

2018

Policing the Police: Origins and Local Dimensions to PACE, c1964-1994

Rowbotham, J

<http://hdl.handle.net/10026.1/14213>

All content in PEARL is protected by copyright law. Author manuscripts are made available in accordance with publisher policies. Please cite only the published version using the details provided on the item record or document. In the absence of an open licence (e.g. Creative Commons), permissions for further reuse of content should be sought from the publisher or author.

Policing the Police:

Origins and Local Dimensions to PACE, c1964-1994

Professor Judith Rowbotham¹

In a democracy, there is always a socio-cultural framework to the political background of legislation and a consciousness of this is needed in order properly to contextualise such 'watershed' legislation. This paper explores key aspects of the background to the passage of the Police and Criminal Evidence Act 1984 (PACE) and its subsequent implementation, in order to explore how far that legislation shifted the ground on which communities and the police themselves understood the task of policing itself, and also the *quis custodiet ipsos custodias* factor within that. The growing professionalisation of policing in England and Wales during the 1960s and 1970s saw choices being made that represented a move away from community-style policing, especially in the wake of the Police Act 1964. However, especially in the context of today's criticisms of policing, it is important to remember that this was a choice made by the leading figures in different forces, nuanced by political interventions at local and national levels, rather than an automatic corollary to the emphasis on professionalism and specialism. The recent Home Office report on Policing for the Future makes stark reading about the consciousness of the police across England that they are not functioning effectively because they are incapable of responding properly to public expectations of them.² Funding – or the lack of it – is blamed substantially in the report – but it is interesting that relatively speaking, less attention is paid in the report to the community dimension, despite the admission that 'The relationships built by neighbourhood officers enable problems to be dealt with before they become emergencies, and encourage cooperation with the police at times of crisis. The decline in neighbourhood policing has therefore been a significant loss to communities.'³

The usual presentation of the reasons behind the decline in the forms of policing associated with the origins of modern uniformed forces is that it occurred largely because, under an accumulation of pressures, including from the Home Office, local autonomy was substantially eroded. A universalisation of expectations, expressed through new police rules and service conditions is dated back to the Police Act 1964 and is framed by work identifying a growing fear of crime in the context of diminishing respect for authority figures, including the police. In the wake of the 1962 Royal Commission on Policing, the 1964 legislation

¹ Visiting Research Professor, University of Plymouth Judith.rowbotham@plymouth.ac.uk. Paper presented to the Institute of Historical Research October 2018

² Report, Home Affairs Committee, *Policing for the Future* (London: HMSO, 2018) at file:///C:/Users/Judith/Downloads/Policing%20for%20the%20Future%202018.pdf

³ *Ibid*, p.17.

intended to weaken local autonomy by replacing the older borough Watch Committees, and County with police authorities – which survive in amended form to this day – and setting up a tripartite arrangement intended to strengthen the ability of central government, via the Home Office, to influence local policing agendas. The advertised reason for needing to improve central government authority was the growing consciousness of police corruption or misconduct – there had been two high profile incidents in the late 1950s, one of them involving the delightfully named Captain Athelstan Popkess, the Chief Constable of Nottingham, which had convinced the Home Office of an urgent need to lessen local autonomy over policing. Police historians like Chris Williams see the legislation as an effective strike against local democracy and decision-making powers, something subsequently enhanced by the Local Government Act 1972 and further legislation up to and including the Police and Magistrates' Courts Act 1994. PACE, is held to encapsulate much of this successful shift to greater uniformity and centralisation of policing and its practical implementation.

This paper seeks to complicate that picture by suggesting the will to achieve a centralisation of practices to ensure uniformity of provision by police across the country was not something imposed on forces as a mandatory obligation, even under PACE. It is also very much open to question how much uniformity was sought, let alone achieved, outside the prominent metropolitan forces such as those in London, Liverpool, Manchester, Birmingham etc. A closer scrutiny of the period suggests the continuing importance of local factors in shaping policing regionally. , operating to affect this to a considerable extent. A key factor here was local recognition of regional public understandings of what the role of the police should be, in the context of local law and order realities including community expectations. The paper also suggests the enduring nature of such local issues when the provisions of PACE were implemented. The advertised need for PACE, 20 years after the Police Act 1964, can be said to represent a failure of the 1964 act to deliver the intended greater centralisation and uniformity – justified again by reference to police failure to fulfil their mission. Again, the focus was on police corruption and misconduct, but it is also easy to see why, especially through reference to the national popular press, there was a conviction that public support for policing had diminished significantly.

