

**POLICING BY CONSENT:  
CURRENT THINKING ON POLICE  
ACCOUNTABILITY  
IN GREAT BRITAIN**

A public lecture delivered at the  
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## INTRODUCTION

*Jon Vagg and Thomas Wong*

In March 1990, the Department of Sociology invited Professor Morgan to deliver a seminar to its postgraduate students on the Masters' course in Criminology, and a public lecture on developments in police policy and policing in England and Wales. Professor Morgan's visit was the first in a new programme of visitors to the Department. The purpose of the programme is to bring eminent scholars in various fields of sociology and public policy to Hong Kong, and thereby to contribute - sometimes directly, sometimes by means of comparative materials - to debates on issues of interest in Hong Kong. The paper which follows is the text of Professor Morgan's public lecture.

Rod Morgan is Professor of Criminal Justice at the University of Bristol, UK. In addition to extensive writings on prisons and criminal justice policy, he has recently published *Coming to Terms With Policing*, co-edited with David J. Smith (London, Routledge, 1989), and his study of police-community consultation procedures in England and Wales will be published shortly.

His lecture reflects his recent concerns with policing. In the last 10 or so years, policing in England and Wales has become a highly controversial matter. He refers in his opening pages to the inner-city riots of 1981, which have come to be understood specifically as anti-police riots; to accusations of political bias in the way that strikes and demonstrations have been policed; to alleged police malpractices which may have resulted in the wrongful convictions of the 'Guildford Four' and the 'Birmingham Six' (both cases involved alleged Irish Republican Army bombers; shortly before this occasional paper went to press, convictions against all those imprisoned for these bombings were quashed); and to the 'Stalker Affair', in which the investigation of an alleged secret 'shoot to kill' policy in Northern Ireland, against Irish Republican Army members, was widely believed to have been 'spiked', either by police or by government officials, by claims of corruption - later determined to be unfounded - against the head of the investigation, John Stalker.

All this may seem to be rather far from the concerns of Hong Kong. Yet, as Professor Morgan argues, there are some general issues underlying the English experience. Questions of police powers, of police funding and its effects on police effectiveness, of the viability of some forms of community policing, of the politicization of policing in a society characterized by party politics, as Britain is and as Hong Kong very likely will be in the near future - these questions, and Professor Morgan's views on them, pertain not just to one or two societies, but speak to fundamental concerns about the nature of policing in all societies. In the Hong Kong context, where issues such as government, policing, and citizens' rights are now high on the agenda for change, Professor Morgan's paper provides timely food for thought.

**POLICING BY CONSENT:  
FURTHER THOUGHTS ON THE OLD PROBLEM  
OF POLICE ACCOUNTABILITY**

*Rod Morgan*

Crisis is a word much over-used in relation to social policy. A crisis is a momentous turning point, an imminent breakdown. The description is seldom apt. The fact that alleged crises persist, that they appear, according to some observers, to be permanently with us, is almost certainly a contradiction in terms. In fact crisis is a word too often employed rhetorically: seldom an accurate description, more frequently a wish hoping ardently to be fulfilled.

These opening thoughts are prompted by the debate about policing in the United Kingdom during the 1980s. In the early part of the decade the inner city riots, many of them quite explicitly directed against the police, led to the use of the word crisis: the disorders allegedly represented a breakdown in relationships between the young, particularly black youth, and the police in the inner cities. In the middle of the decade, a series of industrial disputes, notably the 1984-5 national miners' strike, were said to be symptomatic of a crisis in policing: critics argued that the police were being drawn into political disputes to a degree which dangerously undermined their impartiality. In the late 1980s the country has been wracked by a series of police scandals which continue. Indeed not a week now goes by without some addition to these sagas. Some examples: the alleged 'shoot to kill' policy in Northern Ireland and its investigation, culminating in the Stalker Affair (though a thousand miles away, and involving a special military unit rather than the police, the shooting dead of three IRA bombers in Gibraltar in 1988 provided a vivid epilogue to this allegation); police malpractice leading to the release of the 'Guildford Four' in 1989, after they had served 16 years of life sentences for the wrongful conviction of an IRA bombing (it seems likely that there will be a similar outcome for the 'Birmingham Six', and for much the same reasons, within the foreseeable future); and the disbanding of the Serious Crime Squad in the West Midlands because of officers' alleged systematic fabrication of evidence and use of oppressive methods, amounting possibly to torture, to extract confessions.

Several official inquiries into these last matters are ongoing and judgements about them must properly be reserved. However, it is already clear that there has been a good deal of police malpractice and the consequence is said by some to amount to a crisis of confidence in the police: a loss of trust. This loss of trust is not only among those sections of the community traditionally suspicious of the police. For example, it is clear that police evidence is now less often believed and accepted by juries and judges (Feldman, forthcoming; Leonard 1990). Once again, therefore, there is talk of a crisis in policing, one possible sign of which was the publication in March of this year of a 350 page Operational Policing Review, jointly planned, carried out and published by the three police staff associations of England and Wales, an unprecedented collaboration prompted by a perceived need to defend and promote the police service (ACPO 1990).

