necessarily be depicted with any accuracy to a third party with whom one of its participants is involved in a second accountability relation.[54]

Professionalism and complexity in the 'service-delivery' state

Another - still more fundamental - issue raised directly by Day and Klein (1987), and at least implicitly by Jon Vagg (1994), relates to the direction of accountability for public services in the context of the modern welfare state. The difficulty here arises from two features of the contemporary service-

delivery state: its complexity, and its dependence on 'professionals' who may claim that their authority derives not from powers delegated to them by the people but from their special knowledge, skills and expertise.[55] By claiming 'professional' status, an occupational group may go on to assert the right of its members to account for their 'professional' conduct to their peers free from interference either by the public at large or lay people elsewhere in the state bureaucracy. To allow another source of authority to establish itself alongside, and almost inevitably in competition with, 'the people' would necessitate a major revision of the argument about the general direction of police accountability. Fortunately, this is unnecessary for a number of reasons.

Firstly, although police officers are not averse to describing themselves as 'professionals', there is little evidence to suggest that such claims are given much credence by the public in comparison to those of, say, doctors, dentists, solicitors, barristers, and accountants. Nor, as Day and Klein (1987: 113) observe, is the claim to 'professional' status as an expert member of a disciplined hierarchy (and thus to a concomitant degree of autonomy from accountability other than to a professional peer group) consistent with an assertion of constabulary independence based on the notion of the constable as a humble 'citizen in uniform'. Thirdly, it may also be contended that even if some special skill, knowledge or expertise in the use of force is allowed for, the fact remains that the power to use force of any kind is delegated by 'the people'. To say otherwise is to confuse a source of expertise on how force should be applied (the 'professional' peer group) with the ultimate source of the power to use coercion in the first place. Occupational peers may make a valuable contribution to holding police officers to account for how force has been employed, but deeper questions about whether it should have been used at all are not susceptible to purely technical judgements. They are quintessentially political question to be answered either by 'the people'

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themselves or by those they have empowered to decide such matters on their behalf.

The other main source of difficulty presented by the nature of the modern welfare state is its complexity and the number of overlapping and conflicting lines of accountability that run through it. The proliferation of different mechanisms of police accountability - legal, political, public, and professional-managerial - is an example of this complexity, and the point need not be laboured here. However, it is worth noting that some of the greatest problems of accountability in relation to the police, like other public services, are to be found where responsibility for service delivery is split between the central and local arms of the state. Curiously enough, it is also the case that recent attempts to bring services closer to the people who use them by decentralising their delivery to the lowest possible level has only served to exacerbate the confusion for the analyst of accountability by creating additional lines of sub-local accountability (see Burns *et al*, 1994 for discussion of the wider implications of the decentralisation of local government services). What is more, as Day and Klein (1987: 247) warn, multiple lines of accountability 'upwards' to local and national government, and 'downwards' to service users, may engender a kind of organisational schizophrenia among state agencies called to account at many different levels, and judged against diverse sets of performance criteria. Not for the last time we are left with the question of how those exercising powers delegated to them by 'the people' can reconcile their duty to account for their use to 'the people' as a whole while responding to the conflicting demands of highly differentiated local publics.

Sanctions and redress

One final issue that arises from Day and Klein's work and needs to be addressed here is the question of sanctions and redress. What, in other words,

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can B do when A fails to render an adequate account of her use of delegated powers? They suggest (Day and Klein, 1987: 229) that for A to be accountable for her actions and decisions in its strongest sense, it must be possible for B, in the event of A's failure satisfactorily to account for her conduct, simply to revoke A's mandate. The penalty for A's breach of her duty to account is thus the loss of her delegated powers. Such extreme measures may be taken with some regularity in some accountability relations, but are most unlikely to be enforced in others. For example, voters can and do dispense with the services of local councillors and members of parliament at elections, but police authorities and Home Secretaries cannot get rid of chief constables with anything like the same facility. Revocability of mandate is too blunt an instrument to be used on a regular basis in most accountability relations and, where relations overlap and intersect, it may not be for any one body or individual (as party B to a particular accountability relation) to wield it without the agreement of others.[56]

In these circumstances, recourse must be had to less bloody means of redress. For example, steps may be taken to restrict A's mandate by hedging her use of delegated powers about with restrictions, and more or less explicit threats or promises about the use of powers of patronage may be made as an inducement to future good behaviour. More frequently still, the prospect of bad publicity and public embarrassment may be sufficient to ensure that the duty to provide adequate and satisfactory account is discharged. In any case, the nature and effectiveness of the sanctions available to B may provide useful evidence of the state of the underlying accountability relation and the ease with which information is communicated between the parties to it.

Summary

The distinguishing feature of the public or state police is their ability to exercise the state's monopoly on the use of force within its territory in an unrestricted range of social situations. A state of consensual policing - the nirvana to which sector policing aspired - necessarily implies consent to the use of force. Achieving this is inherently problematic. Consent may be given to an institution, a set of institutional practices, or the actions of individuals on very different grounds. It may also be expressed in a number of ways. However, what may be termed ideal normative agreement provides a useful benchmark against which observable manifestations of consent may be tested. Specifically, it is suggested that consent to policing at the level of institutional patterns of behaviour implies broad congruence between the values, priorities and actions of the police and those of the people they serve.

The process by which this congruence is achieved, and consent negotiated, is the process of accountability. This in turn consists of one or more accountability relations each involving a party under a duty to account for the use of powers delegated by another. The power delegated to the police is the power to use force and, in a liberal democracy, the ultimate source of this power is 'the people'. The police and 'the people' from whom they draw their power to employ coercion stand at either end of the process of police accountability linked by a series of overlapping and interlocking chains of accountability relations. Particular relations within these chains – and the police/people relation itself - may be analysed in terms of four dimensions of accountability: its content (decisions about the distribution of the use of force); its general (to 'the people') and immediate direction; its mode (directive or steward) and its mechanism (legal, political, public, and professional-managerial).

Notes

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[1] See also Reiner (1997: 1003-8).

[2] Johnston (1993: 771-3) provides a concise discussion of these developments which include, for example: private security firms undertaking patrols for residents in Bristol, Liverpool and elsewhere; the wholesale transfer of a statutory police force (The Port of London Constabulary) into the private sector; evidence of policing activity by citizen street patrols and vigilantes; and the proliferation of 'hybrid' police forces like the Atomic Energy Authority Constabulary, the Ministry of Defence Police, the British Transport Police and several municipal police forces on the margins of conventional public policing.

[3] Brogden characterises the competing models of the state as managerialist, pluralist, instrumentalist and structuralist. See Marenin (1982) for a provocative analysis of the relationships between the police, the state and class structure that avoids the crude instrumentalism of many other critical theorists.

[4] See Held (1989: Chapter 1, and Keane (1988: Chapter 2) for concise introductions to theories of the state, democracy and civil society.

[5] The second distinctive feature of the Weberian state is its territoriality. As the modern state's principal franchisee on the use of violence outside its territory, the army retains a residual role in aid of the civil power, though the military's evident shortcomings as domestic peacekeepers were among the reasons why the so-called 'new police' were established in the first place (Reiner, 1992a: 28-9). The last 30 years have of course seen the 'normalisation' of this role in the context of 'the troubles' in Northern Ireland (Hillyard, 1987).

[6] Customs and Excise, the Immigration Service and local authority social services departments are obvious examples of state agencies that may use legitimate force in certain contexts but lack the general mandate of the police highlighted by Bittner.

[7] The ways in which police officers (both men and women) can secure compliance from the people they police without resorting to the use of coercive force is discussed by Klockars (1985: 44-7) who identifies three other 'bases for control': authority, power and persuasion.

[8] See Reiner (1992a, Chap. 2) for a general account of the 'rise and fall of police legitimacy' over the last 130 years, and Skogan (1994; 1996) for British Crime Survey evidence indicating that the sharp decline in public confidence in the police detected by sweeps in the 1980s may have been arrested if not reversed in the early 1990s.

[9] For a sophisticated discussion of the 'relative autonomy' of the state and the police in this context see Marenin (1982).

[10] For the purposes of this discussion, Held argues that the political order must fall into one of the last two categories (involving some degree of normative agreement)

before it can be said to be truly 'legitimate'. However he acknowledges that the fifth type of instrumental consent or agreement is ambiguous and may be interpreted as a weak form of legitimacy. For further discussion of the relationship between consent and legitimacy, see Beetham (1991).

[11] This last factor is more speculative than the others, but aims firstly to put consent to policing in its wider social context, and secondly to capture some of the dynamic qualities implicit in Held's typology where beliefs about the past (C_2), knowledge and experience of the present (C_4), and feelings about the future (C_5) influence the quality of consent.

[12] Stenning (1995: 8) and Reiner (1995: 75) both make similar distinctions between what the former calls 'individual actions, decisions or incidents' and 'institutional patterns of behaviour and contexts'.

[13] See Jones *et al* (1986), Crawford *et al* (1990) and Skogan (1990; 1994) for research evidence to this effect drawn from local and national surveys.

[14] Quite how consent in this sense fits in with the rest of Morgan's analysis is unclear, but the similarities between his formulation and Held's specifications of 'normative' consent (types C_6 and C_7) are striking. Compare also Bayley's (1983: 440(146)) view that, 'An accountable police force shall be taken to be one whose actions, severally and collectively, are congruent with the values of the community in which it works and responsive to the discrepancies when they are pointed out'.

[15] Cf. Reiner (1995: 77): 'The basic idea of accountability invokes the responsibility of those who exercise delegated or conferred powers and duties to render a reckoning of how they have performed'.

[16] Again Reiner (1993a: 6, emphasis in original) poses very similar questions in a slightly different way: '*What type* of decisions do the police make, explicitly and implicitly, in exercising their powers? *To whom* should they be accountable for the different sorts of decisions? *What type* of accountability should they have to the relevant bodies? *What mechanisms* should be established to deliver effectively the appropriate type of accountability to such bodies?' For his part Stenning (1995: 5) argues that '[A]ccountability is about no more nor less than requirements to give accounts. It entails a set of normative prescriptions about who should be required to give accounts, to whom, when, how and about what.

[17] The first two of these four dimensions of accountability have been sadly neglected in much of the literature yet they are in many ways the most important since they provide the framework within which the others are set.

[18] I am thinking here of the normative or, at worst, instrumental forms of consent distinguished by Held and referred to earlier as C_5, $_6$ and $_7$.

[19] These findings are consistent with other research stop and search including, for instance: Willis (1983), Southgate and Ekblom (1984); Smith and Gray (1985); Jones *et al* (1986) and Crawford *et al* (1990). For discussion of the 'racial' dimension of these statistics see Reiner (1993b), Jefferson (1993) and Smith (1997).

[20] Young (1991) and Singh (1994) make very much the same point.

[21] Most of the contemporary debate has concentrated on relations between the police and black (African-Caribbean and African) people. But, as Jefferson (1993) has pointed out, the construction of marginal social groups (the children of the Irish casual labouring poor, prostitutes, and more generally, the rough working class adolescent male) as 'criminal Others', and the target for especially coercive policing, dates back at least to the foundation of the 'new' police in the early nineteenth century. For further discussion of structuralist approaches to the fraught relationship the police and black people see also: Jefferson (1988; 1991).

[22] 'Police culture' is not monolithic, not least because 'management' and 'street' cops perform very different functions and sharply contrasting work experiences, but the typologies and distinctions referred to here are among the core characteristics of the culture of the rank and file responsible for using force on the streets (Reiner, 1991; 1992a: Chapter 3).

[23] Cohen (1979) and Jefferson (1993) put the phenomenon in its historical perspective.

[24] Smith's (1994) provocative intervention in the 'race and crime' debate raises some interesting questions about what is meant by 'disproportionate' in this context. What is important here however is, irrespective of whether the levels of coercion faced by black people are in some way 'justifiable' given their alleged over-participation in offending, their large-scale (and demographically disproportionate) involvement in the criminal justice system cannot be denied.

[25] Although the police do not have anything as formal as a legal duty to account to most of these individuals and institutions, they have some obligation to do so as a matter of political and social morality. These issues – the nature of the relationship between the police and B – will be taken up shortly and continued in the discussion of the various modes of accountability that follows in the next section.

[26] Curiously enough Vagg (1994: 1) adopts a position of studied agnosticism on this question. While he acknowledges that, on the face of it, the powers wielded by prison authorities in a democratic state must ultimately derive from the electorate, he goes on to suggest that other power bases such as professional expertise also exist. Precisely how any conflict between these multiple sources of authority can be resolved in a way that is consistent with liberal democratic theory is not altogether clear from his work. One way of resolving the conflict between accountability to one's professional peers and accountability to 'the people' in the context of a modern, and highly complex, service delivery state is suggested towards the end of this chapter.

[27] See Macpherson (1977: Chap.1) for a brief history of the subject and a lucid discussion of what does, and does not, count as liberal democracy.

[28] See Holden (1993) for further discussion and elucidation.

[29] Unfortunately it may not be a wholly satisfactory solution in an era of increasing regional and global interconnectedness but it will have to do for present purposes

(Held, 1995).

[30] Individual nation states may also impose further restrictions on the right to vote in keeping with idiosyncrasies in their political cultures. The exclusion of peers from participation in national (but not local) elections in the UK is one example of such a restriction.

[31] Using the notation adopted earlier, the specific accountability relations can be shown as existing between A and B_1, B_2, B_3, B_4, B_n and, further up the chain, between say, B_3 and B_4, B_4 and B_5 and so on. Taken together, all these relations make up the accountability process linking A (the police) with B_x 'the people'.

[32] Some but by no means all of the government's proposals (Home Office, 1993; Sheehy 1993) were enacted in the Police and Magistrates' Courts Act 1994 and are now consolidated in the Police Act 1996. Since both the government's proposals and the 1994 Act were primarily concerned with the 41 provincial police forces outside London I will not go into the details of the changes here.

[33] This duty arises under s. 12 Police Act 1964 (now s. 9 Police Act 1996).

[34] The issues raised by this are taken up in the chapters that follow.

[35] I have deliberately avoided characterising these decisions as 'policy decisions' since controversy about the nature and status of policy-making, what counts as a 'policy', and whether 'policy' can be distinguished satisfactorily from 'operations' has long dogged the police accountability debate (Reiner, 1995: 76-7; and see, for examle, Jones *et al*, 1994: 6-7; and Grimshaw and Jefferson, 1987: 203-10 for contrasting definitions of police 'policy' and how it is made). The 'decisions' referred to here might, depending on the accountability relation in question, concern anything from the acquisition of CS gas by a police force to its use on the street during a demonstration.

[36] The power to set objectives and performance targets for provincial police authorities is now contained in ss. 37 and 38 Police Act 1996.

[37] The contract 'mode' may also give rise to fresh accountability relations if, for example, new institutions are set up to monitor progress against police performance targets. But these too must be subjected to separate analysis as discrete accountability relations rather than mere adjuncts of existing relations.

[38] Day and Klein (1987: 34-7) draw a similar distinction between a strong version of 'accountability', and a weaker version of what they call 'answerability'.

[39] This approach to disentangling the various mechanisms draws on Oliver's (1991) analysis of government in contemporary Britain.

[40] See Clayton and Tomlinson (1992) and Harrison and Cragg (1995) for detailed treatments of the law and procedure relating to criminal and civil proceedings against the police.

[41] The main legal remedies for police misconduct include criminal prosecution, civil actions for negligence and the intentional torts of assault and battery, false

imprisonment and malicious prosecution. The use of police powers is also subject to review at coroners' inquests and in the course of criminal proceedings when prosecution evidence gathered by the police may be challenged under ss. 76 and 78 Police and Criminal Evidence Act 1984. The police complaints and discipline system provides an additional, if only quasi-legal, route for holding individual officers to account for their behaviour.

[42] [1968] 2 Q.B. 118 at 136.

[43] The most recent decision on the point is that of the Court of Appeal in *R v Chief Constable of Sussex ex parte International Traders' Ferry Ltd.* [1997] 2 All E.R. 65. See Reiner, Dixon (1995), Dixon and Smith (1997; 1998) and the next chapter for a more extended discussion of the case law and its implications.

[44] The term 'political accountability' is used here to denote those mechanisms which, in Oliver's (1991: 23) words, expose the police to 'politically motivated control [or] to public censure through elected institutions' such as the House of Commons or local authorities'.

[45] The relevant statutory provisions are now contained in ss. 6(1) and 10(1) 1996Act.

[46] Section 36(1) Police Act 1996.

[47] See, for example, Marshall (1965; 1978), Brogden (1977; 1982), Waddington (1984a), Loveday (1985; 1995; 1996), Oliver (1987; 1997), Reiner (1993a; 1995), Jones *et al* (1994) and Jones and Newburn (1997).

[48] Among the more politically controversial reforms introduced by the 1994 Act was the introduction to local police authorities of a new category of 'independent' (critics feared that they would turn out to be fifth columnists beholden to central government) members appointed from a short-list prepared by the Home Secretary. Together with 3 magistrates, the presence of 5 'independents' has reduced the number of elected local councillors on the typical 17-member police authority to a bare majority of 9.

[49] Now s. 96 Police Act 1996. The extensive literature on community and police consultative groups is reviewed in Chapter 7.

[50] Weatheritt notes that the last two are more recent additions to what were originally the 'three Es'. What follows relies heavily on her excellent summary of the work of the bodies involved in promoting these objectives. Further discussion of some of the issues raised by the growing salience of managerial mechanisms of accountability is to be found in Chapter 7.

[51] The Metropolitan Police are not formally subject to external inspection by HMIC but, since the late 1980s, the Inspectorate has conducted external inspections of some aspects of its work at the invitation of the Commissioner.

[52] Technically the MPS is treated as part of central rather than local government. It therefore falls under the purview of the National Audit Office rather than the Audit Commission but in practice its performance is assessed using the same set of indicators if for no other reason than that comparisons with other large metropolitan

forces would be impossible without comparable data.

[53] All other things being equal, party B to an accountability relation operating in directive mode will be in a stronger position than if a steward mode prevails. But see below for further discussion of the related issues of control and sanctioning.

[54] Using the notation adopted earlier, if A and B_1 are the parties to an accountability relation and B_2 is a third party to whom B_1 is in turn accountable for A's use of delegated powers, it would not be surprising, on Vagg's analysis, if A and B_1 were to collude in preparing the account of their relationship and its outcome to be presented by B_1 to B_2.

[55] See Ericson and Haggerty (1997) for a thought provoking but to my mind somewhat overblown characterisation of the police as 'risk management' professionals.

[56] See the procedure for the removal of provincial chief constables laid down in ss. 11 and 42 Police Act 1996 for an example of the difficulties shared responsibility may create.

3

Defining and Defending Operational Independence: Police Accountability in London 1829-1991

The purpose of this chapter is to apply the four-dimensional analysis of accountability presented in its predecessor to the unusual arrangements for the governance of the Metropolitan Police and then in the chapters that follow, to some of the more significant proposals for reform advanced during the 1980s. Much of the controversy about police accountability that came to dominate debates on policing during that decade tended to be two, or at best three, dimensional. Competing views on the appropriate mode, mechanism and (immediate) direction of police accountability were widely canvassed. Comparatively little heed was paid to the content of the actions and decisions for which the police were to be held to account. The general direction of accountability - from police to people - also became obscured in the fog of the battle over 'constabulary independence', 'community consultation, and 'democratic control'. In the discussion that follows in this and the next two chapters, I will try to uncover the assumptions about the content and direction of accountability implicit in - to over-simplify somewhat - the traditional or conservative and critical or reformist approaches to the governance of the Metropolitan Police around which battle was joined in the 1980s.

The first part of this chapter traces the current constitutional position of the Metropolitan Police back to its foundation in 1829 and provides a short chronological account of the changes that occurred in its governance over the 150 years to 1979. Particularly close attention is paid to developments in the all-important relationship between the Commissioner of Police of the Metropolis and the Home Secretary in his role as the police authority for London since, as Lustgarten has remarked (1976: 34), 'it is the central axis around which revolve questions of political authority and independence'. In tracing the history of this relationship and the role of the courts in developing the notion of constabulary independence I divide the century and a half that separates the foundation of the Metropolitan Police from Mrs Thatcher's first election victory into two distinct periods: the first characterised by the uncertain subordination of the Commissioner to the Home Secretary, the second by the latter's growing independence. The analysis of the position at the end of the second of these two periods provides essential background to the contest in the 1980s between traditionalists seeking to defend the constitutional status quo of the Metropolitan Police and critics eager to reform it in the interests of making the force 'democratically accountable'.

The framework of governance: the Metropolitan Police Act 1829

The framework for governance of the Metropolitan Police is provided for in the Metropolitan Police Act 1829 (hereafter 'the Act'), s. 1 of which allows for 'a new police office' to be established for the metropolis and the surrounding district. It goes on to permit the appointment of two justices to carry out the duties of the chief officer of the force

> ... together with such other duties as shall be herein-after specified, or as shall be from time to time directed by one of His Majesty's principal

secretaries of state, for the more efficient administration of the police within the limits herein-after mentioned ... [1]

The interpretation of this provision is no simple matter. However, Plehwe (1974: 324) takes the view that, rather than giving the Secretary of State any general power of direction over how the Commissioner carries out his duties, it allows for additional functions to be given to him beyond those set out elsewhere in the Act. Yet he is also correct to say that 'there is room for doubt as to [the Act's] meaning' for there is nothing in the language of s. 1 to prevent a Secretary of State taking a more prescriptive approach.

Section 5 is the other key provision of the Act. It states:

> The said justices may from time to time, subject to the approbation of
> one of His Majesty's principal secretaries of state, frame such orders and
> regulations as they shall deem expedient, relative to the general
> government of the men to be appointed members of the police force
> under this Act; the places of their residence; the classification, rank, and
> particular service of the several members; their distribution and
> inspection; the description of arms accoutrements, and other necessaries
> to be furnished to them ... and all such other orders and regulations,
> relative to the said police force, as the said justices shall from time to
> time deem expedient for preventing neglect or abuse, and for rendering
> such force efficient in the discharge of all its duties; ...[2]

Once again the language of the statute is less than clear. What precisely does 'general government' in the context of the distribution, 'particular service' and equipment of officers, and the promotion of the force's efficiency mean? Must all decisions on such matters be approved by the Secretary of State and, if not, when may his agreement be dispensed with? Unfortunately, as a former Receiver

(Parker, 1980: 328), has observed, 'There is in fact no comprehensive statutory statement of the extent to which the Home Secretary's authority extends over the Metropolitan Police'. The relationship between minister and chief officer so crucial to the governance of the country's largest police force has, consequently, been left to evolve not so much through the enunciation of clear legal or constitutional principles but as a matter of administrative practice and political convenience.

Home Office control: 1829 – 1917

The origins of these practices can be traced back beyond 1829 to the relationship between the Home Office and the salaried magistrates and proto-police of the late 18th and early 19th centuries. Critchley (1967: 42–8), for example, notes that Sir Richard Ford, Chief Magistrate at Bow Street in the opening years of the 19th century, divided his time equally between the Home Office and his magisterial bailiwick and was always willing to act on the Home Secretary's directions in making the constables under his command available as spies and informers against enemy aliens. A similar overlap of responsibilities is evident in the case of one William Day, Home Office official who acted both as the Keeper of the Criminal Registers and the operational commander of what Critchley (1967: 43) describes as Britain's 'first uniformed police force', the Bow Street Horse Patrols. Summarising the position 'on the eve of the creation of the Metropolitan Police', he goes on to argue that 'a substantial corps of professional full-time officers', numbering some 450 men, already existed 'under the direct control of the Home Secretary' (Critchley, 1967: 48–9). The idea of a police force under the direction of a government minister with more general responsibilities in the area of public order and national security was not, therefore, a new one.[3] Precedents for the day to day conduct of relations between the Home Office, justices, and the police existed long before the 1829 Act and may even go some way towards explaining

why the Act is so unclear as to the relative status and authority of the Commissioner(s) and his/their immediate political master.

Testing the relationship between Commissioner and Home Secretary

As it happened the first major test of the relationship between the Commissioners and the Home Secretary was not long in coming for, in May 1833, they were instructed by the Home Secretary, Melbourne, to prevent a public demonstration from taking place at Cold Bath Fields in Clerkenwell.[4] When the organisers of the National Political Union attempted to go ahead with the meeting, what Ascoli (1979: 105) describes as a 'running fight' ensued between police and demonstrators during the course of which an officer was stabbed and killed. When a parliamentary select committee enquired into the affair, conflicting accounts of the division of responsibility between the Home Office and Scotland Yard emerged. But, if Ascoli is to be believed, Melbourne gave detailed tactical instructions to the Commissioners: officers were to remain concealed unless and until an attempt was made to address the meeting whereupon it was to be dispersed and leading participants arrested. Other incidents chronicled by Ascoli show that the close involvement of the Home Secretary in the handling of the Cold Bath Fields protest was far from exceptional in the early years of the Metropolitan Police's existence. Melbourne and his successors were regularly, and personally, occupied with the day to day policing of London and the conduct of its police force. So, for example, in the October of the following year, 1834, a new Home Secretary, Duncannon, instructed the commissioners to dismiss two relatively junior officers (Ascoli, 1979: 108–9). A woman arrested for drunkenness had made an allegation of rape against one of them, an inspector, while the other, his superintendent, was accused of failing to take the report seriously. A grand jury had already rejected the allegations made against the officers, and both were, like Rowan, former soldiers and veterans of the Peninsula War. Yet on 6 November, the Commissioner had to write to the Home Secretary informing that the two men had been dismissed. According to Ascoli,

Dunncannon's main motive in pressing the issue seems to have been his eagerness to please the Chief Magistrate at Bow Street, Sir Frederick Roe, who, he claims (but cf. Emsley, 1996: 28) was pursuing a 'bitter personal vendetta' against the police. In any event Plehwe (1974: 321–2) shows that the direct intervention of the Secretary of State in this case was far from exceptional. Successive incumbents were closely involved in disciplinary matters and, on occasions, even went so far as to take the final decision about the dismissal of errant officers.

Then in 1848 Ascoli (1979: 122) records that the then Home Secretary, Sir George Grey, acted swiftly to meet the threat of a Chartist demonstration in Kensington by swearing in no fewer than 15,000 special constables and ensuring that large numbers of regular officers were deployed to prevent protesters crossing the Thames. Eight years later Mayne, by then the sole Commissioner, was called upon to explain the nature of his relationship with the Secretary of State when he gave evidence to an official inquiry into disturbances in Hyde Park in July 1855. Speaking of the way in which the Home Secretary's wishes were communicated to him in the context of what, 100 years later might have been regarded as a purely 'operational' matter Mayne said:

> The Secretary of State hears what I have to say, and then gives his
> opinion; I sometimes get my opinion qualified, or sometimes we differ,
> and finally what the Secretary of State thinks fit is done. (Report of Her
> Majesty's Commissioners Appointed to Inquire into the Alleged
> Disturbances of the Public Peace in Hyde Park on Sunday July 1 1855, p.
> 240, quoted by Plehwe, 1974: 328).[5]

'Spies in the camp'

Further evidence of the vulnerability of the 19th century commissioners to political interference is apparent in the uncertainties created by the force's internal structure. For instance, in March 1878 following the so-called 'Turf Fraud'

scandal, Howard Vincent was appointed the Metropolitan Police's first Director of Criminal Investigations (Ascoli, 1979: 148). Though nominally subordinate to the Commissioner, Henderson, Vincent was given 'carte blanche' within his new department and enjoyed direct access to the Home Secretary. His appointment coincided with skirmishing between the Commissioner and the Home Secretary over the role of the Receiver of the Metropolitan Police whom Ascoli (1979: 152-3) accuses of acting as 'a Home Office spy in the Commissioner's camp'.

A decade later, attempts by Henderson's successor, Sir Charles Warren, to assert his authority over the Assistant Commissioner in charge of the CID, and to curb the role of the Receiver, contributed to Warren's eventual resignation (Ascoli, 1979: 162; Plehwe, 1982: 47–8). The immediate cause of his departure was Home Secretary Mathews's insistence that Warren adhere to departmental rules on clearing work for publication after the Commissioner had written a highly critical account of relations between the Home Office and his force for a magazine. But this represented no more than the final breakdown in what had become an irretrievably fractious marriage.[6] What is instructive about Warren's brief tenure as Commissioner is the debate it provoked about the relationship between the Metropolitan Police and the Home Office. Ever since his appointment in 1886 he had hankered after the greater freedom from ministerial and bureaucratic interference he had enjoyed as a military commander overseas (Emsley, 1996: 67). And, in his letter of resignation, the departing Commissioner continued to argue his case asserting that his duties, and those of his force, were covered by legislation while the Secretary of State '[had] not the power under the statute of issuing orders for the police force' (quoted by Plehwe, 1974: 326).[7] This interpretation was firmly resisted by the Home Office where the then Permanent Secretary, Godfrey Lushington, expressed the opinion that:

> ... for practical everyday purposes the test of a Department being
> attached to the Home Office is whether it is subordinate to the Secretary

of State. It is in this sense that the Commissioner denies that the Metropolitan Police is a department of the Home Office and it is in this sense that I maintain it is ... (Memorandum, 9 November 1888, quoted by Pellew, 1982: 49)

Speeches made by Mathews and his predecessor, Sir William Harcourt, in the parliamentary debate precipitated by Warren's resignation provide the clearest insight into official perceptions of the relationship between the Commissioner and his police authority. Mathews maintained that he, as Home Secretary, was ultimately responsible for the actions of the Metropolitan Police, but conceded that the intentions of Parliament in passing the 1829 Act had been:

... to put the Police Force under the authority of the Secretary of State, and to hold him fully responsible, not for every detail of the management of the Force, but in regard to the general policy of the police in the discharge of their duty. (Parl. Deb. Vol. 330, 3rd Series, col. 1174, quoted by Plehwe, 1974: 327)

If Mathews' words might have borne the interpretation that 'detail' was beyond the scope of the Home Secretary's authority, Harcourt suggested that 'it [was] a matter entirely at the discretion of the Secretary how far the principle of responsible authority [should] interfere with Executive action'.[8] A sensible Home Secretary would be well advised to leave the 'detail' of 'executive action' (whatever that might entail) to the Commissioner, but this did not mean that he lacked the power to intervene if circumstances or inclination demanded (Plehwe, 1974: 327).

A police authority for London

The same year, 1888, also saw the first major controversy about the merits of establishing a locally elected police authority for the Metropolitan force

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(Lustgarten, 1986: 36; Emsley, 1996: 84-6).[9] The occasion for this was the parliamentary debates on a Local Government Bill and the proposed creation of a London County Council (LCC). Radical opinion demanded that the LCC take charge of policing the capital with James Stuart, a Member from the East End of London claiming - in language almost identical to that of the Greater London Council (1983) almost a century later – that

> ... there was no place in England where control of the police was
> more removed from the people than London, and there was no
> place in England where there was more dissatisfaction generally in
> connection with the police. (Hansard, CCCXXVII, 15 June 1888,
> col. 293, quoted in Emsley, 1996: 85)

Meanwhile, in terms no less familiar to students of more recent history, Conservatives opposed such a move partly on the grounds that the 'imperial' functions of the force - protecting Queen and Parliament and preventing Fenian terrorist outrages - were regarded as properly the concern of central rather than local government. But also because they feared that a London County Council under the control of a Radical or Socialist majority might use the police for political purposes and turn the force against a weak government (Emsley, 1996: 86). The one thing neither side of the argument sought to dispute was the degree of control exercised over the Metropolitan Police by the Home Secretary. Indeed, to a leading Conservative commentator of the day, the Radical's call for a transfer of authority was reducible to the very simple question of 'whether the absolute control of the Metropolitan Police shall pass from the Secretary of State to a Council chosen by the electors of the Metropolis' (quoted in Lustgarten 1986: 36).[10]

Into the twentieth century

For the remainder of the 19th, and well into the early years of the 20th century Home Secretaries continued to issue instructions to Commissioners on a wide range of issues. Among the examples cited by Plehwe (1974: 329–30) are directions on the police attitude towards whist drives, the use of *agents provocateurs* in 'inciting' the commission of crime, and the policing of public meeting and demonstrations. When violence occurred at a suffragette meeting in 1911 Churchill blamed the police for failing to comply with (his) instructions to the effect that arrests should be at such events as soon as any lawful occasion arose. Then, in 1913, he become personally involved in drafting a letter to the organisers of the Women's Social and Political Union after it had been decided to ban one of their meetings. Nor, as Plehwe notes, was it unusual for the Home Office to be consulted about the conduct of individual cases and the police were occasionally instructed either to initiate proceedings or to take no further action against particular suspects.

Summarising his painstaking review of the historical record, Plehwe (1974: 332 – 3) concludes that,

> … during the nineteenth century and for some years thereafter the
> authority of the Home Secretary over the Metropolitan Police was
> regarded as unlimited, subject of course to the normal principle that
> public officers cannot be ordered to act unlawfully.

Lustgarten (1986: 36) and Marshall (1978: 55) share this assessment of the administrative practice prevailing over the first 80 or 90 years of the Metropolitan Police's existence. Only Oliver (1987: 172) dissents from the prevailing view contending somewhat forlornly that the Metropolitan Police Acts of 1829 and 1839 cannot be read as subjecting Commissioners to the Home Secretary 'in their

operational capacity as being responsible for law enforcement'. Whatever the merits of this as a piece of statutory interpretation, the historical evidence presented here clearly demonstrates that, as a matter of administrative practice, successive Home Secretaries had no compunction about meddling in 'operational' matters and showed little inclination to limit their 'direction' of the force to 'administrative' matters as he (1987: 169) claims. This line of argument also has the distinct disadvantage of raising the perennially thorny problem of distinguishing between 'operations' or 'executive action' on the one hand and 'administration' or 'policy' on the other. The unreality of making such a distinction even in the early days of Metropolitan Police governance is illustrated by Ascoli (1979: 112) who notes that Samuel Phillipps, Under-Secretary at the Home Office at the time of the force's establishment, soon realised how 'administrative control could circumscribe the operational freedom of the Commissioners' and set about turning it to his advantage against Richard Mayne to whom he appears to have taken an instant, and fully reciprocated, dislike.

Dimensions of accountability

Applying the analysis presented in the previous chapter to the period before the First World War, it is abundantly clear that the relationship between the Commissioner of Police of the Metropolis and the Home Secretary was one of accountability. Even if Lushington's argument that the Metropolitan Police was no more than a sub-department of the Home Office, and its Commissioner little better than a presumptuous civil servant of the middle rank, was somewhat extreme, it is evident from the highly interventionist role played by successive Home Secretaries that the Commissioner was accountable for the use of the powers delegated to him and his officers to the Secretary of State. It is also the case that the decisions and actions that the Commissioner could be called to account for were not limited to matters of 'administration' or 'policy'. Exceptional though they may have been in the wider context of relations between

the Metropolitan Police and the Home Office, instructions on 'executive action' and 'operations' were, on occasion, both issued and obeyed (Plehwe, 1974: 329).

Content

Decisions about the use of coercive powers were not just approved, but taken, by the Secretary of State. It was a politician not a policeman who first banned the ill-fated meeting at Cold Bath Fields, and then laid down the tactics to be employed in enforcing its proscription. Nor was it thought improper for a Home Secretary to insist upon the dismissal of relatively junior officers, and issue instructions on everything from the policing of whist drives to the use of *agents provocateurs*. Guidance was also given on when powers of arrest should be used at political meetings, and orders issued about instituting proceedings in individual cases. Although, As Bittner (1974; 1975) warns, police work extends far beyond the bounds of criminal law enforcement such activities still represent a prime example of the police use of the state's monopoly on coercive force. And what history tells us is that, from 1829 until well into the present century, the Metropolitan Police were directly accountable for their use of coercive force in enforcing the criminal law (by means of arrest, prosecution, etc.) to an overtly political authority. This accountability covered both the general pattern of the distribution of force in terms of the disposition of officers between different locations and functions, and the conditions under which it was to be used in certain critical situations. In other words, the content of the accountability relation between Commissioner and Home Secretary clearly extended, and was accepted by both parties as extending, to what I have suggested is the core content of police accountability, the use of legitimate coercive force. Furthermore, during this period at least, any attempt to delineate hermetically sealed spheres of responsibility for the two parties on the basis of a distinction between administration or policy and executive action or operations flies in the face of well documented administrative practice.

Direction

It will be recalled that two aspects of the direction of police accountability were identified in the previous chapter and it was argued that, in a liberal democratic polity, the general direction of accountability must run from the police to 'the people' or *demos*. So far the discussion in this chapter has centred on the immediate direction of accountability running from the Metropolitan Police through the Commissioner to the Home Secretary. But this will not do. In the last chapter, the principle of universal suffrage was picked out as a hallmark of liberal democracy. Yet the Metropolitan Police Act 1829 predates the Great Reform Act of 1832 and it was not until some time after the end of the period under consideration here that women won the right to vote. Before 1914, the franchise extended to fewer than 60% of men or considerably less than one third of the total adult population. To all extents and purposes then the 19th century *demos* consisted of a small, if gradually expanding, minority of the total adult population. Judged against the standards of the late 20th century, one of the most fundamental pre-conditions for liberal democratic policing simply did not exist. The general direction of police accountability flowed not towards 'the people' of the national state as a whole but to a propertied male elite.

However, within the confines of such a profoundly flawed 'democracy', the provisions of the 1829 Act were 'designed to ensure the maximum accountability that the political system was capable of constructing at the time' (Lustgarten, 1986: 94; Bundred, 1982: 65). Early 19th century local government in the growing metropolitan area surrounding the City of London consisted of a patchwork of local vestries and parish authorities.[11] In Westminster, the justices of the peace retained considerable administrative powers in addition to their judicial functions (Ruck and Rhodes, 1970: 15; and, generally, Skyrme, 1991).[12] Given the lack of any other serviceable model of public administration it is hardly surprising that Sir Robert Peel simply adapted and formalised the existing system

of police governance established by the Fieldings and other members of the metropolitan magistracy almost 100 years before. Thus, in placing the new police force under the command of two sworn justices he anchored it to one of the few fixed institutional points in contemporary local government.[13]

From the justices the chain of accountability relations led back through the Home Secretary to Parliament and thence to the enfranchised elite who passed muster as 'the people'. Here too, Lustgarten (1986) argues Peel did the best he could, given the unpromising institutional circumstances of the time. By subordinating the new police force to a Secretary of State responsible to Parliament he put in place the most effective mechanism for calling the police to account at his disposal. But this is to run ahead of the argument for a few words still need to be said about the modes of accountability operating during these early years of the Metropolitan Police.

Mode

In the ordinary course of events there can be little doubt that the accountability relation between Commissioner and Home Secretary operated in what I have called steward mode. No senior government minister - even in a more leisurely political culture than today's - could possibly have given constant attention to the minutiae of running a police force. Nor, one suspects, would they have wished to. Although Ascoli (1979) makes much of the tensions which existed between successive Commissioners and Home Secretaries (or, more importantly, their officials), the routine work of submitting orders and regulations for Home Office approval, drawing attention to potential problems, and reporting back on significant incidents and operations, continued without undue disruption. However, it is equally obvious that, particularly at moments of heightened political tension, Home Secretaries did not hesitate to assert their authority and shift their relations with the Commissioner into a more directive mode. Specific

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and detailed instructions – not infrequently about apparently quite minor matters - would then be issued and complied with.

Throughout this period, both parties accepted, albeit grudgingly in the case of a headstrong Commissioner like Sir Charles Warren, that the relationships between police force and ministry, Commissioner and Secretary of State, were hierarchical. Frequent assertions of Home Office superiority were neither necessary nor desirable. It was rarely in the interests of either side to force an issue to a point where directions had to be given, and the structural subordination of the police to political authority spelled out. There may be some truth in the suggestion that a directive mode was more regularly adopted in relation to 'administration' or 'policy'. But it was by no means limited to these areas and, in any event, the likes of Samuel Phillipps soon became adept at pulling 'administrative' strings to circumscribe 'operational' independence.

Mechanism

Of the four mechanisms of police accountability only two need detain us here. Case law on the legal accountability of the Commissioner in the years before the First World War is sparse and only one, somewhat arcane, point relating to the Commissioner's status as a justice of the peace seems to have attracted judicial attention prior to the Court of Appeal's decision in *Blackburn*.[14] What was at issue was whether the principle that justices could be held criminally liable for neglect of their duty to suppress riots established in the cases of *R v Kennett* and *R v Pinney* also extended to the Commissioner(s) of the new Metropolitan Police.[15] As it turned out, the question was never resolved although in *R v Cunninghame Graham*, Charles J made no secret of his views on the subject:

> [A] most serious responsibility was upon Sir Charles Warren [the then Commissioner], because he is a magistrate, and a magistrate mainly and principally responsible for the peace and order of the metropolis. If he

does nothing, and riots follow and mischief is done, houses wrecked and property stolen ... [h]e is criminally liable to the law ... [T]here can be no question about it that a magistrate is responsible for order in the district over which he has control, and if he lazily, or negligently, or stupidly, does not take the necessary step to preserve order he can stand in a criminal court ... to answer for his neglect of duty.[16]

Commenting on this case, Plehwe (1974: 325–6) speculates on the possible outcome of a conflict between this legal duty to prevent a riot from occurring and directions from the Home Secretary to the effect that a certain amount of disorder should be tolerated in, say, policing a public protest. Since the practice of swearing Commissioners in as justices was abolished under the Administration of Justice Act 1973 the point is of historical interest only. For present purposes it need only be noted that, until the first *Blackburn* case, the courts had not been called upon to consider either the constitutional status of the Commissioner, or to adjudicate directly upon the failure of an incumbent adequately to discharge his duties under the law.

The second, political, accountability mechanism has been the focus of the discussion thus far. Enough has been said already about the all-important relationship between the Commissioner and the Home Secretary. The effect of restricted franchise on the make-up of the nineteenth century *demos* has also been noted: but what of Parliament, the link between the supreme executive authority and 'the people'? Here too the differences between the mid 19th century and late 20th centuries are marked. In her study of the relationship between government ministers and Parliament, Diana Woodhouse (1994: 4) identifies individual ministerial responsibility as 'the constitutional mechanism by which Parliament claims to fulfil its functions of controlling and scrutinising the executive'. Peel's structure for the governance of the Metropolitan Police depended on this very mechanism to complete the subordination of the new force to a suitable (in

contemporary terms) regime of external direction and control. And, as Woodhouse (1994: 14) demonstrates, talk of individual ministerial responsibility to Parliament was more than empty rhetoric in the mid 19th century. The executive had not become so bureaucratised and unwieldy, nor Parliament so dominated by a rigid party system enforced by energetic whipping, that a minister would not have been expected to maintain close control over every aspect of his department's work, and to resign if he lost the confidence of the legislature (Woodhouse, 1994; Lustgarten, 1986: 94). The multitude of debates, questions and parliamentary inquiries referred to by Plehwe (1974) only serves to confirm how regularly and inquisitively the thoughts of the 19th century parliamentarian turned to the policing of the metropolis and its direction by the Secretary of State.

At a time when the majority of the adult population was disenfranchised, any institutionalised structure for improving what I have called the public accountability of the police would have been unthinkable. For the police formally to 'consult' the 'communities' they were, amongst other things, charged with controlling would have seemed a most peculiar notion to the functionaries, and members, of the social elite responsible for their governance. Moreover, as even such redoubtably 'cop-sided' (to use Robert Reiner's memorable phrase) police historians as Critchley (1967) and Ascoli (1979) concede, the police were so heartily and widely distrusted that they would have found few self-respecting citizens prepared to give them the time of day.[17] But this has not prevented the more orthodox writers from claiming that the police rapidly developed an abiding empathy with the public, largely it appears as a consequence of the shrewdness with which the first Commissioners set about the task of recruitment. Thus, having quoted Peel's biographer Gash to the effect that care was taken to select only those 'who had not the rank, habits or station of gentlemen'; Critchley (1967: 52) asserts that:

From that start, the police was to be a homogeneous and democratic body, in tune with the people, understanding the people, belonging to the people, and drawing its strength from the people.

Others draw a rather different conclusion form the early recruitment practices of the Metropolitan Police. Brodgen (1987: 11), for instance, detects the parallels between colonial policing and certain features of 'Metropolitan policing' identified by Miller (1977). Notable among these are the recruitment of 'alien' patrol officers (from outside London in the case of the Metropolitan Police) reflected in the imperial policy of 'policing strangers by strangers'. It would therefore be rash to accept unquestioningly that Rowan and Mayne's approach to recruitment was motivated by a desire to achieve a degree of congruence between the social backgrounds and values of police and policed. But this is not to say that notions of policing based on the local negotiation of order between police and public are solely a product of the late 20th century enlightenment. For, as Jennifer Davis (1981: 81) has argued in comparing the policing of the Broadwater Farm estate in the 1980s with that of Jenning's Buildings, a notorious mid 19th century slum inhabited by the Irish poor and other casual workers:

'[C]ommunity policing' is more properly seen as the continuance of a long tradition of English policing, which has recognized certain urban areas peopled by the poor and immigrants as *de facto* no-go areas, has sought to contain these areas by collaboration with individuals and groups who dominate informal networks of power and influence within them, and which has accepted this as the necessary price to be paid for the heavy-handed and biased policing of such groups outside.

Ever pragmatic, the Victorian police can thus be said to have appreciated the utility of maintaining some rudimentary, informal and unsystematic mechanisms of public accountability.[18]

As for the final mechanism of professional-managerial accountability it need only be noted that, while a militaristic rank structure, an emphasis on 'drill and discipline' and the appointment of former non-commissioned officers from the armed services to serve in its higher ranks, may well have contributed to the legitimation of the new police force, such devices do not sit comfortably with modern conceptions of management in the public services based on professional competence, personal appraisal and the assessment of collective performance against stated objectives (Reiner, 1992: 62–3, 77). To talk of professional-managerial accountability in the sense in which it was used in the previous chapter would thus be to perpetrate a serious anachronism.

Summary

Considered in terms of content, direction, mode and mechanism, the most striking feature of the accountability of the Metropolitan Police before the First World War was therefore the force's subordination to the political authority of the Home Secretary. In practice this authority extended not only to the 'general administration' of the police, but also to 'operational' matters including the use of coercive force against particular individuals or in specific situations such as a political meeting or demonstration. The general direction of police accountability was toward a tightly restricted *demos* almost exclusively via a senior government minister individually responsible to Parliament. The critical accountability relation between Commissioner and Home Secretary routinely operated in steward mode, but both parties accepted that a more directive approach could and would be employed where circumstances demanded.

Growing independence: 1918 – 1979

If we accept Plehwe's (1974) broad division of the history of the relationship between the Metropolitan Police and the Home Secretary into two analytically

distinct periods, the 60 years from the end of the First World War to the dawn of the 1980s were marked by increasingly strident assertions of police independence from political authority. The object of the following discussion is to show how relations between the Metropolitan Police and the Home Office – reflected in the administrative practices and public statements of politicians, civil servants and police officers - changed over this period. But first I want to look at how the courts (in the *Blackburn* case referred to in the previous chapter) came to recognise constabulary independence as the cornerstone of police governance not just in the provinces where the Police Act 1964 entrusted chief constables with the 'direction and control' of their forces, but also in London where the Metropolitan Police Act 1829, though frustratingly opaque in its wording, had long been assumed to have left the Commissioner(s) to share that responsibility with the Home Secretary (Lustgarten, 1986: 65).

Case law

The first of three 'pre-*Blackburn*' decisions I will examine here is the decision of the Court of Appeal in *Glamorgan Coal Co. v Glamorgan Standing Joint Committee.*[19] Coming right at the end of the period characterised by general acceptance of Home Office authority over the whole range of Metropolitan Police functions, it has, as Lustgarten wryly observes, been sadly neglected in recent years. The main importance of the decision is the stress laid by the Court of Appeal on the need for a provincial chief constable to gain the approval (either express or implied) of his police authority before entering into agreements for the supply of extra police officers under the mutual aid provisions of the Police Act 1890 s. 25.

> [T]he chief constable is treated throughout as clearly subordinate to the statutory authority. His authority to enter into agreements is treated ...
> as delegated not original. [...] The clear thrust of the Court of Appeal's

approach is the emphasis on the paramount authority of the Standing Joint Committee, the politically representative body, and the limited and derivative powers of the Chief Constable. The notion that the latter possessed an independent authority to direct law enforcement activities, or enjoyed 'operational' autonomy from his police authority, seems not to have entered anyone's head. (Lustgarten: 1986: 55)

Since it was conventional wisdom that the control exercised by the Home Secretary over the Metropolitan Police was more extensive than that of any provincial police authority over its force, it seems inevitable that - had the courts been required to adjudicate on the distribution of authority between the Commissioner and the Home Secretary in 1916 - they would have confirmed contemporary administrative practice and adopted a similar approach to that of the judges in *Glamorgan Coal Co. v Glamorgan Standing Joint Committee*.[20]

The foundations of Blackburn: Fisher *and* Perpetual Trustee

Unfortunately perhaps, the Glamorgan case appears not to have been drawn to the attention of the Court of Appeal in *Blackburn* where the later cases of *Fisher v Oldham Corporation* and *Attorney General for New South Wales v Perpetual Trustee Co. Ltd.* were cited by Lord Denning as authority for his resounding declaration of the doctrine of constabulary independence.[21] In the first of these, McCardie J had to decide whether the defendant Corporation, acting through its Watch Committee, was liable in tort for the wrongful detention of the plaintiff, Mr Fisher, by Oldham police. He decided that they were not.

> I hold that the defendants are not responsible for the arrest or detention
> of the plaintiff. The police, in effecting that arrest and detention, were
> not acting as the servants or agents of the defendants. They were
> fulfilling their duties as public servants and officers of the Crown ... If
> the local authorities are to be liable in such a case as this as for the acts

of the police with respect to felonies and misdemeanours, then it would indeed be a serious matter and it would entitle them to demand that they ought to secure a full measure of control over the arrest and prosecution of offenders. To give any such control would, in my view, involve a grave and most dangerous constitutional change.[22]

The case turned on the question of whether the Corporation and the police officers could be said to be in a master-servant relationship so as to render the former liable in private law for the tortious acts of the latter. McCardie J. based his decision on the common law view of the office of constable which suggested that a police officer was 'a servant of the State, a ministerial officer of the central power, though subject, in some respects, to local supervision and regulation.[23] Moreover, the consequences of holding the Corporation liable were too frightening to contemplate for, along with liability for the torts of police officers would come the incentive for Watch Committees to interfere with their routine law enforcement work by, in McCardie J's lurid example, directing that arrested felons be released. Such a constitutional outrage, he believed, could not be allowed. Taken at face value, the decision in *Fisher* did no more than exempt the local authority from liability in the private law of tort for the wrongdoings of police officers. But, in the hands of history and Lord Denning, it was also to be the start of a process that would engrave the doctrine of constabulary independence on judicial tablets of stone by raising the spectre of local political interference in the police use of their coercive powers of arrest and detention in individual cases.

The next step down the road to *Blackburn* was taken by the Privy Council some 25 years after *Fisher* in *Attorney-General for New South Wales v Perpetual Trustee Co. Ltd..*[24] Once again the availability of a private law remedy was at issue, and once again it was held that there was

> ... a fundamental difference between the domestic relation of servant and master [upon which the availability of the remedy of *per quod servitium amisit* depended] and that of the holder of a public office and the State which he is said to serve. The constable falls within the latter category. His authority is original, not delegated, and is exercised at his own discretion by virtue of his office: he is a ministerial officer exercising rights independently of contract.[25]

In giving the judgement of the Judicial Committee, Viscount Simonds also endorsed McCardie J's analysis of the relevant case law on the office of constable and remarked on the constitutional dangers of describing police officers as the servants of their watch committees.[26]

'Enter Mr Blackburn'[27]

Thus far judicial ruminations on the constitutional status of the police and the 'original' nature of their authority and powers had been confined to private law matters and, in *Fisher*, the actions and decisions of junior operational officers in respect of an individual suspect. It was not until the Court of Appeal's decision in *Blackburn* that the loose threads of the private law decisions in *Fisher* and *Perpetual Trustee Co.* were finally woven into the resplendent cloth of a public law doctrine of constabulary independence.[28] The facts of the case were that, following a policy decision in April 1966 by the Commissioner of Police of the Metropolis, his officers had made no attempt to enforce certain provisions of the Betting, Gaming and Lotteries Act 1963. The applicant, Mr Blackburn, sought a public law remedy by way of an order of mandamus directing the Commissioner to reverse his decision. By the time the application reached the Court of Appeal the Commissioner had undertaken to revoke his decision and had resumed enforcement action under the 1963 Act. Consequently, the court made no order.

But this did not prevent the case from establishing itself as the principal legal authority for the independence of the police from political control. The classic statement of the doctrine of constabulary independence is contained in the following much-quoted passage from the judgement of Lord Denning MR:

> The office of the Commissioner of Police within the Metropolis dates back to 1829 when Sir Robert Peel introduced his disciplined force. The commissioner was a justice of the peace specially appointed to administer the police force in the metropolis. His constitutional status has never been defined either by statute or by the courts. It was considered by the Royal Commission on the Police in their Report in 1962 (Cmnd 1728). But I have no hesitation in holding that, like every constable in the land, he should be, and is, independent of the executive. He is not subject to the orders of the Secretary of State, save that under the Police Act, 1964, the Secretary of State can call upon him to give a report or to retire in the interests of efficiency. I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land. He must take steps to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be prosecuted; and if need be, bring the prosecution or see that it is brought; but in all these things he is not the servant of anyone, save of the law itself. No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for the law enforcement lies on him. He is answerable to law and to the law alone. That appears sufficiently from *Fisher v Oldham Corporation* and *Attorney-General for New South Wales v Perpetual Trustee Co. Ltd.*[29]

Lustgarten's (1986: 64-6) unforgiving analysis of this paragraph reveals it to be a catalogue of misapprehensions and obfuscation. Three points merit consideration here. The first thing to note is that the most cursory examination of the historical record of relations between the Commissioner and the Home Secretary is sufficient to refute the contention that no minister or police authority has the power to instruct the Commissioner as to his responsibility for law enforcement. As we have seen, successive 19th and early 20th century Home Secretaries, acting as the police authority for the metropolis, did so without courting any undue constitutional controversy.

Secondly, there is the enormity of the logical leap from *Fisher* and *Perpetual Trustee* which 'had nothing to do with chief officers of police, nor with the kind of policy decision taken by the Commissioner', to the very different circumstances of *Blackburn* (Lustgarten, 1986: 65). Based on what he calls the 'fallacy of the seamless web', this leap was accomplished by treating the decision of a chief officer to instruct the officers under his command not to enforce a provision of the criminal law (or to assign them to certain geographical areas or policing functions) as indistinguishable from that of an ordinary constable to arrest (or not to arrest) a particular suspect. It assumes that political control over, or interference in, the first type of decision is as obviously undesirable (and impractical) as it would be in the second. Lustgarten (1986: 13-5) illustrates how important it is to distinguish the two types of decision by quoting observations made by Lawton LJ in *R v Chief Constable of Devon and Cornwall Ex parte Central Electricity Generating Board* where it was said that the Board's application for an order of mandamus requiring the Chief Constable to instruct police officers under his command to remove protesters from the proposed site of a nuclear power station 'showed a misconception of the powers of chief constables'.[30] Chief officers, Lawton LJ went on, 'cannot give an officer under command an order to do acts [such as arrest protesters] which can only lawfully

be done if the officer himself with reasonable cause suspects that a breach of the peace has occurred or is immediately likely to occur or an arrestable offence has been committed.' If, as Lustgarten puts it, the 'factual condition precedent' for an arrest does not exist, no lawful arrest can be made either on the instructions of a chief officer or a police authority, or on the undirected initiative of a constable. And the relevant factual condition precedent in the case of a decision to make an arrest is the existence in the mind of a police office of 'reasonable cause', and not the opinion of a chief constable (or a police authority) far removed from the scene (and therefore incapable of forming a judgement as to the likelihood or otherwise of a breach of the peace or the commission of an offence) of the desirability of arrests being made. The true significance of the decision in *Blackburn* was therefore the Court's treatment of private law rulings to the effect that neither the Crown nor a local police authority was in a 'master-servant relationship' with individual police constables as authority for the much larger proposition that ministers and local representatives should have no power to influence the decisions of chief officers (including, explicitly, the Commissioner of Police of the Metropolis) on matters such as the deployment of personnel and the general attitude to be taken by the police towards certain types of offending.

The third and final point to note about the decision in *Blackburn* is that the independence of chief officers from the 'political' control of ministers and police authorities leaves them, in Lord Denning's ringing phrase, 'answerable to the law and to the law alone'.[31] In another key passage that also deserves to be quoted in full, His Lordship explained this in the following terms:

> Although the chief officers of police are answerable to the law, there are
> many fields in which they have a discretion in which the law will not
> interfere. For instance, it is for the Commissioner of Police of the
> Metropolis, of the chief constable, as the case may be, to decide in any
> particular case whether inquiries should be pursued, or whether an arrest

should be made, or a prosecution brought. It must be for him to decide on the disposition of his force and the concentration of hi resources on any particular crime or area. No court can or should give him direction on such a matter. He can also make policy decisions and give effect to them, as for instance, was often done when prosecutions were not brought for attempted suicide. But there are some policy decisions with which, I think, the courts can, if necessary, interfere. Suppose a chief constable were to issue a directive to his men that no person should be prosecuted for stealing goods less than £100 in value. I should have thought that the court could countermand it. He would be failing in his duty to enforce the law. [32]

In *Blackburn* itself it seems that, but for the Commissioner's undertaking to recommence enforcement action against gaming clubs, Lord Denning would have been minded to intervene.[33] Salmon LJ would also have favoured making an order against the Commissioner.[34] He too attempted to elucidate the circumstances in which a policy of non-prosecution (or non-enforcement) could, and could not, be reversed by the courts. An instruction to the effect that no steps should be taken to prosecute housebreakers would be a clear breach of a chief officer's duty to enforce the law. A householder in the force area would be able to obtain an order of mandamus for its withdrawal. On the other hand, a policy decision not to prosecute, other than in exceptional circumstances, teenage boys for having sex with girls under the age of consent would be 'an entirely different and perfectly proper exercise of discretion' with which the courts would not interfere.[35] In spite of Salmon LJ's bold attempt to justify the inviolability of the latter decision as giving effect to the intention of the legislature in changed social conditions, both his and Lord Denning's attempts to distinguish between the proper and improper exercise of a chief officer's discretion are based on nice judgements of social utility and public morality of the kind neither judges nor the

police are in the best position to make in a parliamentary democracy (Lustgarten, 1986: 66; Greater London Council, 1983: paras. 126-7).

