

A Critical Examination of Contemporary forms of policing in the UK

with an emphasis on community policing and an outline of
strategic recommendations for potential policing reform
over the next five years based on this analysis

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Analysis

This essay will explore contemporary policing, with an emphasis on community policing, the autonomous nature of the role of constable, the nature of policing by consent, and provide some strategies for policing over the next five years. There is much talk of autonomous vehicles, AI and technology but it may be that the coming years will see a collapse in the structures upon which we have built our society. We may face a return to simpler ways as opposed to a world of flying cars and robots. Either way, the police, and the people as a whole, will require a much more robust moral compass than they presently possess to take them into this future. This can be gained by having a thorough grounding and understanding of Natural Law principles and a working knowledge of their true constitution. This essay will explore the ways in which this can be achieved.

Community Policing

Community policing was at the heart of the method of policing envisaged and set up by Peel and the early commissioners in 1829, and continues to be an important, yet often neglected, part of policing today. Often described as the bedrock of policing, community policing has been variously defined over the years and Ferreira (1996) provides a good definition: 'Community policing is a philosophy of full-service personalized policing, where the same officer patrols and works in the same area on a permanent basis, from a decentralized place, working in a pro-active partnership with citizens to identify and solve problems.'

However, it was said in 1996 that community policing had: 'come to mean all things to all people.' And that some 'believe it is no more than an undefinable set of concepts and public relations con intended to restore public confidence in a seriously tarnished and disgraced organization' (Kelling and Coles, 1996). Indeed, although the aims of the Crime and Disorder Act 1998, enabling and requiring crime and disorder reduction by partnerships between various agencies within society, for example, local authorities and police, is a noble ideal and it is clearly sensible for the police to

act together with these other agencies, it can be something of a cost-cutting exercise rather than a true attempt to combat or prevent crime.

Cost-cutting has been necessary in recent years with the reduction in budget to the police and decreasing officer numbers. For example, the emergence of the Police Community Support officers (PCSOs) following the Police Reform Act 2002 has been good for increasing the feeling of a "police" presence more cheaply than deploying sworn constables on the street. However, the PCSO does not have the same independence or authority as the police constable and is not bound by any oath. It is essential that those carrying out formal policing duties are bound by the oath which embodies the natural and common law principles which the constable applies. (It could be argued that this is more important than the requirement for police recruits to have a university degree; whilst understandable in terms of professionalizing the police service, something may well be lost in the character and variety of constables – many who eschew formal learning methods have an intrinsic knowing when it comes to natural law principles, these people may be lost to the force with the introduction of the degree requirement. This will require monitoring going forward and swift action taken should it be found that this is occurring.)

Community Policing involving officers walking the beat, getting to know the community, collaborating with other agencies in an holistic approach towards crime prevention and resolution, using architecture and technology to prevent crime all tend to take a back seat to the more reactive, crime-solving element of policing. Yet, the benefits of community-style policing are clear:

It is intuitively plausible that a system that consistently allocates the same officers to the same streets and instructs them not just to catch criminals but to prevent crime from happening in the first place, might be beneficial in terms of developing an informed, accountable and cooperative/consensual approach.' (Higgins, 2018:8)

The research carried out by the authors, however, recognizes the fact that this area of policing has become neglected once more:

Regardless of the form it takes, neighbourhood policing is under strain everywhere and has suffered substantial attrition. Contrary to the official workforce data (which shows that in 2017 there were still just under 30,000 police officers and PCSOs in nominal 'neighbourhood policing' roles), front line practitioners consistently report that the number of staff available for core neighbourhood work (like community

engagement and local problem-solving) has substantially diminished. At the same time they report that demand on local policing has intensified and changed, particularly as a result of demand displacement from other agencies, from those suffering mental ill-health and a lack of local preventative problem solving. The result has been significant attrition to the outputs and outcomes traditionally associated with neighbourhood policing; community engagement, visibility, community intelligence gathering, local knowledge and preventative proactivity are consistently reported to be in decline

(Higgins,2018:63)

Their survey of practitioners showed the following:

Practitioners feel that neighbourhood policing has been particularly neglected in recent years and fear that its future is bleak. The (admittedly small and self-selecting) sample of police officers and PCSOs who completed this project's web survey gave an average score of 3.5 out of 10 to reflect their level of optimism about the function in their own force, and 3 out of 10 for neighbourhood policing more generally. When only those below the rank of inspector are included the ratings fall to 2.8 and 2.6 respectively. The extent to which forces are reviewing and reforming their local policing models suggests leaders share the sense that all is not well. (Higgins, 2018:67)