The 1970s certainly represent a crucial decade in the development of public attitudes towards policing in the major urban centres, and these were used to force on changes in the strategies underpinning the management of modern policing, especially the ability of the police to shape local prosecution practices. In a democracy, there is always a socio-cultural framework to the political background of policy development and legislation and a

consciousness of this is needed in order properly to contextualise implementation and its impacts. Post 1964, successive governments (Labour AND Conservative) expressed dissatisfaction with police performance and its impact on the criminal justice process, and the levels of public support for the law in action. The hoped-for greater level of Home Office control had not materialised, for a start.

The system of triple accountability for policing established in 1964 turned out to have failed to clarify the extent to which power and responsibility had been genuinely centralised, or not. This is an issue which has yet to be properly explored and fully resolved, certainly in terms of popular understanding of the purpose of the modern police. One reason for this is that there has not been sufficient will to settle this at any level of politics.⁴ The recent Home Office report on Policing for the Future has repeated a familiar plea – that the issues (including funding and what this means for allocation of responsibility) must be settled if community welfare is to be assured in the future. A settlement of this shared responsibility and accountability has never had legally binding force (as David Blunkett found when he was Home Secretary); partly because it has been seen, by many senior police officers as well as politicians, as an irrelevance when implementing strategies for efficient modern policing. Greater emphasis has been laid in this most recent report on the importance of finding funding for better use of new technologies per se than on how they could be used to improve the community usefulness and reputation of policing.

What is striking over the last sixty years is that, in most of the reports and comments on policing produced from within the Home Office or the senior ranks of the police itself, there is scant consideration of the community implications of what is widely acknowledged to be at the heart of the British policing model: policing by consent. It is worth restating that the intention of modern policing as it developed from the 1830s on was a conceptualisation of members of the police force as being members of the community like any other citizen, and one who initially had no extra powers beyond those of other members of their community. While that has changed, especially during the last century from 1916 on, when police force members first acquired the right of interrogation when in custody, the underlying concept of the police as part of, rather than removed from, the community has never been actively and explicitly explored in a range of Royal Commissions on policing. It has never suited government, any more than the senior ranks of the police, to open up this line of scrutiny about the impact on policing strategies and the way in which the public, with the aid of the media, react to police actions on a day to day basis within the community. I have, indeed,

⁴ See, for instance, T. R. Thomas, Case and Comment: Claim by Crown for Loss of Services – Master and Servant – Police Constable', *Cambridge Law Journal*, 13, 1955, 129-33;

heard impatience expressed with the expectations of the public in relation to the desire, for example, for a higher police visibility. From the 1964 act on, though, there has been a decline in policy will to sustain active levels of engagement within communities in terms of how those are policed. In many ways, an understanding of PACE, which can be used to measure the change over two decades, depends on comprehension of this. Significant legislation such as the Police and Criminal Evidence Act 1984 (PACE) never appears 'out of the blue'

It was the recommendations contained in the 1981 Report of the Royal Commission on Criminal Procedure, set up in 1977, which served to coalesce what had become widespread unease about the effectiveness of the criminal justice process and in particular, the role of the police. The argument was that substantial changes were the way to promote a restoration of public confidence in the criminal justice system. Consequently, the key focus was on how the police were operating both in relation to the formalities of the legal processes and institutions and to the wider community (especially when it came to uniformity of practices).⁵ What contributed significantly to the setting up of the Royal Commission was a belief by key 1970s figures such as Jim Callaghan that, in the light of increasingly negative depictions of the police in the media and waning levels of popular support for the police, something had to be done to improve the aspect of police performance that was most heavily criticised: the nature and performance of their role within the criminal justice system.