The case law since Blackburn

Since *Blackburn* was decided in 1968 the courts have shown little appetite for the task of making chief officers legally answerable for the exercise of their discretion. In 1973 Mr Blackburn returned to the Court of Appeal seeking an order of mandamus requiring the Metropolitan Police Commissioner to take more vigorous action against pornography under the Obscene Publications Acts 1959 and 1964.[36] Though appreciative of his zeal as a moral entrepreneur, and highly critical of the inadequacies of the existing legislation, Lord Denning MR felt unable to assist Mr Blackburn.[37]

> In [*Blackburn No 1*] we made it clear that, in the carrying out their duty
> of enforcing the law, the police have a discretion with which the courts
> will not interfere. There might, however, be extreme cases in which he
> [the Commissioner] was not carrying out his duty. And then we would.
> I do not think this is a case for our interference.

Undeterred by this rebuff, Mr Blackburn tried again only to be told by Lord Justice Lawton that his application was 'misconceived' in asking the court to tell the Commissioner how to do his job.[38] An order of mandamus might be made if a chief officer made no attempt to enforce the law at all. But otherwise it was up to him how he was to perform his duties. The intention of the statutes governing the Metropolitan Police was to leave the Commissioner to do his job as he thought fit subject only to the power of the Home Secretary to remove him if he was not doing it efficiently. Similarly, in the case of *R v Chief Constable of Devon and Cornwall Ex parte Central Electricity Generating Board* referred to earlier, the Chief Constable's decision not to comply with a request by the Board to remove

protesters from the possible site of a nuclear power station was held to be 'a policy decision with which ... the courts should not interfere'.[39]

This line of authority received further endorsement in 1986 in *R v Oxford Ex parte Levey* where Lord Denning's successor as Master of the Rolls, Lord Donaldson, confirmed the readiness of the courts to intervene where a chief constable was failing in his duty to keep peace and enforce the law.[40] However, he also maintained that chief officers had 'the widest possible discretion in their choice of methods to discharge that duty'. In the case before the Court there was no evidence that Chief Constable Oxford had failed to discharge his duty and it was not for the courts to review his methods. The most recent decisions in this area of the law are those of the Divisional Court and the Court of Appeal in *R v Chief Constable of Sussex Ex parte International Trader's Ferry Ltd.*.[41] The case arose out of a decision by the Chief Constable to limit the attendance of police officers at demonstrations against the export of live animals from the port of Shoreham. The applicants (ITF), who were involved in making the shipments, sought to have the decision quashed on the grounds that it was a breach of the Chief Constable's duty to keep the peace and enforce the law and that, in so far as he had a discretion in exercising that duty, his decision was unreasonable according to the well-known principles enunciated by Lord Greene MR in *Associated Provincial Picture House v Wednesbury Corporation*.[42] Neither Court was sympathetic to these arguments. The Divisional Court took the view that, though other chief officers might have given greater weight to the fact that the applicants might be put out of business by a decision to restrict the police presence at the port, there was no evidence that the Chief Constable had abrogated his duty to keep the peace and enforce the law. The decision was not one that no reasonable chief officer properly exercising his discretion in discharging these duties could have reached. The Court of Appeal added that the situation was not

comparable to that faced by the Court in *Blackburn* and it would be 'a travesty' to describe the Chief Constable's actions as a decision not to enforce the law.[43]

Thus ITF, like Mr Blackburn, the CEGB and Mr Levey before them, were sent away empty-handed and thus the long term effect of the decision in the first *Blackburn* case was to bestow a judicial blessing on assertions of police independence from 'political' control without committing the courts themselves to holding chief officers, including the Commissioner, answerable for anything but the most egregious failure to discharge their public duty.

Administrative practice

Dating the change in tenor of the administrative practice and political rhetoric of the Home Office in its dealings with the Metropolitan Police from assertiveness to diffidence cannot be attempted with any confidence. But it seems roughly to have coincided with the decision in *Fisher v Oldham Corporation*. So in 1937, the then Home Secretary, Samuel Hoare, told Parliament that he had no authority to give instructions to the police about the circumstances in which arrests should be made for misconduct in Hyde Park.[44] Against this must be set the claim of his predecessor, Simon, that he had ordered plain clothes officers to attend fascist meetings.[45] However, subsequent statement by ministers suggest that, as the century wore on, Hoare's view of the proprieties of the relationship between the Home Office and the police came to dominate.[46] Hence, writing in 1954, a distinguished former Permanent Under-Secretary of State at the Home Office, argued that,

> The Home Secretary cannot give orders to the Commissioner or to other members of the [Metropolitan Police] force with regard to their duty of enforcing the law; but he has some measure of responsibility for the executive action of the Commissioner. (Newsam, 1954: 45)

Like many such formulations, this description of the extent of Home Office authority is bedevilled with definitional problems: what is meant by 'executive action' as distinct from law enforcement; and precisely what measure of responsibility does the secretary of State have for such action whatever it might be? Support for Geoffrey Marshall's (1965: 54-5) view that ministerial denials of authority over the police were more a matter of administrative convenience and good manners than legal incapacity can be gleaned from a statement made in the House of Commons by a Joint Under-Secretary of State in 1957.

> For the Metropolitan Police, it is a matter for the discretion of the
> Secretary of State as to how far, in discharging the duties placed upon
> him by Parliament, he should himself, through the Home Office,
> interfere with the executive action which is the responsibility of the
> Commissioner. In practice, in respect of administration and the
> maintenance of discipline, it is the Secretary of State's sphere to
> prescribe and enforce general principles, and the Commissioner's sphere
> to apply them to individual cases, subject only to his general
> accountability to the Secretary of State as police authority. (J E S Simon,
> quoted in London Strategic Policy Unit, 1987: 41-2).

Here the area of 'executive action', within which the Secretary of State enjoys extensive legal competence limited only by bureaucratic tact and practical convenience, seems to extend to internal matters of administration and discipline rather than law enforcement although, as has been suggested earlier, this distinction is scarcely tenable in practice.

Evidence to the Royal Commission on the Police

Evidence submitted to the Royal Commission on the Police (1962) only confuses matters still further. In his written submission the then Commissioner, Sir Joseph Simpson, stated that:

> [T]he secretary of State does not in practice interfere with the executive
> functions of the Metropolitan Police who enjoy the same independence
> of action and accept the same responsibilities in law as do their
> provincial counterparts. (1962: 1152, Minutes of Evidence, para 5.)

He went on to say that the Home Office frequently suggested alterations to the orders and regulations forwarded for approval to the Secretary of State by the Commissioner thus exercising 'a control over the administrative policy of the force'.[47] However, for Sir Joseph, this control over administration did not extend to 'executive functions' such as 'the ordinary day to day work of the policeman, his arrests, his summonses, whether people are to be proceeded against, all that sort of work'.[48] 'Individual or specific decisions' on these matters were taken at the discretion of the Commissioner and, as he understood the position, the Secretary of State neither presumed, nor had the power, to intervene in how that discretion was exercised.[49]

Called to give oral evidence, the Commissioner was pressed on the distinction between 'general orders' and 'instructions'.[50] The former, he said, were 'always submitted to the Home Office for approval' under section 5 of the Metropolitan Police Act 1829. Trivial changes to general orders were sent in batches and approval was a 'formality'. Their subject matter could range from changes in the establishment of a division to procedural guidance on the implications of new legislation or an important court ruling. By way of contrast, an instruction - for example on the attitude to motorists, or policy on the enforcement of the Street Offences Act - would not be sent to the Home Office for approbation though it

might well be the subject of some informal discussion and consultation between, perhaps, an Assistant Commissioner and a Principal at the Home Office. A Home Secretary would not 'take the initiative' by telling the Commissioner to issue an order, but he might draw a suggestion or complaint to the Commissioner's attention so that consideration could be given to amending general orders or issuing an instruction as appropriate. The Home Office's evidence to the Royal Commission adds nothing to this beyond the claim (in a section headed 'parliamentary responsibility') that, in spite of his status as police authority, the Home Secretary could not be questioned on 'the discharge by individual police officers of the duties of the law enforcement which they perform as officers of the Crown.[51]

Peering through the terminological fog created by inconsistencies in the use of the word 'executive' and the opacity of the distinction between 'general orders' and 'instructions', it is just about possible to make out the contours of accepted administrative practice in the relationship between the Commissioner and the Secretary of State around the time of the Royal Commission. Whilst neither of the parties seems to have shown any enthusiasm for exploring the constitutional niceties of their respective positions, some unspoken consensus does seem to have been reached. So, at the risk of making clear what was left deliberately obscure, the following propositions seem consistent with both the Joint Under-Secretary's statement to Parliament in 1957 and the evidence presented to the Royal Commission:

1. The broad principles to be adhered to by the Commissioner in the administration, regulation and discipline of the force are laid down by the Home Secretary. Under section 5 of the 1829 Act, the Commissioner formally submits general orders relating to these matters (and to procedures to be adopted in response to changes in the law) to the Home Office for approval. Their implementation and application in individual

cases is a matter for the Commissioner subject to some form of *ex post facto* answerability to the Secretary of State *qua* police authority and thence to Parliament.

2. Instructions on the general attitude to be taken by officers in enforcing the law are issued by the Commissioner. They are not submitted to the Home Office for formal approval under section 5, but may be the subject of informal consultation between senior police officers and civil servants. Again, the Commissioner is answerable for the implementation of such instructions to the Home Secretary, and he to Parliament.

3. Law enforcement decisions (about arrests, summonses and the initiation of criminal proceedings) in individual cases are strictly matters for the Commissioner and his officers.

Even this restatement of the position cannot disguise the fact that the three types of decision shade into, and impact upon, each other. Individual law enforcement decisions may be for the Commissioner and his officers alone, but must be set in the context of instructions and procedures either approved by or discussed with the Home Office.

In any event, the Royal Commission's final report concentrated on reforming the governance of provincial forces and had little to say about the Metropolitan Police.[52] It accepted that the 'exceptional police responsibilities in London' required a 'unitary system' of central government control (Royal Commission on the Police, 1962: 70, para. 223). There were thus 'overriding advantages' in the Home Secretary remaining as police authority.[53] The extent of the Commission's analysis of the relationship between Commissioner and Home Secretary was the trite observation that it was 'not the same as that between a provincial police authority and its chief constable' supported by the tantalisingly ambiguous assertion that,

Through his function of approving the orders and regulations for the government of the Metropolitan Police, the Home Secretary exercise a direct control over the executive work and administrative policy of the force ... (Royal Commission on the Police, 1962: 70, para. 224)[54]

After the Royal Commission

In the years following the Royal Commission, ministerial reticence in admitting to influence over the work of the Metropolitan Police became still more pronounced (Plehwe, 1974: 334). Parliament was told, for example, that the Home Office was unable to instruct the police to take action against vehicles without a road fund licence or, in sharp contrast to 19th century practice, to monitor the 'underground press'. Other statements suggested that changes in the disposition of the force - such as the replacement in 1971 of police road safety teams in schools with a 'strategic reserve' for traffic control - and the formulation of general policies on the treatment of different categories of offence and offender were under the sole control of the Commissioner 'in so far as they were not dealt with by general orders and regulations made under section 5 of the Metropolitan Police Act 1829'. However, despite these increasingly broad and unequivocal assertions of the Commissioner's autonomy, ministers continued to provide information to Parliament, and submit to questioning, on matters - including the enforcement action taken by officers in particular cases - going well beyond the areas for which they claimed authority over the police.

By the end of the 1970's it seems to have become settled administrative practice for Home Secretaries to leave all 'operational' decisions to the Commissioner. As Sir Robert Mark (1978: 145) put it,

The commissioner's orders for the administration of the force are ... subject to the approbation of the Home Secretary, though in practice such

approval is rarely sought. Operationally, however, the commissioner, like a chief constable, is not subject to orders from anyone.[55]

Though never clearly defined, 'operational' matters seemed to include not only the conduct of individual cases from arrest or summons through to prosecution but also decisions about the functional and geographical distribution of personnel and the determination of general policies on the enforcement measures to be taken under the criminal law against particular classes of offender. However, for the wily pragmatists involved in making them work, the great strength of these arrangements lay precisely in their informality and the lack of clear boundaries between the authority of the Home Secretary and Commissioner. Mark's successor as Commissioner, Sir David McNee (1983: 67) probably captured this as well as anyone when he wrote in his autobiography that, while there was 'room for dispute' about the precise scope of the Home Secretary's statutory and regulatory responsibilities for the Metropolitan Police - and the extent to which he should be kept informed about 'strategic plans for the force and about proposals for dealing with matters such as public disorder demonstrations and racial problems' - the resolution of 'this important constitutional issue' fundamentally depended on 'the personalities and good sense of the men in power; the Home Secretary and the Commissioner of the day'.

Defending the *status quo*: the 1980s

The Metropolitan Police and its Commissioner thus faced the assaults on their independence of the early 1980s in a position of considerable, indeed unprecedented, strength. The Court of Appeal's robust defence of constabulary independence from political control, its repeated unwillingness to interfere in the discretion of the Commissioner at the instigation of the tireless Mr Blackburn and others, and the carefully modulated ambiguity and flexibility of the day to day administrative practice suggested by Sir David McNee represented a formidable

legal and political redoubt from which to mount a defence of the constitutional *status quo*. In spite of its relative recent origin, and in the face of a veritable deluge of criticism, the operational independence of the Metropolitan Police was defended throughout the 1980s both by the police themselves and by the three Conservative governments elected in 1979, 1983 and 1987.

The House of Commons held a series of debates on policing in the metropolis during the course of the decade, and the tide of Parliamentary questions, remarked upon by the Royal Commission and researched so assiduously by Plehwe in the early 1970s, continued to flow unabated. Yet neither debates nor questions provided a comprehensive and readily decipherable account of the intimate workings of the relationship between the Commissioner and Home Secretary. At the end of a tumultuous decade for the Metropolitan Police, the status and respective spheres of authority of the two major players were not noticeably clearer than they had been at the beginning. In 1991, much as in 1979, their relationship remained a constitutional enigma elaborately wrapped in an administrative mystery. But it would be wrong to dismiss the 1980s as a decade devoted solely to criticism of the *status quo* and misleading to suggest that nothing new was revealed about the workings of the Commissioner/Home Secretary relationship. So, before attempting to apply my four dimensional analysis to the developments in the accountability of the Metropolitan Police since the end of the First World War I want to spend some looking at how the constitutional *status quo* - interpreted and practised so as to emphasise the operational independence of the Commissioner – was defended both inside and outside the parliamentary arena.

The case for the defence in Parliament

The most important indication of how Home Secretaries conduct their relations within the loose statutory framework provided by sections 1 and 5 Metropolitan

Police Act 1829 came in a series of written answers by a junior Home Office minister, Douglas Hogg, in 1986. Asked about the Secretary of State's use of his powers to direct the Commissioner under section1 for the more efficient administration of the force, he replied:

> Neither [the Home Secretary] nor his two immediate predecessors have found it necessary to exercise their powers under section 1 by issuing specific formal directions to the Commissioner. But the finance and manpower code which came into force on 1 July this year, contains general provisions about the limits of the Commissioner's delegated authority on certain manpower and personnel matters. Beyond that, there have been regular discussions with the Commissioner of the day in which our views on matters of policing have been made clear. Since 1982, the Commissioner has set out his plans for the year ahead in a strategy report, which has required our approval. (HC Deb, Vol 105, 6th series, col 24)

Questions and answers

A second question, also from the Labour MP, Tony Banks, elicited further information about the 'administrative procedure' for the approval of force orders and regulations. According to Mr Hogg, 'police orders' on 'a wide range of subjects concerned with the management of the force and policing practices' are issued twice weekly and approved internally 'by the senior police officers responsible for the items included in the orders'.[56] However amendments to the standing orders for the force contained in 'general orders and regulations' require Home Office approval under s. 5 Metropolitan Police Act 1829 and are dealt with by its police department on the Home Secretary's behalf. Once approved, they too 'are promulgated in police orders'. Quite what all of this means, or was supposed to mean, is unclear.[57] A summary of the contents of orders issued in May 1983 provided by the Minister reveals that matters as various as 'crime',

'colorado beetles' and 'a radio programme of interest' were covered. But nothing is said about their status and whether they constituted amendments to standing orders for which the prior approval of the Home Office would have been obtained.[58]

Other answers to questions put to ministers by Labour MPs in the 1980s also contribute something to our understanding of the relationship between politician and policeman at the heart of police governance in London. For example, in 1983 the then Home Secretary, William Whitelaw, had this to say about his willingness to answer questions about police operations:

> It has been the practice of successive Home Secretaries, after consulting the Commissioner of Police of the Metropolis, to report to the House appropriately on operational matters of major public interest affecting the Metropolitan Police; but questions relating to the day-to-day operations of the force are for the Commissioner. (HC Deb, Vol 36, 6th series, col 312)

This statement seems to confirm Plehwe's (1974) impression that ministers are prepared to be questioned on 'operational matters' over which they deny any direct or overt authority, but only in undefined circumstances where they are of 'major public interest'.

Some indication of how this works in practice may be gleaned from ministerial responses to questions on specific police operations. For example in 1987 the Home Office minister, Douglas Hogg, was prepared to give the indefatigable Tony Banks not just an estimate of the additional cost of policing demonstrations outside the South African Embassy in Trafalgar Square over the two months 6 May to 5 July, but details of the total number of people arrested and charged as a result of the operation.[59] He was also able to confirm that departmental officials

would 'have discussions as necessary with the Metropolitan Police about the arrangements for the policing and protection of diplomatic missions, including the South African Embassy'.[60] However, a week later under questioning from another Labour MP, Richard Caborn, Mr Hogg refused to say whether the Commissioner had consulted the Home Office before introducing special 'directions' for policing outside the embassy.[61] Invited to instruct the Commissioner to withdraw his directions, Mr Hogg simply said, 'No. This is an operational matter for the Commissioner of Police of the Metropolis'. These exchanges demonstrate two things. Firstly they underline once again how direct orders are eschewed in favour of informal discussion as the basis for relations between the Home Office and the police. And secondly they show the extent to which ministers are prepared to go in providing information (supplied to them by the police) to Parliament about the conduct of operations for which they disclaim any formal responsibility.

Policing London: a special case

Underlying these debates in the early and mid 1980s was a growing feeling of dissatisfaction on the Labour benches with the continued status of the Home Secretary as police authority for the Metropolitan Police, and the consequent exclusion of locally elected politicians from any direct involvement in its governance. The broad contours of the controversy can be seen in the speeches made by the Home Secretary and his Labour Shadow, Roy Hattersley, in the first of the set-piece debates on London's policing which were to become a regular feature of the Parliamentary calendar. Opening the debate in February 1983, Mr Whitelaw based his case for maintaining the constitutional *status quo* on two key factors which distinguished the Metropolitan Police from its provincial counterparts and made its affairs 'a special interest of Parliament and of the House [of Commons], and therefore of the Home Secretary'.[62] These were its 'national role' (for example in anti-terrorism work) and, more importantly, 'the sheer size of the metropolis and the fact that a great burden of work falls on the

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police because of its capital city functions'.[63] According to Mr Whitelaw they lifted the task of policing and its supervision 'to a different level from that experienced elsewhere'. It would be wrong to divide up and parcel out the supervision of local policing, capital city responsibilities and national functions to different supervisory bodies:

> Major constitutional change in political responsibility for policing the metropolis would certainly confuse, and eventually erode, the role of the House as the form in which major issues of policing the capital should be addressed. (HC Deb, Vol 38, 6th series, cols 29-30)

The import of this remarkable piece of self-effacement on the part of the Home Secretary is to exaggerate the significance of Parliament as the principal player in the supervision of the Metropolitan Police and to reduce his own role as police authority to something akin to an honest broker between the force and the House of Commons. Having thus defended the *status quo* as the necessary concomitant of the unique character of metropolitan policing and the need for it to be subject to the scrutiny of Parliament, Mr Whitelaw moved on to the offensive:

> The Government's policy recognises ... the need for greater local involvement in local policing [to be accomplished by the establishment of borough community/police consultative groups], without opening up the dangerous prospect of political control over operations, masquerading in the disguise of greater accountability. (HC Deb, Vol 38, 6th series, col 30)

For Mr Whitelaw - as for the police themselves - the prospect of a locally elected police authority for London was no more than a thinly disguised attempt to politicise policing summoning once again the awful spectres first raised a century earlier in the debates on the Local Government Bill of 1888, and then again in the 1930s by McCardie J in *Fisher v Oldham*.

From the Labour front bench Mr Hattersley too was keen to belittle the role of the Home Secretary in determining the policies of the Metropolitan Police. His purpose in doing so was not to point up the proximity of the relationship between the police and Parliament as Mr Whitelaw had sought to do, but to draw attention to the autonomy enjoyed by the Commissioner in deciding force policy. This, he said, was becoming increasingly unacceptable in the light of 'disquiet about the performance of the Metropolitan Police' and 'the growing demand for genuine democratic control over the police and policing policy in London'.[64] It was totally unreasonable to expect a senior government minister with many other onerous responsibilities to 'keep intimate control of the organisation and running of the police in the metropolis'.[65] An elected police authority would be able to pay more detailed attention to London's policing. It would also - and herein lay the main thrust of Mr Hattersley's argument - make the police more effective:

> The hard fact is that ... London has more policemen than have the
> provinces, spends more on the police than do the provinces, and is less
> successful in catching, prosecuting and deterring criminals than is
> anywhere else in the country. I and the Labour party believe that that is
> because the Metropolitan Police are more remote from the people that
> they serve than any of the provincial forces. (HC Deb, Vol 38, 6th series,
> col 34)

The solution to the problem was 'to convince the people that they control the police force through their elected representatives'.[66] The right relationship between police and people in London would only be achieved by allowing local representatives 'to decide what is best for their area'. In the ensuing debate, backbenchers on both sides of the House inveighed against their opponents' views in suitably robust terms. One Conservative member accused the Greater London Council of seeking to 'gain political control of police operations' through its

campaign for 'democratic accountability'. A Labour speaker countered by asking what the difference was between locally elected councillors, whom the Conservatives liked to brand as 'politically motivated', and as he put it, 'a politically motivated Home Secretary'.[67]

The case for the defence: the academy and the police

In contrast to - and conceivably because of - the success with which the constitutional *status quo* was defended by successive Conservative administrations throughout the 1980s, academic and police commentators sympathetic to the existing arrangements contributed remarkably little of note to the debate. Only three interventions will be mentioned here.[68]

Marshall and independence by convention

The first line of defence I want to look at was put forward by Geoffrey Marshall (1978; 1986) who, despite his long-standing scepticism about the legal origins of the doctrine of constabulary independence laid down by Lord Denning in *Blackburn* felt constrained to argue that the police should remain immune from external political influences 'not as a matter of law but as a matter of constitutional and administrative morality' (Marshall, 1986: 142). His only ground for defending police independence - extending to general matters of law enforcement policy in addition to decisions on particular cases - as a constitutional and administrative convention seems to have been a profound pessimism about the probity of the representatives and executives through whom democratic control is exerted and, by implication, in the integrity of the contemporary democratic process itself.[69] Rather than place responsibility for the direction of policing - even at the level of general policy - in the hands of venal and self-interested party politicians, Marshall believed that the liberal democrat's best hope of upholding civil liberties and preserving impartial justice lay in the

creation of a body of conventional rules restricting politicians' scope for intervention in police operations (Marshall, 1986: 144).[70]

Lustgarten (1986: 166-70) has subjected this position to a characteristically coruscating assault. He argues that Marshall both overstates the deterioration in ethical standards in British politics and administration and fails to acknowledge that the police are no less prone to venality and corruption than other public servants. Moreover, he suggests that there is no logical reason why Marshall's faith in the 'enlightened despotism' of professional administrators should be limited to policing: why, Lustgarten asks, not simply jettison the democratic process across the whole field of public administration? But, devastating as Lustgarten's criticisms of the empirical underpinnings and political implications of his argument are, Marshall is surely right to point to some of the difficulties implicit in local democratic control of policing. In particular heed must be paid to his warnings about the dangers of uncontrolled majoritarianism and the risk of sharply contrasting patterns of law enforcement emerging from the different policy preferences of local politicians (Marshall, 1986: 145).

Oliver: equity, integrity and expertise

A similar vein of cynicism about politicians and the operations of the normal democratic process - at least at local level - is evident in the work of the second author I want to consider here, Ian Oliver (1987). Writing from his (then) vantage point as a serving chief constable (of the Central Scotland Police) and a former senior officer in the Metropolitan Police, Oliver shared Marshall's enthusiasm for the operational independence of the police from local 'party political' interference and suggested that it ought to be protected 'as part of the unwritten constitution which is capable of amendment only in Parliament' (Oliver, 1987: 237). In essence Oliver's case for maintaining the constitutional guarantees on police independence rested on the need for equity, integrity and expertise in the field of law enforcement and order maintenance. In his view it was the police, and the

police alone, who display these qualities. To place them under the control of 'any person or group that could be perceived to be party politically motivated' would compromise the principle of equality under the law, and expose the process of law enforcement to manipulation by politicians seeking electoral advantage. Furthermore, decision-making in the area of law enforcement is too delicate and complex a matter to be entrusted to those lacking the 'considerable amount of training and understanding ... necessary for it to be exercised properly and fairly'.

The weaknesses in this position are similar to those in Marshall's. The fairness, integrity and expertise of police officers are taken as read - as is the immanent partiality and corruption of local politicians. Quantities of evidence of police inequity, venality and incompetence are blithely ignored. His strictures on the sectarian motivation of local politicians are not extended to national figures such as the Home Secretary whose relationship with the Metropolitan Police is treated as constitutionally unproblematic - though regrettably lacking in unambiguous statutory definition (Oliver, 1987: 173 –80). When it comes to notions of legal universalism Oliver, like Marshall, is correct to identify a problem for proponents of local 'democratic accountability' to address, but wrong to imply that police independence provides any, let alone the best, means of upholding the rule of law principle of equal treatment. Again volumes of research gainsay any suggestion of consistency over place and time in the 'independent' exercise of police discretion.[71]

Waddington and the impermeability of police practice

The third academic defence of constabulary independence is in many respects the most interesting. Though his main constitutional argument against democratic governance of the police - the quasi-judicial nature of police decision-making - has been effectively demolished first by the House of Lords in *Holgate-Mohammed v Duke* and then by Lustgarten (1986: 163-4), Waddington's (1984a) approach is more sociologically sophisticated than either Marshall's or Oliver's.[72]

His (1984: 35) first argument is that research on the police from a 'sub-cultural perspective' has demonstrated the

'... extent to which any policy emanating from senior officer levels is mediated, even subverted, by ordinary police officers who must actually perform much of their work beyond direct supervision.'

Therefore simply establishing some kind of 'democratic control' over the police organisation will not necessarily affect rank and file practice to any significant extent. Moreover, Waddington (1984a: 34) suggests, the demand-led, incident-driven, nature of much police work would leave even the most industrious and determined 'police committee' with little room for manoeuvre in readjusting police priorities and altering patrol officers' 'pattern of contact' with the public. Citing evidence of rank and file subversion of organisational policies is of course a dangerous path for a partisan of police autonomy to take since it suggests that operational police officers are not so much independent as out of control. Nor would one necessarily wish to endorse Waddington's solutions to any perceived lack of accountability in the oversight of policing.[73] But both points are well made nonetheless. Simply expanding the role of locally elected representatives in determining policing policies may well not be sufficient to effect observable changes in police practice in the face of a multitude of other more immediate influences on rank and file behaviour while the scope for altering work patterns dictated to a large degree by spontaneous demand from the public may indeed be severely circumscribed. As we shall see in the chapters that follow these are serious issues for all those interested in changing operational practice whether they be advocates of local 'democratic accountability' or proponents of 'community' or 'problem-oriented' policing.

Summary

Arguments in favour of the constitutional *status quo* advanced by its parliamentary, academic and professional supporters can thus be seen to operate at several levels. At their most rarefied, they were founded upon the basic liberal democratic principle of equality before the law which demands that the impartial administration of a set of universally applicable legal rules may safely be entrusted only to a body of highly trained and disinterested professionals isolated from the potentially venal and self-interested (if not actually corrupt) influence of local politicians. Nor, according to Waddington's sociological critique, did the empowerment of an elected 'police committee' represent a viable means of achieving the transformation of police practice sought by its supporters. Such general arguments of principle and practicality in favour of constabulary independence were intended to be of general application. Yet the special position of the Metropolitan Police and its relationship with an elected 'party politician', the Home Secretary, tended to be treated as unproblematic - often it seems on the dubious grounds that, as a national figure, he could be trusted to transcend the sectional interests so perversely represented by local politicians. Finally, for Home Office ministers and Conservative backbenchers called upon to defend this relationship politically, the sheer size of the metropolis, its status as a capital city, and the national functions undertaken by its vast police force, all provided sound enough reasons for retaining the Home Secretary as police authority for the Metropolitan Police, and a direct link between police and parliament.

New dimensions: developments in accountability 1918-1991

Some critical comments of the theoretical implications and empirical weaknesses of these arguments have already been made and my next task is to look in more detail at the various assaults launched on the constitutional *status quo* by its political and academic opponents. But before turning to these critiques I want to

stop for a moment to examine the accountability of the Metropolitan Police as it developed from the end of the First World War to the dawn of the 1990s and the era of sector policing in terms of the four dimensions of police accountability identified in the previous chapter.

Content

Characterisations of the kind of actions and decisions for which the Metropolitan Police should be legally and, more controversially, politically accountable have changed subtly but perceptibly over the years since the end of the First World War. A succession of ever more opaque, confusing and contradictory distinctions between 'administration', 'executive action' and 'law enforcement' were deployed by Home Office ministers (and retired civil servants like Sir Frank Newsam) and the Commissioner to mark out the boundaries between their respective areas of responsibility. The Willink Royal Commission signally failed to clarify the position and, by the late 1970s an equally imprecise and unsatisfactory distinction between 'policy' and 'operations' was in regular use by ministers reporting to Parliament. Meanwhile, the judges were engaged in the protracted process of evolving a 'doctrine of constabulary independence' which, in Lord Denning MR's version, purported to leave the Commissioner free from political interference by the Home Secretary (or, *a fortiori*, any locally elected body) in discharging his 'law enforcement' duties subject only to the power of the courts to intervene where a 'policy decision' could be deemed a total dereliction of duty.

Apart from being hopelessly imprecise the various administrative and judicial attempts to delineate areas of exclusive and/or shared responsibility for the Commissioner and the Home Secretary, also fail to acknowledge the inter-dependence of 'administration', 'executive action', law enforcement', 'policy' and 'operations' - however those terms might be defined. Recalling that the power to use legitimate coercive force is the core content of police accountability

provides some much-needed balm for this rash of obfuscation. The first point to make is that, just because situationally contingent decisions to apply coercive force (in the form of stop, search, arrest or detention) are made by individual officers acting in particular cases, it does not follow that the pattern or social distribution of coercive force (and protection) is not influenced by decisions of a very different kind about how resources should be deployed and laws enforced. On the contrary, the social distribution of the use of force is determined at various levels within the police organisation and the process by which that determination is made cannot be broken down into hermetically sealed sub-processes involving either 'administrative' or 'executive' action, or 'policy' or 'operational' decisions, before being subjected to different regimes of external political accountability.

But this is not to say that police decision-making is a 'seamless web' either. Although the core content of decisions taken about the deployment of officers and the interpretation and enforcement of the law affect the social distribution of coercion and protection, they are taken in a very different context to those street level decisions that the courts have been at such pains to protect from political interference. The true justification for excluding this second type of decision from the control of political authorities and senior officers alike is, as Lawton LJ and Lustgarten have noted, to do with the factual conditions precedent for the lawful exercise of coercive powers, and not the characterisation of the decision to use them as amounting to 'law enforcement' rather than 'administration' or 'operations' rather than 'policy'. If the aim is to make the police accountable for the power to use coercive force delegated to them by 'the people', this analysis suggests that different mechanisms of accountability may indeed have to be used at the various levels of decision-making. But it also implies that those levels must be identified in a way that acknowledges their interdependence and identifies decisions that only the police are in a position to take with more precision than the crude distinction between 'policy' and 'operations' provides.

But these criticisms of how the law and administrative practice of police governance developed in the metropolis after 1918 should not obscure the important fact that, even for those seeking to defend constabulary independence, the centrality of coercive powers to the police function was never an issue. Sir Joseph Simpson's definition of the 'executive functions' of the police officer in terms of her arrests, the persistent use of the term 'law enforcement' to denote that area of police work which should not be subject to any political authority, and the distancing of Home Office ministers and their officials from 'operational' matters involving the use of force against demonstrators, illustrate the naturalness of this association between the police and the adversarial use of coercive force. What was misunderstood or misrepresented by those responsible for operating and defending the existing constitutional dispensation was not the essentially coercive content of police work and police accountability, but the significance of decisions taken in a wide variety of contexts, and by officers at all levels of the organisational hierarchy, to its social distribution. It was not until the 1980s and the rise of 'community policing' that the focus of accountability on the coercive content of policing began to blur as the organisation's mandate broadened into the provision of a more diffuse range of 'services'.[74]

Direction

Both the general and immediate direction of Metropolitan Police accountability changed little between 1918 and 1989. The chain of accountability relations linking police and people via Commissioner, Home Secretary, and Parliament was maintained. Periodic reforms of local government in London, including the creation and abolition of the Greater London Council, left the basic structure of governance put in place by the Metropolitan Police Act 1829 intact.[75] Only three developments are worthy of note here. The first of these was the eventual extension of the franchise to all adult men and women and the consequent reconstitution of the *demos* as something more than a wealthy gentlemen's club.[76]

If nothing else was achieved during this period, the introduction of universal suffrage alone represented an important advance in the (liberal) democratisation of policing.

Much less significant in the overall scheme of things was the attempt by the then Home Secretary, William Whitelaw, to take some of the heat out of the debate about accountability which raged in the early 1980s by suggesting that the critical relationship was not between him or his department and the Commissioner on the one hand and Parliament on the other, but between the police and the House of Commons. By thus emphasising the special relationship between the Metropolitan Police and the nation's elected representatives the Home Secretary sought to trump demands for the greater involvement of local politicians in London's policing. The third development, police/community consultation, was also a product of the 1980s and represented the formal establishment under s. 106 of the Police and Criminal Evidence Act 1984 of an accountability relation between the police and 'community representatives' at borough level. Further comment on these latter two developments will be reserved for the section on accountability mechanisms at the end of this chapter.

Mode

The distinction between 'administration', 'executive action' and 'law enforcement' or 'policy' and 'operations' also complicates the task of discerning the mode of accountability prevailing between the Commissioner and Home Secretary. The growing eagerness of Home Office ministers to talk up the autonomy of the police is another source of difficulty. To what extent did public assertions of independence reflect substantive changes in administrative practice? As a result, the general remarks made here can only be provisional and probably reflect the position pertaining in the 1970s and 1980s more accurately than that of the 1920s.

For the purposes of this discussion let us accept the arbitrary distinction made between different categories of decision and kinds of action and take 'law enforcement' or 'operations' (arrests and so forth) as denoting one end of a continuum of police decision-making and 'administration' or 'policy' (such as financial and establishment matters) as the other. All the evidence suggests that, as far as matters of 'administration' or policy' have been at issue, accountability to the Home Secretary may occasionally have slipped into directive mode but, even on questions of 'high policy' and strategic planning, it seems unlikely that late 20th century Home Secretaries and their officials can have taken as close an interest in the Metropolitan Police as Peel and his immediate successors did more than a century earlier.[77] In so far as a hierarchical relationship between Commissioner and Home Secretary was acknowledged in the area of 'administration' or 'policy', the iron first of Home Office 'direction' seems to have remained discreetly cloaked in the velvet glove of 'consultation' and 'negotiation'.

At the opposite ('law enforcement/operations') end of the continuum, however, the steward mode appears to have dominated in recent years. But - if for no other reason than the need to answer parliamentary questions - Home Office ministers have had to be kept informed about operational matters deemed to be of major public interest. In most cases this would have involved the Commissioner responding to *ex post facto* requests for information. Yet, such was the flexibility of administrative practice, astute Commissioners would doubtless have taken the precaution of advising the Home Office of any controversial measures in advance, and been guided by the department's reaction before proceeding. Official statements by both police and politicians suggest that, in the ordinary course of events, the Home Secretary rarely issued specific 'directions' to the Commissioner, particularly in the area of 'law enforcement' or 'operations'. Moreover, if Lord Denning's dicta in *Blackburn* are accepted as definitive, a

Commissioner would have been free to ignore any such directions in any case since he alone is responsible for enforcing the law. In the absence of any enthusiasm on the part of ministers to issue 'directions' as to the conduct of police operations, Mr Douglas Hogg's description of the background to the policing of the South African House demonstrations in 1987 is probably fairly typical of the balance struck between pre-emptive consultations and *ex post facto* accounting in regard to 'operations'.[78] As for the Home Secretary's relationship with Parliament, a clearer example of accountability in steward mode - with Members seeking, *ex post facto*, information about, and explanations of, decisions taken by the police and/or Home Office ministers – would be hard to find.

Mechanism

Lord Denning MR's judgement in *Blackburn* contains, as we have seen, the most authoritative statement on the legal accountability of the Commissioner in discharging his duty to enforce the law. Though Marshall (1978: 59; 1986: 141) amongst others has cogently argued that his and Salmon LJ's remarks on the point are strictly *obiter*, Lustgarten's (1986: 67) and Reiner's (1995:83) view that they have become definitive is amply borne out by the recent decisions in *International Trader's Ferry Ltd.. Blackburn* and the cases involving provincial chief constables that followed it up to and including *ITF* graphically illustrate the extremely limited scope of the legal accountability provided for by Lord Denning when, in liberating the Commissioner and his fellow chief officers from the control of ministers and police authorities, he proclaimed them 'answerable to law and to law alone'.

We have also seen how the political mechanism of accountability in general, and the accountability of the Commissioner to the Home Secretary in particular, continued to operate throughout the period largely on the basis of mutual trust and consensus. The combined weight of answers to parliamentary questions ministerial statements, evidence to the 1962 Royal Commission and the

observations of eminent insiders provides us with some important insights into the workings of this relationship and the mix of advice, consultations, discussions, briefings, reports, and guidance that occupied the two bureaucracies - police and Home Office - on a daily basis. Yet the relationship remained profoundly enigmatic. If transparency is a virtue in the conduct of democratic governance, the political accountability of the Metropolitan Police through its Commissioner to the Home Secretary stands condemned. By 1991, over one hundred and sixty years of administrative practice and judicial interpretation had done nothing to resolve the ambiguities evident in the Metropolitan Police Act 1829. In consequence, the most that can be said about the functioning of the relationship between Commissioner and Home Secretary between 1918 and 1991 is that it continued to function, adapting itself to changed political realities and, throughout the 1980s, to a sustained assault on its suitability as a mechanism for democratic oversight of London's policing.

The other main institutional player in the political mechanism was, of course, Parliament and we have seen how its significance was promoted by Home Secretary William Whitelaw in the heat of the accountability debate of the early 1980s. But to what extent was Parliament capable, through the Home Secretary and the Commissioner, of effectively calling the Metropolitan Police to account? In answering this question, it has to be conceded at the outset that the series of debates on 'policing in the metropolis' initiated by Mr Whitelaw himself in 1983, did provide Members of Parliament with an unprecedented opportunity to discuss the way in which the Commissioner and the Home Secretary discharged their responsibilities.[79] But, having said that, it is doubtful whether they can have had much impact on policing policies given that they were generally held on Fridays and attended (despite the significant 'national functions' of the Metropolitan Police) only by a relatively modest number of members representing London constituencies. Moreover, though the Home Secretary himself tended to open the

debate, it was also common practice for him to leave the House long before it concluded – invariably without a vote being taken. Outside these set piece debates answers to parliamentary questions continued to be the most important source of information about 'operational matters of major public interest' despite ever more vehement ministerial denials of responsibility for such matters. Once again however, it is doubtful whether the concerns of MPs reflected in parliamentary questions, and any public debate that resulted from ministerial replies, had a significant impact on policing policies and practice. Much the same can also be said of the extra-parliamentary meetings which took place at various times in the 1980s between the Home Secretary, the Commissioner and the Receiver of the Metropolitan Police on the one hand; and, on the other, MPs representing London constituencies, leading members of the various London local government associations such as the Association of London Authorities (ALA) and the London Boroughs Association (LBA) and representatives of local authorities precepted by the Metropolitan Police.

Such doubts about the effectiveness of Parliament in holding Home Secretaries to account for their conduct as the police authority for London are reinforced if one considers the relationship in the wider context of the constitutional convention of ministerial responsibility. Since its heyday towards the middle of the 19th century Parliament's powers to hold ministers to account have been on the wane (Woodhouse, 1994: 14). Large parliamentary majorities, stricter whipping by government and opposition parties, and the exponential growth of government and its associated bureaucracy have all contributed to the growing dominance of the executive, while ministers themselves grapple with vast departmental briefs without adequate specialist support (Oliver, 1991; Woodhouse, 1994). As a consequence, Woodhouse (1994: 298) argues, it has become increasingly difficult to maintain that the doctrine of ministerial responsibility at the heart of the accountability relation between Home Secretary and Parliament does more than

provide a 'facade behind which the government can hide, safe in the knowledge that Parliament lacks the constitutional integrity to offer a sustained and effective challenge'.[80]

The principal developments in the remaining, public and professional-managerial, mechanisms of accountability will be traced in subsequent chapters when I consider the evolution of community consultation, consumerism and managerialism as aspects of police accountability and assess their respective contributions to sector policing.

Summary

The broad thrust of the analysis presented here has been that by the 1980s when the controversy about the accountability of the Metropolitan Police was at its height, the core content of that accountability, the legitimate use of coercive force, had not been seriously questioned. But it had become thoroughly obscured by a welter of arbitrary distinctions between 'administration', 'executive action', law enforcement', 'policy' and 'operations'. Rhetorically at least, the mode of operation of the main political mechanism of accountability through the Commissioner to the Home Secretary and Parliament, and thence to the 'people' of the nation state, largely depended on the flexible application of these distinctions. In practice, the steward mode had come to dominate with all thought of direction dismissed as inappropriate to the operation of a highly ambiguous statutory regime by mutual consent in all but the most extreme situations. For their part, the courts had sought to protect the police from political direction in all matters of 'law enforcement' from the use of powers of arrest in individual cases to the geographical and functional distribution of police personnel. In place of 'political direction', the judges had offered the possibility of 'answerability to the law' only to prove themselves unwilling to interfere in chief officers' discretion whenever they were called upon to do so. Thus by the early 1990s the

Metropolitan Police enjoyed an historically unprecedented degree of autonomy from legal and political control.

Notes

[1] The title of Commissioner was formally given to the justices (Charles Rowan and Richard Mayne) some ten years later (s. 4 Metropolitan Police Act 1839). The number of commissioners was reduced from two to one under ss. 1 and 5 Metropolitan Police Act 1856. Since 1973 the Commissioner and Assistant Commissioners have ceased to be sworn in as justices of the peace (s. 1(9) Administration of Justice Act 1973). See Parker (1980) and Oliver (1987) for further details of the technicalities, and below for a brief discussion of the legal implications of the Commissioner's status as a justice. The Police Act 1964 s. 62 and Sch. 8 (preserved by s. 103 Sch. 9 Police Act 1996) provide that the Commissioner, though not a 'chief constable', is nonetheless a chief officer of police for the purposes of the Act.

[2] References to justices in the Act have effect as references to the Commissioner by virtue of the Administration of Justice Act 1973, s. 5, Sch. 1, Pt. IV, para. 10(2). The Secretary of State may also make regulations to the government, administration and conditions of service of the police under the Police Act 1996 s. 50-53.

[3] See Rawlings (1995) for a more general argument against the tendency in police historiography to attribute greater significance to 1829 and the foundation of the 'new police' than the historical record appears to justify.

[4] See Critchley (1967: 55), Plehwe (1974: 327–8), Ascoli (1979: 104 –6) and Emsley (1996: 29).

[5] The slightly more detailed account of the original incident given by Ascoli (1979: 127–8) has Home Secretary Palmerston 'instructing' Mayne to ban a protest meeting against a Bill on Sunday Trading. Attempts to enforce the ban led to violent confrontations between the police and some 40,000 demonstrators. The press accused Mayne of high-handedness but Ascoli, loyal as ever to the Metropolitan Police, claims that the inquiry 'established beyond argument that the decision [to ban the demonstration] was that of the Home Secretary'.

[6] See Plehwe (1974: 326–7), Pellew (1982: 47–50), Lustgarten (1986: 35-6) and Emsley (1996: 67) for accounts of the confrontation between Warren and the Home Office.

[7] Lustgarten (1976: 35) notes, however, that even the imperious Warren felt that something as ostensibly 'operational' as offering a reward (for information leading to the 'Jack the Ripper' murders in Whitechapel) required Home Office approval.

[8] Parl. Deb. Vol. 330, 3rd series, col. 1162-3, quoted by Plehwe (1974: 327).

[9] Emsley (1996: 85) also records that, as early as 1869, delegates from the London vestries had petitioned the Home Secretary about entrusting a degree of control over the

Metropolitan Police to a 'representative board' modelled on the borough watch committees springing up outside London.

[10] The source for both Lustgarten's quotation and Emsley's assessment of the Conservative case for resisting local control of the Metropolitan Police is an article by H. Evans in *Contemporary Review*, LV (1889), 445-61. I need hardly add that the Conservatives won the day, thus 'saving' the Metropolitan Police from local political control for more than a century.

[11] It was not until 1855 that a Metropolitan Board of Works was set up to take over some responsibility for matters such as drainage, sewerage, cleansing and street lighting. As we have already seen, a London Country Council along the lines of authorities elsewhere in the country was not established until the Local Government Act 1888. Something resembling the modern structure of local government in the capital was completed only in 1899 with the creation of 28 metropolitan boroughs by the London Government Act of that year. See generally Ruck and Rhodes (1970: 12-20).

[12] Skyrme (1991: 76) classifies the duties of the 18th and early 19th century justice under no fewer than nine headings. These ranged from their judicial duties at Quarter Sessions through – for a small minority of metropolitan justices – police administration to responsibility for highways, licensing, enforcing the game laws, and dealing with vagrancy and the poor.

[13] Unfortunately, as Ascoli (1979: 94) observes, the 1829 Act was unclear about the status and authority of the new justices in relation to the other magistrates and parochial authorities that continued to have responsibility for administrative functions overlapping those of the 'new police'.

[14] [1968] 2QB 118. The authorities relied on in *Blackburn, Fisher v. Oldham Corporation* [1930] 2KB 364 and *Attorney-General for New South Wales v. Perpetual Trustee Co.* [1955] AC 457, did not directly concern the Metropolitan Police.

[15] (1781) 5 Car. & P. 282; (1832) 3 B. & Ad. 947.

[16] (1888) Cox CC 420, 422. The prosecution of Mr Graham and his co-accused arose out of the disturbances in Trafalgar Square on November 1887 which the Commissioner, Warren, was widely criticised for mishandling. The judge's comments on Warren's liability for any neglect of duty were therefore strictly *obiter*. See Smith (1998) for a discussion of the much more extensive case law concerning neglect of duty by individual police officers and *R v Dytham* [1979] QB 722 for a recent example of a police officer being convicted of the common law offence of misconduct in a public office.

[17] How long the near universal excoriation of the police persisted is controversial. Reiner's (1992: 49) 'neo-Reithian' account dates their acquisition of legitimacy in the eyes of the respectable working class from the 1870s. But see Cohen (1979) for an example of how pockets of disorganised working class resistance persisted well into the 20th century.

[18] The nearest late 20th century equivalent is the notion of 'organic' accountability discussed in Chapters 6 and 7.

[19] [1916] 2 KB 206. The short facts of the case were that the Chief Constable of Glamorgan had asked the plaintiff coal companies to house and feed police officers from other forces supplied to him under mutual aid agreements purportedly entered into by him on behalf of the defendant Standing Joint Committee. The Committee subsequently refused to reimburse the plaintiffs for the cost of billeting the extra officers. It was argued on their behalf that they had not authorised the Chief Constable to enter into aid agreements with the supplying police forces and were therefore not liable to the plaintiffs for the cost of accommodating the officers supplied.

[20] The greater control exercised by the Home Office over the Metropolitan Police was still acknowledged more than 40 years after the *Glamorgan* case by the Willink Royal Commission on the Police (1962: para. 224; and Minutes of Evidence: 4096 and 4101).

[21] [1930] 2 KB 364; [1955] AC 457

[22] *Ibid.* at 377-8. By the Police Act 1964 s. 48(1) (now s. 88 Police Act 1996) chief constables were made liable as joint tortfeasors for the torts of their officers. Damages were made payable out of the police fund (s. 48(2) Police Act 1964, now s. 88(2) Police Act 1996).

[23] [1930] 2 KB 364 at 371 and see *Mackally's Case* (1611) Co. Rep. Pt. IX 65b, 68b; *Coomber v. Justices of Berkshire* (1883) 9 App. Cas. 61, 67. He also referred to *Stanbury v Exeter Corporation* [1905] 2 KB 838 (a case about the status of an inspector of sheep's diseases where the court had drawn an analogy with the police) and the Australian case of *Enever v The King* (1906) 3 CLR 969 where it was held that a constable acting as a peace officer exercised an original authority to which the general law of agency had no application. Lustgarten (1986: 56-61), Marshall (1965: 23-4, 37-8) and Smith (1988: 436) all provide rigorous critiques of McCardie J's reasoning, his use of the relevant case law, and apparent ignorance of a key statutory provision requiring constables to obey the orders of the Watch Committee (s. 7 County and Borough Police Act 1856).

[24] [1955] AC 457.

[25] *Ibid.* at 489-90, per Viscount Simonds. The case concerned a claim for compensation for the loss of services and other expenses incurred by the Attorney-General as a result of injuries caused to a police officer by one of the respondents' negligent driving.

[26] *Ibid.* at 479

[27] The heading is borrowed from Lustgarten (1986: 62).

[28] [1968] 2 QB 118

[29] *Ibid.* at 135-6

[30] [1982] QB 458 at 474

[31] This is the point referred to briefly in the previous chapter's discussion of legal mechanisms of accountability.

[32] [1968] 2 QB 118 at 136

[33] *Ibid.* at 138.

[34] *Ibid.* at 144. The third judge, Edmund Davies LJ expressed no clear view.

[35] *Ibid.* at 139.

[36] *R v Commissioner of Police of the Metropolis Ex parte Blackburn (No. 3)* [1973] QB 241.

[37] *Ibid.* at 254. Phillimore and Roskill LJJ were equally reluctant, in the latter's words, to 'presume to tell [the Commissioner] how to conduct the affairs of the Metropolitan Police'.

[38] *R v Commissioner of Police of the Metropolis Ex parte Blackburn (No.4).* The Times, March 7, 1980.

[39] [1982] QB 458, at 472 per Lord Denning MR.

[40] The Times, 1 November 1986. Mr Levey applied for judicial review of the Chief Constable's alleged adoption of a policy for policing the Toxteth area of Liverpool whereby officers not posted to a special 'Toxteth section' were prohibited from entering the area without prior authorisation.

[41] [1995] 4 All ER 365 and [1997] 2 All ER 65.

[42] [1948] 1 KB 223. In the alternative the applicants argued that the decision amounted to measures having an equivalent effect to quantitative restrictions on exports between member states contrary to Article 34 of the EC Treaty. For detailed comment on this aspect of the decision see Barnard and Hare (1997) and, more generally, Dixon (1995) and Dixon and Smith (1997; 1998)

[43] [1997] 2 All ER 65 at 78 per Kennedy LJ.

[44] HC Deb, Vol. 325, 5th series, col 1359 quoted by Plehwe (1974: 333).

[45] HC Deb, Vol 314, 5th series, col 1620-1 quoted by Plehwe *loc. cit.*

[46] See the references listed by Plehwe, *loc. cit.*

[47] Royal Commission on the Police (1962: 1153, Minutes of Evidence, para. 10)

[48] *Ibid.*: 1181, Minutes of Oral Evidence, para. 4180.

[49] *Ibid.*: 1153, Minutes of Evidence, para. 10.

[50] *Ibid:*, 1173-4, Minutes of Oral Evidence paras. 4089-4100.

[51] *Ibid.:*Home Office Memorandum of Evidence: 6, para. 50. This lack of control over the actions of individual officers has not deterred successive Home Secretaries from answering parliamentary questions about such matters (Plehwe, 1974: 333).

[52] The only substantive recommendation was that provision be made for confidential consultation between the Receiver of the Metropolitan Police and the local authorities of the Metropolitan Police District before the force's financial estimates were presented to Parliament (*op. cit.*: 70, 144, para. 223 and recommendation 37).

[53] *Loc. cit.*

[54] A footnote to this passage refers to the written evidence submitted by the Commissioner which, as has been pointed out above, appeared to exclude the possibility of control in 'executive matters'. Since it is unlikely that the Commission can have

intended to refer to Sir Joseph's evidence in this context only to contradict it, one can only assume that any conflict stems, once again, from ambiguities in the word 'executive'.

[55] Parker (1980: 329), a former receiver of the Metropolitan Police who served with Mark, paints a similar picture: 'Home Secretaries have been prepared to give Parliament information over a very wide range of activities, but they have been at pains, when necessary, to make clear the limitations placed on their responsibilities and that operational matters are for the Commissioner. Nevertheless, in practice, matters of great public and political interest, such as public order and community relations, are necessarily the subject of discussion between the Home Secretary or his senior officers and the Commissioner and his senior officers, and there is a dialogue which is of value to both sides'.

[56] HC Deb, Vol 105, 6th series, cols 25-6.

[57] See Chapter 5 for critical discussion of the LSPUs (1987) interpretation of Mr Hogg's remarks and their implications for an elected police authority for London.

[58] The Minister also revealed that approximately 2,000 orders per annum (or more than 5 a day) were issued during the years 1979-86.

[59] HC Deb, Vol 119, 6th series, cols 211-2.

[60] *Ibid.*: Col 212.

[61] HC Deb, Vol 119, 6th series, cols 614.

[62] HC Deb, Vol 119, 6th series, cols 29.

[63] *Ibid, loc cit.* According to Mr Whitelaw the burden of 'capital city' work included protecting foreign embassies, the seat of Parliament and government, policing national demonstrations and London position as a focus of major international crime.

[64] HC Deb, Vol 38, 6th series, col 31.

[65] *Ibid.*: Col 36.

[66] *Ibid.*: Col 38.

[67] *Ibid.*: Col 38-9.

[68] In addition to the scholarly writings discussed here see also Regan (1991) for some entertaining political knockabout at the expense of the 'new Left' in local government and the meagre successes of 'police monitoring'.

[69] In Marshall's view, such a convention would - though not legally binding – have the effect of modifying the law by making the undesirability of police committees or government ministers 'issuing instructions' in matters of law enforcement explicit in administrative practice.

[70] Lustgarten (1986: 168) notes that, in his original 1978 formulation, Marshall put 'chief constables' forward in place of the more impersonal normative structure referred to here and observes that they amount to the same thing since the practical effect of the

conventions Marshall suggests would be to leave wide discretionary powers in the hands of chief officers (Marshall, 1978: 61; 1986: 144).

[71] Foster (1989) provides a particularly striking example of how policing styles and law enforcement practices can vary markedly between two apparently similar inner city police areas.

[72] [1984] AC 437 where (at p. 443) Lord Diplock characterised a police officer's power of arrest under s. 2(4) of the Criminal Law Act 1967 (cf. S. 25 Police and Criminal Evidence Act 1984) as 'an *executive discretion* expressly conferred by statute upon a public officer' (emphasis added).

[73] Considerable reliance is placed on a return to the highest standards of personal and professional conduct backed by a rigorous system of internal discipline and a Standing Judicial Commission on police practice.

[74] As will become clear in subsequent chapters (if it is not already) I do not believe that 'law enforcement' is a useful way of characterising the police function. Nor do I want to argue that the police routinely apply coercive force to achieve their ends. All I am trying to suggest here is that even as the accountability of the Metropolitan Police was being reinvented in other ways, there was – at least until the early 1980s – little sign that those resisting its 'democratisation' believed policing to be about much more than fighting crime and maintaining public order – precisely the spheres in which adversarial contact with the public and the use of coercive force are most likely to occur.

[75] The most important reforms of the system established by the Local Government Act 1888 took place in 1963-5 when 87 local and regional authorities including the London County Council were replaced by the Greater London Council, the Inner London Education Authority and a total of 32 London boroughs. The GLC was then abolished in March 1986.

[76] The Representation of the People Act 1918 ended the complex system of property qualifications that restricted the adult male franchise. The Act also gave the vote to certain categories of women over the age of 30. However, it was not until the Representation of the People (Equal Franchise) Act of 1928 that the franchise was extended to all women over the age of 21. The current minimum voting age of 18 was introduced by the Representation of the People Act 1969. See Rawlings (1988: 73-7) for a concise historical account of the evolution of the parliamentary franchise.

[77] The then Home Secretary, William Whitelaw's, request that the incoming Commissioner, Sir Kenneth Newman, provide him with a preliminary report outlining his plans for the Metropolitan Police provide one example of Home Office intervention at the most rarefied strategic level. When Mr Whitelaw eventually came to present the proposals to Parliament he said that they had been 'thoroughly discussed' with the Commissioner and announced that he had asked Sir Kenneth to give particular attention to 'four main areas' in drawing up his report (HC Deb, Vol 38, 6th series, col 23). As a matter of interest, these areas were 'the present high level of crime, including street crime and burglary, with an emphasis on crime prevention in conjunction with other agencies'; 'the maintenance of public order'; 'community involvement and the need for good relations with the ethnic minorities'; and the 'organisation and structure of the force' with a view to achieving a degree of decentralisation'.

[78] The possibility, even desirability, of close political involvement in certain highly sensitive operations cannot be excluded as Oliver (1987: 177) concedes. He argues, for example, that 'operational responsibilities' might be shared between a Commissioner and a Home Secretary if a member of the Royal Family or the ambassador of an important ally were kidnapped. He cites the former Commissioner, Sir David McNee's (1983: 146-67) experience of handling the Iranian Embassy siege in 1980 as a precedent for such a departure from normal practice. However, even in situations of such extreme political and diplomatic delicacy he maintains that the ultimate responsibility for preserving law and order must remain with the Commissioner (Oliver, 1987: 178).

[79] The occasion for the more or less annual debates that took place in the 1980s tended to be the publication of the Commissioner's Annual Report. The fact that Mr Whitelaw initiated, and his Conservative successors continued, with the debates and the promotion of Parliament as the only legitimate democratically elected forum for discussion on London's policing, may not have been entirely unconnected with their eagerness to resist the demand for local representative bodies.