Policing by Consent

This concept still forms the basis of the legitimacy of the police in contemporary policing but what does it really mean? It is something parroted as a fine ideal, but without thought to how that consent is tested, how consent is withdrawn, and whether even it is the fine principle it is touted as being. Should it mean the consent of the individual or the public as a whole? If the individual, then that is unworkable, since a person suspected of a crime would surely withdraw their consent at the point of arrest. If it is the consent of the public as a whole, then how is that tested? Is it by a majority of the public being in favour? If so, it raises difficult issues as to individual freedoms being at risk from the rule of the majority. It was obviously something not fully understood even as

recently as 2012 when a Freedom of Information Request was made to the Home Office. In response, the Home Office referred to Peel's nine principles of policing, and further expanded:

Essentially, as explained by the notable police historian Charles Reith in his 'New Study of Police History' in 1956, it was a philosophy of policing 'unique in history and throughout the world because it derived not from fear but almost exclusively from public co-operation with the police, induced by them designedly by behaviour which secures and maintains for them the approval, respect and affection of the public.

It should be noted that it refers to the power of the police coming from the common consent of the public, as opposed to the power of the state. It does not mean the consent of an individual. No individual can chose (sic) to withdraw his or her consent from the police, or from a law. (HO Freedom of Information release 2012).

If it is not down to the individual to withdraw his or her consent, then how is consent withdrawn? If the answer to this question is unknown, then the idea of policing by consent becomes meaningless. Is it to be judged on a knowledge of what is the common and prevailing morality? If so, this will change from time to time, and, obviously the behaviour of police should be able to evolve in a fluid manner, but does this not bring us once again to the issue of the prevailing morality being decided by the majority with all the problems that entails? Or is there a deeper, more timeless set of rules which define morality? The answer to this question is yes, in the natural law and the consent is tested by the common law jury as will be shown. This mechanism provides protection from the dangers of moral relativism. Peter Hitchens identifies (2003) what he feels to be a 'profound cultural shift in policing as part of a broader trend in which the moral certainties of the immediate post-war period have been replaced by a system in which authority has been undermined and moral relativism rules. The result, in his view, has been that the "best police force in the world has been reduced to bureaucratic uselessness."' (Newburn, 2011: 95-96)

A purported measure of police legitimacy and whether or not policing remains consensual is from statistics on how the public feel about the police. This can be seen to be declining, yet still fairly high. In 2019, 55% of the public had confidence that the "Police and local council are dealing with anti-social behaviour and crime issues that matter in the local area". This was down from 59% in 2018. Between 2012 and 2017, the average was 61%. (College of Policing, 2020: 22) Again, though, this crude measurement looks merely to consensus.

Constables as Individual Agents of Law

Autonomy

It is said that: 'Each sworn Constable is an independent legal official; they are not agents of the police force, police authority or government' (ACPO, 2010: 12) This idea is confirmed today in the Policing in the UK briefing paper: 'The office of constable is a common law concept and, as such, there is no single piece of legislation which defines its' duties and responsibilities... As office holders they are personally responsible for their decision-making' (Police Federation, 2018: 2). Autonomy of each individual police officer is vitally important in contemporary policing. It enables them to exercise their discretion in their dealings with the public on a case-by-case basis, depending on the particular facts and circumstances. However, this can lead to disparity in how cases are dealt with, depending upon the particular constable involved. This may lead to a sense of unfairness if one is dealt with more harshly than another person. How do we achieve consistency and accountability amongst these autonomous, individual officers? At present, this is achieved partly by the direction and control of their chief officers who are also said to be independent. However, chief officers are not completely free from political interference: 'So, whilst chief officers are expected to be able to make some decisions free from political interference, there isn't an expectation that they are exempt from political scrutiny or completely free from political influence.' (Brown (2020)).