I doubt, for the reasons I have given, that we can reasonably talk of a crisis in

policing. There is no sign of imminent breakdown. No momentous turning point seems in prospect. On the contrary, the ills which most commentators have identified are longstanding. For example, many of the malpractices which have come to light in recent scandals happened almost 20 years ago. Further, the grievances which released pent-up hostilities in the inner cities in the early 1980s were the product of experiences over many years. Moreover, many of the remedies canvassed for these ills are based on past practices and those that are not tend, incrementally, to build on existing constitutional, legal and procedural structures. There is not so much a crisis so much as a creeping malaise or doubt. But it is no less serious for that. Indeed, it may be more serious. A genuine crisis galvanizes politicians and administrators to act. A creeping malaise steals up on people. The symptoms may be perceived as marginal, exceptional: like the signs of aging they may be noticed only vaguely. It is for this reason that it seems sensible to try and reassess some old policing concepts and see where we get with them. I have in mind two, the doctrine of policing by consent, a doctrine much beloved by the British though not, perhaps, by anyone else, and police accountability.

### **Policing by consent**

Let us begin with a phrase of which we in Britain are inordinately fond. We are wont, or at least our chief officers of police and politicians are wont, to say that we have a tradition of 'policing by consent'.

Let me begin with two, perhaps obvious, disavowals about the idea of policing by consent. There never can or should be complete policing by consent in two fundamental senses. Action by the police cannot depend on the assent of offenders, nor should the wishes of victims be paramount. The opinions of victims, either individuals or groups, are important but they cannot ultimately be allowed to determine police decisions. Policing is a public good. Offences are committed not merely against individuals but against the Queen's peace - that is to say the community's peace. It was to remove law enforcement from the individual or private domain that the state police were created. Police decisions must be public policy decisions. That does not mean that policy decisions must be delegated exclusively to the police - indeed I shall argue the contrary - but they should not be dependent on the wishes of individuals or sectional interests.

I want to consider the idea of consent under four headings: constitutional, legal, attitudinal and operational. I propose taking the headings in reverse order so that we can consider policing from the grass roots up.

### **Operational consent**

In a sense we can read consent from the way the police police. Indeed in Britain we have prided ourselves on the fact. The lone police constable, patrolling on foot, unarmed, quaintly and familiarly uniformed in essentially 19th century garb, chatting to the inhabitants of the neighbourhood with which he is a part, being asked the way or the time - and we know from our Home Office crime surveys that this really is how

most people in the UK have contact with the police (Southgate and Ekblom 1984) - is the very epitome of consent operationalized in day to day policing. This traditional benign picture has been gravely disturbed by developments during the last fifteen years, however. There is now a new set of policing images. They involve groups of officers spilling from steel-enmeshed Transit vans, clad in NATO helmets and flame-proof suits - suits, incidentally, too often lacking individual identification numbers - wielding batons and formed up in ranks behind long shields. Indeed, when we come to look back on the 1980s, the chances are that we shall recall it as a litany of incidents when the police, resorting increasingly to paramilitary methods, methods previously considered foreign to our culture, did battle with striking workers, protesters, young blacks or alienated urban youth.

We must not overstate this transition. Most of us have personally not witnessed the new policing: we know it only from our television screens. The patrolling lone police officer continues. Indeed, if chief constables' annual reports are to be believed, he is enjoying a resurgence. More officers are said now to be deployed on community beats. However, seldom do they live in or even near the areas they patrol, particularly the poorer disadvantaged neighbourhoods where the new equipment is most likely to be brought into play. They are increasingly outsiders. Further, these same community officers are trained in the new public order policing. When the tension indicators are said to be running high, it is the community beat officer, rather than the mobile patrol and the station officer, who is most likely to be abstracted to sit waiting in the back of a Transit van (Brown and Isles 1985). Their batons, shields, CS gas and plastic bullets are ready. Traditional policing remains, but it now fronts new operational policies which had they been predicted 20 years ago would have been described as unthinkable. These changes do not symbolize consent: indeed the public order tactics of today are the antithesis of those advocated officially as recently as 10 years ago (Home Office 1980).