[80] In terms of the five levels at which Woodhouse believes the convention currently operates, Home Office ministers have tended to accept no more than what she terms a 'reporting' or 'informatory' responsibility in respect of Metropolitan Police 'operations'. Answers to Parliamentary questions - for example on the South Africa House demonstrations referred to earlier - routinely begin with the stock phrase, 'I understand from the Commissioner that ...'. On other matters, a higher level of 'explanatory' responsibility has been accepted with Home Office ministers providing an account of their own or their department's approach to broader questions of 'policy', for example in the course of debates on the Commissioner's annual report. Instances where the highest levels of 'amendatory' or 'sacrificial' responsibility have been assumed by the Home Secretary are rare indeed – a notable recent example of the former being the appointment, under section 32 of the Police Act 1964, of Lord Scarman to inquire into the policing of Brixton following the disturbances of April 1981. The same Home Secretary's survival in the face of press (but not Opposition) demands for his resignation when an intruder was found in the Queen's bedroom at Buckingham Palace in 1982 illustrates the degree to which the 'sacrificial' accountability expected of 19th century ministers was no longer thought relevant to the conduct of their late 20th century counterparts.

4

The State, the Police and Coercive Force: Police Accountability and its Critics in the 1980s

Criticism of the constitutional position of the police in the 1980s came from commentators with quite different theoretical and political perspectives. The aim here is to consider the broad thrust of the reforms to 'police accountability' suggested by these critics of the *status quo,* and to look at the theoretical underpinnings of their proposals. For the sake of clarity, this chapter analyses four main theoretical perspectives that developed in the 1980s: liberal democratic constitutionalism; left realism; critical interventionism; and socialist justice. These labels are slightly crude and some simplification of what are often sophisticated positions will be necessary in the exposition and analysis that follows.[1]

By no means all of the critical literature under these four headings deals with the unique constitutional position of the Metropolitan Police in any depth. But detailed proposals for the reform of police governance in London were put forward in the 1980s by the generation of municipal socialists that took control of the Greater London Council and several London boroughs in the early 1980s. While the *minutiae* of the structure and composition of the new police authorities advocated by the GLC (1983) and the alternative schemes drawn up by the London Strategic Policy Committee (LSPC) (LSPU, 1987) and the Association of London Authorities (ALA) are of no more than passing historical interest, the

thinking behind them will be examined with some care in the next chapter.[2]
Chapter 5 also brings the discussion down to a more local level and gives a brief
account of how the debate played itself out in the London Borough of Islington
through the deliberations of the Council Sub-Committee responsible for policing
issues. Finally, the competing critiques and proposals presented in the two
chapters will be reviewed in a concluding discussion making use of the four
dimensions of accountability identified earlier.

Liberal democratic constitutionalism

The paradigm that I will call liberal democratic constitutionalism makes a
convenient starting point for an analysis of the 1980s' critical literature on police
accountability. Its two main exponents - academic lawyers both - were prepared
to take on the apologists for the *status quo* on their own terms by arguing that the
existing arrangements for police governance were incompatible not with some
alternative political philosophy opposed to the precepts of liberalism and wedded
to a very different conception of popular control, but with the ideological and
constitutional underpinnings of liberal democracy itself. Thus Laurence
Lustgarten (1986: 1) begins his book on police governance by remarking on the
prominence of conceptions of 'liberty, democracy, social order and the rule of law'
in debates on the constitutional role of the police in Britain. Having surveyed the
critical position occupied by the police in an adversarial system of criminal justice
he goes on to conclude that:

> They enjoy a unique dominance within the institutional structure of law
> enforcement. In a liberal society, this degree of coercive authority *prima
> facie* calls for vigilant external control. Yet the police in England are
> subject to fewer constitutional, legal and political restraints than in
> virtually any other Western democracy. This paradox is the signal
> feature of the problem of police governance. (Lustgarten, 1986: 9)

Uglow and liberalism

Steve Uglow (1988:1) too is concerned with what he calls 'constitutional policing' according to rule of law precepts of 'fairness'. His concern is to 'spell out the implications of liberal ideas for policing - to examine the problem how to develop a firmly grounded constitutional police force' (Uglow, 1988: 138). Of the two, Uglow's is the more general and explicitly liberal analysis.[3] His starting point is a concern with what he calls the 'propriety' of policing and two important points emerge from his discussion. The first is the view that the availability and use of physical force is one of four critical elements determining the mode or tactics of policing:

> The threshold at which physical force is used by the police makes certain
> constitutional realities explicit. The State has delegated to the police the
> right to use force in civil society - no other violence is regarded as
> legitimate. (Uglow, 1988: 11)

His second point is about the significance of adherence to the rule of law in establishing the legitimacy of the state, and a governmental agency such as the police that stands directly between the state and the individual, and he argues that a 'liberal' assessment of the police must begin by scrutinising not just the strict legality of their conduct, but also its 'fairness' according to broader notions of natural justice (Uglow, 1988: 16).

Uglow (1988: 29) believes that, by the late 19th century, the police had succeeded in establishing themselves among the middle and 'respectable' working classes as the 'constitutional symbol' of the state's legitimacy - the embodiment not of the executive power of a class-interested state, but of the rule of law to which government and police alike were subordinated.[4] However, over the course of the

1960s and 1970s, he suggests that the ability of the police constable to represent the values of a liberal polity has been threatened by the transformation of key characteristics of her 'service' function. These changes are the result of significant increases in the legal, human and technical resources available to the police and include the reduction in local influence over policing, the gradual replacement of foot by motorised patrol, and a higher level of surveillance over, and intervention in, the lives of individual citizens. Nor, Uglow (1988: 38, 138) believes, has this trend towards social illiberalism been reversed in the 1980s despite (or, some would argue, because of) the relish with which liberal values have been espoused in the economic sphere. Central to this process is the diversity and ineffectiveness of existing systems of public accountability - the media, the law, the Home Office and local police authorities - through which some form of public 'explanation or justification' of policing may be obtained (Uglow, 1988: 114-6).

The remedy for this, Uglow (1988: 137) maintains, lies in a reassertion of liberal values in policing. By this he means a return to the essentials of 'constitutionalism': the formal insulation of political from economic power by democratic mechanisms; the separation of legislative, executive and judicial powers; and the idea that the promotion of the common weal flows from the maximisation of individual freedom in economic and social life. Applied to the police, these principles require a service that is both independent of government and accountable to the people (Uglow, 1988: 141): 'constitutional' policing must be independent, neutral and reactive. To this end, the freedom from 'national political control' implicit in the 19th century legislation on the police, and endorsed by the Royal Commission in the 1960s, must be maintained. Residual ministerial influence over the police must be made more accountable to Parliament and 'genuine authority' must be given to local police authorities within the tri-partite structure in order to counterbalance the powers of chief constables and the Home Secretary (Uglow, 1988: 143). Police authorities should have a

right 'to specify policy priorities', but would not necessarily be given the power 'to control day-to-day operations'. Neutrality, Uglow suggests, must be imposed from outside the police if the pernicious effects of 'cop culture' are to be minimised. Invigorated local police authorities, more searching parliamentary scrutiny and a greater willingness on the part of the courts to 'police the police' are seen as the most fruitful means of eliminating partiality in the policing of industrial disputes and political demonstrations, and in ensuring that the dignity of the individual is respected without variation 'according to his racial, social and economic traits' (Uglow, 1988: 144-5). Uglow's (1988: 145) final call is for minimal, 'reactive', policing. Fairness demands that an 'open-ended' occupation like policing is limited: 'Intervention should occur only in response to the committing of a criminal offence or breach of the peace or the immediate apprehension of one of these'. Preventive policing must be justified according to the seriousness of the anticipated offence, the risk of it occurring, and the policing methods used (Uglow, 1988: 147). With these three elements - independence, neutrality and reactivity - in place, Uglow (1988: 148) hopes to construct the 'constitutional corral for the office of constable' essential in policing a liberal society.

Lustgarten and democracy

Lustgarten (1986) presents a considerably more detailed and subtle critique than Uglow.[5] He also tends to favour the 'democratic' at the expense of the 'liberal' in his interpretation of liberal democratic constitutionalism and wishes to place police governance in the context of the constitutional principle that 'those who exercise the power of the state are subject to effective democratic control, perhaps supplemented by judicial control' (Lustgarten, 1986: 161). But he also shares many of Uglow's assumptions and concerns. For example, he too accepts that the police 'possess a virtual monopoly of legitimate violence in the name of the political order', and that 'independence' and 'accountability' are important principles in justifying the use of that coercive force (Lustgarten, 1986: 161-3).[6]

And, like Uglow he also believes that the 'regime of control' to which the police are subject must ensure 'that everyone, regardless of social or economic condition, ethnic origin or political belief, be treated equally'.

Where he differs from Uglow is in his explanation of the sense in which policing must be untainted by popular control.[7]

> The decision to investigate, arrest and charge a particular suspect must remain wholly a matter for the judgement of the officer in charge of the case and aware of all the relevant facts. (Lustgarten, 1986: 164)

Thus no political body, or police commander, can be allowed to usurp the power vested in the individual constable, personally aware of the facts, to make an arrest or carry out a search on the statutory basis of 'reasonable suspicion'.[8] But, aside from such decisions about individual citizens, Lustgarten (1986: 171) argues that 'democratic governance may encompass policies of the greatest breadth to matters of the most specific detail'.[9] Compared with Uglow's equivocations about the scope for police authority control over 'policy priorities' but not 'day-to-day operations', Lustgarten's formulation has the dual advantage of being both relatively unambiguous and compatible with the more perceptive expressions of judicial opinion on the scope of political and managerial control of police decision-making.

Moreover, Lustgarten goes on to spell out a series of safeguards for democratic governance by elected bodies including the imposition of a statutory duty on police authorities to enforce the law subject to supervision by the courts according to established principles of administrative law.[10] This would be in addition to the power of the courts to intervene in cases where a chief officer - and by analogy a police authority placed under a similar duty - flatly refuses to discharge his obligation to enforce the law (the *Blackburn* safeguard) and other administrative

law presumptions restraining elected political bodies from arrogating to themselves the discretion of the constable in possession of the factual knowledge required to decide the action to be taken in respect of individual citizens (Lustgarten, 1986: 174-5).[11] By way of institutional reform Lustgarten (1986: 178-9) nominates wholly elected local police authorities as the main vehicle for democratic constitutional police governance subject to oversight by central government to ensure that basic human rights are respected, and minimum standards of technical competence maintained. He also suggests that a new Ministry of Justice, shorn of the 'repressive' responsibilities of the Home Office, and equipped with an expressly 'libertarian' brief, should be asked to perform these centralised supervisory tasks and take control of the so-called 'national' functions of the Metropolitan Police.[12]

The final point to note from Lustgarten's analysis is his treatment of two of the more intractable problems of police governance: the balance to be struck between local and central control, and the intersection between external and organisationally imposed norms and the 'occupational sub-culture' of the police officers whose behaviour those norms are designed to affect. On the first of these, he presents a typically lucid account of the philosophical and practical arguments made on either side of the 'localism/centralism' debate (Lustgarten, 1986: 177-8). But he never directly addresses the objection to local democratic control - raised by Marshall (1986: 145), Oliver (1987: 235) and Smith (1987: 64) - that decentralised decision-making about the distribution of coercion and protection is inimical to ideals of universality and consistency in law enforcement and the administration of justice rooted deep in liberal democratic thinking on the rule of law. Reserving the power to prescribe minimum standards of service and protect the rights and needs of local minorities to some central authority goes some way towards overcoming the difficulty but may not end the argument to the satisfaction of all those who contend that the consistent enforcement of a

universally applicable body of criminal law is a fundamental tenet of liberal democratic consitutionalism.

Lustgarten's (1986: 179-181) approach to the problem of police culture is also slightly unsatisfactory. He notes Waddington's (1984b) reservations about attempting to democratise policing in the face of rank-and-file subversion only to doubt their empirical validity and express exasperation at the underlying phenomenological rule-scepticism of Waddington's position. Neither of these arguments is especially convincing. Empirically, Lustgarten's case is based on work about improvements in relations between the police and African-Americans achieved largely as a result of the transformative powers of progressive police chiefs spurred on by a growing black middle class.[13] The American example does give some cause for optimism, yet the weight of evidence presented by successive studies on the introduction of innovative policing styles suggests that the subversive inclinations of front line police personnel should not be underestimated (Grimshaw and Jefferson, 1987; Irving *et al,* 1989; Fielding *et al* 1989; McConville and Shepherd, 1992; Dixon and Stanko, 1993).

Then, to counteract Waddington's rule scepticism, Lustgarten deploys arguments about the permissiveness of the legal framework in which the occupational culture develops and comes to dominate police practice derived from the structuralist critique of criminal justice advanced by Doreen McBarnet (1981). This is an unfortunate piece of eclecticism for a liberal democratic constitutionalist since the essence of McBarnet's (1981: 167) case is that the 'rhetoric of law in capitalist society', extolling the principles of 'legality and the rule of law', is negated by deep structures of economic inequality. Her conclusion that the legal system 'can reproduce the ideology of justice while denying it', and allow 'the state through law [to] give class-based ideas 'the form of universality', simply cannot be reconciled with Lustgarten's - still less Uglow's — apparent faith in the rule of law

and the principles of liberal democracy. In any event, Lustgarten (1986: 181) is eventually forced to admit that 'the relative autonomy of bureaucracies from their ostensible masters is one of the intractable realities of modern government' leaving the question of whether locally elected police authorities might be able to confront that reality with any hope of success tantalisingly open.

Left realism

Left realism emerged as a distinctive criminological paradigm from the 'new criminology' of the 1970s (see Taylor *et al*, 1973; 1975). Its theoretical foundations thus lie outside the liberal democratic tradition that informed the positions of both constitutional conservatives and critics like Uglow and Lustgarten. Yet left realism also represents a significant break in the Left's thinking on everything from the aetiology of crime to the impact of criminal victimisation and policing.[14] This is not the place to attempt a restatement of the tenets of left realism. But it would be unwise to take the left realists' contribution to the police accountability debate of the 1980s entirely out of context, not least because of the central place given to the reaction to offending by the police and other state agencies in understanding the nature of crime and defining the scope of 'realist' criminological inquiry.

> [C]riminology must embrace the totality of the criminal process: it must
> be true to its *reality*. And this reality must include the offender, the
> victim, informal social control, and the state (eg. policing). These are the
> four dimensions of criminology. (Jones *et al*, 1986: 3, emphasis in
> original)[15]

Four features of left realist criminology are of special relevance here. The first is its evolution in the highly competitive market for criminological theory and policy prescription that emerged in the 1980s and persists into the 1990s (Downes

and Rock, 1995). This has resulted in a characteristically polemical style of presentation where the virtues of left realism are contrasted with the manifest inadequacies of, in various contexts, 'administrative criminology', 'liberal constitutionalism', the 'market model', 'right realism', and, with the added asperity to be expected when old friends fall out, 'left idealism'.[16] The effect of this has often been to exaggerate differences between left realism and these other schools of thought while masking the significant measure of agreement between them about the need for change in policing and the general direction that reform should take. Having said that, there can be little doubt that left realism is distinctive in its search for the aetiology of crime in the relative deprivation and political marginalisation of significant sections of contemporary society, particularly in the inner cities. Left realists also stress - supported by evidence from their trademark empirical device, the local victimisation survey - the seriousness and 'reality' of the problem of crime for the most deprived and marginal sections of the working class, for women, and for ethnic minorities.[17] A final insight of importance here is the left realists' insistence on the intra-class nature of most criminal victimisation.

Taylor and a 'practical socialist criminology'

This then is the general criminological thinking behind the left realist view of police accountability. The next task is to take a look at that view as it unfolded in three key texts. The first of these is a book by Ian Taylor on *Law and Order* that appeared in 1981 as part of a series with the subtitle, *Arguments for Socialism*. Though never explicitly 'realist', this book was intended to be a turning point in the Left's theorisation of, and attitudes towards, policing and the police. Taylor's (1981: 204) purpose was to make the case for democratic control of the police as part of the 'thoroughgoing democratisation' of the British state and its institutions demanded in an earlier book by Tony Benn (1980). Taylor saw the democratisation of policing as a way of opening a vital institution

... to the influences and demands of organised social interests ... who experience the state primarily as a bureaucratic and impersonal agency (a part of a disciplinary apparatus, run by an unidentified 'them', rather than as part of 'our' community). (Taylor, 1981: 205)

Progress, he argued, was urgently needed in devising a 'practical socialist criminology'. One element of this would be an end to the Left's 'agnosticism' - short of some future socialist society - on questions of policing; and an engagement with widespread popular (and especially 'respectable' white working class) support for hard and profoundly anti-democratic 'fire-brigade' policing as a response to 'real' problems of street crime and youth disorder (Taylor, 1981: 150-1). With the demands for effective social defence of women and black people in particular continually frustrated by the inability of the existing 'state police' to meet their needs, the challenge for the Left was to create a service capable of doing so 'in a divided and pluralistic society' (Taylor, 1981: 154).

Having drawn attention to this defect in the intellectual armoury of the Left, Taylor eschewed the temptation to fill it. His book sets out no clear programme of reform for policing. But it does suggest some of the themes that were to dominate the more self-consciously left realist, and assertively policy-oriented, works to come. So, for example, he (1981: 155) condemns the shift from peace-keeping 'via the maintenance of close personal relationships with particular localities' to policing 'at one remove from the locality' based on high mobility and 'massive technological support'.

[The police institution] has been drawn increasingly into fire-brigade forms of policing, in which specially trained units (like the [Metropolitan Police Special Patrol Group]) act, like the army, to enforce a state (rather than a particular, local) definition of order.

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These criticisms of centralism, 'fire-brigading', militarism, and 'high technology' reverberate through the left realist work that was to follow and give rise to their emphasis on localised 'consensual' policing. Taylor also engages with the problem of 'community' as the basis for a new style of policing and the democratisation of accountability. After giving short shrift to deluded celebrations of 'community' in the atomised social worlds of the new towns and high-raise estates built to replace old working class urban neighbourhoods, he argues that the task for socialist politics is to salvage 'some sense of specific class and community interest' from the chaos (Taylor, 1981: 156). This too is a challenge taken up in later left realist writing.

Finally we have a call to open up 'the political space' created by the contradiction between 'the technological and political logic' of contemporary state policing and 'the popular demand for policing as a defence of community' (Taylor, 1981: 157). Here, presaging once again the arguments of left realists to come, Taylor offers a cautious endorsement of moves by the Association of Metropolitan Authorities (AMA) to have non-elected magistrates removed from provincial police authorities, and of Jack Straw MP's attempt to give those authorities additional powers to control general policing strategy in their area by means of a private member's bill introduced in Parliament in March 1980.[18] Taylor's (1981: 158-9) justification for supporting such 'fundamentally liberal' demands harks back to his 'idealistic' past, and underlines the importance of his book in the metamorphosis of new criminological thinking on the police into 'left realism' on the one hand, and 'critical interventionism' and 'socialist justice' on the other. Achieving the degree of accountability envisaged by Jack Straw and the AMA would, he concedes, leave the problem of the 'equal enforcement of law' in a bourgeois society characterised by 'the unequal relations of capital and labour, men and women, black and white' unresolved. Bringing the police under a liberal regime of democratic control would not in itself 'bring about a socialist social order'. But

it would – and this is where Taylor's position is informed by his old 'idealism' - serve to problematise existing policing practices and their mismatch with the needs of 'different publics'.

Left realism and the democratisation of local policing

Some of Taylor's themes were taken up in two seminal left realist texts in the mid 1980s: *What Is To Be Done About Law and Order?* and *Losing The Fight Against Crime* (Lea and Young, 1984; Kinsey *et al*, 1986).[19] The first point to note about these books is that the left realist case for democratically accountable policing is built around a series of untested and ultimately highly questionable assertions linking the ineffectiveness of increasingly 'military' styles of policing to the public's alienation from the police and consequent unwillingness to provide them with the information they need to win the fight against crime.

> The starting-point [for a new structure of local police accountability] is our assumption of the inextricable relationship between accountability, public support and efficiency. Without accountability the vicious circles ... of declining flow of information to the police from the public and declining police efficiency cannot be broken. For it is only through the accountability of the police to the local political system that public confidence in them can be increased, and with it, the flow of information. (Kinsey *et al*, 1986: 175)

To put matters right, and secure an effective police response to the 'real' social problem of crime experienced by working class people (attested to by the findings of their 'second generation' local victimisation surveys), the realists argue that the public must be prepared to provide more information about crime to the police. And this, they assert, will only happen when the police are made democratically accountable to local people. The problem with this argument is that it is based almost entirely on wishful thinking. Each of the following propositions – essential

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to the realist case – about (to use a favourite 'realist' term) the aetiology of working class community safety may conceivably be true, but the realists provide no evidence to support their assertions, or for believing that every link in the causal chain will hold good in the way they suggest.

1. Popular influence over local police policy-making will nurture public confidence in the police.
2. Greater public trust will increase the flow of information about crime to the police.
3. This will improve crime clear-up rates and make the police more 'efficient'.
4. More efficient policing will reduce levels of working class victimisation.[20]

If their instrumental 'accountable policing is efficient policing' argument was all the left realists had to say on the subject, '*What is to be done?*' and '*Losing the fight*' could be passed over without more ado. But it is not, and what I want to focus on here is the way in which Kinsey, Lea and Young deal with some of the most serious objections to the local democratisation of policing.

The first of these objections refers to the risk of partiality if control over policing is to pass into the hands of powerful, but not necessarily representative, local interest groups, and connects it with the difficulty (identified by Ian Taylor amongst others) of finding a functioning 'community' to 'consent' to local policing. Lea and Young's (1984: 237) solution to this problem is characteristically bold and lies in the potential for even the most socially heterogeneous and apparently disorganised groups of people to function - given the right conditions - as effective *political* 'communities'. In essence they argue that, rather than wait for a politically responsible entity to emerge from the social diversity of the typical urban neighbourhood before establishing decentralised

structures of popular decision-making, institutions of local democracy must be constructed so as to allow the hitherto politically inchoate 'community' to develop itself into a body capable of controlling local policing (Lea and Young, 1984: 238-9).[21]

But this does not dispose of the 'partiality' objection entirely, and for the rest of Lea and Young's reply to it we must go on to consider their rebuttal of a second counter argument: the claim that policing is a technical matter best handled by professionals unhindered by the constraints of democratic process. On this view, the rapid development of police technology, a growing reliance by individual forces on national police services, and 'the unique role of the police as the enforcers of law' all require that police managers discharge their responsibilities without interference from lay people lacking the necessary training and expertise (Lea and Young, 1984: 241). In response, Lea and Young observe that the 'professionalisation' of ineluctably political decision-making is a familiar bureaucratic device. They also suggest that 'technological' policing - and the insidious militarism that goes with it - is neither necessary nor (recall their argument about the impact of public alienation on police efficiency) desirable. Police enjoying the consent of local people would not require the same level of technical back up, nor rely so heavily on national support services.

But what of the argument that only suitably trained and assertively 'professional' decision-makers unbeholden to vulgar opinion are capable of ensuring, as the rule of law requires, that 'an individual committing a particular crime stands an equal chance of being prosecuted for it irrespective of where he or she commits that crime' (Lea and Young, 1984: 241)? To meet this objection, they call for the creation of the office of Crown or Public Prosecutor to iron out 'any substantively unjust inconsistencies in enforcement between different police force areas' (Kinsey et al, 1986: 182). Independent both of the police and local democratic

control - and working within the legislatively defined 'range of illegalities' that the police are obliged to combat - prosecutors would take the final decision to institute criminal proceedings 'not only on the strength of evidence in particular cases, but on the desirability of public funds being spent on particular classes of offence' (Kinsey *et al*, 1986: 181-2; and cf. Lea and Young, 1984: 244).[22]

However, with responsibility for the consistent application of national criteria on prosecution safely vested in a Public Prosecutor, the left realists believed that discretionary law enforcement by the police short of a decision to prosecute should be subject to local democratic control by a system of elected police authorities.[23] According to their proposals, non-elected magistrates would be removed from existing authorities set up under the Police Act 1964 and replaced by co-opted 'police representatives' (Kinsey *et al*, 1986: 176). The key function of these reconstituted authorities would be to produce a general policing strategy containing – in addition to standard information about resources, recruitment and appointments - a 'crime profile' for the area detailing 'the types of crime from which different sections of the local community are suffering', an outline of 'the general methods whereby the police are to deal with crime', and criteria to be used in deciding when certain types of operation (such as surveillance) may be used, and how the police will respond to calls for assistance (Kinsey *et al*, 1986: 178-9).[24] The main restriction on authorities' powers would be their inability 'to give the chief constable directions in any individual case' (Kinsey *et al*, 1986: 179). Unfortunately the scope of this limitation is left unexplained and it is unclear how the 'any individual case' formula would fit with Lustgarten's much more precise specification of the limits on a police authority's powers of direction based on the *dicta* of Lawton LJ in the *CEGB* case referred to earlier.

For the left realists then the role of local police authorities constituted through the normal process of representative democracy, and acting as 'the public voice of

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policing policy' would be to set broad parameters for the police (Kinsey *el al*, 1986: 176).[25] But, within those parameters, the prime instigators of police action should be the public themselves:

> [C]rime must be investigated by the police with the public initiating action at two levels. First, at the collective level, the local police authority must establish, through the democratic process, the general guidelines for the exercise of police discretion and the priorities for the area. Second, at the individual level, the public shall request police assistance. Here the decision to involve the police in a particular matter, in by far the majority of cases, is best left to those immediately concerned. (Kinsey *et al*, 1986: 190)

Although Kinsey *et al* (1986: 189; 193) candidly admit that 'policing is, by its very nature, coercive' what they describe as their theory of 'minimal policing' is intended to do three things. Firstly to control the police use of force. Secondly, to focus their attention on the 'fight against crime'. And thirdly to circumscribe the exercise of police discretion by hedging it about with guidelines from an elected police authority and ensuring that, in most cases, police action is not self-initiated (or 'proactive' as the jargon would have it) but taken only in response to a call for assistance from a member of the public.[26]

The final counter-argument to democratised policing dealt with by Lea and Young is that - given the move towards 'community policing' initiated by Lord Scarman - conditions of close co-operation between police and people can be created without 'politicising' policing and creating unnecessarily formal representative institutions. Their answer to this is quite straightforward. They agree that the central aims of Scarmanite 'community policing' and their own brand of democratically accountable policing are similar - re-establishing popular consent, increasing the flow of information from the public to the police, and

halting the drift towards militarisation are shared objectives. But, they argue, one crucial difference between the two approaches remains. Under Lord Scarman's regime of community policing, built around the community constable and local consultation, communities and their representatives are unable to control the activities of the police in the sense of having the 'right to *decide* local policing policy' (Lea and Young, 1984: 247).[27] The disadvantage with such arrangements, as Lea and Young rightly observe, is that they are most likely to succeed in areas where 'the police and the community already share quite articulated conceptions of the nature and priorities of the policing process', and to fail in those neighbourhoods where popular resistance to the police is widespread. It is in this more inhospitable environment, they argue that the need for local democratic institutions with real powers is most pressing if non-existent urban 'communities' are to develop into viable, and genuinely representative, political entities capable of influencing police decision-making.

It should be evident from this necessarily abbreviated survey of the left realist position on police accountability that, though brought up in a 'critical' tradition unsympathetic to the liberal democratic paradigm, Kinsey, Lea and Young go to considerable lengths to meet objections inspired by very much the same 'rule of law' principles (to do with neutrality, independence and consistency) espoused by Uglow and Lustgarten. In doing so they deal - with varying degrees of success - with such important issues as the scope for democratic control of police decision-making, the subtle 'democratic' influence over police activity wielded by individual members of the public in demanding police assistance, the institutional changes needed to make local democratic accountability work, and the crucial developmental role reformed police authorities and liaison panels might play in reviving feelings of political community amid the social dislocation and economic deprivation experienced by working class people particularly in the inner cities. But their work also has significant shortcomings. Leaving aside the criticisms of

their main argument for democratic accountability made earlier, neither of the main left realist texts of the 1980s makes any serious attempt to explain *how* democratically determined local priorities should be transmitted to operational police officers, or what steps might be taken to ensure that, once communicated, they are adhered to.[28] Nor for that matter do their proposals for a national prosecuting authority succeed in deflecting the criticism that local accountability may result in sharply divergent patterns of law enforcement up to the point of prosecution.

Critical interventionism

The third main current of critical thinking about police accountability in the 1980s is to be found in the work of a group of academics-cum-activists that included Paul Gilroy, Paul Gordon, Phil Scraton and Joe Sim. Teasing a consistent 'critical interventionist' position from Scraton's (1985) early review of *The State of the Police* and the essays contained in his subsequent (1987) edited volume of 'readings in critical criminology' is a task to be undertaken with some circumspection since neither text provides anything approaching the kind of systematic critique of constabulary independence mounted by Lustgarten (1986) or Jefferson and Grimshaw (1984). Nor is any alternative conception of accountable policing clearly delineated. So, if the following exposition lacks something in coherence, it is largely because Scraton and his colleagues never attempted to pull there often somewhat disparate arguments together in a systematic fashion.

Critical interventionism is grounded in an explicit rejection of the main claims of liberal democracy about the consensual basis of the state and its institutions including the law, the courts and the police. Thus Scraton (1987: 180) challenges the assumption that the state and the administration of justice are impervious to 'the influence of specific economic interests' and questions whether the mere

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existence of an electoral process based on a universal adult franchise is enough to invest government and legislation with the legitimating force of 'the will of the people'. He also doubts the assumptions made under the rubric of 'the rule of law' about the fairness and impartiality of enforcement action taken by the police and other state agents, and impugns their supposed role as "neutral arbiters' geared to the settlement of aberrant conflict in an otherwise smooth-running system'.

Scraton (1987: 181) and his fellow interventionists are profoundly sceptical about the existence of any overwhelming social consensus in a patriarchal, post-colonial, capitalist society, and deny both the neutrality and legitimacy of the bourgeois state. They question the ability of its agents to transcend the conflict endemic in a social formation fractured by divisions of class, race and gender. For Scraton, the British state and its institutions are the outcome of a long history of social and political struggle in the context of gross inequalities in 'the political and economic structures of production and reproduction'. The rule of law, so crucial to liberal democratic notions of justice, is little more than an ideological confidence trick whereby the existence of real economic, political and social inequalities are denied in the formally disinterested and impartial processes of enforcement and adjudication.

> Thus the police, like the courts, operate primarily to defend and service
> existing social relations (of patriarchy, of advanced capitalism, of
> neocolonialism) and established property rights and to manage conflict
> by force when it cannot be contained through the formalised political and
> ideological procedures of negotiation. (Scraton: 1987: 181)

The dissatisfaction of the critical interventionists with the assumptions of liberal democracy is complimented by their frustration with the epistemology of value-free social science. They believe that, like other applied social scientists, criminologists must work explicitly and self-consciously within the social,

political and economic context of their time. In this respect they see themselves as part of a new wave of thinkers, liberated from the stultifying orthodoxies of structural functionalism by developments in labelling and critical theory in the 1960s and early 1970s, and wedded to 'an interventionism with real commitment to the powerless in the context of an unjust and inequitable social order' (Sim *et al*, 1987: 10).[29]

Their continuing commitment to an uncompromisingly critical perspective on the state and its institutions, and to working with the powerless - women, black people, Irish nationalists, prisoners and so forth - inevitably brought the critical interventionists into conflict with the adherents of less radical schools of thought on contemporary policing. Notable amongst their opponents were the left realists and those within or close to the police service who believed that improvements in relations between the police and at least some of the policed could be achieved without disturbing the existing constitutional arrangements. Indeed their disagreements with the left realists and supporters of versions of 'community policing' such as John Alderson, Lord Scarman and Sir Kenneth Newman are helpful in gaining an understanding of the development of critical interventionist thinking on the police.

Critical interventionism and left realism

Like rival siblings squabbling over the legacy of a rich but absent-minded parent, the interventionists and the left realists spent most of the 1980s grappling both with each other, and with the critical criminological tradition in which they had all been raised. Smarting from Jock Young's remarkably successful efforts to set up what they saw as a '[left] idealist straw man' (Sim *et al*, 1987: 39), the critical interventionists riposted with an attack on the unreality of Young's (and his collaborators') prescriptions for police accountability. Thus Sim, Scraton and Gordon (1987: 46) lambaste the left realists for their belief that a 'new-found accountability will ensure that the vicious circle of alienation' between police and

policed is broken. They accuse them of a multitude of sins: of under-estimating the complexity and bitterness of the relationship between the police and important sections of the black, Irish and working class communities; of providing no clue as to when the flow of information to the police that this new accountability is intended to encourage began to dry up; of failing to explain how that flow is related to the crime rate and hence to public confidence in the police as 'crimefighters'; of assuming, despite considerable evidence to the contrary, that police activity has an effect on the amount of crime experienced by the public; of exaggerating the salience of crime as a source of popular concern by over-reading the results of their own local crime surveys; and finally of prioritising the 'crimefighting' function of the police against 'the historical evidence which shows that the police have been a force *against* rather than a service for working class people'.[30] The interventionists' final point - and in many ways their most conclusive - was that the enactment of the realist reform programme was almost entirely dependent on the electoral success of a political party - namely the Labour Party - that, even in opposition, was incapable of moving the terms of the debate on policing off the 'very terrain on which the law and order debate has been constructed and developed by the right and state spokespeople' (Sim *et al*, 1987: 54).

Critical interventionism and reformism

Advocates of 'community policing' and 'community consultation' stand similarly accused of ignoring the history of the police in Britain. So Gordon (1987: 122) argues that their brand of reformism seeks to return to a mythical consensual tradition at odds both with the revisionist police histories of writers such as Robert Storch (1981) and more recent evidence of a 'hot war' between the police and black people, for example in the Handsworth area of Birmingham (John, 1970). Far from providing a palatable antidote to the creeping militarisation of British policing, Gordon argues that the kind of community policing' espoused by Alderson (1979) and Scarman (1981) amounts to a concerted effort by a coercive

state institution to penetrate civil society and mobilise welfare agencies and already privileged 'communities' behind policies of social exclusion, marginalisation and control directed against those perceived to be a threat to social order. According to him, such tactics complement rather than contradict the dominant ethos of 'hard', reactive, policing by attempting to improve the intelligence gathering capability upon which it relies, and building public support for the institution charged with carrying it out. As an integral part of this 'soft' policing strategy, initiatives like neighbourhood watch and 'community policing' have the dual purpose of diverting attention from demands for genuine police accountability and co-opting sections of the population to the task of policing.

The politics of policing

Although, as was suggested earlier, no definitive statement of the critical interventionist perspective on police accountability is possible, the rough outlines of their position can be discerned. Like the Weberian liberal democrats they are not, the critical interventionists believe that coercion or violence is the distinctive stock in trade of the police as a state institution. However, consistent with their rejection of rule of law ideology and liberal democratic assumptions about the consensual basis of the state in an advanced capitalist society, they maintain that the use of violence by the police (whether in the form of 'legal' reasonable force or 'illegal' brutalities) is skewed in its distribution in a more or less systematic way (Gilroy and Sim, 1987: 87-8; Scraton, 1987: 180). As a result, certain social groups - black people, animal rights and peace activists, strikers, gays, and Irish nationalists, the 'rough' or marginal working class, to name but a few - are consistently targeted for police action taken in defence of an unjust and inequitable social order. In short:

> Policing is a profoundly political process. Police work entails the use,
> often in a very arbitrary way, of violence and coercion. (Gilroy and Sim,
> 1987: 79)

The heart of the problem lies not in the evident injustice of 'aberrant' repressive laws or isolated cases of police misconduct, but in the nature and form of the legal process itself which allows 'legality and illegality [to] become part of the same institutional structure' (Gilroy and Sim, 1987: 87).[31] To believe, as the left has tended to do, that police misconduct is both rare and 'technically illegal' is dangerously naive, revealing a failure on the one hand to acknowledge the experience of the victims of police malpractice and, on the other, to appreciate that 'the effect of law on police practice at street level is permissive rather than restrictive' (Gilroy and Sim, 1987: 89-90).

> Law in general offers no formula for calculating police priorities or
> practical guidelines as to what, for example, patrolling officers ought to
> do. Instead, legal powers which were framed with the control of
> particular street populations in mind, become a unified resource with
> which officers are able to legitimate any course of action they engage in.
> (Gilroy and Sim, 1987: 90)

Treating police accountability as an 'exclusively administrative and institutional use', and reducing police reform to a technical problem to do with the creation of 'a framework of legal safeguards capable of inhibiting the deviant urges of the force's bad apples', is thus sadly misguided. It is not, the interventionists suggest, the absence of particular legal constraints that matters but the permissive nature of the legal process within which those formal prohibitions are set and its ability to reinforce the real inequities of an unjust social order by eliding them in a process of enforcement and adjudication legitimated by the rhetoric of impartiality, neutrality and consent. Within this permissive framework, the interventionists argue, the police operate with a degree of autonomy that is virtually unique among state institutions. At chief officer level this autonomy has been won, by the routine assertion (by the police) and acceptance (by successive governments)

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of the need for 'operational independence' in determining policies and priorities. Further down the hierarchy the constable on the street enjoys even more latitude in exercising a 'professional discretion' in law enforcement. In practice this discretion is informed by an occupational culture that writes 'whole areas, and therefore the people in them ... as 'scum, 'niggers' or 'slags" (Scraton, 1987: 154).

Scraton (1987: 153-4) contends that the police have taken advantage of their political autonomy and professional discretion 'to prioritize and interpret laws selectively towards differential enforcement' following 'a well-established tradition in the surveillance, regulation, and control of 'target' individuals, groups and communities'. During the 1980s the selection of 'targets' for such differential enforcement 'reflects a clear coincidence of interests' - based on the values of a narrow, intolerant and fundamentalist conservatism - between a new breed of 'political' chief officers, representatives of the rank and file articulating the familiar nostrums of the occupational culture, and Conservative administrations under Mrs Thatcher bent on pursuing socially divisive economic policies and harrying opponents demonised as 'the enemy within' (Scraton, 1987: 154). The convoluted conspiracy theories beloved of the left are not for Scraton and his colleagues. So, for example, the events of 1985 - the policing of the coal dispute, the Stonehenge 'Peace Convoy', a student demonstration against Home Secretary Leon Brittan's appearance at Manchester University, and disturbances in Brixton, Handsworth and Tottenham - are seen not as evidence of some devious plot between the Thatcher government and the police. Rather they are taken to exemplify conflict arising out of a specific economic, social and political conjuncture in which an increasingly autonomous state institution charged with the social distribution of coercive force mobilised itself to perform its historic role of defending a social order buckling under the pressure of economic neo-liberalism.

Alternatives: monitoring and self-policing

Given the scale of their disillusionment with the police, and their rejection of the naive reformism of the left realists, the critical interventionists are left with little scope for suggesting alternative systems of accountability short of the radical transformation of society that would right the manifest injustices of capitalism, patriarchy, and institutionalised racism. This is a bind of which they are only too aware, and the texts referred to here are littered with exhortations to engage with, and challenge, the state and its institutions, by presenting alternative accounts of their actions. As Gilroy and Sim (1987: 88) put it at one point, pessimism about the justice to be obtained from existing legal processes 'is not an argument for retreat from conflicts in and around the courts'. Where other critics demand the 'democratisation' of police governance and put forward often quite detailed proposals for reforming police authorities, arranging for consultation on local policing priorities, and so on, the interventionists restrict themselves to recommending a series of tactics to be used in campaigning on the police.

Three devices are seen as essential: organisation, demands and criticism. The first of these refers to the long-term interventionist aim of promoting conceptions of crime and wrongdoing which compete for popular allegiance with those that originate from police practice' (Gilroy and Sim, 1987: 101). Identifying such norms where they connect with a capacity for self-policing is an important task since:

> Socialists must began [sic] to affirm and extend the belief that people are able to regulate their own community space and protect their lives and property without lapsing into vigilantism. (Gilroy and Sim, 1987: 102)[32]

To be effective, work towards the goal of popular self-policing, must be combined with 'demands on the police and carefully documented criticism of their failures

and political stances' (Gilroy and Sim, 1987: 102) generated by what, in his earlier work on the police, Scraton (1985: 175) describes as 'the consistent, detailed monitoring ... of police policies and practices'. As with much else in critical interventionist writing, the interface between the practical activity of monitoring - in the form of unofficial *ad hoc* inquiries into specific events or issues and the more protracted work of investigating the routine operations and practices of the police - and the tactics of self-organisation, demands and criticism is not entirely clear. But Scraton's view of the main requirements for successful police monitoring gives some indication of how it may promote self-organisation and lead to demands and criticism being made of existing police practice. For example, the experience of 'community self-defence' gained by monitoring groups working with black people in east London, the 'application of pressure' on the police to prioritise hitherto neglected problems of racist attacks and male violence against women, and the development of alternative media accounts of police activity all relate with some degree of specificity to the interventionist tactics expounded by Gilroy and Sim.[33]

Churlish though it seems to carp at so broad and fundamental a critique it has to be said that there are obvious gaps and discontinuities in the arguments of the critical interventionists and many important questions are left unanswered. So, for instance, while Sim *et al* (1987: 39) are at pains to distance themselves from the crass reductionism that mars much Marxist writing on crime, law and the state, they never clearly articulate their conception of the relationship between patriarchy, institutionalised racism and the late capitalist mode of production on the one hand, and the nature and functions of the state, the law and the police on the other. Much is made of the permissive legal framework within which the police operate and of their (relative) autonomy from other state institutions, but we are left uncertain as to whether the development of constabulary independence is a matter of historical accident or the outcome of some Machiavellian political

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design (and, if the latter, whose). Order maintenance, social control, and the use of coercive force in the suppression of political opposition rather than the less controversial task of 'crimefighting' are presented - using, both historical evidence and contemporary research on police activity - as the core tasks of the police. But no explanation is offered for the apparent enthusiasm, over most of the last 100 years, of substantial sections of the working class for the police and their efforts to defend the person and property, not just of the privileged and powerful, but of people like themselves.[34] Indeed this raises a further unexplored problem in the interventionist position because, though they repeatedly condemn the police for over-coercing and under-protecting the powerless in a patriarchal, racist, and class-ridden society, and vigorously contest the consensual nature of the prevailing social order, they are all too frequently guilty of talking about 'black', 'Irish' and 'working class' communities as if shared experiences, attitudes or interests can be assumed to exist within these aggregations despite all they themselves have said about the deeply and multiply fractured nature of contemporary society. Nor, finally, is their route to a socialist salvation marked out with any certainty. Vigilantism is an obvious danger to be encountered along the road to a self-policed society, but how is it to be avoided? We are not told. Then again, what exactly is meant by 'self-policing'? Is it to be taken literally as contemplating an end to the social division of labour in the field of social control? Or would some form of self-organised policing involving the employment of outsiders under effective 'community' control - even a suitably reconstructed public police force - be compatible with the interventionist ideal?

Socialist justice

As one might expect of authors who acknowledge debts to the work of Gramsci, Foucault and Althusser in a study of beat policing (Grimshaw and Jefferson, 1987), Tony Jefferson and Roger Grimshaw's (1984) approach to police accountability is by some way the most erudite in its philosophy and bold in its

engagement with democratic theory. Rather than attempt a detailed exposition of their position here I want to concentrate on two closely related aspects of what they have to say about police accountability and how it might be reconstructed on more democratic lines.

Operational policy and the doctrine of constabulary independence

The first of these is the critique they offer of the doctrine of constabulary independence and its application to the 'operational policies' of chief constables, which they define as relating to

> ... the execution of the 'unique' police role with respect to law
> enforcement, crime prevention, and the preservation of public order and
> safety ... (Jefferson and Grimshaw, 1984: 65).[35]

At chief officer level, they suggest, 'constabulary independence ... poses the question of accountability as the problem of discretion in *general* matters of law enforcement' whereas, at the level of constable, it concerns discretion in *particular* law enforcement situations' (Jefferson and Grimshaw, 1984: 62, emphasis in original). At this higher level, chief officers form their operational policies in the social context of three 'audiences': a legal audience incorporating institutions such as the courts, police authorities and the Home Secretary to whom they have a duty to answer; a democratic audience in the shape of the local community or 'the policed'; and occupational audiences consisting of their peers in other forces and the junior officers under their own command.[36] But this does not mean that the three 'audiences' are equally influential since the necessary concomitant of the doctrine of constabulary independence is that policy-making takes place within

> ... a framework fundamentally structured by law in relation to which a
> range of occupational options are available. To successfully enter the

debate on police policy, democratic representatives must mount their case in legal-occupational terms in order for their criticisms to be deemed 'legitimate'.[37]

In other words, the effect of the independence doctrine is to guarantee the pre-eminence of the 'legal' and 'occupational' audiences by ensuring that 'democratic' demands are deemed legitimate only if they are articulated within legal-occupational parameters.

Turning to the doctrine itself, they argue that it is conventionally justified with reference to the need for impartiality in law enforcement which, in the case of chief officers charged with the general duty of upholding the law, implies that they must act with equal vigour against all offences committed in their area. Yet, as Jefferson and Grimshaw (1984: 141-2) observe, total enforcement is a practical impossibility within prevailing constraints of time and resources. As a result, chief officers are left with the delicate task of selecting which laws to enforce and when to enforce them without reference to any 'external' direction or influence since the independence doctrine insists that the law must be their only guide and proscribes any reliance on 'democratic' sources. Or, as Jefferson and Grimshaw (1984: 142, emphasis in original) put it

> The principle of accountability to law is simply not applicable to the general responsibility of chief constables for upholding the law. That is to say that operational policy matters [relating to the selective enforcement of law] *necessarily* fall outside the scope of the principle.

Having thus established that chief officers cannot be accountable to law for their operational policy decisions, Jefferson and Grimshaw (1984: 143-8) move on to consider how chiefs fill the void left by the doctrine of constabulary independence by devising their own policies of selective law enforcement. They identify five

strategies that police commanders might adopt ranging from a straightforward 'maximalist' policy aimed at making optimal use of available resources to improve detection rates for all reported offences, through attempts to prioritise the enforcement of certain 'central' provisions of the criminal law, to strategies predicated on the application of 'common-sense' or intuitive judgements about 'the public interest'.

The next stage of their analysis - a review of four sets of proposals for inserting a measure of popular control into this policy-making process - is crucial in linking Jefferson and Grimshaw's critique of the legal *status quo* based on the doctrine of constabulary independence to their own system of accountable policing. The first two options - calls for existing public authorities to flex what institutional muscles they have to exert greater control over policies of selective law enforcement, and attempts to secure a ruling from the courts to the effect that chief constables must act in accordance with the 'democratic' wishes of their police authorities - are quickly dismissed for misunderstanding the meaning of the Police Act 1964 and ignoring the solidity of post-*Blackburn* judicial support for constabulary independence in 'operational' matters.[38] It is only when they move on to consider the possibility that police authorities could be given the power to issue policy directions to their chief constables, as Jack Straw MP and the GLC among others proposed, that Jefferson and Grimshaw engage with what they regard as the key problem confronting all proposals for 'democratic' police reform - the potential for conflict between principles of legal universalism and local democracy.

They (1984: 153) maintain that the distinction Straw and the GLC attempt to make between responsibility for *general* policing policies to be vested in democratic representatives, and for *particular* policing operations which, they agree, should remain in the hands of chief officers, is no more than 'a device for shelving the problem of the appropriate provinces of democracy and law without

actually resolving it'.[39] What happens, for example, when a local majority, represented in the 'general' police policy-making process by a democratically elected police authority, expresses the wish that a particular law is not enforced?

> [I]f the democratic representatives ignore the fluctuations of public
> opinion and recognise only the consistency of law, they will be open to
> the same charge that has been levelled against chief officers under the
> present system i.e. that, in attempting to follow only the demands of legal
> duty and avoid the influence of community opinion, they are
> undemocratic. (Jefferson and Grimshaw, 1984: 153)

And what of the chief officer asked by his or her police authority, on the strength of a local democratic mandate, not to enforce a certain law as a matter of general policy? 'The law' to which chief officers are accountable requires that 'the law' as a set of universally applicable rules is upheld. Yet the general policy of the local police authority which the chief must also follow prohibits enforcement of particular provisions to which a majority of local people do not assent. For Jefferson and Grimshaw (1984: 153), conflict between principles of legal universalism (enshrined in the duty of chief officers to uphold 'the law') and local democracy (reflected in the ability of elected representatives to adopt a policy of selective non-enforcement in accordance with the wishes of their constituents)

> ... cannot be resolved by separating particular operations from general
> policy and assigning the first to the representative of law and the other to
> the representative of democracy.

The fourth set of proposals for increasing popular control of policing dealt with by Jefferson and Grimshaw (1984: 154) shares this 'contradictory aim of making democracy supreme over, yet still dutiful towards, law'. In essence, this last approach seeks to replace the bureaucratic device of an elected police authority

with a more diffuse and participatory form of 'community control' involving the citizen in moulding 'his own destiny through direct political action' (Hain, 1979: 23).

The kernel of Jefferson and Grimshaw's critique of existing constitutional arrangements is not that the principle of an independent constabulary impartially adhering to the letter of the law is incompatible with democratic theory. On the contrary, they acknowledge that the law - a set of universal rules promulgated by an elected legislature - is itself a legitimate form of authority within a democratic state. Their objection is, rather, that the independence doctrine compels chief officers to formulate a general policy for upholding the law without reference to any democratic authority at all. Universal enforcement is a chimera, yet the law provides no guidance as to how more selective policies are to be framed, while constabulary independence effectively insulates chief constables from local democratic opinion articulated, for instance, by police authorities. Moreover they contend that proposals for reform along the lines put forward by Jack Straw and the GLC are also flawed because they fail to resolve the potential conflict between, on one hand, the general (legal) duty to uphold the law imposed on chief officers and the new police authorities the reformers propose and, on the other, the (democratic) duty of such authorities to reflect the will of the electorate by ordering their chief officers not to enforce particular provisions of that general law.

A socialist conception of public justice

According to Jefferson and Grimshaw, what is lacking in both the existing arrangements for police governance under the doctrine of constabulary independence, and the reform proposals of Jack Straw and the GLC, is a consistent, and consistently 'democratic', basis for the formation of operational policies of selective law enforcement. Their solution to this problem is the second aspect of their work that I want to consider here, and it begins with their belief

that for policing, or any other governmental practice, to be democratic it must also be just. And to be just, policing must 'guard the common rights and interests of all' (Jefferson and Grimshaw, 1984: 155). That is, it must be founded on some conception of public justice or

> ... [a way] of thinking about how all citizens within a democracy can have their interests in the legal operations of the police recognised; about how all individuals as democratic citizens may gain a 'fair' share of the limited police attention available. (Jefferson and Grimshaw, 1984: 157, emphasis in original).[40]

In achieving this they reject an 'individualist', liberal democratic, conception of public justice based on notions of formal equality that ignore real disparities in areas of social life such as the distribution of property or opportunities to acquire it where arrangements are treated as 'involuntary'. In its place, they argue for policing to be grounded in a 'socialist' vision of public justice that aims to achieve substantive equality between citizens and takes cognisance of skewing in the distribution of wealth (and power) in a capitalist society. Instead of seeking merely to equalise what they call 'offender' and 'victimisation' rates across different social groupings on the assumption that such 'voluntary' social activities as 'offending' or 'being a victim' can be isolated from inequalities in 'involuntary' relationships to do with wealth and the ownership of property, they argue that,

> ... in order to realise equality before the law, it is necessary to be aware of the existence of inequalities in social relationships not characterised by choice and *compensate them for them*. (Jefferson and Grimshaw, 1984: 163, emphasis added)[41]

Policing based on a socialist conception of public justice would thus allow decision-makers to compensate for the fact that the affluent are better placed to

defend themselves by attempting to reduce rates of victimisation among poorer people (relatively disadvantaged by inequalities in the involuntary sphere of property ownership) not just *to* but *below* those pertaining among the well-off. By the same token, it would also be justifiable to lower the proportion of poor people acted against as offenders in recognition of the more limited 'choice' they have in 'deciding' to break the law.

> What this means is that by recognising the inequalities perpetrated by involuntary social arrangements and their connection with other areas of social life, socialist justice is also able to recognise that *the social impact on victims* of particular offence categories is unequal, as are the *social conditions of offenders* (for particular offences or offence categories). (Jefferson and Grimshaw, 1984: 163, emphasis in original)

Alternatives

Jefferson and Grimshaw's critical dissection of the constitutional *status quo* and their advocacy of a socialist conception of public justice as the lodestar of operational police policy-making lays the foundations for their own alternative system of democratic police accountability. This comprises two distinct packages of reforms: one fairly conventional and aimed at improving what they (1984: 172-3) call 'the judicial sphere of accountability'; the other more innovative and intended to bridge the gap between the non-elected 'judicial office' of constable and the elected 'executive offices' of Home Secretary and police authority.[42] The first package encompasses plans to establish an independent prosecuting authority, extend suspects' rights, improve the investigation and resolution of official complaints and provide for new methods of testing evidence gathered by the police.

The second involves the election of a network of locally-based public commissions placed under a duty to uphold the law and charged with interpreting

the general legal duty of the police in those cases where no complainant exists and the law itself does not provide unambiguous guidance as to the action it would be appropriate for the police to take. To inform their policy-making and the instructions they issue to chief officers on matters of law enforcement policy and the conduct of particular operations, commissions would be expected to canvass all shades of opinion on policing but have special responsibility for uncovering the large areas of 'unvoiced and suppressed' need ignored under the present system of accountability. They would also be required to adopt - and publicly declare - definitions of public justice to guide their deliberations, and to consider petitions from citizens who 'consider themselves to stand unequally before the protective and controlling aspects of the law upheld by the police'.[43] Questions about the scope of commissions' powers to instruct chief officers and the legality of the guidance issued by them would ultimately be for the courts to resolve, while the problem of local discrepancies in enforcement policies and practice would be minimised by holding annual conferences of the commissions to work out model resolutions and recommended statements of policy for adoption locally. Parliament would also be in a position to amend legislation in the light of regular reports received from the commissions.[44]

Notes

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[1] The work considered here is only part of a voluminous literature on accountability dating from the late 1970s and 1980s. For a range of other views see: Hain (1979, 1980), Levenson (1981), Brogden (1982), Baldwin and Kinsey (1982), Christian (1983), Spencer (1985) and Downes and Ward (1986).

[2] The LSPC was set up by nine Labour-controlled London boroughs to continue some of the policy initiatives of the GLC following the latter's abolition in March 1986. The ALA was the local authority association for all Labour-controlled councils in London throughout the height of the 'police accountability' controversy.

[3] See Chapter 2 above for the tension between 'liberalism' and 'democracy' within the liberal democratic tradition.

[4] Uglow (1988: 30) defends this position from the charge that the 'independence' and 'neutrality' of the police and the law are chimeras by quoting E P Thompson's famously trenchant statement on the ideological nature of the rule of law which ends, 'If the law is evidently partial and unjust, then it will mask nothing, legitimise nothing, contribute nothing to any class's hegemony ... The law may be rhetoric, but it need not be empty rhetoric.'

[5] See Smith (1988) for a stimulating review of Lustgarten's book.

[6] Lustgarten argues that the principles of independence and accountability must themselves be justified in the light of a Rawlsian conception of a just social and political order whereby 'rational persons would agree that [within the contours of that order] they would willingly be subject to those whose material interests were radically different to their own'.

[7] Throughout his discussion Lustgarten (1986: 161) assumes that 'the mandate of the police is the executive task of enforcing criminal law'. His principal ground for doing so is that, while the historical and social function of the police may sensibly be seen in terms of 'order maintenance', this is accomplished 'by the discretionary invocation of legal powers'. For his purposes then 'policing may be equated with law enforcement'.

[8] This is the point so perceptively made by Lawton LJ in the *CEGB* case referred to in Chapter 3.

[9] See Lustgarten (1986: 172-3) for examples of the kind of policing decisions he believes can properly be left to elected representatives.

[10] Principally the test of reasonableness laid down in *Associated Provincial Picture Houses Ltd. v Wednesbury Corporation* [1948] 1 K.B. 223.

[11] The idea that chief officers' decisions should not be '*Wednesbury* unreasonable' seems to have been accepted at least in principle by both courts in the *International Trader's*

Ferry Ltd. case discussed in the previous chapter and at greater length in Dixon and Smith (1998).

[12] See Chapters 3 and 5 for further discussion of the 'national' functions of the Met and the problems they posed for advocates of democratic accountability in London.

[13] The studies cited by Lustgarten were carried out by Rossi *et al* (1974) and Sherman (1983).

[14] The development of left realism can be traced in the work of Jock Young and his associates to the early 1980s. In addition to the works cited in the text, see Young (1981; 1986); Mathews and Young (1992); Young and Mathews (1992) and, for a concise up-to-date statement of the left realist case, Young (1997).

[15] In a later formulation, Young (1997: 485) lists 'formal control' as one of four 'definitional elements' of crime and continues thus, 'Realism ... points to a square of crime involving the interaction between police and other agencies of social control, the public, the offender and the victim'.

[16] The liberal constitutionalist model of policing assailed by the left realists in the 1980s is that adopted by proponents of the *status quo* rather than the critical position adopted by Uglow and Lustgarten. Some observers have commented that the left realists' taste for political polemic has led them to create a ' [left] idealist straw man' that bears little resemblance to the 'critical interventionism' of those they castigated for their alleged 'idealism' (Sim *et al*, 1987, and see below).

[17] See Kinsey (1985); Jones *et al*, 1986; Painter et al (1989); Crawford *et al* (1990) for surveys done on Merseyside and in the London boroughs of Islington and Hammersmith and Fulham.

[18] Mr. Straw's Bill took some care to distinguish between general strategy issues (e.g. the emphasis to be given to particular kinds of police work) over which a police authority would exercise control, and operational decisions (e.g. the response to particular calls and the deployment of officers on individual cases) where they would not. The AMA's proposals were contained in a series of papers on the police published in November 1982 as *Policies for the Police Service* (cited in Spencer, 1985: 113-5).

[19] See also Baldwin and Kinsey (1982) for an influential empirical study advocating consensual policing as the only model appropriate in a democratic society.

[20] The empirical basis for this instrumental argument for police accountability is virtually non-existent. The first Islington Crime Survey (Jones *et al*, 1986: 139-145; 151-155) included questions on public willingness to co-operate with the police and on respondents' views on who should control local policing, but the two sets of findings hardly support the bold claims made by Kinsey and his colleagues for democratic accountability as the *sine qua non* of detective efficiency and public safety.