There exists a tripartite relationship between the chief officers, the Home Secretary and the Police and Crime Commission (Police Federation, 2018:10). With the Police and Crime Commissioner being elected and the Home Secretary being part of the elected government, it is clear that chief officers are not free from political interference. Indeed, at times, the police have been enforcing government policy. This must not happen if the police are to truly serve the people. As Sarah Thornton notes:

When Sir Robert Peel was designing the foundations of our police service, he put at its heart the citizen in uniform, policing by consent with absolute impartiality under the law. While the policing landscape has changed since then, and will doubtless continue to change and face many challenges, we can be justly proud that, thus far, this office of constable has been the beating heart of the British policing model and has

underpinned the service we provide to our communities, including allowing chief officers operational independence to make decisions that are right for the safety of the people in their force area, and shoring up our forces' legitimacy through robust accountability. (Police Federation, 2018:8)

Order-following or Exercising Conscience

Sir Robert Peel's nine principles are still cited as the basis from which the police in England and Wales draw their legitimacy and as providing a framework for how the police should behave. (Gov.uk, FOI 2012:1)

At first glance, they appear to be fine principles. However, there are some troubling issues. For example, the fifth principle:

To seek and preserve public favour, not by pandering to public opinion; but by constantly demonstrating absolutely impartial service to law, in complete independence of policy, and without regard to the justice or injustice of the substance of individual laws, by ready offering of individual service and friendship to all members of the public without regard to their wealth or social standing, by ready exercise of courtesy and friendly good humour; and by ready offering of individual sacrifice in protecting and preserving life. (Gov.uk 2012:1)

It stresses the independent nature of the police constable and the impartiality required. However, it then states that the constable should act without regard to the justice or injustice of the substance of a particular law. This may be correct in that the police are not the Jury, and it is not for them to make decisions as to the guilt or innocence of a suspect. However, this statement could lead to a blind following of orders – something specifically outlawed as a defence at the Nuremberg trial following World War II. Indeed, it will be demonstrated in the second part of this essay that the police must be considering the legitimacy of a particular piece of legislation or law when exercising their powers of enforcement: 'Whenever the law itself is unjust the act of its enforcement is crime per se' (d'Oudney, 2020:72). Indeed, if legislation has been enacted which infringes the inalienable rights of the people (contrary to common law) It may also be necessary for the police to move to arrest those responsible for that legislation, and investigate that crime.

Technology: Modelling an Agenda-like, Technocratic Future

Technology is being used more frequently in contemporary policing, Artificial Intelligence in the form of algorithms is used to predict who is likely to become a victim of domestic abuse and informs the allocation of resources accordingly. Crimes are prevented using this technology. There is a danger, however, of predictive methods creating suspicion around a person who may never go on to commit a crime. The dangers of this approach can be seen in marvellous technicolour in the film 'Minority Report' where the police in 'Pre-Crime' remove suspects from circulation before any crime is committed based on the predictions of the 'precogs'. There is a danger that people are detained who would never have gone on to commit a crime. There is a danger of policing based on a person's thoughts, not only because thoughts do not necessarily convert into criminal acts, but also because this may be based on surveillance of a person's internet footprint.

Modelling is currently being used to plan policing for the future. The College of Policing document "Future Operating Environment 2040" (2020) makes for chilling reading. Although this is predicting the environment for policing further into the future than the scope of this essay, the beliefs and attitudes expressed in this document are affecting policing now. The narrative is very agenda-like, expressed as if these things are inevitable. For example:

Digital surveillance technologies are likely to cross new frontiers in the next 20 years. While current digital surveillance systems typically track and record a person's 'digital footprint' (eg, their internet presence), future systems will possess the ability to interpret people's moods, emotions and (hidden) intentions. For example, advances in neurotechnology could allow us to monitor brain 'events' in ways that are not currently possible, with information 'downloaded' from the brain used to control devices or obtain knowledge of a person's intentions.' (College of Policing, 2020:24)

There is little discussion about whether this technical advancement should occur in our society, and as one senior representative of police staff association says: "I don't think we understand the implications of AI yet. There's a vacuum in thinking and narrative around the values and ethics of AI and what it will do for policing. There seems to be a race to move towards that technology without thinking about the implications" (College of Policing, 2020:71)

Strategies

Grounding in Natural Law and the Constitution

Limitations on Government and Common Law Trial by Jury

It is of paramount importance that the police understand the difference between law in the form of legislation created from government and that of the higher, customary law embodied by the constitution: the original Magna Carta of 1215 as opposed to later statutory 'versions':