### **Attitudinal consent**

The last Royal Commission on the Police in the UK was conducted in 1962. It reported, on the basis of survey evidence, that 83 per cent of the public thought the British police the best in the world (Cmnd 1728, 1962). Half the respondents, disingenuously you may think, thought it inconceivable that any police officer would accept a bribe. It is not easy to plot changing public opinions, not least because the way the questions are asked changes. Nevertheless there is firm survey evidence that the general level of public confidence in the police has diminished (Jowell and Topf 1988, Mayhew *et al.* 1989). It would be quite wrong to suggest that there is a critical loss of public confidence in the police. There is not. On the contrary, repeated opinion poll evidence indicates that the police remain among our most trusted public institutions. Nevertheless, in addition to the general decline in confidence there is evidence from local and more focused surveys that in some areas sizeable proportions of the population now believe that the police sometimes or often use undue force when arresting people, are violent to prisoners in police stations, and plant evidence or take bribes (Smith and Gray 1985, Jones *et al.* 1986). Moreover many people believe that the police are now more likely to behave in this manner than in the past. What is particularly worrying is that those who have most contact with the police - the young, the unemployed and the ethnic minorities - are most likely to believe that

the police are not to be trusted. Further, the results of the third Home Office British Crime survey suggests that the proportion of people not reporting offences to the police either because 'they could not have done anything' or 'because they would not have been bothered or interested' is increasing, as is the proportion of people who did report offences to the police and who were dissatisfied with their response (Mayhew *et al.* 1989).

In one sense this is scarcely surprising. Those who have the most adversarial contact with the police are likely to resent the fact. Equally, however, we would be wise not to set too much store in the confidence which the majority of the population, having little or no familiarity with the police, express. To ask them what they think of the police is probably little more than a test in patriotism. Not to believe that the police are honest, fair or professional is tantamount to believing that there is something fundamentally wrong with the body politic. It is not a view lightly held. We would be wise, therefore, to pay attention to the pockets of discontent and they are not inconsiderable. There is a significant degree of expressed lack of consent.

### **Legal consent**

The police operate within a framework of law. Indeed it is often said that the police are primarily accountable to the law. The doctrine was emphatically expressed in Lord Denning's oft-quoted judgement that a chief constable is 'not the servant of anyone, save of the law itself' (*R. v. MCP, ex p. Blackburn*, [1968] 2 QB 118). The laws the police enforce and the powers with which they are invested have been passed by a democratically elected Parliament. In that sense they may be said to express the will of the people, to be the embodiment of our consent.

This legal doctrine of consent has of course always been suspect. Democracies are imperfect. The law changes slowly. Parliament may be elected only once in every few years. And in Britain at least, rarely do political parties incorporate in their manifestoes undertakings to introduce or repeal specific criminal laws or police powers. Nevertheless the idea of legal consent was always given substance in the UK by the fact that police powers traditionally received a high level of bipartisan party political support. That has changed in the last decade. In England and Wales the Police and Criminal Evidence Act 1984, which comprehensively revised police powers of stop and search, entry, search and seizure, arrest, detention and the questioning and treatment of suspects, was arguably the most controversial piece of legislation introduced during the present Government's first and second term. Critics argued that the Act greatly increased police powers which they hypothesized would further be used to oppress vulnerable minorities. During the passage of the Bill the Labour Party undertook to repeal it. Police powers became highly controversial.

Moreover, analyses of the way existing police powers were being used, including some of the studies conducted by the Home Office's own Research and Planning Unit (Willis 1983), shed conceptual doubt on the doctrine of legal accountability. Fuelled by misgivings about broader changes in policing policy - particularly those stop and search tactics which appeared to have precipitated the inner city riots in London and elsewhere in 1981 - politicians began to maintain something which sociologists of the police had never doubted, namely that the law determines policing policy to only a

very limited extent. The law is silent on crucial aspects of policing. It does not tell the police what priorities to pursue nor which of their many powers to select. Many police managerial decisions - how to allocate resources and which methods to use - are as much political as legal decisions. Further, many of the decisions of constables on the beat owe as much to moral as legal judgement. The law is a resource to which the police may choose to resort. Both the doctrine of legal accountability and the idea of the law as the embodiment of consent became more widely questioned.

### **Constitutional consent**

These operational, attitudinal and legal arguments have spilled over into the constitutional domain. Consent within the arrangements for the governance of the police began to break down in the early 1980s.

In the UK we have no national police force. In England and Wales we have 43 separate police forces tied to local government. Scotland and Northern Ireland have their own local police forces. Governing all of these forces is what is often referred to as the tripartite structure for the governance of the police. The prevailing statute, the Police Act 1964, specifies three parties to the arrangement. Chief constables are responsible for the 'direction and control' of their forces (s.5(1)). Police authorities, local committees comprising two thirds elected councillors and one third appointed magistrates chosen by their peers, are responsible for the 'adequacy and efficiency' of forces (s.4(i)). And the Secretary of State, the Home Secretary, has a formidable array of powers over all forces which he must exercise so as 'to promote the efficiency of the police' (s.28). Finally, responsibility for the police budget is shared: 51 per cent of police spending comes from central government in the form of a specific police grant and 49 per cent is provided by local government (though approximately half of this is met by central government from a general grant).