[21] In his admirable study of liberal democracy, C B Macpherson (1977) contrasts John Stuart Mill's 'developmental' model first with the earlier, and more typically liberal, model of 'protective' democracy, and secondly with later ideas of what he calls 'pluralist elitist equilibrium' and 'participatory' democracy. The essence of the developmental model implicit in Lea and Young's proposal is that democracy, and democratic political

institutions, are critical to the personal self-development of the individual in society or, in the words of J S Mill to the 'advancement of community ... in intellect, in virtue, and in practical activity and efficiency' (quoted in Macpherson, 1977: 47).

[22] The Crown Prosecution Service (CPS) set up under the Prosecution of Offences Act 1985 only partially meets these requirements. For instance, the public interest criteria used by the CPS in deciding to prosecute once an initial test of evidential sufficiency has been met hardly allow for the use of Kinsey *et al*'s, much more general criterion regarding the desirability of public funds being used for the prosecution of entire categories of offence.

[23] According to Kinsey *et al* (1986: 183), 'national' functions such as anti-terrorist work should be overseen by a Standing Committee of the House of Commons. Their argument in favour of the inevitability and desirability of discretionary law enforcement is a pragmatic acknowledgement of the requirements of justice and effectiveness given the open texture of legal rules, resource scarcity and the impossibility of total enforcement (Kinsey *et al*, 1986: 166-7).

[24] Authorities would also be under a duty to inform and educate the public on policing policies, to oversee crime prevention activities like neighbourhood watch, appoint chief officers and act as the complaints authority for their area (Kinsey *et al*, 1986: 176-9).

[25] To assist authorities in this task Kinsey *et al* (1986: 180-1) advocated a network of community liaison panels based on the model recommended by Lord Scarman (1981) in his report on the Brixton Disoders and given legislative effect in s. 106 Police and Criminal Evidence Act 1984. The model and its implication are discussed in more detail in Chapter 7.

[26] See Kinsey *et al* (1986, Chapter 9) for a thorough exposition of 'minimal policing: the theory and practice of a democratic force'.

[27] Community policing and its implications for accountability are discussed at length in Chapters 6 and 7.

[28] Their conveniently ambivalent attitude towards the cultural norms of the police rank and file is neatly illustrated in *Losing The Fight Against Crime* where they proudly, and no doubt correctly, claim that their emphasis on crime control and law enforcement activity (at the expense of 'social work' functions and other forms of 'pre-emptive' policing) 'will accord with the gut-level response of many police officers concerning what is 'police work' only to state less than a dozen pages later (apropos of the cavalier attitude of the police towards domestic disputes) that 'we cannot accept the police's working definitions as the criterion for what should be done (Kinsey *et al*, 1986: 196-1, 205).

[29] This commitment to intervene in the contemporary politics of 'law and order' is no empty rhetoric. Apart from the police, prisons, Northern Ireland, violence against women, and institutionalised racism are also identified as key areas for critical intervention and the authors make numerous references to the various ways in which they and like-minded scholars have sought to contribute to 'building alternative accounts' of

the operation of the state and its institutions since Mrs Thatcher's first election victory in 1979 (Sim *et al*, 1987: 10-39).

[30] Sim *et al* (1987: 46-48) emphasis in original. Many of these criticisms echo those suggested by my discussion of left realism's 'accountable policing is efficient policing' position in the previous section.

[31] Gilroy and Sim (1987: 88) rely here on the work of Doreen McBarnet (1981) in problematising the legal form and suggesting how 'the production, preparation and presentation of evidence does not match up to the rhetoric of justice'. Hence, for example a supposedly impartial legal process, adhering to the sacred principles of the rule of law, is able to privilege the 'official' account of events leading up to the arrest of a suspect. Reconstructed by police officers in the appropriate discourse of legality and procedural propriety, such an account is sufficient effectively to ensure that any attempt by the defendant to describe what really happened is viewed by the court as entirely beside the point. Incidentally, Gilroy and Sim (1987: 88) also take issue with E P Thompson's (1975) much-quoted assertion that the rule of law is an 'unqualified human good' on the grounds that 'the level of abstraction at which it functions makes its kernel of truth banal', and because it exaggerates the significance of formal legal rationality in circumstances where it is so readily dispensed with in the greater cause of order maintenance and social control.

[32] Cf. calls for 'community control' advanced, for example, by Hain (1979) and discussed briefly below.

[33] These aspects of monitoring are taken from Scraton (1985: 175) where he also stresses the importance of identifying 'police behaviour and attitudes as an institutionalised form rather than as the personal responses of individuals', the 'provision of practical help and support to victims of crime and also to victims of police violence or harassment' and 'the development of accessible information and public education programmes geared to the turning of 'cases into issues".

[34] See Cohen (1979) for a well-known illustration of police success in winning the confidence of the urban labour aristocracy around the turn of the century.

[35] More specifically, they refer to policies regarding such 'operational' matters as the deployment of personnel and equipment between functions and to particular operations, the operation of disciplinary procedures, and the routine institution (prior to the Prosecution of Offences Act 1985) of proceedings against offenders. These 'operational policies' are contrasted with what they call 'administrative policy' decisions about the size and structure of the force and the equipment available to it in respect of which they argue chief constables enjoy no more independence than any other manager of a public organisation (Jefferson and Grimshaw, 1984: 62).

[36] *Ibid.*: 66-7.

[37] *Ibid.*: 82.

[38] *Ibid.*: 148-50.

[39] It will become clear from the discussion in the next chapter that, on this point at least, Jefferson and Grimshaw's characterisation of the GLC's proposals is not entirely fair.

[40] They distinguish a conception of public justice (essential if a chief constable or police authority is to justify policies of selective enforcement while discharging a general duty to uphold the law) from principles of individual justice - 'the fair or impartial application of the law in individual cases' - sufficient for the purposes of the beat constable dealing with particular offences and incidents.

[41] A purely individualist conception of public justice would require the police, for example, to equalise residential burglary victimisation rates by giving more attention to offences committed against relatively deprived, and 'over-victimised', inner city housing estate residents at the expense of those taking place in the more affluent suburbs. The same logic would also demand that equal amounts of police time be devoted to inquiries involving 'known criminals' and other suspects in cases where the former's record bears no relation to the matter in hand.

[42] Like Waddington (1984a), Jefferson and Grimshaw see police officers as discharging a quasi-judicial function. As was noted in the previous chapter this is no longer tenable in the light of the House of Lords decision in *Holgate-Mohammed v Duke* [1984] A.C. 437 (Lustgarten,1986: 163-4).

[43] Jefferson and Grimshaw (1984: 178). They resist the temptation to make the adoption of an explicitly socialist conception of public justice a legal requirement.

[44] Whether this provides a complete answer to objections to local democratic accountability on the grounds that it leads to the subversion of the principle of equality before the law and the institutionalisation of a low level form of 'justice by geography' is debatable though one may surmise that Jefferson and Grimshaw would see such variations, stemming from the decisions of locally elected commissioners working to an explicitly stated conception of public justice, as the expression rather than the negation of democratic practice.

5

Revolution or Reform: The Rise and Fall of Municipal Socialism

In 1888 the newly created London County Council (LCC) passed a motion calling on the government of the day

> ... to take an early opportunity of supplementing its scheme of Municipal
> Government for London by transferring the management of the civic
> police to the council (quoted in Bundred, 1982: 66).

This proved a vain hope, and almost a century later, the Labour Party manifesto for the 1981 elections to the LCC's successor authority, the Greater London Council (GLC), was still promising that:

> A Labour GLC will campaign for a police authority consisting of elected
> members of the GLC and London boroughs to have control over the
> Metropolitan and City police. (quoted in *ibid.*: 72).

Over the intervening years little progress had been made in insinuating locally elected representatives into a position of influence in the governance of the Metropolitan Police.[1] Informal annual consultations on the Metropolitan Police precept and expenditure estimates had taken place between the Receiver and two London borough treasurers since 1949, but the capital had been excluded from the reform of police governance effected by the Police Act 1964. By the late 1970s

dissatisfaction with the performance and financial management of the Metropolitan Police was growing and even a Conservative administration at County Hall was moved to call for the GLC to be given 'a strategic role in the maintenance of law and order' (Bundred, 1982: 71). To this groundswell of local political opposition to the continued financial independence of the police, the incoming Labour administration added the zeal of the new municipal socialism and, within two years of its election, the GLC published a detailed consultation paper on the 'democratic control of the police in London' (GLC, 1983).[2]

The GLC

To set the scene, the GLC's paper begins with a dissection of the 'crisis' gripping policing in London: a crisis marked, it says, by widespread public distrust of the police, by corruption and the abuse of police powers, by a bloated and over-centralised bureaucracy, by the routine over-coercion and under-protection of black and other ethnic minority people, and by mounting concerns about the apparent ineffectiveness of the Metropolitan Police in carrying out its basic task of preventing and detecting crime (paras. 8-12). This is followed by a similarly unsparing diagnosis of the inadequacies of the existing arrangements for police governance in London. While elected representatives could be trusted to define issues and formulate policy for the delivery of education, housing and personal social service they were excluded from any formal role in the formulation of policing policies. Decisions about whether to take a child into care or not could safely be taken 'beneath the umbrella of democratic control', but in the case of policing

> ... it is an unelected Commissioner who prioritises the various policing functions ... despite the fact that policing seeks to regulate the behaviour of citizens and that this function is ostensibly discharged in the public's name. (para. 29)

As long as the Metropolitan Police Act of 1829 remained in place, the only external influences on the Commissioner and his Policy Committee were the Home Secretary and a few high-ranking civil servants in his Police Department.[3] Although the precise nature of the relationship between the two was unclear (para. 89), the GLC accused successive Home Secretaries of lacking a local interest in London's policing and allowing the Commissioner too free a hand in conducting his force's affairs (para. 7). Nor was the GLC impressed with the legal alternative to this antiquated system of political accountability. The cumulative effect of case law from *Blackburn* to *Ex parte CEGB* had been to render meaningless the courts' power to intervene in the Commissioners' exercise of his discretion in discharging his duty to enforce the law (para. 130).[4] Managerial controls were also lax because of excessive centralisation and the inability of senior managers to maintain control over police practice on the streets (para. 113). Succinctly put, the GLC's case was that the existing arrangements for the governance of the Metropolitan Police were undemocratic, opaque, and had allowed the force to develop into an unaccountable bureaucratic leviathan.[5]

Underlying this critique of the nuts and bolts of police governance in London were some significant contributions to the wider debates about accountability examined in the last two chapters. So, for example, the GLC argued that the practical impossibility of total enforcement, and the consequent inevitability of police discretion, made the insertion of locally elected representatives into the process of police decision-making a necessity. But they also acknowledged the difficulty that senior commanders experienced in directing their own officers under the existing arrangements for police governance and concluded that:

> ... a local police authority which merely replaced the Home Secretary
> would not be in a position to have a significant influence on the
> behaviour of officers on the ground. It could, given the necessary legal

powers, control force policy and ensure that standing orders and instructions were in accord with that policy, but it would have no way of ensuring that those policies were implemented uniformly across such a large police force. (para. 120)

When it came to examining alternatives to the radical reforms it put forward, the GLC's paper was scathing in its criticism of the tri-partite structure established for provincial forces by the Police Act 1964 and roundly rejected it as a model for change in London (paras. 16 and 78). Also dismissed was any question of limiting the powers of an elected police authority to matters of 'policy' leaving 'operational' decisions to be taken by the Commissioner and his subordinates.[6] Indeed, the paper goes to some lengths to expose the artificiality of distinguishing between a 'policy' decision to focus, say, on street robbery rather than burglary and 'operational' decisions about the deployment of personnel required to achieve such an objective (para. 81). In reality, the GLC argued, 'all operational decisions are potentially 'policy' issues'. If police functions had to be categorised, it was preferable to distinguish between 'administrative, procedural and personnel matters' on the one hand, and policy and operations on the other (para. 145).

Proposals for change

Ultimately however the analysis presented in the discussion document was but a preamble to the authority's proposals for a new police authority for London (PAL). Their plans may be summarised as follows:[7]

1. A new two-tier authority should be established consisting entirely of elected councillors with as much power as possible devolved from the London-wide strategic level (in effect the GLC's own Police Committee) down to borough-level committees (paras. 223-4).

2. A statutory duty to enforce the law would be imposed on the new PAL alone (para. 164).

3. Police officers and civilian personnel would become employees of the authority enjoying similar terms and conditions of service to other local government officers, including the right to join a trade union and take an active part in political activities (paras. 165-7)

4. Responsibility for routine policing and for taking decisions in emergencies would be delegated to the police by the PAL within boundaries set by statute and in accordance with the authority's priorities (paras. 139, 154)

5. The PAL would retain 'ultimate control of all decisions relating to deployment and policing methods' including the right to intervene in the conduct of individual operations such as the policing of a riot (paras. 152-4).[8]

These proposals clearly entailed the abrogation of the doctrine of constabulary independence. Indeed they represented nothing short of a revolution in police governance and, to counterbalance the shift in power from police to police authority, the GLC suggested a number of safeguards.

Safeguards

The first line of defence against an overweening, or simply corrupt, authority lay in the substance of the GLC's own proposal that police officers should become local government employees subject to the direction of elected representatives. Local authorities were well accustomed to prioritising the work of employees such as social workers, environmental health officers, and surveyors upon whose professional judgement they depended for the performance of duties imposed on the authority by statute. Hence,

> The ultimate control by the police authority over policing should not involve any diminution in the professional status of a police officer or the importance attached to his/her judgement, (para. 155)

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Local politicians would be no more capable of influencing the decision of a police officer to make an arrest than of meddling in the decision of a social worker to make a child the subject of a place of safety order. The legality of both decisions depended upon the personal, situational, judgement of the individual employee be she police officer or social worker. It was not, and nor would it ever be, for the authority to involve itself in 'cases relating to individuals' (para. 151) where the use of a statutory power was made contingent upon a particular factual assessment having been made by the individual responsible for exercising that power.[9] Thus, in the case of a potential riot it would be permissible for the PAL to direct the police how to handle the disturbance by prescribing the number of officers to be deployed and the tactics and equipment to be used. But it would not be possible for it to interfere in the 'cases of individuals arrested in the context of [that] policing operation' (para. 152). There could be no question of the authority conducting its own enquiries and thus either prejudicing police investigations following an arrest or acting in contempt of court where a matter had become *sub judice* (para. 150).

Should these internal safeguards fail to work, significant external controls on the new authority's powers would come into play. The courts would be responsible for ensuring that the authority discharged its duty to enforce the law, and the Home Secretary would retain the right to prescribe national minimum standards of efficiency under the supervision of Her Majesty's Inspectorate of Constabulary (HMIC). Finally the GLC, like many of the academic reformers whose proposals were considered in the last chapter, suggested that responsibility for conducting criminal prosecutions should be transferred from the police to an independent prosecution service as recommended by the Royal Commission on Criminal Procedure (1981) (para. 133) and, more originally, proposed an elaborate system for maintaining the confidentiality of police records.

The London Strategic Policy Committee

Three years after it published its discussion document on a new police authority for London the GLC was abolished. But its work in several important areas, including policing, was continued by a group of nine Labour-controlled boroughs that combined to form the London Strategic Policy Committee (LSPC). Within a year of the LSPC's formation its Police Sub-Committee published a set of revised proposals for reforming police governance in London under the title, *Police Accountability and A New Strategic Authority for London* (LSPC, 1987).[10]

The abolition of the GLC and the other metropolitan councils in March 1986 compelled the LSPC to rethink some of the more radical ideas espoused by its predecessor. In fact its paper began by stating that its proposals were to be considered not as an element in legislation designed to alter the constitutional status of the police, or to effect changes in the powers and duties of provincial police authorities, but 'in the context of a Parliamentary Bill to create a multi-purpose strategic authority for London' (LSPU, 1987: 6). Politically contentious reforms of police governance nationally, and the statutory replacement of the Police and Criminal Evidence Act 1984, were seen as the second stage of a process to be initiated by the creation, with cross-party support, of a new strategic authority for London in the early days of an incoming Labour administration at Westminster.[11] Thus, while the LSPC did not abandon the revolutionary aspirations of the GLC in the field of police governance, it was compelled to concede that their realisation would be postponed for some time after the election of a Labour government.

Continuity

The many compromises forced on the LSPC following abolition must not be allowed to obscure the consistency of much of its thinking with that of the GLC. For example, the LSPC's paper, like the GLC'S, set out a series of pre-conditions for the establishment of a new police authority for London. These included the transfer of national police functions either to the regions or to a national agency, and the incorporation of the City of London into a police area coterminous with the boundaries of a new strategic authority.[12] It also followed the earlier document in contemplating 'a two-tier partnership authority comprised wholly of elected representatives'.[13] At first tier level a police committee consisting of about 30 members of the new strategic authority would have responsibility for 'London-wide policy and functions'. 'Local policing issues' would be left to the lower tier level and those boroughs that had not already done so would be required to establish an ordinary committee of the council to deal with police matters. As the GLC had done before, the LSPC justified its advocacy of a decentralised two-tier structure as the only means of ensuring that a new authority could get to grips with the 'often local and mundane' policing issues of concern to the public.[14] A strategic authority, it was argued, could hardly be expected to have either an interest in, or specific knowledge of, concerns about levels of police patrol expressed by residents on a single council housing estate. Boroughs were also in the best position to coordinate action at neighbourhood level between the police and council services.

Another key feature of the GLC's proposals to be carried over into those of the LSPC was the exclusion of 'individual cases' from the purview of the new authority.[15] Unfortunately the scope of this exclusion was not explained as thoroughly by the LSPC as it had been by the GLC. Would, to use the latter's example, the authority envisaged by the LSPC be prevented from issuing prospective directions to the Commissioner and his operational commanders

about the tactics and equipment to be used in policing a riot (or, more realistically, a demonstration with potential for public disorder) on the grounds that it constituted an 'individual case'? Or would that restriction apply only to the cases of individual demonstrators arrested at the scene as the GLC had suggested? The answer is not clear and is a mark perhaps of the uncertainty surrounding the degree of control over operational decision-making the new police authority might have in the light of some of the LSPC's more far-reaching revisions of the GLC's plans.

Change

By far and away the most significant of these revisions was the LSPC's suggestion that, rather than sweep away the independent office of constable and install a new strategic authority as the direct employers of police and civilian personnel, the first step of an incoming Labour government should simply be to transfer to an elected body the existing responsibilities of the Home Secretary as police authority for London under the Metropolitan Police Act 1829.[16] It will be recalled that the GLC had rejected the possibility of merely replacing the Home Secretary with a locally elected authority on the grounds that its powers under the 1829 Act would not enable it to have a significant influence on officers' behaviour on the ground.[17] Accepting a straightforward transfer of authority - even as a first step in democratising police governance in London - thus represented something of a climb down by the LSPC. However, in an attempt to minimise the scale of the retreat, the LSPC went to great lengths to talk up the extent of the Home Secretary's powers under the 1829 Act praying in aid 'a host of respected legal authorities' for the proposition that 'the Home Secretary's ability to give directions to the Commissioner has never seriously been challenged (LSPU, 1987: 41).[18] Summarising the Committee's views on the 19th century legislation and subsequent developments in case law and administrative practice, the paper stated that:

> ... the Home Secretary can direct the Commissioner as Commissioner
> and not as a constable. The Commissioner is required to comply with
> directions under the terms of the 1829 Act and constables are in turn
> required to obey the Commissioner's instruction. In this process no
> constable is instructed without a specific and clear statutory authority.
> Whatever the common law doctrine of constabulary independence
> dictates, this statutory authority takes precedence. (LSPU, 1987: 43).[19]

And from this, the LSPC concluded that

> ... the statutory and procedural framework which exists would allow for
> the expansion of [their] interest, should a future police authority wish to
> take a more active role in the direction of Metropolitan Police affairs.
> (LSPU, 1987: 46-7)

There is no doubting that this is a seductively well presented and legally
ingenious case. But, in practical terms it was a dead letter from the outset. As has
been argued above, the LSPC's is only one of several plausible interpretations of
a venerable statute drafted to meet constitutional and administrative conditions
quite different to those of the late 1980s. More importantly, any attempt by an
elected police authority to take a more assertive role in the direction of the
Metropolitan Police in the febrile political atmosphere of 1987 would have led to
a serious breakdown in the collaborative relationship fostered by successive
Home Secretaries and Commissioners. From there, recourse would have had to
be to the courts where the judges would surely have interpreted the Metropolitan
Police Act 1829 in way that was consistent with the common law doctrine of
constabulary independence developed by the courts over the course of the half
century since *Fisher*. Thus, notwithstanding the LSPC's strictures on Lord
Denning's remarks in *Blackburn*, it is hard to believe that the courts would have
been prepared to accept the novel interpretation of the Act offered by a radical

police authority, bent on bringing the police under some form of local democratic control, to what, following the decisions in *Blackburn Nos. 3* and *4*, *Ex parte CEGB* and *Ex parte Levey* had become settled law on the insulation of chief police officers' decision-making from 'political' interference. On balance then, the LSPC's confidence that an elected police authority could use the statutory powers of the Home Secretary to issue directions to the Commissioner and, through him, to influence police behaviour on the streets seems misplaced. But the fact that such a proposal could be entertained, and built up with such painstaking care in the face of the GLC's scepticism about its efficacy, speaks volumes for the awkwardness of the LSPC's position following the abolition of the only authority capable of taking immediate and direct control of operational policing.

Having acknowledged that merely replacing the Home Secretary with an elected body would have to suffice pending a more extensive reform of police governance throughout England and Wales, the LSPC went on to explain and accept the consequences of that concession in the form of further revisions to the GLC's grand plan. So it was suggested that the new authority would employ neither the police nor civilian staff (LSPU, 1987: 10). The former would continue to revel in the independent office of constable, while the existing status of the latter as employees of the Receiver of the Metropolitan Police would be preserved 'under the direction of the London-wide police authority.[20]

Limiting a new authority to indirect influence over the police via the Commissioner under the 1829 Act powers also had repercussions for the GLC's policy of decentralisation. Although, as we have seen, the LSPC was committed to establishing a two-tier authority, it was astute enough to recognise that the need for decentralisation conflicted with the reality of the Met's rigidly hierarchical and bureaucratic organisational structure.[21] However desirable it might be to devolve

responsibility for setting police priorities and overseeing operations to the boroughs, it was simply not feasible to do so when the only purchase an elected police authority, acting solely within the terms of the 1829 Act, would have on the Met would be at the apex of the organisation in the form of directions issued to the Commissioner:

> Clearly a local commanding officer cannot be answerable to both a Commissioner *and* to a local police committee. Thus under any scheme for accountability which related to the present structure of the Met, local borough police committees would have formally largely a monitoring and reporting function. The introduction of any major decentralisation of control over policing would have to wait until a second stage when a change in the status of police officers from that of constable to local government officer may be considered and put into effect. (LSPU, 1987: 18, emphasis in the original)

Under legislation giving a new authority powers 'in relation to the Commissioner but not in relation to lower ranks which are under the command of the Commissioner', second tier borough police committees would be limited to approving orders, regulations and appointments for their local areas.[22] They would also enjoy rights of consultation on budgetary and establishment issues, major policy decisions, and the arrangements to be made for obtaining the views of the community under s. 106 Police and Criminal Evidence Act 1984, though the paper implies that decisions on such matters would, of necessity, be taken at the London-wide level.[23] Another key role for borough committees as part of a new strategic authority would be to 'undertake a police monitoring and research role' independent of their activities as part of the police authority, but funded from the council's budget.[24]

By conceding that replacing the Home Secretary with an elected authority would severely limit the scope for decentralising decision-making on policing, and giving much greater prominence to the need for independent research and monitoring activities to continue to be funded by a new authority, the LSPC tacitly accepted the enormity of the concession it had made in agreeing to confine a locally representative authority to working within the rickety framework of the Metropolitan Police Act 1829. Yet its commitment to the more radical project outlined in the GLC's discussion document remained. Political necessity dictated that its proposals should be directed, in the short term at least, towards the creation of an elected strategic authority for London. But this did not mean that the long term goal of demolishing constabulary independence and asserting democratic control over police operations at the borough level had been forgotten, still less abandoned.

Municipal socialism in one borough: the case of Islington

The influence of the Labour Party's new municipal socialists on local government in London was not limited to the Greater London Council, and the borough elections of 1982 led to the installation of radical administrations in several town halls across the capital (Keith and Murji, 1990). Islington was in the vanguard of this movement, and the Council moved quickly to push the issue of police accountability to the top of the political agenda.[25]

Less than two months after the May elections, and some nine months before the GLC published its discussion document on a new police authority for London, Islington Council's Policy Committee established a Police Sub-Committee with the stated purpose, amongst other things, of advocating 'democratic accountability of the police to the local community'.[26] It was acknowledged that achieving democratic accountability would require legislative change and the status of the new sub-committee was to be reviewed at the end of the municipal year the

following May.[27] But these were among the few notes of caution sounded in terms of reference that committed the council to taking an active interest in virtually every aspect of police policy and practice. Thus, the committee was to 'examine and make recommendations' not only on policing in the borough of Islington but also on 'matters concerning the metropolis as a whole or being of national concern'.[28] It was 'to seek to influence police policies and decisions on operational matters' and to promote 'greater public understanding of policing issues'.[29] In short, the purpose of the committee was

> To be the means of communication between the community (through its elected Council) and the Police and to work towards the improvement of policing in the borough, the better prevention of crime and the strengthening of relations between the police and the community.[30]

Support for the GLC

Spurred on perhaps by its somewhat precarious status, the Sub-Committee sought to consolidate its position with a flurry of activity. Reacting to proposals in the Queen's Speech of November 1982 on establishing a statutory framework for consultation between the community and the police, the committee stressed the importance of its own existence as a means of developing genuinely democratic forms of control over the police.[31] Later in the same month it noted that the Metropolitan Police was the 'only force in England where there is no direct form of accountability' and deplored the London boroughs' inability to influence either the level or composition of police budgets.[32]

It should be evident from what has been said thus far that the Committee shared many of the GLC's concerns and priorities including the financial accountability of the Met and the need for locally elected representatives to become more closely involved in operational decision-making. In the first flush of the Labour left's municipal successes, members' support for the GLC never seemed less than

wholehearted. When, early in 1983, the Conservative-dominated London Boroughs Association (LBA) warmly welcomed a series of meetings about policing in the capital involving the Home Secretary and representatives of local authorities in the Metropolitan Police District, the Police Sub-Committee in Islington passed a resolution deploring the initiative. The discussion of such strategic matters was 'the province of the GLC'.[33] Then in April of the same year it applauded the publication of the GLC's proposals for a new police authority for London 'as they would allow greater local autonomy and a closer liaison between the police, the Council and the community.[34] Two years later the Home Secretary was sharply criticised for failing to announce the kind of far-reaching proposals for the re-organisation of the Met advocated by the GLC.[35] The committee saw this as further evidence of the inadequacies of the existing system of police governance in London and reaffirmed 'the need to press for local democratic accountability of the Metropolitan Police'. Soaring crime figures were also interpreted as strengthening the case for greater accountability and a thorough audit of police effectiveness.[36]

Distance, doubts and left realism

The reasoning behind this linkage of prophylactic impotence with the lack of local democratic accountability surfaced again some time later when the outcome of a discussion on an internal policy review undertaken by the Met was minuted thus:

> The Sub-Committee recognised the need for the public to have
> confidence in the police but felt that this could only be achieved if they
> were responsive and sensitive to local needs. Thus accountability would
> lead to increased confidence in the police and would enable policing to
> be carried out more effectively. It was stressed that the Council's wish
> for police accountability was not simply a desire to take control but
> essentially to ensure that the expressed needs of the community were
> met.[37]

This minute is worth quoting at some length not simply because it illustrates the Committee's acceptance of the largely untested assumptions at the heart of the left realist case for greater accountability, but also for the almost apologetic tone of the last sentence.[38] Already, it seemed, an increasingly pragmatic Committee was beginning to distance itself from the unabashed radicalism of the GLC by basing its claim to influence police decision-making not on points of democratic principle but on the less politically contentious foundations of bureaucratic efficiency.

Less equivocal evidence of local unease with the GLC's position only began to emerge after the Council's abolition in March 1986. Although Islington was one of the nine Labour-controlled London boroughs responsible for establishing the LSPC, it was not long before members of the borough's Police Sub-Committee became restive. Post-abolition plans for a new strategic authority to replace the GLC were soon afoot with Islington favouring proposals put forward by the more broadly based Association of London Authorities (ALA) to those of the LSPC. At a meeting in January 1987, the LSPC's consultation paper on police accountability (LSPU, 1987) was noted in a somewhat cursory fashion and a further report requested from the ALA for consideration at the committee's next meeting.[39] Members of the Committee also expressed concern at the apparent overlap between the functions of the ALA and the LSPC and complained of the 'waste of resources' that resulted from the unnecessary duplication of effort.[40]

The ALA's document duly appeared on the committee's agenda on 5 March 1987 in the form of a 'second working draft' of a report by the Association's Police Policy Adviser. Entitled *A Strategic Police Authority for London*, the report focused on four aspects of the campaign for local accountability: the case for an elected police authority for London; two options for the political composition of

that authority; the role of the boroughs in relation to policing; and, finally, the powers and duties of the new body.[41] The arguments advanced by the ALA in support of an elected police authority for London were familiar. The inadequacies of the present arrangements for police governance both inside and outside London were rehearsed once again: and the 'principle' of local democratic oversight and control asserted (paras. 1.1, 1.2, and 1.7). Much was made of the status of the police as a

> ... public service paid from the public purse, in daily contact with the
> public and whose action or inaction affect not only the quality of life of
> the citizen but their very liberty. (para. 1.7.)

And, still more pertinently, as 'unavoidably the most important coercive arm of the State' (para. 1.8.). But fresh claims were also advanced for the unique ability of an authority made up of experienced local politicians, and elected on a clear popular mandate, to cope with 'bureaucratic obstructionism' and carry through the changes in 'organisation, practices and behaviour that are necessary for the Met. Police' (paras. 1.11. and 1.10.). New too was the suggestion that

> ... the lack of a clearly defined *locus standi* for the local authority in
> regard to policing matters constitutes an impenetrable barrier to mutual
> co-operation between the police and local government agencies no
> matter how much goodwill exist [sic] on either side. (para. 1,12.)

Once again the tone of this passage is one of sorrow at missed opportunities for mutually advantageous co-operation between local government and the police. The contrast with the angry denunciations of discriminatory and oppressive police practices contained in the GLC's contribution to the accountability debate is marked.[42]

The ALA's proposals

The modesty of the ALA's wish for some standing in the affairs of the capital's policing compared to the GLC's desire to take control of it by making police officers the servants of local government was also reflected in the former's proposals for the composition of a new strategic authority. Familiar calls for a wholly elected authority and the rationalisation of police and local government boundaries were mixed in with a significant revision of the GLC's plans for a two-tier authority with as much power as possible devolved down to the second tier of borough police committees. Both the ALA's alternatives for constituting a new authority contemplated a single tier body (the London Police Authority or LPA). The only choice on offer was between a committee made up solely of members of the new strategic London Regional Authority (LRA) and a joint committee composed of LRA members sitting together with nominees from the boroughs (para. 3.2.). Apart from nominating members to sit on the LPA under the second of these schemes, second tier police committees were to have little more than consultative powers on London-wide policing policies, together with a residual right to require local police commanders to provide information and reports on matters of concern to them at borough level (para. 4. 1). Without abolishing the independent office of constable as the GLC had proposed, neither the LSPC nor the ALA were able to find a meaningful role for the borough police committees their member authorities were anxious to maintain. Yet it was only the ALA who were prepared finally to efface the GLC's commitment to a decentralised system of police governance by arguing for a police authority with a single strategic tier on which borough representatives would, at best, form a permanent minority.

The powers and duties proposed by the ALA for its new police authority were also noticeably more limited than those of either the GLC or the LSPC. Thus its main responsibilities were couched in terms of providing an 'efficient police force' reminiscent of the function of a provincial police authority within the much-

ridiculed tripartite structure, and of issuing 'strategic goals for the use, deployment and objectives of the Metropolitan Police' (paras. 5.3. 1. and 2.). Read in conjunction with the legal restrictions to be placed on the authority's powers to intervene in the 'police handling of specific cases' and matters deemed *sub judice* or involving national security, it seems highly improbable that the ALA could have envisaged an elected police authority involving itself in operational decision-making - if necessary at the level of the individual incident - as the GLC had explicitly intended (paras. 5.2 and 5.4). Though the wording of the report is masterful in its ambiguity, it seems to suggest that elected politicians would confine their interest to what the GLC had described as administrative, procedural and personnel matters leaving all but the broadest questions of policy and operations to the police. In any event, the committee endorsed the ALA's proposals as a sound basis for a 'democratic police authority for London' and expressed support for the creation of a joint committee of regional authority members and borough nominees (the second of the two options put forward by the ALA) as the preferred approach to constituting the new LPA.[43] A more detailed report on the structure of the authority was requested but seems never to have been prepared.[44]

Pragmatism and consensus

June 1987 brought a third consecutive election defeat for Labour at the hands of Mrs Thatcher and plans for a new strategic authority for London were frustrated once again. In Islington, ritual incantations of the need for an elected police authority in the capital continued to feature sporadically in the minutes of the Police Sub-Committee for some time thereafter. For example, after a discussion on value for money and the Metropolitan Police precept early in 1988, the Committee reiterated its support for such an authority and called for more detailed information to be provided to boroughs on how the money levied from their ratepayers was spent.[45] More frequently however, apparently promising opportunities to labour the point were spurned and debates about the lack of

public confidence in the police in London, and on the policy implications of the second Islington Crime Survey (Crawford *et al*, 1990), passed off without reference being made either to the lamentable state of police governance in the capital, or to the case for a democratically elected local authority.[46]

It was not until the year before another general election - with a change of government again eagerly anticipated by Labour activists in local government - and only six months before sector policing went 'live' on Holloway Division, that Islington's Police and Crime Prevention Sub-Committee (as it then was) revisited the issue of police accountability. The occasion for this was the appearance of the second draft of a detailed, and soberly phrased, report on the composition, functions, powers and structure of a police authority for London prepared by the ALA's Police Policy Adviser and the Principal Research Officer in the Committee's own Support Unit.[47] In an unapologetically party political preface, the Chair of the Sub-Committee, Councillor Derek Sawyer, claimed that the argument for an elected police authority had been won. Such an authority, he argued, was generally accepted as 'desirable, necessary and inevitable' not only by 'the thinking echelons of the police service' but also by usually hostile sections of the press.[48] Opposition to the idea had become the preserve of 'the sillier sections of the Conservative Party buttressed by the die-hard elements of the Home Office mandarioncracy [sic]'. Then, in a passage that illustrates the increasingly apolitical and managerialist tone of local Labour politicians' pronouncements on police accountability since the rise of municipal socialism, Sawyer concluded:

> This document should finally hammer the nails down in the coffin of the
> gross canard that the Labour Party wants political control of the police.
> Democratic accountability of the police is about quite different things.
> Fiscal control, prioritisation of objectives, dialogue through elected
> members between the police and the public and restoring confidence in

the Metropolitan Police and through that, an improved performance against crime.

So, by the early 1990s in Islington, the GLC's concerns with financial discipline and police effectiveness in the prevention and detection of crime had become central to the case for an elected police authority. High-minded references to democratic principles, rank injustices in the distribution of coercion and protection, and the urgent need to curb corruption and the abuse of power had been replaced at the forefront of the arguments for reform by the dull instrumentalism of technical efficiency. All that remained of the GLC's calls for democratic control of London's policing was the offer of elected representatives' assistance in facilitating confidence-building discussions between the police and the public.

The detailed proposals outlined in the main body of the report provided further evidence of the scale of the retreat. The political background to its production seems to have been the publication of a policy document confirming that an incoming Labour government would create a directly elected Greater London Authority (GLA) with responsibility for a number of strategic functions. As far as policing was concerned, the report before the sub-committee sought to outline the aims and functions of such an authority in terms 'little different from the 1964 [Police] Act for provincial forces'.[49] In discharging its general responsibility for 'the maintenance and guidance of an efficient police service for London', the authority would have the power to determine budgets and issue precepts, call for reports and/or briefings on any subject, and provide strategic guidance on overall objectives and practices.[50] Although it would be responsible for overseeing recruitment, training and promotion within the Metropolitan Police Service and act as employer to all police and civilian personnel in regard to their employment and pension rights 'the operational independence of the constable under the law would be maintained'.[51] The authority would also be

... prohibited from enquiring into the [sic] individual criminal investigations with the exception of allegations of police corruption and serious misconduct.[52]

As for the composition of the authority, the report did no more than note the Labour Party's preference for a small body of about 30 directly elected members with no provision for the nomination by, or co-option of, additional members from borough councils.[53]

From revolution to reform: Islington 1982-91

Islington's Police Sub-Committee had travelled a long way by 1991. In 1982 it had been happy to endorse the GLC's plans for operational control of the police to be vested in a wholly elected, and radically decentralised, police authority. It could contemplate with equanimity, even enthusiasm, the metamorphosis of the holders of the ancient and independent office of constable into the humble servants of local government. It had subscribed to the view that the Metropolitan Police was an unaccountable and over-grown bureaucracy to be brought to heel by accomplishing a peaceful revolution in police governance. Nine years, and two general election defeats later, Labour's leaders in local government felt compelled to adopt a more pragmatic stance. Having associated itself with the GLC's excoriation of the tripartite system in the early 1980s, the Islington committee of the early 1990s found itself supporting proposals for an elected police authority with responsibilities all but indistinguishable from those of its provincial counterparts. Gone too were the commitments to decentralisation and to wresting control of operational policing from unaccountable police commanders and anonymous Home Office bureaucrats. The new model police authority of 1991 was to be a centralised strategic authority, a democratically elected honest broker between the police and the public, and a duly deferential purveyor of modest opinions on the broad sweep of policing policies for London.

The mutation of a generation of radical municipal socialists into sober pragmatists was not unique to Islington but typical of the 'new realist' revisionism espoused by Labour politicians in local government throughout London and the rest of urban Britain.[54] Although the commitment to replacing the Home Secretary with a locally elected body remained, it was obvious by 1991 that the high tide of municipal socialism had ebbed leaving Islington's Police Sub-Committee, the ALA and the upper reaches of the Metropolitan Police hierarchy, in broad agreement on a set of proposals for reform that would change the form of police governance while leaving the substance of operational policy-making firmly in the hands of still assertively autonomous police commanders.

A critical view of police accountability

What emerges from the 1980s literature on police accountability – from academy and town hall alike – reviewed in this chapter and the last is an apparently shapeless mass of arguments and counter-arguments advanced by critics committed to irreconcilable theoretical positions and constantly changing political agendas. Where concrete plans for reforming police governance either in London or more generally are presented they teem with seemingly incompatible proposals. Yet, by applying the four dimensional analysis of police accountability I outlined in Chapter 2, it is possible to give some coherence to what the critics had to say and to draw from their work some important insights into how and why police accountability came to be reinvented in London.

Content

Irreconcilable though their positions may seem, there was in reality a substantial measure of agreement between liberal democratic constitutionalists, left realists, critical interventionists and socialist justice theorists about the core content of

police accountability. None of the authors considered in Chapter 4 would have dissented from the view that public policing is inextricably linked with the distribution of the state's monopoly on the use of legitimate coercive force. Though writers from the various schools might have characterised the state in very different terms and disagreed about the degree to which the distribution of force was skewed, more or less explicit references to policing as the domestic delivery of state-sanctioned coercion were a feature of critical work throughout the 1980s. Policing styles might vary from the immanently militaristic to the falteringly consensual, but no one seemed in any doubt that the stock in trade of the police was the actual or threatened use of coercive force.

Writing from within the liberal democratic tradition, Lustgarten and Uglow both regarded the delegation of the state's domestic monopoly on the use of coercive force to the police as a critical factor in determining their constitutional status and establishing the need for vigilant external controls. Indeed Uglow and the left realists were so eager to minimise the occasions on which force might legitimately be used that they wanted to restrict the police to a purely 'reactive' role. In doing so they hoped to outlaw 'police-initiated' coercion by limiting the scope of policing to responding either to actual or 'immediately apprehended' criminal offences and breaches of the peace (Uglow, 1988), or to calls for assistance from the public (Kinsey *et al*, 1986).

What the critics could not agree about was the point at which control over its distribution ought to be taken out of the hands of the police themselves and given over to a democratically constituted external authority. For the first generation of reformers like Jack Straw MP, the AMA (cited in Spencer, 1985: 111-5) and Baldwin and Kinsey (1982: 110-1, 116), the solution was to restrict the powers of wholly elected police authorities to deciding 'general policing policies' – such as policing priorities, the functional and geographical distribution of personnel and

resources, and the kind and amount of technical equipment to be provided - for their areas. Beyond this, Mr Straw sought to protect the operational independence of chief officers in conducting particular operations and dealing with individual cases by allowing them to delay implementation of an authority's decision and/or to appeal to the Home Secretary against their instructions if the authority had exceeded its powers (Spencer, 1985: 112). The left realists and their collaborators at the ALA seemed to accept the validity of the distinction between 'policy' and 'operations' in seeking to prevent police authorities from giving directions in 'individual' or 'specific' cases, though the ambit of the restriction was never made entirely clear. Uglow (1988) also believed that police authorities should have no influence over day-to-day operations. To the rest of the critics, however, the distinction was untenable: 'operational' decisions should be informed by 'policy' and 'policies' formulated and revised in the light of operational experience.[55] Nor could a line be drawn between a 'policy' decision to prioritise street robbery rather than burglary and 'operational' decisions about mounting and resourcing initiatives directed at apprehending street robbers as opposed to burglars.

Even if the critics tended to exaggerate the difficulty of distinguishing between 'policy' and 'operations' in principle, they were right to warn of the dangers of using such contestable terminology in delimiting the scope for external control of police decision-making. In place of the 'policy/operations' distinction both Lustgarten and the GLC favoured the extension of what the former called 'democratic governance' to every aspect of police policy and operations. For them, the uninhibited exercise of police discretion should be limited to 'the cases of individuals' where no one but a police officer personally aware of the facts could be in a position to form the suspicion required for a lawful arrest or search to be made. If Lustgarten and the GLC had had their way, an elected police authority in London would have been able not only to adopt a policy on the policing of demonstrations generally but to issue instructions based on that policy

as to how particular protests were to be handled. By setting limits to the number of police officers deployed and the tactics and equipment they were authorised to use, the authority might legitimately have sought to influence both the likelihood of disorder occurring and the police response to it. They might even have been able to insist that there should be no police presence at a given demonstration whatsoever subject only to the courts' power to intervene if such an instruction could be shown to amount to a breach of the authority's general duty to enforce the law. The use of the highly coercive power of arrest would thus have been brought under the control of an elected police authority up to, but not beyond, the point at which a decision had to be taken as to the existence of the factual conditions precedent needed for the lawful use of that power against an individual suspect.

Direction

There are few explicit references in the critical literature to 'the people' as the ultimate source of authority for the police use of coercive force, though both Uglow and the GLC from their very different political standpoints made the point that the police regulate social behaviour in the public's name and must account to the public for their conduct. But this is not to say that the other critics would have seen accountability as flowing anywhere but in the general direction of the *demos*. On the contrary, they all shared a belief that the existing arrangements for police governance were insufficiently inclusive, and failed to give large sections of the population any effective influence over how they were policed. From a fundamentally liberal democratic perspective Lustgarten could call for a regime of control that ensured equal treatment for all. But for critics standing outside the liberal democratic tradition, the reality of contemporary policing was to be seen in the relative over-coercion and under-protection of the poor, the 'rough', the powerless and the marginalised. As Ian Taylor argued, it was important to problematise police practices by subjecting them to a more effective system of

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liberal democratic control. But it was also vital not to forget that even-handed law enforcement in conditions of material inequality would not be sufficient to guarantee equality of outcome in the social distribution of coercion and protection. In the uncompromising view of the critical interventionists, the police had long ceased to serve 'the people' as a whole and had assumed an increasingly prominent role in fighting 'the enemy within' in defence of an unjust social order.

In short the critics' position was that the reality of policing and its governance in the 1980s failed to live up to the rhetorical commitments of liberal democratic theory. Instead of accounting to the *demos* from whom their authority stemmed, their constitutional status allowed them a large degree of autonomy. In so far as the police were held to account, the relative impotence of local police authorities (or, in the case of London, the total absence of such an authority), the inadequacies of the consultative arrangements recommended by Lord Scarman, and the reticence of the courts all combined to exclude the socially marginal, the economically disadvantaged and politically powerless from any effective influence over policing. The most important immediate directions of accountability were thus not to popular representatives at either local, force or national level but within the police bureaucracy itself and thence to a central Government primarily concerned with the mobilisation of the state and its agencies in defence of sectional social interests.

For the critics, the remedy for this lay in the democratisation of policing at a local level by purging police authorities of their non-elected magisterial membership and extending their power to include the determination of at least some aspects of policing policy. (In London of course this programme necessitated not just the reinvigoration of local democratic control but the creation of an entirely new institutional structure to replace the Home Secretary as police authority for the metropolis.) Localism - the notion of a police force accountable to elected

representatives working to establish and maintain what Taylor called 'particular' definitions of order - was a feature of critical work throughout the 1980s. Yet the tension between, on the one hand, such particularistic definitions of order and local mechanisms of 'democratic' control of the police and, on the other, the idea of law as a set of universally applicable rules and principles to be applied equally within the territory of a sovereign state was never far beneath the surface. How, to pose the problem another way, could accountability by means of reformed police authorities and liaison panels to sub-national fractions of the *demos* be reconciled with accountability to the people as a whole through the agencies of the nation state: the law, the courts, the Home Secretary and Parliament? And how could the differential enforcement of supposedly universal legal prohibitions and standards of behaviour be squared with the principle of equality before the law? If democratic localism became a reality, policing by geography could not be far behind.

The short answer to these questions was that the degree of autonomy granted to the police under the existing arrangements so robustly defended by critics of democratic localism such as Marshall and Oliver already gave chief officers ample room for moulding the policing style of their force in accordance with their own predilections and priorities. One only has to recall the careers and public pronouncements of John Alderson and James Anderton as chief constables of Devon and Cornwall and Greater Manchester respectively or, at a still lower level, Janet Foster's (1989) ethnographic study of differences in policing at neighbouring inner London police stations to appreciate the force of this argument. If differential enforcement is indeed a problem it is a product of localism and decentralisation rather than 'democracy'. But to point out that the social distribution of coercion and protection varies from place to place under conditions of relative police autonomy does not deal with the underlying difficulty posed by *any* system of police governance that seeks to make the police

accountable immediately to local fractions of the *demos* (usually constructed as 'the community') as well as generally to all citizens of the nation state.

The solutions offered to this problem by the critics tended to begin with a pragmatic acceptance of the potential for conflict between competing sources of democratic authority. Implicit in their position was the belief that, short of total enforcement, it was inevitable, indeed desirable, that patterns of coercion and protection would vary from neighbourhood to neighbourhood in accordance with the needs of local people and their conceptions of order. To the critics, there was no need to homogenise styles or patterns of policing provided three conditions were met in respect of the decisions underlying such local variations. Firstly, those decisions had to be taken publicly by elected authorities in the form of reconstituted local police authorities assisted by more locally based consultative groups or liaison panels. Secondly, decisions would have to meet minimum standards prescribed by a properly accountable national authority, such as a minister subject to the rigorous scrutiny of a parliamentary select committee. And, thirdly, whatever was decided must not amount to a nullification of the larger democratic will expressed in law and enforceable in the courts. To back this up, several critics also advocated the establishment of a network of public prosecutors, independent both of the police and police authorities, whose function it would be to prevent inconsistencies in police enforcement action feeding their way through into the higher reaches of the criminal justice system. Only Jefferson and Grimshaw undertook the more ambitious task of outlining both an institutional structure for the local democratisation of policing in the form of elected public police commissions and a conception of public justice for those commissions to refer to in deciding how to direct chief officers in their selective enforcement of the criminal law.

Mode

The mode in which the police were to be held to account under the proposals put forward by the critics was rarely discussed directly. But the language used to describe the relationship between their reformed police authorities and the police can only be read as implicitly directive. Authorities were seen as assuming 'control' over policing policies- and, in the more radical accounts, specific operations as well. The left realists, for example, talked of democratically constituted local police authorities and liaison panels 'deciding' policing strategies for their areas based on local crime profiles. Of course giving control over policing to elected representatives entailed the abrogation of the doctrine of constabulary independence as enunciated by the courts, but neither the left realists nor most of their contemporaries took the next logical step of seeking the abolition of the office of constable and the conversion of police officers into servants of local government. Only the GLC dared go that far by calling for police authorities alone to be given a statutory duty to enforce the law leaving the police themselves - stripped of their original authority as holders of the office of constable – clearly responsible to local government for the use of powers delegated to them by elected representatives.

The critics might have disagreed about whether democratic control should be restricted to questions of 'policy' or be extended to 'operations', and differed about the need for the police to become servants not of the law but of local government if local democratic control of policing was to be achieved. But there can be little doubt that, within the particular area of responsibility reserved to them, the critics expected elected representatives to take prospective decisions, to issue instructions to police commanders and to direct them as to how to perform their duties. They would no doubt have anticipated that authorities and liaison groups would want to maintain good relations with local police commanders and act on their advice. But it was clearly for these popular bodies to decide key questions

of policy, for them to establish local policing priorities, and perhaps even, on occasion, for them to direct how critical operations should be handled. Without necessarily wishing to make the police the servants of local government, the critics intended to subordinate them to elected representatives and to have them explain and justify their actions not in terms of their own professional judgement and discretion but against criteria framed for them in advance through the democratic process.

This is not to say that the relationship between police and police authority would be entirely directive. All the critics accepted that there were large areas of police decision-making where it was either impractical or undesirable for elected representatives to have such a role. Even on the most radical accounts, committees of local politicians would not manage routine police operations, if only for reasons of practicality. Most operational decisions would continue to be taken by individual police officers on the basis of situationally contingent judgements made, and where appropriate reported on, by them and/or their supervisors within a framework of policies and procedures laid down by elected representatives and senior police managers. The cases of individuals would be handled exclusively by police officers and certain restrictions would be imposed on the ability of police authorities to monitor, let alone interfere in, their progress.

Mechanism

As with much of the literature on police accountability, the 1980s critics aimed most of their analytical fire and reforming zeal on the mechanisms of police accountability. The various critiques of existing institutional structures and the different sets of proposals for reconstructing them along more democratic lines have already been discussed in some detail. All that remains to be done here is to pick out the main features of the critical debate starting with the legal and political

mechanisms of accountability, and the interaction between them, that formed the centrepiece of critical writing in the 1980s.

Legal and political

While some observers - notably the left realists and their allies in local government wasted little time on the law, the likes of Lustgarten, Jefferson and Grimshaw and the GLC/LSPC went to some trouble to demolish the legal basis for constabulary independence, expose the inadequacy of law as a guide to police decision-making, and identify the shortcomings of the courts as the guardians of the public interest in the equitable distribution of coercion and protection. For their part, the critical interventionists insisted that the permissiveness of the legal framework within which the police operated deprived the law and its institutions of any great utility in either holding the police to account for their actions or guiding police practice. Unfortunately, having so effectively undermined the law and legal institutions as mechanisms for police accountability, the critics made no serious attempt to suggest what might be done to put things right. Aside from recommending some improvements to the police complaints process, their purpose in pinpointing the shortcomings of the courts and the law as means of holding the police to account was not to make good the deficiencies in existing legal mechanisms of accountability. Rather it was to dismiss them almost entirely in favour of other, more immediately 'democratic', political and public devices.[56] Of these mechanisms, the reconstitution and re-empowerment of local police authorities generally, and the creation of an elected police authority for London in particular, absorbed most critical attention. Several authors were also unhappy with the Home Secretary's lack of accountability to Parliament for the way in which he discharged his national functions and suggested that a special select committee of the House of Commons might be set up to review his performance.[57] Hence the critics' response to the inadequacies of the law as a means of holding the police to account was to improve political mechanisms of control at local and national level by democratising police authorities, enhancing

their powers, and making the Home Secretary more open to Parliamentary scrutiny in discharging his responsibilities for the police service as a whole.

Public

Critical treatment of public mechanisms tended to start - and in some instances end - with a condemnation of police/'community' consultation as a politically mischievous and practically useless attempt to undercut demands for genuine accountability. The main point of difference amongst the critics was whether the Scarmanite liaison panels and consultative groups were worth reforming. The left realists believed that they were and could be reconstituted in order to play a part alongside police authorities in a democratised system of local police governance. But to the critical interventionists, the panels represented the institutionalisation of community policing and should be resisted as an attempt by the state and its agencies to penetrate civil society and mobilise the support of privileged communities in support of processes of social marginalisation, exclusion and control. Their preferred form of unmediated public accountability was independent police monitoring aimed at documenting the biases inherent in contemporary police practice and promoting popular systems of self-regulation.

But perhaps the most important contribution of the critics was to problematise the idealised notions of 'community' on which existing mechanisms of consultative public accountability were based. Ian Taylor was among the first to question whether functioning political communities capable of active participation in police governance were to be found in the fractured social formations characteristic of many inner city neighbourhoods where the need for direct contact between police and public in non-adversarial contexts was greatest. The critical interventionists feared that, far from making the police more accountable to all their local publics, the forms of public accountability advocated by liberal reformers like John Alderson and Lord Scarman would only exacerbate existing inequalities in the distribution of coercion and protection. Police-defined

'respectability' would become a pre-condition for participation in a consultative process that would be used to lend legitimacy to 'hard' policing and lead to the further marginalisation of the socially disadvantaged and politically powerless.

Professional-managerial

Since the main thrust of their arguments was the politicisation of police accountability, it is not surprising that the critics did not have very much to say about what I have called professional-managerial mechanisms concerned, for most of the 1980s at least, with the technical efficiency of the police. Charges of incompetence - reflected in low clear-up rates, for example - were often used by the critics to belabour the police, but only the left realists and their associates in local government tried to justify their arguments for greater political and public accountability as a pre-requisite for improvements in police effectiveness. For other critics, the only significance of professional-managerial mechanisms was as media for the transmission of directives from democratically constituted external bodies to the front-line officers responsible for operational policing. To the extent that police authorities and other bodies operating in the political arena might be unable to oversee day-to-day policing, managers would have to take responsibility for ensuring that their policies and priorities were followed and their instructions complied with. If rank-and-file subversion of the kind predicted by Waddington was to be kept in check, it would fall to police managers to hold their officers to account on behalf of their political masters. Lustgarten for one was less than sanguine about the feasibility of curbing the relative autonomy of the police bureaucracy and bringing operational practice more firmly under external 'democratic' control. But, having recognised the difficulty he chose not to offer a solution. Only the GLC sought to address it directly by decentralising both political and managerial decision-making to borough level, and turning the police into local government officers exercising authority delegated to them by a locally elected body.

A piecemeal approach

The abiding problem with the critical appraisals of police accountability considered here and in the previous chapter was that they tended to see the democratisation of policing coming about principally, if not exclusively, through the agency of elected police authorities. There were occasional attempts at combining more democratic forms of political accountability, with improvements to other mechanisms - most notably by municipal socialists faced with the very practical task of making a new police authority for London work. The GLC believed decentralised management within the Metropolitan Police was vital to its plans for a two-tier police authority, and the LSPC saw financial support for public police monitoring as a key function of a new strategic authority for London. The left realists wanted public accountability to be improved by giving local consultative committees decision-making powers. But none of the critics were able to look beyond proposals for some degree of coordination between police authorities and liaison panels or monitoring groups. The possibility of creating an integrated system of police governance incorporating all available mechanisms for holding the police to account appeared to get lost in the fog of the battle for greater political accountability.

Notes

[1] See also Chapter 3 above. This short discussion is based on Steve Bundred's (1982) account of the fate of demands for local accountability in London between 1829 and 1981. Bundred himself was Vice Chair of the GLC Police Committee between 1981 and 1984.

[2] Unless otherwise stated all references in this discussion of the GLC's proposals are to this paper by paragraph number. See Gyford (1985) and Lansley *et al.* (1989) on the fate of municipal socialism, and Panitch and Leys (1997) on the 'New Left' in the Labour Party. From the right of the political spectrum, Regan (1991: 9) provides a dyspeptic account of the municipal socialists' attempts to 'destroy or transform the political and economic system in Britain [by] tackling one of its most fundamental bastions, the police'.

[3] The Policy Committee was the 'inner cabinet' of senior officers thought by the GLC to be responsible for the strategic direction of the force and consisting at the time of the Commissioner, his Deputy and four Assistants (para. 88).

[4] [1968] 2 Q.B. 118 and [1982] Q.B. 458 and see above, Chapter 3, for further discussion.

[5] Surprisingly little is made in the GLC's indictment of the existing dispensation of the 'taxation without representation' argument advanced so forcefully by Bundred (1982: 59-60).

[6] The distinction between 'policy' and 'operations' had been much debated at the time of the 'Straw bills' on democratising and increasing the powers of provincial police authorities (para. 77). This is an aspect of the GLC's position to which Jefferson and Grimshaw's (1984, and see the previous chapter) pay too little attention in their discussion of its proposals.

[7] The LSPU's (1987: 9) summary of the GLC's proposals is not very faithful to the original.

[8] According to the GLC, two main pre-conditions would have to be met before these reforms could be implemented (paras. 17, 19, 168-82). Firstly, the boundaries of the Metropolitan Police District (MPD) would have to be made coterminous with those of the GLC by making some relatively minor changes to the borders of the former on London's periphery and, more controversially, by amalgamating the City of London force with the Met. Secondly the so-called 'national functions' (relating to national institutions such as the monarchy and the diplomatic corps, and the provision of support services to other forces) of the Metropolitan Police would have to be devolved as far as possible to individual forces and/or regional groups of forces. Genuinely national functions could then be passed over to a national police agency.

[9] Cf. the remarks of Lawton LJ in *Ex parte CEGB* [1982] Q.B. 458 and the comments of Lustgarten (1986: 13-5) referred to in previous chapters.

[10] Unless otherwise stated all quotations in the ensuing discussion are from this document. The LSPC boroughs were Camden, Ealing, Greenwich, Hackney, Haringey, Islington, Lambeth, Lewisham and Southwark.

[11] As it turned out of course, Labour sustained its third successive defeat at the hands of Mrs Thatcher's Conservatives in the general election of June 1987.

[12] LSPU (1987: 7, 62-3). The LSPC also argued for the command structure of the Metropolitan Police to be rationalised to accord with borough boundaries and facilitate local accountability. The repeal of key pieces of legislation on police powers including the Public Order Act 1986 and Prevention of Terrorism (Temporary Provisions) Act 1984 was also recommended as 'ancillary' to the changes advocated in the report.