One thing that was apparent by the mid-1970s was that the levels of community confidence in the police, something which had been a feature of the 1962 Royal Commission Report, was evaporating at what should have been seen as an alarming rate.⁶ The evidence by the early 1970s of a growing mistrust of the police amongst the rising generation was, however, not taken seriously by government or by many senior police officers – it was felt to be a phenomenon apparent largely amongst young people and the 'measure of antipathy' they felt in youth was expected to disappear with age.⁷

Concern and criticism about the police (institution and individuals) was not new. It had existed from the start of the establishment of modern uniformed police forces.⁸ Yet such criticism, along with incidents highlighting police corruption, had not prevented a growing

⁵ Ibid

⁶ Royal Commission on the Police (1962) Final Report Cmnd 1728,(London: HMSO)

⁷ After all, it was the young (boys and youths in particular) who were most associated with criminality, and with most growing out of that as they matured. See for instance John Muncie (2000), *Youth and Crime* (London: Sage).

⁸ Clive Emsley (2009), *The Great British Bobby: a history of British policing from the eighteenth century to the present* (London: Quercus)

public faith from the nineteenth century on in the police as a positive force in society. This had reached its apparent peak in the post-1945 era, as the Royal Commission Report of 1962 demonstrated. It identified that only amongst young people was there a 'measure of antipathy', which was largely expected to disappear with age.⁹ Overall, though, its investigations enabled it to announce that 'No less than 83% of those interviewed said they had great respect for the police'.¹⁰ It is worth noticing that this early 1960s conclusion came in the wake of well-reported trials during the 1950s of a number of corrupt police officers where, for instance, a network of corruption was uncovered as a result of the complaint/confession of petty criminal Joseph Grech. Internal investigations led by Superintendent Herbert Hannam showed that men like Detective-Sergeant Tommy Mills had unequivocally responsible for perverting the course of justice during that decade.¹¹

But the media coverage of the day depicted such examples as atypical of the majority of the police and having no impact on the effectiveness of everyday, mundane policing – which was, of course, the policing that most directly affected the majority of citizens in a community. The tone of that media coverage, especially in the popular press, changes significantly from the late 1960s on. The issue is whether there were real changes in police and policing tactics (partly as a result of the Police Act 1964) during the 1970s which help to account for this or whether the framework through which communities viewed the police which had shifted so extensively as a result of changes in policing tactics that it produced a different picture to the public gaze. Was there, particularly in terms of developments in a public consciousness of what constituted appropriate official attitudes towards individuals encountered in everyday policing, a shift in public expectations of how the police should react to such individuals and incidents? Here an exploration of the cultural reflections in memoirs alongside that provided by television and other fictions is revealing.

Into the 1970s, the police continued to live as a visible presence in many communities, urban and rural; meaning that even while their presence on the beat was diminishing they were at least still familiar local figures in the first half of the decade. Paul Feeney, recalling his comfortable working class childhood in that decade, reflected that 'Policemen were

⁹ After all, it was the young (boys and youths in particular) who were most associated with criminality, and with most growing out of that as they matured. See for instance John Muncie (2000), *Youth and Crime* (London: Sage).

¹⁰ Royal Commission on the Police (1962), Final Report, p. 103

¹¹ Mills had used his position in the Criminal Records Bureau to pass information to criminal contacts. See 'Rogue Worked in Rogues' Gallery', *Daily Mirror*, 17 March 1956, for instance. For other 1950s examples of police corruption, see David Smith and Alistair Henry (2007), *Transformations of Policing* (London: Routledge), pp. 279-80

respected and feared', though you might give them 'a bit of cheek' from a 'safe distance'.¹² Again, this demonstrates that positive marketing to local communities (and individual citizens in those communities) of the police, as a body, to local communities and citizens, had established a respectable perspective of the police as a benevolent, rather than a threatening, force in British society. By the 1980s, it was no longer considered an asset to effective policing to advertise their individual presence living on the spot in the community because the police were no longer trusted automatically. This obscurity (outside friendship or kinship circles) was preserved also by the new levels of anonymity of police officers where individuals were less likely to be known and readily identified by the ordinary citizen, thanks to the growing police reliance on cars, rather than bicycles and feet. There was also, of course, the ethnic dimension, but a caveat needs to be expressed here. Perceptions that the police were antagonistic to racial groups were not new and such attitudes cannot be assumed that automatically damaged the iconic status of the police: Irish young men in the last quarter of the nineteenth century had been as much the focus of police attention as young Afro-Caribbean males were in the last quarter of the twentieth century.¹³