This arrangement has always been recognized as a masterpiece of ambiguity (Marshall 1965). The fact that power is shared, that influence can be brought to bear on policing policy through the delicate mystery of the arrangement, is said to be its peculiarly British strength. But the key terms used in the legislation - adequacy, efficiency, direction and control - have never been defined, and one phrase much used in British policing circles - operational policy - does not even appear in the statute (Lustgarten 1986, Oliver 1987). Until the late 1970s these ambiguities seem not greatly to have mattered. The parties to the tripartite arrangement jointly consented to make the mystery work. Because policing policy was largely uncontroversial the ambiguities in the legislation were not exposed. All that changed in the early 1980s. Police authority meetings, formerly quiet municipal backwaters where faithful old councillors were put out to grass, became fiercely contested arenas within which dissensus was conspicuously demonstrated (Morgan and Swift 1987). In several metropolitan centres, chief constables were locked in public combat with the chairpersons of their police authorities. During the 1984-5 miners' strike the fragility of the constitutional structure was fully exposed. Councillors of all political persuasions, previously reliant on the proposition that their hands on the purse strings enabled them to steer policy, were rudely made aware of the fact that the Home Secretary had given the police a blank cheque behind their backs (Spencer 1985). There began to be talk of the need for a new Royal Commission on the Police (SDP



1985).

### **The politics of policing and police accountability**

The result of the strains of the late 1970s and early 1980s, strains that were to a substantial extent the product of the deepening social and economic divides which accompanied fundamental restructuring of the economy, was that policing policy became politicized to an unprecedented degree (Morgan and Smith 1989).

The Conservative Party made 'law and order' a key plank in their 1979 electoral victory. One of their 'five tasks' was restoring the 'rule of law'. Prominent among the methods they adopted was spending 'more on fighting crime even while we economise elsewhere' (Conservative Party 1979: 19). More police were to be recruited and they were to be better paid. Ten years later, delivered as promised, this spending has become the Government's proud boast (Home Office 1986). Spending on the police has risen substantially in real terms, as has the number of officers and civilians employed.

Yet recorded crime has also continued to rise inexorably (though almost certainly faster than the incidence of offences - see Mayhew *et al.* 1989) and the clear up rate has fallen. Unsurprisingly the Labour Party has taunted the Government with failure: the Government stands accused of having promoted a crime wave and of having conspicuously failed to protect the public (Labour Party 1986). Further, Lord Scarman's diagnosis, contained in his seminal report on the 1981 inner city riots - that the police are in danger of becoming 'a corps d'elite', out of touch with the community' (Scarman 1981) - has led critics to argue for legal and constitutional reforms. If the police are developing counter-productive policies inimical to the British tradition - policies which because of the constitutional framework have been neither debated nor determined at either Westminster or in police authority forums - then it was time for these essentially political decisions to be made by politicians (Spencer 1985a, Lustgarten 1986). The Labour Party committed itself to revising the Police Act. They promised to empower police authorities to determine issues of general as opposed to day to day policy. The Party also undertook to remove unelected and thus unaccountable magistrates from police committees: henceforth the police 'like any other public service' must allow 'members of the local community ... through their elected representatives ... to have a say in how policing is run' (Labour Party 1987). The Labour Party also argued, at the time that the Bill was passing through Parliament, that they would repeal large sections of the Police and Criminal Evidence Act 1984, the centrepiece of the Government's legislative programme on police powers.

In fact there is evidence that these heated party political divides over policing are being cooled and narrowed. Beneath the rhetoric there is emerging evidence of a new consensus. To understand what it comprises we need briefly to consider some of the initiatives in policing policy which have emerged during the 1980s and which will almost certainly underpin the shape of things well into the 1990s.

### **The 1980s Government programme and the accountability debate**

The Government has made it clear that it does not intend to tamper with the tripartite arrangements for the governance of the police. It is wedded to what I think is best described as the stewardship model for police accountability (Morgan 1985), what one writer has termed the 'explanatory mode' (Marshall 1965). The police are the professionals: they have delegated to them certain powers and decisions for the use of which they have a duty to account *ex post facto*. This model stands contrasted with the 'directive mode', the accountability of a servant to a master, which the Labour Party with its plan to empower police authorities favours. Yet the Government has not been complacent about Lord Scarman's jibe about the police becoming a corps d'elite out of touch with the community. They have introduced various measures to beef up the stewardship model, to make the stewardship more transparent and, insofar as chief constables have fallen out with their police authorities, to push them back into bed together. The current buzzword is partnership between the police and public. What is the framework for this partnership?