[13] *Ibid*: 16.

[14] *Ibid*: 17.

[15] *Ibid*: 47.

[16] *Ibid*. 26

[17] See the passage from para. 120 of the GLC's discussion document quoted above.

[18] See Chapter 3 for a discussion of the relevant statutory provisions and of the authorities cited by the LSPC in support of their broad interpretation of the powers likely to be available to an elected successor to the Home Secretary including statements in the House of Commons by Home Office ministers in 1957 and 1986 and the report of the Willink Royal Commission on the Police (1962).

[19] The legal basis for this argument was as follows: the Home Secretary is empowered to give directions to the Commissioner, who is not required to be a constable, under s. 1 Metropolitan Police Act 1829. Section 4 of the same Act requires constables to obey the Commissioner's lawful instructions. These statutory provisions take precedence over the remarks of Lord Denning MR in *Blackburn* regarding the constitutional independence of the Commissioner from the executive – remarks that, in the view of the LSPC, were 'fundamentally wrong'.

[20] LSPU (1987: 48). It was also anticipated that a somewhat lavish establishment of some 150 staff would be needed to service the new authority itself.

[21] *Ibid*.: 17-18.

[22] *Ibid*.: 59.

[23] *Ibid*.: 59-60.

[24] *Ibid*.: 60. The ordinary staff of the new police authority would have to work closely with the police and it would, therefore, be important 'to maintain a separate research and monitoring capacity which would be in a position to take an objective view of police activities'.

[25] Other authorities widely identified with the 'New Left' in London were the boroughs of Lambeth, Brent, Hackney and Camden. Their radicalism extended far beyond policing and represented a comprehensive rejection of the policies of the first and second Thatcher administrations on a variety of social and economic issues.

[26] Police Sub-Committee, London Borough of Islington, Minute 2(b), 17 June 1982. This and the following quotations are taken from the terms of reference of the Police Sub-Committee recommended by the Council's Policy Committee on 15 June 1982 and adopted by the new Sub-Committee itself two days later. The passage quoted here is from para. 2.

[27] Minute 2(a) and terms of reference para. 2. As it turned out, the Committee survived a review of its activities in May 1983 and was still functioning - after several changes of title and political direction - a decade later to commission and discuss the research on which part of this thesis is based.

[28] Terms of reference para. 3.

[29] Terms of reference para. 4 and 9.

[30] Terms of reference para. 2.

[31] Police Sub-Committee, Minute 28, 11 November 1982. The proposals for statutory consultation finally emerged as law in s. 106 of the Police and Criminal Evidence Act 1984.

[32] Police Sub-Committee, Minute 46, 29 November 1982. The series of annual meetings initiated in 1949 between the Receiver of the Metropolitan Police and two borough treasurers to discuss the police precept was rightly regarded as a forum for the transmission of information rather than an occasion for substantive discussion of either the level of the precept to be levied or how the money raising should be spent.

[33] Police Sub-Committee, Minute 54, 17 March 1983.

[34] Police Sub-Committee, Minute 73, 5 April 1983.

[35] Police Sub-Committee, Minute 231, 8 January 1985.

[36] Police Sub-Committee, Minute 89, 5 July 1983.

[37] Police Sub-Committee, Minute 362, 19 September 1985.

[38] It will be recalled from the previous chapter that the nub of the realist argument was that the police cannot control crime effectively without the co-operation of the public and that this will only be forthcoming where people trust the police because they have some say in police decision-making. Close co-operation between leading left realist thinkers and the Council was a feature of developments in Islington throughout the latter part of the 1980s and into the 1990s (Keith and Murji, 1990). The clearest evidence of this collaboration, and the influence academic left realism had on the political trajectory of the local authority, is provided by the Islington Crime Surveys, conducted by research teams from Middlesex Polytechnic led by Jock Young (Jones et al 1986; Crawford et al, 1990).

[39] Police Sub-Committee, Minute 118, 5 January 1987.

[40] *Ibid.*: Minute 136.

[41] *A Strategic Police Authority for London: Second Working Draft*, Report by Walter Easey, Police Policy Advisor, para. 3.2 (appended to the Report of the Police Committee Support Unit: A Strategic Police Authority for London, Islington Police Sub-Committee, 5 March 1987, Agenda Item 8). All references to the ALA's proposals hereafter are to the text of a discussion paper attached to this second draft report

[42] See McLaughlin (1994: Chap. 6) for an account of similar developments in the campaign for police accountability in Manchester following the abolition of the metropolitan county councils along with the GLC in March 1986.

[43] Police Sub-Committee, Minute 160, 5 March 1987.

[44] There was no further minuted discussion of the substance of proposals for a police authority for more than four years by which time, as we shall see, the political environment had changed once again.

[45] Police Sub-Committee, Minute 323, 3 March 1988.

[46] Police Sub-Committee, Minute 12, 18 June 1990. The contrast with the reception given to the findings of the first Islington Crime Survey (Jones *et al*, 1986) four years earlier is obvious. On that occasion, the committee had noted that the survey findings 'reiterate the need for a democratically elected police authority' (Minute 432(t), 6 March 1986).

[47] These two officers, Walter Easey and Trevor Jones, had been the authors of the ALA discussion paper considered by the Islington Police Sub-Committee in 1987 and of a short covering report to that Committee recommending that the ALA's proposals be accepted. Jones was also among the co-authors, along with Jock Young, of the 'left realist' reports of the first and second Islington Crime Surveys. Unlike the earlier ALA report, the document before the Police and Crime Prevention Sub-Committee in 1991 had, according to the Chair's preface, no official status beyond that of 'an internal Labour Party discussion document' (*Chair's Report: A Police Authority for London (Second Draft), Preface*, Islington Police and Crime Prevention Sub-Committee, 3 October 1991, Agenda Item A7(vi)).

[48] The evidence cited in support of these claims included the recent report of the Operational Policing Review (Joint Consultative Committee, 1990), reports emanating from an internal Metropolitan Police consultation exercise known as the Commissioner's Conference, a letter from the then Acting Commissioner, John Smith, to *The Guardian*, and favourable news and editorial coverage of discussions between the ALA and the Met on the former's proposals for an elected police authority in both *The Guardian* and in the normally unsympathetic pages of the *Evening Standard*.

[49] *A Police Authority for London (Second Draft)*, para.3.1.

[50] *Ibid.* paras. 3.1 and 4.1-3.

[51] *Ibid.* paras. 3.3 and 3.8.

[52] *Ibid.* para. 5. 1.

[53] *Ibid.* paras. 2.1-2. The options being considered for electing members of the GLA were either one member per borough (yielding 32 members) or three or four per Euro-constituency (yielding 27 or 36 members). The remainder of the report is taken up with details of the organisational structure of the authority and its secretariat.

[54] See Keith and Murji (1990) for a similar analysis of the transformation of the local politics of policing in Islington and the Labour Party nationally; Dixon (1991) and McLaughlin (1994) for changes in Ealing and Manchester respectively; and Downes and Morgan (1997) for trends in law and order politics generally.

[55] See Spencer (1985: 111) and Downes and Ward (1986: 30) in addition to Lustgarten (1986), Jefferson and Grimshaw (1984) and the GLC (1983).

[56] Smith (1988: 439) makes precisely this point in relation to Lustgarten's proposals.

[57] See Baldwin and Kinsey (1982: 284) and Spencer (1985: 120-1) for details.

6

Reinventing Accountability: The Community Policing Tradition

In the introduction I did no more than sketch in the broad outlines of sector policing. The aim of this chapter and the next is to consider the framework for the new style of policing set out in the guidelines issued by the Assistant Commissioner in more detail, and in the wider context of its origins and development as a 'community-based' approach to policing (Metropolitan Police, 1992: xiv). The main focus of attention in both chapters will be an analysis of how sector policing relates to the four dimensions of accountability picked out in Chapter 2. What, in other words, are sector (or community-based) police being held to account for? Who are they held to account by? What kind of control is exercised over them? What is the nature of the institutions and processes through which their accounts are given? Answers to these questions will be sought first in this chapter's examination of sector policing in the round and its place in the miasma of philosophies, strategies and tactics that have attracted one of the many labels in which the words 'community' and 'policing' are combined; and then, in the next chapter, in relation to four core elements or themes evident in the theory of sector policing. My intention throughout is to explain how the theory of sector policing both entails and illustrates an often subtle but nonetheless radical reconceptualisation of police accountability.

Sector policing: 'community-based' policing for the 1990s

The impetus for a style of policing that could be at once 'consistent' across the sprawling Metropolitan Police District yet 'flexible enough to take account of local needs' (Metropolitan Police, undated a) seems to have come from a report on the corporate identity of the force presented to its Policy Committee in August 1988 by consultants Wolff Olins (1988: 3).[1] Under the title, *A Force for Change*, this document led to the establishment of the PLUS Programme by the then Commissioner, Sir Peter Imbert (Metropolitan Police, 1989a). Launched in April 1989, PLUS committed the force to arriving at a position:

> ... where there is an accepted Metropolitan Police style of policing
> which can be adjusted to local conditions, making the best use of the
> people and time available. (Metropolitan Police, 1989a: 4)

The task of translating this commitment into a new style of policing became Component Four of PLUS and the team entrusted with examining the deployment of front line police officers 'in the community' reported towards the end of 1990 (Metropolitan Police, 1991d: 4). The principles of 'the new policing style' that was to become sector policing were approved by senior management in Policy Committee during November 1990. Although work was continuing on the details of the new policing style, the Commissioner's report for 1990 signalled that the 'standard pattern' of operational deployment was about to come to an end. Instead of operational officers on divisions being roughly equally divided between three 8-hour shifts irrespective of fluctuations in workload, new arrangements would give dedicated teams of officers round-the-clock responsibility for geographical areas within their divisions and allow managers to match the availability of staff more closely with demand for police services (Metropolitan Police, 1991d: 69).

The glossy four page 'flier' for sector policing issued for public consumption elaborates on the Commissioner's explanation of the motivation behind the change from traditional 'relief' policing (Metropolitan Police, undated a). Citing the recently completed Operational Policing Review (Joint Consultative Committee, 1990), *Sector Policing: What is it?* lists a series of factors that the public wants taken into account in designing a local policing strategy including such potential incommensurables as 'officers on the beat' and 'fast response'. It goes on to describe the reactive, demand-led, time-based and resource-inefficient system of relief policing and how it fails to provide the 'continuity of approach' and local knowledge needed if police officers are to 'develop a sense of responsibility for identifying persistent problems or 'finding solutions to them'. By not making the best use of the force's 'most valuable resource' (its people) the existing system is rendered incapable of meeting the needs of the public and must be replaced.

In its place, *What is it?* promises that the new style of sector policing will: give people 'a greater say in the policing of their area' by allowing local sector inspectors to set their own priorities 'in consultation with the community'; give every uniformed police officer responsibility for a defined geographical area; make these sector officers responsible for identifying and solving problems; and match the hours they work to the needs of the neighbourhoods they serve. In short

> It is a policing style which will not only meet the needs of Londoners but
> will greatly enhance the quality of the service they receive.
> (Metropolitan Police, undated a)

The idea that geographical responsibility, community co-operation, problem solving and the more efficient use of resources will lead by various, often circuitous, routes to increased popular 'influence' over local policing is taken up in the Assistant Commissioner's Guidelines. In accordance with the overriding

principles of force-wide 'consistency' and local 'flexibility', the core elements of sector policing are set out in three short guides containing 'as little prescriptive instruction as possible' (Metropolitan Police, 1991a: 8; 1991b; 1991c).[2] Assistant Commissioner Hunt's foreword to the Guide for Divisional Management Teams stresses the benefits of a 'consistent Metropolitan Police style of policing ... flexible to local circumstances' that 'encompasses the spirit of PLUS' and to which 'the principle of a local service delivered by locally based officers remains fundamental' (Metropolitan Police, 1991a: 2). By 'devolving authority to the appropriate level and making the most efficient use of resources' sector policing 'makes managers accountable for achieving results'.

These then are the principles of sector policing. But before I look in greater depth at the four themes or core elements of the new style that emerges from *What is it?* and the Assistant Commissioner's guidelines, I want to consider sector policing in the round as a programme of reform that draws its philosophical underpinnings and strategic vision from notions of what has become known as 'community policing'.[3]

Community Policing

To attempt any kind of analytical synthesis of the vast literature on community policing is impossible within the confines of this piece of work. Since the first studies of innovative approaches to police patrol began to emerge from the United States in the mid 1970s (Sherman, *et al*, 1973; Kelling *et al*, 1974; Boydstun and Sherry, 1975) the literature, particularly from North America, has burgeoned to an alarming degree. From the mid 1980s a succession of influential theoretical exegeses, empirical evaluations and critical commentaries started to appear (Skolnick and Bayley, 1986; Greene and Mastrofski, 1988; Sparrow *et al* 1990; Trojanowicz and Bucqueroux, 1990; Friedmann, 1992; Weisburd and Uchida,

1993; Rosenbaum, 1994). With the possible exception of John Alderson's *Policing Freedom* in 1979 the debate in Britain has lacked the messianism of some of the work emanating from the other side of the Atlantic and the literature, though substantial, is slightly less extensive (but see Baldwin and Kinsey, 1982: Chap. 8; Weatheritt, 1983, 1986; Waddington, 1984b Gordon, 1987; Ekblom, 1986; Willmott, 1987 for early contributions and Bennett 1994a, 1994b for reviews of subsequent developments).

About the only thing to emerge with any clarity from over a quarter of a century of work and disputation is that community policing, as the American editors of a seminal volume of essays on the subject put it, 'means many things to many people' (Greene and Mastrofski, 1988: xiii). This lack of any 'suffocating orthodoxy' in the application of community policing is hailed by some as a hugely beneficial stimulus to theoretical and programmatic creativity (Moore, 1992, 1994). On this view, community policing becomes a cavernous 'circus tent' in which all manner of weird and wonderful acts perform (Wycoff, 1988). Others rail against its use as a 'brand name' that, like *Spar*, 'gives a common identity to a diverse range of independent concerns' (Smith, 1987: 54). Opinions have also diverged about whether, as its proponents believe, it is a new philosophy (Trojanowicz and Bucqueroux, 1990: 7) and/or organisational strategy (Kelling and Moore, 1988: 24) for contemporary police. Or whether, depending on one's taste in metaphors, it is no more than 'a contrapuntal theme: harmony for the old melody' of professional crime control (Manning, 1988: 28) and 'another attempt to put old wine into new bottles' (Bayley, 1988: 226). Standing back from the fray for a moment has allowed two of the more perspicacious observers to remark on the political malleability of community policing. This allows it to be 'spun' to appeal to both liberals and conservatives (Crank, 1994) or rationalised to accord with otherwise incompatible social imperialist, social democratic, conservative realist and neo-liberal models of crime control (Stenson, 1993).

Many descriptions of community policing begin by contrasting it with the style of policing ('professional' or 'reform era' in the US, 'relief' in the UK) it is intended to replace (see Kelling and Moore, 1988; Sparrow *et al*, 1990; Fielding, 1995).[4] Another popular device is to state the philosophy of community in the form of a series of (ten in each case) declarations (Alderson, 1979) or principles (Trojanowicz and Bucqueroux, 1990). Alternatively, or sometimes additionally, a more empirical approach is taken and the contours of community policing are highlighted in terms of the programmes, projects and tactics advocated or undertaken in its name. Thus Smith (1987: 57-8) detects three broad themes and six elements or features in contemporary British theory and practice, and Bennett (1994a: 113) six models of community policing. Most ambitious of all is Bayley (1994: 105) who uses data collected in five countries, including the US and Britain, to identify four elements in the practice of police departments that have broken with the past to take the challenge of crime prevention seriously. Tagged with the inevitable acronym, CAMPS, they are

- Consultation with communities about their security needs and police assistance required in meeting them.
- Adaptation of organisational structures to allow local operational commanders greater decision-making powers.
- Mobilisation of public and private non-police agencies and individuals.
- Problem-solving to ameliorate the conditions generating crime and insecurity.

Developments in Britain

In Britain, the popularisation of community policing is usually attributed to the career (as Chief Constable of Devon and Cornwall) and writings of John Alderson

(1979; 1982; 1984), although earlier initiatives such as Unit Beat Policing with its emphasis on multi-functional teams of officers being assigned to a particular area or beat were informed by some of the principles that were to become associated with community policing (Weatheritt, 1986, Chap. 6; 1988).[5] Alderson's (1979) conception of what he called 'democratic communal policing' was, in Stenson's (1993) phrase, an unashamedly 'imperialist' project:

> [A] newer philosophy of policing is required in which policing is not
> only seen as a matter of controlling the bad but also includes activating
> the good. (Alderson, 1979: 38)

As moral leaders, the police 'must penetrate the community in a multitude of ways in order to influence its behaviour from illegality and towards legality'.[6] Along with this commitment to moral entrepreneurship went 'declarations' calling for greater co-operation between the police and other public agencies, for less reliance on the use of force and the criminal process as solutions to problems of crime and insecurity, and for the creation of 'villages in the city' policed by trusted and familiar local officers. When swathes of urban Britain were wracked by riots in the early 1980s, the time for Alderson's ideas seemed to have come. In his report on the disorders of April 1981, Lord Scarman (1981: paras. 5.44-5.54) saw the 'image of the Home Beat Officer or the friendly bobby-on-the-beat' as epitomising 'policing with the active consent of the community'. He recommended that the Metropolitan Police review the role of permanently assigned Home Beat Officers to promote their integration into the organisational mainstream, and that ordinary operational officers be given more opportunities to develop relations with the communities they policed in non-conflict situations. Commenting on the need to avoid the 'oppressive' presence of large numbers of police officers unknown to the community in areas such as Brixton, he maintained that:

The solution ... lies in an approach to policing ... which marries the work of Home Beat and operational police officers, achieving the effective co-ordination of their activities in a single policing style based on small beats regularly patrolled by officers normally operating on foot. (Scarman, 1981: para. 5.51)

Influential though Alderson's evidence to Scarman appears to have been (Reiner, 1991: 105), his views did not go unchallenged. Taking Alderson to task for misrepresenting and idealising the history and traditions of British policing, Waddington (1984b: 95) for example, wrote that:

'Community policing' is a romantic delusion, not for the 'world we have lost', but for one we never had. It harks back to a harmonious idyll, where the police were everyone's friend. It was never thus, and it is unlikely that it ever will be.

Early reviews of community policing programmes on the ground were generally pessimistic. After examining five patrol initiatives in various forces around the country, Mollie Weatheritt (1986: 26) came to the much-quoted conclusion that the 'incidence of policing success tends to be in inverse proportion to the rigour with which policing schemes are evaluated'. In another well-known study, Brown and Iles (1985: 18) found that even so-called 'community constables' with permanent beat assignments spent as little as 5 hours a week on 'community involvement' activities. However, despite these critical notices, and the personal animosity that its progenitor came to inspire amongst senior police officers following his evidence to the Scarman enquiry, the dominant philosophy of the higher echelons of the service gradually became 'a broad community-oriented one' with 'its roots in the ideas of John Alderson' (Reiner, 1991: 214).[7]

That the development of sector policing was informed by the philosophy of community policing, and sought to adopt many of the programmes with which it had become associated, should be evident – notwithstanding any reluctance on the part of the Commissioner and his colleagues to advertise the fact. If it is not, compare the following account of the main elements of community policing with the outline of sector policing with which this chapter began.

- A renewed emphasis on permanent beat officers as a central element of policing.
- An emphasis on the prevention of crime, and the pursuit of other objectives such as dealing with mental illness, by police working in partnership with other agencies.
- Consultation with the community combined with decentralisation and the devolution of power within police organisations.
- A greater emphasis on police-initiated activity rather response to calls from the public.
- Stress on the responsibility of the community as a whole for the prevention of crime and disorder. (Smith, 1987: 57-8)

But what do the debates about the philosophy, organisational strategy and tactics of community policing tell us about the contribution the introduction of such a style of policing may make to accountability? Let us take each of the four dimensions of accountability in turn.

Content

Like many advocates of community policing, Alderson (979: 11) readily acknowledged that 'the police are instruments of the legal coercive power of the State'. Some even go as far as to make highly coercive tactics of 'aggressive order

maintenance' (Kelling, 1987), 'street justice' (Sykes, 1986) or 'ass-kicking' (Wilson and Kelling, 1982) the central plank of conservative (Crank, 1994) or conservative realist (Stenson, 1993) variants of community policing (Mastrofski, 1988: 48). But for the most part, community policing theorists have tended to take a broad view of the police mandate and urge parsimony in the use of force. They emphasise the role of the police in dealing with a more diffuse range of troublesome behaviours than is covered by narrow and more traditional constructions of the police mandate in terms of 'crime' and 'law enforcement'.[8] To match the wide array of social problems that such theorists believe community police should be concerned with, they want officers to consider a range of solutions that goes far beyond the formal, legalistic responses offered by the criminal justice system. What is more, they argue that the police should see themselves not as the sole suppliers of 'law and order' but rather as co-producers of social peace, good governance and harmonious communal life along with other public and private organisations, the institutions of civil society and the communities they serve.

Now, as Egon Bittner himself would have been the first to concede, this is entirely consistent with what is known about what the public actually call upon the police to do. Unfortunately in an otherwise meritorious attempt to demystify the nature of police work and encourage them to take a less inflexible approach to achieving the goals society sets them, community policing theorists have only succeeded in remystifying the unique social function of the police. By drawing attention to the wide range of social issues with which they are called upon to assist, community policing draws a veil over the unique coercive capacity, and corresponding incapacities, police bring to the resolution of those issues, and for which they must be held to account. Carl Klockars (1988: 140) makes precisely this point when he suggests that

...'community policing' is best understood as the latest in a fairly long
tradition of circumlocutions whose purpose is to conceal, mystify and
legitimate police distribution of nonnegotiably coercive force.[9]

Klockars argues that the core cultural aspiration of modern democratic societies is
both to live in peace, and to maintain it by peaceful means. This aspiration must
be reconciled with the socially necessary existence of an institution, the police,
'with a virtually unrestricted right to use violent ... means to bring certain types of
situations under control' (Klockars, 1988: 157). In an attempt to square the circle,
he suggests that such societies must wrap the exclusive right of their police to use
coercive force up in 'concealments and circumlocutions that sponsor the
appearance that the police are either something other than what they are or are
principally engaged in something else'.

Thus the contribution of the community policing tradition to police accountability
is generally negative since it is only by keeping sight of the core content of their
accountability that the special difficulties it presents can be addressed. In so far as
the rhetoric of community policing confuses the activities of the police with their
social function it risks putting a 'harmonious sounding gloss to an activity that is
instead about the imposition of a nonconsensual definition of order by methods
that in the end may only be successful because they are backed by the threat of
resort to force' (Weatheritt, 1988: 173).

Direction

Weatheritt's point takes us straight on to the second dimension of accountability,
its direction. The accountability of the police is such a critical issue because their
core activity, the use of coercive force, tends to be distributed unevenly among
social groups. To the extent that society is stratified or differentiated, so will the
police use of force tend to bear down more heavily on some than on others

(Smith, 1987: 63). This tendency, it will be recalled, was one of the reasons why I have argued that the general direction of police accountability should be to the *demos*. However, the attitude of community policing theorists to the direction of police accountability is no less confusing than their conception of its content. For example, Alderson (1979: 11) has written that:

> The police are the servants of ... citizen power. It is of vital importance
> that the police should see their power in this light; that it is a vicarious
> form of authority.

Yet Crawford (1997: 275) is right in detecting a strong current of anti-statism in the current vogue for appeals to 'community' and a corresponding tendency to promote 'community' as the source of police authority and legitimacy at the expense of society as a whole.[10] When supporters of community policing identify the 'political will of the community' as the basis for defining the 'order' that the police should intervene to maintain, it is incumbent on them to define what they mean by 'the community' and how it in turn can be identified (Mastrofski, 1988: 48 commenting on Kelling, 1987).

But discerning precisely what such appeals to community - either in policing, or any of the other fields of social policy in which they are made (Willmott, 1984; Crawford, 1997: 44-5) - amount to is extremely difficult when, as one eminent political scientist has observed, 'writers who call on community often expound a cause when they should have attempted to explore a meaning' (Plant quoted in Nelken, 1985: 239). In the community policing context 'community' is usually defined, if only by implication, in strictly territorial terms.[11] The geographical thrust of many such schemes, including sector policing, makes it almost inevitable that spatial proximity is taken as a proxy for the existence of shared interests, histories and institutions deemed essential in more demanding accounts of

'community' (Currie, 1988). Herein lies one of the principal difficulties with purely territorial definitions of community and any kind of social policy-making that relies on them. For it almost goes without saying that in the less than utopian (if not yet utterly dystopian) conditions of late 20th century inner city life, it is highly improbable that proximity can be used in this way.

The problem of social heterogeneity

Unlike the idealised village communities of Alderson's (1979: 187) imagination where 'sympathetic proximity' leads to a communal order based on 'shared values', the people who live, work or recreate within even relatively small urban areas will be differentiated by age, class, sex, ethnicity and a host of other factors that impinge on their collective ability to speak with one voice on matters of social policy, and especially on one as inherently divisive and adversarial as policing (Smith, 1987: 63). Communities that do appear to have an unambiguous collective will enforced by strong informal systems of social control are likely to be those where there is little crime and policing is uncontroversial. But even here the 'collective will' and the norms and social practices associated with it 'may not reflect consensus, but only the political or cultural dominance of one group over others less well organized or connected' (Mastrofski, 1988: 50). Any residual consensus that may exist in the typically heterogeneous social milieu of the late modern city about the unacceptability of 'serious crime' (homicide, rape and other violent offences), and the measures that should be taken in response to it, soon evaporates when downscale disorders, nuisances and incivilities are considered (Mastrofski and Greene, 1993: 90; Crawford, 1997: 162).

The search for 'community'

Few community policing theorists are so dull as to believe that well-organised, unified and harmonious communities are commonplace and all the police have to do is to search them out and act in accordance with the precepts of their collective

social morality. Solutions to the real problems of communal heterogeneity and dissent vary. The most popular way out of the dilemma created by the real absence of 'community' is to look to crime as an antidote to anomie (Skolnick and Bayley, 1986: 214). Where territorial communities are disorganised and divided, crime becomes in Alderson's (1979: 191) terms, the spur to create 'villages in the city'.

> Since most people who live in cities, whether well-to-do or not, are on
> occasions victims of fear and apprehension, if not of crime itself, and
> since all are potential victims, there is likely to be considerable interest
> in neighbourhood activity designed to reduce crime.[12]

Unfortunately this superficially attractive solution to the problem of community mobilisation soon unravels on closer inspection. Apart from the questionable assumption that intra-communal agreement can be reached about what constitutes 'crime' (or, and still more problematically, 'disorder') the strategy also implies that the threat posed is an external one. The possibility that danger may come from within the social fortress of the community in the form of 'private' violence or white collar crime, or that its own sub-cultural values may be criminogenic or 'disorderly' is not entertained still less addressed (Crawford, 1997). As numerous critics (Nelken, 1985; Buerger, 1993: 112-3) have pointed out, community policing's focus on social conflict in the form of crime and disorder as a unifying force seems almost perversely illogical. Indeed by 'justifying the bifurcation of the police clientele into those who merit special police protection and those who do not' (Mastrofski, 1988: 57) crime is possibly the worst possible issue around which to construct open, tolerant and inclusive communities (Crawford, 1997: 274). Its implications for socially just and accountable policing are equally alarming since only the 'law-abiding' and respectable 'deserve input into the police process' (Tirojanowicz and Bucqueroux, 1990).[13]

Another route out of the theoretical impasse created by the empirical absence of functioning communities is favoured by advocates of problem-oriented policing.[14] Ignoring 'physically defined' communities (Wycoff, 1988: 106) in preference for communities of interest centred on finding solutions to local problems, problem oriented policing takes a pragmatic view of the complex and shifting social networks to which people belong. For Goldstein (1990: 26), the leading scholarly exponent of problem-oriented policing, 'communities are shifting groups, defined differently depending on the problem that is addressed'. He is uninterested not only in defining community systematically but also in 'amorphous' police efforts to construct and maintain a relationship with it.

> [T]he initial objective [of problem solving policing] is to deal with a
> specific problem. If, in exploring the problem, the police conclude that
> it could be eliminated or significantly reduced by some form of
> community involvement, they then set out to bring about such
> involvement. (Goldstein, 1990: 24)

Used in this sense, the term 'community' connotes no more than an ephemeral social construct brought into being either by the random coincidence of individual interests or police activism and can hardly form the foundations for a functioning and politically coherent civil society. Moreover, according to Goldstein (1990: 70), the all-important, and logically prior, task of identifying problems requires 'a careful blend of community initiatives, the willingness and ability of the police to listen, and responsible use of the knowledge and expertise that the police develop'. Problem identification is thus predominantly a matter for the police and, although they are counselled to be aware of the 'multiple social interests in problems', he gives no hint as to how such interests should be prioritised or reconciled (Goldstein, 1990: 40-1).

Summary

In sum then, promoting the 'community' as the source of police authority at a local level makes it easy to lose sight of the *demos* as the ultimate source of their legitimacy. Accountability to geographically defined fractions of 'the people' can then be mistaken for accountability to 'the people' as a whole. And, once the reality behind the rhetoric of 'community' is analysed, what emerges is a social entity that is either non-existent, incoherent or artificial. Attempts to overcome these difficulties by the long-term mobilisation of communities around crime or, more temporarily, in the search for solutions to particular social problems are beset with difficulties. Lurking in the background is the danger that, in switching the immediate direction of accountability towards the community, the generality of accountability to the *demos* will be forgotten and the determination of police policies and practices become vested ever more firmly in the hands of powerful and well-organised local elites with whose interests those of the police - perennial enforcers of social respectability - most readily coincide.[15] By both obfuscating the content of police accountability and eliding its general direction community policing thus has

> ... an important part to play in the legitimation of coercive policing, it is a mobilisation of the 'silent' majority around increases in the powers and autonomy of the police. (Rawlings 1985: 86)

Mode

There is little in the community policing literature that directly addresses the mode in which 'community police' are to account for themselves. Certainly the language of consultation', 'partnership' and shared responsibility for preventing crime and maintaining social order implies that the autonomy of the police must be circumscribed if they are to respond to the priorities of the community: 'the

[community police officer's] agenda is influenced by the community's needs and desires, not just the dictates of the department' (Trojanowicz and Bucqueroux, 1990: 12). To the extent that it gives outsiders even the most precarious grip on local police policies, community policing threatens the power of the police organisation - as Fielding (1995: 84) demonstrates in recounting the fears of an inspector about liaison meetings becoming a Trojan horse for left wing councillors seeking 'control' of the Police:

> This relief inspector's immediate translation of public consultation into the spectre of political control suggests how challenging the community policing function, with its emphasis on discretion, is to the customary practices of the organization. The idea that consultation could afford sectional interests scope to exert influence, rather than simply offering police a chance to manipulate public opinion, challenged the inspector's fundamental understanding of police accountability.

To police officers unaccustomed to giving any account of police action, the insertion of any outside force into policy-making is a new, and not altogether welcome, experience.

But the degree of disturbance felt by the police is as much a product of organisational paranoia as the seriousness of the threat community policing poses to their autonomy. What it suggests is not the sudden imposition of local community (still less 'political')[16] control of the police, but rather a strictly non-hierarchical relationship in the nature of an exchange or bargain between equals:

> [It] provides *a quid pro quo*, with the [community police officer] saying to people in the beat area: If you provide information and assistance, in exchange you receive an opportunity to have input into the police priorities in your community. (Trojanowicz and Bucqueroux, 1990: 12)

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There is no sense here of the police being directed by the people from whom their authority is derived. The community has no right to influence local policing. Any input into police priorities depends on local people discharging their obligations to provide support and assistance. Any diminution of organisational autonomy is conditional upon the community's active participation in the joint enterprise of policing.

In North American terms, proponents of community control in the 1960s and early 1970s had envisaged a strong oversight function for the community in the context of an adversarial relationship between the police and the policed. In contrast to this quite directive model, community policing

> ... offers instead a vision of shared values, a "co-productive"
> relationship', most often characterized as a partnership in which
> communities offer input, advice, and guidance to police while working
> hand-in-hand to carry out strategies to fulfil their mutual objectives.
> Whereas community control advocates wanted to decentralize the
> governing authority or "control" of the police, community policing
> advocates want the community to serve in an advisory capacity only...
> (Mastrofski and Greene, 1993: 86)

Though talk of 'influence', 'input' and 'consultation' may offend police sensitivities and threaten the strong version of organisational autonomy to which they tend to subscribe, community policing offers local people a seat at the table when police priorities are being decided, but no guarantee that their voices will be heard. It offers a mode of accountability characterised by friendly discussion and explanation between equal partners rather than an opportunity for 'the community' to direct a subordinate body according to their sovereign will.

Mechanisms[17]

Legal

Little attention is paid to legal mechanisms for holding the police to account in the literature on community policing. There are several reasons for this. Firstly, as we have already seen in the discussion of the content of police accountability, theories of community policing tend to stress the limited use of the formal legal powers associated with 'enforcement', and to encourage the wider use of discretion in pursuit of a broader social mandate. The effect of such a shift in emphasis is to reduce the opportunity for legal (and political, public and bureaucratic) review of police action since, as Joseph Goldstein (1960: 543) observed almost 40 years ago, decisions not to invoke the criminal process 'are generally of extremely low visibility and consequently are seldom the subject of review'. Moreover, 'aggressive order maintenance' versions of community policing call for the police to take firm action to control behaviours, such as roller-skating on pavements or the public consumption of alcohol, that are not strictly illegal (Kelling, 1987). The authorisation for police intervention to curb these awkward anti-social-but-legal activities is sought not in law but the 'political will of the community' (see Mastrofski, 1988: 61-2). Indeed, some of the most bullish advocates of this type of community policing have gone so far as to argue that the benefits of 'street justice' controlled by executive and legislative means outweigh the risks of allowing the police to operate untrammelled by court action (Sykes, 1986).[18]

Waddington (1984:b) and Smith (1987) draw attention to a still more fundamental aspect of the problematic relationship between the law, its principles and institutions on the one hand, and the precepts of community policing on the other.[19] Smith (1987: 64), for example, notes that the idea that policing should be decentralised and responsive to the needs of local communities appears to conflict with the nature of the law as an 'impersonal, universal, and as far as possible,

consistent' normative structure.[20] None of this is to say that theories of community policing seek to render legal mechanisms of accountability inoperative. Alderson (1979: 58) for one continued to see the common law and the right of the citizen to take action against the police as a safeguard against overbearing officialdom. Community policing does not demand the complete effacement of the law and its institutions as a mechanism of accountability. But it does imply 'a readjustment in the balance between "laws and men"' in holding the police to account for their actions:

> In brief, advocates of community policing propose that greater weight be given to the "men" part of the equation - couched in terms of community". Correspondingly, the bonds of formal law and bureaucratic rule must be loosened to allow police policies and practices to be guided by community norms and sentiments. (Mastrofski and Greene, 1993: 80)

Political and Public

The attitude of community policing theorists to formal political mechanisms of accountability has to be divined in much the same way as their approach to legal institutions. The subject is rarely addressed directly and then mainly in relation to how community policing differs from other styles of policing. For example, several North American writers trace the evolution of policing through three historical eras (Kelling and Moore, 1988; Sparrow et al, 1990). In the first of these the nascent police departments of urban America were subject to the malign, and not infrequently corrupting, influence of City Hall. In the second period, a more legalistic 'professionalism' became commonplace as the police sought to insulate themselves from local politicians. For these commentators community policing - the dominant style of the third and current period - represents a reaction

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against the suffocating over-regulation that curbed the creativity of front line police officers during the 'professional' or 'reform' era.

But the replacement of the rule-book that held officers in thrall under professionalism does not signal the return of elected officials (mayors and local legislators) to positions of power and influence in policing. On the contrary, the widespread implementation of community policing programmes has marginalised them still further as 'the community' is inserted into the vacuum in police governance created by the relaxation of formal legal and bureaucratic controls (Mastrofski, 1988: 66; Mastrofski and Greene, 1993: 86). To accomplish this police departments have had to institutionalise their interactions with civil society by persuading local organisations to take part in regular meetings and take on many of the tasks that might otherwise have fallen to elected representatives. So, in one of the most detailed studies of a large-scale community policing initiative yet to be published, Skogan and Hartnett (1997: 110 and Chap. 5) report that people from a wide range of neighbourhood organisations took part in 'beat meetings' convened by police implementing the Chicago Alternative Policing Strategy to 'exchange information, identify and prioritize local problems, [and] develop strategies to address them'.

Similarly, in Britain, proponents of community policing like John Alderson (1979: 59) have firmly resisted anything that smacks of 'political control' of policing on the grounds that:

> [E]ven in democracies police can be abused by being made to serve the narrower political purposes of those occupying political office for the time being.

Here too the creation of a statutory framework for consultation with the police has led to the promotion of 'the community' as a more amenable and disinterested participant in the local governance of policing, largely at the expense of elected representatives.[21] Thus, on both sides of the Atlantic, community policing is Janus-faced, appearing at one and the same time to 'politicise' the police by involving them more intimately than ever in the diagnosis, management and resolution of inter- and intra-communal conflicts, and to distance them still further from officials elected through the formal political processes of representative democracy. Wherever community policing has been popularised, informal and public mechanisms of accountability based on consultation between the police and sections of civil society have been promoted at the same time as 'traditional channels of political input [with] formal responsibility for the police' have become (or remain) blocked off, ostensibly as a defence against police corruption and partiality (Mastrofski, 1988: 66).

Professional-managerial

At first blush, the call by advocates of community policing for the voluminous rule-books of the professional or reform era to be dispensed with suggests that the managerial mechanism by which operational officers are held accountable within the police organisation will become less significant in the governance of community police than the external influence of the people they serve.[22] On closer examination however it is evident that what theorists are proposing is a change in the subject matter of managerial accountability rather than any reduction in its salience. Whereas the 'centralized command-and-control bureaucracies' of 'reform' era policing were concerned with ensuring that operational officers complied with departmental procedures regulating enforcement of the law, community police and their line managers operating within 'decentralised professional organizations' should be called to account for what they achieve in resolving community problems (Moore, 1992: 100).

Community policing thus aims to shift the focus of managerial accountability from means to ends or, to use the language of evaluation research, process to impact. Front line officers and their locally-based supervisors and managers are given more scope for creativity, initiative and the use of discretion by devolving responsibility for setting goals and devising ways of meeting them to the lowest possible level. But their superiors are also expected to hold them stringently to account for what they achieve against these self-set standards.

The move away from the strict procedural controls imposed on street level officers during the 'professional' era is by no means risk-free. Devolving command responsibility, encouraging adaptability and initiative and allowing greater freedom of action carries with it expanded opportunities for slackness, mismanagement, corruption, and the abuse of discretion (Bayley, 1988: 234-5). Supporters of community and problem oriented policing as diverse as Wilson and Kelling (1982) and Goldstein (1987) freely acknowledge these dangers. Their answer is to appeal to the norms of good conduct internalised by police officers during the 'professional' era as a bulwark against impropriety and indolence (Wilson and Kelling) and to recommend that community policing programmes should only be implemented in those police organisations where self-discipline and conformity with the law are the rule (Goldstein). The inconsistency of relying on the legacy of a version of the 'professionalism' they reject to ensure that probity is maintained in the era of community policing has not gone unnoticed (Mastrofski, 1988: 56-61). It suggests that shifting the focus of managerial accountability from the means to the ends of policing may only be possible where more traditional mechanisms of external (legal and political) and internal (procedural) accountability have successfully penetrated, and been absorbed into, the norms of the occupational culture. Or, to put the same point in the terms used by the PSI researchers (Smith and Gray, 1985: 441-2), where 'inhibitory rules'

imposed on operational officers from 'outside' have become internalised and form the 'guiding principles of their conduct'.

Organic

Apart from the comparatively well established - or at least familiar - mechanisms of legal, political, public and professional-managerial accountability, many theories of community policing also appear to appeal to a fifth way in which the police may be called to account for their actions by the public. This mechanism depends on the 'intimacy' that advocates of community policing hope will develop between police officers on permanent assignment to beats, or other clearly defined geographical areas, and the community they serve (Kelling and Moore, 1988: 21). Consultation between police and community is intended to contribute to this intimacy, but it is also clear that its development is not limited to such institutionalised mechanisms of public accountability. Alderson (1979: 162), for example, argues that, where constables work alone on their own beats, they will tend to acknowledge some definition of their role by the neighbourhood being policed. Trojanowicz and Bucqueroux (1990: 19) also make a virtue out of 'direct, daily, face-to-face contact' between community police officers and the people they encounter on their beats:

> The goal is to involve [community police officers] so deeply in the life
> of the community that the officers feel responsible for what happens in
> their beat areas, and the people who live there learn to trust them and
> work with them - and hold them accountable for their successes and
> failures.

What these writers seem to be suggesting is that the greater visibility and accessibility of officers permanently assigned to patrol certain areas, particularly on foot, will bring them into regular contact with local people over an extended

period of time. They seem to have in mind what may (with due apologies to Durkheim) be termed a mechanism of organic accountability binding geographically responsible police officers to the neighbourhoods to which they are assigned by means of regular personal interaction with members of the public. It is hoped that this continuity of contact with the public will - quite apart from any involvement in institutionalised pubic consultation - sensitise officers to communal norms, make their actions more congruent with local values, and provide the people with whom they interact an additional mechanism by which officers may be called to account for their behaviour (Greene and Taylor, 1988: 200).

Notes

[1] I return to the fact that sector policing originates in a report by a firm of management consultants brought in to advise on the 'corporate identity' of the Metropolitan Police in the final section of the next chapter.

[2] Further evidence of the light managerial touch with which sector policing was to be implemented is provided by the skeleton staffing of the headquarters branch that acted as a 'clearing house' for good practice (Dixon and Stanko, 1993: 13-4). As of March 1992, TO15 as it was known had a staff complement of four.

[3] The Commissioner's description of sector policing as a 'community-based policing style' in his Annual Report for 1991/2 (Metropolitan Police, 1992: xiv) is one of very few explicit reference to sector policing as a form of 'community policing' I have been able to find. The apparent reluctance to connect it with the dominant police reform movement of the last 20 years and the Commissioner's use of the euphemism 'community-based policing' when the link is made is perhaps indicative of a wish on the force's part to distance itself and its new policing style from the controversies surrounding community policing more generally. In what follows I take the rhetoric, form and content of sector policing to be of a piece with 'community (-based and -oriented) policing' despite the Commissioner's coyness.

[4] Fielding notes that, in the British context, 'much of the distinctiveness of community policing is established by contrast to relief policing' both in the literature and in police thinking.

[5] It is worth noting, as Davies (1989) reminds us in her comparative study of policing in Tottenham in the 1980s and Kensington a century earlier, that the negotiation of local norms with 'problem communities' suggested by community policing theory goes back a very long way indeed.

[6] Alderson (1979: 39).

[7] Much of the distaste for the term 'community policing' and the efforts made by the Commissioner and other chief officers to distinguish their philosophies from it may be attributable to Alderson's personal unpopularity with his former colleagues (Reiner, 1991: 110).

[8] This has not always prevented the operational officers charged with putting the theory into practice from interpreting it in a way that is consistent with their own priorities and taking advantage of the opportunities it provides for intelligence gathering and so forth to achieve conventional 'crime control' ends by new 'community-oriented' means (Fielding, 1995).

[9] Legalisation, militarisation and professionalisation are earlier examples.

[10] Both Crawford (275-8) and Smith (1987) also warn of the danger of sidelining the state as the only institution capable of distributing resources equitably between localities and supporting the local institutional development of those areas most in need of revitalisation.

[11] This does not prevent convenient 'jumps' being made to other senses of 'community' such as communities of interest or attachment when the need arises (Willmott, 1987; Smith, 1987: 63).

[12] A view with which Trojanowicz and Bucqueroux (1990: 92) would concur: 'The issues of crime, fear of crime and disorder within any geographic community offer police their best and most logical opportunity for unifying people in ways that help rebuild that traditional sense of community [of interest]'.

[13] The quotation is from their first principle of community policing.

[14] See the next chapter for further discussion on 'problem oriented policing' and 'problem solving'.

[15] See Crawford (1997: 200-1) for an excellent summary of the dangers of (re)creating social cohesion through 'community' in the context of crime, its prevention and policing.

[16] See below for discussion of the relationship between mechanisms of political and public accountability in theories of community policing.

[17] The following discussion of community policing's treatment of the mechanisms of police accountability is fairly brief and draws mainly on the American literature. Further analysis of developments in Britain is contained in the next chapter when I consider the origins and significance of the four core elements of sector policing.

[18] Mastrofski (1988) warns that such a cavalier attitude significantly understates the significance of the law as a remedy for police misconduct and a brake on the dominance of politically powerful local elites.

[19] See also Bayley (1988: 231-2) writing from a North American perspective.

[20] See Chapter 3 for Waddington's (1984a) use of the same point to counter calls for the police to become 'democratically accountable' to locally elected representatives.

[21] The development of community/police consultative groups under s. 106 Police and Criminal Evidence Act 1984 is considered in more detail in the next chapter.

[22] On the hoped for demise of management-by-manual see, for example, Kelling and Moore (1988), Sparrow et al (1990), Trojanowicz and Bucqueroux (1990) and Moore (1992).

Reinventing Accountability: Elements of Sector Policing

In the last chapter I picked out four elements or themes identifiable in the theory of sector policing presented in *What is it?* and the Assistant Commissioner's guidance (Metropolitan Police, undated a; 1991a;1991b;1991c). I then moved on to consider sector policing in the context of the more general, often North American literature, on the family of policing initiatives widely, if somewhat unhelpfully, known as community policing. This chapter returns to those four elements – geographical responsibility, problem solving, community consultation and new managerialism – and considers each of them in turn, firstly as they are presented in the official guidance and then as they have been applied and tested in practice, particularly but not exclusively in Britain prior to the implementation of sector policing. As before, the theoretical possibilities and practical development of these elements are seen mainly through the prism provided by the dimensions of accountability outlined in Chapter 2.

Geographical responsibility

As the words 'sector policing' imply, the allocation of responsibility for policing specific geographical areas within existing divisions to locally based teams of officers is central to the new style of policing. By splitting divisions up into smaller areas under the overall control of an identifiable commander (known as a sector inspector), and having them policed 24 hours a day by groups of officers led by team sergeants, sector policing promises to provide

the public with a local service delivered by local providers (Metropolitan Police, 1991a: 2). Officers well-known on their sectors will provide 'high visibility policing' while the status of sector inspectors as their 'operational commanders' will ensure 'continuity of approach' and iron out the kind of inconsistencies in police response that foment 'mistrust and confusion' in the community (Metropolitan Police, 1991a 2, 6). Sectors should, as far as possible, be self-sufficient in dealing with their own problems. Squads dealing with drugs or motor vehicle crime should be called upon only as a last resort and operate strictly in response to sector requests for specialist help (Metropolitan Police, 1991a:5). Setting priorities and objectives for local policing – and being held to account for performance in meeting those objectives – will be a matter for operationally autonomous sector inspectors after consultation with the local community (Metropolitan Police, 1991b:1-2).

Advice on how divisions should be divided up into sectors 'of appropriate size and number' is kept to a minimum. But the guidance does suggest that a 'divisional profile' containing information on geographical features, ward boundaries and regular policing commitments such as football matches should be drawn up, together with a thorough analysis of workload to identify busy times of the day and days of the week (Metropolitan Police, 1991c: 2-3). As for the process of drawing lines on the map to delineate the new sectors, the Assistant Commissioner advised that:

> The main intention of Sector Policing is to identify the many individual communities that together make up the division, and then develop local policing strategies to reflect their problems and concerns. Too many sectors will create difficulties of co-ordination and administration whereas with too few individuality is lost. (Metropolitan Police, 1991c: 4).

Origins

The idea that small teams of police officers should take responsibility for meeting as many of the police needs of a particular area as possible can be traced back at least as far as the 1960s and the introduction of unit beat policing (Sherman *et al*, 1973: xiv; Weatheritt, 1986: Chap. 6). Under unit beat policing a multifunctional team - including detectives as well as area beat and mobile patrol officers - was expected to live in, take responsibility for, and get to know the residents of a designated area. Presented by the Home Office as a way of both increasing police effectiveness and improving relations with the public, unit beat policing yielded distinctly mixed results. While its introduction allowed the police to respond to incidents faster and carry a heavier workload, research revealed little evidence of teamwork by the various functional groups (Comrie and Kings, 1975). Less sympathetic observers condemned its reliance on motorised patrols for distancing the police from the public and encouraging elitist attitudes and behavior (Weatherit, 1986: 96 citing Baldwin and Kinsey (1982: 97) and Manwaring-Wright (1983: 23). By the early 1980s, the pressure for the return of foot patrol had become irresistible.

Team Policing

Another neighbourhood-based style of policing known as team policing was introduced in a number of American cities – and parts of several others – following the urban riots of the 1960's (Sherman *et al*, 1973). In what they admit is a sometimes subjective 'reportorial account' of seven of these schemes, Sherman and his colleagues (1973: xv, 4-5) identify three key elements in team policing. Two of these – achieving 'geographic stability' of patrol by assigning teams of officers to small neighbourhoods on a permanent basis and maximising communication between team members and the community in order to promote co-operative peacekeeping and the identification of local problems – are also central to sector policing.

To deliver on these commitments, team policing depended on a number of organisational supports: 'unity of supervision' for team members by a single local commander; greater flexibility in policy-making at lower levels in the police hierarchy matched by increased accountability for outcomes; delivery of a full range of policing services by local teams supported, but not pre-empted or dominated, by specialists; and the combination of patrol and investigative functions in single police units (Sherman *et al*, 1973: 5-6). Again, the first three of these 'supports' are instantly recognisable in the design of sector policing, as indeed was the assumption that a local police team would come to belong to its neighbourhood and 'take its shape in response to neighbourhood conditions' (Sherman *et al*, 1973: 73). Admirable in theory, team policing proved difficult to implement and only partially successful in those places where elements of the program were put into effect. 'True neighbourhood teams' with 'special, positive give-and-take relationships with their communities' did emerge in some cities, and over half the police departments scrutinised by Sherman and his collaborators (1973: 74) were able to find a cadre of leaders capable of supporting rather than controlling the teams of officers for which they were responsible. But patrol styles remained stubbornly conventional and, in 5 out of the 7 police departments studied, teams spent almost 50% of their working time out of their designated areas. Even if they had not been elsewhere for so much of their time, the researchers believed it would have been difficult enough for officers to develop 'area knowledge' since the 'neighbourhoods' to which they were assigned were too big.[1] Subverted by middle managers jealous of the authority devolved to more junior team leaders and ordinary patrol officers, confounded by the pressure felt by dispatchers to react to calls for service promptly – if need be by pulling team members off their areas – and lacking any clear differentiation between the role of team police and regular patrols officers, the implementation of team policing either failed to produce a new patrol style or did not happen at all.[2]

Patrol experiments

Despite the vilification of unit beat policing in the early 1980s the idea of geographical responsibility leading to increased police/public contact that lay behind both it and team policing survived and continued to stimulate innovations in the organisation of police patrol and several of the early British experiments were reviewed by Mollie Weatherwitt (1986). The results were mixed. At Chelmsey Wood in the West Midlands, for example, a programme of 'structured' patrol of designated areas by resident beat and foot patrol officers was implemented with some success. But the time officers actually spent on their areas declined, the visibility of policing did not improve and there was no evidence that officers had developed a better knowledge of local people and their problems (Weatheritt 1986: 37-42). A 'zonal policing' project on the Peckham division in the Metropolitan Police was equally inconclusive (Turner, 1987: 18).[3] Patrol personnel were divided between traditional reliefs doing shift work and zonal officers responsible for 'community contact' and patrolling on foot on flexible hours. Some improvement in the crime clearance rate - attributed to an increased flow of information from the public - was offset by a 'drop in local knowledge' among officers redeployed on to zones from smaller home beats. Levels of community contact generally were judged to have fallen since zonal officers did not know what was expected of them, and felt unwelcome on areas too large to foster the kind of links enjoyed by conventional beat officers.

Neighbourhood Policing

By some way the best documented, most influential and thoroughly evaluated of the policing experiments of the 1980s was the introduction of 'neighbourhood policing' in a total of six police areas across two forces.[4] Neighbourhood policing was an attempt to meet the challenge of rising crime and disorder by promoting 'community-helping' activities by ordinary uniformed officers and reversing the trend to increasingly specialised policing (Turner, 1987: 1). It originated in a closely argued paper by two serving police inspectors, Ian Beckett and James Hart, who contended that, if the

police made 'helping behaviour' (rather than legalistic, reactive interventions) their core activity, crime and disorder rates would decline as people responded to and learnt from the police (Irving et al, 1989: 2-3). In a novel application of social learning theory (Bandura, 1973), they argued that police officers in everyday contact with the public should provided people with a model of pro-social helping behaviour. Stripped of academic discussion and its original experimental methodology, Beckett and Hart's somewhat grandiose theory was broken down into a series of programme elements capable of evaluation. They included geographical responsibility, the alignment of duties with demand, community building and consulting, participative management and improved operational information systems.

Both the internal (Turner, 1987) and external (Irving et al, 1989) evaluations of neighbourhood policing yielded disappointing results. Turner could discover no evidence of a consistent or sustained reduction in levels of crime, disorder or fear of crime at the experimental sites. The only evidence of positive external effects at any of the London sites was found at Brixton where he thought high levels of community-police contact were probably attributable to the 'aftermath' of the Scarman report rather than the impact of neighbourhood policing.[5] The alignment of duties with demand was limited to those sites (Brixton and Surrey) and units where some degree of geographical responsibility was introduced.[6] Elsewhere, tampering with duty rosters and the shift system was fiercely resisted. Of the various programme elements only participative management was judged to be an unqualified success.[7] Geographical responsibility was implemented in various guises and led to improved relations with organised community groups in most places, but not to any additional contacts with the general public.[8]

> As with their presence on the street, police community involvement
> has a low visibility. Community groups are only a small part of the
> community at large and tend to be formed from a limited number of
> people. Connections with the majority of people are thin. Even in

law-abiding areas, most want the police to be available when needed but unobtrusive at other times. Individual community-helping behaviour by the police does not make a wide impact. (Turner, 1987: 15, para. 63 (vi))

Where, as in Brixton, geographically responsible neighbourhood units were created, permanent beat officers covering smaller areas continued to make the most substantial contribution of community contact work.[9] More generally, only a small minority of the public were touched by the changes and, where positive steps were taken to bring the police closer to the 'organized' community, they were 'of questionable advantage to police/public co-operation'.[10] Resistance to the introduction of geographical responsibility coalesced around the claim that extra personnel were needed if area-based teams were to be sufficiently robust. Summarising his findings on geographical responsibility, Turner (1987: 28, para. 125) counsels that it should not be forced on to areas but implemented only 'where a particular feature is identified that seems suitable'. For their part, Irving *et al* (1989: 207) conclude from both their own in-depth study of Notting Hill, and Turner's evaluation of all six sites, that implementation of the main elements of neighbourhood policing either did not happen within the planned period or failed to conform to the programme design.

Estates policing and Total Geographic Policing

In spite of these apparently discouraging conclusions, both the forces involved in neighbourhood policing remained confident that some form of geographical responsibility was the way ahead. Surrey Constabulary believed that Turner's evaluation had ignored the more positive aspects of neighbourhood policing in the Surrey sites and decided to retain key elements of the package, including the deployment of front line officers to geographical teams rather than time-based shifts.[11] Following a favourable internal evaluation of the programmes - including the alignment of personnel to demand and continuity of duty on discrete geographical areas - in place at Addlestone and Camberley, what

became known as total geographic policing or TGP was extended across the force in September 1989.

Progress in the Metropolitan Police District was more hesitant. Initially at least, Turner's advice about targeting geographical policing seems to have been taken to heart, and some of the principles of neighbourhood policing are evident in the development of 'estates policing' programmes on certain large urban housing schemes (Commissioner of Police of the Metropolis, 1987: 5, 32). By the end of 1988, the Commissioner (Commissioner of Police of the Metropolis, 1989b: 14) was able to report that more than 200 officers were part of 'dedicated estates policing projects'. Two years later a 'significant reduction in crime, and notable improvements in the quality of life' of estate residents were being claimed for the programme (Commissioner of Police of the Metropolis, 1991d: 12); and in 1992 it was announced that the principles of policing would 'form the key elements of our Sector Policing style' (Commissioner of Police of the Metropolis, 1992: 9). Thus, though no formal evaluation of estates policing appears to have been completed, the programme served to keep the principle of geographical responsibility, central to both neighbourhood and sector policing, alive in the MPD between 1987 when the former was wound down and 1991 when the latter emerged from the deliberations of the team working on component four of PLUS. Indeed, so popular had geographical policing become by the end of the 1980s, that Bennett and Lupton (1990, cited in Bennett, 1994a: 111) found that it was operating in more than a quarter of police forces in England and Wales with a similar proportion carrying out some form of estates policing.

Community constables

However the most common application of the principle of geographical responsibility throughout the 1980s and into the 1990s was the deployment of officers (known generically as community constables or, depending on force nomenclature, as home, permanent, resident or area beat officers) to designated beats with the object of getting to know their area, making contact

with members of the local community and generating good police/public relations (Brown and Iles, 1985; Bennett and Lupton, 1992). By the late 1980's, more than 1 in 7 officers in the Metropolitan Police – and almost 1 in 5 in the provinces – were assigned as community constables (Bennett and Lupton, 1992: 171-2). But, as Brown and Iles (1985: 18) found in their study of community constables in five forces referred to in the previous chapter, the simple fact of deployment to permanent beats did not mean that very much routine contact between police and public was going on. Far from gaining a sense of communal values and priorities by the osmotic process predicted by the theory of geographical responsibility, they detected an aimlessness in much of community constables' activity. Ethnographic research by Grimshaw and Jefferson (1987: 172) also suggested that regular contacts between resident beat officers (RBOs) and members of 'their' local community were restricted to 'respectables' and systematically excluded the 'toe rags' most frequently subjected to adversarial policing. Moreover, finding out about local problems did not figure in the top five reasons given by RBOs for initiating public contact.