The difference is perhaps that the Afro-Caribbean communities of the 1970s were more willing to vocalise and protest about the treatment of their young men than their Victorian Irish counterparts, partly because of the complex nature of twentieth century racial politics. Many Afro-Caribbean immigrants had arrived with aspirations to become 'British', unlike the Victorian Irish, and were so affronted and dismayed to find a different reality, especially when it stemmed from the actions of an institution such as the police which they had been encouraged to respect in their colonial context.¹⁴ Equally, an expanding and increasingly radical student body from the 1960s on began to identify the police as servants of an oppressive state rather than community servants and helpers. But radical groups were, again, familiar territory for law and order agencies.¹⁵ The difference was that historically, radical groups had rarely developed into the young men and women who would be among the key thinkers and legislators of the future, and would take with them into that adult future

¹² Paul Feeney (2010), *A 1960s Childhood: from Thunderbirds to Beetlemania*, (The History Press), pp. 62-3

¹³ Roger Swift (1989), 'Crime and the Irish', in Roger Swift and Sheridan Gilley (eds), *The Irish in Britain 1815-1939* (Savage, Maryland: Barnes and Noble), 163-82

¹⁴ See, for instance, Randell Hansen (2000), *Citizenship and Immigration in Post-War Britain. The Institutional Origins of a Multi-Cultural Nation* (Oxford: Oxford University Press); W.A. Orrett (2001), 'Police Progress in the West Indies', in Anthony Kirke-Greene (ed.); *Glimpses of Empire. A Corona Anthology* (London: I.B. Tauris).

¹⁵ Emsley, *English Police*; see also David Taylor (1998), *Crime, Policing and Punishment in England, 1750-1914* (London: St Martin's Press)

a memory of mutual hostility with the police including prosecutions for types of disorder which were felt, by those involved, to be 'unjust'.

There were crucial changes in how local communities and individuals within those communities understood and related not just to the police but also to the criminal justice system itself. This occurred in ways that spread an increasing feeling of alienation from the police amongst individuals representing levels of the social hierarchy which, historically, they could usually have relied on deriving substantial support from. There was no longer an understanding of the operation of the criminal justice process as a whole within the everyday communities in British society. Uninformed by such understanding, the police were increasingly likely to be negatively perceived as the most usually encountered representatives of a criminal justice system that was not well liked substantially because it was not well understood. Increasing numbers of men and women who no longer saw it as providing the justice they wanted for themselves, their friends and families, and the causes they supported. A popular belief began to be entrenched that the police were no longer locally answerable to their immediate communities but regularly were used to deliver or enforce a national agenda with little local support or mandate – and that impression was, during the 1970s and early 1980s hardened by interviews with senior police officers and successive Home Secretaries which clearly indicated their support for a national agenda and what was often interpreted as a disdain for the everyday concerns of communities.

There had been a curiously documentary character to 1950s and early 1960s television programmes showcasing the police, notably *Dixon of Dock Green*. These had suggested to viewers that it was possible for ordinary citizens to rest secure, not looking over their shoulders to see if crime was actually or potentially looming, because PC George Dixon and his ilk were there to do it for you. It was a key cultural icon in the 'You've never had it so good' era where you could be confident that if you were a victim of crime, the police would step in to look after you, as victim. There was a kindly familiarity and lack of excitement to such programmes, which disappeared in the new programmes aired during the 1960s showed how that was changing – the police, as in programmes like *Z Cars*, knew their villains, perhaps, but were depicted as largely distant from the ordinary, law-abiding members of the community. These later police dramas were, for a start, much more concerned with serious crime (representing about 5-6 per cent of crime) rather than the minor crimes, amounting to over 90 per cent of crime, and which never went any further than the summary or magistrates courts. The presentation was of the police as involved, on a day-to-day basis, with violence and danger, giving the impression that the 'ordinary' citizenry lived their crime-free lives on a thin crust over a boiling mass of underworld criminality that