The ingredients appear to be based on the proposition that any meaningful framework for accountability must link the mechanisms for constitutional accountability to legal, political, managerial and procedural accountability devices. To be accountable to someone one has to be accountable for something. There has to be greater determinacy about what service one is delivering, politicians have to be provided with firmer measures of performance, managers have to know what their subordinates are doing and members of the public - users of the police or persons used by the police (depending on whether contact is adversarial or not) - have to receive better feedback about what is being done for them or against them. If there is to be genuine accountability we have to be concerned not merely with the constitutional framework for the governance of the police: we have also to concern ourselves with a chain of interlocking vertical relationships within the police organization and, at different horizontal levels in the organisation, to outsiders. What are the ingredients in the Government programme for greater stewardship and partnership in policing, and do they satisfy the demands of the accountability model I have sketched?

First, there is the proposition that citizens have rights which the police, their powers and procedures must respect. The Police and Criminal Evidence Act 1984 (PACE) confers rights which the police have a duty to safeguard: for example, the suspect's right to legal advice when detained. Further, the police are now obliged to justify, explain, record, and, in some cases, subsequently to publish their decisions. Persons stopped and searched on the street are entitled to be told why the police have stopped them and thereafter to be given a document recording the details of the incident and decision. Persons detained in a police station must have every aspect of their custody entered on a custody record, a copy of which they may subsequently receive. I do not say that all these statutory provisions are working as Parliament intended. Nor am I suggesting that the use made of police powers has been transformed by the new legislation. Nevertheless, the statute has in some respects successfully provided for greater openness. There can be little doubt that some - not all - but some of the scandalous police malpractices which have come to light in recent months are now less likely to occur because of PACE.

Second, PACE s.106 stipulates that 'arrangements shall be made in each police area for obtaining the views of people in each police area about matters concerning the policing of the area and for obtaining their cooperation with the police in preventing crime'. Though the statute does not provide a blueprint as to how this shall be done, when, about what and with whom, practically every police force in England and Wales has followed Home Office advice (issued in the form of circulars) and set up formal police community consultative committees (PCCs), usually by police sub-division (Morgan 1985, Morgan and Swift, in preparation). PCCs are by no means without their problems. Their membership is disproportionately male, middle-aged and middle class. In the inner city areas where Lord Scarman implicitly suggested that they were most needed, the ethnic minorities are often conspicuous by their absence. Nevertheless PCCs have become the proving ground on which police middle managers are learning to listen to public views as to what local problems comprise and what police priorities should be. Through PCCs, the police are getting used to discussing more openly the real dilemmas that confront them. And this grassroots experience is being fed back into police authority debates: PCCs are typically chaired by county councillor members of police authorities.

Third, in 1982/3 the Home Office took up another of Lord Scarman's recommendations. 'Lay visitor to police station' schemes were introduced experimentally in six police forces in England and Wales. In 1986 the idea was commended generally by means of a Home Office circular and today all but five of the 43 police forces in England and Wales are operating lay visitor schemes in either part or all of their force areas (Kemp and Morgan 1990). Lay visitors have no statutory basis. They are groups of people who periodically inspect the conditions in which prisoners are held in police stations and who are able to check whether the procedures for detention laid down by PACE are being complied with. They have been introduced with a view to increasing public confidence in the police. However, even where confidence in what happens in police stations locally stands high, lay visitors potentially provide an additional safeguard for the rights of prisoners. They typically feed their findings to either the PCCs or police authorities or both. And, as with PCCs, a high proportion of them are county and district councillors. Like consultation arrangements, many lay visiting schemes can quite reasonably be criticized for being ritualistic, half-hearted and ineffective. Nevertheless, lay visiting has opened up to public scrutiny a hitherto largely secret police world and in some areas, notably Merseyside and London, where in the past some notably suspicious deaths in police custody excited a good deal of public anxiety and anger, lay visitors have developed vigorous professionalism. In London, it is worth noting, more than a third of the visitors are drawn from the ethnic minorities.

Fourth, as a result of the application to the police of the Government's Financial Management Initiative (FMI, designed to enhance the accountability of all public sector services) there is now a vogue for 'policing by objectives' (PBO), force 'audits', 'priority' or 'strategic' statements (ACPO 1990: Section Two). The aim is that the police, like other public services, should define their objectives and priorities more precisely, develop techniques for measuring the degree to which objectives have been attained and devolve to each level of decision-making the capacity to determine the allocation of resources so that objectives can be better pursued. There are a host of problems associated with PBO and a good deal of scepticism as to whether the management method is appropriate to policing or leading to any discernible difference to what officers do on the ground. Nonetheless, what the vogue for PBO

has stimulated is a debate, a debate more and more conducted in public as well as in-house, as to what policing is designed to achieve and what policing priorities ought to be. It is significant, therefore, that the recent Operational Policing Review conducted by the police staff associations included a large public opinion survey which focused on what the public thought policing priorities ought to be, whether existing policing resources were being used in an appropriate manner and what use should be made of additional policing resources were they provided (ACPO 1990: Section Five). These are not questions on which the police have traditionally invited public participation: on the contrary, these are operational issues about which they have jealously guarded their independence, matters best left to the professionals. PBO may not significantly have altered what the police do on the ground, but it has helped to open up public discussion as to what they should be doing on the ground.