Research clearly indicates that geographically responsible community constables do tend to have more contact with the public than their colleagues on shift (see Fielding *et al*, 1989: 53; and Horton, 1989: 39, for example). But there is little evidence to suggest that even when a single (or, at most, two) officers are permanently deployed on quite small geographical areas, they either spend enough time in those areas, or devote sufficient attention to interacting with all sections of the local population, to absorb complex communal values and become attuned to what may often be conflicting local priorities. Some form of geographical assignment may therefore be a necessary condition for increased police/public interaction, but the research reviewed here, together with a recent pilot study of the approachability of police officers patrolling alone and in pairs, suggests it may be very far from sufficient (McKenzie and Whitehouse, 1995).[12] The very high rates of community contact that seem necessary to achieve marked improvements in

public satisfaction with the police (a not implausible proxy for greater congruence between the values and priorities of local officers and the population they serve) have been registered in one experimental programme (Bennett, 1991). But they were only achieved by making resident contact and continuity of police presence the sole objectives of teams of officers too large to be sustainable under normal operating conditions.[13]

Experiences of geographical responsibility

Apart from the difficulties encountered in implementing and evaluating the more ambitious programmes such as team and neighbourhood policing, these experiences of geographical responsibility suggest that, as a core element of sector policing, it is likely to make only a limited contribution to greater police accountability. The evidence reviewed here indicates that the process of osmosis by which officers assigned to specific geographical areas are supposed to absorb communal values has been inadequately theorised. The continuity and range of public contacts needed to make organic accountability a reality have proved difficult to achieve under normal operating conditions. Evidence of greater sensitivity among patrol officers to communal norms detected, for example, by Fielding (1995) has generally been a feature of schemes involving the deployment of individual community constables to small beat areas rather than teams of officers to larger areas or sectors. Rhetorical commitments to a broad problem-solving or community-helping mandate have either proved impossible to implement (Turner, 1987; Irving *et al*, 1989) or have been contradicted by empirical evidence of a programmatic emphasis on information and intelligence gathering connected to more limited crime control goals (Weatheritt 1987; Grimshaw and Jefferson, 1987; Fielding, 1995).

Beckett and Hart's bold attempt (in the original neighbourhood policing thesis) to side step the definitional problems associated with the concept of 'community' by focusing on 'neighbourhoods' with distinct histories and

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shared, and identifiable, social characteristics ran up against familiar difficulties (Irving *et al*, 1989). In the empirical absence of social homogeneity within the areas for which they were responsible, 'neighbourhood' (and other geographically responsible) police officers reacted to the complex networks of often mutually antagonistic psycho-social communities of interest with which they were confronted by tending to concentrate their efforts to make contact with the public on organised and respectable sub-groups and individuals (Turner, 1987; Irving *et al*, 1989; Grimshaw and Jefferson, 1987). People perceived to be 'rough' or 'deviant' were simply excluded from officers' attempts to form relationships based on consent. In those instances where accommodations were reached between area-based police and the better organised and more respectable fractions of the local populace, the research literature suggests that the dominant mode of communication has been what Irving *et al* (1989: 210) describe as 'proclamation' rather than consultation. On Notting Hill Division, for instance, they found that dialogue with non-establishment, non-professional, community organisations was only contemplated where the organisation was seen to be in a position of considerable power and could not be ignored. Genuine collaboration implying a degree of mutuality and equality was rarer still. In sum then, as Greene and Mastrofski (1993: 95-6) have written, geographically responsible policing ensures that:

> The police retain decision-making authority but decision-making
> within the department is decentralized so that lower-level
> commanders and supervisors are given the flexibility to respond to
> local conditions.

Problem–solving

Geographical responsibility is closely linked to another element of sector policing – the early identification and prompt solution of local problems. Continuity of contact through holding teams of uniformed officers and their

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immediate operational commanders responsible for policing specified areas will allow them to build better relations with the local community, identify its concerns more quickly and gain crime intelligence (Metropolitan Police, 1991a: 5). In return, the Assistant Commissioner's guidelines anticipate that the public will come to know and trust 'their' sector officers with the result that neighbourhood problems will be nipped in the bud:

> Rather that just responding to recurring symptoms police [will be] able to get ahead of ... problems to identifying the underlying causes of them.

Instead of merely 'reacting' to the demands for police assistance they create, sector policing promises to put in place ' a more considered, logical and systematic approach' to addressing problems 'in close conjunction with the community' (Metropolitan Police, 1991a: 2). The key to this transformation of local policing from reacting to symptoms to solving problems lies, the designers of sector policing would have it, in giving operational officers the sense that they 'own' the problems of the communities they serve (Metropolitan Police, 1991a: 5). With geographical responsibility will come the knowledge that 'their problem today will be theirs tomorrow, and so on until finally resolved'. Fixed with the 'ownership' of sector problems, teams will have the incentive they need to co-ordinate their efforts 'because only in this way can certain persistent problems be dealt with' (Metropolitan Police, 1991b: 2).

Origins

The idea that substantive community problems consisting of a cluster of 'similar, related or recurring' incidents should be seen as the principal units of police business is closely identified with work of the American police scholar Herman Goldstein (1990: 66; and see also 1979; 1987; 1996). For more than twenty years he has argued that 'problem-oriented policing' represents a more realistic and constructive way of thinking about what people expect the police

to do. His concern is neither with 'crime fighting' as the goal of policing nor with 'law enforcement' as the means of achieving it, but rather with the impact the police have on the underlying causes of the whole range of troublesome events and behaviors they are called upon to deal with. According to Goldstein (1996: 7), problem-oriented policing is 'a way of thinking about the police job … [with] some bearing on all aspects of police operations'. The conscientious identification and analysis of community problems, and the development and evaluation of 'tailor-made' solutions to them captured in the form of the four stage SARA (scanning, analysis, response and assessment) process first used in Newport News, Virginia, is central to the enterprise (Eck and Spelman, 1987a: 42-51). But, as Goldstein (1996: 1) has been forced to point out, problem-oriented policing is not reducible to 'a simplistic four step process for dealing with problems that, unattended, repeatedly require police attention'. To do so is to 'trivialize' it and ignore the significant changes in every aspect of police organisation – including supervision, recruitment, training and performance evaluation – that are required if the primary goal of improving the capacity of the police to solve community problems is to be achieved (Goldstein, 1996: 7).

At least part of the reason why problem-oriented policing has been 'so diluted, corrupted, and trivialized on implementation that some … efforts bear no relationship to the original idea, (Goldstein, 1996: 9) is due to the adoption of 'problem-solving' as both a goal and a standard technique of community policing (Bayley, 1994: 105, 111-5; Bennett, 1994b, 229). At a practical level, this development presents no difficult since, as Goldstein himself (1987: 15) has argued, community police must engage with substantive community problems if it is to be more that 'an empty shell'. At a conceptual level, however, the two paradigms – problem-oriented policing and community policing – compete:

> While problem-oriented policing is a method of analyzing and
> solving the wide array of behavioral or crime problems that the

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police encounter on a routine, daily basis, community policing represents a solution to a particular difficulty of policing – gaining the support of the local community in helping to prevent crime and disorder. This difficulty is redefined as the problem of policing. (Clarke, 1997: 22-3, emphasis in original)

Strictly interpreted, community policing is thus a means of addressing a generalised 'problem' of poor police/community relations. Its aim is to construct and sustain more or less permanent ties between them. Problem-oriented policing, on the other hand, focuses on 'ends' and has a purely instrumental concern in engaging the police with ephemeral communities of interest that may coalesce around finding and implementing solutions to particular problems.[14]

The significance of this for present purposes is that the Assistant Commissioner's guidance contemplates an approach to 'getting ahead' of local problems that, like many other community policing programmes, encourages 'problem-solving' activity by individual or small teams of officers. But it does not seem to require the kind of systematic analytical approach to identifying the underlying causes of clusters of related incidents (particularly at 'jurisdictional' rather than 'beat' level) demanded by problem-oriented policing. Nor – though sector policing represents a 'whole organisation' reform rather than an isolated experiment – does the guidance put in place the battery of organisational and structural changes needed to align the recruitment, training, supervision and performance assessment of front line officers with the goal of solving substantive community problems. In comparison with the stress placed on geographical responsibility, community consultation and aligning resources with demand, problem solving is given scant attention in the booklets issued by the Assistant Commissioner.[15] Having said that, the ownership and amelioration of local problems are clearly intended to be central to the work of sector officers. We must therefore

consider how problem-solving policing in its various manifestations has worked in practice and assess its implications for police accountability.

Problem-solving in practice

The dearth of rigorously evaluated case studies of police problem solving, whether in the context of full-blown problem-oriented policing or otherwise, has been lamented by both Clarke (1997) and Goldstein (1996). Studies of early experiments in North America yielded promising results but tended to restrict themselves to examining the extent and scope of the implementation of problem-oriented policing rather than its outcome in terms of problems solved.[16] A study of the most conscientious implementation of Goldstein's ideas to date found that regular operational police officers were able successfully to address community problems as part of their normal duties (Eck and Spelman, 1987a: 97). But, having completed a full evaluation of only three problem-solving efforts and partial evaluations of fifteen others, the authors were commendably reluctant to put to much weight on their findings. In a subsequent study of problem-oriented policing in San Diego, California, researchers judged eleven of an original sample of twenty problems to have been ameliorated to a significant degree by police action, but found the application of any analytical problem solving process disappointingly patchy (Capowich and Roehl, 1994). Officers spent little time analysing problems they identified and retained such tight control of problem-solving activities (involving both enforcement and non-enforcement response) that the communities on whose behalf they were supposed to be working were left with no active role to play. In only three of the sixteen cases examined was there any evidence that efforts had been made to assess the work done either by the officers themselves or their department.[17]

'Britpop'

Experience of problem solving in Britain prior to the introduction of sector policing was even more limited than in the United States. The results of the only studies from the 1980s I have been able to trace were not especially

encouraging. In the first, Hoare *et al* (1984) evaluated a pilot study of the police response to four crime problems. The results were ambiguous: problem-solving proved popular with the operational officers involved and reinforced local commitments to 'multi-agency' working. But it also conflicted with the highly centralised managerial structure of such a large organization as the Metropolitan Police. Rapid turnover in personnel and the pressure of incident response work made it difficult for front line officers to take on problem solving in addition to their normal duties. No assessment appears to have been made of the outcome effectiveness of the work done, and it should be noted that in only one case did the public appear to play any part in problem identification.

If anything Chatterton's (1993) assessment of an attempt to make area beat officers in five divisions of the Greater Manchester Police more 'problem-focused' in their work is even more gloomy.[18] The analytical requirements of the project design were rarely met and (with the partial exception of one division) there was 'no evidence that the initiative had resulted in Area constables becoming more problem-focused in their work' (Chatterton, 1993: 193-4). Rather than analysing crime reports in any systematic way, officers taking part in the study relied on limited, and sometimes inaccurate, 'local knowledge' to justify claims about the significance of the problems that they tackled. Area constables and their supervisors successfully resisted attempts to make their work more carefully targeted and to hold them more accountable for it. Instead of transforming how they approached their work, the use of information and information technology was itself shaped by the occupational culture and officers' desire to avoid 'within the job trouble':

> Time and again ... the existing structure dictated the response to the
> problem, not what was known (or knowable) about the problem.
> (Chatterton, 1993: 202)

Experiences of problem solving in the 1990s have been equally mixed (Leigh *et al*, 1996; 1998; Home Office, 1998). Usually small-scale and with a limited lifespan, the six problem-oriented policing schemes reviewed by Leigh and his colleagues (1996) were marred (with some exceptions) by inexact problem definition, half-hearted attempts at community involvement and little formal assessment of problem-solving efforts. Initial expectations of the Leicestershire programme studied by Leigh *et al* were disappointed. Some of the beat officers involved in implementing problem-oriented policing in three local policing units of the force's East Area produced 'examples of outstanding work on a wide variety of problems' (Leigh *et al*, 1998: (v)). However, many others were 'cynical, hostile to form-filling, reluctant or unable to analyse incident data and apt to fall back on traditional policing methods'. A more comprehensive national survey undertaken by Her Majesty's Inspectorate of Constabulary (1998: 25, Box 3:1) found that 'problem-solving is not the approach used to address most crime problems; while, of 234 'successful' initiatives submitted by forces to the inspection team, only 17 (5%) 'could be judged as having fully followed a problem-solving approach'.[19]

Dimensions

In practice, operational police officers in Britain and in the United States have found it much harder to apply the analytical precepts of problem solving in their day to day work than theorists like Herman Goldstein might have hoped. The organisations to which they belong have found the implementation of fully problem-oriented style of policing more taxing still. But what are the implications of the theory and practice of problem solving for police accountability?

Content

According to Goldstein (1990: 35), 'problem-handling' is the core police function. Problems may or may not stem from criminal behavior. Their resolution may or may not involve law enforcement and the invocation of the

criminal process. In this sense, committing the police to problem solving represents nothing more than a refutation of the restricted 'crime control' view of their function, and a restatement of the alternative 'social service' perspective (Punch, 1979a), albeit in slightly different terms. But this expansive view of the 'police function' tells us nothing about what the police bring to the multifarious problems to which they are expected to respond, or what those who call them for assistance think the police can do to help. Eck and Spelman (1987a: 34) note the disparity between the quality of life problems people commonly complain about, and the 'real crime' police traditionally concentrate on tackling. Clarke (1997: 32) uses the example of a police officer persuading the family of a confused old man to find him professional care as an illustration of how such beat level non-crime problems, leading to repeated calls for police assistance, can be solved and the demand for reactive policing reduced.

But neither Eck and Spelman, nor Clarke, nor other writers on problem solving stop to ask why people call the police about noisy parties, abandoned cars, or – like the latter's lonely senior citizen – non-existent intruders. The answer of course is that they want whatever is troubling them dealt with – and dealt with sooner rather that later. They recognise that the ultimately coercive authority of the police is required to accomplish the task (Shapland and Vagg, 1988: 108). This is not to say that force will or should be used either to deal with the immediate incident or, as problem solvers would insist, with its underlying causes. Nor is it to deny that alerting other agencies (such as social services in the case of the elderly and confused) to a problem, or even indulging in the kind of 'community advocacy' suggested by Goldstein (1990: 47), may not be a sensible course of action for the police to pursue. On the contrary, when resolving problems demands personal skills and organisational resources that neither police officers specially trained in the distribution of coercive force, nor their organisations, possess, it makes sense for then to give way to others. The danger is that, in calling for the police to become 'problem solvers' rather than 'crime fighters' and 'community advocates' instead of

'law enforcers', the need to hold them to account for the coercive powers they alone bring to incidents - and to the problems that underlie them – is forgotten.

Directions

As we have seen, Goldstein's version of problem-oriented policing circumvents the difficulties that community policing has with the notion of 'community' by focusing on *ad hoc* communities of interest in finding solutions to substantive problems. In arriving at this position Goldstein (1990: 25) does not assume that large numbers of people will share common values in most urban neighbourhoods. He readily concedes that 'problems' may stem from tensions between groups living or doing business in the same area rather than the nefarious activities of 'outsiders'. From the standpoint of practical problem-solving policing, he accepts that people with an interest in a problem or its amelioration may not be law-abiding. And, with a realism absent from much of the writing on community policing, proponents of its problem-oriented equivalent openly embrace the need for the police to embroil themselves in the hurly-burly of intra-communal power struggles (Goldstein, 1990: 25-6: Eck and Spelman, 1987b: 48).

However, having cast the police adrift in the turbulent waters of neighbourhood politics, they provide them with neither map nor compass with which to steer a course. Goldstein (1990: 40-1), for example, makes much of the need to identify and analyse the multiplicity of interests that may exist in a problem and its resolution. To illustrate the point, he picks out no fewer than 13 'interests' in street prostitution – an activity that is 'clearly illegal' (though that description, he suggests, is unhelpful in formulating a solution) but needs to be dealt with as fairly and effectively as possible. The weakness of his analysis is that prostitution is seen primarily as a problem *experienced* by 'the community', and *created* by the behavior of prostitutes, with the result that only 3 of the 13 different interests Goldstein identifies can be described as 'prostitute interests'. The prioritisation of the 'community' over 'outsiders' is most evident perhaps in his treatment of the economic interests at stake.

Whereas he acknowledges the potential damage caused to the economy of an area and local property values by the presence of street prostitutes, he fails to recognise the competing material interest of men and woman who use the streets to earn their living by prostitution. In short, even the idealised practice of problem-oriented policing described by Goldstein fails to live up to the pluralist rhetoric of his theory.

What is conspicuously lacking here are any criteria against which to measure competing 'community interests' and decide which should be favoured. The police are asked to make highly political decisions but are given no secure, never mind socially just or equitable, basis for doing so. In reality however, the literature reviewed earlier suggests that this level of sophistication in the application of Goldstein's methods has rarely been approached. Despite his injunction that problem-oriented policing means 'looking to the community to define the problems that should be of concern to the police, rather than succumbing to the tendency of the police on their own to define the problems of concern to the community' (Goldstein, 1990: 34), the means by which 'substantive community problems' have been identified have only rarely involved active input from local people. 'Scanning' for problems has usually been done by police officers either using their own 'craft' knowledge and experience (Eck and Spelman, 1987a: 45) or by studying 'management' data on reported crime and/or calls for service (Sherman *et al*, 1989; Buerger, 1991; Sherman, 1992; Capowich and Roehl, 1994). Such official knowledge was supplemented in Baltimore by some citizen surveys (Cordner, 1985) but, as a rule, problem identification has not been marked by the kind of openness and eclecticism advocated by Goldstein.[20] As one commentator with considerable experience of problem-solving on the ground has argued, police definitions of what constitutes 'a problem', and who may legitimately deem something to be one, have tended to reflect their own social and moral conservatism:

> In the absence of citizen input, police identification of "problems"
> leans to police crime-fighter preferences, traditionally targeting out-
> of-favour groups. Even when citizen participation occurs, the
> problem identification process is biased toward the organized,
> articulate segments of the community. (Buerger, 1993: 107)

Mode

The mode and mechanisms of accountability suggested by Goldstein and revealed in the various attempts to put his ideas into practice are not entirely clear. At one point Goldstein (1990: 46) asserts that 'the ultimate decision on the type of service provided by the police should obviously be made by the community being served'. But he is also sensitive to the need to protect the constitutional rights of minorities from rampant local majoritarianism,[21] and well aware of the asymmetries in knowledge about community problems between the police and local people (Goldstein, 1990: 71). To square the circle he suggests that some degree of insulation from community influence must be maintained:

> The standards of a neighbourhood cannot be substituted for the rules
> of the state. Police administrators cannot surrender managerial
> controls over their agency (including the assignment of personnel)
> without significantly reducing their capacity to direct the agency.
> (Goldstein, 1987: 25)

It seems, therefore, that the ultimate arbiters of what constitutes a 'problem' – and one that can be dealt with without infringing minority rights or compromising police managers' 'right to manage' – are none other than the police. And, sure enough, the available research is replete with examples of the police identifying, analysing, responding to and (very occasionally) assessing problems with minimal reference to the affected communities while a 'mobilised' citizenry is seen as an untapped resource for cash-strapped police organisations. The abiding impression is that the relationship between police and public is, at best, analogous to that between members of a band

playing a tune they all like and have agreed to play and, at worst, to the interaction between a conductor and musicians attempting a piece the former likes, and hopes the latter will enjoy too.

Mechanisms

Precisely how the communities of interest that are supposed to cohere around problems and their solutions are to voice their concerns is rarely explained in writing on problem-oriented policing. Legal and political mechanisms of accountability are certainly not prominent. The role of elected officials in providing guidance to police problem solving is acknowledged (Goldstein, 1990: 26), and constitutionalim is, as we have seen, axiomatic. But Goldstein (1990: 47) also asserts that the imposition of external legal and political controls in an attempt to structure the kind of creative discretion demanded of junior officers by problem-oriented policing has (in the USA at least) 'added to the strain in relationships between the police and the community and ... made the police even more defensive'. No evidence to support this claim is cited but it does at least indicate that we must look elsewhere - to public, managerial and organic mechanisms of accountability – for the institutional means by which problem-solving police are to be held to account.

Since problem-oriented policing is unconcerned with developing police/community relations as an end in itself, permanent public mechanisms in the form of institutionalised 'community consultation' are not recommended. Indeed Goldstein (1990: 70-1) counsels against calling community meetings as a way of identifying problems because they are likely to throw up a mass of 'quality-of-life offenses' to which the police would be wrong to respond without first articulating the need to deal with the more serious problems they alone can appreciate. Instead he argues that meetings should only be organised to address intensified concerns about a problem that has already been identified thus confining formal public accountability to the analysis and response stages of the problem-solving process.

If the Assistant Commissioner's guidance grafts problem solving on to geographical responsibility, the reverse is true of writing on problem-oriented policing. Permanent beat assignment is seen as essential if officers are to 'get to know the problems of a community, the strengths and weaknesses of existing systems of control, and the various resources that are useful in solving problems' (Goldstein, 1990: 160).[22] He argues that officers assigned to particular areas over lengthy periods are more likely to acquire this knowledge than those assigned for random, discontinuous or short periods of time. But no explanation or illustration of how this process of assimilation, central to the operation of the organic mechanism of accountability characteristic of much writing on community policing, should take place is provided. 'Maintaining beat integrity' as Goldstein calls it, may well be necessary if problem-oriented, community or sector police are to absorb the values and norms of the people of the areas they serve; but (to reinforce a point made earlier), without a clear explanation of how that should happen, it is hard to accept that geographical responsibility alone can be a sufficient condition for the creation of an organically accountable police service.

With other legal, political, public and organic mechanisms of such dubious capacity or so restricted a role, the claim that problem-oriented policing will increase accountability is almost entirely dependant on the creation of a new technical-managerial professionalism. This manifests itself, for example, in Goldstein's (1990: 47-8) belief that the clearer articulation and justification of frontline police decisions about community problems in terms of 'the relevant facts' will give both their superiors and 'those who represent the community' more opportunity to review their actions. The rational, reflexive, nature of the problem-solving process and its reliance on carefully analysed - and demonstrably relevant – information as a basis for action will give supervisors, the public and their elected representatives much greater purchase on operational police work. Once again the argument is plausible, but we are given no clues as to how – in the real world of culturally valued operational independence – this change will take place, and no examples of cases where it

has. Without being told considerably more about how, in Clarke's (1997: 19) words, 'rational analysis and planning' in attacking 'the substantive problems that the police are called upon to deal with' will lead to greater accountability, it is equally plausible to suggest that it may have precisely the opposite effect. The 'enhanced professional status' that he anticipates will flow from problem-oriented policing may in fact serve only to legitimise police autonomy by glossing their decisions with the appearance of empirical social science.

Community consultation

Although, as we have just seen, the 'organic' accountability of sector officers to people with whom they are in continual contact seems to be given at least as much salience as any institutionalised mechanism for identifying local problems, the Assistant Commissioner stresses that sector inspectors are to consult their local communities before setting their unit's priorities and objectives (Metropolitan Police, 1991b: 1). Indeed formal consultation under sector policing represents much more than a means by which 'local public concerns can be successfully identified' since the principal vehicle for it, the sector working group (SWG), is intended to be not only a "police service users group' through which the public can raise concerns of an essentially local nature' but also a 'forum for the police to meet with other interested agencies to discuss and implement agreed and co-ordinated solutions to identified local problems'.[23] Thus the sector working group is seen both as a source of community input into the process of problem-identification, and a setting for mobilising and managing the response of the police and other agencies to those problems. Sector inspectors are also advised that meetings should be treated as an opportunity for the police to dispel some of the more unrealistic expectations and misconceptions that people may have about 'the police service's role, abilities, resources ... and what is achievable'. To this end, issues that are best dealt with by other agencies should, wherever possible, be passed on to them openly and in public so that people become more fully aware of the different roles and responsibilities of local service providers.

In sharp contrast to other aspects of sector policing touched on in the Assistant Commissioner's guidance, detailed advice then follows on how a sector working group should be set up and what its status, membership and powers should be once established (Metropolitan Police, 1991b: 5-9, Appendix 1.). The burden of forming a working group falls squarely on the sector inspector. She must get together a 'nucleus' of local representatives to start meeting and then allow the group to develop its own momentum (Metropolitan Police, 1991b: 6). According to the guidance, a properly formed working group should be a 'voluntary, non-statutory, body consisting of people who have an interest in, and genuine concern about, local policing matters'.[24] Though instigated by the police, it should not be police-run.[25] The chairperson must be independent and seen to be so.[26] Membership of an SWG is open to three main groups – residents, businesses and representatives from other agencies whose activities affect people living and working in the area – though the guidelines explicitly state there are 'no strict rules of entitlement to, or prohibition from, participation'.[27]

Among the representative organisations and individuals picked out in the text of the guidance are residents' associations, neighbourhood watches, ward councillors, trading associations, chambers of commerce, business crimewatches, key personnel from individual large commercial organisations and any other organisation 'whose leaders can fairly claim to represent local residents'.[28] Local authority service departments should 'only be asked to attend if essential'. Other criminal justice agencies and emergency services are mentioned in the contact list appended to the guide.[29] Once established, the guidelines suggest that a working group should be expected to decide who it wants at its meetings' in some reasonable and democratic way'.[30] Finally the powers - and responsibilities relative to the police - of a sector working group are set out in a paragraph that is worth quoting in full:

Although the public have an opportunity to express their views and have them taken into account, this does not affect the responsibility of the police to make the final operational decisions. Often these decisions will coincide with the group's wishes and will gain strength from having been taken after listening to public opinion. (Metropolitan Police, 1991b: 6).

History

The model of community consultation on which SWGs are based originates in the patchwork of community/police liaison committees that existed in London in the 1970s and the statutory framework for consultation put in place following Lord Scarman's report in the Brixton disorders of 1981 (Scarman, 1981: paras. 4.23 – 4.28; Morgan and Maggs, 1985a: 49; Dixon, 1991: 85).[31] The chequered history of the Lambeth liaison committee, and its untimely collapse in the period leading up to the Brixton disturbances, served to convince Lord Scarman that exclusive reliance on 'voluntary' arrangements would no longer do. The time had come, he decided, for consultative machinery to be required by law. Details about the appointment, composition, powers and responsibilities of the committees he envisaged were left for others to decide, though Lord Scarman (1981: para. 5.69) did say that their membership should include police officers, local councillors and 'perhaps other community representatives'. A committee should also be 'not just a statutory talking-shop': it should have the authority to discuss 'any aspect of police policy ... including operational questions other than those which, in the view of the [local police commander], must remain confidential'.

The government's reaction to his recommendations was swift and, within 6 months of the publications of his report, the first Home Office circular on consultative arrangements was issued (Home Office, 1982). Unfortunately the legislation needed to meet Lord Scarman's desire for consultation to be given the backing of law was delayed by the 1983 general election and parliamentary trench warfare over other aspects of what eventually emerged as

the Police and Criminal Evidence Act 1984 (PACE). But this did not prevent committees springing up in many London boroughs and provincial police authority areas (Morgan and Maggs, 1984 and 1985a), while the Home Secretary himself played a prominent role in launching a community/police consultative group (CPCG) in the London Borough of Lambeth (Morgan and Maggs, 1985a: 46; Fyfe, 1989: 284).[32] When s. 106 of PACE (now s. 96 Police Act 1996) eventually came into force on 1 January 1985 its wording was very general.[33] The basic requirement was that:

> Arrangements ... be made in each police area for obtaining the views
> of people in that area about matters concerning the policing of the
> area and for obtaining their co-operation with the police in preventing
> crime in their area. (s. 106(1) Police and Criminal Evidence Act
> 1984)

It was left to the Home Secretary to set out the framework for consultion in the MPD in more detail by issuing guidance to the Commissioner under s. 106 (3) of the Act. This guidance (Home Office, 1985: para. 3) explained that, though 'general policing policy' remained a matter for consultation between the Home Secretary and the Commissioner, it should be possible for it to be 'adapted to meet identified needs in the light of the expressed wishes of the local community'. Effective policing, it stated, depends on the police carrying out their functions with the consent of the community and 'making decisions which are in tune with [its] needs'.

Mechanisms

Public not political

Ostensibly at least, the establishment of CPCGs represented the institutionalisation of a mechanism of public accountability linking the police directly to members of the communities they serve.[34] Forming part of a 'local infrastructure' (Morgan, 1987) that was to include panels of lay visitors to

police stations, neighbourhood watches and inter-agency crime prevention initiatives (Morgan and Maggs, 1985a: Section 5), the Home Secretary's guidance to the Commissioner made it clear that CPCGs were to operate within the existing constitutional framework for governance of the Metropolitan Police. The Commissioner remained responsible for the direction and control of police operations and the Home Secretary for deciding upon the resources to be made available to him and the 'general policies' governing their allocation and use (Home Office, 1985: para. 2). Section 106 thus posed no obvious threat to the existing constitutional position of the Metropolitan Police. Indeed Rod Morgan (1989b: 178) – an authoritative and not unsympathetic observer – has argued that the zeal with which the government pursued the task of setting up consultative groups

> ... is indicative of the importance [it] attaches to the creation of
> mechanisms through the working of which it can be claimed there is
> policing by consent, thereby bolstering the case for the operational
> independence of the police.[35]

By setting up CPCGs as forums for direct interaction between the police and the community, the government hoped to cut the ground from beneath the feet of those in academia, local government and the Labour Party calling for political mechanisms of accountability to be strengthened by bringing operational policy-making under the control of elected representatives.

That this profoundly political project was – to put it no higher – a factor in the government's thinking is evident from the Home Office's guidance (1985) to the Commissioner. Sub-section 106(5) of PACE obliged the Commissioner to consult the council in each London borough about making 'appropriate' arrangements for consultation in their area. Yet the guidance (para. 8.5) sought to pre-empt the outcome of this exercise by suggesting a limit on councils' representation on their local group to five members. Further evidence of the highly politicised context within which groups were being

established is provided by an instruction issued by A7 Branch of the Metropolitan Police in February 1985. This stated that, if a council asked the police to meet with its police committee ('with whom in normal circumstances there is no formal contact') to discuss arrangements for consultation, the police could comply with the request but 'for this purpose alone' (Metropolitan Police, 1985, para. 7, emphasis in original). The worst fears of critics of Lord Scarman's proposals on consultation (GLC, 1982) and the Home Office's plans for putting them into effect (Christian, 1983) seemed to be coming to pass: not only was consultation going to change nothing constitutionally, it was also threatening to 'impede progress towards accountability in London by giving a false impression of control when in reality the police remain accountable to no one' (*Policing London*, No. 7 April/May 1983: 14, quoted in Fyfe, 1989: 288; and cf. Morgan, 1989b: 180). The upshot of this was that several Labour-controlled borough councils – fearful of the threat posed by CPCGs to the campaign for democratic accountability, and to their own status as representative bodies – refused to co-operate with the formation or functioning of groups in their areas (Fyfe, 1989: 28).[36] Others sought to subvert the (as they saw it) carefully contrived impotence of CPCGs by having councillors take an active role, and use their local group as a public forum in which to call senior police officers to account (Fyfe, 1992: 312; Keith, 1988: 69).

Community consultation in Islington

The 'left realist' influenced council in Islington was the most prominent exponent of the second approach. Fyfe's (1989; 1992) case studies of developments there, and in the Conservative-controlled borough of Sutton, demonstrate how the council's attitude towards statutory consultation mirrored the shifts in its position on the GLC's campaign for democratic accountability.[37] When the possibility of setting up a consultative body in Islington was first mooted in 1982 in the immediate aftermath of the Scarman Report, the Council informed the local police commander that its Police Sub-Committee was the means of communication between the community and the

police (Fyfe, 1989: 291). The Home Office refused to accept this and several months of haggling over the relative number of councillors and 'community representatives' to be included on the group ensued. As Fyfe (1989: 291) remarks, neither party could claim a monopoly of virtue on the issue. The Council's position was based on the faintly elitist assumption that elected members were uniquely qualified to represent all community interests in policing while the Home Office rooted their insistence on other forms of community representation in a belief in the (empirically dubious) existence of 'a participatory political culture where all groups have an equal ability to organise and articulate their interests'.

The impasse was eventually broken in April 1983 when the Council accepted a Home Office proposal that ten (twice the number later suggested as 'reasonable' in the 1985 guidance) elected members be allowed to represent it on the Group, counter-balanced by at least eleven 'community representatives'.[38] This formula was trumpeted by the Council as *de facto* recognition of its claim to represent the community and, in the early days of what became the Islington Police/Community Consultative Group (IPCCG), councillors seized every opportunity to highlight the lack of London-wide mechanisms of political accountability by raising non-local policing issues (Fyfe, 1989: 291; 1992: 325). However, by 1987 and Labour's third election defeat, Fyfe (1992: 314-5, 325) records that, having prevailed upon the police to accept a degree of 'moral accountability' to the community, the Council was keen to co-operate over crime prevention. Unlike Sutton, Islington had succeeded in getting the police to respond to some Council and community demands and leading politicians had come round to the view that practical politics demanded a less confrontational approach to consultation.

> You've got to be realistic. We've convinced the Labour Party of the
> need for an elected police authority in London but until they're in
> power we haven't got a hope of that happening. So should we bang
> our heads against a brick wall until then? We've go to show the

police that we are capable of working with them. (Labour Member of Islington Police Sub-Committee quoted in Fyfe, 1992: 314)

Managerial and organic

The use of CPCGs as a forum for the expression of the customers' perspective on policing is discussed in some detail shortly. All that needs to be noted here is the disjuncture between consultation as a public mechanism of accountability, and the deployment of community constables to geographically distinct beats as a means of making them organically accountable to the people of those areas. Both Fyfe (1992: 324) and Morgan (1992: 179) comment on this lack of articulation between the outcome of senior police managers' engagement with the community represented in CPCGs and the work of community constables. They note that home beat officers are generally unaware of the existence of their local CPCG while the middle managers who attend group meetings on behalf of the police do nothing to disseminate information about what is discussed to the lower ranks. This leaves Morgan (1992: 179) to conclude that 'the existence of formal ... consultation [has] had little discernible impact on the character of community policing.[39]

Content

Taking its cue from Lord Scarman (1981: 93, para. 5.56), the Home Office guidance (1985: para. 5) on the content of community/police consultation states that 'the police will be as open as possible in their dealings with consultative groups, and will be ready to discuss all aspects of police aims and policy, including operational matters ... so far as they are able to do so'.[40] The only fixed limits to this principle of openness are that consultative groups (like the Home Secretary) may not interfere in 'the enforcement of the law in individual cases'. However the guidance also establishes that the deployment of police officers and the method and timing of police operations are 'matters for the Commissioner'. Whether, when and how such issues may be discussed must therefore remain at the discretion of the police.

Thus, though openness was to be the guiding principle of consultation, the police were left with wide powers to derogate from it in the interest of operational independence.[41] This attempt to give CPCGs a sense of purpose – and something meaningful to talk about – without compromising police autonomy left local commanders with the whip hand in determining what they were, and were not, prepared to discuss with their lay interlocutors. As a result, a review of consultative arrangements conducted by the Home Office (1989: 11, para. 40) three years after the guidance was published found considerable variation in police attitudes towards groups. The amount of information disclosed to CPCGs differed markedly from place to place, as did the encouragement given to their involvement in setting local policing objectives and the willingness of the police to discuss the availability and deployment of resources. Fyfe (1992: 321) too discovered significant variation in the attitudes of senior police officers in the two London boroughs he studied. While Islington's commander was prepared to discuss the number of local officers being deployed outside the borough to police industrial disputes, his colleague in Sutton refused to provide the borough's CPCG with the same information on the grounds that it was 'an operational matter'.[42]

When it comes to active participation in problem solving or crime prevention efforts, few CPCGs have proved able to make any substantial practical contribution (Home Office, 1989: 12, para. 44; Morgan, 1989b: 231-2) despite the insistence of the Home Office (1985: para. 3) that they should focus on local problems in the context of the shared responsibility of police and community for tackling them. In practice, the vast majority of CPCGs seem to be subject to what Rod Morgan (1989b: 182) has graphically described as the 'dog shit syndrome'. Instead of grappling with local crime problems and their solution, researchers have found most CPCGs absorbed with routine complaints about small-scale, often highly localised, 'quality of life' issues such as littering, vandalism, parking, noise nuisance and dog-fouled pavements (Home Office, 1989; Morgan, 1989a and b; Stratta, 1990; Elliott and Nicholls, 1996). Restricted by their 'limited experience of their potential

needs and imperfect knowledge of crime' the average CPCG member is concerned not with the potentially serious, yet rarely experienced, events that accord with police definitions of 'crime', but with the everyday aggravations of stepping in dog mess or standing in a vandalised bus shelter (Morgan, 1989b: 182). All too ready to accept that such matters are of low priority and excuse the inability of an already overstrecthed police force to provide the kind of visible presence they would like, lay CPCG members find it difficult to raise their sights and engage with broader questions about police priorities, and how the resources forces do have are deployed to meet them (Morgan, 1989a: 232; Stratta, 1990, 531-2). For police officers ill-equipped (as they see it) to deal with such small-scale problems, and unwilling to accept that they really are 'police business', these preoccupations are a continual source of frustration and tend to undermine the credibility of the consultative process (Home Office, 1989: 11-12, para. 42). Even when police presentations on what they regard as 'real crime' problems (such as illegal firearms or child abuse) succeed in moving the consultative agenda on from quality of life issues, 'developmental discussion' seldom takes place. More than 10 years after the implementation of s. 106, Morgan (1995: 34) concedes that groups still face considerable difficulty in demonstrating worthwhile practical achievements.

Direction

According to the Home Office (1985: para. 7) CPCGs ought to be 'as representative as possible of [the] community'. To be so they should include not only the police, elected representatives (GLC and borough councillors and MPs) and statutory agencies (the probation service and local authority departments such as education and housing) but 'the community in its widest sense' (including any individuals with a particular contribution to make). They must be 'free-standing' and 'independent' of local and central government and the police (Home Office, 1985: para. 8.1). With membership open to 'all bona fide formally constituted bodies which represent a significant

number of local people' the guidelines appear to emphasise consultation as an inclusive process designed to give voice to the full range of local opinion (Home Office, 1985: para. 8.2).

The reality of local consultation has been rather different. In the first place, the guidance itself limits the representative capacity of CPCGs by insisting on a degree of formality and organisation as a prerequisite to participation. Then there is the exclusion of 'political pressure groups ... whose terms of reference include the monitoring of the police service or consideration of its constitutional position' (Metropolitan Police, 1985: para. 9). This insistence on organisation and political respectability – and the mindset that goes with it – has had predictable consequences. The Home Office's own review team (1989: 8, para. 24; 31, para. 119), for example, found 'people well used to committees: professional and middle-class white people, most of whom are in the 40-plus age range' dominating CPCGs, few of which had 'succeeded in attracting those sections of the community who are most likely to be wary of or actively hostile to the police (such as the under-25s, people from the ethnic minorities and the poor)'.[43]

Respectable, active in community affairs, with little or no direct experience of adversarial contact with the police, and instinctively supportive of what they are trying to do, researchers have found the typical CPCG 'community representative' singularly ill-equipped to challenge police definitions of reality and easily susceptible to being 'educated' into police ways of thinking (Morgan and Maggs, 1985b: 92-3; Morgan, 1989a: 229-30). Any correspondence between members' views on policing and those of the general public is purely coincidental, and not the outcome of any attempt on their part to canvass the views of the constituencies or organisations they are supposed to 'represent' (Joint Consultative Committee, 1990: Section 5). Few participants report that they raise matters at CPCG meetings on behalf of others, and most say they seldom have anything to report back to their parent bodies (Morgan 1992: 179). 'Gate-keeping' by the police (Stratta, 1990: 528-

9), local councils (Fyfe, 1989: 292; 1992: 315-8) and umbrella bodies such as community relations and voluntary service councils (Home Office, 1989: 6, para. 17) helps to ensure that organisations sympathetic to the positions of dominant institutional players in the consultative process are well represented while, as Fyfe (1992: 318) has noted, the individuals sent to 'represent' those bodies at CPCG meetings are invariably selected by the self-appointment of an existing office holder.

If the notion of 'representation' implicit in s. 106 and the Home Office guidelines is flawed and glosses over real differences in the status of CPCG members, their relationship with non-participants, and the role they can play in bridging the gap between police and 'community' (Keith, 1988: 67), so too is their construction of 'community' and the bureaucratically convenient, but empirically unwarranted, assumption that the administrative boundaries with which consultation should take place reflect 'natural community links' (Home Office, 1989: 16, para. 58-61). Taking local government boundaries as the geographical basis for consultation risks both splitting those 'natural' communities that do exist, and forcing people together when they have little in common. Operating in what Morgan (1992: 180) calls the administrative 'stratosphere', CPCGs have proved to be too far removed from the highly localised policing problems that concern most people (Stratta, 1990: 546; Shapland and Vagg, 1988). All too often, groups have become not the authentic voice of civil society; but slightly ineffectual intermediaries between the police and marginalised social groups whose interests they are unable credibly to represent (Home Office, 1989: 29 para. 118; Dixon, 1991: 93-5).

Mode

It has already been suggested that the characteristics of the typical participant in community consultation make it difficult for most CPCGs to get to grips with policing policies and present a sufficiently broad and inclusive view of local priorities. But, even if the majority of 'community representatives' on

CPCGs wanted to take a more robust line with the police, the Home Office guidelines (1985: para. 8.3) are unequivocal in their rejection of directive accountability:

> 'The police must be members as of right, not called to account in any legal sense, but enabled to discuss, to explain and to be criticised and to prompt action'.

It is not for CPCGs to decide matters of policy, still less to approve or censure police operations. Rather it is for them to help ensure that 'the decisions which are properly for the police or the Home Secretary can be more closely informed by the views of the local community' (Home Office, 1985: para. 45). By consulting the community, the ultimate decision-makers are doing no more than adding to the stock of information they rely on before determining how to act (Dixon, 1991: 63). The outcome of consultation is not a prescribed course of action, and the relationship between the 'consultor' and the consulted is strictly non-hierarchical. As Michael Keith (1988: 76) has put it, 'Accountability is about power relations, consultation is about dialogue. They are not the same.' Or, in the blunt terms of a provincial superintendent responding to CPCG criticism of the police response to rowdy football supporters, 'No one directs the police as to what they are going to do' (quoted in Stratta, 1990: 539).

If Morgan and Maggs (1985a: 7-8) are correct in interpreting the model of community police consultation suggested by s. 106 and the Home Office guidance as a partnership between the police and lay CPCG members, the rough equality to be expected between partners in a joint enterprise has rarely been observed in practice. Their greater and far more systematic knowledge of the distribution of crime, disorder and the myriad other problems brought to their attention, give the police an advantage in their dealings with lay representatives and lead to a significant asymmetry in the power relations that exist between the two parties to community consultation (Stratta, 1990: 533;

Fyfe, 1992: 322). Understandably perhaps, the police have done little to restore the balance. So, for example, researchers have found that reports to CPCGs are usually given verbally making it difficult for lay members to digest and comment sensibly on statistics and other complex issues (Home Office, 1989: 10, para. 33; 28, para. 112). Debate on local police objectives is foreclosed by their presentation to groups as a fait accompli (Home Office, 1989: 29 para. 114; Stratta, 1990: 531). Experience of consultation suggests that, instead of members of the community informing the police about their priorities and values, police presentations emphasising a chronic lack of resources in the face of rising levels of crime and disorder provoke sympathy among already solidly 'pro-police' lay representatives (Morgan, 1989b: 229-30). Hence, if anything, the transmission of information, attitudes, priorities and values is *from* the police *to* the community rather than the reverse with CPCG member eager to know how they can help strengthen the thin blue line standing between civilised society and chaos (Morgan and Maggs, 1985b: 92-3; Savage and Wilson, 1987: 260).[45]

Lessons of community consultation

By the early 1990s the model of community consultation used in sector policing had been given ample time at least to begin to yield positive results. Yet, almost without exception, researchers were inclined to pessimism about its contribution to accountability and the realisation of policing by consent.[46] Originally conceived as a means of enabling the police 'to meet identified needs in the light of the expressed wishes of the local community' (Home Office, 1985: para. 3), evidence that community consultation had increased public influence over policing had proved extremely hard to come by (Savage and Wilson, 1987: 262; Fyfe, 1992: 325). The 'cosy ritual' of consultation had achieved little of practical value and had 'no discernible impact on what the police do' (Morgan, 1989a: 232). By co-opting the 'great and the good' to the police standpoint, community consultation had reinforced the exclusion of the socially marginal and politically powerless from any influence over

policing (Morgan, 1992: 181-2). The insistent demands of the organised and articulate for a better quality of life crowded out any consideration of the social distribution of coercion and protection. However, as Rod Morgan (1992: 182), its most assiduous student, has observed, if it had achieved nothing else, the spread of community consultation had at least succeeded in removing the debate on police accountability from the constitutional sphere to the safer realms of management and resources.

Managerialism and Consumerism

The last of the four core elements of sector policing is more ideological than material: more a theme that informs and colours its programmatic constituents than a distinctive way of working. It has two aspects. The first relates to the 'managerial' reforms associated with sector policing: the devolution of authority for operational decision-making down to the lowest appropriate level; making the most efficient use of resources by re-examining workloads; matching the availability of staff to periods of peak demand; and holding sector inspectors as local operational commanders accountable within the police organisation for delivering a 'quality service' to the public (Metropolitan Police, 1991a: 1, 5-6, 8). These changes to the organisational structure of front line police work resonate with a second aspect of the ideology of sector policing - its reconceptualisation of the people to whom that 'service' is provided as 'consumers'. Sector policing, the guidelines say, is a style that 'measures and provides customer satisfaction at a local level' while sector working groups provide forums for 'service users' to inform policing priorities and objectives.[47] Stray phrases perhaps, but the message they convey is clear enough. Whether they are seen as users, customers or consumers, the nature of the relationship between police and people is being described in the language, if not of the marketplace, then certainly of a 'new managerialism' that seeks to undermine the barriers between the public and private sectors (McLaughlin and Murji, 1995; 1997).[48]

Origins

The origins of the new managerialism in the recurrent fiscal crises of the last 25 years, the pre-eminence of market ideology ('private sector good, public sector bad') and an accumulating body of research evidence suggesting that increased spending on the police did not necessarily lead to lower levels of crime has been well documented (Morgan, 1990; Weatheritt, 1993; McLaughlin and Muncie, 1994; McLaughlin and Murji, 1995, 1997; Leishman *et al*, 1996; Savage and Charman, 1996). So too has its development from the first Thatcher government's Financial Management Initiative, through the celebrated Home Office Circular 114/83 on *Manpower, efficiency and effectiveness in the police service*, to the 'police reforms' of the early 1990s. All that needs to be noted here then is that sector policing was designed and implemented at a time when police forces generally were chaffing against the strict financial and rationalist disciplines imposed by what turned out to be the first wave of managerialist reforms (including management or policing 'by objectives') and were becoming increasingly anxious to reposition themselves as forward thinking public services.[49]

Itself the fruit of the distinctly managerialist PLUS programme, sector policing came hard on the heels of the Operational Policing Review (Joint Consultative Committee, 1990) and ACPO's (1990) response to it. The first of these documents reflected the disenchantment of the three police staff associations with the rising tide of 'efficiency initiatives' characteristic of first wave managerialism. It advanced the claim that, by focusing on crude quantitative measures of 'value for money' and 'productivity' at the expense of 'the fulfilment of reasonable public and police expectations', such initiatives threatened 'traditional policing' (Joint Consultative Committee, 1990: Introduction, 4-5). The second paper saw the police service respond with the publication of:

> ...a strategic framework to identify and improve the quality of
> service delivery and a system to monitor and measure over time
> Police Service ability to meet public expectations and consequently
> increase public confidence in it. (ACPO, 1990: 2, para. 4)

When John Major (Prime Minister, 1991: 24-5) published the *Citizen's Charter* in an attempt to give greater coherence, and a more positive political gloss, to his predecessor's concerns with value for money, ACPO's initiative on quality of service was endorsed as an example of second wave consumer-sensitive managerialism.[50] With its emphasis on identifying and satisfying the needs of the consumer as well as adopting a more rational and efficient approach to the analysis of demand (and the deployment of resources to meet it), sector policing was introduced at a critical juncture in the evolution of new managerialist thinking in and about the police service. Combining key elements of both first and second wave managerialism, sector policing neatly encapsulated the zeitgeist of the period for, as the Chairman of ACPO's Quality of Service Working Party, put it: 'Consumerism, public expectation and ultimately public satisfaction, rather than the cost effectiveness of the 80s, will be the watchwords in the 90s' (Hirst, 1991: 183).

Dimensions of accountability

Thus sector policing was born on the cusp between the stark economism and rationalism (McLaughlin and Murji, 1995: 117) of the first phase of new managerialism's invasion of policing, and the consumerism of its second. But what does sector policing's evident, if understated, espousal of new managerialism suggest about its ability to deliver on its promise of a more accountable police force?

Mechanisms

Although managerialism has spawned (and been promoted by) institutions such as the Audit Commission, and reoriented the work of others like Her Majesty's Inspectorate of Constabulary (HMIC) and ACPO, the detailed

performance information they collect is intended for consumption not by these intermediate bodies themselves but by the public who 'consume' and pay for policing, and the politicians who represent them (Weatheritt, 1993). The technical mechanisms of the new managerialism are intended to inform rather than replace existing mechanisms of political and public accountability. So, outside London, the new police authorities created by the Police and Magistrates' Courts Act 1994 were expected to take up the challenge of acting 'on behalf of local people as the 'customer' of the service which the police force provides' (Home Office, 1993: 20), whilst the Audit Commission (1994: 19) is given a statutory duty (under the Local Government Act 1992) to:

> ... identify, in the form of Citizen's Charter indicators, measures that
> open a window on policing for members of the public, and enable
> them to make judgements about how well their local police force is
> doing.

In principle then, the collection of performance data by the Commission and the other institutions of new managerialism should be seen not as an end it itself but as a means of 'formulating and asking further questions and promoting dialogue with service providers about the prospects for service improvement' (Weatheritt, 1993: 41).

However, as Nicola Lacey (1994: 553) has argued, the 'instrumentalist discourse' of managerialism ('performance', 'value for money' and 'efficiency of service') frequently

> ... diverts attention away from contested political questions about
> what constitutes 'value' in the relevant context and from pressing
> questions about how these values should be debated and determined
> in a fragmented and stratified society.

Far from informing and invigorating political and public mechanisms of accountability, managerialism may in fact depoliticise the process of holding the police to account by reducing it to a purely technical matter of measurement against performance indicators assumed to reflect a consensus about what the police should be doing, how they do it, and to and for whom. Consumerism may have a similar effect in masking conflict over police priorities by privileging the carefully modulated and structured views of disembodied individuals asked to complete 'customer satisfaction surveys' over collective expressions of will - however contradictory and confused they may be - voiced in public or political forums where debate and disputation are possible. Even where a public mechanism such as community consultation is explicitly intended to provide consumers with a voice (Morgan and Maggs, 1985a: 73) and allow them to make 'an informed contribution to discussion about local policing aims, priorities and policies' (Home Off2ce, 1989: 28, para. 111 (i)) police responsiveness to the type of 'consumer' represented on CPCGs means that they are less responsive to others (Morgan, 1989b: 182). Disaggregating the public in the form of individual 'consumers', or small groups of them, ignores the political problem of determining whose interests are served by the police. Recasting the relationship between police and public in the language of the market place and consumer sovereignty also reminds us why the provision of services like policing was socialised in the first place (Morgan, 1989a: 182).

Content

In order to 'managerialise' policing, what McLaughlin and Murji (1997: 86, 91) have called its 'double difference' from the private sector has had to be overcome. Firstly, as a public service, policing (along with health, education and so on) has to be made to fit with a model of what constitutes a 'good service' based on characterisations of the successful private enterprise (Weatheritt, 1993: 34 citing Peter and Waterman, 1982). Under the tutelage of the Audit Commission, police forces and other public service providers must be able to show that they understand their customers, specify and pursue

consistent objectives, allocate management responsibilities clearly, monitor performance, and adapt quickly to change in the 'business' environment. Where the police differ from local authorities and the rest of the public sector, and are therefore, 'doubly different' to an ordinary business, is in their constitutional position which, in turn, is a product of their unique responsibility for the distribution of legitimate coercive force.[51] Poorly though the managerialist coat may fit on occasions elsewhere in the public service (Potter, 1988; Pollitt, 1988; Deakin and Wright, 1990; Stewart and Walsh, 1992), the private sector cut seems singularly inappropriate in the context of the police and other criminal justice agencies whose stock in trade is coercion (McLaughlin and Muncie, 1994). Frequent adversarial contact between the police and their 'customers' (Morgan, 1990: 85), and the degree of compulsion with which their core 'service' is 'provided' (Pollitt, 1988: 80), make policing a particularly hostile environment for a philosophy based on quality and customer friendliness in the delivery of services 'demanded' by consumers.

Overcoming these difficulties has required a concerted effort to replace the 'coercive' image of post-war policing with a 'compliance' model more susceptible to new managerialism (Hirst, 1991: 93). In London, for example, one of the most striking outcomes of the Wolff Olins/PLUS process was the rebranding of the force as the Metropolitan Police *Service* complete with its own booklet on 'quality of service' (Meropolitan Police, undated b).[52] This publication - widely circulated around the time sector policing was being implemented across the MPD and self-evidently a product of what Pollitt (1988: 78) has called 'charm school' consumerism - encourages service personnel to be punctilious in their behaviour towards those making non-adversarial contact with the police. But it studiously ignores the possibility that either interactions on the street or the presence of a member of the public in the police station might be based on anything other than a voluntary demand for 'service'.

Direction and mode

Along with this repackaging of the content of policing from the distribution of coercive force in often adversarial contexts to the consensual delivery of a service comes a reconceptualisation of the people to whom the police are accountable and how they relate to them. Notwithstanding explicit commitments to include people engaging in unlawful behaviour as 'customers' of the police *(The Guardian,* 18 June 1992, cited in Cooper, 1993: 157) and the recent description by Commissioner Sir Paul Condon of Londoners as 'our shareholders - the people with stock in the Metropolitan police' *(The Guardian,* 8 March 1995), new managerialism's reconstruction of the citizen as a consumer serves to rationalise and justify the direction of accountability towards privileged sections of 'the community' rather than 'the people' as a whole.[53]

Citizens generally may indeed be the indirect 'consumers' of an (albeit imperfect) public good such as policing (Morgan, 1990: 84), but this is not how the consumerisation of policing has worked in practice. Operational strategies such as geographical responsibility and community consultation – like community policing programmes generally - have tended to promote contact between the police and the public unevenly across different social groups. As a result, 'respectable', police-friendly, citizens who have little or no direct experience of adversarial contact with the police have found it easiest to establish themselves as legitimate 'consumers' of police 'services'. It is they *on whose behalf policing is done,* while the direct (but involuntary) 'consumers' *to whom policing is done* - and the wider pool of rough, police-wary, indirect citizen-consumers with some experience of adversarial contact from whom these compulsory 'consumers' are drawn - are kept at arm's length.

Privileged indirect, and 'direct but voluntary' consumers (victims of crime, witnesses and neighbourhood watch activists), of managerialised policing come to the friendly encounter with the beat officer on the street corner or the

police manager in a local CPCG meeting as 'economic actors'. They have paid their taxes and are entitled to the same level of service as might be 'guaranteed were the provider constrained by the pressure of competition in the marketplace' (Baron and Scott, 1992: 543). But they also come as law-abiding members of the community with support, information and legitimation to provide to the police in exchange for some influence in policy-making. This underscores the contractual nature of the relationship between, on one side, the state and its agencies and, on the other, the individual citizen as taxpayer and the socially and politically acceptable consumer of a publicly funded service (Jones, 1993: 188; Cooper, 1993: 158). Instead of being directed by citizens (the *demos*) with collective needs, the 'new managerial' police become parties to a contract with individual voluntary service users and select groups of 'consumers' constructed as 'the community'.

Conclusion

In this and the previous chapter, I have located sector policing within the broad tradition of community policing and identified four core elements or themes that emerge from the guidance on its implementation issued by the Assistant Commissioner. Much of what has been said is critical of the contribution that the introduction of geographical responsibility, problem solving, community consultation, the new managerialism, and community policing generally, have made to police accountability. But this is not to say that the reforms on which sector policing is modelled are worthless. On the contrary, there is much to be said for fresh thinking that encourage the police to take a more realistic and positive view of what people expect of them. Efforts to make the officers responsible for policing particular areas more sensitive to the values of the people who live, work or visit those areas, and more responsive to their needs and priorities, are to be applauded. Waste and inefficiency serve no democratic purpose. Investing scarce public resources in a vast bureaucracy that fails to understand what the people it serves expect of it, pays little attention to what they say they want it to do, and is governed by

whim and tradition, has little to commend it. My argument is therefore not with the need for change, but the way in which community policing and the other innovations discussed in these chapters seek to bring it about and how, in reinventing policing, they reconceptualise police accountability, its content, direction, mode, and the mechanisms by which it is realised.

I have tried to show how sector policing draws on a philosophical tradition and substantive programmes that have proved difficult to implement and harder to evaluate. Insofar as their impact on police accountability is apparent they have succeeded in: redefining the police function as 'problem solving' instead of 'crimefighting' without recognising or allowing for the coercive capacity the police bring to the tasks they are expected to perform; sensitising police officers to the demands of privileged 'communities' of 'respectable' consumers instead of making them responsive to the needs of all citizens; making these organised communities equal partners of the police while excluding the disorganised and the 'rough' from any real influence over police policies; and shifting the burden of transmitting public values and priorities to the police from formal (and imperfectly inclusive) legal and political institutions to less formal (but still more exclusive) mechanisms of public, managerial and organic accountability. On the evidence presented here it is difficult to be sanguine about the prospects for sector policing as a route to greater police accountability and the re-establishment of policing by consent. It is the task of the next chapter to see whether such pessimism is justified.

Notes

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[1] The population policed by a team reached 20,000 in some places.

[2] The results of a more methodologically rigorous evaluation of team policing in Cincinatti were similarly disappointing (Schwartz and Clarren, 1977). With the benefit of hindsight, Kelling and Moore (1988: 23-4) aver that a community policing strategy such as team policing was at variance with the core assumptions of the still dominant 'reform era' model of policing and therefore doomed to fail.

[3] Both the Chelmsey Wood and Peckham schemes were inspired by an earlier 'coordinated policing project' set up in Skelmersdale, Lancashire, in 1979.

[4] Brixton, Hackney, Kilburn and Notting Hill in the MPD and Addlestone and Camberley in Surrey. An evaluation of the entire programme was undertaken by an independent consultant (Turner, 1987). A more detailed examination of neighbourhood policing on the Notting Hill Division of the Metropolitan Police was carried out by external evaluators from the Police Foundation (Irving *et al*, 1989). These two documents form the basis of the discussion here.