could, at any moment, overtake any one of them. The message conveyed by such programmes were that the police were the safeguard against such threats – but were capable of doing so in ways that could alarm and upset the ordinary citizen. The ordinary citizen had to recognise this and let the police go about their duties; recognising also that such policemen were (for good reasons, of course!) also quite capable of taking the law into their own hands in order to achieve their goals.¹⁶ The reality was that there was a value to the contract in that public confidence in the police was held to encourage not only being law-abiding but also to citizens using the criminal justice system to redress those wrongs which amounted to crimes of an everyday nature, instead of resorting to more informal and potentially disorderly strategies.

This was still, during the 1960s, largely an urban phenomenon, though – more true of London, Liverpool or Birmingham than of Lewes, Lowestoft or Barnstaple.¹⁷ What is telling is that a case study outside the major urban areas demonstrates that a determined Chief Constable, aided by the slower pace of community change in non-metropolitan areas, could ensure even through the post 1964 and 1984 changes that neighbourhood or community policing could still be seen as a tangible presence in policing agendas and actions.

A case study of the Devon and Cornwall force is telling in this context. Sometimes described as Margaret Thatcher's 'most hated' or 'least favourite' policeman, John Alderson was 51 when appointed Chief Constable of Devon and Cornwall Police in 1973. He was an ex-army Warrant Officer who had joined the West Riding Police in 1946 and risen through the ranks. Apart from a time in Dorset, he had no West Country connections, which was, in 1973, probably an asset to his application. In terms of its geography, Devon and Cornwall constituted the largest force in England and Wales but without the major urban conurbations – the nearest being Bristol. There was a long tradition in the force, rooted in the prior county forces, of a locally based sense of identity. Any serving officer in the current Force even will tell you that the tensions between the two counties – which is long-standing – translated in the nineteenth century into the new uniformed police, setting Devon and Cornish county forces etc at loggerheads, and the legacy lingers to this day.

Recalcitrant Cornish Cops insisted, for instance, on keeping their own buttons when on duty across the Tamar – tales are told of individual constables summoned to Devon snipping off their precious Cornish ones at the Tamar, pinning on the resented D&C ones, and removing

¹⁶ Ibid.

¹⁷ See Susan Sydney Smith (2002), *Beyond Dixon of Dock Green. Early British Police Series* (London: I B Tauris).

them again once the Tamar had been crossed again. The current plans to reconstitute a shiny new headquarters in Cornwall, nearer to the original site just outside Bodmin is the latest step in the saga to merge the two, one about to be made still more complex by the addition of Dorset to the mix, making it DD&C! To this day, Devon and Cornwall Police do it different, to use a Norfolk saying. A series of Witness Seminars conducted by Plymouth University, in association with the Witness Seminar programme at Kings College London, and with the enthusiastic co-operation of the Force, has underlined this.

Alderson's approach to his role was, from the start, unusual – especially in the context of the 1970s and the way that police professionalism was driving police practices in many forces. Alderson was very conscious of this and, with his foundational policing experience being that of working in a largely rural and small town equivalent to much of Devon and Cornwall, he approached his new role with a firm belief in the value of community orientated policing, regardless of how outdated this seemed to his peers. For him, the police had to BE part of the community they served and more, be SEEN to be part of that community. For him, policing was too important to be left just up to the police professionals. Initially this was pursued in a relatively low key way in Devon and Cornwall – but he hit the national headlines in 1978, with his experiment in the Pinhoe estate in Exeter where his established tactics of community involvement for his officers really hit home. Former Exeter City police found themselves dressed in track suits and playing sports with local youth as part of a community policing project where the police worked with local mothers to reduce petty crime and vandalism locally. To the astonishment of his critics, in and out of the force, it had a measurable impact. He used this to convince the local police authority to support his policy of getting his officers out of cars and onto motor bikes and the streets – making them more visible and accessible as part of his commitment to community policing.