Fifth, and closely linked with the last development, has been the substantial effort put into involving the public in policing and crime prevention. There is a significant change of tone in the Governments' statements on 'law and order' since it took office in 1979. For example, though the promise to spend more on 'fighting crime' of the 1979 Conservative Manifesto was followed by the proud boast that this is exactly what the Government had achieved (Home Office 1986), much had changed by the general election of 1987. The Government stood by its 'law and order' guns but no longer 'underrated the challenge'. It pointed out almost defensively that 'crime has been rising steadily over the years: not just in Britain but in most other countries, too. The origins of crime lie deep in society' (Conservative Party 1987: 55). The emphasis now was a policing partnership with the public, 'encouraging local communities to prevent crime and to help the police detect it'. Voluntary policing effort became part of the Government's advocacy of 'positive citizenship'.

The manifestation has been the explosion during the 1980s of: schemes for 'neighbourhood watch', 'pubwatch', 'shopwatch', etc.; the creation of 'crime-stopper' programmes, police hotlines over which targeted community groups are encouraged to give information about their fellow citizens to the police; attempts to rejuvenate crime prevention panels; and the revival of interest in special constabularies of volunteer unpaid police officers. Further, the voluntarization of policing has run parallel to the continued substantial growth of privatized policing in the form of the commercial security industry. The available sophisticated research evidence (Bennett 1990) suggests that neighbourhood watch, to take the most fashionable and numerically most important of these developments, is not particularly effective in reducing or clearing up crime. However, the evidence from such short-run technical evaluations may not be the point. The police see value in voluntarization in terms of grass-roots police community contact and the agency the Government has created to foster these developments, 'Crime Concern', tends increasingly to argue for neighbourhood watch and similar initiatives for their 'community developmental' potential (Whiskin 1989).

Sixth, and finally, there has been the continued emphasis on 'community policing'. Community policing is the buzzword of the decade: it means all things to all men (Weatheritt 1986, Skolnick and Bayley 1988, Trojanowicz and Bucqueroux 1990). Yet insofar as the idea has at its core the concept of the neighbourhood officer, often patrolling on foot, with high continuity of contact with a small beat, expected to get to know people and institutions locally and deal with the bulk of the policing business generated on his patch, then most chief constables in Britain claim to be committed to

community policing and to be devoting more of their officers to it. I know of no systematic evidence for the UK to substantiate these claims and I am not yet convinced that an increased proportion of police manpower is now devoted to some semblance of community policing. Indeed there are good grounds for scepticism, not least because we know that neighbourhood beat officers are often not on their beats (Brown and Isles 1985, Morgan and Swift forthcoming). Nevertheless it is not difficult to see why chief constables make the claims. The public like to see familiar officers patrolling their neighbourhood and would like a greater proportion of officers to be devoted to the task (ACPO 1990: Sections Four and Five). Further, we know that most policing is effectively done by members of the community for themselves (Shapland and Vagg 1988) so it makes sense for the police to tune into the local network and work with the grain of what the public do for themselves. Moreover, insofar as community officers do this, it suggests that there may be a degree of day-to-day operational accountability between the police and the public at grass-roots level.

## **Conclusions**

During the 1980s the debate about police accountability in the UK has to a large extent been relocated. The profound changes in policing that followed the inner city disorders at the beginning of the decade, changes which critics argued were inimical to the British policing tradition and which had been fully debated or approved by neither elected politicians in Parliament or local government, precipitated a critique of the constitutional arrangements for the governance of the police and the legal framework within which the police operate. The Government resisted that pressure: the tripartite constitutional structure, and police independence to determine operational policy, were preserved, though the legal powers which the police have were systematically revised by PACE. Critics argued that police powers were greatly increased and they predicted that the rights and liberties of citizens, particularly those of vulnerable minority groups, would be trampled. By contrast the police argued that the safeguards which, according to the Government, were built into PACE were onerous, would tie the police down with paperwork and make it more difficult to bring offenders to book.

However, the Government was not complacent in the face of the constitutional critique. They bolstered what I have called the stewardship doctrine of professional accountability: the police, the professionals, would in future be required to exercise their stewardship more transparently for the laity; they would have to enter into dialogues with the people at all levels, consult about objectives and priorities, explain their actions more fully and account for their decisions more to those people on the receiving end of their decisions. The mechanisms introduced to mediate these messages - consultative groups, lay visiting schemes, crime prevention committees of various kinds, inter-agency liaison groups, etc. - brought local politicians, officers from other statutory agencies and community leaders into more and more direct contact with the police. As a consequence it became part of the stock in trade of police middle managers to reveal more of their policing dilemmas to outsiders. The traditional enclave of policing was opened up.