[5] Turner (1987: 7, para. 25).

[6] *Ibid.; 21, para. 91.*

[7] *Ibid.:* 22, para. 97.

[8] *Ibid.:* 27, para. 122.

[9] *Ibid.:* 28, para. 123

[10] *Ibid.:* 13, para. 62 (i). The example quoted is of 'sector working group' meetings in Brixton where Turner comments that the minutes showed 'raised but unfulfilled expectations, and a concentration on issues regarded by the police as of low priority'.

[11] The source material for this account of developments in Surrey is a series of undated documents on Total Geographic Policing produced by Surrey Constabulary and a personal interview with Superintendent David Dodd of Woking Police conducted by the author in September 1992.

[12] This study found that the average number of 'public initiated encounters' involving single officers on foot patrol was 35% higher than for officers working in pairs.

[13] If, for example, the officer to household ratio of 1:400 achieved in Bennett's study areas were to be applied across a whole police area such as Holloway, more than half the division's uniformed officers would have to devote a whole year to nothing but resident contact and visible patrol work.

[14] See the discussion of notions of, and attitudes towards 'community' in the broad community policing tradition in the previous chapter. Also see Clarke (1997: 22-3); Goldstein (1990: 24-6).

[15] The sketchy treatment of problem solving contained in the guidance covers few of the basic elements of problem-oriented policing or the characteristics of a problem

oriented police agency set out by Goldstein (1990: Chap. 4) and Eck and Spelman, (1987a: 102-3) respectively.

[16] See Goldstein (1990: Chap. 5) for a summary and Goldstein and Susmilch (1982) and Cordner (1985) for accounts of problem-solving in Madison, Wisconsin, and Baltimore, Maryland, respectively.

[17] Four of the initial sample of 20 problems proved useless for the purposes of studying the impact of police problem-solving.

[18] Cf.. Chatterton and Rogers (1989).

[19] Clarke (1997: 86-96) reports only slightly less discouraging findings from the US: only 33 out of 88 projects submitted by 59 different police departments for a problem-oriented policing award passed muster as 'focused opportunity-reducing preventive measures' compatible with a strict definition of problem-oriented policing.

[20] Later stages of the problem-solving process have if anything been kept even more closely under police control.

[21] Talk of 'constitutional rights' is of course much more problematic in the British context where such rights as do exist have traditionally been defined only in the negative.

[22] In similar vein Eck and Spelman (1987b: 45) suggest that boundaries to the potentially limitless authority of problem-solving police will be set by a combination of 'informal pressure from private citizens in their contacts with individual officers; elected officials; the staff of other private and pubic agencies; and the police themselves'.

[23] Metropolitan Police (1991b: 4-5).

[24] *Ibid.*: 5.

[25] *Ibid.*: 6.

[26] *Ibid.*: 9.

[27] *Ibid.*: 7, 8.

[28] *Ibid.* 7.

[29] *Ibid.* 8 and Appendix 1.

[30] *Ibid.*: 8.

[31] See Skogan and Hartnett (1997: Chap 5) for a recent account of citizen involvement in community policing from North America. Their description of how the network of 'beat meetings' and 'district advisory committees' set up as part of Chicago's Alternative Policing Strategy resonates with much of what follows here.

[32] The committees established at this time and later in response to legislation are referred to by various titles in the literature. Here I will call them community/police consultative groups or CPCGs.

[33] Morgan and Maggs (1985a) are among several commentators who note that the establishment of CPCGs as such is not required by the Act. A minority of provincial police authorities held out against the 'informal' Home Office line for a while only to be brought gradually round to it by unrelenting pressure from Her Majesty's Inspectorate.

[34] Precisely how direct the contact between police and community turned out to be is dealt with in more detail below.

[35] Cf. Morgan and Maggs (1985a: 74) and Morgan (1989a: 227).

[36] By the end of 1988 the controlling Labour groups in five London boroughs were still refusing to take part in their local CPCG (Metropolitan Police, 1989b: 11)

[37] See Chapter 5 for further discussion. The two boroughs Fyfe researched are named in his earlier work (1989) but rather thinly disguised as 'Northley' (Islington) and Southam (Sutton) in the later piece. Dixon (1991) charts events in one of the boycotting London boroughs.

[38] Overriding the Council's objections that other forums existed for them to make their views on policing known, the Home Office successfully insisted on the inclusion of local Members of Parliament and GLC councillors.

[39] Much of the research cited in the previous chapter on geographically responsible policing showing the isolation of community constables from the mainstream of operational policing suggests that communication in the opposite direction was no better.

[40] The 1985 guidance was firmer on the need for the police to approach consultation in a positive way than that issued three years earlier immediately after Scarman reported (Morgan and Maggs, 1985a: 18).

[41] A non-exhaustive list of 25 examples of the kind of subject that could usefully be taken up in local consultation is provided in paragraph 5 of the guidance but it adds nothing to the bald statement of objectives contained in s. 106 of PACE. Attempts to specify a set of aims against which the achievements of CPCGs might be assessed have been made with varying results (see Home Office, 1989: para. 80; Morgan, 1989a: 221; 1992: 177-8; Elliott and Nicholls, 1996: 5-8).

[42] It seems likely that these differences were not simply a function of the idiosyncrasies of local police commanders but also a product of the determination of particular consultative groups in pursuing certain issues and insisting on relevant information being provided.

[43] See Morgan (1989a: 229; 1995: 34), Stratta (1990: 528-9), Joint Consultative Committee (1990: 5, 2) and Elliott and Nicholls (1996: 10-11) for further evidence of the firm and apparently unshakeable hold of white, middle-aged, middle class males on local consultation.

[45] Morgan (1992:176) makes the important point that the police values inculcated in CPCG members are those of locally based middle managers not 'street police'.

[46] The distinctly mixed reports offered in Morgan (1995) and Elliott and Nicholls (1996) indicate that not much has changed since.

[47] Metropolitan Police (1991a: 2).

[48] Cf. the 'new public management' discussed by Leishman et al (1996).

[49] The message of Circular 114/83 was reinforced in 1988 by a Circular on *Applications for increases in police force establishments*. This saw the Home Office up the stakes in their dealings with the police service by making permission for an increase in establishment dependent on a force's ability to demonstrate 'where

possible [with] quantitative output or performance measures' that its service objectives were being met.

[50] See Butler (1992) for a wary assessment of the Charter's implications for the police. Waters (1996: 214-5) has detected a tension both within the ACPO document and the approaches adopted by individual forces between what he describes as an initially dominant professional 'public service' view of quality of service and the more consumerist 'business' model that gained ground following publication of the Citizen's Charter.

[51] McLaughlin and Murji (1997) do not make this last point sufficiently clear.

[52] Cf. Jones (1993: 188) and, more generally, Stephens and Becker (1994).

[53] On the transformation of citizens into consumers and its implications see Barron and Scott (1992); Cooper (1993) and Lacey (1994).

8

Sector Policing: The Holloway Experience

Sector policing went 'live' on Holloway Division on 6 April 1992. After months of preparations the grand design was ready to be put into practice. Exactly how this was done and what the implications of sector policing were for the public accountability of the police to the people of north Islington is not the concern of this chapter. The intention here is rather to show firstly how some of the theoretical issues highlighted in the discussion of sector policing and its origins in the last two chapters worked themselves out in practice during its implementation in Holloway; and secondly to suggest, in the light of that experience, how far the reconceptualisation of consent and accountability had progressed by the early 1990s.

The raw material for this chapter consists mainly of fieldnotes for the research reported in detail by Dixon and Stanko (1993a, and see also Dixon and Stanko, 1995) supplemented by some quantitative data from Holloway Division's own evaluation of the first 6 months of sector policing (Holloway Division, 1992).[1] The findings of the only other contemporary study of sector policing undertaken by Trevor Bennett and Charles Kemp (1994) in two police areas in Thames Valley will also be referred to at various points. Although the programmes evaluated by Bennett and Kemp differed in some significant respects from the style of sector policing implemented in London, their survey-based research is useful in that it puts some of the issues raised by the qualitative data collected in Holloway in a slightly broader context.[2] The bulk of the chapter is concerned

with the effect of sector policing on the content, direction and mode of local police accountability. However it begins with a profile of Holloway and a short discussion of the main mechanisms of accountability put in place on the division from the beginning of April 1992.

Holloway: a profile[3]

Holloway Division covers roughly half of the London Borough Islington. In many respects a typical slice of inner city London, the division is coterminous with the Islington North parliamentary constituency and includes 10 Council wards. Census figures for 1991 give a total resident population for Holloway/North Islington of 86,352 (38,277 households). More than a fifth (22.1%) of the population identified themselves as coming from ethnic minority groups.[4] A similar proportion (19.5%) of residents was under the age of 16. Unemployment at 20% of the economically active resident population in January 1993 was significantly higher than the greater London average of 11.7%. Housing in the area was dominated by the public and voluntary sectors with more than half (53.1%) of North Islington's households living in accommodation rented either from the local authority or a housing association.

In 1992 Holloway Division logged a total of 49,682 messages on the computer-aided despatch (CAD) system and recorded 13,498 notifiable criminal offences. More than 6,450 custody records were opened at the Division's two police stations over the same period. To meet this demand Holloway had 173 uniformed police constables in post as of 22 December 1992, almost a fifth (19%) of whom were probationers in their first two years of service. Above them in supervisory and managerial positions the Division had 38 uniformed sergeants, 8 inspectors, 2 chief inspectors, a superintendent and a chief superintendent.

A slightly different impression of crime and policing across the borough as a whole is provided by the Second Islington Crime Survey (ICS2) (Crawford *et al*, 1990). This suggested that, compared with the rest of the country, Islington could be described as a relatively 'high crime' area. For example, 7% of households in the borough reported having been burgled and had property stolen within the survey's 12-month recall period compared with only 4% of households nationally.[5] Four out of five respondents (80.5%) to ICS2 identified crime as at least a bit of a problem and two out of five (40%) rated it among the three most serious local problems. Fear of crime was a significant feature of many people's lives: nearly half (49%) of all female respondents and almost a quarter (23%) of males told researchers that they sometimes felt unsafe in their own homes. ICS2 also provided an interesting snapshot of public attitudes towards the police in Islington in the late 1980s. Between two thirds and four fifths of respondents felt that the police were either fairly or very unsuccessful in dealing with routine crimes such as residential burglary (73%), street robbery (70%) and vandalism (80%). Young people aged 16 to 24 were markedly more negative in their assessments than their elders: 45% of this age group identified police behaviour as a problem for them and 53% agreed to some degree at least that they were unfairly treated by the police. These feelings were probably not unconnected to young respondents' experience of policing reflected in the ICS2 finding that a young black man of between 16 and 24 was 40 times more likely to be stopped and searched on the street than a white male over 45.[6]

Mechanisms: consultation and responsibility

Before we look in detail at the impact of sector policing on the content, direction and mode of accountability, it is worth recalling how the new style of policing aimed to change the mechanisms by which the police were to account to the people they serve. Far-reaching though the organisational changes implied by sector policing were, much of the institutional framework of policing in London

remained unchanged. The idiosyncratic constitutional status of the MPS with the unfathomable relationship between Commissioner and Home Secretary at its apex and the post-*Blackburn* courts hovering diffidently in the background was unaffected by sector policing. Nor did it contemplate any changes to existing mechanisms of public accountability at borough level. In practical terms, the effects of sector policing on mechanisms of police accountability were limited to adding sector working groups to the existing local infrastructure of public accountability consisting of the Islington Police/Community Consultative Group (IPCCG), lay visitors, inter-agency panels and neighbourhood watches. On top of this was the notion that the allocation of geographical responsibility to dedicated sector teams would make policing organically accountable through regular contact between locally based officers and the people they serve. The only other significant changes to the mechanisms of accountability implied by sector policing were reforms associated with such 'new managerial' concerns as the alignment of resources with demand, outcome-based performance assessment and the consumer-orientation of service delivery.

In putting these changes into effect Holloway Division took the Assistant Commissioner (Metropolitan Police, 1991a: 1,8) at his word and adapted his guidelines to suit local conditions. Having undertaken the suggested workload analysis, the Division decided to create three sectors – Highbury, Tollington and Archway - each with a local base. Responsibility for policing these areas was then entrusted to six teams of about half a dozen uniformed officers (making 18 teams in all) supervised by one or two 'team sergeants'. Contrary to advice in the official guidance that responsibility for local policing should be invested in a clearly identifiable individual, each sector was put under the command of two inspectors.[7] A new shift system was devised that preserved the traditional 'earlies' (6.00 a.m. to 2.00 p.m.) 'lates' (2.00 p.m. to 10.00 p.m.) and 'nights' (10.00 p.m. to 6.00 a.m.) but added new 'day' (8.00 or 10.00 a.m. to 4.00 or 6.00

p.m.) and 'evening' or 'late/late' (6.00 p.m. to 2.00 a.m.) shifts. The creation of these shifts was intended to align the availability of personnel more closely with the demand for police services and to give officers more time in which to solve problems rather than respond to calls.[8]

The existence of a network of 14 neighbourhood forums (NFs) made up of elected area and street representatives and delegates from local community organisations allowed Holloway to postpone the establishment of sector working groups based on the Assistant Commissioner's model. A product of Islington Council's commitment to decentralisation, NFs lacked formal decision-making powers but were intended to provide a platform for ordinary members of the public to express their views on housing, planning, transport and other local authority services (Islington Council, 1989).[9] On two of Holloway's three sectors (Archway and Tollington) neighbourhood forums themselves continued to be the main vehicle for community consultation in the first year of sector policing much as they had under the old 'relief' system.[10] Only on Highbury Sector was any effort made to set up a separate consultative body drawn from the membership of local neighbourhood forums.[11] Even there it was not until the spring of 1993 that the sector inspectors began to think of renaming the Highbury Sector Crime Panel (HSCP) as it had become known and seeking regular representation on a 'Working Group' from other local agencies in line with the Assistant Commissioner's guidance.[12]

As for 'new managerial' changes to the internal accountability of operational officers, little was done to formalise mechanisms through which sector commanders could be called upon to account for their performance while the impact of 'consumerism' was restricted, as we shall see, to the occasional rhetorical flourish.

Content: problems, crime and credibility

Making 'community problems' the main focus of uniformed police activity was a key element in the design of sector policing. And, from the outset, senior managers at Holloway were convinced that the process of identifying problems and allocating them to sector officers as discrete 'tasks' was critical to its success: sector policing, they believed, would 'live or die on tasking'.[13] Six months after implementation, the Division's internal evaluation pronounced the system a success.[14] A total of 102 'tasks' had been undertaken across the three sectors, of which 85% had been 'community-generated' usually as a result of 'formal contact through Sector Working Parties or Neighbourhood Forum meetings'. Some sector officers, it conceded, were disappointed that 'community representatives [had] been unable to provide a more comprehensive programme of actions that they would like the police to undertake'. However this could perhaps be attributed to the public's lack of understanding of the police and to 'a degree of satisfaction with current police performance'. Tasks ranging from 'crime problems' (like drug dealing or handling stolen goods) centred on a particular address to 'short term community problem[s] associated with parking or anti-social behaviour' had been identified and notable successes had been achieved in the shape of multi-agency law enforcement action against '[car] window washers and [unlicensed] street traders'.

Unfortunately, on closer inspection, there was little substantial evidence on which to support so sanguine a conclusion about early experiences of problem-solving policing in Holloway. The Division was unable to come up either with a comprehensive list of the 102 problems referred to in the evaluation or with an explanation of what exactly had been done in response to them. Nor could it explain how the problem-solving work with which officers were tasked had been assessed. It is also impossible to believe that carrying out what, on the report's own admission, were often fairly minor tasks can have taken up many, never

mind all, of the 4,992 officer hours worked on problem-solving 'day' shifts in the six months April – October 1992 covered by the internal evaluation.[15] Inevitably perhaps the reality of the problem solving/tasking process reflected in my observation of community consultation was considerably more profane than the authors of the internal evaluation felt able to report.

In the course of the five meetings of the HSCP held between July 1992 and March 1993 a total of 35 distinct 'community problems' was raised by neighbourhood forum representatives.[16] Of these, 10 were identified at the Panel's first meeting on 13 July. Yet by the time it met 8 months later on 8 March it was impossible to conclude that a single one of them had been resolved. Seven of the 10 problems simply disappeared from HSCP's agenda either at its second meeting on 7 September or thereafter. Forum representatives attending the September meeting reported some positive change in two of the other three cases but did not attribute the apparent amelioration of the problem to police action. The remaining problem (involving obstructed access to a housing estate) became a regular feature of Panel discussions but defied all attempts to resolve it. Difficulties with 'tasking' were not limited to Highbury Sector as the following field note of conversations with Archway Sector officers indicate:

> Paul's [uniformed constable] team has not been given a specific task to
> perform for 3-4 months. He can remember brown tasking dockets
> coming round in the months immediately after sector policing was
> introduced but hasn't seen one for a long time. Steve [sector support
> sergeant] concedes that he has given up allocating tasks to 'day' shifts.
> Some of the teams simply didn't do anything on the tasks they were
> allocated and he got fed up with chasing team sergeants up on them.
> [FN, 14/3/93]

Explanations for the difficulties Holloway Division experienced with the practice of community problem solving are not hard to find.

Credibility

The first and in many ways the most serious of these was that, in the eyes of the front line police officers responsible for carrying out problem solving work, the tasks they were given lacked operational credibility. One Highbury Sector sergeant captured the prevailing mood when he described neighbourhood forum meetings as 'one or two lunatics going on about dog crap and parking.'[17] This statement neatly captures both the main criticisms made of the consultative process used to identify community problems under sector policing. Firstly rank and file officers saw members of neighbourhood forums not as legitimate community representatives but as egotistical 'busybodies'.[18] Obsessed with their own (usually trivial) problems, ignorant of the true extent of crime, and unable to appreciate the inconsistency in their demands for visible patrol and a quick response to emergency calls, forum members were easily dismissed as representing no-one but themselves.[19] These misgivings about the make-up of HSCP and the neighbourhood forums from which its membership was drawn were shared by divisional managers although they generally chose to express their reservations in more measured terms. Shortly before sector policing went 'live' an inspector confessed that the membership of one of the forums on what was to become 'his' sector was 'middle class and, though it may be heresy to say this, not particularly representative'. Several months later even senior managers were becoming disillusioned:

> We go to lots of meetings and we usually get stuck with the dog-shit brigade. We haven't sold ourselves well enough.[20]

Flowing from and reinforcing these doubts about the credibility of forum members as genuinely representative of the community were still more profound doubts about the 'problems' they tended to identify. Analysis of the 35 problems discussed by HSCP reveals that fully two thirds (23) of them were related to traffic, parking and the anti-social use of roads and pavements. Another 6 involved behaviour – drug-taking, public urination, prostitution, intimidation and young people breaking into utility rooms in blocks of flats – that may well have been 'criminal' but fell some way short of conventional views of 'real police work' (McConville and Shepherd, 1992). Only 5 of the problems raised at HSCP meetings accorded with occupational and organisational perceptions of 'real crime' such as burglary and criminal damage.[21] To officers socialised into a culture that glorifies bandit-catching, the thrill of the chase and the prospect of the 'good' arrest, the kind of work called for by HSPC was (in one instance quite literally) 'crap' (Reiner, 1992, Chap. 3).

The following fieldnote summarising a debate about the priority to be given to the 'problem' of cars parked on street corners graphically illustrates the disjuncture between police and 'community' views of the priority of local problems.

> **Forum representative:** Another thing there is great concern at is corner parking. We asked [about it] but we didn't get an answer from our boys in blue.
>
> **Sector inspector:** Well, it's all a question of priority … crime or dealing with parked vehicles within 15 yards of a junction. Do you want officers patrolling areas where burglaries are being committed or dealing with parked cars?
>
> [Two forum representatives intervene to say that parking near a junction is still a 'crime' and could be 'worse than a burglary' if it led to an accident and someone was injured. Questions are asked about whether,

and if so what, enforcement action the police take against 'junction parkers'.]

Sector inspector: Enforcement would be by fixed penalty notice. But it's not something we would go out to look for. If you went out to look for it, you would be writing out tickets forever.[22]

In the early days of sector policing inspectors had been reluctant to discourage forum representatives from raising quality of life problems like parking.[23] But by the third meeting of the HSCP when this exchange took place, they were finding it increasingly awkward to mediate between sector officers contemptuous of the tasks they were being given and forum representatives anxious to have the police respond to problems that affected their quality of life. As shop floor anger at their superiors' failure to 'stand up to' forum representatives mounted, it was not just the panel's credibility that was in doubt but the ability of sector inspectors to maintain the respect of the officers under their command.[24] With sector teams and their supervisors openly dismissive of the tasks they had been allocated as unworthy of their attention, one sector inspector resorted to the expedient of 'making up' police action to report back to the HSCP.[25]

Tasking and patrol direction

Another weakness in the machinery for translating community problems into policing tasks was the persistence of a deeply traditional crime orientation to the work of units, such as the Divisional Information and Intelligence Unit (DIIU), responsible for analysing workload and supplying information to operational supervisors about matters requiring special police attention. While sector inspectors were struggling to establish the credibility of 'community-generated' quality of life problems in the eyes of sceptical sector officers those same officers and their team sergeants continued to be fed a constant diet of traditional, and highly credible, 'real crime' tasks. Long after 6 April the walls of sector offices

where teams were either briefed or briefed themselves at the start of a shift were still festooned with DIIU bar charts showing the distribution by sub-sector of standard categories of reported crime. Information about 'community problems' was noticeable only by its absence. Support for the conclusion that the attention of sector teams (like the reliefs before them) continued to be directed towards using familiar police tactics of patrol and selective enforcement to address under-analysed 'real crime' problems is provided by statistics presented in Holloway's internal evaluation. These show little change in traditional indicators of crime-fighting activity such as receptions into custody and the use of powers of stop and search.[26]

Prominent though DIIU-identified crime problems were on office walls and in the minds of some sector officers for some of their time on duty, it would be wrong to suggest that even this culturally credible data, or indeed anything said or read at shift briefings, informed the average routine patrol.[27] Infinitely preferable to any kind of directed patrol was the opportunity to 'do your own thing', as one probationer put it after stopping a succession of drivers for minor traffic offences.[28] Day shift officers who should have been using their 'non-response' time to work on community problems found a whole range of alternative attractions hard to resist. Many simply ignored injunctions to avoid taking calls unless absolutely necessary and hitched rides with motorised colleagues working on 'response' shifts. Others sought out 'real police work', or as close an approximation of it as they could find, to keep themselves occupied. Opportunities to execute warrants for the arrest of minor malefactors such as television licence defaulters, undertake plain clothes observation work, or stop and search people on the street were taken up with enthusiasm. Still others used the time to pursue personal interests in particular aspects of police work such as traffic. Stories of outrageous 'easing' behaviour – shopping, swimming and going to the hairdresser – also abounded (Cain, 1973: 37; Holdaway, 1983: 52-4).

Such cavalier attitudes towards these 'problem solving' shifts were scarcely discouraged by managers' eagerness to give officers leave when they were working 'days' and to use them as a pool of 'spare' resources to be drawn on whenever personnel were needed to meet 'aid' commitments to other areas. The marginality of 'day' shift policing from the paradigmatic activity of 'keeping busy' responding to calls was summed up in the description – widely used by all ranks at Holloway – of the traditional 'earlies', 'lates' and 'nights' as 'core' shifts.

Lack of information about what were in any case non-credible priorities, the continuing availability of traditional 'crime' tasks identified by the DIIU, and the rival attraction of self-directed activity, all contributed to the difficulty Holloway experienced in focusing routine police work on community problems. The effect of these difficulties is evident in these extracts from fieldnotes made on a 'late/late' or evening shift some 5 months after the introduction of sector policing.[29]

> *6.00 p.m.* The Tollington Sector office wall is adorned with the usual multi-coloured bar charts. [...] Having established that Dave, a qualified van driver, is required for other duties ... Sean's [sector sergeant] briefing begins with him telling Alan and Chris that their main task for the evening is to 'provide a high visibility presence around Knighton Square to deal with the burglary problem on M [sub]sector'. He suggests they 'do a few stops and see who's doing what around there'. I ask about the way in which 'day' and 'late/late' teams are deployed and allocated to specific tasks. Sean smiles and says that 'it's all a bit difficult really' because the teams aren't often given specific tasks by the sector inspectors and he and the other sergeants probably don't do enough 'to clarify things'. [Alan, Chris, Dave and I retire to the station canteen for coffee.]

7.00 p.m. From the control room Dave is sent off to collect a prisoner. Chris and Alan succeed in 'borrowing' a panda from Bob, the late turn officer down to drive it. [...] They appear unconcerned at the apparent inconsistency between their assigned task and their enthusiasm for borrowing Bob's car while he is 'tucked up' in the station with an arrest. [Alan and Chris spend more than an hour in the panda taking calls to deal with an abandoned vehicle, children suspected of tormenting an elderly woman and two false activations of remote signalling burglar alarms.]

8.15 p.m. After returning the panda to Bob, Alan and Chris leave the station on foot. Alan is relieved there is only an hour or so of patrol left ... [They have been told to take a meal break at 9.30 p.m. before crewing the Division's regular Friday evening 'battlebus' on 'rowdyism patrol'.] Chris says, 'I don't mind walking for a change, but I wouldn't want to do too much of it '. They set off towards Knighton Square providing for the first time that evening the kind of 'visible presence' Sean envisaged during the briefing session. [After dealing with a missing person on a nearby housing estate and taking two turns around Knighton Square (stopping only to make a cursory inspection of a house where a burglar alarm is sounding) Alan is back in the station for a meal by 9.30. Before they can get back to the Square for the second time, Chris is picked up in a car to accompany a prisoner to a local hospital.]

In the course of an 8 hour evening shift free of responsibility for emergency response and taking calls over the radio, Alan and Chris thus spent no more than 75 minutes on high visibility foot patrol and considerably less than that on the slightly vague crime control task they had been given at their shift briefing.[30]

Ownership

The other main means by which sector policing was intended to encourage the identification and solution of community problems was by giving teams of

officers geographical responsibility. Allocation to sector teams would give them an intimate knowledge of an area and its people, and fire them with a commitment to solving their problems. Putting this into practice in Holloway proved much more difficult than the designers of sector policing seem to have anticipated largely because of the size of the Division's three sectors, and the inability of the officers deployed on them to identify with the people and problems of 'their' area.

Scale

When neighbourhood forums were being 'consulted' about the introduction of sector policing they were often told that it would be like 'an extended home beat system'.[31] Characterising sector policing in this way played well to audiences anxious to retain ties with familiar home beat officers. But it completely ignored the inevitable differences of scale between the two methods of deployment. Sector officers responsible for areas with average resident populations of less than 30,000 people (and 13,000 households) were simply not close enough to the ground to forge the kind of relationships with local people that home beats working patches less than a quarter of the size had been (and continued to be) able to maintain. One long serving home beat officer made the point that he and his colleagues were 'on our beats for good' while sector officers – though more geographically constrained than before – could still 'move around the whole of Highbury' using their freedom to do more or less what they wanted, and to avoid getting bogged down in the unpalatable work of community problem solving.[32]

Even where one might have expected the effects of decentralisation to have been most keenly felt, the 'footprint' of more regular patrol by sector officers seemed to be highly localised. In spite of favourable coverage in the national press (*Hospital beat puts crime fight on to the street*, The Times, June 9 1992), the establishment of a new Archway sector office on the site of a local hospital seemed to have little effect on how the area as a whole was policed.

People have said to me just generally in the street and at meetings that they have not noticed any extra foot patrols, and extra contact as such with police on a day to day basis other than calling them to something specific. So ... I haven't really found that much difference [between sector and relief policing]. (Archway Sector Home Beat Officer)[33]

Integrity and identification

Apart from the size of the area for which they were responsible, another critical factor in determining the extent to which officers were able to identify with a sector and own its people's problems became known as 'sector integrity'. At Holloway this was taken to be a function of the proportion of calls for service on a sector to which a response was provided by an officer from that sector. A study of a sample of 370 calls undertaken for the Division's internal evaluation revealed that just over half (54%) had been dealt with 'on sector' in this way.[34] Officers performing divisional duties such as driving or operating the fast response car dealt with a further 17% of calls. All other things being equal, a third of these officers would also have been from the sector concerned raising the proportion of calls to which a 'sector' response was provided to 60%. But this still means that there would be no more than a 36% chance of any (let alone the same) sector officer being called to two separate incidents at the same location providing officers with only a very limited incentive to identify, own and resolve any underlying problems in the manner hypothesised in the Assistant Commissioner's guidelines.

Certainly, despite early fears that the centrifugal tendencies of sector policing were about to tear Holloway Division into 'three police forces', rank and file officers found it much harder to identify with sector colleagues they rarely met, but with whom they shared responsibility for the problems of a particular geographical area, than with officers based on other sectors who worked the same shift pattern.[35] By early 1993 a constable with several years service could begin

to see the sense of solidarity characteristic of the old four relief system establishing itself across geographical boundaries among the six teams created under sector policing.[36]

Ownership

The net effect of the size of the areas they were expected to police, the difficulty of maintaining 'sector integrity' at levels where officers might be encouraged to solve underlying problems rather than simply respond to symptomatic incidents, and the persistence of peer group solidarity based on shared responsibility for a block of time rather than a piece of ground, left the ideal of sector ownership largely unrealised at Holloway. The proprietary interest of a home beat officer in her beat was not reflected in other officers' feelings about their sector. Indeed home beat officers continued to resent what they saw as interference by sector colleagues in their work and the delicate network of co-operative relationships they had developed with local people and the staff of other agencies.

> Rebecca [home beat officer] is annoyed at Ron Williams, the duty inspector, for making her do late turns today and tomorrow. She complains that she should have been allowed to come in to go on the picket line at her neighbourhood office. [...] She is concerned that other [sector] PCs may 'wade in and arrest people' when she would have dealt with problems by just having a word with people she has worked alongside, and will have to work with again.[37]

From the standpoint of the home beat officer at least, sector policing had only a very limited impact on their sector (formerly relief) colleagues. If anything they seemed to think that pressure on resources and low morale following the introduction of the new style of policing had resulted in attitudes to the public taking a turn for the worse.

> Mike recalls one person complaining to him that a [sector] officer called to deal with an abandoned vehicle had told him, 'You don't expect us to deal with crap like that, we've got better things to do'. Rebecca confirms that the people who get abused tend to be those who are 'pro-police ... the people who do call us when they see something ... one bad experience and it all goes out of the window'. Simon adds that it wouldn't be so bad if the PCs 'picked on some slag'.[38]

Self-interest in maintaining their status as home beat officers may have prompted such stories yet they are consistent with my observations of operational police work which revealed no detectable increase in the quantity, or change in the quality, of routine interactions between police and public. Furthermore, remarkably similar findings are reported by Bennett and Kemp (1994: 32) whose activity surveys of police officers in Thames Valley found no consistent evidence of any change in police practice congruent with sector-based problem-oriented policing.[39] Nor did the introduction of a new style of policing at their research sites have a marked impact on public perceptions of the police. Only a quarter of residents surveyed noticed any change in the way their areas were policed.[40] Of these, most had noticed an increase in the number of officers patrolling in vehicles and on foot. Although residents in one area thought that the police were making a greater effort to consult them, the overall post-test assessment of the police by members of the public at both sites was less favourable than before the experiments began.[41]

According to Holloway's internal evaluation the Division 'achieved 10,700 man days of uniform patrol' between April and October 1992, representing a 22% increase over the previous 6 months.[42] What I have tried to suggest is that such superficially impressive statistics should be treated with some circumspection. The evidence presented here and by Bennett and Kemp (1994) certainly does not exclude the possibility that giving patrol officers responsibility for clearly defined

geographical areas, and creating mechanisms for public consultation at a similarly local level, may be a necessary condition for police 'ownership' of community problems. But it does indicate that such changes are unlikely to be sufficient to ensure that such problems become the principal business of the police and the main focus of patrol operations.

Direction

This analysis of the difficulties encountered in translating 'community problems' into operational priorities assumes that 'communities' speak with one voice and are capable of articulating a clear set of problems for the police to work on. Thus far it has been accepted that the people consulted by Holloway police in neighbourhood forum and HSCP meetings were capable of representing local public opinion to the police. Yet it will be recalled from the previous chapter that one of the most damaging criticisms made of the whole tradition of 'community policing' was its failure to question this central concept of 'community'. It is to this notion of community and its construction in the inner city social milieu of Holloway that I turn to now.

Community

The boundaries of Holloway's three sectors were drawn so as to accord with those of Islington Council's 'neighbourhoods'.[43] No doubt some heed was paid to other factors such as the availability of premises and the existence of the old Highbury Sub-Division, but the over-riding consideration in delineating sectors was the administrative convenience of having police areas coterminous with coherent groups of neighbourhoods.[44] The consequences of the decision to devolve responsibility for routine policing and 'community consultation' down to sectors defined without regard to local social and political geography soon became apparent. As one participant in a public meeting on Highbury Sector saw it, a

'community' of people with 'common interests' could not be conjured up by drawing lines on a map.[45] To describe a sector as a community was, as he put it, 'baloney'. He and the other members of his residents association might share some concerns with people elsewhere on the sector but their most immediate problems were peculiar to 'their area' consisting in his mind of not more than a couple of streets.

However much the police might try to persuade themselves that – by consulting with neighbourhood forums or the HSCP - they were talking to people who represented people with a genuine community of interest they frequently found themselves paralysed by the reality of intra-communal conflict. Instead of being called on to defend homogeneous, self-contained, social units from external threats, sector inspectors found themselves and their officers becoming embroiled in disputes about the appropriate use of public space between people living, working or taking their leisure in the same street or housing estate. At the second meeting of HSCP for example one of the sector inspectors tried to explain to a member of the panel who had complained about drug-takers littering the stairwell of her block of flats with discarded syringes and cigarette papers that the police could do little to help - the young people concerned lived on the estate and had lookouts posted to warn them of police patrols.[46] In much the same way, demands for illegally parked vehicles to be ticketed or towed away were also rebuffed by the police on the grounds that their owners were local residents while discussion of a burglary problem on an estate was brought to an abrupt conclusion by a sector inspector intervening with: 'I can't say any more but they're a lot to do with residents of the estate'.[47] Faced with the complex reality of social heterogeneity and conflict over appropriate behaviour and the use of public space *within* the large locational communities so arbitrarily defined by sector policing, the immediate reaction of the police was to pull back from any involvement in the multi-faceted and potentially messy problems of dysfunctional micro-

communities. In the absence of a credible real crime problem, the police took evidence of communal dissension as an excuse for inaction.

Representation and participation

No less problematic than the definition of community in crudely locational terms was its representation through the process of consultation put in place following the introduction of sector policing. The extent to which the police relied on neighbourhood forums and their members - directly on Archway and Tollington Sectors, indirectly on Highbury – as direct participants in community consultation has already been noted. What needs to be examined in slightly more detail here is who these people were, what attitudes and experiences they brought to the consultative process and how they were chosen and held to account by the organisations and communities they were supposed to represent.

Neighbourhood Forums

Islington's 24 neighbourhood forums were in many ways models of grassroots democracy. Membership was based on election, nomination by local organisations or, most commonly, a combination of the two (Islington Council, 1989: para. 15.2). Under constitutional arrangements approved by Islington Council each forum also had to reserve two places for each of five normally under-represented sections of the population including people under the age of 21, women with caring responsibilities and people from minority ethnic groups.[48] However, a Council review of the operation of these provisions found that there was 'still some way to go to ensure that all sections of the community are adequately represented on forums'.[49] Under 21s, people with disabilities and people from ethnic minority communities remained seriously under-represented.[50] Moreover Khan (1989 cited in Gyford, 1991: 178) found that 'forums consist largely of activists' from 'the more settled and secure elements of the community'

whose experience at running meetings enabled them to exclude people less used to such formality from fully participating in collective decision-making.[51]

From what I observed at the 20 or so neighbourhood meetings I attended in late 1991 and early 1992 there is no reason to believe that the make-up of forums had changed substantially since the reviews undertaken by Khan and Islington Council were completed 2 years earlier. While the number of people attending forums varied from fewer than 20 to more than 50 (most meetings attracted between 20 and 30 people including council officers, councillors and police) meetings were dominated by seasoned 'committee people'. There was no sign of anyone under the age of 30 at any of the meetings I attended while the fifth of Holloway's population that came from the 'visible' ethnic minorities was never represented by more than a handful of stalwarts who rarely played any active role in proceedings (Dixon and Stanko, 1993: 19).

Highbury Sector Crime Panel

In many respects the make-up of HSCP faithfully reflected that of the five neighbourhood forums whence its members came. Exclusively white, overwhelmingly middle aged and active in the 'community', its membership emerged from the forums by a slightly opaque process of self-selection and nomination. At the two forums I attended where the subject was discussed 5 of the 6 places available on HSCP were filled by volunteers and the sixth by an elderly man nominated from the chair.[52] Freshly installed on the Panel, members stood on their dignity as delegates of their respective forums and insisted on having their contributions minuted accordingly: 'after all we're representing our neighbourhood offices not ourselves'.[53] Scruples about raising personal grievances did not last long however, and by the third meeting of HSCP a member from the best attended of the Highbury forums was asking for 'someone in uniform' to go along to the next meeting 'to encourage feedback':

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The things we bring up [at HSCP meetings] are more personal than what the forums want us to bring up. Forums generally don't come up with anything. All we get is silence when we ask. People clam up when the police are mentioned.[54]

Although HSCP members' views on the aetiology of crime made some allowance for general social deprivation and the lack of adequate leisure facilities for young people, they had little sympathy for individual offenders. If the phrase had been current at the time there can be little doubt that they would have been enthusiastic supporters of a policing strategy based on principles of 'zero tolerance' (Dennis, 1998). A leading chain store's policy of taking no action in shoplifting cases involving goods valued at less than £1 was condemned because 'the little thieves of today are the big ones of tomorrow'.[55] Turning a blind eye to petty crime was 'the thin end of the wedge' and firm action against everyone from pavement cyclists to the owners of defecating dogs was needed if the police were to 'stop the rot'.[56] As a group of regular (several members of HSPC seemed to have almost daily contact with the police in their capacity as neighbourhood watch co-ordinators and tenants association activists), direct but voluntary service users, panellists generally took a favourable view of the police. 'Most of them are pro-police. They don't really give us a hard time' as one sector inspector put it.[57] On the rare occasions when members were critical others soon leapt to the defence of the police as the following exchange over a complaint that officers had failed to put a stop to a 'pay party' attended by 300 people shows:

Sector inspector: You'd have had to call half the Met out to deal with that.

Forum representative: Yes. I suppose policing today is a question of changed priorities. The police have more important things to do than tell people to turn their stereo down.[58]

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Delighted at being able to play to so naturally sympathetic an audience, sector inspectors took every opportunity to present the police as the hapless victims of a criminal justice system stacked in favour of the criminal and administered by prosecutors and magistrates unwilling to take suitably robust action against wrongdoers:

> What is really appalling is that these ratbags [repeat juvenile offenders] go into the police station and ask for 50 or more burglaries to be taken into consideration as you've said. Then they go up to court and get a little pat on the bot.[59]

Instead of providing an institutional mechanism for transmitting the values and priorities of the public to the police, HSCP meetings rapidly became a setting for the inculcation of a select group of respectable citizens with the world view of the police middle manager. The following discussion, which took place when members of the Panel were invited to visit Highbury Police Station 'to see our limitations', illustrates this process at work:

> **Forum representative 1:** A lot of people don't call the police because they know about your limitations. You're not seen as the knights in shining armour any more ...
>
> **Forum representative 2:** Wouldn't it be good if we could get back to the days when old Dixon [of Dock Green] had his light flashing ...? But what do you [the police] feel about your limitations – how your hands are tied? Don't you feel frustrated?
>
> **Sector inspector:** [Admits to frustration, especially with other criminal justice agencies like the Crown Prosecution Service.] They [the CPS] do all the prosecuting now and we [the police] are only witnesses. We can't force them to do anything.

Forum representative 3: That must be a problem ... it must be difficult for the police to get knocked back when they've put a lot of work into it.[60]

Representing the community?

From a police perspective the membership of HSCP (and the forums from which it was drawn) accurately reflected the views of precisely those 'ordinary decent people' to whom sector policing was designed to appeal.[61] Whether they represented anything resembling a cross-section of local opinion is a question to which I will return at the end of this chapter. All I want to do here is to draw on two sets of field notes to illustrate how views on the police and the way in which neighbouring 'problem' housing estates were, and should be, policed could differ quite dramatically among residents living within yards of each other. In the first note a middle aged white woman's contribution to a meeting of the local neighbourhood forum is gratefully accepted by the police as indicative of popular support for firm enforcement action to be taken against local troublemakers.[62] Her heartfelt gratitude to the police for holding the line against chaos contrasts starkly with the hostility displayed by a young African Caribbean woman with whom a sector officer had to deal while out on patrol only a few days after the forum meeting at which the efforts of he and his colleagues had been so warmly applauded.

> A tenants association representative from Beckett Close reports seeing 'a lot more' police patrolling the nearby Claridge Court estate. Later in the meeting the same woman says, 'Our community policemen ... I see them walking up and down and they're all we've got between us and anarchy and I would like to thank them.' (Fieldnotes (JCNF), 15/6/92)

* * * * *

Neil is on patrol on Claridge Court. As he drives slowly past some swings in the middle of the estate a child of 6 or 7 at most shouts 'pighead'. Neil shakes his head and remarks that it is not an uncommon reaction to police presence on Claridge Court. Reaching the other side of the play area, Neil gets out of his car to speak to a boy who appears from beneath the stairs up to a block of flats. The boy seems to have been hammering at something. Neil retrieves an axe from under the stairs. He calls the boy (who says he is 12 and is called Ricci) over to speak to him. As Neil takes him to one side a woman's voice rings out from the benches in the middle of the play area, 'Where are you going with him?'

Maureen is a young African Caribbean woman. She claims to be Ricci's mother and wants to know what her 'son' has done wrong. Neil explains that he saw Ricci hammering at something beneath the stairs with an axe. After a series of conversations with Ricci, Maureen and the resident caretaker for the block, Neil manages to establish that the boy (who, it turns out, is neither Maureen's son nor called 'Ricci') was aimlessly battering the coin mechanism from an old supermarket trolley. He may also have landed a few blows on a fuse box that the caretaker has repeatedly warned him and other kids on the estate not to damage.

Before he leaves, Neil tries to impress on Maureen and her 'son' how close 'Ricci' has come to being arrested and how dangerous it is for a 12 year old to play with an axe – especially near a fuse box. He also admonishes Maureen for lying to him. Neil puts the axe in his car and gets in. Maureen says, 'I'm going to get a petition up about police coming on this estate. I don't want any police on my estate.'

Back on the main road leading on to the estate Neil stops to ask the driver of the divisional fast response car who stops for a chat to go down to Claridge Court and 'look out for a couple of scrotes'. He describes Maureen as 'a young IC3 female'.[63] (Fieldnotes, 21/6/92)

Management

In the last chapter I argued that the influence of 'new managerialism' on the design of sector policing could be seen, amongst other things, in its commitment to aligning resources with demand, refocusing the business of policing on finding solutions to community problems, providing a 'quality service' to the organisation's 'customers' and replacing procedural conformity with achievement against clearly defined outcome objectives as the basis for performance assessment. In addition to entrenching the position of 'the community' (partially defined in terms of its members' use or consumption of police services) as the immediate direction in which accountability was to flow beyond the police organisation, the new style was also intended to improve the effectiveness of internal mechanisms of accountability linking patrol officers to their sector commanders, and thence through divisional managers to 'Area'.[64] We have already seen how difficult Holloway found it to refocus its business, and this is not the place to debate the 'manpower' requirements of sector policing in a futile attempt to determine whether the six shift rota worked under the new system represented a more or less efficient use of personnel than the traditional four shift relief system.[65] All I want to do here therefore is to use some observational data to illustrate three of the more intractable problems faced by Holloway Division as it struggled to implement the new managerial thinking manifested in the design of sector policing.

Autonomy and resistance

The first of these problems is a failing not only of managerialism but also of much of the writing on police accountability and community policing reviewed in earlier chapters. Police management theorists, radical critics of accountability and advocates of community policing have all tended to share an over-optimistic view

of 'management' as an engine of change within police organisations. The less sophisticated among them assume that once managers begin working to a clear set of objectives, commit themselves and their staff to meeting the needs of the consumer, are obliged to take account of the values and priorities of the public mediated by locally elected representatives, or buy into the principles of community policing, the operating practices of rank and file police will be magically transformed. In reality of course, long-established ways of working are not so easily susceptible to change by organisational fiat. This is probably true of most large bureaucracies but particularly so of the police where discretion is greatest at the bottom of the organisational hierarchy and where routine interactions between police and public are, absent the invocation of legal process, invisible (Goldstein, 1960).

Some of the difficulties encountered in 'managing' the transition from time-based, incident-led, relief policing to area-based, problem focused, sector policing at Holloway have already been touched on elsewhere in this chapter. Rank and file resistance to the new approach (usually in proportion to officers' length of service and socialisation) is discussed in detail in Dixon and Stanko (1993, chapter 6) and explained largely in terms of the conflict between the precepts of sector policing and well-documented characteristics of the occupational culture such as conservatism, pragmatism and solidarity in the face of physical danger and social isolation. The point that needs to be emphasised here in the context of sector policing's ability to deliver greater managerial and public accountability is the extent to which personal and collective autonomy is critical to rank and file police officers' sense of what it is to be a police officer. Thus, in the final analysis, it was the threat that it seemed to pose to patrol officers' ability to control their working lives that made officers so suspicious of sector policing and so resistant to attempts to give either local people or their own managers more influence over their day-to-day activities.

On the first shift I spent in the control room at Holloway five months before sector policing was due to be implemented I was told 'it's shit', 'it stinks', 'it's a load of crap'.[66] When I recounted this experience to an inspector and mentioned that officers seemed particularly aggrieved that fewer of them would have the opportunity to work night shifts under the new system he explained that 'They like night duties because there are no guv'nors and no public and they can get on with some real police work'.[67] As a summary of the rank and file's attitudes towards their precious autonomy and what motivated their struggle to defend it against encroachment by people both inside and outside the organisation, this short sentence is hard to better. Sector policing sought to redirect patrol officers' attention away from the varied, and at least potentially rewarding and exciting, work of taking calls, responding to incidents and 'fighting crime' towards dealing with a far more diverse set of culturally 'unreal' problems identified by people – 'the community' – spectacularly ill-qualified to know what was good for them. By breaking reliefs consisting of about 30 constables and perhaps half a dozen sergeants (or 'PCs with stripes' as they were often described) down into smaller teams and giving the latter much clearer line responsibility for 'managing' the former, it threatened to increase the organisational visibility of patrol operations. Worse still, sector policing would put both temporal and spatial limits on opportunities for 'real police work' and 'doing your own thing'. Officers did not relish the prospect of working additional days on public priorities under the gaze of senior managers at the expense of nights when they could follow their operational instincts safe in the knowledge that both managers and public were safely in bed. Nor did they like the thought of having to stay on their sectors however quiet they might be instead of roaming the Division looking for action: 'We won't be able to go on to Highbury to nick someone because it will be on another sector'.[68]

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Minimising the threat to operational autonomy posed by the new style of policing soon became a priority for many rank and file officers at Holloway. The only alternative to allowing sector policing to change what counted as 'policing' was to make sure that it was adapted to accommodate the familiar rhythms and established practices of uniformed patrol work. This is made very plain in the opening paragraphs of a paper on some of the organisational implications of sector policing written by a long-serving sergeant and circulated to the membership of the divisional working party responsible for monitoring its implementation.

> Sector policing is going to be brought in at Holloway, so we must be positive about it, and use the opportunity to make changes that are of advantage to us as well as the policing needs of the division.

> It seems likely that three sectors will be the preferred option, two at Holloway and one at Highbury. I think we all have to accept that this will mean the end of the traditional relief system. However, by careful selection of a new duty rota, I think it will be possible for the new working shifts to allow us to work more or less together as the existing reliefs.

Thus, a full five months before sector policing was introduced, damage limitation was already taking place. Fourteen months later, with sector policing no longer a novelty, most officers were becoming increasingly adept at making the system work for them, and increasingly exasperated at a hard core of malcontents who continued to condemn it at every opportunity.

> In spite of cold steady rain Darren [sector officer on a 6.00 p.m. to 2.00 a.m. evening shift] wants to walk. He says it's the only way of getting to know 'who's at it' locally - of 'letting them know who you are and that you know them'. He has got to know Tollington Sector much better

since the introduction of sector policing but the only people he seems either interested in or familiar with are active juvenile burglars, car thieves and street robbers.

He and some other officers on his cross-sector team have got together – apparently informally – to do old-fashioned 'night duty proactive stop and search work' on some shifts. They have also come up with some special 'tasks' of their own such as a recent week-long 'blitz' on drink drivers.

Darren, with over 4 years service, is exasperated by the attitudes of other more experienced officers towards sector policing. He has no time for anyone who 'lets the system get on top of them instead of making the system work for them'. He is happy to take advantage of sector policing's flexibility to get on and do the kind of criminal intelligence gathering work he wants to do. [Fieldnotes, 19-20/12/92]

Three loosely connected but important points emerge from all this. The first is that the capacity of police managers to control their own organisation and the actions of the people who actually 'do' policing is not nearly as extensive as either they or people who rely on them to change police practice usually seem to believe. The second is that, inasmuch as sector policing challenged the operational autonomy of the rank and file by exposing (or threatening to expose) their activities to more effective bureaucratic control and more extensive community influence, change was either resisted or subverted. As a result – and this is the third and final point – patrol officers on Holloway seemed no more accountable to their managers (and through them either internally up the organisational hierarchy or externally to 'consumers' and the 'community') after nine months of sector policing than they had been before.

Managing consumers

The implementation of sector policing in Holloway also revealed a second flaw in managerial thinking about the direction of police accountability. Unlike the problems of autonomy and resistance discussed in the previous section, this second difficulty is peculiar to new managerialism and results from tension between the two groups of people – managers and consumers – to whom sector policing, under the influence of new managerialism, would have police service providers account for their performance. It would be an exaggeration to say that the introduction of sector policing to Holloway prompted many operational officers to see the public as their customers and their relationship with local people in the quasi-contractual terms implied by new managerialism. On the shop floor, any use of consumerist language was heavily laced with irony:

> Tracy and Joanne arrive back in the Archway Sector office to be greeted
> by Denis with the sardonic but not unfriendly inquiry, 'Well, have you
> been out meeting our customers then?'. [69]

Their superiors deployed the rhetoric with greater facility and sincerity. One senior manager, for example, chose to recommend the idea of holding annual public meetings on their areas to sector inspectors by drawing an analogy with 'a company shareholders' meeting.[70] Then, warming to his theme he went on:

> [It's] an opportunity for us to tell local people what we have done in their
> area and for the public to tell us what they want or feel as a group. We
> need the public's help in making sure we are running the business which
> they have entrusted us with running. It's all about taking policing to the
> consumer.

Unfortunately such rhetorical commitments to addressing the priorities and solving the problems of consumers were regularly confounded by the still more

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pressing organisational need to please superiors by producing 'good [crime] figures' and lending suitably enthusiastic support to high-profile special operations. Several months before sector policing began Holloway was prevailed upon to set up an eight strong 'Tasking Unit' as the Division's contribution to the service-wide anti-burglary initiative known as Operation Bumblebee.[71] Though they were well aware of the effect its creation would have on the reliefs and the transition to sector policing, divisional managers had been left in doubt by their superiors at Area that Holloway's failure to meet 'Bumblebee' targets was unacceptable.

Then, with community problem solving under sector policing still in its infancy, a management meeting was told that 'Area are still into crime' and were becoming restive about levels of motor vehicle crime.[72] 'You've had burglary and robbery so you could have guessed what would be next', as a divisional manager put it. Several weeks later a colleague told sector inspectors at a similar gathering that 'we must be seen to be doing something' on autocrime.[73] 'Area policy' required divisions to come up with initiatives to deal with the problem. Amidst general cynicism it was pointed out that, although vehicle crime accounted for a large proportion of total crime, 'it isn't something the community harps on about'. Finally, after a crime prevention slogan competition in local schools had been suggested, an inspector suggested that children should be asked to complete a sentence beginning 'I don't care about autocrime because ...'.

Frustrated though they were by Area's demands on them, divisional managers were also guilty of infringing or attempting to infringe the principle that priorities on a sector should be framed by local commanders in consultation with the community. For example, a meeting of Highbury sergeants I observed was told by one of the sector inspectors that he kept on getting 'hit over the head' about burglary figures and the sector's poor performance in comparison with the rest of

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the Division.[74] After toying with the idea of massaging burglary figures by reclassifying attempts as criminal damage it was decided that the sector 'shouldn't get into the position of cooking the books for anyone'. Nor, as one sergeant observed with some asperity, should too much attention be paid to Division's demands: 'We've got to respond to their [the public's] needs not [the Chief Superintendent's]'. From what he had heard at public meetings, people saw burglary as one of the hazards of living in a place like Highbury and not something the sector ought to be getting too concerned about.

Performance assessment

The apparent conflict between the priorities of managers within the police organisation and consumers outside it leads us on to a third and final difficulty with the management of sector policing. In theory any assessment of the performance of sector inspectors and the operational officers under their command should have been – as the jargon would have it – outcome rather than output based. In other words it should have taken as its starting point their success in identifying and resolving substantive community problems. To do this two major obstacles had to be overcome. Firstly the Division had to expand the information on which judgements about performance were based from traditional 'crime' and 'process' records relating to the number of offences, 'stops', and arrests made by a unit (or, still more invidiously, by an individual officer) so as to encompass new measures consistent with the more diffuse mandate of community oriented policing. And secondly it had to ensure that it was not simply output that was being measured but outcomes. In neither case were Holloway's efforts entirely successful.

Operational managers were well aware of the need to reinforce the aims of sector policing by adjusting reward structures geared to conventional measures of competence.[75] Within weeks of sectors being established an inspector went to a manager's meeting to complain that it was unhelpful of the Division Information

and Intelligence Unit to continue publishing stop and search and arrest figures broken down by sector.[76] It was not the quantity of traditional police work that sectors should be worried about but the quality of their interactions with the public. A senior manager agreed and promised to have a word with the Unit's head. However, an end to official publication of such data did not mean that 'body counts' lost their cultural salience as a measure of sector and team performance. The following notes of a meeting for team sergeants on Highbury Sector give a flavour of the continuing debate about how performance should be measured.[77]

> Arrest figures taken from custody records have been circulated by a sector inspector to loud protests: are they going to be used as a performance indicator? One sergeant dismisses the constable responsible for compiling the figures as a 'fuckwit'. The constable's supervisor leaps to his defence and denies that the data is going to be used to compare teams' performance. 'If you're not going to use it why was it published? Why not school visits or follow-ups with victims of crime?', asks another sergeant. 'What worries me is you end up with the old [X] relief nonsense ...' 'But it's still important isn't it?' says another who, it turns out, leads the team that has come top of the arrest table.[78]

In the end, crime and process figures, along with data on response times, found their way into the internal evaluation report under the heading 'traditional workload'.[79] But instead of being used to compare the performance of individual sectors they were made the basis for assessing the performance of the Division as a whole in the first six months of sector policing against benchmarks provided by the last two half years of the relief system.

Coming up with alternative measures more relevant to sector policing and tailored to assessing the impact rather than the amount of community oriented police

activity presented a serious challenge to managers' ingenuity. The internal evaluation stated that

> Increasing contact between police and the public was one of the most important objectives of Sector Policing, both as an end in itself and as a means of discovering more precisely what the public want from the police service.[80]

Why 'public contact' was seen as desirable other than as a way of making local policing more responsive to public priorities is not explained. In any case, the statistics used to demonstrate increased levels of contact – 287 visits to schools, 475 crime prevention visits, additional support to 44 victims of crime and attendance at 234 meetings with community groups – would have carried more conviction if the pattern of the rest of the evaluation had been followed and comparative data for similar periods of relief policing been presented. Without baseline data even such apparently impressive figures prove nothing. Nor do they give any indication of the impact these contacts had on victims of crime, on the students and staff of the schools visited, or on the vulnerability of the premises surveyed and people spoken to by crime prevention and sector officers. Indeed the only evidence of 'contact' leading to greater police awareness of public priorities cited is the somewhat contentious claim (in view of the evidence presented earlier) that the two meetings of HSCP held between April and October 1992 had 'proved a useful sounding board for the sector'.[81] Thus, when it came down to the critical new managerial task of evaluating sector policing in terms of its impact on community problems, Holloway was forced to supplement more traditional indices of police effectiveness by relying on a basket of what one of the more thoughtful sector inspectors described as 'activity [not] performance indicators'.

Mode

Three aspects of sector policing as it was introduced and implemented on Holloway Division illustrate how the relationship between the police and their interlocutors in the 'community' remained fixed in a firmly non-directive, non-hierarchical, mode.

Pre-implementation consultation and the demand for sector policing

In its official explanations of the need to introduce sector policing the MPS liked to refer to the overwhelming public support for 'traditional policing' detected by the Operational Policing Review (Joint Consultative Committee, 1990, Introduction: 4). Confirmed by the findings of private (and, as far as I am aware, unpublished) public opinion surveys commissioned by the MPS, this was routinely interpreted as proof of widespread popular demand for the kind of community oriented policing that the service's new approach would provide.[82] Evidence to the contrary - including survey findings reported in the Operational Policing Review itself - that most people strongly endorsed the emergency response and 'crime fighting' priorities of traditional reactive policing was simply ignored in the promotional literature.[83] Even as the new style was being 'rolled out' across London doubts remained within the upper echelons of the MPS hierarchy about the need for so precipitate and wholesale a reform of uniformed policing. At an inspectors' training day in the spring of 1992 an ACPO rank officer from No. 1 Area (North) confessed that it 'seems to be a way of responding to a series of 'I wants' from the public but we haven't asked whether they want sector policing as such'.[84]

Given this somewhat tenuous connection between the kind of police service the public appeared to want and what they were going to get in the shape of sector policing, some hard selling was required in the months leading up to 6th April.[85] The task was undertaken with some aplomb, and considerable success, by the

Division's community liaison officer who toured neighbourhood forums reassuring them that they would not lose 'their' home beat officers as a result of sector policing. Stock phrases used to describe the new style – 'policing the way people want', 'better police/community links' and 'an extended home beat system' – soon won most people over and allowed the internal evaluation to note that neighbourhood forums had been 'very supportive' of its introduction.[86] A meeting of the Islington Police/Community Consultative Group (IPCCG) also endorsed sector policing following a presentation by senior officers from Holloway and the boroughs other police division.[87] Looked at with slightly more objectivity than either police officers anxious to demonstrate public support for sector policing or 'community representatives', who knew only as much about the proposed changes as they were told, were able to bring to their assessment, it is difficult to see the pre-implementation 'consultative' process as amounting to anything more than what Irving *et al* (1989: 210) characterised as 'proclamation'. At meetings of both neighbourhood forums and IPCCG representatives were told not only that sector policing was going to be introduced but also that, on Holloway Division at least, how it was going to be implemented. Forum members who knew next to nothing about the old relief system (and often had to have its features explained to them) were simply told that Holloway was to be divided into three sectors. These areas - which had already been decided on - would be policed by locally based officers who would be expected to get to know and be known by the community. Presented with what amounted to a *fait accompli*, forum members were left with nothing to contribute to the process but their support for the retention of home beat officers.