But it is probably in the attitude to police training, and the mindset legacy he established, that he most bucked the trend of the time. His motto was 'If we are to save ourselves from incessant conflict, we must start talking hearts and minds' – and that, for him, did not mean the senior officers when talking to the media. It meant his officers, on the ground. Alderson refused to train his officers to use CS gas, riot shields and plastic bullets, for instance. Alderson was convinced that training was crucial in setting the mind-set of a police officer. While he accepted the need for fire-arms trained officers, he ensured that during their training they became conscious of the wider social context in which guns could be understood. So his firearms officers, as PC Colin Canavan recalls, were firmly told to go off and join local shoots and get to know the farmers and others who also had guns. His

thinking was that if officers felt themselves part of the life of their local community, then they would be less likely to overreact to disturbances and disorder.

One interesting contribution to the training of his officers was his desire that they should be thinking policemen and have a proper understanding of the key issues of the day. Given the Cold War context, the presence of a university and socialist students around his Headquarters, what Alderson did was go to the University and recruit a young IR lecturer, Bill Tupman, specialising in Russian studies. Bill's role was to give lectures on Communism, the USSR, the likelihood of Soviet infiltration of the locality and the threat of invasion. Bill Tupman's lectures are fondly remembered and continued long after Alderson's retirement – he is currently, in *his* retirement, supervising two ongoing PhDs of police officers, and has just seen Superintendent Jim Gale get his PhD. To this day, the encouragement to further personal knowledge and education is a key identifier of the force.

In the lead-up to PACE, Alderson personally gave evidence to the Scarman Inquiry – not of a nature to make Mrs Thatcher happy. When, as one of that Inquiry's results, PACE 1984 was introduced, one thing that was plain from the Witness Seminar held on its impact on Devon and Cornwall – that it actually changed very little there. Instead of advancing centralisation and uniformity, the training in PACE was interpreted as requiring engagement with the local communities. By this time, Alderson had retired from the police, but was still an active commentator and author on the topic of community policing, with local respect and influence. DC Andrew Pierce recalled that 'The training Devon and Cornwall did for PACE was excellent', and it was clearly used in an imaginative way. Pierce also recalled that 'There was an issue about interpretation and I arrested two guys for burglary and they had not long been out from borstal. I said to the custody sergeant 'I'm objecting to bail on these two as they'll commit further offences.' The sergeant responded, 'That's not a ground under PACE.' And I said, 'It is, because PACE says that a reason for objecting to bail was that if you grant bail it could cause loss to another person.' The sergeant said, 'That's far too wide an interpretation, I'm not having that.' So I said, 'I'm appealing to the superintendent then!'. He insisted that they were trained to consider that 'what we should always do is *interpret* ... reasonably' and with the community in mind 'until a court tells us differently.'

What particularly struck me about that seminar was not so much the evidence of how little impact PACE had on the community dimension to daily policing in Devon and Cornwall, but the reaction of three individuals in the audience who had been in different forces when PACE came in. We will be publishing the transcripts online and with the option of hard copy shortly – but while the vision of community policing envisioned by Alderson has changed, the

priority afforded to community engagement has not. For example, Devon and Cornwall make particular use of Police and Community Support Officers, and regard them actively as an asset and as 'one of us', as the Devonport Witness Seminar underlined. Equally, another interviewee, PC Phil Bunt recalled that 'In the 1990s, the Government became fixated with targets and performance indicators. Forces were put under pressure to crunch data and somehow improve the performance of the Force based around this data. Our Deputy Chief Constable, Brian Philips, oversaw the 'quality of service unit' and was an inspiration. He was totally pragmatic and had no real time for the number crunching but believed that if we were to have such a unit it would also have to improve the quality of service to the public.'

It remains telling that, in the early 1980s, when Devon and Cornwall were called in to aid in policing the Miners' Strike, there were absolutely no complaints about their conduct or relations with either strikers or working miners. Not being trained in riot control methods, they played football with pickets instead. Known as the Daffodils because of their distinctive yellow high viz jackets and white shirts, they were even popular in Orgreave and around. The case study of Devon and Cornwall in the last sixty years has suggested that the lack of community engagement is more to do with choices made at the top of a force, including a choice on how far to engage with centralising agendas.