This pattern of participation has led to the transformation of police authority

deliberations. Chief constables seldom now stand upon the dignity of operational independence when asked for accounts about policing policy and decisions: they show more of their hand. As a result councillors are now better informed about the realities of day to day policing and are generally less likely to strike irresponsible postures about it. At one extreme there are now fewer councillors who judge it to be impertinent to ask the police penetrating questions about policy. At the other extreme there are also fewer councillors who never fail to take an opportunity to embarrass the police or publicly attack them. The days of such posturing at both ends of the political spectrum appear to be passing. Participants in these local political forums tend to be become more sympathetic to police viewpoints. As a consequence the demand for constitutional reform is waning and it now seems less likely that the Labour Party will radically revise the Police Act 1964 if returned to office. It is significant that even in the face of the scandals about police malpractice which have emerged during the past year there has been no widespread resurgence of the calls for radical reform of the constitutional framework nor reduction of police powers. Legal changes have been mooted but they have concerned the need to prevent persons being convicted on the basis of uncorroborated confessional evidence and provide a more effective appeal mechanism to investigate possibly wrongful convictions.

The police debate has shifted rather to questions of police managerial accountability, the related issues of discipline and complaints and day-to-day operational priorities, feedback and contact with users of police services: in effect questions of procedural accountability at the point of service delivery. This cluster of issues includes everything from the continuing attempt to measure what the police do to providing a more coherent role specification for community officers, setting neighbourhood problem-solving priorities, and providing better information for users about what has happened to their reported offences and what, if anything, the police investigation has turned up. While the Home Office and the Association of Chief Police Officers takes a more and more centralized control over the general shape of policing policy - to the extent that the police service in England and Wales is now more a national service locally administered than a constitutionally devolved service accountable locally - operational policing practice is locally the subject of more participative discussion by local elites. The only major structural accountability reform still firmly on the national political agenda is the system for investigating complaints against the police. In the wake of the recent scandals it seems only a matter of time before an entirely independent investigative agency is created to look into serious complaints against the police. At present serving police officers continue to investigate police officers, albeit overseen by the Police Complaints Authority.

This relocation of the accountability debate has, in my own judgement, had some effects about which I have considerable misgivings. For example, the police have skillfully persuaded local political elites of all shades of political opinion that they should be given further substantial resources. The professionals have co-opted the laity to their viewpoint. This has produced a dilemma for the Government because it is doubtful that the demand for further police resources would, if met, contribute to more effective policing. We know from a substantial body of research conducted both in this country and North America that providing more police officers has neither an equivalent crime preventive or crime solving effect (Clarke and Hough 1980, 1984). Indeed confidence in traditional police methods has been undermined by the results from a series of studies. Changes in the level of patrol, for example, appear to have no great effect on the level of crime or disorder (Morris and Heal 1981). Improving

police response time has no discernible effect on the likelihood of arresting criminals (Bieck and Kessler 1977). Detective work is seldom effective in finding unknown offenders (Greenwood and Petersilia 1976).

There may be quite legitimate reasons for increasing police resources: it might make us feel safer; it might reduce stress among police officers; it might enable them to spend more time on training; or it might permit the police more carefully to attend to the needs of victims. But all the evidence suggests it would not of itself reduce the incidence of crime. Crime, insofar as we can predict it at all, is better predicted by social conditions - income distribution, unemployment, demographic trends, social heterogeneity, etc - than it is by spending on police officers (Morris and Heal 1981). The Government - any government - would therefore be wise to pause before acceding to further demands, however well supported locally, for further resources from a service which has already enjoyed greater immunity from government spending restrictions than any other public service since 1979.

### **Postscript**

How should the Government respond then to the undoubted public demand for additional police officers which they have done so much to stoke up? Let me conclude with some notes for policies in the 1990s. I think we face at least three dilemmas to which I do not have easy solutions and which will require careful thought in the coming decade.

First, there is the question of where the boundary between state, voluntary, and private policing should lie. That boundary is fixed in part by market forces. But it is also influenced by government policy and that, in turn, is determined by fiscal considerations. I doubt that the private security sector should continue unregulated: the services it provides are now so extensive and important that there is almost certainly a need for registration and inspection. Equally, we have to ask the question as to whether all the tasks undertaken by the police have to be performed by constables as skilled and trained and thus expensive as they now are. The civilianization of police posts can be extended. But we have to ask whether there is a case for making more extensive and effective use of volunteers. Should we, for example, pay special constables a retainer on the lines of the territorial army? Or, more radically still, should we consider introducing community or neighbourhood equivalents of traffic wardens to undertake generalized local patrols?

Second, there remains, despite everything I have said, a question mark over the issue of police constitutional accountability. Most people are opposed to policing being drawn further into the party political arena. However, the politicization of policing in the 1980s owed much to the ambiguities in the arrangements for the governance of the police. It permitted politicians, on both the right and left of the political spectrum, to be irresponsible about policing policy because they were not responsible constitutionally. And all this at a time when it became more and more clear that fundamental changes were taking place in the nature of policing without those changes being subject to proper democratic debate at either local or central government level. It seems to me that despite the calmer waters into which we have moved that nettle has still to be grasped. Since, arguably, we now have a national

police force in all but name we have eventually to create a constitutional structure congruent with the realities of modern policing.