Only once at one of what was to become Tollington Sector's least malleable forums did the futility of the 'consultation' exercise, and the nature of the relationship between proclaiming police officers and impotent community representatives, become clear:

> **Forum representative:** Why are you putting sector policing forward for consideration now?
>
> **Liaison inspector:** We're not putting it forward for consideration. It's an instruction from the Commissioner.[88]

The fact that most forum and IPCCG members seemed happy simply to be told what was about to happen to policing in Holloway was testimony not to the commitment of the MPS to the empowerment of local people but to the modesty of their representatives' expectations.

Operational independence and asymmetrical access to information

From the outset, control over the introduction of sector policing and the form in which it was implemented rested firmly in police hands. That sector policing was to be done in Holloway had been decreed by the Assistant Commissioner. How it was to be done had been decided by the Division. Popular participation in the process was thus kept to a minimum. A lot of what has already been said about developments in Holloway is indicative of the extent to which the partnership between the police and the 'community' promised by sector policing was dominated by the former. All that remains to be done here is to show firstly how asymmetrical access to information about crime, troublesome events and other community problems enabled the police to maintain this dominance when sector policing was implemented, and secondly how the realities of the doctrine of constabulary independence were brought home to representatives bold enough to challenge the operational autonomy of local commanders.

In much the same way as ignorance about the organisation of policing under the relief system, and enforced reliance on the police themselves for information about what was to replace it, left lay representatives poorly placed to challenge

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the professionals over its introduction, their very limited experience of 'real crime' and restricted knowledge of the extent and distribution of other troublesome behaviours seriously hampered HSCPs ability to identify and prioritise 'community problems'. Part of the reason why the Panel came up with so few 'crime problems' and so many quality of life issues was that they had no way of knowing whether there had been, in the slightly melodramatic words of one member, 'a spate of local rapings [or] muggings' - unless of course the police told them.[89] It was not, as some police officers seemed to think, that members rated pavement cycling a more serious problem than burglary. But it and other incivilities, unlike burglary, were part of their daily experience of life on their street or estate in a way that 'real crime' was not. Two comments made by forum representatives suggest why common, but relatively minor, incivilities crowded out more serious, but still mercifully infrequent, instances of criminal victimisation:

'I'll only come up against the petty crimes because I'm just an ordinary Joe.'[90]

'I've never seen a mugging in my life ... but I walk out of my front and see people double parking every day.'[91]

Shapland and Vagg (1988) have argued that people react to what they regard as 'real crime' and other types of troublesome, but not (to them) paradigmatically criminal, behaviour in quite different ways. Whereas 'real crime' is reported more or less as it happens because people feel that is what they ought to do, other incidents are drawn to police attention more selectively and instrumentally primarily because citizens believe, or hope, that the police have the special powers needed to respond to what has happened. As a result of this differential reporting (and in so far as popular conceptions and legal definitions of 'crime' coincide) the police are likely to have a much more complete picture of 'real

crime' than local residents. The tendency of ordinary citizens to identify 'quality of life' problems in the course of consultation with the police, and of the police to react to them with incredulity given their knowledge of the incidence of 'real crime', is thus explicable in terms of the former's highly localised experience of incivilities judged not worth reporting to the police unless specifically invited to do so, and the latter's privileged access to comprehensive data about criminal victimisation.[92] To turn community consultation on Highbury Sector into a genuine, and information-rich, dialogue the police had to be prepared to share their institutional knowledge of crime and calls for service with the public.

But this did not happen. Despite repeated requests for information about local crime it was not until the HSCP's fifth meeting in March 1993 (some eight months after the first) that data was eventually provided. Even then the 'Crime Update' consisted of the usual bar charts showing reported 'autocrime', 'robberies/dips' and 'burglary' broken down by sector, sub-sector and time of day. No attempt was made either in the accompanying text or during the course of the meeting at which the update was discussed to explain what the broad offence categories included. Analysis of the problems underlying the reports was limited to the identification of certain sub-sectors or beats as being particularly badly affected by 'burglary' or 'vehicle thefts' and some vague information about suspects ('Greek type male together with a W/Indian', 'a white youth with a pony-tail') and their vehicles ('blue sierra, part index:- C485 V?').[93] This failure to provide Panel members with the information they needed to transcend their own experiences and take a more rounded view of local problems made their absorption with the quality of life issues that so frustrated the operational police officers tasked to deal with them inevitable. What Crawford (1997) has called asymmetrical access to information shrank the dialogue necessary for genuine consultation into an ill-informed monologue of complaints that were all too easily dismissed leaving police priorities and police autonomy unchallenged.

Even if the barrier to external interference in police decision-making that this asymmetry and its consequences represented were to fail, sector policing gave local officers a final, and impregnable, line of defence. It will be recalled from the previous chapter that the Assistant Commissioner's guidance (Metropolitan Police, 1991b: 6) stated that

> Although the public have an opportunity to express their views and have them taken into account, this does not affect the responsibility of the police to make the final operational decisions.

This application of the doctrine of constabulary independence to sector-level consultation was only pressed into service once at the five meetings of HSCP I observed and then only when – at the end of the discussion of corner parking parts of which were referred to earlier – the patience of one of the sector inspectors finally ran out. Having explained that ticketing cars parked too close to road junctions would make unsustainable demands on police resources and been challenged yet again about his priorities by a forum representative who argued that they prevented blind and other disabled people from using dropped curbs, he replied, 'As sector inspector here I have to decide about priorities to get the best results'.[94] With this forceful restatement of operational autonomy the discussion came to an abrupt end. When push came to shove in a contest for control of local policing, the doctrine of constabulary independence gave the police too much weight for a mere citizen to resist.

Continuity in change: the distribution of coercion and protection

In so far as the introduction of sector policing was intended to reorient routine uniformed policing away from crime and emergency response-centred police priorities to solving substantive 'community problems', its impact was limited by

the inability of poorly informed 'representatives' to identify policing tasks that operational officers regarded as 'credible' and worthy of police attention. These weaknesses in the mechanism of public accountability established by sector policing were not made good by any obvious change in the relationship between geographically responsible officers and the areas and people they served. Sector police did not readily identify with the relatively large areas to which they were deployed or find it easy to 'own' local problems. As a result, patrol activities continued to be determined by officers themselves according to prevailing cultural norms and values. The empirical incoherence of the concept of 'community' implicit in sector policing's vision of public consultation soon became apparent as the police and the mainly white, middle aged, and respectable local activists with whom consultation took place in neighbourhood forums and the Highbury Sector Crime Panel grappled with the reality of intra-communal conflict and the extreme localisation of recognisable communities of interest. Police managers on whose capacity to manage so much depended came up against the determination of rank and file officers to maintain their autonomy either by resisting change or refashioning reforms to accommodate established working practices. For their part, operational officers and their immediate supervisors were pulled in opposite directions by the unresolved tension between the needs of consumers expressed at community meetings and the prioritisation of good crime figures by senior managers with an eye on the media and a public audience far beyond sector boundaries. Where working relationships were forged between the police and select groups of local people it was characterised more by proclamation and monologue than consultation and dialogue. The introduction of sector policing itself was effectively non-negotiable while persistent asymmetries in the police and public's access to information about local problems, underpinned by the doctrine of constabulary independence, allowed the police to retain control of operational priorities once implementation had taken place.

Stripped down to the bare essentials of coercion, protection and their social distribution, the kind of policing delivered by Holloway officers after 6 April 1992 did not differ to any significant degree to that which had gone before. The 'roughs' continued to bear the brunt of police coercion and receive less in the way of protection than their more 'respectable' fellow citizens. Two calls to quite similar incidents – one before and one after 6 April - illustrate the deeply engrained police world view that survived the introduction of sector policing and continued to inform operational police work into the new era of problem solving and quality of service.[95]

> Jim and Martin [sector officers] get called to deal with 'a man assaulting a woman in the street' outside an address in the south east of the Division. They set off at high speed in the fast response car from the opposite end of the 'ground'. After some time searching for the address they come across a woman sitting on the pavement with her feet in the gutter and her head in her hands. One of her shoes is lying under a parked car. The man is standing on the opposite pavement with a half-closed suitcase on his shoulder. Clothes lie in a bundle on the pavement beside him.
>
> Martin gets out of the car to talk to the woman. Jim deals with the man. Martin succeeds in establishing that the man has spent 6 years working abroad leaving the woman to look after their three children (now aged 6, 7 and 8). He has recently returned only to spend his time drinking and sleeping around. Tonight he tried to leave her altogether. She tried to stop him. He has not hit her this evening but has in the past. She says she has an injunction out against him. [Neither Martin nor Jim makes any attempt to find out whether this is true.] Martin tells her that if the man wants to leave her there is nothing she can do to stop him. All she can do is go to the courts to get maintenance. He is concerned about who is looking after the children while their parents are arguing in the street.

He gives her a stern lecture on parental responsibility. She protests that she has looked after them for six years and now it's his [the man's] turn. Why should she look after them when he's done nothing?

Jim finishes talking to the man and Martin offers the woman a lift home. She accepts and gets in the car but before they can pull away she jumps out again to chase the retreating figure of the man back up the street. Jim and Martin drive on despairing of a situation Martin says is 'nothing to do with us really'. He is much less sympathetic to the woman, who shouted a lot and seemed to have been drinking, than Jim is about the man who was calm and quietly spoken.

After a few minutes they drive back down the same street to find the couple standing in the middle of the road arguing again. Martin gets out of the car and lectures the woman about her family responsibilities for a second time. Jim remonstrates with the man but in less forceful terms. The woman tells Martin the man has taken her last £10 and continues to complain bitterly about his desertion. When Martin and Jim discover that relatives are looking after the children they lose all interest in the dispute, offer the man a lift to a cab office which he accepts and leave the woman to make her own way home still protesting loudly about her £10. Alone in the car once more Martin deplores the couples' irresponsible attitude towards their children – typical of the area if the number of kids they see wandering the street at night and getting involved in crime is anything to go by.

* * * * *

Neville and Eddy [sector officers] are called to a domestic incident on Highbury Sector. They are told that a woman has been assaulted by her male cohabitee who has returned drunk from work. Later they are told that 'children are at risk' and they set off at high speed with siren on and

blue light flashing. They arrive at the address they have been given over the radio only to discover that it is incorrect. After asking neighbours at an immaculately kept town house they eventually find the right address. The external paintwork of the house is peeling slightly. Neville remarks, 'This looks more like it.'

At the door to a first floor flat Neville and Eddy are met by a black woman, probably in her early or mid thirties. She stands awkwardly and walks into the flat very deliberately keeping her legs well apart. She looks as though she is in considerable discomfort if not actually in pain. A slightly older looking white man is standing just inside the living room door. His eyes are glazed and his speech slightly slurred. He is dressed in overalls and workboots covered in paint and dust. The other occupants of the flat are a younger black man who seems to be a friend of the family, and three children under the age of 10.

The woman says that the man came back from work drunk and they had an argument. She says, 'He kicked me between the legs' and adds that it was particularly painful because she has recently had an operation 'down there'. She has also had part of one breast removed. During the argument the man had said something to the effect that she 'didn't even have two tits any more'. He says that he only gave her 'a light kick up the arse' after she had thrown a bottle of milk at him. There is no obvious evidence of this and Neville and Eddy make no attempt to find any.

Eddy takes the man into the living room while Neville talks to the woman in the kitchen. Eddy tells the man that 'these days' it is 'unacceptable' for him to 'raise his hand' to a woman. Neville explains to the woman that what has happened to her is a common assault. They will not arrest the man. She wants him to be arrested.

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When the two of them are brought back together Neville stresses to the man that he must not use physical force against his wife. Neville is visibly annoyed when the man interrupts him repeatedly. The woman says she is frightened about what will happen to her when she is left alone with her husband. Neville warns him that he will be arrested is they are called back to the flat again. He is not to touch his wife when they leave.

Back in the car, Neville explains why they did not arrest the man: the woman had admitted to waiting 45 minutes before calling the police after what seemed to be a fairly minor assault; the children were happy enough and looked in no danger in spite of what had come over the radio; and further violence seemed unlikely because he (Neville) remembered having seen the couple 'all luvvy-duvvy' before when he had gone round to deal with a lodger refusing to leave. In any case, arresting the man would have been a serious step in the circumstances – 'it's your home, your wife' as Neville put it.

These two incidents underline the limitations of the reforms contemplated by sector policing as a means of changing routine police practice. Virtually invisible to managers and community alike (the critical decision in both instances being *not* to make use of the legal power of arrest) the way in which the four officers dealt with these incidents was structured not by any sense of the organisational or public priority attached to the problem of domestic violence, and how it should be handled, but by their common sense understanding of the situations with which they were confronted and the role that they as police officers could play in them. How they reacted was conditioned by their perceptions of the kind of area, people and behaviour they were dealing with. Visual, verbal and behavioural cues were picked up and assimilated in reaching decisions about what to do. Should coercive power be used against the two men, or against the woman in the first incident? Did the woman in the second incident 'deserve' the protection her

husband's arrest might afford? Were the children of both families (whose safety was clearly of paramount importance to all four officers) in danger and need immediate help of the kind only the police can provide? These and many other questions about how to handle these incidents were finally decided only after crucial information about where and how the couples lived, their attitudes and demeanour (particularly towards the police), the seriousness and legal status of the violence that had taken place between them, and the nature of the space in which the dispute was being conducted, had been absorbed and interpreted in the light of a complex web of personal values and cultural norms. In the end, judgements about roughness, criminality, vulnerability, sobriety, and respectfulness combined with officers' views on the mandate of the police and the distinction between public and private space led to the woman in the first incident and the man in the second avoiding arrest while the man in the first got a ride in a police car.

Similar judgements of place and personality based on 'roughness' and 'respectability' also continued to structure the distribution of coercion under sector policing as these field note extracts (again from before and after 6th April) suggest.[96]

> Ken drives past commercial premises he says have been squatted by 'hippies'. He spoke to them last night and they seemed perfectly pleasant and unlikely to cause trouble. Since they are on private premises he, and they, know he has no legal powers to force them to leave. But he also realises that if they are allowed to stay there will be a stream of complaints from the public and the fire brigade will be called whenever they light a fire. Police and fire brigade time will be wasted 'so they will have to go'. Because they seemed nice enough he had given them 24 hours to leave and had promised to check back this evening.

I ask how he proposes to get rid of them if they refuse to leave. 'Do you want to know on the record or off the record?' he asks with a laugh. 'How about off?' 'Hound them. We would hound them off. Police would keep going round there at 3.00 in the morning asking questions until they decide there has to be somewhere where they would get less hassle.'

[Embarrassed perhaps at dealing with the 'hippies' after he has been so candid about police tactics Ken continues on past the squatted premises saying he'll come back and see them later.]

* * * * *

Very much at a loose end at the end of a night shift Jason decides to go up to the Oak Lodge Estate. It is the only part of the sector he has not been round already. As he drives through the estate he comments, 'We don't get called up here much now ... domestics mainly. But there's quite a few IC3s up here – not being racist or anything.'

If sector policing had increased public accountability and helped thus to re-establish policing by consent it seemed to do so in Holloway only by co-opting a small elite of community activists 'representative' of those *for* whom a policing service should be provided while continuing to exclude large swathes of the population that failed to live up to police ideals of decency and respectability and *against* whom police force continued to be used.

Notes

[1] References to fieldnotes in the remainder of this chapter will consist of the date of the note prefaced by the letters 'FN'. The internal evaluation will be referred to as 'IE'.

[2] The Thames Valley experiments were limited to quite small areas and were examples of what Bennett and Kemp (1994: 12) call 'time-based' sector policing as opposed to the more radical 'area-based' model introduced in the MPD and by Surrey Constabulary in the form of TGP or total geographic policing.

[3] For a fuller profile see Dixon and Stanko (1993: 4-6) on which this section is based.

[4] This figure includes people in the census groups Black Caribbean, Black African, Indian, Pakistani and Bangladeshi.

[5] The national figure comes from the third sweep of the British Crime Survey (Mayhew *et al*, 1989).

[6] A young white male of the same age was 33 times more likely to be stopped than an older man.

[7] The official justification for this was the need to provide 'cover' for leave and other absences.

[8] 'Days' were worked Monday to Friday with two teams on duty on Thursdays. 'Evening' shifts were restricted to Fridays and Saturdays.

[9] For a more general discussion of decentralisation in Islington and elsewhere see Gyford (1991) and Burns *et al* (1994).

[10] IE: 7.

[11] Developments on this sector were the main focus of the research reported here and are discussed in detail throughout the remainder of this chapter.

[12] FN (HSPC), 18/1/93.

[13] FN, 22/4/92.

[14] IE, 16-7.

[15] This figure is obtained by multiplying the number of officers on a sector team (assumed to be 4 to allow for leave and other abstractions) by the number of 8 hour 'day' shifts worked over a six month period at 6 shifts a week (4 x 6 x 8 x 26 = 4,992).

[16] I use the term 'community problem' here in its broadest sense to encompass the full range of troublesome behaviours brought to the attention of the police at the meetings I observed.

[17] FN, 19/11/92.

[18] FN, 7/11/92.

[19] FN, 14/1/93.

[20] FN, 30/11/92.

[21] The remaining problem concerned an advertisement for replica firearms in a local newspaper.

[22] FN (HSCP), 2/11/92.

[23] One sector inspector attending a neighbourhood forum meeting to drum up support for HSCP even went so far as to use parking as an example of the kind of 'long term problem' the police were eager to know about (FN (GNF), 14/4/92).

[24] FN, 17/9/92; 7/11/92.

[25] FN, 7/11/92.

[26] IE, 13-4. The number of custody records opened in the first six months of sector policing fell very slightly (by 2.6%) due, it was thought, to greater parsimony in the use of arrest for drunkenness. Stops recorded under s.1 Police and Criminal Evidence Act 1984 between April and October 1992 were actually up by 80% on the previous 6 months. However the latter period seems to have been highly unusual and a comparison with figures for 1991 revealed a 1.5% decline in the number of stops.

[27] See the recent report of the Audit Commission (1996: paras. 55-8) for a trenchant analysis of the shortcomings of patrol briefings.

[28] FN, 30-1/5/92.

[29] FN, 4-5/9/92.

[30] The examples of problem solving activity examined by Bennett and Kemp (1994: 58) in the two Thames Valley police areas they studied reveal a similarly perfunctory approach to the identification and analysis of community problems leading the authors to conclude that, 'In neither area was problem-solving structured in accordance with the strongest version of problem-oriented policing'. They (1994: 17-20; 24-7) also found that the response to the problems identified seldom got beyond the deployment of extra patrols while the outcome of police action was often either unclear or simply not recorded.

[31] More will be said about this pre-implementation 'consultation' later in this chapter.

[32] FN, 17/9/92.

[33] FN, 10/12/92.

[34] IE, 21, fig. 6.5.

[35] FN, 7/9/92.

[36] FN, 14/1/93.

[37] FN, 22/9/92. Industrial action by staff working in the neighbourhood offices that ran Islington's decentralised services continued throughout most of 1992 and led to the

cancellation of several forum meetings much to the irritation of HSCP representatives and the police who relied on them for contributions to the consultative process.

[38] FN, 17/9/92.

[39] The only statistically significant changes found were in the proportion of time spent on crime prevention by area (or home) beat officers at one site and on foot patrols by shift officers at the other. There was no significant increase in the time spent by officers on 'community involvement' work in either of the two areas.

[40] Bennett and Kemp (1994: 51).

[41] Ibid: 52/4, 60. Their finding that the proportion of people who had seen a police officer on foot in their area over the past 6 months had increased under experimental conditions is perplexing when police officers themselves reported that they had actually spent less time on foot patrol than before.

[42] IE, 8. Nothing is said in the evaluation about whether these extra patrols were conducted on foot or in a vehicle.

[43] IE, 21.

[44] Managers at Holloway were furious when Islington Council subsequently announced plans to amalgamate neighbourhoods across sector boundaries (Dixon and Stanko, 1993: 25).

[45] FN, 3/3/93.

[46] FN (HSCP), 7/9/92.

[47] FN (HSPC), 7/9/92; 2/11/92.

[48] Islington Council (1989: para. 18.2).

[49] Ibid: para. 7.2.

[50] Ibid: para. 20.2. Of the various minority ethnic groups resident in the borough, the review found that African Caribbeans were particularly poorly represented.

[51] Khan found that 60% of Islington forum members belonged to at least one other local body while 40% were also members of a national organisation.

[52] FN (GNF), 14/4/92; (QNF) 28/4/92. Arrangements for appointing representatives from a third neighbourhood were made privately between the sector inspector I accompanied to the meeting and the forum chair.

[53] FN (HSCP), 7/9/92.

[54] FN (HSCP), 2/11/92.

[55] FN (HSCP), 13/7/92.

[56] FN (HSCP), 13/7/92; 18/1/93.

[57] FN, 18/1/93.

[58] FN (HSCP), 13/7/92.

[59] FN (HSCP), 18/1/93.

[60] FN (HSCP), 7/9/92.

[61] FN (QNF), 28/4/92. The police-friendliness of neighbourhood forums could not be guaranteed however and the memberships of some Tollington Sector NFs were regarded as distinctly unhelpful if not downright hostile (FN, 11/3/92).

[62] The woman later became an active members of HSCP.

[63] 'IC3' is the standard Metropolitan Police identity code for people who appear to be of African Caribbean origin.

[64] At the time sector policing was introduced the MPD was divided into 8 Areas. Holloway Division was part of 1 Area (North).

[65] The 'manpower' issue is discussed at some length in Dixon and Stanko (1993: 54-6). Suffice to say here that we found the rank and file case for a massive injection of extra resources to make sector policing workable unproved.

[66] FN, 7-8/11/91.

[67] FN, 25/10/91.

[68] Ibid.

[69] FN, 14/1/93.

[70] FN, 15/6/92.

[71] FN, 18/11/91.

[72] FN, 15/6/92.

[73] FN, 17/9/92.

[74] FN, 19/11/92.

[75] On notions of competence more generally see Fielding (1984; 1988) and Norris and Norris (1993).

[76] FN, 5/5/92.

[77] FN, 19/11/92.

[78] In the days before sector policing when arrest rates were widely accepted as a performance measure, one of the reliefs at Holloway acquired a reputation for inflating its figures by trawling the streets for drunks. When the relief inspector and many of his officers moved on to Archway and into an office next to a hospital mortuary jokes about the quest for 'bodies' to boost the sector's reputation became predictably morbid.

[79] IE, 10-5.

[80] IE, 5-6.

[81] IE, 7. As far as dialogue with neighbourhood forums was concerned the evaluation admitted that it had 'proved more difficult than was envisaged' to get members of the

community to identify tasks for sector teams to tackle – an assessment that is considerably more realistic than encouraging.

[82] *What is it?* (Metropolitan Police, undated a) contains an example of this line of reasoning.

[83] See Joint Consultative Committee (1990, Introduction: 4) and Weatheritt (1987: 11-2). Writing from a north American perspective, Manning (1988: 30) argues in similar vein that many of the key assumptions of 'community policing', including the notion that it is in some way demanded by a public dissatisfied with existing practices, are of extremely dubious empirical validity.

[84] FN, 24/2/92. His successor confirmed this impression during an impromptu visit to the Archway Sector office during the course of which he said that sector policing had been introduced on the strength of no more than 'a vague idea that it's what people want'.

[85] More detailed analyses of the pre-implementation consultation process are contained in Dixon and Stanko (1993: 17-23) and Stanko and Dixon (1992).

[86] IE, 2.

[87] Islington Police/Community Consultative Group, 29 January 1992, Minute 204.

[88] FN (SGNF), 30/1/92.

[89] FN (HSCP), 18/1/93.

[90] FN (HSCP), 13/7/92

[91] FN (HSCP), 2/11/92

[92] The extent and accuracy of police 'knowledge' should not be taken for granted or exaggerated (Chatterton, 1993: 194; Tremblay and Rochon, 1991). All that is suggested here is that officers have access to more comprehensive and systematic data about crime and other incidents reported to them than the ordinary citizen. Whether they use the information available to them is another matter.

[93] Extracts from neighbourhood watch newsletters reproduced in the update were an equally unenlightening and slightly alarming mixture of crude statistics and people and behaviour to look out for.

[94] FN (HSCP), 2/11/92.

[95] FN, 28-9/3/92; 15/5/92.

[96] FN, 24/1/92;13/7/92

9

Conclusion: Towards Popular Policing

The main aim of this concluding Chapter is to return to, and attempt to answer, the questions about the changes in the theory and practice of police accountability with which I started this thesis. But, having done that, I also want very briefly to draw on some of the material presented here to indicate how I believe more accountable and democratic public policing might be achieved.

It will be recalled from the Introduction that I used the analysis of new right-inspired developments in the law and order debate of the 1980s presented in a paper by Tony Jefferson, Joe Sim and Sandra Walklate (1991) as the basis for asking the following questions:

1. Was the concept of police accountability reinvented during the 1980s?
2. If so, what was it exactly that changed about its conceptualisation and how did that change occur?
3. What were the implications of any reconceptualisation that did take place for the accountability of the police in practice?

I propose answering the first two of these questions together before moving on to tackle the third.

The reinvention of police accountability

The reason I feel able to deal with the first two questions at the same time is that it should be obvious from the tenor of the argument of the preceding chapters that police accountability was indeed reinvented during the course of the 1980s as Jefferson and his colleagues suggest. The first question can, therefore, be answered in the affirmative. Much more important though is the task of coming to some understanding of *how* and *when* this occurred.

Historical context

Almost as soon as these questions are posed it becomes necessary to qualify the bland affirmative offered in reply to my first question by putting the 'law and order' debate of the 1980s, and its impact on police accountability, in their historical context. This was the main purpose of Chapter 3 where I argued that the system of governance devised for the Metropolitan Police by Sir Robert Peel was about as rigorous (if not as transparent) as it could be. At a time when the *demos* consisted of a wealthy male elite and local government was at worst an oxymoron and at best rudimentary and disorganised, the arrangements put in place by the Metropolitan Police Act 1829 represented a more than creditable attempt to subject the 'new police' to popular control. The appointment of two justices to administer the police subject to the direction of a cabinet minister individually responsible to a vigilant parliament gave an explicitly public and national dimension to already familiar systems of local control.

As it was thought of and operated throughout the nineteenth and well into the twentieth century, the institutional arrangements put in place in 1829 allowed day-to-day decisions to be made by the commissioner(s) and his/their subordinates. But there was never any doubt that the Home Secretary could (as successive holders of the office not infrequently did) interfere in all aspects of policing in the metropolis, including what, in twentieth century parlance, would have been

described as 'operational' matters, 'individual cases' and even, on occasion, the 'cases of individuals'. If a steward mode of accountability was the rule in the key relationship between the commissioner and his political master, and direction the exception, it was the result not of institutional impotence on the part of the Home Office but of a mutual recognition of where authority ultimately lay. Nor, as Emsley (1996: 3) implies, is there any way of making sense of the multiplicity of tasks accumulated by the police as the nineteenth century wore on without reference to their general right to use state-legitimated coercive force in the government and ordering of Victorian London. Although the courts actively responded to individual cases of police misconduct throughout much of the nineteenth century (Smith, 1998), the political mechanism linking the Metropolitan Police to a gradually expanding *demos*, via its Commissioner, the Home Secretary and Parliament, remained the dominant means of accounting for the priorities, resourcing and strategic direction of the capital's police.

Slow change: 1918-79

I also argued in Chapter 3 that the beginnings of the process of reinvention that was to quicken so dramatically in the 1980s can in fact be traced back over the preceding half century through the gradual, discontinuous, changes that took place - to use Jon Vagg's (1994) analogy - in the rules, play and presentation of the police accountability 'game' in the period after the First World War. Firstly, beginning with the decision of McCardie J in *Fisher v Oldham Corporation* and ending with Lord Denning's definitive statement of the doctrine of constabulary independence in *Blackburn*, the legal rules of the game were transformed to the extent that the Metropolitan Police Commissioner could be proclaimed to be 'independent of the executive [and] not subject to the orders of the Secretary of State'.[1] Secondly, from the mid 1930s onwards, the way in which the game was played by its participants also seems to have changed as the advantages to be gained from distancing the Home Secretary from 'operational' policing became apparent to politicians and senior policemen alike, and the growing complexity of

a modern service delivery state made it more difficult in all but the most exceptional circumstances for ministers to involve themselves in the running of the huge bureaucracies for which they were nominally responsible. Thirdly, it became increasingly expedient for politicians and Home Office civil servants on the one hand, and successive commissioners on the other, to be more vocal in their presentation of their relationship as one of trust, co-operation and support involving distinct, if over-lapping, spheres of influence and responsibility.

Thus, slowly but perceptibly, the political mechanism central to the accountability of the Metropolitan Police was reinvented as an informal arrangement between an operationally independent police chief answerable only to the courts (and then only when guilty of a manifest failure to discharge his duty to uphold the law) and a Secretary of State for whom the 'direction' of policing was unthinkable unless the very fabric of the state or its relations with other nations were at stake. Meanwhile, precisely what 'policing' was, and what 'the police' should be held to account for, had become lost in a fog of obscurantism about 'executive' and 'administrative' decisions, 'policy' and 'operational' matters and the competing claims of 'law enforcement', 'order maintenance' and 'crime prevention' as the prime duty of those state agents given the right to use coercive force.

The pace quickens: 1979-91

In London at least, the reinvention of police accountability that took place in the 1980s under the influence of Mrs Thatcher and the scions of the 'new right' has, therefore, to be seen in the historical context of a much longer term shift from nineteenth century notions of directive accountability involving police, minister, legislature and an elite electorate to a much less hierarchical, but mutually convenient, political accommodation underpinned by greater reliance on the illusion of legal accountability. What marked the 1980s off from earlier decades was not that conceptions of accountability underwent change but that the pace of that change was so rapid, and its implications so far-reaching. For much of the

decade, accountability was at the forefront of debates on policing as apologists and critics of police governance joined battle; and, towards the end of Chapter 3, I showed how, in London, the 'rules' and 'play' of the enigmatic accountability 'game' involving the police, the Home Office and the post-*Blackburn* courts were stoutly defended by successive Conservative administrations together with a handful of police and academic commentators. More or less explicit in the case for the defence was a claim that - unlike the venal local politicians more sceptical observers wished to empower - the Home Secretary was in some way above politics acting as no more than a faithful intermediary between the Metropolitan Police and the House of Commons.

Police accountability's sudden emergence at the top of the political agenda owed much to the highly controversial involvement of the police in the urban riots, industrial disputes, political protests and miscarriages of justice that punctuated Mrs Thatcher's years as Prime Minister. But it was also a consequence of the tenacity and lucidity with which the arrangements for police governance were assailed by the generation of radical critics in academia and local government whose work I reviewed in Chapters 4 and 5. With varying degrees of emphasis according to their position on a political spectrum ranging from liberal democratic constitutionalism to critical interventionism, their main concern was the use of coercive force by an increasingly militarised police service to suppress political and industrial opposition to the government and, more broadly, to maintain order in the face of the new right's social and economic restructuring of Britain.

In pursuit of a more democratic, less highly centralised, system of police governance, these critics challenged both the legal basis for, and practical utility of, the mechanism of legal accountability at the heart of the doctrine of constabulary independence. They also impugned the democratic credentials of a 'national' political mechanism of accountability, in the shape of the Home

Secretary, and operating almost exclusively in steward mode, as incapable of giving all sections of society - but particularly over-coerced and/or under-protected ethnic minorities, young people, women and the marginal or 'rough' working class – a meaningful say in the direction of policing. Their common cure for the ills of police governance was the democratisation of accountability at a local level, principally by the creation (in the Metropolitan Police District) or rehabilitation (outside London) of elected representative bodies responsible for the direction of policing. Though they differed about how the scope of local democratic control should be limited, and the nature of the safeguards needed to protect against corruption and discrimination, all agreed that that the police ought to be accountable for their use of coercive force through a local political mechanism capable of operating in an unashamedly directive mode.

While debates about the nature of police governance raged between supporters and opponents of the *status quo*, the influence of community policing was growing. As I suggested in Chapters 6 and 7, its aim was not so much the reconceptualisation of police accountability as the reinvention of policing itself. Beginning with the idea that policing was not (or at least not necessarily) about the distribution of coercive force by agents of the state but to do with the delivery of a broader problem-solving 'service' that could (and should) be provided, if not by the private sector directly, then certainly by public police agencies rationally managed as efficient, consumer-oriented, businesses; the effect of the community policing tradition on the conceptualisation of police accountability was profound. From accountability centred on the relationship between the police and 'the people' from whom their authority to use coercive force derived, more immediate relationships with much smaller and more exclusive local aggregations of tax-paying, information-providing, police-supporting, 'respectable' consumers were established as the key to 'responsive' policing. Collectively as 'communities' of 'active' citizen consumers, and individually as the non-adversarial contacts of

geographically responsible community police officers, elite fractions of the *demos* were given strictly non-directive access to police policy-making, not through the formal political institutions of representative democracy but by means of new mechanisms of public and organic accountability supplemented by professional-managerial institutions charged with ensuring that the delivery of a politically uncontroversial 'service' was delivered economically, efficiently and effectively.

Depoliticisation, decollectivisation and disempowerment

The successful defence of existing legal and 'national' political arrangements for the governance of the Metropolitan Police, and the rise of community policing as an alternative paradigm in policing, thus combined to precipitate the reinvention of police accountability. Before I attempt to assess how far this reinvention went, and what its impact was on police practice in the early 1990s, I want briefly to identify three inter-locking processes at work in the de- and then re-construction of police accountability. The first of these is its *depoliticisation*. By this I mean the progressive effacement of what Robert Reiner (1992: 2) describes as the 'inherently and inescapably political' nature of policing and the process of accounting for it. When policing is no longer about the state's uneven and contestable distribution of coercive force and social protection among members of the *demos* as a whole, but the delivery of a 'service' demanded by select groups of citizen-consumers on a quasi-contractual basis, and when dominant mechanisms of accountability accommodate only the views of people with a restricted range of 'legitimate' needs and opinions, accountability collapses into accountancy (Weatheritt, 1993) and the scope for argument about what the police should do, why they should do it, and to whom, shrinks to nothing.

The reinvention of accountability also brings about a *decollectivisation* of the process by which patterns of policing are determined. Inadequate though they undoubtedly were (and are) legal and political mechanisms of accountability, and the institutions of the law and representative democracy, draw their ideological

strength from their inclusivity and their ability to reflect and enforce the popular will of the people as a whole. However mendacious such claims may be – and I do not propose to enter into the debate here – the fact remains that, as E P Thompson (1975) argued, the pretence (if such it be) only works if it is credible to most people most of the time. What developments in the 1980s implied was that such simulations of inclusivity could be dispensed with and accountability redirected towards fractions of the *demos* defined as communities and constructed, often quite explicitly, in terms of inclusion and exclusion, belonging and not belonging. The decollectivisation of accountability was thus achieved by redirecting it away from the *demos* as a whole towards carefully crafted 'communities', and - though perhaps to a lesser extent than Jefferson *et al* suggest – atomised individuals.

Closely related to this is the third process at work in the reinvention of police accountability - the *disempowerment* of those excluded from participation in new, exclusive, and elitist, public and organic mechanisms of accountability, and their ever more obvious identification as people *to*, rather than *for*, whom policing is done. But to suggest that such a process of exclusion took place is not to imply that any countervailing *empowerment* of those included in the work of new mechanisms of accountability took place. Although, as I argued in Chapter 8, the values of the groups and individuals privileged by the new mechanisms of accountability might accord with those of the police, their priorities differed. And, in so far as they diverged from culturally defined 'real police work' and threatened operational autonomy, those priorities were resisted, reinterpreted or ignored. Locked into a relationship that rigorously excluded the possibility of direction even these 'insiders' proved impotent in the face of police obstructionism.

Police accountability reinvented

The impact of the reinvention of police accountability that seems to have begun slowly in the 1930s and gathered speed in the 1980s is evident in the theory and practice of sector policing discussed at some length in Chapter 7 and 8. There is nothing to be gained from repeating the outcome of that analysis here. So, rather than summarise once again how changes in the content, direction, mode and mechanisms of police accountability were reflected in the design and implementation of sector policing in London in the early 1990s, I will try to answer my third question in two slightly different ways. First I will make use of the set of criteria suggested by Jones *et al* (1994: 44-8; 1996: 190-3) to make an assessment of the extent to which the 'reinvention' of police accountability evident in the theory and practice of sector policing contributed to ensuring that the arrangements for making police policy accord with some basic democratic principles. From there I will go on to ask whether the new forms of accountability put in place by the introduction of sector policing succeeded in re-establishing policing by consent as the Assistant Commissioner anticipated in his guidance.

Democratic principles

Equity is, to *Jones et al*, both the most important democratic principle, and the logical fount from which many of the others spring.[2] For them, equity requires that

> In so far as the police are delivering services, these should be distributed
> fairly between groups and individuals. In so far as the police are
> enforcing the law in their adversarial role, the pattern of enforcement
> should be fair. (Jones *et al*, 1994: 44)[3]

They go on to argue that 'fairness' should be judged according to different criteria depending on whether the police are acting in their 'service delivery' or 'law enforcement' role. In the first instance, they suggest, principles of 'distributive justice' should apply so that 'service' provision is related to need. Whereas, in the second, police action should be 'proportionate to the number and severity of the offences' subject only to the qualification that it should not lead to 'relatively high levels of enforcement among certain groups and in certain areas' (Jones *et al*, 1994: 46).

This distinction between the consensual activity of service delivery and the adversarial enforcement of the law is hard to sustain if it is accepted – as I have argued – that the demand for, and supply of, policing is comprehensible only in terms of officers' capacity to use state-legitimated coercive force.[4] It is in the nature of policing that, if the police are to deliver the 'service' people need, the chances are that other people are going to be faced with the threat or application of coercive force. To divorce the benefits of the police use of coercive force from its burdens is to misconstrue the core content of policing and to base judgements about the equity of policing as if it consisted of two analytically and practically separate kinds of activity when what is needed is, rather, an assessment of how its effects (both negative and positive) are distributed between individuals and social groups as part of a unified process of policing.

Taking this more holistic approach to the assessment of sector policing, the evidence presented in Chapter 8 suggests that its introduction did little to make local police activity more equitable in its impact. The identification of individuals and groups to be coerced or 'enforced against' - 'irresponsible' women, 'IC3s', 'hippies', and the residents of 'problem' estates – and deserving protection or 'service' – men coping with 'difficult' women and 'respectable' local residents - continued to be informed by the personal and occupational 'common sense' of

operational police officers. Confronted with situations where - contrary to the view expressed by Jones *et al* - decisions about whom to coerce and/or protect were inextricably linked one with the other, what officers actually did seemed to bear little obvious relation to any objective assessment of need (for 'service') or proportionality (in enforcement). What the incidents discussed in Chapter 8 illustrate is how judgements about place, respectability, demeanour, vulnerability and desert, and based on a complex set of personal and cultural values, informed officers' decisions about how to use their coercive powers, against whom, and for whose benefit, not in the compartmentalised fashion suggested by Jones *et al* but as integral parts of a single process.

Looked at in the round, neither the design of sector policing, nor its implementation in Holloway, suggests that it led to the more equitable redistribution of coercion and protection. If anything, the redirection of accountability for local policing to 'communities' of active citizens, and the successful initiation of their 'representatives' into the police world view, may have reinforced existing patterns of over-coercion and under-protection by giving them the imprimatur of 'popular' approval. At the same time, the reinvention of the coercive content of policing as 'service delivery', to which Jones *et al* themselves contribute, only made it more rather than less likely that the significance of this skewing is obscured and the seriousness of its implications downplayed or ignored.

The second democratic principle suggested by Jones *et al* relates to what they call *delivery of service*. By this they mean that, 'The police should deliver the appropriate services (as determined on other criteria) effectively and efficiently'. Their argument for elevating this to a point of principle is that, since policing is a public good, all citizens will benefit if it is done both equitably in accordance with their first principle, and well. The experience of sector policing at Holloway is

contradictory here. Efficiency (the relationship between outputs and inputs) in meeting the demands of the public certainly should have increased as a result of the new shift system aligning resources more closely with variations in workload. It is also possible that the police output of 'public contact' may have increased. But whether any of this resulted in more effective policing (the relationship between desired outcomes and inputs) is an open question since, as I showed in Chapter 8, the Division found it difficult to come up with robust outcome measures of police performance in community problem-solving. My observations of operational policing and analysis of the 'problems' raised at the Highbury Sector Crime Panel indicate that any achievements were modest at best. In any case, even if policing did become more efficient and effective, the doubts about its equity raised earlier would prevent any claim being made that it had therefore become more democratic. Efficiency does not ameliorate inequity: it exacerbates it.

Jones *et al* see their third democratic principle being followed where 'in determining the order of priorities, the allocation of resources between different activities and objectives, and the choice of policing methods', the police are 'responsive to the views of a representative body'. Against this yardstick, it is fairly clear that sector policing contributed next to nothing to what they call the *responsiveness* of local policing. The only new bodies inserted into the policy-making process – neighbourhood forums and the Highbury Sector Crime Panel – were hardly demographically representative or capable of accurately reflecting local opinion on policing. Nor were the police notably 'responsive' to what those bodies, acting strictly in steward mode, had to say if the experience of the HSPC is anything to go by. On the contrary, the experience of community/police consultation under s. 106 of the Police and Criminal Evidence Act 1984 makes it at least as plausible that the accommodation reached between police middle managers and the representatives of well-organised groups of local activists may

have laid the foundations for an anti-democratic form of 'minoritarianism' resulting in the imposition - on an apathetic or excluded majority - of the values of a moral consensus extending no further than the organised 'community' represented in the consultative process at sector level.

Similar considerations apply to the principle that 'the power to determine policing policy should not be concentrated but distributed between a number of different bodies' so as to ensure that mechanisms exist for achieving 'stable compromises' where social and individual interests conflict (Jones *et al*, 1994: 47). Sector policing quite clearly did not lead to any significant widening in the *distribution of power* to determine local policies. Though it created new mechanisms of public (sector working groups) and organic (continuity of contact between geographically responsible community police officers and their sectors) accountability they were non-directive in mode; in effect, the views of participants were welcomed only insofar as they coincided with the values and priorities of the police. When the case for diverting resources to meet the 'quality of life' concerns voiced by local 'representatives' was put too insistently, the police did not hesitate to insist on their operational independence. Nor did the institutional and organisational reforms associated with sector policing provide machinery for the resolution of conflicts of interest. The 'social process of exclusion and inclusion through which 'community' [was] constructed' ensured that the possibility of conflict between the policed for and the policed against was avoided (Crawford, 1997: 138). And, where tensions within the privileged 'community' allowed access to police policy formation and between it and the police did arise, they were successfully managed off the agenda of the HSCP, for example by 'educating' participants about the limitations of the police and, if all else failed, simply by misleading them as to the actions taken by the police in response to their 'problems'.

Jones *et al's* fifth principle concerns a representative body's access to *information* about 'funding, expenditure, activity and outputs'. As such, it is very much geared towards the responsibilities of the provincial police authorities that they studied. But, even if allowances are made for the more localised nature of the accountability mechanisms established by sector policing, the evidence presented in the previous chapter suggests that in the very early days of sector-based consultation, 'community representatives' were given virtually no relevant information about local policing. Most of what they were told was thinly disguised propaganda designed to elicit sympathy for the difficulties faced by the police. When a written 'crime update' was eventually supplied to the HSCP the data it contained was partial, hard to interpret and seemed designed not to provide lay members with the information they might need to participate in police policy-making and performance assessment, but to encourage 'active citizenship' in the form of self-initiated crime prevention activity.

Jones *et al's* sixth democratic principle, *redress*, is also expressed in terms more relevant to force level representative bodies. Suffice to say that nothing in either the theory or practice of sector policing suggests that the forms of redress they suggest – the removal of incompetent, corrupt or high-handed police commanders and the reversal of unfair or discriminatory policies – were obviously open either to sector working groups or to dissatisfied individual 'consumers'. The dutiful membership of HSCP would never have dreamt of demanding the removal of one their sector inspectors while their conspicuous lack of success in getting the police to take their 'quality of life' concerns seriously suggests that securing any major change in police policy may also have been some way beyond them.

The seventh, last and, to Jones *et al*, least important democratic principle is *participation* embodied in the ideal that '[a]s far as possible, citizens should participate in discussion of policing policy with police managers.' They give two

reasons for regarding it as relatively unimportant. First they say that its salience in classical democratic theory is largely a product of the elitist nature of the ancient and early nineteenth century societies in which it was developed. And, second, and more pragmatically, they note that 'getting groups of people together to discuss policing policy is an uphill struggle' (Jones *et al*, 1994: 45). From this they conclude that popular participation 'in some sense' is essential, but doubt whether widening it beyond 'a fairly narrow circle' may always be either possible or necessary.

If this unexacting standard is taken at face value, the introduction of sector policing could be judged a triumph of participation. It is only a slight exaggeration to say that the exclusive process of community construction typical of post-reinvention police accountability, and of sector policing, goes a long way towards creating precisely the kind of elitist conditions conducive to direct participation. But, if more extensive involvement of an elite in policy-making is achieved at the expense of others, and only serves to reinforce the inequitable distribution of the benefits and burden of police coercion, democracy cannot be said to have been enhanced since, as Jones *et al* (1994: 45) rightly contend, participation is substantially less important than other objectives that 'have a greater impact on the quality of life of the majority'. Opportunities for greater participation in local police policy-making (however meagre its results) may be good for activists who 'represent themselves' but do less than nothing for 'the others who must *be represented* ... participatory democracy has to be paralleled by representative democracy' (Walzer, 1980: 136, quoted by Gyford, 1991: 179, emphasis in original).

Policing by consent

This assessment of the reconceptualisation of accountability against seven democratic principles also makes it much easier to ascertain the extent to which changed notions of accountability may have contributed to (re)establishing

'policing by consent'. This aspect of the answer to my third question can, thus, be dealt with quite quickly. In Chapter 2, Morgan's (1990: 87) notion of 'policing by consent' as a 'general normative sense of congruence between the values and actions of the police and the public they allegedly serve' was discussed in the context of David Held's (1989) elaboration of seven grounds for consenting to, or complying, with a rule of law or, in this case, the general pattern of policing.[5] The phrasing of Morgan's formula suggests that 'consent' to policing requires what Held calls 'normative agreement'. In other words, for policing by consent to exist, the public they serve must, at the very least, agree that the distribution of coercion and protection by the police is as it ought to be given the circumstances before them and the information available. Better still, would be the existence of a state of 'ideal normative agreement' with people having 'all the knowledge [they] would like [and] all the opportunity to discover the circumstances and requirements of others'.

To discern whether, following the rapid reinvention of accountability in the 1980s, the introduction of sector policing was able to deliver 'policing by consent', it is important to distinguish between those individuals and groups brought into the policy-making process as the legitimate consumers of police 'services' and those excluded from it. The experience of HSCP and the routine operations I observed indicates that - on the basis of the often partial (in both senses of the word) information available to them - some kind of normative agreement about values and actions was reached between the police and carefully selected 'insiders'. Though some way from 'ideal', the agreement of those active, respectable, citizens who made regular, direct, but voluntary use of police 'services' generally displayed the kind of normativity implied both by Morgan, and by Held in his sixth ground for consent. But this is not to say that their reaction to specific police actions and incapacities was always so accommodating. Their response to the apparent inability or unwillingness of the police to deal with

'quality of life' issues like noise or parking, and some highly localised crime problems such as burglary, certainly did not rise above what Held describes as 'instrumental acceptance', and often seemed to be closer to 'pragmatic acquiescence'. Though dissatisfied with what was happening, 'insiders' were prepared to go along with police priorities either because, in the long run, they were confident that they were still the people for whom policing would be done, or because they assumed that significant change was out of the question.

For 'outsiders', marginal to the mechanisms of public and organic accountability, the quality of 'consent' to the local pattern of policing is much harder to assess. The young African-Caribbean woman on the 'problem estate' whose vehement reaction to regular police patrols was noted in Chapter 8 clearly felt that she had no choice in how she and her fellow residents were policed. Her 'consent' to policing was, according to Held's typology, 'coerced'. However, such hostility was probably untypical of most of the 'excluded' whose level of consent, from the encounters with police I observed, seemed to range through (in Held's terms once again) 'tradition' through 'apathy' to 'pragmatic acquiescence'.

In sum then, sector policing succeeded in achieving respectable, if far from ideal, levels of consent from those sections of the population already well disposed towards the police and eager actively to participate in the mechanisms of accountability put in place by the new style of policing. But, for those with less positive experiences of - and attitudes towards - the police, sector policing provided no effective means by which anything approaching their normative consent might be obtained. 'Respectable' people with whose values and priorities police actions were already broadly congruent were thus furnished with new methods of making their views known while those whose social morality and lifestyle did not accord with the middle class norms cleaved to by the police were left, as always, to take policing very much as they found it.

Another reinvention?

The end of a retrospective analysis of the trajectory and effects of changing conceptions of police accountability is not the place to set out a detailed agenda for yet another 'reinvention' of police accountability. But it is important, nonetheless, to attempt to highlight some of the lessons that can be learned from the developments documented here, and to use them as signposts along the road to more accountable and democratic forms of public policing.

'New' Labour's plans

The first point to note is that, following the election of a Labour government in May 1997, the ground is already moving beneath the foundations of the constitutional order its Conservative predecessors devoted so much energy to defending.[6] Proposals for the creation of a Metropolitan Police Authority (MPA) were published in a Green Paper on *New Leadership for London* (Department for the Environment, Transport and the Regions, 1997) shortly after the new government's election. The centrepiece of the Green Paper was the restoration of 'democratic city-wide government to London' in the form of a Greater London Authority consisting of a directly elected executive mayor and assembly. After a period of consultation, a White Paper followed in March 1998 (Department for the Environment, Transport and the Regions, 1998) two months before the proposals were put to the people of London in a referendum on 7 May. Despite some forceful criticism of the government's plans – not least from what remains of the Labour left – they were approved by a two-thirds majority (72%) on a disappointingly low turnout.[7]

The main objective of the White Paper and the Bill is to make policing in London 'democratically accountable to the local community' by bringing the Metropolitan Police into line with forces elsewhere in England and Wales (Department for the Environment, Transport and the Regions, 1998: para. 5.140).[8] In essence, this

entails replacing the Home Secretary as its police authority with an MPA of 23 members, a bare majority of whom will be elected.[9] At bottom, the government's intention is to extend to London the main features of the revamped provincial tri-partite relationship between police authority, police and Home Secretary created by the Police and Magistrates' Courts Act 1994 (now Police Act 1996). The new MPA will thus assume responsibility for a variety of functions in relation to planning and resource allocation in addition to its overriding duty to maintain 'an efficient and effective police service for London' (para. 5.151).

Now, however welcome a development this normalisation of police governance in London may be, it is not just the passage of 15 years, and the reinvention of police accountability, that separates these proposals from those of the GLC (1993).[10] As the first tentative steps towards the democratisation of policing in London, the proposals are commendable.[11] But they fall some way short of what is required if the more radical principles that emerge from the arguments presented here are to be taken seriously in the search for more accountable democratic policing.

A statement of principles

In stating, or restating, these principles, I return to the four dimensional analysis of accountability I have used throughout this thesis and begin by suggesting that, unless the status of the police as the principal franchisees of the state's monopoly on the use of coercive force within its territory is recognised, the issue of their accountability for its social distribution is unlikely - to coin a left realist phrase – to be taken seriously. In one sense, treating the police as though they were just another public service provider is exactly what is needed. There is, as the GLC maintained, no reason in principle why senior police officers should be any more or less accountable for their actions than directors of social services. But in another, and equally important, sense it is not, precisely because the coercive powers exercised by the police on behalf of the state enable them to 'chill' the democratic impulse in a way that is unique among the agencies of a modern

service delivery state (Bayley, 1991 quoted in Brogden and Shearing, 1993: 2). This is not, as Uglow and the self-proclaimed 'realists' would suggest, an argument for restricting the police as far as possible to a reactive 'crimefighting' role. To do so would, in itself, be anti-democratic since we know that people routinely call on the police to deploy coercive force in response to a range of troublesome events extending well beyond the straightforwardly 'criminal'. What is needed if the 'social imperialism' (Stenson, 1993) of the (particularly 'community') police is to be resisted, is the recognition that what they bring to the infinite variety of incidents to which they are called are the skills not of the teacher, architect, urban planner, social worker, or tenancy relations officer but of the professional distributor of coercion. Hence, for the same prudential reasons as a householder might seek to restrain an electrician from tinkering with the gas supply it makes sense for society to limit the role of the police to those situations where their unusual capacity and skills are required.

The second principle that needs to be restated is that the police exercise the state's monopoly on the use of force as agents of the people as a whole. In the final analysis they must, therefore, be accountable to the *demos* itself, rather than to geographical or social fractions of it. To begin to suggest how this is to be achieved in terms of the immediate relations of accountability to be established within and beyond police organisations, and to national and local institutions, is not a task to be undertaken here. The fundamental point is that police accountability is a political garden in which many institutional flowers should be allowed to flourish. No single accountability relation – whether it be to a judge, a minister of the crown, a 'democratically elected' local police authority, a body of professional auditors, a committee of neighbourhood residents, a 'monitoring' group – or combination of relations is ever likely to suffice if, as Downes and Ward (1986: 22) put it, the 'visibility of routine policing as it takes place' is to be maximised and what is made visible controlled and accounted for. In short, a

plurality of institutions and techniques - legal, political, public, professional-managerial and organic - must be encouraged and integrated into effective mechanisms for popular control of policing involving not just the state in its national and local forms, but bodies developed by, and existing within, civil society.

The phrase 'popular control' implies exactly that, in principle, decisions about the distribution of coercive force, its benefits and burdens, should be taken by the people rather than the 'professionals' to whom they delegate its actual or threatened application. The dominant mode of accountability operating in the panoply of relations that exist between police and people should therefore be directive even if, in practice, stewardship is more likely to be characteristic of the day-to-day conduct of the parties. To use Vagg's analogy, the rules of the 'game' should allow for direction, and direction should be given when it is needed, even if the participants choose to play as 'stewards' most of the time. Where the line between popular and professional decision-making should be drawn depends, in the first instance, on the countervailing principle that local (or indeed national) majorities should not have a free rein to visit their prejudices upon minorities. Part of the solution to this clash of principles (popular control against anti-majoritarianism) lies in the diffusion of control implicit in the existence of a plurality of relations and mechanisms of accountability. But the practical requirements of efficient administration, and the need for judgements about the situationally contingent use of force to be made by police officers capable of making a direct evaluation of the relevant facts, also militate against the extension of popular control down to the level of decisions about the use of coercive powers in the case of individuals (GLC, 1983; Lustgarten, 1986).

The ultimate objective must be to produce a style of policing that is procedurally fair in the sense that decisions about the use of coercive force are taken only on

the basis of criteria agreed through some democratic mechanism and expressed, with varying degrees of generality and specificity, in organisational policies and legal rules. But - and this is the point made so strongly by Grimshaw and Jefferson (1984) – such decisions must also be situated within a social context of substantive inequality in the material conditions of the people the police are called upon to coerce and protect. If policing is to be founded, as Jones *et al* (1994; 1996) suggest, on the principle of equity, it is critical that one of the democratically agreed criterion for deciding on the deployment of coercive force should be its consequences for the general social distribution of its effects, both positive and negative. In other words, it must always be asked whether in any given situation, the use or threat of coercion is likely to reduce or widen existing inequalities in the life chances and vulnerability of the people involved.

Notes

[1] [1968] 2 Q.B. 118 at 135.

[2] Although, as I suggested in Chapter 2, it is an important feature of debates about democracy, the tension between liberty and the egalitarianism so essential to their set of principles is not seriously explored by Jones *et al*. However this is scarcely the place to quibble over such matters and their analysis is by some way the most useful on offer when it comes to assessing the democratic qualities of police governance.

[3] Unless otherwise stated this is the reference for all quotations from Jones *et al* hereafter.

[4] This is only one of a number of problems with Jones *et al's* position. Other difficulties include their insistence on an individualistic model of justice that emphasises procedural rather than substantive fairness despite their evident distaste for the grotesque over-coercion of certain groups and individuals that they concede might result from relating enforcement to the number and severity of offences – criteria that in themselves raise serious questions about the reliability of the 'data' to be used in judging what an equitable amount of police enforcement action might be.

[5] Coincidentally, Jones *et al* (1996: 187-8) also refer to Held's work though the use they make of it differs from the analysis offered here.

[6] The final act of this defence turned out to be the creation in 1995 of a 12-member non-statutory advisory body, known as the Metropolitan Police Committee, to assist the Home Secretary in his role as police authority for London (Home Office, 1993: Chapter 11; 1994). The MPC was given similar terms of reference to the new local police authorities established by the Police and Magistrates' Courts Act 1994 but, lacking even the limited statutory powers of its provincial counterparts, it is very much the creature of the Home Secretary and has what can most kindly be described as a low public profile.

[7] At the time of writing (March 1999), a Greater London Authority Bill based on the White Paper is before parliament.

[8] All references hereafter are to the White Paper.

[9] Of these 12, 11 will come from the Assembly and include the Deputy Mayor, and one from the district councils outside London falling within the MPD (para. 5.142). The remaining 11 non-elected members will be magistrates and 'independents' appointed in similar fashion to those sitting on provincial authorities under the terms of the Police Act 1996 (para. 5.153).

[10] For an analysis of the more notable differences see the discussion in Chapter 5 of the not too dissimilar plans for 'tri-partitism' put forward in the late 1980s and early 1990s

by the London Strategic Policy Committee (LSPU, 1987) and the Association of London Authorities.

[11] It should be noted that the independence of the City of London Police and the distinctly medieval arrangements for its governance are to be maintained under Labour's plans (para. 5.158).

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