As distinct from supreme Constitutional customary Common Law, statute law is written law passed by the legislature (parliament / congress) and enacted into law on its passing by the Head of State. Whereas constitutions are permanently binding, statutes do not bind subsequent parliaments and cannot "form" or be "part" of a "constitution" (d'Oudney, 2020:68)

This information should be disseminated throughout the British police in order that there is an overriding allegiance and adherence to that which is constitutional rather than merely the will of parliament: those in transient office of administrative government, for 'The Rights of Magna Carta depends not on the Will of the Prince, or the Will of the Legislature; but they are inherent Natural Rights of Englishmen: secured and confirmed they maybe by the Legislature, but not derived from nor dependent on their Will.' (Williams, 1744)

The importance of this should not be missed. It is clear that the legislature has no lawful authority to create statute that would be out of alignment with the Constitutional Law. Constables should be mindful of the potential danger of taking part in the enforcement of unlawful statutes.

A full understanding of the above limitation on government is only possible with the knowledge of the little-known and quite possibly deliberately hidden elements of the our Constitution of common law Annulment by Jury and Cost-free Private Prosecution; whereby the Jury in a Trial, has the authority and duty to refuse to enforce legislation that is contrary to their sense of justice. This is done by returning a verdict of not-guilty even when it is clear the defendant has breached the government-created statute. As Sir Geoffrey Gilbert states in his "History of the Common Pleas":

"This position" (that the matter of law was decided by the justices [judges], but the matter of fact by the pares [peers, i.e., jurors]) "is wholly incompatible with the common law, for the Jurata [jury] were the sole judges both of the law and the fact." (d'Oudney, 2020: 74 quoting from Justice Sir Geoffrey Gilbert)

The above concepts are little-known in society and even in the establishment (or they are ignored). The bestowing of this level of power by our common law rule of law to the citizen juror might be seen as inconvenient to an agenda-driven political class who would consider it important to hide these mechanisms across time. It is vital that the police constable understands this well so as not to fall foul of this higher rule of law.

Natural Law

Natural Law informs our Common Law through the decisions of the Jury, as described above. It gives us our inherent sense of right and wrong, our conscience. It is a subject too broad to discuss in any detail here, but it would assist police constables greatly to become familiar with important aspects of Natural Law in their training and beyond (as, indeed, should all members of society). A good starting point is Mark Passio's Natural Law Seminar (2013).

Return to Emphasis on Community Policing

There must return a strong police presence in the community. This is the basis on which the modern-day police were originally formed and is in alignment with the constitution. The seventh principle of Peel's Nine emphasizes the "historic tradition that the police are the public and that the public are the police." This is crucial. The police constable must be in the community and of the community. Whatever happens in terms of whether the future is hi-tech or there is a collapse of systems and a return to simpler times, the police will need to maintain the human connection with the community.

Members of the community need to know who their local police constables are. They need to be able to telephone and attend at their local station. This local station should be just that... "local."

The most efficient form of policing is for the people themselves to be involved in that policing. This can be achieved through community policing and by the people not outsourcing their safety to the police but taking responsibility for themselves. There is talk of what the police should do by

way of policing disinformation on the internet, for example, but the people must be trusted to discern for themselves what is true and untrue and police themselves accordingly.

The emphasis, as it was originally, should be on prevention of crime, a keeping of the peace, as is prominent in the constable's oath and in Peel's Nine principles. The focus should not be on catching and prosecuting offenders. Where enforcement is necessary, it should be directed at crimes with victims, (basically, the harms detailed in the Constable's oath) and not necessarily at enforcing government legislation.

It has been suggested that 'the role of the Crime Prevention Officer was seen as a fairly undemanding pre-retirement placement for CID officers.' (Weatheritt, 1986:346). Crime prevention has previously been described as a 'Cinderella of Police work' (Hough and Tilley, 1998:346) This attitude must change, and it will with a proper understanding by officers of the true constitution and natural law. Time must be made for community policing, it must not be an afterthought. 'There is certainly a sense among many police officers that they are so busy that they are unable to find the time or resources for standing back and engaging in longer-term problem-oriented work. Ironically, the very stimulus to problem orientation – the growth in demand relative to resources – is taken to be a key block to its implementation.' (Tilley, 1998:392) This must change. The police must find the time to look after their local communities, and the individuals within those communities.