My own view is that sensitivity to local needs will best be preserved through the maintenance of local police forces. But those forces should be genuinely local with the local authorities able to determine, on the advice of their chief officers, the level and shape of local policing policy. However, I think there is also a case for creating a genuinely national police force answerable to Parliament via the Home Secretary. Such a force should provide the national functions - protection of the Royal Family, Parliament and the diplomatic corps as well as providing specialist services to local forces and undertaking international liaison - many of which are currently catered for by the Metropolitan Police. There is a clear need to make the Met a genuinely local force accountable, as are the provincial forces, to a democratically elected police authority. The Met's national functions have always been given as a reason for not pursuing this policy: those national functions should be hived off (for an expanded exposition of this viewpoint see Morgan 1990).

Third, the accountability debate ties in closely with the pressure for, on the one hand, increasingly specialized headquarters, regional or national squads - to combat serious international drug trafficking, for example - and, on the other hand, the arguments for so-called community policing: more uniformed officers assigned to neighbourhood beats and more continuity in their attachments. This is a real dilemma. But I do not believe that the solutions are necessarily incompatible. There may well be a case for more specialized squads to combat serious professional crime. However, the vast majority of crime lacks those characteristics. Most crime is amateurish and parochial. The peak age for offending is 15 years and most offences are committed close to offenders' homes. Effective grass roots policing needs to comprise team policing - detectives and uniformed officers - attached to relatively small areas, usually parts of sub-divisions. That objective requires greater application of the Government's Financial Management Initiative to policing than has yet occurred. It should mean devolving more powers to police middle managers to determine the manner in which they use their resources and, in partnership with the local community, setting objectives and measuring their attainment at sub-divisional level. It involves greater operational accountability locally: if that partnership between the police and the local community does not exist there will be no 'policing by consent' worthy of the name.



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(中文摘要)

在英國，一向的標榜共意式及向人民負責的警務工作，在八十年代的受到一連串的打擊。從警方的處理城市暴動、煤礦工人的罷工醜聞事件中，暴露了警隊的行動上暴力不合理的；不願警隊醜聞樣樣，也披露了警方的誣告無辜市民等罪行。後果是令人重新考慮怎樣在法律及憲法上的層面，去界定警隊及其工作的角色。

傳統的共意式警務工作在下述四個範疇已不復存在：(1) 在日當常職務這範疇內，警察不再是在傳統的問題或形象上，而是荷鎗實彈的抗暴人員。無論在實際的行動或形象上，八十年代的英國警察已截然不同。(2) 一般市民的態度也有改變。他們對警隊的信任程度不顯著地減少了，他們認為警隊在行動上比以前更有可能是訴諸暴力，或收取利益。(3) 在法範疇內，一向更看重的警隊是只向法律負責，而長久以來，以政治手段來改變警隊的法律地位及權力也未曾多見。但在八十年代警隊的搜查、拘留等權力大增，從而令到社會各方在對法律賦予警隊的權力有所爭議。(4) 在憲法方面，英國傳統都沒有在憲章上的清楚列明管治及評估警隊在憲法方面其工作效益的標準。這種情況在八十年代便顯露出來：當要面對一連串的工業及社會危機時，地區的政府會發覺到警隊在行動上的權力差不多是不受憲法或法律上的制衡。

隨著市民的不信任，及政客對警方權力的不斷膨脹的不滿，英國的警務工作政策變遷，及前地政治化了。雖然在野黨及執政現的黨各執一詞，但漸漸雙方都達至一個共識及方案，就是維持現有的憲法安排，警隊需要的是一種事後追溯式的行動解釋。這度有責任制可稱為「管家式」的負責任制。要改善的是加強這種制度在法律的行動上的透明度。而這透明度在為重要，警方須向市民交代這些事務。這種改良後的「管家式」負責任制對警務工作起下了下列的影響：(1) 清楚釐定市民的權益，以防止警方的濫用職權。(2) 在各警務分區設立社區警務諮詢委員會，目的是加強市民與警方的溝通，提供了一個場所給警方與市民交談。(3) 市民組織市民關注隊，目的是讓市民能定期地監察警局及監獄的情況，從而提高市民對警方的信心。(4) 加強對警方的管理。如同一般公共事務，警務工作須要有清楚的目標釐定及有效的資源分配。(5) 鼓勵及協助市民自發地及自願地防止罪案活動。(6) 加強社區性的警務，目的是使警察工作能在日常生活的層面上，進一步向市民負責。這種變化令到傳統以來自成一國的警務工作出現一些空隙，受到一定程度的公眾監管。