Conclusion

There are two main pillars that emerge: an emphasis on human morality and the constitution, and that true liberty and freedom comes from the bottom up and not the top down. The police should be agents of justice working to ensure the liberty and freedom of the people; there to enforce just principles, not authoritarian and political diktats. Despite the huge advances in technology that are occurring and may continue to advance, what is needed is not a new approach to deal with these things, but a restoration of what has been there all along, in Peel's Nine, in the constable's oath, in the autonomy and discretion of the individual constable, in the knowledge that the police are the public and the public are the police; a return to the fundamental principles upon which modern policing was built.

References

Brown, J. (2020). Policing in the UK. House of Commons Briefing Paper 8582. Retrieved July 25, 2020, from: <https://researchbriefings.files.parliament.uk/documents/CBP-8582/CBP-8582.pdf>

College of Policing, 2020: *Policing in England and Wales Future Operating Environment 2040*. <https://www.college.police.uk/article/preparing-policing-future-challenges-and-demands>

Crime and Disorder Act 1998

d'Oudney, K. (2020) *Democracy Defined: The Manifesto*. Third Edition. SRC Publishing, 2020

Ferreira, B (1996) *The Use and Effectiveness of Community Policing in a Democracy*. (Washington DC. Prod. National Institute of Justice)

Gov.uk 10th December (2012) HO Freedom of Information release. *Definition of Policing by Consent*. <https://www.gov.uk/government/publications/policing-by-consent/definition-of-policing-by-consent>

Higgins, A. (2018) *The Future of Neighbourhood Policing*. The Police Federation https://www.police-foundation.org.uk/2017/wp-content/uploads/2010/10/TPFJ6112-Neighbourhood-Policing-Report-WEB_2.pdf

Hitchens, P (2003) *A Brief History of Crime: the Decline of Order, Justice and Liberty in England* in Newburn, T (2011) *Handbook of Policing*, second edition, Canada, Routledge

Hough, M. and Tilley, N. (1998). *Auditing Crime and Disorder: Guidance for Local Partnerships*. Crime Detection and Prevention Series Paper 91. London: Home Office.

Kelling and Coles, 1996 *Fixing Broken Windows*, New York NY Free Press.
Keyte, W (2018) *The British Constitution: Re-Exposing Its Secrets* - D and V Party Conference <https://www.youtube.com/watch?v=HJoB8xcP1I8>

Minority Report 2002 Steven Spielberg. 20th Century Fox (North America) DreamWorks Pictures (International)

Newburn, T (2011) *Handbook of Policing*, second edition, Canada, Routledge

Passio, M Natural Law Seminar, 2013. <https://www.youtube.com/watch?v=ChgCh2Gui5M>

Police Federation FOI 00247 - Office of Constable sworn oath_ <https://www.polfed.org/resources/access-to-information/disclosure-log/foi-00247-office-of-constable-sworn-oath/>

Police Federation (2018) *The office of Constable: The bedrock of modern-day British Policing* <https://www.polfed.org/media/14239/the-office-of-constable-with-links-2018.pdf>

Police Reform Act 2002 Explanatory Notes <https://www.legislation.gov.uk/ukpga/2002/30/notes/division/4/1/18/2?view=plain> oath police reform act 2002

The Telegraph (2001) <https://www.telegraph.co.uk/news/uknews/1321462/Peers-use-Magna-Carta-to-oppose-EU-charter.html>

Tilley, N (2011) *Modern Approaches to Policing: Community, problem-oriented and intelligence led* in Newburn, T *Handbook of Policing*, second edition, Canada, Routledge

Weatheritt, M. 1986, *Innovations in Policing* London: Croom Helm in association with the Police Federation

West Midlands Police FOI Request https://foi.west-midlands.police.uk/wp-content/uploads/2021/03/298A_ATTACHMENT_01.pdf 26/02/2021. accessed 13th dec 2021.

Winsor, T. P. (2011). Independent Review of Police Officer and Staff Remuneration and Conditions Part 1 Report. Retrieved August 7, 2013, from: <http://webarchive.nationalarchives.gov.uk/20130312170833/http://review.police.uk/documents/police-remun-and-conditions/first-report?view=Binary>

Williams, E (1744) *The Essential Rights and Liberties of Protestants*, Elisha Williams 1744 as quoted in Sandoz, E *The Roots of Liberty* 1993 Liberty Fund, inc.